

CHAPTER 14

WETLAND PROTECTION

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CONTENTS

INTRODUCTION

- 1 ENSURING WETLAND ACCESS
- 2 WETLAND PROTECTION ON PRIVATE LAND
 - 2.1 Conservation covenants
 - 2.2 Management agreements
 - 2.3 Purchase and bequests/gifts
 - 2.3.1 The Nature Heritage Fund
- 3 PROTECTING WETLANDS ON PUBLIC LAND
 - 3.1 Reserve land
- 4 REFERENCES AND FURTHER READING
 - 4.1 Useful websites



WETLAND PROTECTION

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One third of the land across New Zealand is public land managed by the Department of Conservation. However, most of it is high country land, and our reserve network does not represent the full range of natural habitats or native species, particularly lowland ecosystems. Initiatives to restore and enhance habitats on privately owned land – and to protect them for the future – are therefore a valuable if not critical means toward preserving our unique natural heritage. Lowland wetlands have suffered enormously through urban and rural expansion, yet fewer than half of the 10% of wetlands that remain are legally protected, compared to 80% of remaining native forest areas.

There is a range of measures available to ensure the wetland (and the hard work that went into restoring it) remains protected for the longer term if not in perpetuity. Another consideration is securing access to the wetland if this entails crossing private land. This chapter outlines some of the main ways to protect wetlands on privately owned land in the intermediate and long term as well ensuring on-going access. A small section is also included on securing protection for projects on land owned by local authorities.

Previous page; The Lake Mahinapua Scenic Reserve was established in 1907 to protect the land around the Lake. West Coast.

Photo: Hugh Robertson. Crown Copyright, Department of Conservation



Baumea seed head.

Drawing: Monica Peters

While fences are a primary form of wetland protection, covenants can provide another level of protection altogether. Hikurangi swamp, Northland. Photo: Lisa Forester, Northland Regional Council



The privately owned wetland restoration is protected in perpetuity under a QEII National Trust "Open Space" covenant. Photo: Monica Peters, NZ Landcare Trust



1 Wetland protection on private land

1.1 Conservation covenants

A conservation covenant is a legally binding agreement between two or more parties to protect and manage a given site such as a wetland. A conservation covenant means the landowner will retain ownership and the site will be managed according to an agreement between you (or a future landowner) and the covenanting agency.

A starting point for considering a conservation covenant will depend on the goals and aspirations of landowners. Is the covenant a means toward gaining a resource consent or extra subdivision right? Protecting a unique part of the property? Enhancing the value of the property? Protecting an area, though not in perpetuity? Equally, the criteria for conservation covenants will differ according to a range of factors, such as:

- Geographical location, i.e. region or district council
- Ecological values (e.g., flora, fauna, representativeness within eco-region)
- Recreational or landscape values (e.g., gamebird hunting, fishing, sailing)
- Cultural values (e.g., mahinga kai)
- Nature of land tenure (e.g., public, private, Maori land)
- Funding available or achievable

Once agreed, the protected site (or sites) is noted on the title of the land. An advantage of covenanting is that you can ask for funding to assist with, e.g., surveys, and legal and fencing costs. Applications can also be made to local authorities for rates relief. Some examples of covenants follow:

QEII OPEN SPACE COVENANT

- Most common form of covenant on private land in New Zealand
- QEII National Trust is a non-government agency, an ideal option for those who prefer not to deal with local or central government
- Legally binding protection agreement for current and all subsequent landowners, registered on the title of the land
- Most QEII covenants are in perpetuity; however, covenants can be registered for a limited period of time depending on the status of the land to which the covenant applies
- Must meet minimum landscape or ecological value criteria
- QEII contributes funding towards fencing and legal costs
- There is no requirement to provide public access but conditions concerning things like fencing, pest and weed control, controls on vegetation or timber removal will be included in the agreement – the Trust works with landowners to ensure compliance and help with management
- In some cases land can be gifted to QEII

NGA WHENUA RAHUI KAWENATA

- Supports tangata whenua to retain ownership and control of their land, thus protecting cultural and spiritual values
- May be entered into in perpetuity; however, can be for a specified term or reviewed at intervals of not less than every 25 years, enabling tangata whenua to modify or extinguish the agreement

OTHER CONSERVATION COVENANTS

- Conservation covenants established under the Conservation Act (1987) run in perpetuity, i.e. apply to subsequent landowners
- Conservation covenants established under the Reserves Act (1977) run in perpetuity or for an agreed term
- A local council may place a condition on a resource consent requiring the applicant enter into a covenant, e.g., as a condition of a subdivision consent

Many of our lowland shallow lakes suffer from poor water quality; restoration and protection measures are the only way to halt further decline. Lake Kereta, South Kaipara Head.

Photo: Monica Peters, NZ Landcare Trust



1.2 Management agreements

Management agreements for conservation purposes are mostly entered into between landowners and a government agency, though in some circumstances they may be developed through other organisations such as the Waiau Fisheries and Wildlife Habitat Enhancement Trust. A significant advantage of management agreements is their flexibility – they can be negotiated to suit the nature of, and any special circumstances associated with, the site. They can also be negotiated around current land uses and landowner needs. The success of a management agreement will ultimately lie in how clearly the rights and obligations of each of the parties in the agreement are laid out, for example, who will be responsible for on-going site maintenance.



