

## ***16. Legal Protection***

### **Explanation**

Legal protection is the implementation of formal protection of land and freshwater for its natural and/or historic resources. The protection of marine resources is dealt with in Section 17: Marine Habitat Conservation.

The protection of natural and historic resources cannot be achieved by the Department alone. It recognises its role as a protection agency, but it is not the sole agency. It has a role to facilitate and participate in the protection of natural and historic resources with others.

Options to protect land range from purchase, to acquiring an interest in land through mechanisms such as covenants or management agreements with landowners, or objectives, policies or methods in Regional Policy Statements and Regional and District Plans. Legal mechanisms and funds to protect resources are also available to local government, environmental organisations, private and Maori landowners. Options for legally protecting land are outlined in Appendix 2.

The Resource Management Act 1991 provides opportunities to protect natural and historic resources. Regional Policy Statements, Regional and District Plans can include objectives, policies and methods for the protection of natural and historic resources which contribute to achieving sustainable management. Specific mechanisms, such as designations, heritage protection orders and water conservation orders can also be used to protect significant areas. The Department and others can advocate for protection to be applied to such areas.

The Protected Natural Areas Programme (PNAP), established 1983, has been one of the techniques used to identify significant natural areas which represent the full range of New Zealand's indigenous biodiversity. The PNAP divided New Zealand into 68 Ecological Regions, further sub-divided into 286 Ecological Districts. Each ecological district is surveyed to identify ecological features which are inadequately protected in the existing protected natural area network. It recommends protection of representative and unique or special biological and landscape features. Surveys have also incorporated information on landscape, soils and geological features.

The PNAP has been the principal, but not the sole means, by which the Department sets priorities for allocating and seeking funds for legal protection of land containing significant indigenous plant communities, e.g., wetlands, forests and dunes.

Legal protection may also be sought for significant historic resources, significant landscapes, landforms and geological sites and areas with special recreation opportunities. Protection of these sites occurs as opportunities arise or the degree of threat requires urgent action.

**Wellington  
Conservancy**

Legal protection work in the conservancy, to date, has focused on land with indigenous plant communities and threatened species. There has been little work done on threatened ecosystems [*refer Section 13, p 137*].

Most of the largest, relatively unmodified natural areas in the conservancy have already gained some form of legal protection. There are some large unmodified forested areas in the Wairarapa still unprotected. The Department's advocacy and legal protection work focuses on forest remnants, wetlands, dunelands, coastal escarpments, waterways, areas providing a buffer or linking corridors for existing protected natural areas. These may include areas of second growth forest or scrubland. Most remaining natural areas are effectively islands in highly modified environments and require management for conservation purposes and ecological connections if they are to remain self-sustaining.

PNAP surveys have not been completed. Of the 12 ecological districts in the Conservancy, only the Horowhenua, Eastern Hawke's Bay, and Foxton Ecological Districts have been surveyed and had final reports prepared. Manawatu Plains Ecological District has been surveyed and a report is pending. The Eastern Wairarapa Ecological District survey has begun.

**Management  
Issues***Priorities*

The Department has set priorities for the survey of ecological districts. Table 9, p 166 outlines the priority for survey and the type of natural areas for which protection will be sought in each Ecological District. Priorities for survey have been set taking into account the area of the ecological district already protected, the amount of scientific information available for the area, the vulnerability of the remaining natural areas and the pressures for land use change.

The Department's priority for legal protection will continue to be indigenous ecosystems and the habitat of threatened species. Protection of such areas is important for the conservation of New Zealand's biodiversity and these areas are the most threatened.

The priority ecosystems for protection are those least represented among the areas already protected, the most vulnerable to land use changes and whose viability is declining. Their protection will be sought throughout the conservancy [*refer Implementation 2, p 165*].

