

DESIGNING YOUR COVENANT

The special features contained in the area and the wishes of the landholder determine the terms of each covenant.

A practical plan of management for the covenanted area may be prepared in consultation with the landholder for National Trust and CALM covenants. This is part of the stewardship program offered by the National Trust and the CALM covenant programs and includes annual contact through a phone call and site visits, which are offered every three years or sooner if the land changes hands.

Covenants will normally limit the clearing and use of native vegetation, with special conditions covering buildings, subdivision, timber, seed and wildflower collection, water supply, grazing and pets.

Landholders will normally agree to maintain fences and the ecological condition of the land.

Officers from the covenant program can seek permission to visit the area occasionally to monitor the condition of the area and its features. Note that permission to enter the area will always be sought from the landholder prior to any visit.

TAX ARRANGEMENTS

In some cases, concessional tax treatment may be available to landowners entering into a perpetual conservation covenant. These concessions apply to covenants with eligible covenant programs (currently the National Trust and CALM programs in WA), and include:

- 1) An income tax deduction for any decrease in land value as a result of entering into a conservation covenant, providing that:
 - ✿ the covenant is entered into on or after 1 July 2002;
 - ✿ the land is owned (not leased);
 - ✿ no money, property or other material benefit is received for entering into the covenant; and
 - ✿ the decrease in the market value of the land is more than \$5000.
- 2) Special treatment of capital gains tax where a conservation covenant is entered into, and the landowner receives money or property for doing so. This treatment ensures a comparable treatment with landowners who sell part of their land.
- 3) The removal of land tax liability for those areas of private land protected and managed for nature conservation under a perpetual covenant.

A fact sheet on the income and capital gains tax arrangements for conservation is available on the Department of Environment and Heritage website at <http://www.deh.gov.au/biodiversity/publications/fact-sheets/incentives.html>, or by phoning their Community Information Unit on 1800 803 722.

The Australian Taxation Office also has information on conservation covenant concessions on its website at <http://ato.gov.au/content.asp?doc=/content/notforprofit/19507.html>.

WILL IT COST ME ANYTHING?

Landowners who approach any one of the three covenanting agencies and voluntarily offer to place a covenant over their bushland will not incur any costs. If, however, the land is part of a development approval and the landowners are wishing to subdivide the land, then the full cost of lodging the covenant on the title may be recovered from the landowner, depending on the circumstances. The National Trust may also recover costs for ongoing stewardship services.

WHO TO CONTACT

To find out more about each of the covenant mechanisms please contact:

Office of the Commissioner of Soil and Land Conservation

Department of Agriculture
Locked Bag 4
Bentley Delivery Centre WA 6983
Phone (08) 9368 3282
Fax (08) 9368 3654

