



**YOUR NATIONAL SOURCE
FOR LAND AND PPSR INFORMATION**
www.landinfo.net.nz

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Introduction

We trust you will find this publication a helpful addition to your resources. For further information regarding LANDinfoNET Limited and our services, including full Land and PPSR search and registration, please visit www.landinfo.net.nz

::: AN EXTENSION OF YOUR OFFICE :::

Comments from the Business Development Manager

Welcome to 2006, all of us here at LANDinfoNET are looking forward to another year of continued success and another year of giving our full range of clients the best service possible. We have some exciting projects on the go at the moment, none more important than a new website with a client login feature that remembers who you are thereby saving the author time as well as providing previous account information. We hope to have this rolled out by May and will keep you all well informed of our progress and launch.

Now that the rainy season (November/December) is over we have noticed a significant pick up in property transactions, especially in the provinces where summer activity is traditionally strong. We hope this will continue throughout the year, even if the economic indicators are pointing in a different direction, we take solace in the fact that they have got it wrong for the past 2 years!

LANDinfoNET & E-Dealing

LANDinfoNET is well positioned in terms of our staff expertise, computer technology, secure systems and sustainability to be in a position to support our clients throughout the transition and implementation of registration in the E-Dealing environment. We want to assure not only our clients, but also those who may be affected by other agents closing that LANDinfoNET has no intention of reducing the service we offer our clients. We plan to be around for another 35 years.

We are currently working with the New Zealand Law Society & LINZ to establish the best position for LANDinfoNET within the new system and will continue to work along side both parties to ensure that our clients continue to benefit from our services.

We see the new regulations as a huge opportunity to further expand the service that we provide our clients, with our experienced staff and dynamic computer systems we are in a great position to adapt with the changing face of registration, to continue to assist you and help you provide value for your clients in the ever changing world of LAND and PPSR.

We look forward to continuing our positive growth well into the future.

E-Dealing & LINZ Closures

The recent announcement by LINZ in regard to E-Dealing being made compulsory by July 2008 and the closure of the LINZ processing centres beginning in 2009 is an interesting one for everyone involved in conveyancing. To fully appreciate the change this will bring about we have prepared some statistics below Based on LINZ records from between July 2004 and June 2005 :

- Nationally, E-Dealing only makes up 4% of total Documents Lodged.
- In the Hamilton registry this figure is 1.1%.
- In the Auckland registry this figure is 3%.
- In the Auckland registry, fewer documents were lodged electronically in June 2005 than in July 2004, despite "the big uptake" of E-Dealing.

What these statistics demonstrate is that in making online registration mandatory in New Zealand, the 4% of current E-Dealings is the basis for disrupting, changing the process and creating extra work for the remaining 96% of work.

Further more, to have everything able to be lodged electronically will require a huge amount of computer programming that will have to be 100% reliable as well as 100% tested by LINZ and solicitors before it is launched as a compulsory part of conveyancing. As we have all experienced in recent months the current system is anything but reliable and a further culled LINZ department could frustrate many solicitors.

However the commercial reality is that 100% E-Dealing will be with us and it will radically change the face of how conveyancers not only work with LINZ within their own organization, there will also be vast differences in how a complicated easement, bond and plan deposits are handled as opposed to the basic Discharge, Transfer, Mortgage scenario currently available.

The impact of LINZ closures is likely to not only hinder the already limited service that LINZ currently provides, but may also result in the loss of experienced staff. In this regard LANDinfoNET has the benefit of 5 consultants with more than 90 years industry experience between them. These consultants will be able to answer any of your queries as well as check your high-end work such as plan deposits and new title dealings prior to registration. As an irreversible system it will become even more important that all work submitted via E-Dealing is thoroughly checked first, especially the more complicated dealings.

Our role as legal agents will continue to be a service to assist and add value to your practice and your clients whether that is in an electronic workspace or preliminary consulting and advisory prior to e-registration.

Rest assured our commitment to you is to enhance the service you provide and we will be working closely with LINZ and you to ensure the transition to E-Dealing and the closure of the LINZ offices is as smooth as possible.

LINZ Issues

Execution of variations of mortgage

We have encountered some difficulties with the need to have a variation of mortgage executed when the "priority sum" is being changed. Please note the priority sum differs from the amount secured in that it is the amount of money that the mortgage will secure over any later mortgage as opposed to the "amount secured" which is the amount of money actually borrowed. Due to this difference in interpretation any change to the priority sum is deemed to be a variation to the terms and condition of the mortgage and therefore execution by both the mortgagor and mortgagee is required in every case regardless of whether that change is an increase or decrease.

For reference purposes the statutory requirements for execution of a variation of mortgage are set out in Section 102(3) LTA 1952.

