



# What is a Conservation Covenant?

Here is some information about Trust for Nature's Conservation Covenant Program. If you would like to find out more please visit [www.trustfornature.org.au](http://www.trustfornature.org.au)

## What is a conservation covenant?

A conservation covenant is a voluntary, perpetual agreement (deed of covenant) made between a private landowner and Trust for Nature through the Conservation Covenant Program. Its purpose is to permanently conserve and protect the natural, cultural or scientific values of the land. Unlike common law covenants and planning zones or agreements, Trust for Nature's conservation covenants are entered into under the *Victorian Conservation Trust Act 1972* and are legally binding forever.

## Why are conservation covenants important?

The protection of habitat is one of the most important actions that can be taken to help conserve biodiversity. In Victoria, with two thirds of the state in private ownership and with two thirds of land already cleared for agriculture, mining and urban development, habitat protection is particularly important. Remnant habitat continues to be threatened by these land uses.

In Victoria, Trust for Nature's conservation covenants are the only legally binding way to protect habitat on private land in perpetuity.

## How does the conservation covenant work?

A conservation covenant defines a set of restrictions and rights for a particular property in relation to future land-use activities. These restrictions and rights 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 Trust for Nature's Stewardship Program.

## How long does a conservation covenant last?

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

## How much will the covenant cost?

In most cases it's free. In recognition of the important contribution land owners are making to habitat protection in the state, Trust for Nature bears all legal and associated costs for preparation of the covenant. The Trust also provides management advice and regular stewardship visits to the owner. Trust for Nature does, however, welcome contributions to its Stewardship Fund.

In some cases where a landowner seeks a covenant to obtain some form of commercial benefit (i.e. planning permit approval, native vegetation offset etc.) a fee maybe applicable for the preparation, registration and management of a new covenant. Please speak to us for further information.

## 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 vehicles;

However, these standard restrictions can be modified in certain circumstances where the Trust is satisfied that the conservation of the land will not be adversely affected.

### What does the covenant permit?

A standard covenant allows for: a dwelling or future dwelling; ongoing rights in relation to existing infrastructure and their maintenance (e.g. tracks, dams, fences); ongoing rights in relation to existing water use.

### What are standard exemptions contained in the covenant?

Trust for Nature also recognises the importance of enabling landowners to continue managing their properties for fire and pest management.

### Does the covenant apply to the whole property?

Some covenants cover all of the property, some cover only part. Where management requirements are complex, the property may be divided into zones, each with different conditions attached. Most covenants allow for a 'Domestic Area' where a dwelling and related outbuildings are situated and where normal domestic activities can be carried out.

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

Speak to your mortgage provider. As the covenant is an interest affecting the land your mortgage provider may require you to notify them. If required a deed of covenant can note or contain a written acknowledgement of the covenant by your mortgage provider.

### What about tenants or licencees ?

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 license your covenanted property.

### 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 the State. Contact our expert regional staff to organise and obligation free assessment of your property.



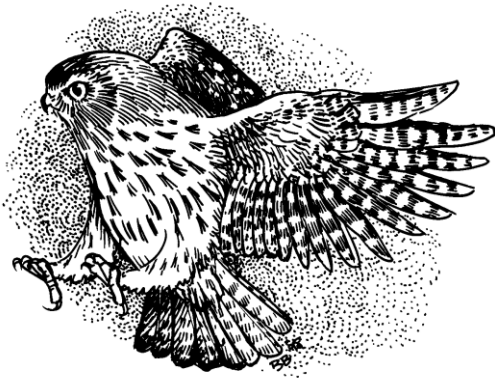
### How does the Trust decide whether land is suitable for a covenant?

Following an assessment of your property a brief is prepared for Trust for Nature's Board of Trustees. The Board consider each individual covenant application. 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.

### Can a covenant be removed?

Only with the agreement of Trust for Nature's Board and the Minister for Environment and Climate Change. There must be very

compelling reasons for removal of the covenant.



