

Conservation Covenant Plans

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Office of the Surveyor-General

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CONSERVATION COVENANT PLANS

1 Scope

The purpose of this policy is to achieve uniformity in the production standards and presentation of plans and diagrams for conservation covenants negotiated under various acts and Walkway easements that are required to be registered on Certificates of Title.

This policy is produced to effect the subsection of the various acts that states:

The document incorporating the covenant is (to be) accompanied by a certificate given on behalf of the Surveyor-General to the effect that the land is adequately described and properly defined:

1. For the nature of the covenant
2. In relation to existing surveys ... and
3. In accordance with standards agreed from time to time by the Director-General (of Conservation), or the Board of the QEII National Trust (as the case may be), and the Surveyor-General.

To be able to certify that the boundary is adequately described and properly defined, the Surveyor-General must be satisfied that the boundary of the covenant is clearly depicted and capable of being redefined on the ground if and when required.

2 Policy

2.1 *Plans*

Plans of conservation covenants registered subject to the Conservation Act, Reserves Act and the Queen Elizabeth II National Trust Act and easements registered under the Walkways Act, that are to be certified on behalf of the Surveyor-General as being properly defined for the purposes of the covenant or easement, are to be produced in terms of the current Surveyor-General's Rules.

Plans are to be produced to a standard that will adequately define the covenant or easement and will be suitable for the purpose for which the covenant is required, and must be signed as being correct for the purpose of the relevant section of the act by a registered surveyor.

2.2 *Diagrams*

Where appropriate, A3 diagrams may be produced for lodging with the covenant documentation. As they must also be certified on behalf of the Surveyor-General as

adequately describing and properly defining the covenant they must also be signed by a registered surveyor as being correct for the purpose of the relevant section of the act that the documentation is to be registered under.

3 Guidelines to the Production of Plans

3.1 Background

The 1994 amendments to the Conservation Act 1987 and the Reserves Act 1977 brought about changes to the statutory provisions relating to Conservation covenants and Nga Whenua Rahui covenants as well as for Walkway easements. The 1996 amendment to the QEII National Trust Act 1977 brought that Act into line with the others mentioned.

The amendments give the option of the Director-General, Department of Conservation or the Board of the Queen Elizabeth the Second National Trust agreeing with the Surveyor-General on preferred standards of definition of a covenant.

It is Land Information NZ's preference to have an agreed national standard which Regional Conservators, QEII Officers will be able to apply to any particular situation as it arises. This policy will allow more flexibility in the defining of covenants, while maintaining a suitable standard of boundary definition for the nature of the covenant so as to maintain the integrity of the covenant.

The NZ Fish and Game Council have been given approval by the Department of Conservation to negotiate covenants under Section 77 Reserves Act 1977 - especially over wetlands. Standards agreed will therefore also apply to plans produced to depict these covenants.

3.2 Acts Affected

This policy affects covenants effected under the following sections and acts:

Section 77(5) Reserves Act 1977

Section 22(8) Queen Elizabeth II National Trust Act 1977

Section 27(3) Conservation Act 1987

Section 27A(4) Conservation Act 1987 and

Walkway easements agreed under Section 8(8) NZ Walkways Act 1990

3.3 Documents for Lodgement

Under the Conservation Amendment Act 1994 (and the ensuing amendments to other acts) the Registrar-General of Land is required to ensure that the plan or diagram accompanying a covenant notification document is certified on behalf of the Surveyor-General to the effect that the land is adequately described and properly defined:-

- for the nature of the covenant
- in relation to existing surveys and
- in accordance with standards agreed by the Director-General (of Conservation), or the Board of the QEII National Trust, and the Surveyor-General.

3.3.1 *Covenants over the Whole of an Existing Parcel*

Covenants can cover complete land parcels defined on an SO plan or a DP or be over an entire CT, in which case no further depiction of the boundary is necessary or required.

3.3.2 *Covenant Plans*

Covenant areas that are not existing whole parcels can be depicted in two ways; they can be shown on a survey plan or on a diagram to be lodged with the document creating the covenant.

3.3.2.1 Plans

It is preferable that the covenant be shown on a plan of survey so that it can be recorded in the cadastral record system. The plan must define the complete boundary, which must be capable of being redefined if and when required.

