

What is a Conservation Covenant?



**TRUST FOR
NATURE**

Habitat forever

www.trustfornature.org.au



Sunset at a Black Box wetland in the northern Wimmera Plains.
Photo: David Tepper (covenant owner)

What is a conservation covenant?

A conservation covenant (deed of covenant) is a voluntary, legal agreement made between a private landowner and Trust for Nature (“the Trust”). Its purpose is to permanently conserve and protect the natural, cultural or scientific values of the land. The Trust’s conservation covenants are entered into under the *Victorian Conservation Trust Act 1972*, registered on Title and are legally binding forever.

Why are conservation covenants important?

Native plants and wildlife need places to survive. Some of the most important habitat for our state’s threatened species is on private land – including woodlands, wetlands and grasslands. The opportunity for landowners to make a difference is underscored by the fact that almost two-thirds of Victorian land is in private hands. There is no greater gesture an individual can make to conservation of Victoria’s biodiversity than placing a Trust for Nature covenant on a property to protect habitat forever.

How does the conservation covenant work?

A conservation covenant contains a set of restrictions and rights for a particular property in relation to future land-use activities. Conservation Covenants are negotiated individually with every landowner to ensure that their wishes and the needs of the land are clearly defined. Once agreed, the Trust assumes responsibility for monitoring the restrictions and rights agreed to through the Trust’s Stewardship Program.

What land can be covenanted?

Land with natural, cultural or scientific values can be protected under a conservation covenant. Such land may have threatened plants or animals, or be one of the last remaining patches of intact natural habitat in the area. Alternatively, the property may form part of an important wildlife corridor, or act as a buffer to protect a neighbouring bush property, National Park or conservation reserve. To date our covenants have protected a variety of habitats including bushland, wetlands, grasslands, waterways and coastal ecosystems across Victoria.

How does the Trust decide whether land is suitable for a covenant?

Following an assessment of your property, a brief is prepared for the Trust’s Board of Trustees. The Board considers each individual covenant proposal. Factors taken into account include: the degree of disturbance; the diversity of native flora and fauna; whether there are rare or endangered species present; its proximity to other bush properties, wildlife corridors etc; the size of the area; the presence of weeds or vermin; and the management required to maintain the future ecological integrity of the site.

How long does a conservation covenant last?

In accordance with the *Victorian Conservation Trust Act 1972*, each conservation covenant is approved by the Minister. The covenant is then registered on the Certificate of Title and remains there forever, binding current and future owners of the land to the terms and conditions of the covenant.

Can a covenant be removed?

Once established a covenant lasts forever. Covenants are placed on a property’s Title and remain regardless of any change in property ownership. Only in extreme and highly unusual circumstances will removal of a conservation covenant be considered. In such cases, the Trust and the Minister must agree to the removal of the covenant.

Can a covenant be changed?

Permanent changes to the covenant will generally only be considered if the changes improve the land’s conservation values or pose no threat to them. A fee may also be charged. All covenant deed amendments require approval from the board and Minister.

Does the covenant apply to the whole property?

Some covenants cover all of the property, some cover only part. In some cases it may be beneficial to the long term management of a property to separate it into multiple zones within the deed of covenant. These are known as tiers. A separate tier will be defined within the deed when different sections of the property require different restrictions under covenant to aid long term management. For example, half of Mr Smith's property contains mature forest and the other half regenerating forest. Both types of forest are placed in separate tiers under the deed. The regenerating forest tier may allow greater vegetation disturbance to permit healthy forest growth.

What are standard restrictions contained in the covenant?

A standard covenant generally prohibits:

- native vegetation removal;
- introduction of any non-indigenous vegetation;
- subdivision;
- grazing by livestock;
- deterioration in the quality, flow or quantity of water;
- introduction of any non-indigenous fauna i.e. pets;
- removal of wood or timber;
- removal or disturbance of soil or rocks, including cultivation;
- the application of fertiliser;
- pasture establishment; and
- recreational use of trail bikes and other recreational vehicles.

