



Act 59 of 2023  
10 V.S.A. Section 2803(b)

# Inventory Report

Introduction, Overview, and Themes

Presented by Vermont Housing & Conservation Board and Nature 4 Justice

## **A Brief Reflection and Look Ahead**

### **Gus Seelig, VHCB**

Act 59 was passed and became law in conjunction with national goals to conserve 30% of the nation’s land base by 2030 and a global initiative to protect “half earth.” Here in Vermont, these goals build upon our nearly 100-year commitment to a land use policy of compact settlement surrounded by working landscape of farms, fields, waters, and forests. Today Vermont has largely recovered from centuries of deforestation and resource extraction with 82% of the landscape forested or in agricultural use.

Vermonters have repeatedly expressed their love of our landscape through policy, practice, and great appreciation for vital rural communities. Conservation supports a variety of values, including hunting and fishing, agriculture and forestry, trail-based recreation, bird watching, and access to remote lands for renewal. In an age of a warming climate, Act 59 invites us to go further – to enhance Vermont’s commitment to supporting biodiversity and to better include all the diverse stakeholders of conservation work in the planning and implementing of Act 59.

The Vermont Agency of Natural Resources has primary responsibility for managing hundreds of thousands of acres of wildlife management areas, state forests, and parks across the state. They are the primary intermediary that, on behalf of the state, works with federal officials who manage the Green Mountain National Forest and the Silvio O. Conte National Fish and Wildlife Refuge. Across its history, the Vermont Housing and Conservation Board (VHCB), organized in 1987, has worked with Federal and state partners, including ANR, as well as private landowners to provide funding for the conservation of 450,000 acres of land. ANR, in its role as a regulator protecting the environment, and VHCB both have fundamental obligations to support smart growth through strategic investment.

VHCB has a long history of supporting affordable housing in a manner that has revitalized many downtown and village centers across the state, having built housing with the highest levels of energy efficiency for over 25 years. This work directly reduces the pressures of sprawl, increased consumption of fossil fuels, and conversion of natural lands for development, while making our downtowns and village centers more vibrant.

The goal we are charged with through Act 59 to conserve half of our land base with permanent protections is very ambitious. Just reaching the 2030 goal to conserve 30% of Vermont’s land base would require 185,000 acres to be conserved in the next five years. This would mean more than doubling our current efforts, funding, personnel capacity, and coordination. But, given historic levels of Federal funding currently available for conservation, there is also a tremendous opportunity to draw down those funds through a variety of programs, some of which we know well, and some of which will be new to Vermont.

This report provides an initial inventory categorizing land that has been conserved under a great variety of public and private ownership structures and sets the stage for the next phase of our work to develop a plan to implement Act 59’s vision. That vision requires a balancing act that recognizes the competing needs for vital rural communities, great places to recreate, and healthy biodiversity, not just because we value all species but because science suggests that whatever disrupts the health of habitat and species will likely also compromise human health and well-being.

Act 59 of 2023 – 10 V.S.A. Section 2803(b)  
Inventory Report

As we issue this report, we acknowledge and thank the many Vermonters who have participated in and contributed to this work, especially our consultants at Nature for Justice, conservation organization partners, and the many, many staff at ANR. We note that it will take an enormous effort to reach the goals the legislature set in the passage of Act 59; it will take both funding and the good will of Vermonters. As we move to developing an implementation plan, we look forward to ongoing opportunities for engagement and continuing the spirit of cooperation and collaboration among private, local, state, and federal entities to conserve the values Vermont's landscape represents to so many of us.

## Contents

1. Executive Summary of Responses to V.S.A. Section 2803(b) .....	4
2. Overview of Act 59 Inventory Process.....	14
3. Framing the Vision and Goals of Act 59. ....	18
4. Full Analyses and Responses to Questions in 10 V.S.A. Section 2803(b): .....	23
Question 1: Review of Conservation Categories .....	23
Question 2: Inventory of Conserved Land across Act 59 Categories .....	27
Questions 3 & 7: Conservation Programs and Practices .....	30
Question 4: Assessment of State Lands .....	35
Question 5: Implementation of Vermont Conservation Design.....	37
Question 6: Aquatic Systems.....	40
Question 8: Conservation Funding .....	43
Question 9: Equity .....	45
Question 10: Intergenerational Land Transfers .....	51
5. Summary of Next Steps. ....	52
6. Overview of Phase II Process and Timeline.....	53

## 1. Executive Summary of Responses to V.S.A. Section 2803(b)

This report has been prepared by the Vermont Housing and Conservation Board (VHCB), in consultation with the Vermont Agency of Natural Resources (ANR), pursuant to the mandate set forth in Section 2803. That mandate directs VHCB, in consultation with ANR, to “create an inventory of Vermont’s conserved land and conservation policies to serve as the basis of meeting the conservation goals of Vermont Conservation Design and to meet the goals established [under 10 V.S.A. Section 2802].”

The inventory mandate in Act 59 enumerates ten key questions, shaping the direction and intent of stakeholder engagement and participatory planning efforts. These questions are included below along with an executive summary of our response.

*(1) A review of the three conservation categories defined in section 2801 of this title and suggestions for developing any modifications or additions to these categories that maintain or complement the core concepts of ecological reserve areas, biodiversity conservation areas, and natural resource management areas in order to complete the conserved land inventory and inform the comprehensive strategy in the conservation plan. As part of this review, criteria shall be developed to determine the types of agricultural lands that will qualify as supporting and restoring biodiversity and therefore count towards the natural resource management area category.*

Based on data review, stakeholder input and discussions, and our own initial analysis, we do not recommend any modifications to the categories as defined in section 2801, however ongoing work will be conducted in order to refine our interpretations and working guidelines for the conservation categories and other statutory definitions in Phase II of this process.

We do recommend counting all conserved agricultural lands under the Natural Resource Management Areas definition in this initial inventory. After extensive debate and consideration, VHCB believes this is more consistent with the broad, inclusive vision of the Act and the intent to increase outcomes for biodiversity and ecological health within a framework of enhanced investments across the range of conservation programs and values in Vermont. Agricultural land conservation also represents an important strategy to reach the numeric goals of Act 59, because the conservation of parcels that include areas for agricultural production also results in significant and important protection for sensitive natural areas. The owners of conserved farmland manage more forestlands than croplands or pasture.<sup>1</sup>

Finally, we want to highlight for further analysis and discussion the recommendation to include a fourth category, which we have labeled “Uncategorized Conserved Lands”. The parcels and conservation interests comprising this group are a mix of lands that, while legally meeting the requirement for protection from conversion, and providing great value to communities, do not cleanly fit under any one of the definitions for the other three categories. This set of parcels will be further assessed and categorized in Phase II in order to determine which of those lands should be included in the next inventory as counting towards the Act 59 2030 goal, under one of the existing categories or in a new fourth category.

---

<sup>1</sup> See the Report of the Agricultural Lands Workgroup for the Vermont Conservation Strategy Initiative, included in the N4J Annex for this question, which summarizes that the overall portfolio of conserved agricultural parcels comprises 43% forest and wetland, another 43% pasture and meadow, and only 14% used for production of annual crops.

**Recommendations:**

- No changes to the current definitions of the conservation categories are recommended.
- Include currently conserved agricultural lands in the Natural Resources Management Category.
- Differentiate lands within the Natural Resource Management Area category as “Forestland and other Natural Cover,” which includes habitat blocks and riparian connectivity blocks, and “Agricultural and Open Land,” which includes agricultural lands and other working lands that do not qualify as forestland or natural cover.
- Continue to refine our interpretations and working guidelines for the conservation categories and other statutory definitions in Phase II of this process; and likewise work with stakeholders to reconsider and describe the three (or four) conservation categories based on their assigned name, functions, and values, rather than their numerical hierarchy.
- Continue analysis of the Uncategorized Conserved Lands to determine which of those lands should be included in the next inventory as counting towards the Act 59 2030 goal, under one of the existing categories or in a new fourth category.

*(2) The amount of conserved land in Vermont that fits into each of the three conservation categories defined in section 2801 of this title, including public and private land. The inventory shall also include other lands permanently protected from development by fee ownership or subject to conservation easements.*

This analysis was conducted using the most relevant conserved lands data, the Secured Areas Database, prepared by The Nature Conservancy (TNC) for the Northeast Association of Fish and Wildlife Agencies. Our framework for assigned lands into the three defined categories was used to review the Secured Areas Database and assign the lands in the database to the Act 59 categories, using the criteria and standards developed by VHCB, ANR and the stakeholders to this process. This data was last updated in 2022, and the effort undertaken to reclassify historic data, while also working to incorporate recent land conservation projects that occurred between 2022 and 2024, is complex and ongoing.

**Summary of data:**

As of June 21, 2024, we calculate the number of acres of “conserved”<sup>2</sup> lands in Vermont, for purposes of the Act 59 2030 goal, as follows:

- Conserved land in Ecological Reserve Areas: 236,739 acres, or 4% of land area.
- Conserved land in Biodiversity Conservation Areas: 239,545 acres, or 4% of land area.
- Conserved land in Natural Resource Management Areas: 1,106,473 acres, or 19% of land area.
  - NRMA - Forestland or Natural Cover: 933,813 acres, or 16% of land area.
  - NRMA – Agriculture and Open Land: 172,660 acres, or 3% of land area.
- Total land across all three categories: 1,582,757 acres, or 27% of land area.

---

<sup>2</sup> Act 59 provides that “conserved,” for purpose of implementing the Act, means permanently protected and meeting the definition of ecological reserve area, biodiversity conservation area, or natural resource management area as defined in this section.

- Uncategorized Conserved Lands (for further analysis): 47,595 acres, or 1% of land area.

**Recommendations:**

- Additional funding and capacity must be identified so we can continue to refine, collect, govern and manage these data, first to meet ongoing reporting requirements, and more importantly, to inform and prioritize our work. This would include funding for dedicated personnel capacity at ANR and the Vermont Center for Geographic Information, as well as funding through VHCB or some other mechanism for non-profit organizations’ data management needs.
- Additional data review and refinement will occur during the Planning Phase and beyond; we expect to provide a substantial update in 2026, when we provide the next required inventory of these data.

*(3) A summary of the totality of conservation practices, both permanent and intermediate, available for reaching the goals of this chapter, including what they are, what they do, how they contribute, and what metrics are available to quantify them.*

For the purpose of this Inventory, we defined conservation practices and programs as mechanisms that promote conservation, as defined in Act 59. Practices include but are not limited to conservation easements, fee acquisitions (by a qualified conservation entity), regulations, financial incentives, and other legal agreements. Programs include but are not limited to the Vermont Forest Legacy Program, the conservation programs of Vermont’s land trust community, the River Corridor Easement Program, and the Use Value Appraisal Program. These kinds of conservation practices and programs have been used in Vermont, some for over a century, to help protect the rich cultural and ecological values that contribute to the character of the State and that could, with more investments and capacity, help to reach the goals of Act 59.

**Recommendations:**

- Form a Phase II work group focused on how conservation practices and programs can be best deployed, measured, and expanded to meet the goals of the Act, including:
  - Investments across all three (four) conservation categories defined in Act 59, consistent with the values and goals of VCD and the vision of Act 59.
  - Additional focus on the logistics and processes to designate ecological reserve areas on State lands.
  - Review of opportunities to prioritize ecological health, biodiversity and community resilience on working lands.
  - Review of opportunities to increase protection for water resources and aquatic health, including flood resilience, with public conservation funding.
  - Review of opportunities to expand and diversify participants and beneficiaries consistent with goals for equity and inclusion.
- Use Phase II to identify and evaluate new conservation stewardship and management practices, funding mechanisms for practices, and/or incentives such as private carbon markets or biodiversity markets, including how to evaluate what will be most effective, ethical and equitable for Vermont landowners.

- Refine and/or develop metrics to measure the outcomes of investments made specific to meeting the Act’s goals.

***(4) An assessment of how State lands will be used to increase conserved ecological reserve areas.***

VHCB and ANR recognize the unique and important role that State lands play in the overall landscape of Vermont. Classified across all three conservation categories, State lands provide a range of benefits, cleaning our air and water, protecting habitat and critical biodiversity, providing a wide range of recreation opportunities, supporting the production of sustainably harvested wood products, and protecting important scenic, cultural, and historic sites. The recommendations below facilitate designation of ecological reserve areas on State lands. We also acknowledge it is ANR’s statutory responsibility and in the public interest to provide for and facilitate access for multiple uses by a diverse set of visitors to State lands.

As summarized below, we recommend expanding the suite of tools available to ANR and its partners to designate Ecological Reserve Areas<sup>3</sup> on State lands, using existing State lands planning processes. It is important to note that the application of these tools will require additional staff capacity, as ANR is critically understaffed for current State land management needs.

**Recommendations:**

- Work with State lands management staff and stakeholders to consider and develop guidelines for a new permanent statutory designation called “Ecological Reserve.”
- Create new land management sub-classes, called “Ecological Representation Areas” and “Reserve Development Areas.”
- Utilize landscape-scale conservation planning analyses to inform the designation of Ecological Reserves on State lands.
- Work with VHCB and partners to identify, pilot and adopt alternative easement models for State fee land acquisitions, including different legal mechanisms to protect public investment in land conservation through VHCB, while streamlining or reducing the stewardship obligations for private non-profit entities.
- Work with the State Forest Stewardship Coordinating Committee to evaluate the role the Forest Legacy Program can play in increasing the number of conserved Ecological Reserves.

***(5) The implementation methods that could be utilized for achieving the goals of this chapter using Vermont Conservation Design as a guide.***

Using the results of the conserved lands inventory, we will assess the overlap between existing conserved lands and the various elements of Vermont Conservation Design (i.e. forest blocks, riparian areas, young and old forests, grasslands and shrublands).

---

<sup>3</sup> Act 59 defines Ecological Reserve Area to mean “an area having permanent protection from conversion and that is managed to maintain a natural state within which natural ecological processes and disturbance events are allowed to proceed with minimal interference.”



This overlap will indicate to what extent our current portfolio of conserved lands contributes to the maintenance of an ecologically functional landscape and all the benefits it provides. It will also help us identify gaps where future conservation investments are needed to ensure future ecological functionality.

This analysis can then be used to direct conservation efforts and programs, target and vet conservation projects, and inform conservation funding and grant programs within the State, and as the model through which the State prioritizes ecologically focused conservation efforts moving forward. This conservation work must be thoughtful and nuanced, focusing on the quality and practicality of protection opportunities in balance with the advancement of the other stated values in Act 59.