The rare fern, *Cyclosorus interruptus*. Matakana Island, Bay of Plenty. Photo: Monica Peters, NZ Landcare Trust

Opposite page: Originally privately owned, Seeley's gully was gifted to the Hamilton City Council and is well used as an education site for ecological restoration. Photo: Monica Peters, NZ Landcare Trust

1.3 Purchase and bequests/gifts

CONSERVATION ORGANISATIONS

- Bequests of land, or funds to buy land, can be made to groups such as Forest and Bird or the Native Forest Restoration Trust and are evaluated on a case-by-case basis
- A fund is often required or requested along with the bequest to assist with ongoing site management
- In some circumstances these organisations will raise funds to purchase areas of high ecological value from willing landowners
- These organisations will often secure the land with a QEII covenant or under the Reserves Act 1977
- Public access is usually anticipated

FISH & GAME NZ

- Local Fish & Game councils currently manage bequests and gifts
- Fish & Game NZ are currently developing a formalised process for gifting/bequeathing wetlands for sports fishing and game bird hunting
- The New Zealand Game Bird Habitat Trust also manages bequests and gifts

THE NATURE HERITAGE FUND

The Nature Heritage Fund provides contestable finance for projects that protect ecosystems. The Fund assists with direct purchase and with covenanting. It is administered by an independent committee and serviced by the Department of Conservation.

- Provides the finance and negotiates the purchase of areas in need of protection
- Contributes to purchases made by local authorities or other agencies prepared to manage protected areas as reserves under the Reserves Act 1977
- Provides assistance with funding for fencing, survey and legal costs associated with covenanting

Kahikatea
GROVE

Planted 1960



2 Protecting wetlands on public land

2.1 Reserve land

If the wetland restoration project is situated on City, District or Regional Council reserve land, one method of securing protection for ongoing works is to ensure it is included in the Long Term Council Community Plan (LTCCP). The LTCCP provides a long-term focus for the decisions and activities of the local authority. Consultation and submission processes provide an opportunity for the public to contribute to the decision-making about which activities should be prioritised. Raising the profile of a restoration project for potential incorporation into an LTCCP can be achieved in a number of ways, including:

- promoting the project to councillors and local politicians (e.g., inviting them to the restoration site in association with a community event or as a stand-alone visit)
- raising the profile of the project through media releases and coverage of events (e.g., community planting days)
- engaging the community (e.g., through educational programmes on or off site, planting days, pest control programmes, monitoring)

Don't assume that if a wetland is on council land its ecological values will be recognised and provided for. If the land is set aside for purposes such as recreation, for example, the council may seek to encroach on the wetland to build sports facilities. Ensure the wetland is identified in any reserve management plan for the site, and if the district or regional plan has a register of significant natural areas make submissions to the council to include the site in it. This will provide additional protection from development proposals such as roading or powerlines that may impact on the site.



Lake Ngaroto (Waikato) is a recreation reserve administered by Waipa District Council. Photo: Monica Peters, NZ Landcare Trust



Duck decoys. Photo: Abby Davidson, NZ Landcare Trust

One of the many reasons a landowner may choose to protect the wetland through formal means could be to ensure continued hunting opportunities. Lake Serpentine, Waikato.

Photo: Monica Peters, NZ Landcare Trust



3 Ensuring wetland access

Access across privately owned land to the wetland restoration usually relies on the goodwill of landowners. If the wetland restoration site shares a boundary with privately owned land or is located within the boundaries of privately owned land, then an easement may be negotiated with the landowner. This formal agreement will help avoid any future access issues through, e.g., changes in land ownership. Survey and legal costs, however, can be quite significant even if the landowner grants an easement without requiring payment for the grant. Estimates of costs from professional advisers early in the process are highly recommended. Check with the district council first to find out if any easements or unformed 'paper roads' already exist.

Community planting at Lake Serpentine, Waikato.

Photo: Abby Davidson, NZ Landcare Trust



4 References and further reading

Dawson, K. 2008. *Ecological Restoration and the Law: A Guide for Community Conservation Groups*. University of Waikato, Hamilton, New Zealand.
http://cber.bio.waikato.ac.nz/images/URBAN_RESTORATION_Legal_Issues_Handbook_15_Dec_2008.pdf

4.1 Useful websites

Agencies

Department of Conservation
www.doc.govt.nz

Regional and District Councils
www.localcouncils.govt.nz/lqip.nsf

Long Term Council Community Plan
www.ltccp.net.nz/About.aspx

Non-government organizations

Fish & Game New Zealand
www.fishandgame.org.nz

NZ Landcare Trust
www.landcare.org.nz

Queen Elizabeth II National Trust
www.openspace.org.nz/

Forest and Bird
www.forestandbird.org.nz

National Wetland Trust
www.wetlandtrust.org.nz

Funding

www.doc.govt.nz/getting-involved/volunteer-join-or-start-a-project/start-or-fund-a-project/funding/

www.asbcommunitytrust.org.nz/Links-resources-funders.html

Nga Whenua Rahui

www.doc.govt.nz/getting-involved/volunteer-join-or-start-a-project/start-or-fund-a-project/funding/for-landowners/nga-whenua-rahui/

Native Forest Restoration Trust

www.nznfrt.org.nz/

Nature Heritage Fund

www.doc.govt.nz/getting-involved/volunteer-join-or-start-a-project/start-or-fund-a-project/funding/for-landowners/nature-heritage-fund/