What is a Letter of Approval?

A Letter of Approval is a letter that provides specific exemptions to some of the restrictions in the deed of covenant. For example, an allowance to keep a dog(s) or the collection of fallen timber as firewood. Unlike the deed of covenant, a Letter of Approval is not registered on the Title. If a landowner sells their land, the Letter of Approval will expire with that change of ownership. If the new landowner wants the same conditions as the previous landowner, they will need to apply for a new Letter of Approval. On assessment of the application, the Trust will draft a Letter of Approval if the activity does not have a negative impact on the conservation values of the property. Contact the Trust to see if your activity will be permitted via a Letter of Approval.

Is fire prevention work permitted?

Yes. Fire prevention is necessary to protect lives and assets. The deed of covenant permits 'Responsible fire prevention' activities on covenanted properties. Clearing is permitted in line with relevant legislation, Department of Environment, Land, Water and Planning, local council and the Country Fire Authority policies and guidelines.

The Trust recommends landowners acquaint themselves with fire danger ratings that will be broadcast over the fire danger period. We advocate that responses by landowners are consistent with the advice provided by CFA (refer to CFA website: www.cfa.vic.gov.au).

Can a house be built on covenanted land?

Most covenants allow for a 'Domestic Area' including a dwelling and related outbuildings. This remains subject to obtaining relevant local authority approvals. Your local council will need to be consulted before construction can begin.

Protected forever Louise and Michael bought a bush block in Clunes, Central Victoria, as a camping spot with money they'd originally intended as a deposit for a home. Little did they know it would spark an obsession for conservation and wildlife. "We were complete novices when we first bought the place. When we saw the bark peeling from the wattle trees, we thought they'd been burnt by bushfires rather than it being the end of their natural lifecycle - we really didn't know much," Louise said. "When Trust for Nature came out onto the block they said if we were lucky we might see three very rare bird species on it: the Swift Parrot, Diamond Firetail and Square-tailed Kite. We've seen all three now, it's amazing. We bought our first pair of binoculars and we turned into obsessive birders." They put a protective covenant on the property because they wanted it protected forever. Michael said they wanted the place to be looked after, regardless which local, state or federal government was in and the changes that can bring. Putting a covenant on it brings them peace of mind that it won't be developed. Louise said, "Trust for Nature really helped us learn about the different species on the block. Having a management plan mapped everything and made it easy to know what to do and how to do it over next 10 years."

Can I construct a new dam?

Dam construction on a property protected by a conservation covenant is not allowed unless it is expressly provided for within the deed of covenant. The Trust may consider additional requests for dam construction on the condition that any dam built will have no negative impact on the ecological values of the covenanted land. In cases where approval is given, the Trust will require the deed to be amended to reflect the new conditions on the property.

Are stock allowed on the covenanted land?

Covenants usually require stock to be excluded from natural bush areas of the property. The intensity and duration of grazing is dependent on the type and sensitivity of the vegetation. A Letter of Approval must be obtained from the Trust before commencing grazing, which may be approved in certain specific circumstances.

If I have a mortgage do I need to notify my lender?

We encourage you to contact your mortgage provider. As the covenant is an interest affecting the land your mortgage provider must be informed of your intention to covenant. If required, a deed of covenant can include written acknowledgement of the covenant by your mortgage provider.

What about tenants or licensees?

If you lease or licence part or all of your property, you will have a legal obligation under your deed of covenant to ensure all the rights and restrictions are observed. You should also notify the Trust when you lease or licence your covenanted property.

Does the covenant replace existing planning laws?

No, planning and environment laws remain operative and may affect your land. The covenant provides additional protection to the conservation values on your land over that provided by legislation.

What happens when I want to sell the property?

