Part 7: Country reviews

7.1 Australia

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In Australia, the conservation of biodiversity on private land has been an important policy objective for the past few decades. While there are multiple mechanisms used to achieve this, conservation covenants and land acquisition are the primary mechanism used to protect natural assets on private land in the long term (Fitzsimons & Wescott, 2001; Cowell & Williams, 2006; Pasquini et al., 2011). There are a variety of conservation covenanting mechanisms with supporting programmes that currently exist in Australia that vary based on the jurisdiction and the legislation under which they are established.

The Australian National Reserve System is a national network of public, indigenous and privately protected areas over land and inland freshwater. Its focus is to secure long-term protection for samples of Australia's diverse ecosystems and the plants and animals they support. It is recognized that the National Reserve System cannot be built solely on public lands and there is a significant role for indigenous groups, local communities, private landholders and NGOs to play in establishing and managing protected areas to ensure the success of the System. The Australian Government has played an important role in growing the private land trust sector in Australia over the past 20 years. Specifically, the provision of up to two-thirds of the purchase price for strategic land acquisitions through the National Reserve System Program has seen land owned by this sector grow from thousands of hectares in the mid-1990s to millions of hectares today. It has also resulted in significantly increased involvement and investment from the philanthropic sector in the establishment of new PPAs.

Defining PPAs

The term 'private protected area' suffers from a lack of a clear and concise definition in Australia. In this review, land held for conservation by indigenous people and groups, while substantial, are not considered 'private' for the purpose of protected area governance classifications. Rather they are considered to fall into the 'indigenous and community' governance category of IUCN protected area management categories. The only *nationally agreed* definition of a PPA is that developed by the Natural Resource Management Ministerial Council (NRMMC, 2009) that states: 'A fundamental requirement of any area's eligibility for inclusion within the National Reserve System is that it must meet the IUCN definition of a "protected area" (Dudley, 2008)' with three standards applying generally across all tenure types ('valuable', 'well managed', and 'clearly defined') and a fourth ('secure through legal or other effective means') specific to different tenures.

Neds Corner Station, a 30,000 ha former grazing property in the state of Victoria, Australia, now owned and run as a PPA by the Trust for Nature © James Fitzsimons

The NRMMC provides further definition of the term 'legal or other effective means' for the purposes of inclusion in the National Reserve System including:

1. Legal means: Land is brought under control of an Act of Parliament, specializing in land conservation practices, and requires a Parliamentary process to extinguish the protected area or excise portions from it
2. Other effective means: for contract, covenant, agreements or other legal instrument, the clauses must include provisions to cover:
   - Long-term management – ideally this should be in perpetuity but, if this is not possible, then the minimum should be at least 99 years
   - The agreement to remain in place unless both parties agree to its termination
   - A process to revoke the protected area or excise portions from it is defined; for National Reserve System areas created through contribution of public funding, this process should involve public input when practicable
   - The intent of the contract should, where applicable, be further reinforced through a perpetual covenant on the title of the land
   - 'Well-tested' legal or other means, including non-gazetted means, such as through recognized traditional rules

Table 7: **Number and area of major conservation covenanting programmes in Australia (as at September 2013)**

Covenanting programme	Number	Area (ha)	Average size (ha)
Victoria: Trust for Nature covenants	1,242	53,370	43
NSW Voluntary Conservation Agreements	367	143,050	390
NSW Registered Property Agreements	237[ii]	44,150	186
NSW Nature Conservation Trust covenants	73	16,687	229
Tasmanian Private Land Conservation Program covenants	703[iii]	83,644	119
South Australian Heritage Agreements	1,518	643,631	424
Queensland Nature Refuges	453	3,438,004	7,589
Western Australian (DPaW) covenants	169[iv]	17,386	103
Western Australian National Trust covenants	162	17,879[i]	110
Northern Territory Conservation Covenants	2	640	320
Total	**4,926**	**4,458,441**	**905**

Notes:

i Area shown is area of bushland (natural habitat). The total area covenanted (included cleared land) is 64,381 ha

ii This does not include 99 Temporary Property Agreements covering ~8,450 ha

iii Includes 39 'time limited' covenants covering 6,845 ha

iv Number of landholders

under which Indigenous Protected Areas (community conserved areas) operate or the policies of established non-government organizations.