Isolated protected natural areas will not adequately preserve indigenous biodiversity. Seeking linkages between remnant natural areas and buffers to increase the effective areas of reserves, to allow interaction between gene pools, provide seasonal habitat variety for birds and provide populations with buffers from physical disasters will also be a priority.

The acquisition or covenanting of any land, including priority ecosystems, will be assessed with regard to the criteria for the Department's Land Acquisition Fund and national priorities used by the Department's Land Acquisition Fund Committee. The criteria have been included as Appendix 5.

*Resourcing Survey and Protection*

The achievement of legal protection for priority natural areas will be slow. Thirty-five Recommended Areas for Protection (RAPs) were identified in

the PNA report for the Foxton Ecological District. Seeking legal protection for these areas alone through negotiation and discussion with landowners would tie up the Department's staff at the present level for the next 5 years.

To improve the conservation of remaining natural areas, the Department is advocating the protection of significant areas from the adverse effects of resource use in Regional and District Plans being prepared under the Resource Management Act. Existing databases are being used to develop inventories of all known natural areas in each local authority area. Some field checking of the information has been done, especially in the Eastern Wairarapa. A list of significant sites for indigenous flora and fauna is then developed using criteria covering representativeness, diversity, rarity and distinctiveness, naturalness, and viability. Inclusion of the lists and appropriate rules to protect areas in Regional and District Plans is then advocated.

Large areas of the Conservancy remain to be assessed for their natural values. The Department would like to co-operate with others to survey each ecological district. The Department would like to be the catalyst to co-ordinate and encourage the approach outlined below with others, e.g. local government, conservation groups, Federated Farmers and tangata whenua.

- Agreement on the information required.
- Commitment from the Department and others to research and resource the survey work for each ecological district on a priority basis.
- Sharing of information with the affected landowners, so they are aware of the special natural values on their properties and the management requirements necessary for protection.
- Set priorities for identified areas based on the criteria used by the Department's Land Acquisition Fund (Appendix 5) which cover rarity, representativeness and threat.
- Agreement on the most appropriate form of protection and the agency most appropriate to discuss and negotiate the protection measure with the landowner.

#### *Historic Resources*

The land managed by the Department does not contain a high proportion of the historic resources in the conservancy. Only 75 archaeological sites of the total sites known are located on areas it manages. Many historic resources especially outside urban areas are unprotected. The NZHPT have the primary responsibility to protect historic resources. The Department will work with the NZHPT to protect any significant historic resource which is threatened and would benefit from legal protection.

#### *Geological Features, Landforms and Landscapes*

Many of the geological features and landforms in the conservancy are not included in protected areas, but are not threatened. Legal protection of earth science sites and landforms has not been a priority for the Conservancy. Where a significant site is threatened, the Department would become involved if necessary. The Geopreservation Inventory for the Wellington Region (Kenny J. A. and Hayward B. A. (eds) 1993: *Inventory of Important Geological Sites and Landforms in the Manawatu and Wellington Regions* (First edition) and any subsequent updates) will be used to determine the significance of a site. The inventory lists the best representative examples of

geological features, landforms, soils and active physical processes. The Department will advocate for the recognition of geological sites and landforms in its advocacy work under the Resource Management Act [*Refer Section 18, p 173*].

Landscape conservation is best achieved through district and regional planning rather than through the Department's efforts, which would only be able to protect specific features and not the landscape which provides their context. [*refer Section 18, p 173*]

#### *Legal Protection Options*

Several opportunities for legal protection of natural resources are available in legislation, and there are government and non-government agencies involved in this field. The options and funding sources for the Department are listed in Appendix 2.

There will be some cases where outright purchase by the Crown is the best option, others where protection under an agreement with the landowner is best, and others where recognition of the special values in the District Plan and policies of the territorial authority is all that is required. In all instances the co-operation and goodwill of landowners will be sought. Working with landowners and respecting their values is often an effective way to achieve protection without the need for legal measures.

To most non-rural landowners, the highest form of protection of land is ownership and direct management by central or local government under a reserve or conservation status. This is normally achieved by outright purchase.

