Investing in Conservation Covenants and Stewardship in Western Australia

This discussion paper outlines how the Western Australian Government can secure a long-term legacy of safeguarding WA's unique biodiversity as part of the National Reserve System by rebuilding and expanding WA's conservation covenanting programs for private protected areas.

Australia has one of the largest networks of privately protected areas in the world, with 6,000 individual areas covering around 10,000,000 hectares.[1] This network comprises land protected by conservation covenants and land owned by private conservancies (itself often under conservation covenant). These privately protected areas also form part of the National Reserve System, providing protection for threatened species and filling gaps in representation where state owned conservation tenures may be more difficult to establish.

Conservation covenants are a legal mechanism listed on a property title and are entered into voluntarily by landowners when they wish to see the permanent protection and stewardship of some or all of their land.

The endangered black-flanked rock-wallaby (*Petrogale lateralis lateralis*). Photo: Sarah Matheson

In Western Australia, the use of conservation covenants is very limited and there are considerable opportunities for improvement. The work of Bush Heritage Australia and the Australian Wildlife Conservancy is well known through iconic properties managed for conservation such as the Charles Darwin Nature Reserve and Mornington Station. In the South West there are many small land holdings with conservation covenants, the majority being in the Avon Wheatbelt, Esperance Plains and Jarrah Forest bioregions, though their combined size is small compared to other conservation tenure types.

Western Australia has in place legal mechanisms that provide for private land conservation including the *Biodiversity Conservation Act 2016, Soil and Land Conservation Act 1945 and Transfer of Land Act 1893*.[2] Some covenants in Western Australia are perpetual, while others are time bound (i.e. 20-year terms) and do not contribute to 30 by 30[3] where the term is less than 99 years. Western Australia's conservation covenanting programs are spread across five programs and three organisations,[4] however very little Government funding to undertake covenanting and manage covenanted land is available. Proactive government support and promotion of all forms of private land conservation is generally poor.
A further issue is that the standard conservation covenants available under Western Australian law are inconsistent – in practice – with the terms and conditions of a pastoral lease. Potential remedies include explicitly allowing for dedicated conservation land use on pastoral leases, and/or the transfer of a pastoral lease to a diversification lease for conservation purposes.[5]

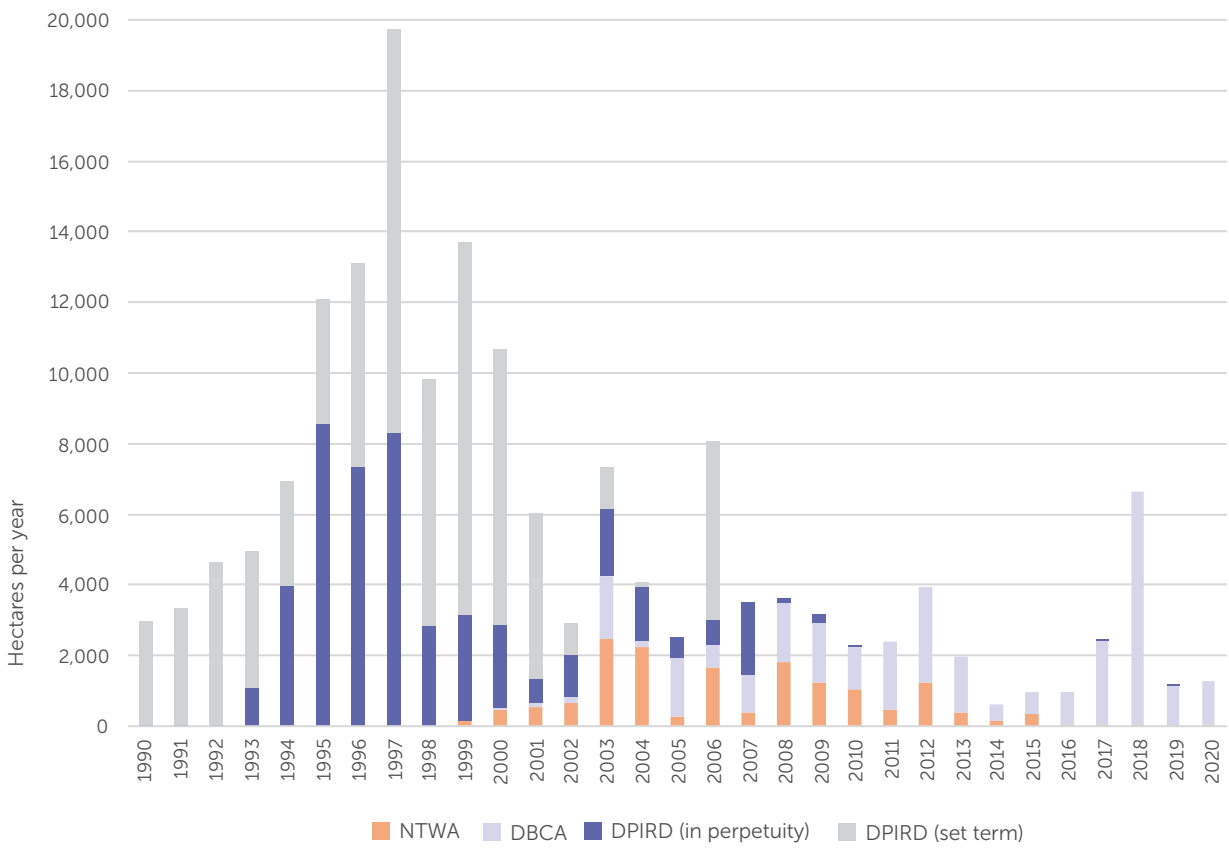
1 Fitzsimons J A .2015. Private protected areas in Australia: Current status and future directions in Nature Conservation 10, pp 1-23; and Bingham H C, Fitzsimons J A, Mitchell B A, Redford K H, Stolton S. 2021. Privately Protected Areas: Missing pieces of the global conservation puzzle in Frontiers in Conservation Science 2, 74827.