Covenants covering part of a CT require further definition of the covenant boundary. As a covenant creates rights over land the covenant needs to be defined to a sufficient standard to establish the area the right is over. The standard of definition of these covenants is not required to be as stringent as that for the definition of a title boundary. However, because the management requirements of the covenant area could result in a prosecution for breaching the covenant, the boundary definition needs to be clear and unambiguous. The boundary definition must be able to withstand litigation in a court of law if, or when, required.

These plans can be lodged as Land Transfer plans or as an attachment to the covenant document. Where necessary, the requirements of the survey should be confirmed with the Surveyor-General's delegate prior to the lodgement of the covenant plan.

Before registration can be effected, a certificate is required that the covenant area is adequately described and properly defined (and therefore able to be redefined if so required). The definition of the area must be to a sufficient standard for them to be able this to be achieved.

3.3.2.2 Plans of Survey

A survey is to be undertaken by a Licensed Surveyor to current Surveyor-General's Rules requirements and produced as a standard cadastral survey dataset. This is to be lodged in the survey system as a Land Transfer plan.

Plans can be produced using any method of survey that is acceptable to the Surveyor-General. These can be compiled plans, computed plans or plans of surveys as applicable.

Plans must be annotated 'Not for issue of Certificate of Title'.

Wherever practical, the boundaries are to be right-lined with measured calculated or scaled dimensions shown as appropriate. If boundaries are not right-lined they must meet the requirements for irregular boundaries as defined in the Surveyor-General's Rules and the Cadastral Survey Guidelines.

Where covenant boundaries relate to physical features these must be clearly described on the plan. Where applicable, a note should be added to show the photo and run number and date of the aerial photography that the data has been taken from. This is particularly important where the physical feature is subject to change, eg if the boundary is a bush edge or a wetland edge. Where aerial photography has been used to determine the boundaries, it would be useful to lodge a half-tone copy of the photograph as part of the supporting data for the plan.

In rural areas, approval may be given for covenant surveys to be defined to Class IV standards. Because covenants in urban areas are likely to be put to more intensive use they will generally need to be defined to a higher standard.

Note that, while the use of Class IV surveys must be approved beforehand, there is a blanket dispensation for use of computed plans for covenant definitions in Section 5 of the Cadastral Survey Guidelines.

3.3.2.3 Relationship to Boundaries

Covenant surveys must show the relationship of the covenant boundary to the pertinent title boundaries. A separate diagram can be used to show the covenant relative to the parent parcel boundaries if the covenant is not on or near the parent parcel boundaries. Covenant boundary intersections with title boundaries do not need to be pegged, but in all cases, whether pegged or not, the relationship of the covenant to the title or parcel boundary must be shown by calculation.

3.3.3 Covenant Diagrams

Diagrams to depict the boundary of the covenant may be produced from aerial photography or other acceptable means. The photo diagrams can be lodged as a diagram sheet to be attached to, and lodged for registration with, the covenant or easement document. They will not be given a plan number but make use of the document number for identification.

Because the Land Information NZ office does not have the facilities to examine these diagrams, they must be prepared by a Licensed Surveyor. As they are required to be certified as to the covenant being "adequately described and properly defined" for the purpose of the covenant, these diagrams must signed by a Licensed Surveyor as being

correct for the purpose of the relevant section of the act that the documentation is to be registered under.

Diagrams using aerial photographs should be produced from modern aerial photography, although the covenant may be over mature bush that may be adequately depicted on older photography. These diagrams should be produced on an A3 format, preferably by a half-tone process so as to obtain a good reproduction that will be readable when scanned into the **Landonline** system. A note should be added to the diagram to show the number and date of the aerial photography.

Whatever the method of production, the physical features of the covenant boundary must be clearly defined and described on the diagram. It must be suitably described so that the covenant boundary can be certified as being “adequately described and properly defined” for the purpose of the covenant.

Wherever practical, the boundaries should be right-lined with scaled dimensions shown as appropriate. Where the boundaries are not right-lined they must be sufficiently definite and permanent so that the boundary can be redefined in the future. Indefinite bush/scrub and/or water boundaries are not suitable for boundary definitions and these should be right-lined with scaled bearings and distances on the lines.

Because, under the **Landonline** automated survey and titles system, the office copy of these diagrams will be the image scanned as part of the supporting documentation for the registration of the covenant, the definition of the boundary must be clearly readable.

Diagrams of this type will have limitations for use in defining Walkway easements through bush due to the overhead canopy obscuring the walking track detail.

4 Policy Approval

Approved:

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A J Bevin, Surveyor-General

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