### Can a covenant be changed?

Yes, in special circumstances. The Trust will only consider changes to a covenant if they pose no threat to the conservation values of the land.

#### *Letter of Approval*

The Trust may give permission for a temporary variation of the covenant via a 'Letter of Approval'. Permission granted by a letter of approval is conditional on the maintenance of the conservation values of the property. See [www.trustfornature.org.au](http://www.trustfornature.org.au) for more information.

#### *Amendment of the covenant*

Permanent changes to the covenant will only be considered where the conservation values of a property will not be compromised. A fee may also be charged to cover the administrative costs. See [www.trustfornature.org.au](http://www.trustfornature.org.au) for more information.

### Is the information collected about my property confidential?

Trust for Nature is bound under its Act and under the auspices of the Victorian Public Services Charter, the Human Rights Charter and the *Information Privacy Act (VIC) 2000* to respect the privacy of landholders. Our data-sharing policy accordingly stipulates that we must have landholder approval in order to disclose information about their land to another agency, where that information might identify the land.

### What effect does the covenant have on property value?

Covenanted properties can be highly sought after by people seeking land in a bushland setting. However, covenants do entail restrictions on some future rights. These restrictions may change the type of person interested in purchasing your property. Trust for Nature recommends that landowners carefully consider the future implications of the covenant in terms of restrictions on land use and re-sale value. You also may wish to seek independent advice before proceeding.

### Income tax benefits of conservation covenants

Landholders who have entered into a conservation covenant with Trust for Nature since July 1<sup>st</sup> 2002 are potentially eligible for income tax deductions based on the considered impact of the covenant's restrictions on the land's re-sale values. Where the change in land value is more than \$5,000, this amount can be claimed as a once-off income tax deduction which can be spread over 5 years. For more information, go to <http://www.ato.gov.au/nonprofit/>

Landholders who have entered into a covenant after June 15<sup>th</sup>, 2000 may also be eligible for concessional tax treatment in relation to capital gains tax. For more information, visit;

<http://www.ato.gov.au/nonprofit/>

or download the fact sheet at;

<http://www.environment.gov.au/biodiversity/incentives/covenants-tax.html>

### Other financial benefits of conservation covenants

Landholders who enter into a conservation covenant with Trust for Nature are potentially eligible for a range of other incentives, ecosystem payments and practical support. In general, most environmental stewardship and environmental tender programs offered to landholders by government agencies and Catchment Management Authorities (CMA's) offer higher payment rates or higher scoring rates for land that is, or will be protected by a covenant.

Some CMA's also offer particular fencing incentives for land protected under covenant. For more information, visit [www.trustfornature.org.au](http://www.trustfornature.org.au).

### Will a covenant affect my rates?

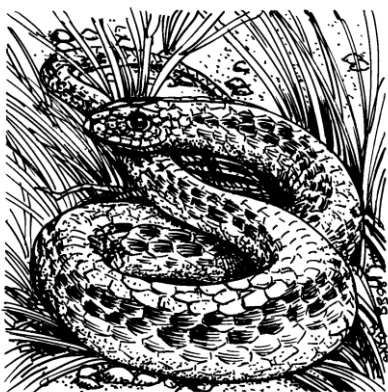
Many Victorian municipalities offer a rate concession for covenanted land. Check with your local council for details.

### 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?

Covenanted land almost always attracts sympathetic or conservation-minded purchasers. Trust for Nature advertises covenanted properties for sale, free of charge, on its website and in the *Conservation Bulletin*, our quarterly magazine to assist in finding a buyer. The terms of the covenant require that Trust for Nature be informed of the sale.



### What happens if someone breaches the conservation covenant?

When a the term of the covenant is not adhered to, notice may be given by Trust for Nature, requesting rectification. The Trust will work cooperatively with the owner to repair any damage to the land and ensure the best conservation outcome is reached. 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 house be built on covenanted land?