Despite these definitions, the term PPA is often used more broadly for private land conservation mechanisms that include a legislative or contractual component (even if not in perpetuity) or generally for land owned by conservation land trusts or similar. Fitzsimons (2006) provided a detailed analysis of how each private land conservation mechanism in the State of Victoria met the definition of private protected area (based on the NRMMC 2005 definition), however it does not appear that similar analyses have been carried out for other jurisdictions.

The main 'types' of PPA in Australia are:

- Conservation covenants - binding agreements (usually entered into on a voluntary basis) between a landowner and an authorized body to help the landowner protect and manage the environment on their property
- Land purchased by NGOs through the National Reserve System Program
- Less frequently, areas protected by special legislation or under the National Parks legislation.

Legislation and PPAs

In Australia, state and territory governments are primarily responsible for environmental management and relevant legislation including protected area legislation. The states and territories also have legislation enabling the application of conservation covenants over private land; covenants being the primary mechanism to secure conservation in perpetuity.

Where financial assistance has been given to NGOs to purchase land for conservation through the Australian Government's National Reserve System Program, protection takes two main forms. Firstly, there is a funding agreement between the Australian Government and NGO that specifies that the property is being managed for biodiversity conservation, the management activities to be undertaken and activities which are not appropriate. There is provision in many of these agreements for funding to be returned if provisions are not met. Secondly, and critically, there is a requirement in all contracts for a conservation covenant (or similar) to be signed between the NGO with the relevant state/territory covenanting agency within a couple of years of purchase.

Unlike most national parks in Australia, the establishment of a conservation covenant or purchase of a private reserve through the National Reserve System does not prevent mineral exploration or mining. There have been recent threats to some private protected areas due to mining approvals being given by a state government, against the wishes of the private landholder (Adams & Moon, 2013).

How many PPAs are there?

Although Australia has a relatively comprehensive national database for recording the location, size and management intent (IUCN categories) of public protected areas and indigenous protected areas, the national reporting of PPAs is *ad hoc* and not comprehensive. Protected area data are compiled nationally every two years or so as part of the Collaborative Australian Protected Area Database (CAPAD). However, only some jurisdictions provide information on conservation covenants. As such gaining a comprehensive picture of the number and area of PPAs in Australia is difficult.

Nonetheless if considering all 'in perpetuity' conservation covenants under a dedicated program to be private protected areas and land owned by NGOs and managed for the purpose of biodiversity conservation, there were approximately 5,000 terrestrial properties that could be

Table 8: **Number and area of private reserves owned by major non-profit conservation land owning organizations in Australia (as at 30 June 2013)**

Organization	Number of properties owned[i]	Total Area (ha)	Average Area (ha)
Bush Heritage Australia	35	960,000	27,429
Australian Wildlife Conservancy	23	>3,000,000	130,400
Trust for Nature (Victoria)[ii]	47	36,104	768
Nature Foundation SA	5	499,705	99,941
Nature Conservation Trust of NSW	12[iii]	10,182	849
Tasmanian Land Conservancy	11[iv]	7,283	662
South Endeavour Trust	7	80,846[v]	11,506
Total	**137**	**4,594,120**	

Notes:

[i] Not all properties may have legal protection to the extent outlined earlier but all properties are effectively managed as PPAs;

[ii] In addition to this figure, 55 properties purchased by the Revolving Fund since its inception, and 52 have been on-sold, protecting 5,695 ha;

[iii] Currently holding but to be sold with covenant as part of revolving fund – a further 12 have been sold to supportive private owners, protecting 11,823 ha (included in covenant figures in table 7);

[iv] All covenanted;

[v] The largest property, the 68,000 ha Kings Plains, is a mix of conservation and sustainable grazing.

considered private protected areas in Australia covering 8,913,000 hectares as at September 2013. This includes over 4,900 conservation covenants covering over 4,450,000 ha (Table 7) and approximately 140 properties owned by private land trusts covering approximately 4,594,120 ha (Table 8) and a small number of private protected areas owned by other organizations. Some of these large properties held by NGOs have covenants and where known these have been counted only once in deriving the total figure.