**Recommendations:**

- During Phase II, evaluate current and potential programs and practices and assess the opportunities and challenges each program and practice presents, as well as its potential to protect land and parcels that contribute to the ecological functionality of each specific element of VCD (e.g. interior forest blocks, connectivity blocks, riparian areas, natural communities, old and young forests, etc.).
- Conduct a spatial assessment of the conserved lands inventory relative to the priority and highest priority elements identified in VCD. For the purposes of meeting the 30% and 50% goals of Act 59, this assessment could start identifying intermediate conservation steps, such as how to address, expand, and further protect lands enrolled in Vermont’s Use Value Appraisal program.
- Undertake a gap analysis to identify where priority lands identified under VCD are not conserved and could benefit from additional conservation action, stewardship investment or management incentive; including investments in restoration, enhancement, and reconnection of landscape functions that could take place on existing conserved lands to better meet VCD’s goal of ecological health.

*(6) A review of how aquatic systems are currently conserved or otherwise protected in the State, including a description of the benefits land conservation provides for aquatic systems, whether this is sufficient to maintain aquatic system functions and services, and how the implementation methods for achieving the goals of this chapter using Vermont Conservation Design as a guide would include specific strategies for protecting aquatic system health.*

Vermont’s land conservation tools, existing incentive programs, and regulatory frameworks include many measures, which help to advance the protection of aquatic systems. Yet there is still room for improvement to more effectively improve water quality, flood resilience and wildlife habitat outcomes through land-based conservation. In our Phase II process, VHCB recommends an initial focus on how to increase uptake of voluntary measures, such as conservation easements that include stronger protections for headwater and riparian areas, wetland and channel management protections, projects that restore functioning floodplains and connectivity, and incentive programs that support management practices beneficial to aquatic systems. This work must be coordinated with other measures, voluntary, incentive-based, and regulatory to provide a holistic approach to aquatic health.

The workgroup formed to focus on aquatic health measures also concluded that current conservation practices alone are not sufficient to bring aquatic systems into balance. Therefore, VHCB recommends we use the Phase II process to identify how conservation practices can best support and coordinate with

current and expanded regulatory requirements. VCD provides a blueprint for identifying and prioritizing opportunities to connect and protect our watersheds; however, further analysis and prioritization will be necessary to inform targeted conservation planning. Flood-prone areas have also traditionally been places of lower property value where lower-income and marginalized Vermonters have found more affordable homes; therefore, it is critical that equity concerns are addressed as we move this work going forward.

**Recommendations:**

- Work with the broad set of stakeholders focused on aquatic health to identify additional capacity needed to more effectively conserve aquatic systems, as well as conduct outreach and education to landowners about incentives and technical support available to help them contribute to the health of their watershed.
- Consider how to increase and/or mandate additional resource protections for aquatic systems on newly conserved lands funded with public dollars. Also, explore incentives and management strategies to encourage additional protections for aquatic systems on already conserved properties.
- Collaborate with Phase II stakeholders to evaluate how we can include watershed scale and network-based approaches to conservation that would support both terrestrial and aquatic systems.
- Explore how landowner incentives for short term management designations or tax incentive programs (like UVA) could better incent and prioritize aquatic system health.
- Identify opportunities to collaborate among public programs, using conservation work to support and enhance the State’s other clean water initiatives, regulatory and incentive programs.

***(7) How existing programs will be used to meet the conservation goals of this chapter and recommendations for new programs, if any, that will be needed to meet the goals.***

[ See response to (3) above; these answers were combined. ]

***(8) An assessment of existing funding and recommendations for new funding sources that will be needed for acquisition of land, purchase, or donation of conservation easements, staffing capacity, and long-term stewardship to meet the goals.***

A broad mix of federal, state, and private funding sources are currently used for land conservation projects. To reach the ambitious goals of Act 59, VHCB notes that the Vermont General Assembly must consider how to support significant budget increases for public and private organizations working in Vermont’s conservation network. This would include costs for conservation investments, personnel capacity, and the perpetual stewardship of conserved lands. Based on the existing costs of land conservation projects and our current suite of tools, we believe public and private budgets will need to double or more in order to protect the more than 30,000 acres per year required just to reach the 2030 goal.

We should identify, pilot, and implement efficiencies and innovations, as well as new ways of thinking about conservation that may help us bend the cost curve, but we will need to start with investments in personnel and systems, as well as reconsidering how to maintain growing obligations for perpetual

stewardship of conserved lands. Vermont will need to make investments beyond previous levels to create this capacity.

We acknowledge that State funding is only part of the puzzle, but our experience tells us that State funding is the initial key that unlocks, matches, and leverages Federal dollars, as well as attracting spending by foundations and private conservation funding organizations. It supports outreach and education. And it allows organizations to be nimble to meet new demands and opportunities.

With historic levels of Federal funding currently available within the programs Vermont implements, we must begin immediately in the next phase of this work to identify and commit the State resources needed to draw down those dollars in Vermont towards the goals of Act 59.

### **Recommendations:**

- We recommend that VHCB and ANR meet with legislative leaders from committees of jurisdiction prior to the 2025 Legislative Session in order to:
  - (1) discuss budget needs for Phase II work.
  - (2) project ANR and VHCB budgets for SFYs 2025-2030 with sufficient capacity and match to draw down Federal funding and attract private funding needed to meet the goals and vision of Act 59.
- We recommend forming two workgroups to support a statewide advisory committee for our Phase II process, including a group that will be focused on prioritizing the funding, financing and market solutions needed for Act 59 implementation. The work of this group will help us to:
  - Develop a long-term plan to support and expand capacity, find matching funding for state and federal funding sources, and identify the capacity needed to sustain increased conservation outcomes through 2050 and beyond.
  - Work with foundations and philanthropists to build a collaborative funding model with integrated goals, mutual awareness and support to enable public-private partnerships to flourish.
  - Identify, carefully vet and adapt market-based models and financing tools to support Vermont's conservation mission effectively, ethically, and equitably.
  - Develop and refine opportunities to more efficiently administer programs and carry out land conservation in support of Act 59 vision and goals, without increasing public and private costs.
  - Address the foundational need to address the real costs of adequate data collection, management, and governance for ongoing inventory of Vermont's conserved landscape.
  - Bring additional focus to the overlapping and distinct goals and outcomes of Act 59 with Act 250, Vermont's new river corridor protection law, Vermont's UVA program, and other programs that advance these shared values.

### ***(9) An equity assessment of existing land protection and conservation strategies and programs.***

There are a number of relatively new land protection and conservation-related programs and initiatives, created by the Vermont General Assembly, that were set up to remedy the persisting problem of inequitable access to land and land-based enterprises. These efforts are aimed at tackling internal

barriers to and creating meaningful opportunities for access to and engagement in, conservation-related opportunities for marginalized communities. However, there is still enormous need for continued work in these areas. We recommend that the planning process identify ways to expand these capacities. Act 59 implementation should address these persisting inequities while advancing conservation goals that benefit all with cleaner air and water, flood-resilient communities, and a sustainable and healthy food system.

**Recommendations:**

- Commit resources to engage with the Land Access and Opportunity Board, the Environmental Justice Advisory Council, representatives from rural communities, the forest products sector, Vermont Traditions Coalition, and representatives from other under-represented groups in Phase II process.
- Consider how decision-making roles can be diversified, conservation actors representing marginalized communities can receive more investment, and community engagement can be inclusive, meaningful, and collaborative across viewpoints.
- Work with LAOB and the EJ Advisory Council (and others) to develop and implement a curriculum for BIPOC, low-income and other marginalized communities to understand the conservation landscape.
- Develop and use metrics and benchmarks to track progress towards more inclusive processes, equitable outcomes, and increased viewpoint diversity.
- Set aside resources and supports to engage and include the perspective of Vermont’s Indigenous community, including members of Vermont’s recognized tribes and others living in our state.
- Include focus on alternative models for conservation that facilitate community-owned and cooperatively managed conserved lands and rural enterprise.

***(10) An evaluation of the opportunities related to intergenerational land transfer trends and how the State could proactively direct resources to achieve conservation at the time of transfer.***

There is a 2017 report that explored this topic, and multiple reports over the years have given careful thought to the topic of intergenerational land transfer in Vermont. Specifically, the *Intergenerational Transfer of Forestland Working Group Recommendations In response to Act 171 of 2016*; the *Vermont Agriculture and Food System Strategic Plan 2021-2030*; and *A 2018 Exploration of the Future of Vermont Agriculture* explore the intergenerational transfer of Vermont’s forest and agricultural lands.

**Recommendations:**

- Use and update earlier analyses and plans to identify the best current tactics to promote intergenerational transfer of lands.
- Direct resources to promote intergenerational land transfer through existing programs targeting these opportunities, such as VHCB’s Farm and Forest Viability Program and the Use Value Appraisal Program.

Act 59 of 2023 – 10 V.S.A. Section 2803(b)  
Inventory Report

- Provide additional training opportunities for conservation and land use professionals and expand outreach to Vermont’s landowners.
- Identify and implement opportunities to fund direct supports to landowners to support long-term stewardship planning for conservation outcomes.

**Document Outline.** This report includes the following sections and annexes:

**A Brief Reflection, and Look Ahead, Gus Seelig**

**Section 1: Executive Summary and Document Outline**

**Section 2: Overview of Act 59 Process; Timeline to Date**

**Section 3: Framing the Vision and Goals of Act 59**

**Section 4: Full Analyses and Responses to Questions in 10 V.S.A. Section 2803(b)**

**Section 5: Summary of Recommendations and Next Steps**

**Section 6: Phase II Process and Timeline**

**Section 7: Conclusion**

**Appendix: Question by Question Annexes of Public Input Prepared by Nature for Justice (N4J)**

**Appendix: Working Group Reports**

## 2. Overview of Act 59 Inventory Process.

This report is a record, or *inventory*, of research and analysis, conversations, and dialogue, conducted over the last year by the Vermont Housing and Conservation Board, Vermont Agency of Natural Resources, and our consultants at Nature for Justice (N4J). We have been helped enormously by the hundreds of partners, stakeholders and friends who gave thousands of hours of their time to meetings, research, communications, discussions, agreements, and disagreements. Given the breadth of this inquiry, we heard from interested stakeholders with perspectives as diverse as Vermont itself on most of the issues and questions examined. In some cases, we are happy to report that there is near universal consensus behind the recommendations in this report. In many cases, we have made judgments and decisions that won't be equally supported by all stakeholders; and in some cases, we expect and welcome ongoing policy conversations and legislative action to resolve issues that remain more intractable.

Because our timeline was very compressed, we asked our consultants, partners, and stakeholders to undertake many separate workflows in parallel, as delineated at the end of this section. This resulted in a rich record of feedback and recommendations, and as noted above, this inventory of perspectives on the subjects of this report is included in the N4J Annex included at the end of this report. Additional materials and records from the inventory process can be found [here](#). And finally, a compilation of *perspectives* from Act 59 stakeholders organized by VHCB can be found at that same webpage. Needless to say, despite the effort to include so much information in this report, it is impossible to convey how energizing, dynamic and multi-faceted this initiative has been. At the same time, we heard constructive criticism (and sometimes just complaints) from many participants regarding a process that often felt confusing or misdirected to those participating, even to organizations at the heart of the work. Much of this feedback is reflected in the analysis and recommendations under Section 4, with additional detail and specifics in the N4J Annex.

For purposes of this Overview, we want to acknowledge in particular two issue areas that are particularly important to highlight: decision-making and capacity.

Act 59 directed VHCB, in consultation with ANR, to deliver this report and inventory based on the mandate set forth in Section 2803 of the Act. Determined to hear from a diverse range of participants from the beginning of this initiative, we provided many different opportunities for stakeholders and interested parties to inform our work. Nonetheless, many participants expressed confusion and frustration about how decisions would be made, how input would be valued and weighed among partners, and who would be included in different work groups and processes. Some stakeholders expressed frustration at not having access to all of the notes and records from the interviews, surveys, focus groups and workgroups more fully described below. Finally, and perhaps most persistently, we heard many objections that the steering groups and work groups established by VHCB, ANR and N4J were over-represented by the staff of large, statewide conservation organizations, including ANR and VHCB.

These are important and legitimate concerns. We include a number of recommendations to adjust our process in the next phase of this process in response to this feedback and our own analysis of what worked and didn't work. Likewise, we acknowledge that this process reflects a conservation system and way of doing our work that is organized consistent with dominant-culture norms, assumptions, legal

structures and funding mechanisms. As a result, the data, resources and information driving this inventory and report skew towards a view of what is possible and what is needed from the perspective of large public and private organizations.

We recognize how important it will be to incorporate and reflect the input we have received and adjust course accordingly going forward. We also know that the State of Vermont must make investments to facilitate increased participation among small conservation organizations, municipalities and planning commissions, regional bodies like regional planning commissions (RPCs) and natural resource conservation districts (NRCs). Most urgently, there are many partners in Vermont working to increase environmental justice, land access and opportunity, and not only must we examine how our conservation process can meet the needs of marginalized and historically disadvantaged communities, but we must embrace opportunities to reconsider the base assumptions and mechanisms underlying our work if we truly value inclusion.<sup>4</sup> Not only should our inquiry into equity focus on what we can do differently, but it must provide opportunities for others to lead.

Building the capacity of Vermont’s conservation system **at every level** is a fundamental recommendation for successful implementation of Act 59, and that need is immediate. Most of the partners, organizations, and individuals who participated in the inventory process reported that this effort has been an enormous strain – often in conflict with other related priorities and needs. It is clear that those whom we ask to step up again in the next phase of this work will need more support and funding. The limited appropriations in Act 59 have largely been utilized. Likewise, the initial funding set aside by VHCB has been used. And while we have received a notice of award for a grant of \$1million through the Biden Administration’s America the Beautiful Initiative, additional appropriations to ANR and VHCB, both for internal capacity, as well as partner capacity, are needed. Other appropriations to support the many entities participating in this effort will be needed to fulfill the directive for an inclusive process in Act 59. Absent additional appropriations, it is unlikely that VHCB and ANR will be able to complete the robust statewide planning effort envisioned by the Act.

---

<sup>4</sup> Initially, VHCB recommends engaging with the Land Access and Opportunity Board and the Environmental Justice Advisory Council to more fully define how this work will proceed in an inclusive and effective manner.