Options often favoured by rural landowners include conservation, open space or heritage covenants, a protected private land agreement or a management agreement. These forms of agreement are legal contracts between a landowner and a conservation agency to manage an area according to agreed conservation objectives. The management responsibilities of each party are listed in the agreements. The Department sees advantages in these agreements to all parties and supports them as a means to formally protect conservation values.

#### **Objectives**

- 1 Gain sufficient knowledge of natural and historic resources to be able to advocate protection of priority indigenous ecosystems and the protection of fragmented indigenous species populations.
- 2 Protection of the most threatened indigenous ecosystems, giving priority to ecological districts with the least areas protected, and extensions to key places. [*refer Part 2: Places, p 21*]
- 3 Ensure remnant natural areas to be protected have adequate size, buffers and links to sustain the viability of the core area or threatened indigenous species.
- 4 Contribute with NZHPT to the protection of significant historic resources which are representative of the history of the Conservancy.
- 5 Protection of the significant geological sites and landforms which are threatened.
- 6 Landowners, local government and others actively seeking the protection of natural and historic resources.

**Implementation**

- 1 Continue the PNAP, giving priority to surveys in the Cook Strait, Eastern Wairarapa, and Wairarapa Plains Ecological Districts [*refer Table 9, p166*].
- 2 In addition to the priorities established in Table 9, the following are priority areas and ecosystems for legal protection throughout the Conservancy: habitat of threatened species, wetlands and estuaries, areas of indigenous vegetation on waterways, sand dunes with significant indigenous vegetation, coastal and lowland ecosystems, buffers to and natural corridors between existing protected areas, significant historic places and threatened earth science sites.
- 3 Assess proposals to acquire or covenant land or water with natural and historic resources against the criteria of the Department's Land Acquisition Fund, listed in Appendix 5.
- 4 Undertake an assessment of survey requirements for natural resources in addition to PNAP for each ecological district. Possible surveys include landscape assessment, invertebrates and freshwater fish. Work in consultation with other government agencies, local government and other interested organisations.
- 5 Prepare a programme for survey of natural resources to implement the findings of the assessment, in consultation with other government agencies and other interested organisations.
- 6 Work with iwi, other government agencies, local government, Federated Farmers and other interested organisations to identify priority areas for protection and appropriate mechanisms to achieve protection.
- 7 Keep survey databases up-to-date and share this information with landowners, local government, iwi, and other interested organisations.
- 8 Continue to use public awareness, statutory planning and regular liaison with iwi, local government, interested organisations and landowners to achieve protection of natural and historic resources.
- 9 Assess with specific landowners the most appropriate mechanism for protecting the natural and historic resources and appropriate management.
- 10 Co-operate with the NZHPT, to protect historic resources, especially in rural areas.
- 11 Provide information to local authorities on significant areas of indigenous flora and habitats of indigenous species and geological sites and landforms and advocate that council plans (prepared under the Resource Management Act) protect these areas from adverse effects of resource use.
- 12 Work to negotiate formal protection for as many of the RAPs identified in PNA surveys as possible.

