

## Statutory covenants

In Queensland, a statutory covenant is a written agreement aiming to achieve beneficial environmental outcomes with regard to land management issues.

Landholders can use statutory covenants as a way to plan for, and conserve, natural or other features (e.g. buildings) on their land. Statutory covenants which are registered with the Department of Environment and Resource Management (DERM) are binding on subsequent landholders, ensuring that land and other important natural resources are not diminished in the future.

The parties to a statutory covenant are the:

- State of Queensland, another entity representing the State or a local government (covenantee)—which ensures that the conditions of the statutory covenant are observed
- landholder (covenantor)—who is subject to the obligations outlined by the covenant.

A statutory covenant is just one method to achieve positive conservation outcomes—others could include:

- nature refuge agreement
- vegetation management voluntary declarations (VDEC)

For more information on these alternatives see the DERM website <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>. You may also consider:

- planning schemes
- property management plans
- voluntary conservation agreements
- Landcare schemes.

### Requirements

Covenants over freehold land may be registered under the *Land Title Act 1994* (Part 6 Division 4A) and covenants over non-freehold land may be registered under the *Land Act 1994* (Chapter 6, Part 4, Division 8A).

To be able to be registered under Queensland legislation, a statutory covenant must:

- relate to the use of a lot, or part thereof, or a building on the lot (proposed or existing)
- be aimed directly at preserving a native animal or plant, or a natural or physical feature that is of cultural or scientific significance

- ensure that the subject lots are only transferred to single ownership.

### Benefits

The main benefits to the landholder include:

- long-term commitment to retain the values of land (e.g. conservation, open space, scenic values; expression of goodwill)
- potential taxation benefits or rates remissions
- potential financial and 'in kind' assistance
- security of good management
- pride and civic responsibility
- access to technical and scientific advice/support.

The main benefits to the State include:

- long-term security of stewardship of land
- certainty of recognition and commitment by subsequent landholders
- long-term commitment to rehabilitation of land or avoidance of degradation
- protection of open space and natural values including amenity, scenic and buffer values
- contractual performance requirements.

### Limitations

A statutory covenant can relate to the use of a building but it cannot control architectural style (e.g. size, style, colour) or landscaping standards.

A covenant may not restrict other registered rights under the *Land Title Act 1994* or *Land Act 1994*.

Under the *Sustainable Planning Act 2009* statutory covenants must be consistent with local government planning schemes (section 87) or development approvals (section 349).

In certain circumstances, a person with an interest in the land may apply to have the statutory covenant removed or varied by the court under section 181 of the *Property Law Act 1974*.

Section 97D of the *Land Title Act 1994* and section 373D of the *Land Act 1994* provide for the release from a statutory covenant by the landholder.

## Information required

A covenant must be prepared on Titles Registry *Form 31—Covenant*, which is available from the DERM website <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.

The statutory covenant must be validly executed and include a:

- description sufficient to identify the land that is the subject of the statutory covenant
- description of the statutory covenant.

Additional details of the statutory covenant may be included in *Form 20—Schedule*.

A separate management plan may contain specific details that are not registered, which may be altered with the agreement of the landowner and the State without amending the registered covenant.

## Is a formal survey required?

A statutory covenant may apply to the whole of a lot or part thereof. Where it applies to part of a lot, a plan must be lodged with DERM. The plan may be a survey plan or, if the Registrar of Titles approves, an explanatory plan may be used to graphically represent the affected area.

## Lodgement for registration

Lodgements are accepted at the following DERM business centres:

Brisbane, Bundaberg, Caboolture, Cairns, Ipswich, Kingaroy, Mackay, Maryborough, Nambour, Rockhampton, Robina, Roma, Toowoomba, Townsville, Beenleigh and Gympie.

Note: lodgements are accepted during normal business hours at the above centres except Beenleigh and Gympie, where hours are more limited. Visit DERM's website <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)> for business centre details.

## Further information

For further information on registering statutory covenants contact Titles Registration on (07) 3405 6900, which provides advice on:

- identification of the information needed to complete and lodge Queensland Titles Registry forms
- current lodgement fees and expected processing times
- explanation and interpretation of registry information.

Note: enquiry services do not extend to legal advice, for which a lawyer should be consulted.

More information relating to use and registration of statutory covenants is also available on the DERM website: <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.

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For general enquiries contact the  
Queensland Government call centre 13 13 04  
or visit [www.derm.qld.gov.au](http://www.derm.qld.gov.au)