

Conservation Covenants – proposed changes under draft NSW Biodiversity Bill

- Private land conservation is key to our wildlife's future. Private land covenant schemes operated by OEH, NCT and the CMAs allow landowners to preserve their bushland and ensure it is protected by future generations.
- These schemes are currently protected **by law** - giving assurance that this generous legacy by today's landowners is respected by future generations
- Today conservation covenants protect over 105,000 hectares^{1,2} of NSW bushland (over 370 landowners) with an additional 1,600 landowners and >250,000³ hectares protected as long-term or perpetual Property Vegetation Plans (PVPs)
- The new draft Biodiversity Bill proposes to revoke the legislation currently protecting OEH, NCT and PVP covenants⁹. In theory such covenants will be converted into new 'Conservation Agreements' however the draft Bill **does not** regulate that such conversions must occur
- The draft bill also creates a development offset option for landowners ('Biodiversity Stewardship Agreement'⁵). The bill **does not** prohibit the potential conversion of a former covenant to a development offset (i.e. converting a Conservation Agreement to a Biodiversity Stewardship Agreement). This is currently prohibited under legislation¹⁰. This loophole could allow a future owner of your covenant property to cash it in to offset land clearing elsewhere (with OEH/NCT approval)
- The draft Bill also allows development offsets (BSAs) to be themselves cleared⁷ - so long as the offset is itself offset. This could see land formerly protected by a covenant or in-perpetuity PVP 'upgraded' to an offset ultimately cleared.
- 🏢 The Nature Conservation Trust (NCT) will become the Biodiversity Conservation Trust (BCT) and administer all new covenants and development offsets⁶ including former OEH, NCT and PVP covenants
- 🏢 Under the new Bill land previously gifted to the Nature Conservation Trust with restrictions on title (e.g. prohibiting commercial activities on the donated land) *would have these restrictions removed*⁸.
- 🏢 Some exiting covenants and PVPs were not undertaken voluntarily but instead are agency or court-ordered offsets for legal or illegal clearing. Loopholes in the draft Bill are likely to allow these protected lands to be cleared. Some landowners could potentially cash in on their crimes by converting court-ordered covenants to new development offsets.
- The OEH and NCT maintain that they will respect the intention of existing covenants, however the draft Bill would remove the current legal protections which guarantee this.

Proposed Changes to respect private land conservation

Already dozens of covenant landowners have raised their outrage over the proposed treatment of covenants. They want to see:

- 🏢 The Bill revised to explicitly give effect to all existing conservation PVPs and conservation covenants as binding Conservation Agreements on commencement of the new Act
- 🏢 The Bill revised to protect the status of conservation agreements as voluntary conservation not development offsetting, by:
 - Prohibiting the conversion of voluntary conservation to offsets; and
 - Requiring that any funds provided to Conservation Agreements by the Biodiversity Conservation Trust are free from development offset contributions

- Enshrining the provision of Conservation Agreements by the Biodiversity Conservation Trust as a free service available to landowners

References

¹ - NCT 2015 Annual Report – over 100 landowners & 52,000 hectares

² - OEH Conservation Partnerships: A guide for Landowners – over 270 landowners & 53,000 hectares

³ – DECCW ‘Review of the Native Vegetation Act 2003’

⁴ – Draft NSW Biodiversity Bill, Part 5 division 1

⁵ – Draft NSW Biodiversity Bill, Part 5 division 2

⁶ - Draft NSW Biodiversity Bill, part 10

⁷ – Draft NSW Biodiversity Bill, part 5.16

⁸ - Draft NSW Biodiversity Bill, part 10.8 to 10.9

⁹ – The Bill would revoke the existing *Native Vegetation Act*, *Threatened Species Conservation Act*, the *Nature Conservation Trust Act* and parts of the *National Parks & Wildlife Act*.

¹⁰ – For example the current protections under the *Threatened Species Conservation (Biodiversity Banking) Regulation 2008* section 11 (e) & (c). No such clauses have been included under the new draft Bill.