## Act 59 Inventory Process Timeline

The following is a brief summary of the process conducted by VHCB, ANR and N4J since Act 59 became law in 2023. We provide this as a reference only.

- July to November 2023: N4J Scope of Work, Establish Oversight Group, Data Group, Science and Policy Group
  - VHCB and ANR met with N4J to establish the scope of work for the inventory phase of Act 59.
  - N4J formed three different work groups to help oversee and guide work during the inventory process: (1) an oversight group including N4J, VHCB, ANR, TNC and VLT; (2) a data group intended to focus on the analysis of what lands are currently conserved and how those lands fit under the land management categories established in Act 59; and (3) a science and policy group to provide input and guidance on technical questions and issues during the public input process.
  - Statewide partners, including Vermont Land Trust, The Nature Conservancy, Audubon Vermont and Trust for Public Land were invited to provide initial input and to help identify key stakeholders and stakeholder groups.
  - Additional representation to the oversight group from the statewide council of Natural Resource Conservation Districts was added later in the fall.
- November 2023 to March 2024: Public Input Process
  - VHCB, ANR and N4J conducted multiple public input processes to understand public perceptions about conservation, the vision and goals of Act 59, as well as to gather feedback regarding the specific questions enumerated under the inventory mandate.
  - N4J conducted over 50 interviews of stakeholders, stakeholder groups and partners.
  - N4J collected survey responses from over 150 stakeholders.
  - ANR, VHCB and partners led four discrete working groups to tackle specific questions in the inventory mandate regarding: the land management categories for conservation classification, the role of conserved agricultural lands in meeting the Act's vision and goals, the role of State lands in meeting goals for ecological reserve forest protection, and the role of conservation to protect aquatic system health.
  - N4J and VHCB met with more than 25 affinity-based focus groups and organizations to provide information and gather input from different stakeholder cohorts across the policy spectrum, including all different perspectives and experiences in conservation, land management and policy advocacy.
- April 2024 to June 2024: Analysis and Report Preparation
  - N4J analysis, coding, and organization of public input into ten annexes – one for each of the questions in the inventory mandate.
  - VHCB, ANR and partners formed additional ad hoc work groups to address two additional questions: funding and financing for Act 59 implementation, and the potential role of conservation at the time of intergenerational transfers of forest and farmland.
  - N4J, VHCB, ANR and key partners from the Science and Policy Group reviewed and provided recommendations for N4J to finalize the Annex attached to this Inventory.

- VHCB and ANR collaborated to make final decisions and prepare this report.

### 3. Framing the Vision and Goals of Act 59.

Act 59 of 2023, *An Act Relating to Community Resilience and Biodiversity Protection* (Act 59) codifies in State law Vermont’s policy for land protection, restoration and enhancement, and community resilience in an eloquent and unifying *vision* that speaks to the multiple, dynamic, and overlapping facets of conservation work in Vermont:

[T]o maintain an ecologically functional landscape that sustains biodiversity, maintains landscape connectivity, supports watershed health, promotes climate resilience, supports working farms and forests, provides opportunities for recreation and appreciation of the natural world, and supports the historic settlement pattern of compact villages surrounded by rural lands and natural areas.

Further focusing this vision, Act 59 establishes clear *goals* that 30 percent of Vermont’s total land area be conserved by 2030 (the 2030 goal), and 50 percent of the State’s total land area by 2050 (the 2050 goal).

Finally, the Act provides a legal framework, definitions and process mandates for the lead implementation partners, Vermont Housing and Conservation Board (VHCB), which is directed to lead the inventory and planning phases, and Vermont Agency of Natural Resources (ANR), which will lead implementation of the plan(s) created under the framework in the law.

The legal framework of the Act starts with clear and firm guideposts for the 2030 goal through a new legal definition of conservation<sup>5</sup> based on land management categories also newly defined.<sup>6</sup> Each of those management categories differs in the focus and intent of the legal instruments used for protection, but all three require permanent legal protection from conversion.<sup>7</sup> In other words, the Act establishes a two-part analysis to measure progress towards the 2030 goal based first on the *durability* of legal protection, and next on the type and extent of management and stewardship. It is the intent of the Act that only lands meeting both the test for permanent (or in the case of the 2050 goal, long term) protection, as well as lands fitting under the land management categories in the bill should be counted towards the Act 59 goals.

---

<sup>5</sup> “**Conserved** means permanently protected and meeting the definition of ecological reserve area, biodiversity conservation area, or natural resource management area as defined in this section for purposes of meeting the 30 percent goal in subsection 2802(b) of this title.”

<sup>6</sup> “**Ecological reserve area** means an area having permanent protection from conversion and that is managed to maintain a natural state within which natural ecological processes and disturbance events are allowed to proceed with minimal interference.”

“**Biodiversity conservation area** means an area having permanent protection from conversion for the majority of the area and that is managed for the primary goal of sustaining species or habitats. These areas may include regular, active interventions to address the needs of particular species or to maintain or restore habitats.”

“**Natural resource management area** means an area having permanent protection from conversion for the majority of the area but that is subject to long-term, sustainable land management.”

<sup>7</sup> “**Conversion** means a fundamental change in natural ecosystem type or habitat, natural or undeveloped land cover type, or natural form and function of aquatic systems.”

The legislation identifies *Vermont Conservation Design* (VCD) to prioritize and guide targets for investment towards the 2030 goal among the conservation categories defined in the Act. A framework created and maintained by ANR, VCD identifies the important ecological functions and values Vermont must protect in order to maintain an ecologically functional landscape and all the benefits that our natural landscape provides. Vermont also needs recreational opportunities, affordable housing, local food systems, local economies, and healthy and vibrant communities. These are complementary needs and values, and there is room for all of them in our state when we take a holistic, sustainable, and equitable approach to our conservation work. In addition to VCD, ANR and Vermont’s conservation organizations have established numerous other frameworks for land protection and environmental health, including an elaborate system of environmental laws and regulation for land use. The Act acknowledges alongside VCD that the “principles of conservation science” manifest across this body of work should guide prioritization and planning.

Next, Act 59 takes a more flexible approach to meeting the 2050 goal, providing that that goal should be reached *primarily* through permanent protection from conversion. But the legislation allows that “other long-term land protection mechanisms and measures that achieve the goals of [VCD] that are enforceable and accountable and that support an ecologically functional and connected landscape may be considered.”

Finally, Act 59 identifies a number of the key policy questions and issues that must be addressed for successful implementation. Many of these policy questions and issues are set forth in the initial inventory report mandate under Section 2803(b) in the Act, as well the planning mandate under Section 2804(b), but difficult-to-resolve tensions are inherent to environmental public planning work and manifest in the Act’s many competing and overlapping goals and objectives. Given the many, diverse stakeholders for this work, we have identified a number of key themes and questions that deserve ongoing focus and attention as we continue our work in this next planning phase as outlined by Act 59.

For example, the practice of conservation has always depended on agreements between landowners willing either to convey (through a conservation easement) certain rights and restrictions related to development and management of the land to a conservation organization, or to convey the parcel in fee to a conservation organization or public entity, sometimes at no cost. VCD itself acknowledges that multiple, flexible strategies are needed to protect the land areas and waters it identifies as highest priority for protection, *including but not limited to permanent protection* of the type called for under Act 59, because different land protection tools will appeal differently to different landowners. As we consider priorities for implementation of Act 59, we must be prepared to meet the need both for more flexible strategies to respond to landowners’ specific planning objectives, financial needs and approaches to stewardship to the greatest extent possible. Likewise, when considering how to protect sensitive resources on working lands, we know we must increase incentives, technical support and financial support for practices that could reduce production in order to increase ecological health. Our hope is to include those incentives through conservation programs and practices, as well as increased funding for stewardship and restoration.

While we undertake this work to produce a clear and actionable plan to meet the State’s goals and vision, the practical reality is conservation professionals must still contend with the many market forces and historic land use patterns that make our work and relationship with Vermont landowners complex. Likewise, we undertake this work during an historic housing crisis, and we know that our conserved

landscape must accommodate population growth and thriving communities. Act 59 emphasizes increasing habitat connectivity, climate resilience and protection of critical natural areas under the Act's ecological reserve category. Yet, the majority of Vermont's currently conserved land fits under the Act's natural resource management area definition, reflecting past work that considers sustainable land conservation to include people and nature coexisting together, not separately.<sup>8</sup>

Given our historic conservation work, which has blended working agricultural and forest lands with ecological protections, we must take great care to maintain a healthy balance between various conservation values. We must understand the suite of resources and values protected on Vermont's conserved lands, and then manage, protect and promote the resources and values accordingly, taking special care to protect sensitive features and critical functions. In protecting these values, we need to employ practices that fittingly protect or promote the conservation value, but that are also accessible to and appreciated by landowners and communities. Considering recent events and environmental issues, it feels particularly important to match land conservation strategies with hydrologic health and function. Traditional conservation practices, as well as land use and management practices, do not always best protect hydrologic health and function. Aquatic systems have different needs than terrestrial ones and must be protected accordingly. Act 59 presents opportunities to address these issues, which we must take into account and be sure that our management actions promote clean water, connected floodplains, and a climate-resilient landscape.

As we drive our work under the Act's vision for landscape function, connectivity and resilience, we must acknowledge that practices, tools and strategies for stewardship, restoration and enhancement of that landscape are needed as well and must be advanced in conjunction with legal conservation. Using VCD as a guide, we can prioritize restoration and enhancement efforts to create a more connected, functional, and resilient landscape. This also raises another question as we consider how to best prioritize funding for our work, which is how to balance investments in land acquisition (for the purpose of legal conservation) with the capacity investments needed to ensure that we don't achieve the Act's goals while sacrificing the vision. Conservation stewardship is human resource intensive, and across the spectrum of conservation stakeholders we talked to in this process, critical capacity gaps frustrate practitioners' ability to meet their obligations with respect to currently conserved and protected lands, much less if we double or triple the rate of protection to meet the 2030 and 2050 goals.

In other words, many partners have expressed agreement that the need for investments in capacity and stewardship must precede increased budgets for conservation acquisition. This is true among statewide and regional conservation organizations, small local land trusts, at VHCB and ANR. As we engage further with stakeholders in Phase II, we also expect to provide further analysis of the expanded roles that regional and local government entities can play. This includes regional planning commissions, municipalities, natural resource conservation districts, as well as the dozens of conservation planning commissions around the State, trail groups, and the many organizations and service providers who deliver conservation and stewardship services to landowners and conservation organizations.

Perhaps most importantly, this process has revealed huge, difficult to bridge, gaps for equity and inclusion. The State of Vermont has recently undertaken important new initiatives to invest in

---

<sup>8</sup> See Berlik, Kittredge, and Foster, *The Illusion of Preservation: A Global Environmental Argument for the Local Production of Natural Resources*, available at: <https://harvardforest1.fas.harvard.edu/publications/pdfs/HFPaper26.pdf>.

environmental justice, land access and opportunity, to empower leaders with lived experience from marginalized communities, and to assure those most affected by the impacts of climate change that there will be a just transition, at the speed of trust, to participation in a future sustainable economy. Act 59 acknowledges these needs among its findings: “Vermont is the traditional and unceded home of the Abenaki people; that BIPOC Vermonters and others from historically marginalized and disadvantaged communities have not had equal access to land and land-based enterprise; and that conservation planning process must address strategies for equity of access.” (Act 59, Sec. 2(17)).

Individuals and organizations working on behalf of BIPOC Vermonters, Vermont’s Indigenous population, and Vermont’s disabilities community have expressed the desire for more overt and effective efforts to include their voices and perspectives in this work. At the same time, these representatives have also called into question many of the underlying assumptions about the nature of conservation, including whether the act of conservation is inherently inequitable, inherently unjust, rooted as it is in traditions of ownership, displacement of indigenous populations, and extractive economic policies that will always trump ecological and community health. Despite the need for resolution of these and many other thorny questions, many in Vermont continue to view the enactment of this legislation as an opportunity to pull Vermont’s conservation, environmental and community resilience stakeholders together under a common vision and plan and build on the heritage of land stewardship and care for that natural world that is common to all who live here, have lived here and will in the future.

Led by conservationists and environmentalists, the Vermont Agencies of Natural Resources and Agriculture, Food and Markets, Vermont landowners and philanthropists, foresters, farmers and practitioners of all kinds, have worked together for the better part of the last century, invested, and carefully managed, to help this place recover from the impacts of early colonial land use, resource extraction and exploitation, despite shifting economic forces and market pressures that make rural enterprise so challenging. That collective effort to recover Vermont’s natural beauty, wide-open vistas, forests, and abundant agricultural communities has been incredibly impactful. And for more than thirty-five years that mission has been joined with a dual goal of housing Vermont’s most vulnerable populations and building vibrant and inclusive communities through the work of the Vermont Housing & Conservation Board, its supporters and partners. Vermont has reason to be proud of the social and environmental outcomes we have achieved.

Looking forward, we know that successful implementation of Act 59 will be no small responsibility, even as it presents a huge opportunity to protect what we all love about Vermont: our natural and working lands, watersheds, recreation opportunities, diverse wildlife and quality of life. These are the very things at risk in the face of climate change, rapid biodiversity loss, and development pressures. At the same time, we need to resolve our housing crisis, develop the infrastructure we need for a growing population, and establish a thriving state economy that both protects the state’s natural integrity and fosters sustainable agriculture, forest products, tourism, and outdoor recreation industries. Biodiversity protection may be a key focus of Act 59, but the actions it is inspiring will also help the State better adapt to the “new normal” of climate change threats, including flooding, as well as protect the landscapes we depend on for life and livelihood, and sustain the vibrant, rural communities in which we live. The most effective and efficient way for us to protect, enhance and restore our remaining biological diversity and maintain a state that is resilient in the face of climate change is to conserve and steward an

intact and connected landscape with a mix of management approaches that range from ecological reserves to sustainably managed working lands.

