



**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 LANDinfoNET's July Newsletter, over the last couple of months we have come across a variety of issues that we are certain will interest you. In the following articles we will share these experiences and hope that this information helps your team through any sticky situations. If you do have any questions as to the content of the articles please feel free to contact one of our team, we're more than happy to help you out.

Some of you would have noticed the positive publicity surrounding LANDinfoNET's eDealing service through articles in both the ADLS Law News and in NZLawyer Magazine. It's great to be the first legal agent in New Zealand to have an eDealing service in operation with no objections from either the New Zealand Law Society or LINZ. As always, if you'd like more information please let us know.

We also want to remind everyone that our team of consultants are available for any complicated dealing that you have. Even if you handle all of your own conveyancing, our consultants will be able to answer your queries when it comes to complex subdivisional and new title matters among others. It is likely that our team can use their vast experience to both save you time and save your client's money.

Finally, a big welcome back to Marian in our Hamilton office. Marian was with LANDinfoNET from the beginning and has returned after taking some time out to start her family. Marian brings a wealth of experience and it's great to have her back on the LANDinfoNET team.

Clarification on LANDinfoNET's eDealing Service

Recently a couple of articles have been written outlining the roles of Legal Agents in the eDealing environment. Having read these articles LANDinfoNET wishes to clarify a couple of key points in regards to our eDealing service.

Firstly, unlike other legal agents, LANDinfoNET clearly understands the eDealing process and liaised with both LINZ and the New Zealand Law Society to ensure that our eDealing service is acceptable to all parties involved and not in breach of any legislation. In this regard LANDinfoNET is under no illusions as to what we can and cannot do in the eDealing environment.

Secondly, under LANDinfoNET's eDealing service our solicitor clients will still be required to fulfil the 'Certify & Sign' function of the process. This means that each firm will require an eDealing license and the appropriate number of digital certificates. A solicitor involved in the property transaction who has the requisite solicitor-client relationship must complete the 'Certify and Sign' function, meaning that LANDinfoNET's in-house solicitor cannot do this on your firm's behalf.

LANDinfoNET's role is as the Primary Contact and designed to save your firm time and money. We will also be using our experience to add a second check into each eDealing, reducing your firm's exposure to liability.

To summarize, please don't be alarmed when you read about the roles of legal agents within eDealing. The team at LANDinfoNET clearly understand our roles and responsibilities; we look forward to working with many firms in the lead up to mandatory eDealing. If you would like to know more please call us on 0508 534 251

Getting Started with eDealing

The very first thing that every law firm should do before enrolling with eDealing, is to complete an internal risk analysis based on the changes that eDealing will introduce.

This analysis should consider issues such as; where does liability lie? Who is going to have the online certification authority? What happens if they are away? What computer changes are needed- if any? How am I going to approach the client identification issue? How will eDealing effect my indemnity insurance?

There are additional issues that firms will encounter based on their size, but this analysis forms the foundation to determine what internal changes need to occur BEFORE your firm begins eDealing. If you are unsure on any of these please feel free to contact me at marcusr@landinfo.net.nz and I will be happy to share the experiences of our clients and outline the steps that they took.

The next step is to apply for an eDealing license via the Landonline website, this takes up to 3 weeks to be processed and sent through. If you choose to use LANDinfoNET's eDealing service we will then need to be associated with your eDealing license. This takes about 10 minutes and doesn't cost anything on top of the initial outlay for the license.

Once your license is sorted and our registration team are set up under your firm, you are ready to start eDealing with LANDinfoNET. We are still recommending that our clients contact Landonline for one-on-one eDealing training even if you're planning to use LANDinfoNET's eDealing service. Having said this it is possible to work through some easy transactions such as discharges or transfers to Trusts, before these training sessions occur.

If you would like more information on LANDinfoNET's eDealing system please contact Marcus Reynolds, at marcusr@landinfo.net.nz and I will get in touch to organise a time to go through our eDealing service in more detail and the implications of eDealing for your firm.

Strengthening our Systems & Resources to Continue to Provide an Exceptional Service

Over the past few months LANDinfoNET has spent some valuable time focusing on the ongoing development and training of all our searching and registration staff. We have paid particular attention to our newest members on board ensuring they're up to our extremely high standards of service.

We have also taken on board two extra search clerks who are currently being put through a thorough 6-week training program. We are sure you will find them extremely helpful, knowledgeable and pleasant to deal with. They are looking forward to being of service to you once their training is complete.

This focus on training and development is to ensure *all* our staff are equipped to assist you and provide timely and accurate solutions to your needs. Not only have our staff found this time most valuable we are sure your firm will enjoy the benefits of a highly trained team at your disposal.

Part of providing an exceptional service you can rely upon is having stable, secure IT and computer systems. If you have a computer in your office you will know how unpredictable they can be. LANDinfoNET has recently purchased a back up terminal server as a redundancy incase of unforeseen crashes and system failures, and a back up phone server to eliminate any outages in this area. Whilst there is little we can do when the power fails, Telecom severs a line or Landonline is down, we can do our very best to ensure we're up and running when you are.

Providing the best possible service has always been the foundation upon which we operate, we take our **ATCRA** principals very seriously. You have our guarantee we will always strive to improve on and development the way in which we assist our clients to exceed their expectations no matter what obstacles or challenges lay ahead.