Department of Conservation and Land Management

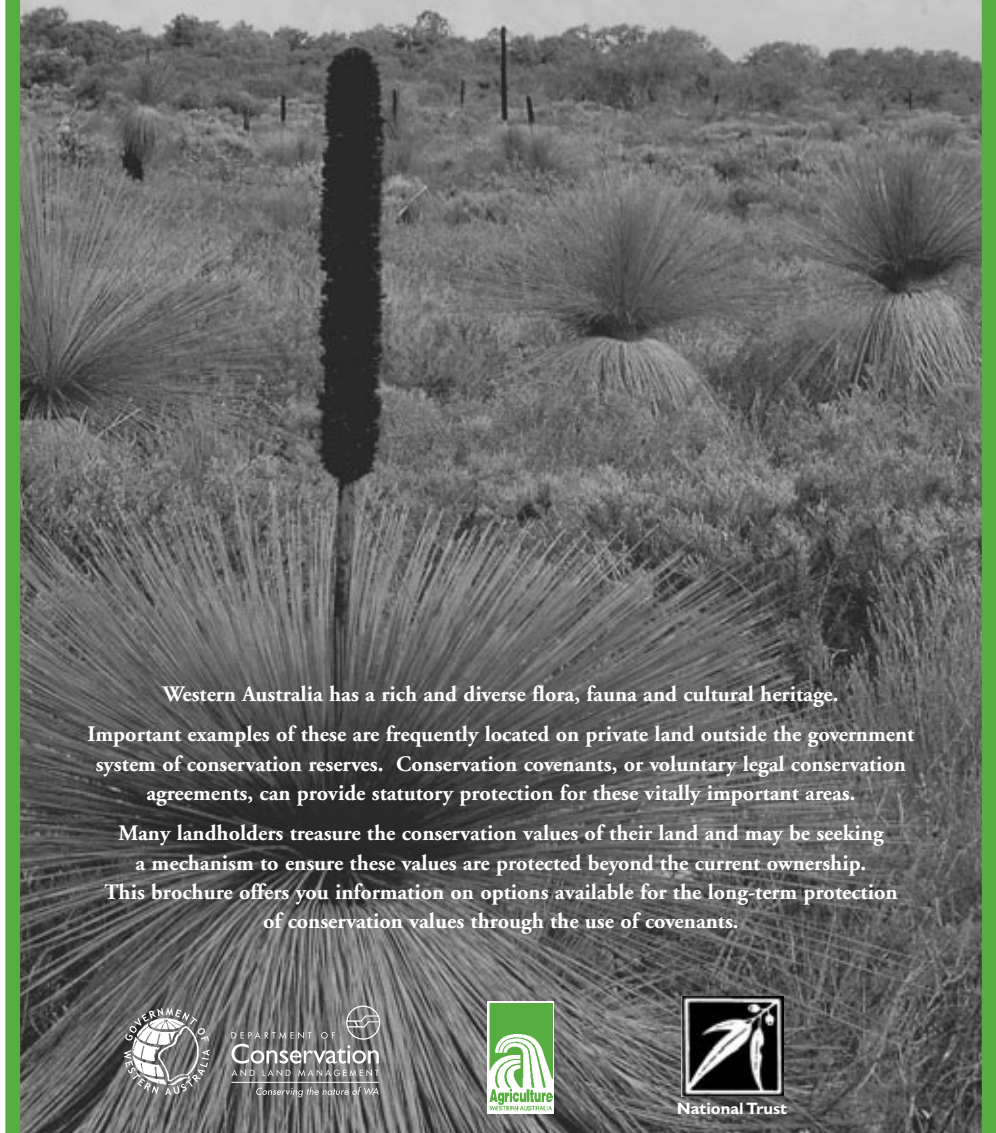
Nature Conservation Covenant
Program Coordinator
Wildlife Branch
Locked Bag 104
Bentley Delivery Centre WA 6983
Phone (08) 9334 0477
Fax (08) 9334 0199

National Trust of Australia (WA)

Project Manager
Covenanting Program
PO Box 1162
West Perth WA 6872
Phone (08) 9321 6088 or
(08) 9321 0693
Fax (08) 9324 1571

YOUR LAND ITS FUTURE

Choices for conservation covenanting in Western Australia



Western Australia has a rich and diverse flora, fauna and cultural heritage.

Important examples of these are frequently located on private land outside the government system of conservation reserves. Conservation covenants, or voluntary legal conservation agreements, can provide statutory protection for these vitally important areas.

Many landholders treasure the conservation values of their land and may be seeking a mechanism to ensure these values are protected beyond the current ownership. This brochure offers you information on options available for the long-term protection of conservation values through the use of covenants.



WHAT ARE MY OPTIONS FOR LONG-TERM PROTECTION?

People who wish to protect the conservation values of their land can place a covenant on their land title. This is a voluntary agreement between the landholder and the covenant organisation. Three types of covenant agreements are available in WA and, although similar, offer different features. Landholders can choose the one that best suits their needs.

Initially an inspection of the land may be arranged to assess its conservation values, identify specific management issues and ascertain any special covenant conditions. Once the details are settled the landholder and the covenanting organisation sign the covenant and it is registered on the title to the land.

The landholder retains ownership and continues to be responsible for the management of the land. The National Trust and the Department of Conservation and Land Management will maintain contact with their covenantors in order to provide advice where necessary and help monitor the area. In some cases financial assistance is available to assist with land management. If the land is sold the covenant remains on the title.