Yes, if allowance is made in the covenant. Most covenants provide for a single dwelling with the usual outbuildings.

### What about pets?

The conservation covenant will state that the keeping of dogs and cats is not permitted within the covenanted land unless allowed for in a Letter of Approval. The keeping of one or two dogs and/or poultry is often allowed for in a Letter of Approval. Cats are highly destructive to wildlife and therefore prohibited. However, an exception can be made for existing cats until they die, as long as they are kept indoors at all times or they are contained within a suitable cat enclosure.

### Can machinery and animals be used for management?

Yes, provided the conservation covenant does not specifically prohibit their use and their impact is minimal. For example, limited grazing, guided by a management plan, may be appropriate within grassland or grassy woodland environments. These activities can be permitted by a letter of approval.

### What can be planted on covenanted land?

Planting is generally not appropriate within a covenant, unless with locally indigenous species. If there is a domestic area the planting of non-indigenous species within a domestic garden would be permitted, providing invasive weeds are avoided.

### Is fire prevention work permitted?

Yes. Fire prevention is essential for the protection of the property and to ensure landholder safety. The covenant deed includes specific acknowledgement that works undertaken on the covenanted land for

'reasonable fire prevention' are considered exempt from the terms of the covenant.

Clearing is permitted in line with relevant legislation, Department of Sustainability and Environment and the Country Fire Authority policies and guidelines.

### Is stock allowed on the covenanted land?

Covenants usually require stock to be excluded from natural bush areas of the property. Trust for Nature may make exceptions at its discretion e.g. grazing as a management tool for grassland communities, or in rural areas provision may be made for the short-term access of sheltering stock in severe weather conditions. 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.

### Does the covenant affect neighbouring properties?

Because a covenant is an agreement between the landowner and the Trust, it does not involve neighbouring properties.

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

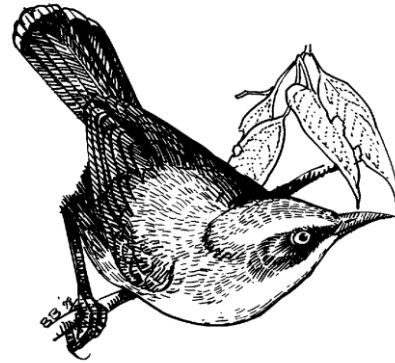
No. A Trust for Nature conservation covenant cannot override mining legislation. However, public authorities will often try to have regard for covenanted land where a development is proposed. The Trust will advocate on behalf of landowners where development proposals are likely to damage the conservation values of the land.

### Who is responsible for managing covenanted land?

The landowner continues to own and manage the land. Trust for Nature provides assistance through the Stewardship Program. See the '*What is the Stewardship Program?*' leaflet or speak to one of our staff.

### What is the significance of the Management Plan?

The covenant Management Plan is prepared 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.



### What assistance does Trust for Nature provide to covenantors?

Trust for Nature provides ongoing support to covenantors through the Stewardship Program. Trust for Nature works with other agencies that provide incentives for land-management works such as fencing and revegetation. Where possible, Trust for Nature tries to provide equipment or materials for specific tasks such as nest boxes, feral predator control or protection of threatened plants.