The Trust advertises covenanted properties for sale, free of charge on its website to assist in finding a buyer. The terms of the covenant require that the Trust be informed of the sale. New owners will be bound by the covenant.

What happens if someone breaches the conservation covenant?

When a term of the covenant is not adhered to, notice may be given by the Trust, requesting rectification. Legal enforcement can be applied if necessary. It is therefore important to read and understand the conservation covenant before undertaking any building or other works on the land.

Can a Trust for Nature covenant prevent mining on protected land?

No. A Trust for Nature conservation covenant cannot override mining legislation. However, a landowner will be in breach of the covenant if they apply for a mining or minerals exploration licence on the covenanted property.

Who is responsible for managing covenanted land?

The landowner continues to own and manage the land. The Trust provides assistance through the Stewardship Program and the specifically agreed Management Plan.

What does it cost to put a covenant on a property?

Nothing. Trust for Nature' first priority is conservation and so it covers the costs of covenanting (which can be up to \$30,000 in legal fees and other costs). We rely on the generosity of supporters to enable us to carry on this important work.



Louise and Michael on a log on their property



Drumsticks (*Pycnosorus globosus*) at a covenanted property near Boorhaman.
Photo: Will Ford

What is the Stewardship Program?

The Trust's stewardship program runs parallel with the covenant that is registered on Title. The stewardship program provides ongoing support to the landowner following registration of the covenant. The aim of the stewardship program is to ensure that all significant areas covenanted by the Trust are managed to maintain and enhance (where possible) the conservation values. This is done by identifying and seeking to control any threats to the biodiversity of a site.

How does the Stewardship Program work?

Through the Stewardship Program, the Trust aims to provide the following services to support covenant landowners in the management of their properties:

A site specific Management Plan

The covenant Management Plan is prepared before the deed of covenant is registered in consultation between the landowner and the Trust. Once it has been agreed by both parties, the plan forms part of the covenant and landowners are legally obligated to manage their covenant in accordance with the recommendations of the plan.

The Management Plan identifies important biodiversity values found on the property, any threats that might be affecting those biodiversity values and actions to help reduce the threats and improve the ecological health of the land. Over time, this plan is reviewed by staff together with the landowner and updated as required.

Education and Practical Assistance

The Trust seeks to provide information to enable landowners to improve their knowledge about managing and monitoring their covenanted properties. This is achieved through our website, social media, field days, information sheets, developing flora and fauna monitoring programs and one-on-one contact with landowners.

Conservation Support

The Trust seeks to provide conservation support to give landowners access to information to assist them in the management of their covenant.

Monitoring

In consultation with landowners, the Trust undertakes regular monitoring of all covenanted properties. This includes monitoring of habitat condition, management actions and compliance with the terms of the covenant. In addition, the Trust encourages landowners to undertake monitoring activities.

Financial Information

The Trust seeks to provide general information on financial assistance that may be available from time to time for covenantors, including incentive grants for activities such as fencing, land management payment programs such as Bush Tender, rate rebate schemes with local councils and tax concessions for the protection of covenanted properties.

General Information

You can find out more information on our website under the tab "Land Services".

Want to know more?

If you would like speak to someone about conservation covenants, please contact Trust for Nature's Melbourne office on (03) 8631 5888, trustfornature@tfn.org.au

Since 1972 Trust for Nature has worked to secure and protect thousands of hectares of Victoria's threatened habitat through conservation covenants and land purchase.

Trust for Nature works hard to protect and advocate for native plants and animals across Victoria on private land.