## **4. Full Analyses and Responses to Questions in 10 V.S.A. Section 2803(b):**

### **Question 1: Review of Conservation Categories**

10 VSA Chapter 89 Section 2803 (b)(1) directs VHCB, in consultation with ANR, to provide:

*A review of the three conservation categories defined in section 2801 of this title and suggestions for developing any modifications or additions to these categories that maintain or complement the core concepts of ecological reserve areas, biodiversity conservation areas, and natural resource management areas in order to complete the conserved land inventory and inform the comprehensive strategy in the conservation plan. As part of this review, criteria shall be developed to determine the types of agricultural lands that will qualify as supporting and restoring biodiversity and therefore count towards the natural resource management area category.*

Two working groups were convened during the inventory process to provide the research and inputs that inform our response to this first question in the inventory mandate: the conservation categories (see Conservation Categories Working Group Report), and an agricultural lands working group, which specifically addressed the final part of the question. (see Agricultural Lands Working Group Report) The recommendations of these working groups were further refined based on our review of the additional public input and feedback collected through N4J-led stakeholder interviews, an open survey, and focus group meetings.

We found that this question, more than any other aspect of this process, divided the opinions of staff at VHCB and ANR, participants from conservation organization partners, and public stakeholders, and no current consensus exists on the issues in tension. Nonetheless, VHCB offers the following analysis and recommendations based on what we heard from all public stakeholders, our review of the state of conservation in Vermont, and an assessment of how to practically meet the multiple goals of Act 59. We hope that our recommendations fulfill our intent to create broad opportunities for landowners to participate in the conservation, land protection, stewardship and management decisions and actions that will help Vermont meet its goals under the Act. Likewise, we look forward to our work in Phase II, where we will have further opportunity to work with partners and stakeholders to resolve differences of opinion, seek better understanding of others' perspectives, and implement Act 59 in a way that is both inclusive and focused on the Act's conservation goals.

#### ***Modifications to the Conservation Categories***

We do not recommend any modifications to the conservation categories currently defined in Section 2801. This is consistent with the recommendations of the Conservation Categories Working Group, the Agricultural Lands Working Group, and Nature for Justice. However, VHCB agrees with the many stakeholders who suggested we clarify that the categories, which are enumerated in the bill, 1,2, 3, should not be seen as hierarchical, but descriptive, and we recommend that we refer to the categories by name and type of management. None of the categories is more important than the others, but together they support the different landscape values and functions we depend on. We must also remember that legal conservation of land does not automatically promote better management outcomes than other ownership structures, and non-conserved lands must play a critical role in our vision for a connected and resilient landscape.



Going forward, we note that representatives from Vermont’s Indigenous and BIPOC communities asked whether these categories could be further refined or interpreted to reflect different values and relationships with the land, and VHCB agrees that during further collaboration with these stakeholders and allies, we must seek ways to implement conservation investments and land stewardship programs that reflect Vermont’s pluralistic values. While this could be accomplished through changes to the statute, we also think such goals can be set forth in programmatic guidelines, supports and funding opportunities. Finally, we heard many questions from stakeholders over the last year regarding the terms, terminology, and alignment of statutory language with the technical idiom of our work, and we will continue to develop guidance that links the terminology from Act 59 with terminology and definitions already in use among conservation organizations to build a more inclusive language.

### *Additions to Categories*

While VHCB does not recommend any immediate changes to the existing category definitions, we do recommend that the General Assembly consider whether to create at least one additional category for a set of conserved parcels we have currently grouped under the heading “Uncategorized Conserved Lands.” This is consistent with the recommendations of the Conservation Categories Working Group and N4J, both of whom recognized the need for an additional category of conserved lands not directly recognized in the other conservation categories. The parcels currently grouped in this category represent portions of conserved lands that did not fit neatly under the definitions of the first three categories. This includes ski area leases, Department of Defense lands, campgrounds, parking areas and trailheads, municipal parks, and fishing access areas; less than fee interests that protect discrete values, such as hunting rights and flowage rights; and development areas associated with conservation easements, such as farmstead complexes in agricultural easements or camp development zones in forestland easements. These lands all have some level of legal protection from further development, and we believe that many support the conservation values inherent to the vision of Act 59. However further analysis of these lands is needed before the next inventory of conserved lands is delivered in 2026 to better understand both the legal restrictions and requirements on those lands, as well as the intent behind the act of conservation. Because of this, VHCB recommends we exclude these lands from the tally of currently conserved lands reported in the initial 2024 inventory, but we envision that many of these parcels will be incorporated into one of the three existing categories or added to a new miscellaneous category in the future.

### *Agricultural Lands*

Finally, we recommend including all currently conserved agricultural lands in this initial inventory, under the Natural Resource Management Area category, along with public and private conserved working forest lands. This is consistent with the recommendations of the Agricultural Lands Working Group and N4J; however, it is not consistent with the recommendations of the Conservation Categories Working group, and we know other stakeholders object to this decision. Some stakeholders recommended that conserved working forestlands should also be excluded from counting towards the Act 59 goals, and still others recommend excluding conserved parcels that are managed for sale of carbon credits in the voluntary carbon market. There is no recommendation that would unify all of these points of view and perspectives, and we welcome additional discussion with stakeholders in the next phase of our work.

We were intentional in the decision to be categorically inclusive in this initial inventory, and we will continue to focus on the many implications of this decision. This must include discussion of how to enhance and/or create programmatic investments that increase landscape function, resilience and ecological health on working farms and forests through protection of wetlands, riparian and lakeshore buffers, floodplains and other special natural communities. As noted below, current funding for working lands conservation programs facilitates management for biodiversity outcomes, but not all historic conservation investments provided for such protections. Moreover, not all landowners are interested in additional restrictions on land they need to be productive to remain financially viable. The valuation and funding we can provide must be sufficient to support long-term management for biodiversity outcomes, and again, this means identifying and securing additional resources to support those needs over time.

Conserved agricultural lands play a critical role across our landscape, providing myriad conservation benefits for Vermont, and VHCB makes this recommendation based on our holistic view of conservation across the state, recognizing that conservation of agricultural lands not only supports Act 59's goals for community resilience and food security, but also can support and enhance ecological goals. Agricultural land conservation programs and investments are predicated on "sustainable land management," as that term is defined in Act 59 to include within the definition of natural resource management areas, "agricultural lands that ... maintain[] or restore[] their biodiversity, productivity, regeneration, capacity, vitality, and their potential to fulfill ... relevant ecological, economic, and social functions." This language provides cogent and thoughtful expression of the multiple goals we seek to balance through agricultural conservation, and it reflects the reality that the agricultural parcels we conserve often include significant natural areas and water resources that are protected through our work, especially in the last decade of VHCB's work in this area. This is a critical point, and so emphasis is warranted: not every acre of productive working farm (or forest land) supports the range of ecological functions needed for a healthy, biodiverse landscape. But the act of conserving lands that include food production has been and we recommend should continue to be a primary strategy to protect and connect to surrounding forests, wetlands and natural areas.

On this note, we would underscore the work of the Agricultural Working Group (and refer readers to their report, included in N4J's annex for this question) to depict the different types of management and land protection typical on parcels conserved for agricultural use. As documented in that report, the vast majority of acres on conserved agricultural parcels are forestlands, wetlands, agricultural buffers, grazing lands and hay meadows. Moreover, we note that even within the three and a half decades of VHCB's work with Vermont's agricultural producers, programmatic opportunities to support ecological outcomes have expanded dramatically. Not only do current investments support biodiversity outcomes in new conservation investments, but conservation organizations are already working with agricultural land owners to overlay additional protections on lands protected in the early years of our work. With additional focus and funding, we believe this trend will continue, and with the right supports, we can continue to increase the ecological function, connectivity and productivity simultaneously.

Stakeholders raised a number of concerns related to counting all portions of conserved agricultural lands towards the Act 59 goals. Primarily, these objections centered on the intensity of agricultural land use, especially for the production of feed corn and other row crops, pointing out both documented and potential impacts to water quality, degradation of habitat, and use of chemical pesticides and fertilizers that could have wide-ranging impacts on native plant and animal species.

In response, we would ask all of the Act 59 stakeholders to recognize the role of agricultural lands in fulfilling the vision set forth in Act 59 for a comprehensive conservation plan that includes in its approach measures “...to conserve and protect Vermont’s agricultural land, working forests, historic properties, recreational lands, and surface waters.” Our recommended approach – including conserved agricultural lands in the Natural Resource Management Area category, with the goal to increase investments in restoration and protection of critical natural resources – strikes a balance between these perspectives, providing support for the vision and goals of Act 59.

VHCB believes this achieves the broad, inclusive vision of the Act and the intent to increase outcomes for biodiversity and ecological health within a framework of enhanced investments across the range of conservation programs and values in Vermont. Agricultural land conservation also represents an important strategy to reach the numeric goals of Act 59, because the conservation of parcels that include areas for agricultural production also results in significant and important protection for sensitive natural areas. The owners of conserved farmland already manage more forestlands than croplands or pasture,<sup>9</sup> and Act 59 provides an opportunity to increase supports and funding to ensure that we increase these efforts in future conservation work while also revisiting previously conserved parcels where there is opportunity to provide additional layers of protection for ecological health and water quality.

And while we note that there are clearly opportunities to improve ecological outcomes in balance with goals for food security, farm to plate, maple sugaring, and timber harvest for production of wood products, our role is to identify and provide additional supports and investments. We must recognize that most conservation organizations do not implement complex regulatory permitting programs; we are advocates, funders and stewards. We can support outcomes through the guidelines and expectations that govern commitment of funds, as well as through restorative and regenerative management strategies following conservation, but we don’t stand in the shoes of state regulators.

With thanks and recognition to the Conservation Categories, Agricultural Lands and Data Working Groups, we have been able to generally characterize the different components of conserved agricultural lands (meadows, wetlands, tilled areas, etc.). Not only does this help us see the full picture of these programs and understand their many co-benefits and values, but it helps us to identify opportunities for conservation investments that incent additional protections for critical natural areas. But, even if we ascribe different funding values to those uses and outcomes, we must be careful to understand, inventory, and value agricultural land conservation as holistically as possible. This is a case where the value of the whole is definitely greater than the sum of the parts.

### **Recommendations:**

VHCB, in consultation with ANR, makes the following recommendations regarding the conservation categories:

- No changes are recommended to the current definitions of the conservation categories.
- VHCB recommends including currently conserved agricultural lands in the Natural Resources Management Category.

---

<sup>9</sup> See the Report of the Agricultural Lands Workgroup for the Vermont Conservation Strategy Initiative, included in the N4J Annex for this question, which summarizes that the overall portfolio of conserved agricultural parcels comprises 43% forest and wetland, another 43% pasture and meadow, and only 14% used for production of annual crops.

- Differentiate lands within the Natural Resource Management Area category as “Forestland and other Natural Cover,” which includes habitat blocks and riparian connectivity blocks, and “Agricultural and Open Land,” which includes agricultural lands and other working lands that do not qualify as forestland or natural cover.
- Continue to refine our interpretations and working guidelines for the conservation categories and other statutory definitions in Phase II of this process; and likewise work with stakeholders to reconsider and describe the three (or four) conservation categories based on their assigned name, functions and values, rather than their numerical hierarchy.
- Continue analysis of the Uncategorized Conserved Lands to determine which of those lands should be included in the next inventory as counting towards the Act 59 2030 goal, under one of the existing categories or in a new fourth category.

## Question 2: Inventory of Conserved Land across Act 59 Categories

10 V.S.A. Section 2803(b)(2) asks VHCB, in consultation with ANR, to report review and report:

*The amount of conserved land in Vermont that fits into each of the three conservation categories defined in section 2801 of this title, including public and private land. The inventory shall also include other lands permanently protected from development by fee ownership or subject to conservation easements.*

### Data Governance

Initial work to address the data framework considerations underlying this question was led by our consultants at N4J, who aggregated and compared data collected from the partners and other sources to assess consistency across datasets. Through this analysis, several important data quality issues were identified, including:

- **Completeness:** Multiple fields across the datasets contained missing values. These values, including Gap Status, P-Agency, and P-Type, are critical for the inventory report and answering questions in Act 59 regarding current conservation practices and projects.
- **Consistency:** Different datasets were inconsistent in the naming of columns and fields, as well as the use of categorical values. Additionally, datasets from different periods were inconsistent in naming conventions and values for key fields such as PolygonID, making it challenging to compare parcels across datasets without advanced geospatial analysis. Inconsistencies also exist in the use of different geospatial data and projections by partners in their datasets.
- **Accuracy:** Accuracy and precision issues were present in the calculated fields of geospatial area calculations, and in the polygons and parcel boundaries used by different partners to represent the same tract of land.
- **Methods:** Subjective fields, such as Gap Status, and geospatial area calculations follows different methods when applying values across datasets. The current VPLD data standard is prescriptive for some fields, while in other circumstances, some data fields departed from methods where guidance was provided.
- **Usability:** Differentiations and departures from the standard and application of methods, such as some datasets using coded values versus the same fields in other datasets using categorical values, increase challenges for usability and aggregation. Accessibility of up-

to-date and reliable data was also difficult to access, especially for use by non-key stakeholders or the general public.

Similar to challenges and gaps in data quality, interviews with partners and a review of current processes and documentation demonstrated numerous challenges with data governance of conserved lands data. These issues include:

- **Storage:** Vermont's current storage infrastructure for conservation data consists of a combination of on-premises and cloud storage. Additionally, different partners maintain additional documentation and data on conserved land stored in various databases such as MySQL. This mix of storage solutions can lead to fragmentation and difficulties in accessing, managing, and sharing the data effectively.
- **Authority:** One of the challenges in data governance is the absence of a clear legislative mandate to allocate funds or maintain the data related to conserved land. The process for sharing this data is semi-formal, which can result in a lack of standardized practices or gaps in reporting when staff turnover occurs. Furthermore, there are minimal incentives or disincentives for partner organizations to actively participate in data reporting and management efforts.
- **Sharing:** Inconsistent sharing practices pose a significant hurdle in ensuring accurate and up-to-date information on conserved land. Gaps in knowledge exist regarding submitting or sharing updates to the Vermont Protected Lands Database (VPLD), a critical resource for tracking conserved land. Moreover, a lack of formal documentation or data-sharing agreements further hinders effective collaboration and data-sharing among partner organizations.
- **Stewardship:** Data stewardship of conserved lands datasets varies across different organizations, with significant discrepancies on how data is managed, maintained, and quality is ensured. There are inconsistent levels of dedication to the VPLD standard and differing prioritizations for individual organizational needs over the collaborative standard, which can impact the accuracy and completeness of the aggregated data. Harmonizing these commitments and aligning priorities is crucial for maintaining the integrity of the conserved land dataset.
- **Standard:** Vermont's current data standard for conserved land was last updated in 2020. This outdated standard does not include new or additional agencies and organizations contributing to and managing conserved lands, fails to account for new definitions of conserved lands under Act 59, and lacks fields for recording conservation practices/programs or ensuring equitable access. These gaps in the standardization of data fields have resulted in further branching of the datasets across partners and limits how the data can be used for the inventory report.