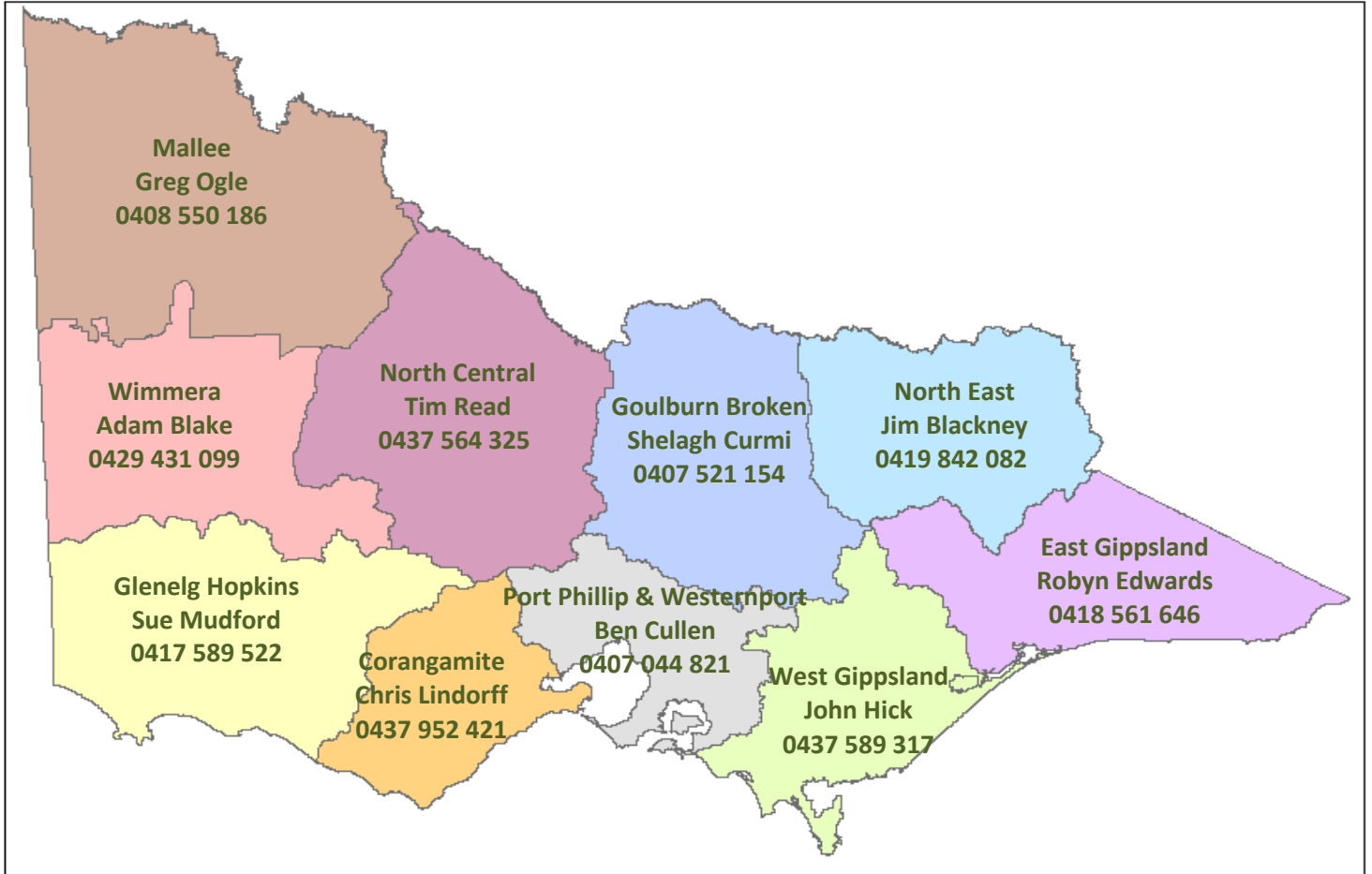
### How do covenants work with Native Vegetation Offsets?

Native Vegetation Offsets are agreements between a landowner and a proponent seeking to clear native vegetation.

The offset is secured with a conservation covenant, which has slightly different restrictions to a standard covenant. Please contact us for more information on the Trust for Nature Offset Covenant Program.

## 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](mailto:trustfornature@tfn.org.au) or the Regional Manager in your area.



Since 1972 Trust for Nature has protected over 80,000 hectares of Victoria's threatened habitat through conservation covenants and land purchase. Supporters provide vital financial assistance to enable Trust for Nature to continue its work. All contributions of \$2.00 and over are tax deductible and can now be made online at [www.trustfornature.org.au](http://www.trustfornature.org.au)