There are a number of other covenanting arrangements (or covenant-like arrangements) that may not qualify as PPAs but are effectively managed in the same way as other conservation covenants. It is recognized that not all properties owned by private conservation trusts would necessarily qualify as private protected areas under the current National Reserve System criteria (mainly due to legal protection), however they are managed with this explicit intent and are moving towards greater security and would be widely considered PPAs.

The size of PPAs varies widely and is influenced by a number of factors, including size of historical subdivision of land parcels and amount of vegetation clearing in a region. PPAs make up a relatively small proportion of the overall area protected within Australia's National Reserve System, although this area and relative proportion has increased significantly in the last 15 years (see figure 3). Almost all marine waters in Australia are Crown land and there are no PPAs in the marine environment.

Ownership and human habitation

Conservation covenants make up the majority of individual PPAs in Australia and for most covenanted properties, people either live on (or have the provision to live on) the properties. In most cases it is private individuals or families that own properties with covenants over them. In many cases a covenant will be a smaller part of a larger property, such as a farm, that is not part of the protected area. In other cases this might be a specific zone within the covenant that recognizes an existing or future house. Activities that might degrade the conservation value of the covenant generally are not permitted. The majority of covenants are not generally 'open access' as they are the property of a private individual and not generally dedicated for commercial purposes. PPAs owned by conservation NGOs may have a manager living onsite.

There are few PPAs owned by 'for-profit groups' (companies) in Australia. A recent example is Henbury Station in central Australia, purchased by R.M.Williams Agricultural Holdings (Pearse, 2012) whose intention for the property was both biodiversity conservation and carbon sequestration (by removing stock from this former pastoral station). Despite being purchased with funds from the Australian Government's National Reserve System Program, this property was recently sold and less than 20 per cent will be formally protected within a conservation covenant. Earth Sanctuaries Ltd was the first publicly listed company in Australia to have wildlife conservation as its primary goal, owning 11 private reserves covering c.100,000 ha at its peak of land ownership. It sought to generate income by placing a monetary value on the threatened species it owned (Sydee & Beder, 2006) but was delisted in 2006.

Ownership of PPAs can change in a more deliberate way. For example, a number of private land trusts operate revolving funds whereby a property is purchased by the NGO and then sold (usually to individual landowners) with a conservation covenant attached. Private land trusts can also transfer private reserves into the public protected area estate.

There have been a smaller number of acquisitions by community groups, such as the Twin Creeks Community Conservation Reserve. There are also emerging hybrid models of PPAs with other governance types. For example Fish River was purchased by the Indigenous Land Corporation with financial support from the Australian Government's National Reserve System Program and NGOs (TNC and Pew Environment Group) (Fitzsimons & Looker, 2012). It is a PPA but will be handed back to the Traditional Owners in the future.

The woodland remnant at Creighton Hills, a conservation covenant in central Victoria, Australia, is important for a range of declining woodland birds, and more common species such as these Willie Wagtails (*Rhipidura leucophrys*) © James Fitzsimons

PPAs as part of the National Reserve System

Up until the mid 1990s, the public protected area system in Australia was typically created from existing public land, which itself was often the 'left overs' from land not suitable to use for agriculture. The advent of the National Reserve System and scientific principles of comprehensiveness, adequacy and representativeness (CAR) saw a much more targeted approach to reserve creation, with an emphasis on filling gaps and targeting the inclusion of under-represented ecosystems. The role of conservation NGOs is considered by the NRMMC (2009) as: 'critical, as they complement the public reserves by filling conservation gaps, purchasing or covenanting land where governments are unable to do so'. The NRMMC also recognize that many threatened species and under-represented communities occur on private land that is not for sale and that farmers and graziers are increasingly placing voluntary, in perpetuity conservation covenants on their property.