Addressing these data governance concerns is essential for improving the accuracy and reliability of the conserved land data in Vermont. The state can ensure consistency and coherence in data reporting by establishing a standardized data governance framework with clear data standards, protocols, and monitoring mechanisms. Regular data sharing and collaboration among partner organizations should be encouraged to enhance data accuracy and completeness. These recommendations aim to strengthen the integrity of the conserved land data, enabling more informed decision-making and effective conservation efforts in Vermont.

### ***2024 Inventory of Conserved Lands***

Following that initial analysis conducted by N4J, VHCB and its partners determined that the most recent version of the Secured Areas Database maintained by The Nature Conservancy, and prepared for the Northeast Association of Fish and Wildlife Agencies (NEAFWA), best fit the needs of this analysis. TNC had conducted this detailed statewide analysis of conserved lands using the United States Geological Service’s Gap Analysis Project.<sup>10</sup>

This data was selected because it identifies, when possible, a finer level of management classification and protection delineation of Vermont’s conserved lands, than other available conserved lands data. Thus, this dataset made it easier to redescribe Vermont’s conserved lands within the categories defined in Act 59.

Conserved lands were categorized based on their management and intent, as recommended by the Conservation Categories Working Group. Please refer to the Conservation Categories Working Group report for a discussion of the data classified as Ecological Reserve Area and Biodiversity Conservation Area.

The lands included in the Natural Resource Management Area category comprise conserved lands that did not meet the criteria of an Ecological Reserve Area or a Biodiversity Conservation Area, and were not identified as Gap 4 in the Secured Area Database. These are Vermont’s protected working lands, both forest lands open to forest management and agricultural lands, including land used for growing crops and vegetables, hay meadows, grazing lands and other open lands.

The category of Uncategorized Conserved Lands, includes lands identified as Gap 4 in the Secured Lands Database and will be further reviewed and considered in the Planning Phase for inclusion in the 2026 inventory update.

This data was last updated in 2022, and the effort undertaken to reclassify historic data, while also working to incorporate recent land conservation projects that occurred between 2022 and 2024, is complex and ongoing.

#### **Summary of data:**

As of June 21, 2024, we calculate the number of acres of “conserved” lands in Vermont, for purposes of the Act 59 2030 goal, as follows:

- Conserved land in Ecological Reserve Areas: 236,739 acres, or 4% of land area.
- Conserved land in Biodiversity Conservation Areas: 239,545 acres, or 4% of land area.
- Conserved land in Natural Resource Management Areas: 1,106,473 acres, or 19% of land area.
  - NRMA - Forestland or Natural Cover: 933,813 acres, or 16% of land area.
  - NRMA – Agriculture and Open Land: 172,660 acres, or 3% of land area.
- Total land across all three categories: 1,582,757 acres, or 27% of land area.

---

<sup>10</sup> For more information, see: <https://www.usgs.gov/programs/gap-analysis-project>.

- Uncategorized Conserved Lands (for further analysis): 47,595 acres, or 1% of land area.

### **Recommendations:**

- Additional funding and capacity must be identified so we can continue to refine, collect, govern and manage these data, first to meet ongoing reporting requirements, and more importantly, to inform and prioritize our work. This would include funding for dedicated personnel capacity at ANR and the Vermont Center for Geographic Information, as well as funding through VHCB or some other mechanism for non-profit organizations' data management needs.
- Additional data review and refinement will occur during the Planning Phase and beyond; we expect to provide a substantial update in 2026, when we provide the next required inventory of these data.

### **Questions 3 & 7: Conservation Programs and Practices**

10 V.S.A. Section 2803(b)(3) directs VHCB, in consultation with ANR, to provide:

*A summary of the totality of conservation practices, both permanent and intermediate, available for reaching the goals of this chapter, including what they are, what they do, how they contribute, and what metrics are available to quantify them.*

10 V.S.A. Section 2803(b)(7) further asks:

*How existing programs will be used to meet the conservation goals of this chapter and recommendations for new programs, if any, that will be needed to meet the goals.*

### **Overview**

In order to answer these questions, we first defined conservation practices and programs in the following ways:

- Conservation practices vary in their degree of restriction and permanence. For purposes of this report... Conservation *practices* are the legal mechanisms for the act of conservation called for to meet the 30x30 goals set forth in Act 59, "...". The principle mechanisms for permanent protection under the Act 59 categories are legal easements and fee acquisitions (by a qualified conservation entity), but we also consider a variety of other mechanisms, including but not limited to regulations, incentives, and other legal encumbrances as potential opportunities for protection.

In the annex prepared for this question, Nature for Justice also included conservation practices that focus on management and stewardship activities, rather than acquisition and legal protection. This encompasses an additional suite of methods that can be used to advance conservation values on a given parcel. Please refer to that Annex for a more thorough discussion of conservation practices focusing on management and stewardship of land.

- Conservation programs are administered by qualified conservation entities to advance goal-specific initiatives, practices and outcomes, including but not limited to the Vermont

Forest Legacy Program, the different types of conservation work of Vermont’s land trusts, the River Corridor Easement Program, or the Use Value Appraisal Program. Conservation programs can be a funding program, a specific conservation initiative, or the focused efforts of a specific organization. Regardless of how you define them, a range of conservation practices and programs have been used across Vermont to protect the rich cultural and ecological values that contribute to the character of the state.

### ***Conservation Programs***

There are many conservation programs in place across the state that advance the goals of Act 59. Many of these programs are discussed in more detail elsewhere in this report. These programs have performed important work across the state for varying lengths of time, have adapted to various environmental, political, and social shifts, and managed to maintain Vermont’s conservation values to their present state that we benefit from today. This includes federal programs administered by the U.S. Forest Service, the Natural Resources Conservation Service, and the U.S. Fish and Wildlife Service. At the local level, local conservation organizations play a critical role in guiding local conservation and advocating for local protection. Further, local conservation funds can support local conservation programs and efforts. Finally, Vermont’s many land trusts and conservation non-profits fill many important needs across Vermont. Further exploration of new conservation programs that could contribute to the goals of the act will occur through the Planning Phase.

### ***Guidelines and Frameworks***

Vermont ANR, VHCB and our many partners work across the spectrum of conservation activities, from acquisition to management and stewardship to active enhancement and restoration actions. Our collective work is based on a repository of science-based frameworks and guidance, amassed over decades of work by practitioners, regulators, academics, and contractors. Nature for Justice compiled the following resources summarizing conservation practices available to Vermont for implementation of Act 59.

- A Pathway for Inland Waters in the 30 x 30 Target
- Durable Freshwater Protection: A Framework for Establishing and Maintaining Long-Term Protection for Freshwater Ecosystems and the Values They Sustain
- Wildlands in New England: Past, Present, and Future
- 30x30 A Guide to Inclusive, Equitable and Effective Implementation of Target 3 of the Kunming-Montreal Global Biodiversity Framework
- The Voice, Choice, and Action Framework (A Conservation Practitioner’s Guide to Indigenous and Community-Led Conservation (V.2.0))
- Vermont Agriculture & Food System Strategic Plan: 2021-2030
- Payment for Ecosystem Services and Soil Health Working Group Final Report
- Conservation in Vermont Best Management Practices for Farm and Forest Owners

The Vermont Forest Roundtable organized by Vermont Natural Resources Council also produced a “List of Program, Policies, and Implementation Tools to Meet the Conservation Goals and Advance the Vision of Act 59,” which is included in the Nature for Justice Annex.



***Conservation Expressed Through Property Rights: Fee Acquisition, Conservation Easement, Deed Restrictions, Etc.***

Fee land acquisition and ownership is an important conservation practice that has helped to shape Vermont's conservation landscape. Through this practice, a qualified conservation entity acquires a piece of land, holds, and manages it for a given set of values. Examples of this include Green Mountain National Forest managed by the U.S. Forest Service, our State Parks and State Forests managed by the Department of Forests, Parks and Recreation, an important nature preserve managed by a land trust, as well as your local town forest managed by the town. Each of these have varying levels of protection based on barriers to conveyance, and additional levels of protection that can be placed on top of fee interests, such as conservation easements or deed restrictions. Fee lands are especially important because they are often held by public entities, planned for through public processes, open to public access, and managed for a diversity of public values. When held by a non-governmental organization, fee lands may sometimes be managed with a narrower set of goals in mind, including limits to public access or restrictions of certain activities more commonly allowed on public land.

Conservation easements are another critical tool used by the conservation community to protect values. Through a conservation easement a qualified conservation entity acquires certain property rights for a given piece of land, restricting uses that would infringe upon certain conservation values, while promoting other conservation purposes. These easements can be placed on public, non-profit owned and private lands and can be used to protect and promote many values, including biodiversity, forest management, public access, and agriculture. Under an easement where the land remains in private ownership, there is often less intensive management and stewardship required by the conservation entity. Despite this, easements still require careful stewardship; an easement is only as strong as the conservation organization dedicated to upholding its purposes, restrictions, and allowances. In Vermont, easements are held by global organizations like The Nature Conservancy, statewide organizations like the Vermont Land Trust, and local land trusts like the South Hero Land Trust or the Stowe Land Trust, as well as by public agencies like the Department of Forests, Parks and Recreation, the VT Fish & Wildlife Department and the Vermont Housing and Conservation Board, a public instrumentality.

Though fee ownership and conservation easements are the two primary mechanisms through which parcels in Vermont are protected, alternative legal interests and encumbrances can also support conservation outcomes for a given piece of land. Deed restrictions can be written into a property's deed, which restrict the uses of the land moving forward. Easements can be held for very specific purposes such as public access, hunting rights, or timber rights. Trail easements can encumber just a thin strip of land. Leases, temporary easements, contracts- such as those entered in a carbon agreement, and liens- such as those placed through the Use Value Appraisal program, can also protect conservation values on a given parcel.

***Conservation Expressed Through Public Policy: Legislation, Regulation, Etc.***

In addition to a right conveyed on a specific property, conservation can be achieved through legislation and regulation. Rather than focusing on a specific property, these conservation tools take a general approach to protecting conservation values. Legislation can be crafted to protect specific conservation interests, such as shorelands or wetlands, highest priority forest blocks, lands under public ownership, or can regulate what can be done on private lands. Legislation is a powerful, sweeping, durable

conservation mechanism. Once legislation is in place, regulations can then be developed under the law to implement protections in finer detail. Regulations can direct land use in certain areas or for certain uses, such as zoning regulations, Act 250 function, the restriction on development over 2500 feet. On the other hand, legislation can be amended or repealed, program funding can be constricted, and/or deployment of internal HR resources can frustrate the goals of legislatively mandated requirements.

### ***Conservation Expressed Through Financial Incentives or Penalties***

Legislation can also create financial incentives or penalties that encourage conservation outcomes. Such programs can give payments to landowners for ecosystem services maintained under their ownership, give tax incentives, such as through the Use Value Appraisal program, or charge landowners for actions that infringe upon conservation values, such as a carbon tax. Such incentives or penalties can be managed by a government entity, or can be created through a private market. The development of a market can be used to secure conservation interests and to offer payment for the continued management of those values, such as a private carbon market or biodiversity market. Such practices need to be carefully vetted to ensure that they have a net positive conservation outcome. Further exploration of conservation practices and specific consideration of how such practices would function in Vermont should be undertaken in the Planning Phase.

### ***Conservation Expressed Through Outreach, Education, Management, and Technical Assistance***

Another important opportunity for conservation occurs through the management of Vermont's lands. This can be the careful management of a Town Forest under municipal ownership in order to support conservation values, or it can be the individual action of a private landowner. Given that the majority of lands in Vermont are privately owned and not protected by any durable legal mechanism, the management decisions of private landowners are especially important to maintaining Vermont's conservation values. Outreach, education, and technical assistance performed by non-profit organizations like Vermont Coverts and Vermont Woodlands Association, as well as government entities and programs, can help landowners to manage their lands in ways that support conservation outcomes. Such actions can also foster a conservation ethic, and encourage more permanent forms of conservation in the future. Though not as durable as other practices, these are critical conservation actions that help maintain Vermont's character and conservation values.

### **Recommendations:**

VHCB, in consultation with ANR, makes the following recommendations regarding investments and capacity relating to conservation programs and practices:

- Form a Phase II work group focused on how conservation practices and programs can be best deployed, measured, and expanded to meet the goals of the Act, including:
  - Investments across all three (four) conservation categories defined in Act 59, consistent with the values and goals of VCD and the vision of Act 59
  - Additional focus on the logistics and processes to designate ecological reserve areas on State lands
  - Review of opportunities to prioritize ecological health, biodiversity and community resilience on working lands

- Review of opportunities to increase protection for water resources and aquatic health, including flood resilience, with public conservation funding
- Review of opportunities to expand and diversify participants and beneficiaries consistent with goals for equity and inclusion
- Use Phase II to identify and evaluate new conservation stewardship and management practices, funding mechanisms for practices, and/or incentives such as private carbon markets or biodiversity markets, including how to evaluate what will be most effective, ethical and equitable for Vermont landowners
- Refine and/or develop metrics to measure the outcomes of investments made specific to meeting the Act's goals

## Question 4: Assessment of State Lands

10 VSA Section 2803(b)(4) directs VHCB, in consultation with ANR, to provide:

*An assessment of how State lands will be used to increase conserved ecological reserve areas.*

### ***Methodology and Overview***

The framework for this response was developed principally by the State Lands Working Group, a workgroup formed as part of the inventory process. Input from ANR leadership, ANR staff, and other stakeholders was gathered through focus groups, partner interviews, and surveys and considered by the work group. Please see the N4J Annex for this question, which includes the report of the working group, for additional context and understanding.

Focusing on the structural and practical barriers to increasing protection of State lands under the Ecological Reserve Area definition, the work group identified existing methods the State uses to designate ecological reserve areas on State lands. They then identified gaps in the suite of options available to support ecological reserve designation on State lands and discussed new tools to fill these gaps. The proposed new tools are captured in the recommendations above. The group also discussed likely challenges/barriers of *applying* these tools, which largely boils down to adequate staff capacity to plan and steward State lands.

