

2. Legal Protection

PROTECTION OPTIONS

If you leave the protection of your native ecosystem to the goodwill of future owners, they could undo all your efforts. Legal protection ensures that your conservation achievements will continue, usually in perpetuity. It also means you can ask for funding from agencies like the Nature Heritage Fund, Queen Elizabeth II National Trust, local authorities or Ngā Whenua Rāhui (for Māori land) to help with survey, legal and fencing costs.

To obtain legal protection, you will need to define the area by survey, decide on what sort of protection you want, and detail how the ecosystem will be managed to maintain or improve its values. You should seek formal protection early in the project so that you do not waste time, enthusiasm and money.

A number of legal protection options can be tailored to suit your wishes as the landholder:

Selling or gifting land

You can sell or gift land to a variety of agencies, organisations or trusts for protection purposes. The buyer usually meets some or all of the transaction costs. An area bought or gifted under the Reserves Act will be given a reserve classification. It then needs to be managed for the primary purpose stated in that classification. This will involve producing a management plan, which needs public input.

Conservation covenants

You can enter into a covenant with the Department of Conservation, Queen Elizabeth II National Trust or local authorities. A covenant is a legal agreement between the landholder and the covenanting agency about how the area's natural values will be protected (e.g., where fencing is needed and whether public access will be allowed). As the landholder, you retain ownership and the covenant is registered against the title, usually in perpetuity. It is binding on future owners. Owners of Māori land can place areas under a Ngā Whenua Rāhui kawenata. Although this may be for protection in perpetuity, the terms and conditions can be reviewed every generation (not less than 25 years).

Both parties manage covenanted land in accordance with the agreement, and the covenanting agency may provide specialist advice. Financial assistance may be available to the landholder, usually for survey, legal and fencing costs. As the landholder, you may also apply to the local authority for rates relief.



The QE II covenant of Brian and Chris Rance at Otatara, Invercargill. This restored wetland grades into densely planted shrubland, buffering the remnant tōtara forest beyond. The owners have also established a nursery that produces native plants for community restoration projects and propagates threatened species.

Monitoring is usually needed to assess the effectiveness of management actions and changes to protected values. Either you or the covenant agency can do the monitoring in accordance with the agreement.

Protected private land agreements

You can make a protected private land agreement with the Department of Conservation. As the landholder, you retain ownership, and the agreement is recorded on the title by gazette notice.

Land exchange

You can exchange land where it is of interest to both parties. You may have costs related to equality of exchange, survey and legal requirements. Local authorities undertaking land exchange under section 15 of the Reserves Act, must seek public comment.

Management agreements

Management agreements between the Department of Conservation and a landholder under section 29 of the Conservation Act are not registered against the title and do not bind future owners. These are temporary agreements that keep your management options open until you reach a final agreement for improved protection.

Esplanade reserves

Esplanade reserves can be used to provide voluntary riparian or ecological protection quite separate from the subdivision requirements of the Resource Management Act. Such reserves are set aside under the Reserves Act as local purpose (esplanade reserves) through a local authority or the Department of Conservation. They can be of various widths.

FUNDING SOURCES AND CONTACTS

You can seek funding towards the protection of a remnant ecosystem. Funding may be provided for purchase, survey, legal and fencing costs, or it may be provided in the form of rates relief, special funds or grants. Note that as a funding condition, the Nature Heritage Fund and Ngā Whenua Rāhui both require legal protection and an outline of proposed management. Ngā Whenua Rāhui is only available to owners of Māori land.

Landcare Research runs the project EBEX 21, promoting protection and restoration by landowners and businesses wishing to offset the environmental impacts of their activities (see Services and Businesses, at <http://www.landcare.cri.nz>).

Table 1. Agencies that implement legal protection, offer funding assistance or provide advice about the management of protected areas

Agency	Offers legal protection	Possible funding source	Offers management advice
Department of Conservation	Y	Y	Y
Nature Heritage Fund	N	Y	N
Nga Whenua Rahui	N	Y	N
QEII National Trust	Y	Y	Y
Lottery Grants Board	N	Y	N
Local Authorities	Y	Y	Y
Landcare Research	N	Y	Y

Table 2. Main contacts for information or advice about legal protection and management of protected areas

Department of Conservation - Conservancy and local Area Offices Web site: http://www.doc.govt.nz	QEII National Trust P.O. Box 3341, Wellington Freephone 0508-732-878
Nga Whenua Rahui P.O. Box 10420, Wellington Phone (04) 4710-726 Web site: http://www.doc.govt.nz	Federated Farmers of New Zealand P.O. Box 715, Wellington Phone (04) 473-7269
Fish and Game Councils Regional Offices	New Zealand Landcare Trust P.O. Box 16-269 Christchurch Phone (03) 349-2630
Regional Councils	District/City Councils
Native Forests Restoration Trust P.O. Box 80-007, Green Bay Auckland 7 Phone (09) 636 7564	Ducks Unlimited P.O. Box 9795, Auckland Phone (09) 625 9002
New Zealand Ecological Restoration Network P.O. Box 9000, Christchurch Web site: http://www.bush.org.nz (local contacts through web site).	

Further reading

Conservation covenants. A guide to assist local authorities to protect and conserve waterways, wetlands and other natural areas. Christchurch City Council 1998. *[Booklet – describes different protection mechanisms, the purpose of covenants and how they work, legal aspects, management and provides two case studies. First copy free per local authority]*

Nature Heritage Fund (undated). *[Pamphlet – outlines the purpose of the fund, different means of protection, funding criteria, application funding dates and who to contact]*

Ngā Whenua Rāhui (undated). *[Pamphlet – outlines the purpose of Ngā Whenua Rāhui, including the protection and management of Māori-owned land, funding assistance and who to contact]*

Open space covenants. Frequently asked questions. Queen Elizabeth II National Trust 2000. *[Pamphlet – outlines key aspects of covenants, how they are arranged and possible rates relief]*

Voluntary protection of nature on private property. Your land your choices. Department of Conservation (undated). *[Pamphlet – outlines protection options, funding sources, incentives and organisations to contact for further information]*