A mortgage variation instrument must be executed by—

(a) the mortgagor, except where the variation only operates to reduce the amount secured or rate of interest; and

(b) the mortgagee, except where the variation only operates to increase the amount secured or rate of interest.

New Plan & Sub-Divisional Work

Every week we receive a large number of new titles and sub-divisions that require a full technical check before being submitted for registration with LINZ.

In order to accurately complete this work we recommend that our clients get a search of the title and copy of the plan (if the plan has been approved then we would get a copy of that plan as it may differ from our principals copy). We will then Check the plan and draft all required documents including mortgagee consents and advise you of any other related issues. The next step is to liaise with you the client directly to

arrange for execution and with the surveyor on any issues that may arise. Finally we will check all of the documents prior to lodgement and complete registration to ensure prompt issue of titles.

Also if our client is purchasing then we can monitor progress and the likely issue date for the title.

Caveats

Caveats quite often present problems in terms of registration as the grounds for lodging can be somewhat tenuous and they offer LINZ some discretion as to whether they are accepted for registration or not. A few important points to note:

- Generally the less that is stated in the caveat the better however there are some basic requirements - caveat must refer to a caveatable interest, the capacities of the parties in relation to that interest and must relate back to the current registered proprietor.
- If there is some doubt as to the validity of the interest claimed and the clients insists that lodgement of the caveat should proceed then the caveat should be executed by the caveator rather than the agent.
- 'No caveat' clauses - In a recent decision the Court of Appeal has ruled that 'No caveats' clauses are enforceable. Therefore a party is precluded from lodging a caveat where they are party to an agreement, which contains a 'No caveat' clause - even if they have a registerable interest. Conversely a party to an agreement which does not contain a registerable interest may not lodge a caveat for that agreement even if the agreement states that they can.

If you are unsure as to the wording of a caveat or whether the client does in fact have a caveatable interest then we strongly suggest that you contact our office and speak to one of our consultants for advice.

Witness types for documents executed in Australia

The range of witness types that are suitable for documents that have been executed in Australia for registration at Land Information New Zealand (LINZ) has increased over the years from those originally allowed by their policy. We have noticed that the types of witnesses LINZ now regularly accept are:

1. Australian Solicitors.
2. Australian Justices of the Peace (The initials JP will be sufficient to identify them as a Justice of the Peace).
3. Australian Commissioners of Declarations.
4. Australian Commissioners of Oaths.
5. Australian Licensed Conveyancers/Landbrokers.
6. Practitioner under the Legal Practice Act 1996.
7. Registrar of the Supreme Court of Australia.
8. Australian Barrister.

Please note that it is preferable for the name of the country, Australia, to be included as part of the address details for the witness too.

Contacting the LANDinfoNET Consultants

Our Land Transfer Consultants Roger Fielding, David Barker, Barry Green, Evan Yates and Elaine Hancock are always available for consultancy and technical advice issues on any matters. Please do not hesitate to contact them with any queries that you have.

Roger 0508 534 251 LANDinfoNET Limited Hamilton rogerf@landinfo.net.nz
Barry 0800 106 206 LANDinfoNET Limited Auckland barryg@landinfo.net.nz
David 0508 534 251 LANDinfoNET Limited Hamilton davidb@landinfo.net.nz
Evan 0508 534 251 LANDinfoNET Limited Hamilton evany@landinfo.net.nz
Elaine 0508 534 251 LANDinfoNET Limited Hamilton elaineh@landinfo.net.nz

Roger, Barry, Dave, Evan and Elaine have a prior cumulative experience of working with LINZ as senior Land Registrar for over 90 years, please ensure you utilise their ongoing knowledge and resources as an "extension of your office". A team of registration clerks support Roger, Barry, Elaine, Evan and Dave to ensure they are free for high-end consultancy.

Average Time for New Titles to Issue and Plans to Approve

LINZ TIME FRAMES - RECENT AVERAGES		
Type of Registration	LINZ Performance standard time frames 90% processed within:	Average based on our experiences:
Ordinary	15 working days	10 working days
Parallel	15 + 25 working days	18 working days
New title	15 working days	12 working days

For your information above is the table setting out LINZ's guidelines and the average time we are experiencing currently for registration to be completed. These averages are fairly consistent throughout New Zealand.

At LANDinfoNET Limited we are continuing to look at systems to create efficiencies so you and your clients benefit. With this in mind, we publish these averages as a regular feature of our newsletter to assist you with providing information to your clients.

Please be aware we are unable to request LINZ to give priority or urgency ahead of other dealings until the expiration of LINZ's performance standard time frames (shown ABOVE).