Of critical importance is the recognition that the *establishment* of these tools alone will not lead to an increase in Ecological Reserve Areas on State lands. The *application* of these tools depends on personnel capacity to plan and steward State-owned lands, which is critically understaffed at present levels of land ownership. Any emphasis on increased State land ownership emerging from the Conservation Planning phase of Act 59 must address the insufficient staffing levels at present to plan for and manage State lands, and identify how to maintain these adequate levels in the future as ownership increases.

### ***The Role of State Lands***

We recognize the unique and important role that State Lands play in Vermont and acknowledge that State Lands are classified under all three categories defined in Act 59. The lands protected and managed under the Act 59 categories are tremendously valuable to Vermont, cleaning our air and water, connecting communities at the places where we gather and recreate, providing critical habitat in order to sustain biologically diverse forests and open lands, supplying food and forest products, as well as remote areas for hunting and refuge. It is the statutory responsibility of both VHCB and ANR, and we believe strongly in the public interest, to continue our work to manage State lands for multiple uses and users.

Moving forward, we note that ANR operates established programs for the designation and management of State lands consistent with the values and guidelines described above, and VHCB agrees with the work group that the Conservation Plan developed in Phase II of this work should inform the development and implementation of Long-Range Management Plans for State lands, as well any future conservation plan specific to ANR.

Because this work must be undertaken by programs that already lack personnel capacity for current obligations, VHCB notes again that additional funding must be provided not only to implement new

tasks, but to address existing important work and obligations. Allowing sufficient time for work with partners and stakeholders, as well as supporting access to public processes for the public, will require reasonable timelines and ongoing engagement and support from partners.

More immediately, the Conservation Plan to be developed in Phase II of this work will articulate the scientific, programmatic, and funding foundation upon which all other planning documents, regardless of ownership, will be able to reference when evaluating the opportunity that an individual land unit or portfolio of lands presents to contribute to the Act 59 conservation targets.

With reference to goals for ecological reserve designations, the Conservation Plan should identify and provide:

- A scientific analysis of ecological representation in ecological reserves by biophysical region.
- An initial evaluation of the “availability” of certain types of land to contribute to targets (including types of land by ownership, e.g. state, federal, municipal, and private lands, as well as types of land by use and management, e.g.).
- An analysis of protections and their durability to maintain ecological reserve areas into the future.

Secondly, the Agency anticipates that the Conservation Plan will reveal the important (present and future) role of State land ownership towards meeting the 30x30 goals. While we anticipate that the protection of new lands by the State will likely be identified as a key strategy to meet the conservation goals identified in the Act 59 Conservation Plan, the State and non-profit partners are limited by lack of staff capacity to support State land conservation, stewardship, and planning. This is a critical limiting factor to accelerating the rate of State land conservation, unless this process results in substantial personnel investments to help us maximize the funding sources available.

### **Recommendations:**

In consultation with ANR, VHCB recommends expanding the suite of tools that currently exist to designate Ecological Reserve Areas on State lands, primarily and initially through existing State lands planning processes. This includes:

- Work with State lands management staff and stakeholders to consider and develop guidelines for a new permanent statutory designation called “Ecological Reserve.”
- Create new land management sub-classes, called “Ecological Representation Areas” and “Reserve Development Areas.”
- Utilize landscape-scale conservation planning analyses to inform the designation of Ecological Reserves on State lands.
- Work with VHCB and partners to identify, pilot and adopt alternative easement models for State fee land acquisitions, including different legal mechanisms to protect public investment in land conservation through VHCB, while streamlining or eliminating the stewardship obligations for private non-profit entities.
- Work with the State Forest Stewardship Coordinating Committee to evaluate the role the Forest Legacy Program can play in increasing the number of conserved Ecological Reserves.

## Question 5: Implementation of Vermont Conservation Design

In 10 VSA Section 2803(b)(5) the Vermont General Assembly directed VHCB, in consultation with ANR, to identify:

*The implementation methods that could be utilized for achieving the goals of this chapter using Vermont Conservation Design as a guide.*

Using the results of the conserved lands inventory, we can assess the overlap between existing conserved lands and the various elements of Vermont Conservation Design (i.e. forest blocks, riparian areas, young and old forests, grasslands and shrublands). This overlap will shed light on the way our current portfolio of conserved lands contributes to maintaining an ecologically functional landscape and all the benefits it provides, as well as identifying gaps where future conservation investment could make significant contributions to supporting that landscape and its benefits.

The above directive refers to the goals of the Community Resilience and Biodiversity Protection Act. These goals of the chapter are stated in 10 VSA § 2802 (b) and (c):

(b) It is the goal of the State that 30 percent of Vermont’s total land area shall be conserved by 2030, and 50 percent of the State’s total land area shall be conserved by 2050. The Secretary of Natural Resources shall lead the effort in achieving these goals. The land conserved shall include State, federal, municipal, and private land.

(c) Reaching 30 percent by 2030 and 50 percent by 2050 shall include a mix of ecological reserve areas, biodiversity conservation areas, and natural resource management areas. In order to support an ecologically functional and connected landscape with sustainable production of natural resources and recreational opportunities, the approximate percentages of each type of conservation category shall be guided by the principles of conservation science and the conservation targets within Vermont Conservation Design, prioritizing ecological reserve areas to protect highest priority natural communities and maintain or restore old forests.

### Recommendations

Achieving the goals of this chapter using Vermont Conservation Design (VCD) as a guide will require a stepwise process:

- 1. Crosswalk between conservation practices and VCD elements to understand what tools to use to protect what natural values.**

Drawing on the summary of totality of conservation practices, both permanent and intermediate, identified in the response to question three above, develop a crosswalk that reflects the opportunities and challenges each practice offers relative to the conservation of the ecological functions of each specific element of VCD (e.g. interior forest blocks, connectivity blocks, riparian areas, natural communities, old and young forests, etc.). This will show which conservation practices are best suited to protect each VCD element.

**X**=Feature or use is supported by this type of conservation/management  
**X**=Feature or use may be supported by this type of conservation/management  
**XX**=Feature requires permanent, non-conversion conservation  
**Blank**=Feature is not supported by this type of conservation/management

**DRAFT FOR DISCUSSION ONLY**  
 E. Sorenson 02/19/2023

	Ecological Reserve	Biodiversity Conservation Area	Natural Resources Management Areas	Conservation Easements – passive management	State and Federal Lands	Conservation Easements – farm & forest management	Use Value Appraisal	Rules and Regulations	Private Land Stewardship
Interior Forest Blocks	X	X	X	X	X	X	X		X
Connectivity Blocks	XX	XX	XX	XX	X	X	X		X
Surface Waters and Riparian Areas	XX	XX	XX	XX	X	X	X	X	X
Physical Landscape Blocks	X	X	X	X	X	X	X		X
Wildlife Road Crossings	XX	XX	XX	XX	X	X	X		X
Natural Communities	X	X	X	X	X	X	X		X
Young Forests	X	X	X	X	X	X	X		X
Old Forests	X	X	X	X	XXX				
Aquatic Habitats	X	X	X	X	X	X	X	X	X
Wetlands	X	X	X	X	X	X	X	X	X
Grasslands					X	X	X		X
Caves	X	X	X	X	X	X	X		X
Forest Products			X		X	X	X		X
Farm Products					X	X	X		X
Public Access & Recreation	X	X	XX	X	X	X	X		X

Figure: An example of the type of analysis that could be conducted for Step 1. Results here are draft and do not reflect any analysis conducted by VHCB or ANR.

**2. Spatial analysis of existing conserved lands to understand how elements are currently protected, and the conservation categories in which they fit.**

Conduct a spatial assessment of the conserved lands inventory relative to the priority and highest priority elements identified in VCD. For the purposes of meeting the 50% goal, this assessment could also include intermediate conservation steps, such as lands enrolled in UVA. This will show us how elements of VCD are currently protected across the state. Using this analysis, we can then identify the spatial role that each category of conserved land currently plays in conserving the ecological functions of the elements of VCD, showing us how practices and management under the conservation categories currently protect the VCD elements. At this point, we will know which conservation practices best protect each element of VCD, how our currently conserved lands protect each element, and how those elements are divided among the conservation categories.

**3. Gap analysis to understand where elements are not protected, and how these elements are situated across the landscape.**

Undertake a gap analysis to identify where elements of VCD are not conserved and could benefit from additional conservation action. Identify both specific spatial areas that benefit from enhanced

conservation (e.g. critical connectivity “pinch points”) as well as broad types of natural features (e.g. highest priority natural communities) that may need specific conservation strategies. This will tell us where additional conservation efforts need to focus in the future.

**4. Analysis to determine actions to enhance and promote elements on existing conserved land, and to conserve unprotected elements.**

Using the information from the first three steps, assess what restoration, enhancement, and management (both passive and active) should take place on existing conserved lands to maintain and promote the elements of VCD on those lands; and analyze where additional conservation efforts should be focused and what tools should be used to protect each element and area.

**5. Analysis and adjustment to direct conservation programs, initiatives, and funding to appropriate priorities.**

Finally, using the results of this analysis, determine how to prioritize and allocate conservation funding and investment, and what funding sources could be used to address each identified need. This analysis should be used to direct conservation efforts and programs, target and vet conservation projects, and inform conservation funding and grant programs within the state. It should be the model by which the state pursues ecologically focused conservation efforts moving forward.

Undertaking this assessment is contingent upon inventory results, specifically the answers to questions one, two, and three as described in this report. Prioritizing the conservation of highest priority elements of VCD, with a focus on biodiversity, may actually present a practical conflict with achieving the goals of 10 VSA § 2802(b). Some of the lands most valuable for their biodiversity may be found on small parcels located in areas with high land values. For example, sandplain and clayplain forest lands. Using acre-by-acre accounting, conservation in these locations is slow and expensive. From a biodiversity perspective, the gains from working in these places are substantial and essential.

In contrast, large parcels of mid-elevation working forestland may be an efficient means for achieving the raw acreage goals of 10 VSA § 2802(b) but may offer lesser gains in terms of biodiversity conservation, as these forests and their species may already be well-represented in Vermont’s conserved lands portfolio. Thus, our conservation work moving forward must be thoughtful and nuanced. Protecting Vermont’s biodiversity is a qualitative effort, as well as a quantitative one.



## Question 6: Aquatic Systems

In 10 VSA Section 2803(b)(6) the Vermont General Assembly directed VHCB, in consultation with ANR, to provide:

*A review of how aquatic systems are currently conserved or otherwise protected in the State, including a description of the benefits land conservation provides for aquatic systems, whether this is sufficient to maintain aquatic system functions and services, and how the implementation methods for achieving the goals of this chapter using Vermont Conservation Design as a guide would include specific strategies for protecting aquatic system health.*

The response to this topic is based on several inputs during the Act 59 Phase I process. This included a very thorough process and report developed by the Aquatic Health Workgroup created as part of the N4J process, reflecting inputs from practitioners and scientists focused on aquatic health. In addition to the report, the issues documented below reflect inputs, questions and recommendations compiled by N4J interviews, and survey responses. The Aquatic Health Workgroup report and those notes are included in the Annex for this question at the end of this report.

### *Overview*

The Goals of Act 59 focus on land conservation as a primary means to maintain the Act's vision of an ecologically functional landscape that sustains a broad range of functions, values, and objectives, including landscape connectivity and watershed health. Recognizing the important connection between land-based conservation and aquatic health, Section 2803(b)(6) of the Act calls for a review of how aquatic systems are protected, how current land conservation efforts benefit aquatic systems, whether these programs are sufficient, and how land conservation programs and practices can evolve in the future to confer greater benefit on aquatic systems.

Vermont has strong land conservation tools and existing incentive programs that protect aquatic systems along with other conservation outcomes our investments deliver. The Act 59 Aquatic Health Workgroup provided an excellent summary of conservation programs and practices that protect wetlands, floodplains, buffers on lakes and streams, as well as headwater forests. The group also noted the important connections between aquatic system health and flood resilience, recreation, and spiritual renewal. Given the way in which water connects our communities, human and natural, it is easy to imagine a plan for land-based conservation that would focus and prioritize investments in large part on the intersectionality of people, land use and aquatic health.

At the same time, the Work Group also concluded that current land-based conservation, and the frameworks it functions within, is insufficient on its own to protect aquatic system health, in its scope, methodologies and general applicability. This does not mean that it is ineffective, but rather that our efforts and investments must be increased, technically oriented towards aquatic system outcomes, and made more generally available to landowners. We must also recognize that permanent legal protection and incentives for stewardship practices are part of a spectrum of strategies, which also include regulation on one end and outreach and education for voluntary action on the other.

### *Discussion*

Traditionally, the goal of land conservation was to prevent an individual property from being developed, and while some more recent conservation easements include restrictions on channel management, dredging, and expanded riparian area protections, older easements often did not. Going forward, it will be important to better integrate tools and programs that allow for conservation of natural aquatic systems' functions and values into Vermont's conservation initiatives and plan in order to enhance both biodiversity and improve community resilience with respect to flood and drought mitigation. Given the linear and interconnected nature of aquatic systems, future conservation planning and actions will need to better protect and restore aquatic system function, rather than focus at the parcel scale. VCD prioritizes the state's entire aquatic network for its connectivity and biodiversity value. Keeping this larger system in mind, it will also be important to identify and prioritize key conservation actions at the watershed, stream and reach scale.

Fortunately, much opportunity exists within existing conservation programs and tools, such as enhancing protections on already conserved lands or pursuing upwards reclassification of surface waters under the Vermont Water Quality Standards to achieve a higher standard of protection. New conservation programs or funding strategies may be necessary; but Vermont should focus first on better coordinating, utilizing and enhancing existing programs and tools rather than creating new ones. Accordingly, all future state-funded land conservation efforts should include specific resource protection measures for aquatic systems that are stronger than current requirements. Additionally, new funding streams should be established to revisit already conserved lands and add additional conservation measures that protect, restore or enhance areas with high value aquatic, riparian or flood management functions. Furthermore, programs such as Lake Wise, Stream Wise, and others that help educate landowners of the benefits and opportunities associated with land and habitat conservation should be expanded and coordinated to enable proactive, system-wide conservation initiatives. This will all take additional funding and staff capacity for project development, acquisition, and stewardship.

