Covenant Policy

Policy for use of covenant provisions under
Section 34 of the *Nature Conservation Act (2002)*

June 2026

Private Land Conservation Program
Department of Natural Resources and Environment Tasmania

Tasmanian Government

Background

Under Section 34 of the *Nature Conservation Act (2002)*:

> *"The Minister on behalf of the Crown may enter into a conservation covenant with a landowner if the Minister considers it necessary or desirable to do so for a conservation purpose. A conservation covenant may contain such covenants and other provisions as the Minister and the landowner agree."*

Covenants made under this Act may be a restrictive covenant or a positive covenant. Such a covenant

a. runs with the servient land as if it were a covenant to which Section 102 (2) of the *Land Titles Act 1980* applies; and

b. is enforceable between the parties to it, and any person deriving title under any such party, as if the covenant were entered into by a fee simple owner of land for the benefit of adjacent land held by the Crown in fee simple that was capable of being benefited by the covenant and as if that adjacent land continued to be so held by the Crown.

This policy specifies principles and criteria under which the Minister may wish to enter into a covenant under the *Nature Conservation Act (2002)* for a conservation purpose.

This policy applies for all covenants under the *Nature Conservation Act (2002)* excluding covenants required under Divisions 3 or 4 of the *Nature Conservation Act (2002)*.

This policy applies to covenants including:

- voluntary conservation covenants
- covenants required by external Regulators under offset arrangements
- covenants used for compliance purposes under a range of Acts
- covenants created under market mechanisms.

Policy

Properties will be considered for covenanting where the Minister is satisfied that the following principles are met:

1. The target natural features are viable to the extent that they are likely to persist without significant management intervention;
2. The shape and size of a proposed covenant is adequate and practicable to protect and maintain the target natural features; and
3. Natural features within a proposed covenant contribute to the comprehensiveness, adequacy, representativeness and/or resilience of the Tasmanian reserve estate.

In determining whether the above principles are met for a particular covenant proposal, consideration will be given to the following criteria:

a) The condition of the natural features including their likely long-term viability;

b) The practicality of any management requirements necessary to maintain the natural features;

c) The area of the covenant is of an acceptable size;

d) The context of the covenant such as shape, connectivity, adjacent land tenures, land uses and edge effects; and

e) The contribution to the comprehensiveness, adequacy representativeness and / or resilience of the Tasmanian reserve estate.

Definitions

Acceptable Size

- Minimum 10 hectares; or
- Any area of target natural features that is deemed by the Minister to be of a size that:

  a) is viable for those features; and

  b) can be practicably protected by a covenant under the *Nature Conservation Act (2002)*.

Natural Features

Natural features include:

- Populations of flora and/or fauna species listed under the *Tasmanian Threatened Species Protection Act 1995* or the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*;
- Habitat for fauna species or cryptic flora species listed under the *Threatened Species Protection Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999*, where that habitat is either critical to the survival of the species; is itself threatened, contains important habitat features for the survival of the species or the protection of additional habitat has been identified as a priority for that species (e.g. in a Listing Statement or Recovery Plan);
- Threatened vegetation communities listed under the *Nature Conservation Act (2002)*;
- Old growth or mature forest;
- Native vegetation communities identified by NRE Tas as under-reserved at the bioregional level;
- Sites listed on the Geoconservation Database or identified as having national, state or regional geoconservation significance;
- Other natural features identified as a priority for conservation or considered Matters of National Environmental Significance under the *Environment Protection and Biodiversity Conservation Act (1999)* (e.g. Ramsar sites, locations important for migratory species covered by CAMBA, JAMBA, etc) or in State and Commonwealth government agreements and commitments;
- Geographically or otherwise distinct groups or locations of species of flora and fauna;
- Sites important for the protection of landscape connectivity;
- Sites of evolutionary significance (e.g. hybrid swarms, clines);
- Sites displaying unusually high biodiversity levels;
- Sites identified as focal landscapes
- Sites important for the protection of past or contemporary refugia.

Version history

Signed by Environment Minister 12/11/2012, reviewed by Environment Policy Steering Committee January 2026.

Tasmanian Government

Contact

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