Table 9:  
Priorities for Survey and Protection

Ecological District (% of district protected within Conservancy)	Priority for PNAP survey	Description	Reserves with extension potential	Priority areas for protection and factors to consider
Foxton (5%)	COMPLETE	Duneland with diverse natural values. Level of modification and threat is variable. Significant areas have been destroyed due to urban development or modified by agricultural activity. Others have gained an element of protection because the type of soils present do not lend themselves to intensive farming practices. 35 Recommended Areas for Protection have been identified.	Papaitonga SR, Waikanae Estuary SciR.	<p>Priority areas are those where urban development pressure is high. Further areas will be considered for protection on the basis of threat and protection opportunity.</p> <p>The dune migration processes which have created many wetlands have been halted in most areas, so existing wetlands are even more significant. Dune wetland systems are interconnected hydrologically over large distances. Management of adjacent land uses is critical. In dunelands, protection of native vegetation protects vulnerable landforms from undue erosion.</p> <p>The possible link between freshwater seepage into coastal sands and shellfish population health should be taken into account.</p>
Manawatu Plains (0.1%)	COMPLETE	There are few natural areas remaining (excluding the lake) due to the intensity of agricultural development. Those remaining are mainly small and isolated.		<p>Wetlands are usually either associated with oxbows (where protecting the landform usually protects the biota) or with perched water tables, where swamp forest remnants are greatly influenced by surrounding land uses and drainage.</p> <p>Forest remnants lacking well-maintained windbreaks are susceptible to wind damage.</p> <p>Riparian strips are important for waterway protection and can provide corridors for wildlife.</p>
Wairarapa Plains (8%), E. Wairarapa (8%), Woodville (2%)	HIGH	Plains and terraces of major river valleys and Lake Wairarapa wetland complex.	Lake Wairarapa/Boggy Pond/Matthews Pond	Virtually all remaining natural areas are important for protection because of their rarity.
Cook Strait (4% on mainland, 99% on islands)	HIGH	Coastal escarpment and islands around Cook Strait. There is little indigenous vegetation remaining although considerable areas of degraded grassland and shrubland persist.		<p>Forested areas, significant wetlands and escarpment grassland and shrubland are highest priority.</p> <p>Small fragments of indigenous coastal and semi-coastal vegetation are significant seed sources for future restoration or natural regeneration.</p> <p>Contiguous protection management is essential for this ecological district where coastal vegetation and fragmented populations are susceptible to natural catastrophes.</p> <p>Further threats are posed by people (and the attendant fire risks) and by goats and possums.</p>

Ecological District (% of district protected within Conservancy)	Priority for PNAP survey	Description	Reserves with extension potential	Priority areas for protection and factors to consider
Wellington (6%), Puketoi (4%), E. Hawke's Bay (0%)	MEDIUM  Note: Survey is complete in E. Hawke's Bay	Areas of hill country which have been subjected to considerable clearance for agriculture. Topography and less intensive farming practices have resulted in larger, more intact areas remaining. Priority for PNAP survey varies with location. Those close to Wellington city have a lower requirement for survey because the detailed information base and the degree of public awareness grant them a level of protection. Land-use changes in eastern Wairarapa from agriculture to forestry make this area more critical for survey.	Speargrass Weevil Reserve, Pauatahanui Inlet Wildlife Management Reserve	The priority for protection are areas with a portion of pre-European vegetation and any vegetation that has regenerated since then which has good connections with larger, more intact areas of vegetation.  These ecological districts provide significant opportunities to use regrowth and modified forests to link natural areas. The large areas involved provide adequate habitat for a wide range of birdlife.
Taranua (74%), Aorangi (43%)	LOW	The mountains and hills of the main ranges have retained much of their pre-European vegetation due to the less intensive pressure from farm development and timber exploitation. Most of these ecological districts are within protected areas. However, lower altitude hill country areas have been extensively modified, and lowland vegetation is poorly represented within protected areas.	Hemi Matenga/Kaitawa SR, Turakirae Head SciR, Lowry Bay SR, Wairarapa Lake Shore SR, Paraparaumu SR, Haurangi FP.	Priority areas for protection are the lowland hill country natural areas with good connections with existing protected areas and other large unprotected natural areas.  Areas of indigenous vegetation that are regenerating after past land clearance are also considered for protection where they are important in maintaining the more significant areas.  Old seacliff flanks on the western Taranua foothills have numerous isolated pockets of forest which <i>in toto</i> provide avian protection and a prominent landscape feature. Some contain snail populations requiring isolation from rats and goats. Fencing pockets is most effective where edge vegetation is included to provide shelter from strong prevailing winds. Many of these patches contain kohekohe and will require active possum control.