Given Vermont's historic development pattern along river valleys, current conservation methods alone are not sufficient to restore, maintain and protect functioning aquatic systems. Expanded incentive programs focused on aquatic health outcomes are needed; likewise, programs that support voluntary buyouts of homes and structures in flood-prone areas will be necessary to restore functioning floodplains and riparian areas; as well as other fiscal policies – tax-based or otherwise – that encourage the maintenance of water-adjacent properties in a natural state. Flood-prone areas have also traditionally been places of lower property value where lower-income and marginalized Vermonters have found more affordable homes; therefore, it is critical equity considerations are central to this work going forward.

Lastly, it is important to recognize that Vermont's surface waters are a public trust, and the State has relatively strong floodplain and river corridor protections, which with the adoption of S.213 have gotten stronger. Nonetheless, VHCB recommends using the Phase II process to increase focus on opportunities for increased aquatic health through our conservation easement programs, management supports, and incentive programs.

The main challenges and barriers to improve the sufficiency of land conservation to address aquatic system function and service are the misalignment of the parcel-by-parcel nature of traditional conservation efforts with the linear nature of aquatics resources. VHCB also recommends increased dedicated funding to support riparian and river corridor protections in conservation projects. Finally, we must increase awareness of the values these additional protections provide and/or the potential negative

impact to aquatic systems when adjacent lands are not conserved. We intend to address these challenges in the Act 59 conservation plan.

**Recommendations:**

VHCB, in consultation with ANR, makes the following recommendations regarding the aquatic system health:

- Work with the broad set of stakeholders focused on aquatic health to identify additional capacity needed to more effectively conserve aquatic systems, as well as conduct outreach and education to landowners about incentives and technical support available to help them contribute to the health of their watershed.
- Consider how to increase and/or mandate additional resource protections for aquatic systems on newly conserved lands funded with public dollars. Also, explore incentives and management strategies to encourage additional protections for aquatic systems on already conserved properties.
- Collaborate with Phase II stakeholders to evaluate how we can include watershed scale and network-based approaches to conservation that would support both terrestrial and aquatic systems.
- Explore how landowner incentives for short term management designations or tax incentive programs (like UVA) could better incent and prioritize aquatic system health.

## **Question 8: Conservation Funding**

In 10 VSA Section 2803(b)(8) the Vermont General Assembly directed VHCB, in consultation with ANR, to provide:

*An assessment of existing funding and recommendations for new funding sources that will be needed for acquisition of land, purchase, or donation of conservation easements, staffing capacity, and long-term stewardship to meet the goals.*

Our response for this question was developed primarily through the work of an Ad Hoc work group led by VHCB and including representatives from N4J, ANR, Trust for Public Land, and the State Nature Resource Conservation Council. That group produced a more detailed report, which is included in N4J's Annex for this question. The summary below is also informed by the inputs N4J summarized in that Annex from survey responses, interviews and focus groups.

### ***Overview of Funding Sources and Needs***

A broad mix of funding sources are currently used to implement land conservation projects in Vermont. These funding sources are as varied as the organizations and entities undertaking the projects and range from federal, state, and private sources. The durability, restrictions, requirements, and permanence of the conservation outcomes associated with these funding sources are equally as varied. To reach the ambitious goals of Act 59 existing funding sources will need to be increased, and new funding sources will need to be created. In particular, public funding from the State of Vermont will need to significantly increase to sustainably fund fee and easement acquisitions, leverage and draw down Federal funding sources, attract private investment, support stewardship across a growing portfolio of conserved lands, and augment personnel capacity to successfully implement critical land management functions at all conservation organizations.

Current funding available for conservation in Vermont is a mix of state, federal, and private funds, which are managed by, and accessible to, certain organizations. Some funding sources are dedicated and available annually, others are applied for as needed. ANR, for example, accesses federal funding from the U.S. Fish and Wildlife Service and the U.S. Forest Service, but also applies to VHCB as needed to leverage these federal sources for conservation projects when other non-federal sources are unavailable. Similarly, statewide conservation partner organizations also apply for funding through VHCB, or federal and state grants through ANR. The Ad Hoc work group report contains specific references to the current suite of funding streams across Vermont's conservation network.

Our initial analysis concludes that the existing funding landscape for conservation projects in Vermont is inadequate to meet the goals of the act to conserve 30% of the landscape by 2030 and 50% by 2050. The inventory of conserved lands shows that approximately 27 percent of Vermont's total land area is currently conserved within the categories established by Act 59, and more than 185,000 additional acres would need to be conserved to reach the 30% by 2030 goal. Reaching this 2030 goal requires conserving more than 35,000 additional acres each year. Reaching the goal of 50% by 2050 will require conserving an additional 1.2 million acres between 2030 and 2050 or 61,500 acres conserved per year. As discussed in greater detail in the report of the Ad Hoc Funding Workgroup, Vermont will need to increase public and private funding by more than double to achieve the goals and vision of Act 59.

### *Obstacles and Barriers*

From VHCB’s perspective as a funder for conservation investments in Vermont, the goals of Act 59 to conserve 30% of Vermont’s landscape by 2030 and 50% by 2050, while also enhancing the quality of conservation and conservation outcomes, **are daunting**. Several key factors are at play:

- The limits on public funding *and* the capacity constraints on public funders to support the growth of programming to meet Vermont’s Act 59 vision and goals, including:
  - the rising cost of land, services, and staff costs – with average total project costs per acre conserved by VHCB reaching between \$3,000 and \$4,000 and trending higher over the last six years;
  - the approximate average per acre cost for recent conservation easement projects funded through the federal Forest Legacy Program was close to \$1,000, with higher costs for fee acquisitions;
  - the average per acre cost across all funding sources for fee acquisitions by the Vermont Fish and Wildlife was close to \$1,500; and
  - total project costs per acre for projects for forest land conserved without public investments was close to \$2,000;
- very limited capacity for additional stewardship responsibilities amongst the state’s conservation organizations (this includes the largest, statewide entities in Vermont’s conservation network, as well as regional and local organizations without current or potential additional stewardship capacity);
- a current pipeline and pace of conservation that needs to be dramatically increased to meet Vermont’s 2030 goals, and staffing limitations among statewide, regional and local organizations that limit potential to increase the pipeline of projects;
- the challenge of accessing, administering, deploying, and reporting on federal funding sources;
- the inconsistency and unpredictability of private funding, not to mention the unlikelihood of private funding sources to absorb the historic increase in funding needed to achieve Act 59’s vision; and
- many other structural and logistical limitations, from the shortage of qualified appraisers, surveyors and real estate attorneys, to the need for simplified easement templates and forms, to the reliance on interested private landowners, to the complexity and match requirements needed for drawing down current or new Federal funding sources.

### *Increased Focus in Phase II*

VHCB and ANR will work within Vermont’s conservation network to develop specific recommendations during the planning phase (Phase II) of the Act 59 implementation, but the results of the funding review in this inventory phase are clear: significant, sustained state funding for land conservation, planning, and long-term stewardship, including building necessary capacity, will be critical for meeting the goals of Act 59. The benefits of dedicated state funding for conservation are numerous and significant. An annual sustained funding effort from the State can alleviate many of the constraints identified above. Additional state funding will be necessary to augment and leverage the federal funding currently available to state agencies. Sustained state funding can provide non-state conservation organizations with the funding necessary to develop new projects and steward already

conserved lands. And robust public funding will support and attract investments by foundations and private funders.

However, the funding cannot be used solely for adding more and more conserved land. Any proposals resulting from the Act 59 planning effort to increase state land ownership or to increase the amount of ecological reserve areas on state land will be inactionable without increased staff capacity for state land planning and management. This concern about stewardship capacity is shared among the many non-state organizations working in Vermont’s conservation network. Managing public land is a complicated set of responsibilities, and the complexities increase over time as more people place more demands on those resources.

### **Recommendations:**

- We recommend that VHCB and ANR meet with legislative leaders from committees of jurisdiction prior to the 2025 Legislative Session in order to:
  - (1) discuss budget needs for Phase II work, and
  - (2) project ANR and VHCB budgets for SFYs 2025-2030 with sufficient capacity and match to draw down Federal funding and attract private funding needed meet the goals and vision of Act 59.
- We recommend forming two workgroups to support a statewide advisory committee for our Phase II process, including a group that will be focused on prioritizing the funding, financing and market solutions needed for Act 59 implementation. The work of this group will help us to:
  - develop a long-term plan to support and expand capacity, find matching funding for state and federal funding sources, and identify the capacity needed to sustain increased conservation outcomes through 2050 and beyond.
  - work with foundations and philanthropists to build a collaborative funding model with integrated goals, mutual awareness and support to enable public-private partnerships to flourish.
  - identify, carefully vet and adapt market-based models and financing tools to support Vermont’s conservation mission effectively, ethically, and equitably.
  - develop and refine opportunities to more efficiently administer programs and carry out land conservation in support of Act 59 vision and goals, without increasing public and private costs.
  - address the foundational need to address the real costs of adequate data collection, management and governance for ongoing inventory of Vermont’s conserved landscape.
  - bring additional focus to the overlapping and distinct goals and outcomes of Act 59 with Act 250, Vermont’s new river corridor protection law, Vermont’s UVA program, and other programs that advance these shared values.

### **Question 9: Equity**

Act 59, 10 V.S.A. Section 2803(b)(9) directs Vermont Housing and Conservation Board, in consultation with the Secretary of the Agency of Natural Resources to provide:

*An equity assessment of existing land protection and conservation strategies and programs.*

Other context for this directive within Act 59 speaks to the need for Vermont’s conservation community to address issues of equity, inclusion and access while implementing the visions and goals of the Act. Moreover, the legislation also acknowledges the need, even before remedial action is taken, to acknowledge how traditional systems of conservation have marginalized members of historically disadvantaged communities, including this legislative finding (Act 59, Section 2(17)):

*The land and waters, forests and farms, and ecosystems and natural communities in Vermont are the traditional and unceded home of the Abenaki people. Access to land and land-based enterprises has excluded Black, Indigenous, and Persons of Color (BIPOC) Vermonters and others from historically marginalized and disadvantaged communities in the centuries of European settlement. Efforts to increase land conservation must also include opportunities to increase access to land and land-based enterprise for Indigenous People and all who come from historically marginalized and disadvantaged communities.*

This equity assessment, provided as part of our initial inventory, is then directly connected to the planning directive for Phase II of our work (set forth under Section 2804(b)(3)) to provide “recommendations to provide and increase equitable access to protected and conserved lands and land-based enterprises, including recreational access to and use of conserved lands.” In other words, there must be a through line from the initial engagements and discussions we have had on this topic, to actionable recommendations in the conservation plan delivered at the end of our process.

Finally, it is also worth noting that the planning mandate set forth in Section 2804 for Phase II of Act 59 implementation, generally requires VHCB and ANR to lead robust, inclusive and multi-tiered outreach to inform the development of the conservation plan and strategy. This means that there must be a diversity of viewpoints consulted and included, and in order for that to be successful, the public stakeholders of our work must have equitable access, supports, and funding where necessary to insure broad and meaningful participation. The Act specifies that our process must include:

- at least 12 public meetings,
- three of which must be open to the general public,
- with stakeholders including private owners of forestlands and agricultural lands, land trusts, conservation organizations, environmental organizations, working lands enterprises, outdoor recreation groups and businesses, Indigenous groups and representatives from historically marginalized and disadvantaged communities, watershed groups, municipalities, regional planning commissions, conservation commissions, and relevant State and federal agencies.

Our analysis under this response provides an overview of equity-focused programs at VHCB and ANR, but is otherwise based on the work conducted by N4J, and relies upon the opinions and feedback received from different stakeholders engaged through surveys, interviews, and affinity-based focus groups, all as summarized in Annex 9, Equity. N4J analyzed and interpreted the various themes, contradictions, and ideas stakeholders across these input methods shared to develop recommendations for VHCB, ANR, and the General Assembly to consider in the Conservation Plan development.

### ***Current Equity Programs in Conservation Programs and Processes***

This is an initial summary of equity, access and inclusion in Vermont’s land protection and conservation strategies and programs, with our initial findings and analysis organized into three broad categories: Procedural Equity and Inclusion; Equity of Outcomes; and Viewpoint Diversity. In other words, we are examining the inclusivity and accessibility of Vermont’s conservation processes and programs, how equitably the benefits of those process and programs are distributed, and the extent to which multiple viewpoints and perspectives on our work are invited, welcomed and given weight. In Vermont, this means we must include a focus on land access and rural opportunity for individuals, families and collectives from historically marginalized or disadvantaged communities; the needs of rural landowners; how welcome perspectives from politically marginalized groups are included; and whether and to what extent our conservation work benefits Vermont’s most vulnerable communities. We also considered the extent to which power, decision-making and resources are shared and passed through from large public stakeholders like VHCB and ANR, or large private conservations organizations (like Vermont Land Trust or the Nature Conservancy) to stakeholders and organizations with fewer resources.

In general, we conclude that despite new public policy initiatives focused on increased equity, well-intended programming and good faith efforts to engage this important topic, there is enormous need for continued work on this topic. Vermont has created important interacting frameworks of leaders, among other efforts, in the Land Access and Opportunity Board and the Act 154 Environmental Justice program. What impacts those and other efforts will have to support the goals of a just transition, moving at the speed of trust, to build a climate future that thinks first of those who are most impacted will depend largely on how well funded, supported and integrated these efforts are.

### ***Procedural Equity and Inclusion***

Over the past decade, and especially since the beginning of the COVID-19 pandemic, the Vermont General Assembly has asked public bodies like VHCB and ANR to: (1) increase efforts for real, impactful, and deliberate work to address internal barriers to equitable, accessible programming; and (2) affirmatively design processes to engage members of marginalized communities more effectively and inclusively from the beginning of public processes. A few examples illustrate the trend of this work to embed this programming at VHCB and ANR.<sup>11</sup>

At VHCB, this is highlighted by the recent opportunity to serve as administrative host to the Land Access and Opportunity Board, a legislatively created body authorized to address barriers to land access, housing, and enterprise in Vermont through investments, technical assistance and collaboration with public entities. With board members appointed by organizations whose work is focused on equity, inclusion and justice, and staff at VHCB dedicated to the work of LAOB, the potential for change-making is powerful across VHCB’s conservation mission. Likewise, the LAOB’s focus on service delivery and landowner assistance will increase opportunities for individuals, families and collectives from historically marginalized communities to engage with conservation programs, processes, and successful rural enterprises.