For details of each scheme, landholders should approach one of the covenant organisations.

The **Department of Agriculture** has assisted landholders to covenant land since 1990. Two types of covenants are available under the *Soil and Land Conservation Act 1945*: Conservation covenants which are expressed as irrevocable and cannot be varied or discharged; and Agreements to Reserve which can be varied or revoked by mutual consent. Both types of covenant can apply for an agreed period or in perpetuity. Covenants under the Act are positive rather than restrictive covenants. The landowner agrees with the Commissioner of Soil

and Land Conservation to manage the vegetation in such a way to retain and promote its growth.

The **Department of Conservation and Land Management** is the government agency responsible for managing the State's conservation reserve system and for the protection of the State's flora and fauna. CALM provides covenants that are in perpetuity and designed to protect nature conservation values on private land. Assistance with advice and funding opportunities are provided for the management of natural values,

with ongoing support through the program's stewardship program.

The **National Trust** is a voluntary community-based organisation that has been committed to conserving WA's heritage since 1964 through the *National Trust of Australia (WA) Act 1964*. In 1999 the National Trust expanded its role in order to assist landholders protect the natural values of their land. Assistance, management advice and funding opportunities are available through the Trust's stewardship program.

WHAT ARE COVENANTS?

Where landowners have a desire to protect the conservation values of their land, covenants can be used. A covenant is a voluntary agreement. Once registered it becomes a legally binding arrangement between the landholder and the covenant organisation.

Covenants are flexible. They are designed to reflect the individual needs of the landholder and the conservation requirements of the land. A covenant can apply to all or part of the property.

Covenants are registered on the title to the land and bind present and future landholders to comply with the terms of the covenant. Ownership and control remain with the landholder. In certain circumstances, covenants can be negotiated for a specified period only.

Covenants foster good land management practices. Their success depends to a large extent on the goodwill of the landholder.



Photo - ABHF

WHY PLACE A COVENANT ON MY LAND?

Reasons for placing a covenant on land vary. Most people do it because they have developed a great love for their land and have worked hard to protect and manage it.

Others feel it would be threatened without legal protection. A covenant:

- ✿ gives the satisfaction of making a permanent contribution to nature conservation;
- ✿ provides peace of mind that there is a capable steward taking an interest in the conservation values of the land in the long-term;
- ✿ ensures a subsequent purchaser is aware of the land's special values and status;
- ✿ is likely to attract a purchaser who is sympathetic to the land's conservation values;
- ✿ provides an interested third party (the covenanting organisation) as a source of management advice and long-term stewardship;
- ✿ provides an advocate if rezoning or works such as power lines, inappropriate fire prevention orders or mining, threaten the land;
- ✿ gives a sense of belonging to a club of like-minded people;
- ✿ may provide taxation incentives;
- ✿ may provide a reduction in rates; and
- ✿ may provide financial assistance with fencing and management.



Photo - Eric McCann



Photo - Diana Ripstein

DOES MY LAND QUALIFY FOR A COVENANT?

Land qualifies for a covenant if it has conservation values that can be maintained in the long-term. The land must have freehold title, although leasehold land can be protected in some circumstances. The approval of all parties with an interest in the land to be covenanted, such as mortgagees, is required.

Qualities of land that may be taken into account include:

- ✿ the presence of ecosystems that have been extensively cleared elsewhere;
- ✿ the presence of threatened plants, animals or ecological communities;
- ✿ corridors and stepping stones for wildlife movement;
- ✿ remnant vegetation in good condition;
- ✿ land that provides a buffer to a conservation reserve;
- ✿ examples of poorly reserved ecosystems of local or regional significance;
- ✿ land that is valuable as an educational resource;
- ✿ relics of original ecosystems that are in poor condition but may have important conservation values;
- ✿ land subject to erosion if cleared;
- ✿ minimises the risk of salinity; and
- ✿ areas with special historical, aesthetic, social or spiritual values.