2 https://www.wa.gov.au/system/files/2021-06/FS-Restrictive_Covenants.pdf

3 In 2023 Australia committed to the Kunming Montreal Global Biodiversity Framework, which includes a goal of protecting at least 30% of lands and 30% of our oceans by 2030 (30 by 30). The Australian Government, with the unanimous support of all state and territory governments through agreements made in the State and Federal Government Environment Ministers meeting, has committed to this goal due to its necessity for sustaining our climate and biodiversity, and its feasibility.

4 The five programs are: Land for Wildlife, Conservation Covenant and Stewardship Program, Biodiversity Conservation Covenant Program, Nature Conservation Covenant Program and Soil Conservation Covenant Program. The programs are delivered by: Department of Biodiversity, Conservation and Attractions, Department of Primary Industries and Regional Development and National Trust of Western Australia.

5 A diversification lease is a new form of tenure inserted into the Land Administration Act 1997 (LAA) under the Land and Public Works Legislation Amendment Act 2023.



Yearly trends in conservation covenant take up in Western Australia

In Western Australia, private land conservation in the form of conservation covenants is small compared with other conservation tenures, totalling only around 92,000 hectares or 0.04 per cent of the state. Take up of covenants has been in decline since the early 2000s. From 1990-2009 the yearly average increase in covenanted hectares was 3,400, while from 2010 to 2020 the average yearly increase was only 2,200 hectares.[6]

The Avon Wheatbelt is a well-known example of an area without adequate protection for conservation (<5% in the National Reserve System), but it is also exactly where private land conservation can play an important role through land purchases and/or by placing conservation covenants upon remnant native vegetation.

The weak performance of Western Australia's covenanting programs sits in stark contrast with the extent of the opportunity area as well as the state of play in other Australian jurisdictions. In the highly cleared South West of Western Australia there remains more than 600,000 hectares of native vegetation on freehold land,[7] much of which would be suitable for covenanting. This includes 200,000 hectares in the high priority Avon Wheatbelt, and 70,000 hectares in the Swan Coastal Plain.

[6] These areas have been calculated using only covenants registered through binding schemes and in perpetuity with either the National Trust of Western Australia, or the Department. This graph shown above does not exclude overlaps that exist where the same plot of land is subject to more than one covenant type, or resulting from geometry errors in source data

[7] This area calculated using the overlap between native vegetation (DPIRD-005) https://catalogue.data.wa.gov.au/dataset/native-vegetation-extent) and freehold tenure, with any resulting patch smaller than 3 hectares, or overlapping mining or petroleum tenures excluded from the results.

Wildflowers at Wooleen Station. Image: SaveWooleen

Other states such as New South Wales (NSW) have successful and high-profile covenanting programs that include stewardship. The NSW Biodiversity Conservation Trust manages 2,327 private land conservation agreements across 2.29 million hectares – which amounts to roughly 2.8 per cent of the state. The NSW Government has committed $350 million over 5 years from 2019 to its Biodiversity Conservation Trust and $70 million per annum ongoing.[8] This funding is also linked to a conservation partners program that includes land purchases, conservation tenders, voluntary applications, grants and co-investment.[9]
In contrast, in 2023 the National Trust of Western Australia received "$160,000 of Lotterywest funding to support covenant landholders with on ground works including covenant fencing, weed management, feral animal control and revegetation".[10]

If steps are taken to properly fund and support covenanting in Western Australia, including with the opportunity of leveraged funding from the Australian Government, it is conservatively estimated that an additional 150,000[11] hectares of land could be covenanted in the South West as part of Western Australia's contribution to 30 by 30. This would increase the covenanted area from 0.04 per cent to 0.06 per cent of Western Australia. In addition, legislative changes to ensure conservation covenants can occur in practice on pastoral leases could see the opportunity area for covenanting expand significantly across the state.

8 https://www.bct.nsw.gov.au/sites/default/files/2023-12/frontier-economics-socio-economic-benefits-of-plc.pdf

9 https://www.bct.nsw.gov.au/private-land-conservation-nsw

10 https://www.ntwa.com.au/wp-content/uploads/2023/12/20231129-Final-Round-Grant-Application-Electronic-Form.pdf

11 This estimate assumes not all areas of remnant native vegetation would be suitable for covenanting following closer environmental assessment as well as adjacent land uses, access issues, alternative land uses and level take-up interest.

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