Should you feel circumstances permit for you to request priority over other prior lodged new title documentation, please forward to us a formal letter addressed to the Processing Centre Manager of LINZ, outlining your reasons for special priority. We will submit this letter on your behalf and advise you of LINZ's intention.

Companies Office Update

As a result of the enhancements made to the companies office website in December 2005, LANDinfoNET is now able to email to your desktop company details. This new search is called a "Company Extract Search", and will be delivered as a PDF attachment.

The Company Extract Search provides the same information as our "Company Data Base Search", company details, addresses, director and share parcel information, with the exception of the list of documents registered.

Other documents we are now able to email in PDF format are; Annual Return Extracts, Certificates of Incorporation, and various consents, name changes and constitutions.

Should you wish to receive your company searches in this manner, please inquire with any of our friendly staff.

PPSR Issues

DEBTOR PINS

If a debtor has waived their rights to receive a verification statement pursuant to section 148 of the PPSA, it still remains the secured parties responsibility to disclose the debtor pin and financing statement number for the purposes of the debtor or an interested third party entering a debtor change demand. Therefore, if LANDinfoNET has not registered the financing statement on your behalf it is important your client is advised to store ALL the appropriate pins and passwords for future reference.

The advantages of LANDinfoNET storing pins and passwords:

- LANDinfoNET store all the pins and passwords in a secure environment at no extra charge
- These can then be provided to you within minutes free of charge
- In terms of registering financing change statements, we already have all the pins and passwords which means all we require from you is the financing statement number and either the secured party or debtor name for cross referencing.
- We also store the confirmation emails from the ministry in our system on your behalf
- Notification of upcoming expiries at no extra charge

DEBTOR CHANGE DEMANDS

A Debtor change demand provides a process that can be followed by the debtor when a financing statement has not been discharged after a debtor has met all their financial obligations or where a financing statement has been registered but no security agreement exists between the parties. Lodging a change demand is a serious action from which court action & considerable costs can arise.

The change demand process as outlined on the PPSR website.

1. The debtor must give notice in writing to the secured party of their demand to have the financing statement discharged.
2. The secured party then has 15 working days to either accept the demand or seek a court order to maintain the financing statement.
3. If the secured party does not respond to the demand, the debtor may lodge a change demand on the PPSR. To lodge a change demand, the debtor will need the debtor PIN which can be obtained from the verification statement or from the secured party (the secured party must provide the debtor PIN if requested).
4. If a change demand is lodged, the secured party has a further 15 working days to accept the change demand or obtain a court order to maintain the registration, otherwise the debtor's change demand will automatically be accepted by the PPSR and the financing statement will be discharged or amended as requested by the debtor.

Please contact any of our PPSR specialists for assistance on this issue or any other matter.

We invite queries from you in regard to PPSR issues. You can contact any of our PPSR specialists:

Janelle Weir General Manager/PPSR Consultant.
janellew@landinfo.net.nz
Free Phone: 0800 106 206

Adele Oram PPSR Searching and Registration,
Land Transfer Search and Registration
adeleo@landinfo.net.nz
Free phone: 0508 534 251

Real Estate Statistics

2005 finished strong with a very good month in November with the same number of houses being sold in the month as in 2004 (9300), but in November 2005 the average selling time had dropped to 27 days from 32 in 2004 (reinz.co.nz). Another important indicator was that in November 2004, the median selling price hit a national high of \$300,000. This record high, accompanied by the lower selling days reinforces the argument that the only factor holding back the housing market in this period was a lack of listings by sellers and not increased interest rates.

December 2005 was traditionally quiet in the lead up to Christmas, however the average days to sell a house remained at 27 days even if the total of houses sold was only 6906. The total of houses sold was 1600 (19.1%) less than in 2004, which is a concern, but again with the median price being higher and the average days to sell being so low, the most accurate explanation is again the lack of listings.

January 2006 has proven to be another busy month and with February and March being the busiest months of the year in terms of number of sales it would appear that the housing market has some life left for at least a few months.

A Big Thank You

Once again thank you for your continued support, we hope that you find this newsletter and the information it contains useful. We wish you all continued success for the rest of 2006.

If you have any questions regarding this newsletter, please contact Marcus Reynolds, our Business Development Manager, on marcusr@landinfo.net.nz.

Feel free to phone our call free number 0508 534 251 and ask for Marcus Reynolds for further information.

Regards The LANDinfoNET Limited team.

An extension of your office.

Auckland Freephone **0800 106 206** ::: **Hamilton** Freephone **0508 534 251**

visit us at www.landinfo.net.nz

Disclaimer:

Although every effort has been made to ensure the accuracy of the information within this newsletter, we are not liable for the results of any action taken on the basis of the information given or any errors or omissions.

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