Most conservation covenanting programmes were established before the concepts of CAR were explicit in conservation policy in Australia. Nonetheless, in a review of conservation covenanting programmes in 2007, Fitzsimons and Carr (2007) found that most programmes now seek to complement the comprehensiveness, adequacy and representativeness of the public reserve system either stating so explicitly or by aiming to protect the highest priority ecosystems on private land.

However it should be recognized that covenants are generally established for a range of reasons beyond just complementing the CAR reserve system. It is often the landholders themselves that approach a covenanting agency to have a covenant placed on their property. More recently, the Trust for Nature (2013) has shown how a more targeted approach to covenant establishment has significantly increased the proportion of covenants in under-represented bioregions.

New PPAs are also established with the explicit aim of buffering (Coveney, 1993) or linking (e.g. Bradby, 2013) existing protected areas. Fitzsimons & Wescott (2005) and case studies within Fitzsimons et al. (2013) highlight the catalysing role of land purchase by NGOs in establishing new connectivity conservation initiatives in a region.

In a number of states, covenanting leasehold land, which makes up a significant proportion of inland Australia, is significantly harder than covenanting freehold land due to legislative conflicts. This means that at a national level covenants are more skewed towards freehold properties in eastern and southern Australia and Tasmania.

Incentives and reporting

There has been a significant increase in incentive payments, to encourage the signing of covenants in high priority, under-represented bioregions in the past decade. Where there are open calls or tenders for funding conservation activities on private land within a region, covenants will often receive a high priority. However, within the last decade there has been a focus on stewardship payments for short-term (e.g. five to 15 years) management agreements. At a national level, tax concessions are available to landowners who enter into conservation covenants to protect areas of high conservation value. Qualifying for an income tax deduction requires the meeting of multiple conditions set by the government (DSEWPC, 2012).

Requirements of owners of PPAs to report on their activities vary. As a condition of funding for land acquisition (such as through the National Reserve System Program) or management (such as through various stewardship payment programmes), reporting is required. The National Reserve System Program's Funding Deed requires Monitoring, Evaluation, Reporting and Improvement (MERI) plans be prepared for each project (Australian Government, 2013).

If conservation covenants have received funds as part of covenant establishment owners will typically have to report on annual activities and outcomes. For those established without financial assistance the level of reporting required and stewardship capacity from the covenanting agency varies. In Victoria, as part of the Trust for Nature's Stewardship Program monitoring of conservation covenants is undertaken at least once every three years and reported in a stewardship report. Management Plans are written by Trust for Nature Regional Managers, in consultation with the landowners.

There are a number of factors that seem to be currently inhibiting this national reporting:

1. Privacy concerns for private landowners in revealing the location of their properties
2. Lack of coordination/process between state governments, the Australian Government and covenanting agencies outside the state nature conservation agencies
3. Lack of assessment as to whether covenants (generally or specifically) meet the protected area classification.

Nonetheless, each state covenanting programme maintains its own database of covenants.

Private Reserves of Natural Heritage Serra do Tombador protects an area of Cerrado in Brazil and is owned by the Boticario Group Foundation for Nature Protection © Gustavo Gatti

7.2 Brazil

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Strategies for nature conservation on private land in Brazil group into two mechanisms: *mandatory* and *voluntary*. Among the mandatory schemes are those set out in the Brazilian Forest Code of 1934 last updated in 2012, and those provided for by the law establishing the National System of Conservation Units (NSCU). The principal voluntary mechanism is the creation of Private Reserves.

Mandatory mechanisms

Mandatory private areas include Legal Reserves (LRs) and Areas of Permanent Preservation (APPs). According to the Constitution of 1988, in order to meet their social functions, all rural properties must properly utilize the available natural resources and preserve the environment. Thus, APPs and LRs are mandatory on all rural properties in Brazil, and the owner is not entitled to indemnification by the State.

LRs are located on rural properties and are designed to achieve the sustainable use of natural resources, conservation and rehabilitation of ecological processes, biodiversity conservation and the protection of native flora and fauna. Vegetation in LRs cannot be removed and can only be used under sustainable forest management. The physical location and extent of LRs on rural properties is negotiated with environmental authorities and varies between 20 and 80 per cent of the property, depending on the biome and region. In Brazil, no official data evaluate compliance by landowners