In the same time period, ANR has undertaken an effort to stand-up Vermont’s Environmental Justice program, with multiple staff dedicated to this effort, an inter-agency coordinating committee, as well as

---

<sup>11</sup> Legislative mandates to increase, equity, inclusion and a focus on access are not limited to ANR and VHCB, however for the purpose of this report, these are the main bodies where such directives relate to Act 59.



an advisory council comprising community members affected by the uneven distribution of environmental burdens and benefits, as well as representatives from organizations working with such communities. Again, there is tremendous potential to shape public policies that will change how public investments in the environment and energy address the needs of Vermont’s most vulnerable, including BIPOC Vermonters, those living in poverty, and community members who do not speak English as a first language.

Consistent with ANR’s work on EJ, the Agency has increased focus on equity and inclusion in the work to implement Vermont’s Global Warming Solutions Act (GWSA) and adopt the initial Vermont Climate Action Plan (VCAP). Both the GWSA and the VCAP provide directives to implement programs that build trust and help first those who are most impacted by climate change. In the VCAP process, a Just Transitions subcommittee was created to facilitate outreach to key organizations and influencers, specifically focused on reaching frontline, impacted and rural communities, with materials, presentations, talking points and online meeting design, facilitation and support as needed.

While these efforts continue to move forward in parallel with other efforts in Vermont state government and the private sector, many stakeholders in the Act 59 process have expressed continued wariness at whether large public and private institutions will dedicate the time, capacity and resources to fully support these initiatives. For example, many noted that decision-making power over conservation policy, program design and investment priorities is still not perceived as welcoming and inclusive, despite the launch of these new programs. Members of marginalized communities also do not see themselves represented as leaders within public bodies responsible for Vermont’s conservation vision. Likewise, when marginalized communities are engaged as stakeholders, this is often experienced in a way that is inconsequential or “tokenizing”. To further equity, decision-making roles need to be diversified, conservation voices representing marginalized communities must receive more investment, and community engagement must aspire to be meaningful and collaborative.

Moreover, even as we acknowledge the important work ahead of the LAOB, EJ Advisory Council, and Just Transitions subcommittee, we must acknowledge that structural barriers still exist within the public and private spheres. Funding and resource constraints exist all across State government as the support from pandemic-era Federal funding wanes, and organizations, entities, boards and commissions like those noted here are very vulnerable in a tightening fiscal environment. This can be compounded if organizations like VHCB and ANR, also facing downturns in public funding, were to shift internal resources and capacity away from engagement with partners working on structural equity solutions. And of course, to the extent conservation efforts are inconsistent with the diverse cultural and social values attached to the land by different communities, including Indigenous peoples, BIPOC communities, LGBTQ+ individuals, and people with disabilities, bridging the gap to inclusion and equity is further complicated. Finally, as explained further under the Viewpoint Diversity section below, the manner in which Act 59 was legislated and the Phase I process implemented has left many other stakeholders feeling marginalized, not valued, or ignored.

### ***Equity of Outcomes***

Although many of the stewardship and business support programs at VHCB and ANR directly support landowners, including individuals, families and collectives from marginalized or disadvantaged communities, access and equity are often co-benefits of investments for the conservation of natural

areas, farms, and community spaces. For example, VHCB's farmland access program is primarily focused on protecting viable farmland for food production in Vermont, but also helps to hold down the cost of farms and facilitate access for young and beginning farmers. Guidelines for VHCB's affordable housing programs promote smart growth principles, which allow residents to participate in development that takes pressure off rural lands and natural areas, and as well as limiting new development in river corridors, floodways, and flood-prone areas. Given the critical lack of suitable housing for farmworkers in Vermont, VHCB has partnered with Champlain Housing Trust to make investments for the rehabilitation and/or construction of on-farm housing for workers. And of course, VHCB has a track record of embracing and celebrating opportunities to work with conservation organizations on projects where conservation outcomes benefit BIPOC landowners, the LGBTQ+ community, and/or which provide recreational access through accessible trails that all community members can enjoy.

Nonetheless, many participants in the Act 59 process have noted that current conservation programs tend to benefit those who already own land or have access to financial resources, making it challenging for marginalized groups to participate at all. Likewise, even for people who do own land, barriers to participation such as legal fees and management plans can have the impact of excluding low-income landowners. Stakeholders also noted that access to conserved lands should not be a privilege for the most skilled and able-bodied, articulating a hope that we will prioritize more investments for accessible trails and recreation destinations. Finally, many participants have noted that data on, and evaluation of, equity and justice in conservation outcomes is often non-existent and/or unstandardized in the conservation field, making it difficult to set benchmarks and goals.

### *Viewpoint Diversity*

It was a primary goal of the Phase I process for Act 59 implementation to be as broadly inclusive as possible. Our consultants at Nature for Justice (N4J) were hired with this primary goal in mind, and they conducted a process that reached hundreds of Vermonters interested in this work through multiple methods for participation, including surveys, interviews, affinity based focus groups, meetings between VHCB and ANR staff and interested organizations or affiliate groups. Likewise, key elements of the report were developed through a workgroup process that included and benefited from the perspectives of stakeholders from numerous organizations and backgrounds.

As noted above, many of the representatives from organizations working with marginalized communities, rural communities and landowners, or under-represented groups articulated at least some level of concern that this process – like many similar processes – does not provide an equal or full opportunity for participation. This perception was shared among stakeholders from the Vermont Traditions Coalition and Forest Products Industry, some recreation groups, and/or others who are or perceive themselves to be outside the political mainstream in the state. Likewise, representatives from organizations pushing for more radical constraints on management of conserved lands for farm or forest products felt that this process does not match their values, or the intent of the law to increase investments most urgently for the protection of unmanaged lands. And yet others have asked for more inclusion of those who value different cultural, spiritual, and practical relationships with land, beyond traditional ownership and economic models. And finally, some community members hope that we can build a conservation model that breaks free from norms that tend to separate human activity from areas of conservation.

In other words, many serious questions have been raised about the viewpoint diversity of this process, and whether VHCB and ANR, along with the large statewide and regional conservation organizations, have done an adequate job honoring their intentions for access and inclusion. We would also note that the many points of difference among viewpoints and perspectives of stakeholders have been exacerbated, not just in this process, but more generally, by increased partisanship and opposition among participants in public policy development across the country, and right here in Vermont. This not only creates obvious barriers to identifying issues and needs that can be addressed by broad coalitions working across differences, but more gravely, this trend increases the perception from participants of isolation in their viewpoints increasing feelings of marginalization and vulnerability. And this of course can result in discourse that is overly contentious, and ultimately dissatisfying to participants.

### **Recommendations and Next Steps:**

- Commit resources to engage with the Land Access and Opportunity Board, the Environmental Justice Advisory Council, representatives from rural communities, the forest products sector, Vermont Traditions Coalition, and representatives from other under-represented groups in Phase II process.
- Consider how decision-making roles can be diversified, conservation actors representing marginalized communities can receive more investment, and community engagement can be inclusive, meaningful and collaborative across viewpoints.
- Work with LAOB and the EJ Advisory Council (and others) to develop and implement a curriculum for BIPOC, low-income and other marginalized communities to understand the conservation landscape.
- Develop and use metrics and benchmarks to track progress towards more inclusive processes, equitable outcomes, and increased viewpoint diversity.
- Set aside resources and supports to engage and include the perspective of Vermont's Indigenous community, including members of Vermont's recognized tribes and others living in our state.
- Include focus on alternative models for conservation that facilitate community-owned and cooperatively managed conserved lands and rural enterprise.

## Question 10: Intergenerational Land Transfers

In 10 VSA Section 2803(b)(10) the Vermont General Assembly directed VHCB, in consultation with ANR, to provide:

*An evaluation of the opportunities related to intergenerational land transfer trends and how the State could proactively direct resources to achieve conservation at the time of transfer.*

This task and topic was not considered until the end of the VCSI inventory process. At that point, we identified a 2017 report that provided the foundation for our response on this topic, and ANR convened a workgroup made up of conservation and land management professionals from around the state to respond to the question posed in the act.

Please refer to the Intergenerational Land Transfer Workgroup Report found in the N4J annex for this question.

Multiple reports over the years have given careful thought to the topic of intergenerational land transfer in Vermont. Specifically, the *Intergenerational Transfer of Forestland Working Group Recommendations In response to Act 171 of 2016*; the *Vermont Agriculture and Food System Strategic Plan 2021-2030*; and *A 2018 Exploration of the Future of Vermont Agriculture* explore the intergenerational transfer of Vermont's forest and agricultural lands.

### Recommendations:

While acknowledging the great work that has already been done on this topic, VHCB encourages any further investigation of the topic to work directly with the organizations currently supporting succession planning in Vermont. In addition, the workgroup proposed that the State should proactively direct resources to ongoing programming in the following areas:

- VHCB's Farm and Forest Viability Program.
- The Use Value Appraisal Program.
- Additional training opportunities for conservation and land use professionals.
- Additional outreach to Vermont's landowners.
- Continued development of new programs and tools to support intergenerational land transfer and land conservation goals.
- Continued assessment of what is needed to facilitate intergeneration land transfer and land conservation in Vermont.
- Identify and implement opportunities to fund direct supports to landowners to support long-term stewardship planning for conservation outcomes.

## 5. Summary of Next Steps.

- VHCB will upload the Act 59 – Phase I Inventory Report and N4J Annex to the Vermont Conservation Strategy Initiative webpage on the VHCB website on June 25, 2024, along with instructions to stakeholders for providing final written comments using a fillable form we have created and posted online.
- N4J, VHCB and ANR will host a public meeting on June 27, 2024, to provide an overview of the Inventory Report, receive public comment and help stakeholders navigate the uploaded report and form for written feedback.
- Stakeholder written comments on the Phase I Inventory Report are due (using the fillable form) by 4 p.m., Friday, July 19, 2024.
- VHCB, in consultation with ANR, will review stakeholder feedback and comments on the Inventory Plan and provide an initial update on or before August 30, 2024.
- VHCB will initiate, in consultation with ANR, the Phase II process outlined below, hire a project manager, establish a stakeholder advisory committee, and begin design of regional listening sessions in September, 2024.
- VHCB to meet with the General Assembly to provide, in consultation with ANR, recommendations for legislative supports and additional capacity in Phase II process by November 1, 2024.
- Phase II Listening Session Process to be conducted between January 15, 2025, and May 31, 2025.
- Phase II Plan Development to take place between June 1, 2025, and September 30, 2025.
- Phase II Plan Review, Public Feedback and Plan Finalization from October 1, 2025, to November 30, 2025.
- Phase II Plan Final Review and Production from December 1, 2025 to December 31, 2025.
- Phase II Conservation Plan to be submitted on or before Dec. 31, 2025.

## 6. Overview of Phase II Process and Timeline.

### Organizing Themes for Phase II Process

As we conclude our work on this initial inventory and look ahead to the next phase of our work to implement Act 59, we must begin by recommitting to the goals of inclusive communications, process and opportunity for participation for all Act 59 stakeholders. Together, we look forward to our common work to identify and prioritize programs, practices and investments that will protect ecological function and intact habitat, community resilience, and water quality outcomes across all categories of conserved land. We will also continue to focus our work on growing investments and supports for working lands enterprises, rural communities and landowners through conservation and stewardship programs. More generally, this is consistent with our goals for equitable access to conserved and protected lands for a wide range of uses for all stakeholders. Addressing these and other themes, the conservation plan will provide concrete recommendations to increase resources throughout the conservation system in support of the Act 59 goals and vision, as well as to establish science- and values-based guidelines and priorities for implementation by statewide, regional and local actors

The Phase II planning process will be led by a **Project Manager** to be hired by VHCB. The Project Manager (and any additional consultants hired by the project manager) will work with VHCB and ANR to identify and convene an advisory committee and establish workgroup processes; manage multiple sources of funding to support planning process; and oversee production of the final Conservation Plan.

VHCB and ANR will work with the Project Manager to identify and convene an **Advisory Committee** by the end of September, 2024 with representation solicited from among statutory stakeholders, more or less as follows:

- Representatives from organizations or networks identified in Act 59.
- To the greatest extent possible, the Advisory Committee will have regional distribution of selected representatives.
- Application-based selection process will be conducted by VHCB, in consultation with ANR and the Project Manager.
- To the extent funds are available, representation on the Advisory Committee will be funded by VHCB through sources allocated for Act 59.
- The time commitment for participation on the Advisory Committee will be 18-24 months.

The Advisory Committee will operate through two primary **Workgroups**, related to **conservation planning, programs and practices** and **capacity and funding**. In addition to these Workgroups, VHCB and ANR will work with leaders from the **Land Access and Opportunity Board** and **Environmental Justice** program to identify the best structures and supports to enable ongoing, meaningful interaction with representatives working on behalf of Vermont's historically marginalized and disadvantaged communities.

Among other areas of focus, the **Conservation Planning, Programs and Practices Workgroup** will focus on how to balance our investments between restoration and enhancement, on one hand, while also expanding the existing portfolio of conserved lands to meet the 2030 and 2050 goals. This group will also further develop our strategy and priorities for operationalizing Vermont Conservation Design and

protecting an ecologically functional landscape. This work group will also focus on opportunities for investments on working lands and to protect aquatic health on conserved lands. Our initial intent is that this plan will support cross-sector action, under a common strategy, at the State, regional and local levels, increasing the level of collaboration among all players. Ongoing system investments and needs for data and reporting will also be a focus of this group.

The **Capacity and Funding Strategy Workgroup**, among other areas of focus, will identify strategies to increase opportunities for stewardship, enhancement and restoration of existing and new conservation lands. This group will also expand the analysis of current and potential sources of funding for planning and project development and acquisition. Importantly, we also anticipate that this work group will conduct an analysis of funding sources to identify sources that align with each of the Act’s goals, identify innovations, new partners and strategies, as well as providing a plan to map and understand capacity needs across the statewide network of organizations engaged in this work.

**Regional partner listening sessions** will be convened to inform the conservation planning process, with a timeline, goals and process to be established by VHCB, ANR, the Project Manager and Advisory Committee. This will be a discrete process over four to five months in winter / spring of 2025. Listening sessions will be conducted as community visioning and brainstorming sessions, like the “community visit” process used by the Vermont Council on Rural Development. We hope this work can be organized in partnership with and to the greatest extent possible, co-hosted by regional / local leaders. We will identify five to six regions, with multiple opportunities for input in each region across the process timeline. Importantly, this work will require additional funding from the General Assembly to support a robust and inclusive process.