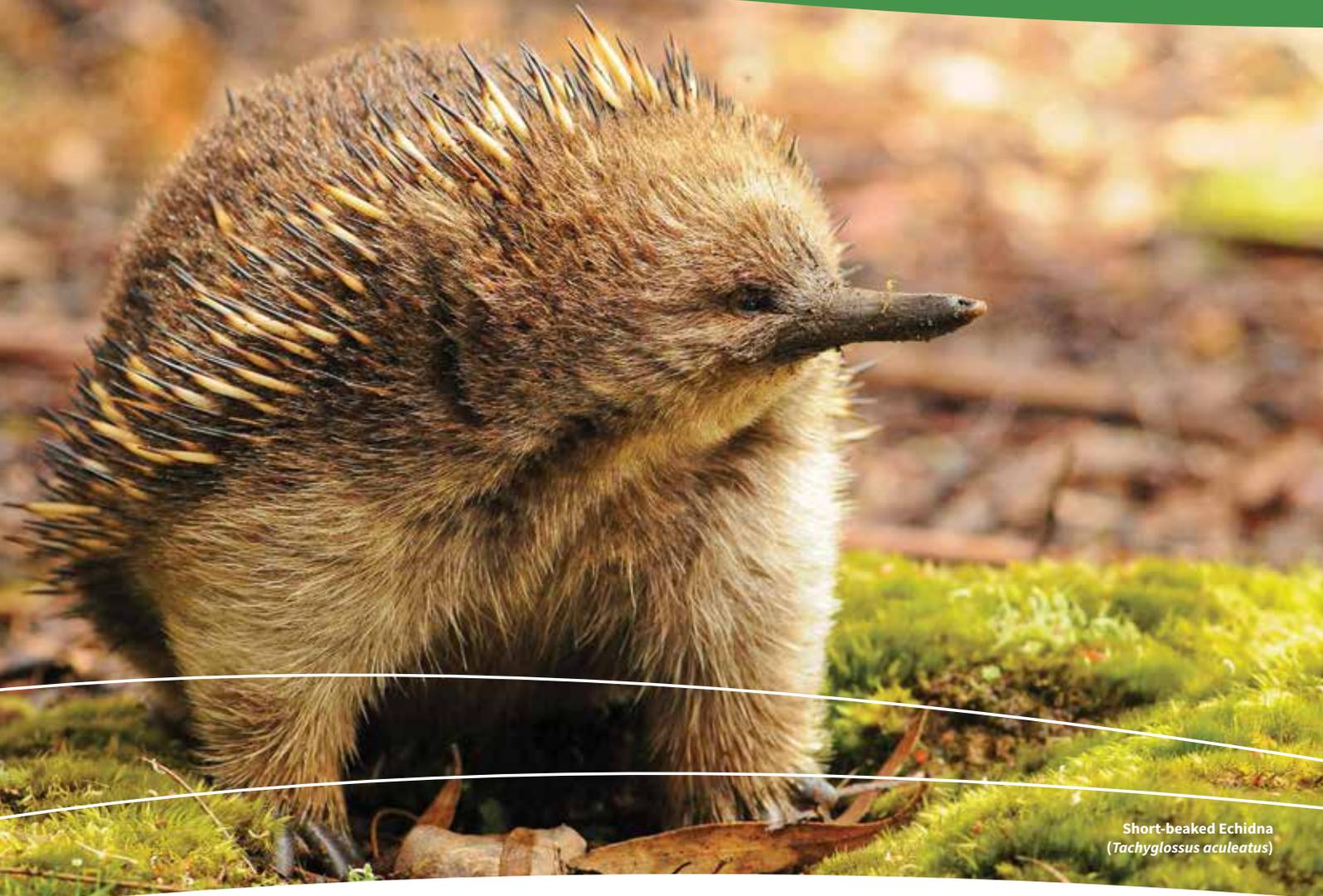
We couldn't do this without the vital support of people like you.

We are incredibly thankful for the time, energy and resources that is given to help us to create habitat forever.

As our work continues we invite you to join us to help our amazing plants and wildlife on private land.

It's through generous support of donations that Trust for Nature is able continue the protection of native plants and wildlife on private land throughout Victoria.

www.trustfornature.org.au/donate



Short-beaked Echidna
(*Tachyglossus aculeatus*)



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