



## Statutory covenants

### What is a statutory covenant?

In Queensland, a statutory covenant is a written agreement that aims 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, including buildings, on their land. Statutory covenants which are registered with the Department of Natural Resources (NRW) 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, or statutory body representing the state, or a local government (*covenantee*) which ensures that the conditions of the statutory covenant are observed.
- The landholder (*covenantor*) who will be subject to the obligations outlined by the covenant.

A statutory covenant is just one mechanism to achieve positive conservation outcomes. Others include nature refuge status, planning schemes, voluntary conservation agreements, property management plans and Landcare schemes.

### Statutory covenant requirements

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

To be capable of registration 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); or
- be aimed directly at preserving a native animal or plant; or a natural or physical feature that is of cultural or scientific significance; or

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

### What are the benefits?

The main benefits to the landholder include:

- long-term commitment to retain the values of land, eg 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 of statutory covenants

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

A covenant may not restrict other registered rights under the *Land Title Act 1994* by requiring surrender of a registered easement.

Under the *Integrated Planning Act 1997* statutory covenants must not be inconsistent with local government planning schemes (s. 2.1.25) or inconsistent with development approvals (s. 3.5.37).

In certain circumstances, a person with an interest in freehold land may apply to have the statutory



covenant removed or varied by the court under s. 181 of the *Property Law Act 1974* (Qld).

Section 97D of the *Land Titles Act 1994* provides for the release of a statutory covenant by the landholder.

## What information should be included?

A covenant must be prepared in a *Form 31—Covenant*. For a copy of the form visit <[www.nrw.qld.gov.au](http://www.nrw.qld.gov.au)> or contact NRW service centres.

The statutory covenant must be validly executed and include:

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

Additional details of the statutory covenant may be included in a *Form 20—Schedule*. A separate management plan may contain specific details that are not registered and may be altered with the concurrence of the landowner without amending the registered covenant.

## Is a formal survey required?

A statutory covenant may apply to the whole lot, or part of a lot. Where it applies to part of a lot a plan must be lodged with NRW. 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.

## Where to register a statutory covenant

Lodgements are accepted at NRW offices in Brisbane, Bundaberg, Caboolture, Cairns, Ipswich, Kingaroy, Mackay, Maryborough, Nambour, Rockhampton, Robina, Roma, Toowoomba and Townsville during normal business hours. Offices in Beenleigh and Gympie also accept lodgements, though hours are more limited.

## Further information

For information on registering statutory covenants contact the Titles Registration Customer Advisory Service, phone 07 3405 6900. Advice is provided on:

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

Note: Advisory 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 NRW website: <[www.nrw.qld.gov.au](http://www.nrw.qld.gov.au)>.