LINZ Issues

Mortgages against the interest of a joint tenant

1. It is not advisable for a mortgagee to register a mortgage against the interest of a joint tenant in land because once that joint tenant dies the security for the money that has been lent will disappear i.e. it will not extend to the surviving joint tenant/s.
2. On the other hand, if the joint tenant who has mortgaged their interest survives the other joint tenant/s then it is thought that the mortgage will extend as

security over the whole of the land since the mortgagor will then become entitled to the whole of the land by virtue of survivorship and then registering a Transmission by Survivorship.

3. Recently a lawyer had a situation where the interest of a joint tenant had been mortgaged and the only other joint tenant (who had not mortgaged their interest) had died. As seen in the above paragraph 2, it is thought that the mortgage would now extend to the whole of the land and in this case the mortgagee wanted to exercise their power of sale over the whole of the land because the mortgage had been defaulted on by the surviving joint tenant. The difficulty in this case was that although the mortgage may have extended to the whole of the land, the necessary Transmission by Survivorship had not been registered and the surviving joint tenant was refusing to register one as well. As you can imagine it would be difficult for a mortgagee to be exercising power of sale against a person's joint interest as not many prospective purchasers looking for a home to live in would find it desirable to purchase an interest in a property with the deceased person still being recorded as owning the remaining interest in the land. Maybe under circumstances in the future e.g. the surviving joint tenant wanted to move house etc, the situation would eventually have to be dealt with by the surviving joint tenant, but until then it could stall the mortgagee from fully recovering the money they have lent.
4. So it is important that mortgages are not taken over a joint interest in a property. Taking a mortgage over an undivided share in land is a little more secure in that the security does not disappear once the shareholder dies (i.e. executors/beneficiaries inherit responsibilities under the mortgage) but it can still be troublesome disposing of a share in land if the mortgagee comes to exercise their power of sale.
5. NB If land is settled as a Joint Family Home under the Joint Family Homes Act 1964, the separate interest of a joint tenant cannot be mortgaged anyway.
6. Refer to Butterworth's Land Law in New Zealand for further reading, or contact one of our consultants to find out more on this topic.

Subdivision plans

The time it takes for LINZ to approve plans and issue titles can be quite a headache for a lot of clients. In an attempt to minimize this here are the standard LINZ timeframes and some potential ways to reduce them.

Approval of a standard plan

90% of the plans approved within 20 working days

Approval of an electronic plan

90% of the plans approved within 10 working days

Registration of documents

95% registered within 15 working days

As you can see a standard plan and dealing can take up to 35 working days, which is a considerable amount of time and these timeframes may restart if the plan or dealing are requisitioned or rejected. Some methods that may reduce these times are:

1. Lodging the documents either **with the plan or as soon as the plan has been lodged**. There is no requirement to wait for the plan to be approved and this can reduce the time by anything up to 5 working days.
2. Lodging the plan as soon as possible. Unless the fast track system is to be used there is little gained in waiting for the documents to be ready.
3. Using e-survey wherever possible as you can see this can **reduce the time by a healthy 10 working days**.
4. Utilization of the Fast track system

Q. What is the "Fast Track" system?

A. If the new title dealing and the e-survey are lodged within 24 hours of each other along with a fast track request form LINZ will aim to reduce the total processing time (approval of plan and issue of title) down to a total 12 working days. If the plan or dealing get requisitioned then the timeframe reverts to the standard 25 working days. Although this takes some coordination, as the surveyor needs to hold the electronic plan until the documents are ready it can be worth the wait if the documents will only be a few days. We have had some success using this system and would welcome our clients to take advantage.

E Surveys

With Plans, which are being lodged electronically under E Survey, Council Certificates, Schedules and Memorandum of Easements no longer appear on the face of the Plan but are lodged as supporting documents.

In order that a thorough check may proceed, you should ensure that you receive from the Surveyor not only a copy of the Plan but also the following

- a) A copy of the 223 Certificate and any easement schedules.
- b) A copy of the 224 Certificate
- c) A copy of the survey report
- d) The original Consent Notice (221 Certificate) as this appears as a memorial on the title it must be registered as a document and a fee paid.
- e) A copy of the Plan

It should also be noted, that if a Plan is removing Limitation as to Parcels and Adjoining Owner Notices are to be served, then a Plan may still be lodged under the "Fast Track" system, but the issue of the Titles will however take an additional 4 weeks for the Notices to expire.

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	15 working days
Parallel	15 + 25 working days	18 working days
New title	15 working days	16 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.

PPSR Issues

Secured parties - trusts

When registering a financing statement where the Secured Party is a Trust we would recommend that the Secured Party be registered under the trusts name only and not each of the trustees.

The advantages of this are:

- You won't have to create a new secured party group if one of the trustees changes.
- You won't have to then transfer the financing statement/s to the new secured party group

Registrations/amendments - secured party is a bank/lending institution

Please be aware that financial institutions (banks) register their own financing statements and financing change statements on the Personal Property Securities Register. They will send you the documents for you to put on your file, but not register. Generally they will advise you of this in their covering letter, however some don't. If you are unsure of whether or not they have attended to the registration please feel free to contact us and we can obtain a search of the debtor for confirmation.

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
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Real Estate Statistics

Although we are still waiting for July to finish to get a full idea of recent trends, June 2006 proved to be another growth month compared to previous years. In terms of house sales, according to statistics (realenz.co.nz) there were 8428 properties sold in June 2006, which was 403 or 5% more than in June 2005. The same can be said for May 2006, where approximately 400 more properties were sold than in May 2005.

The median price of property in New Zealand has also continued to increase. In June 2005 the median house price was \$284,500, this blew out to \$310,000 by June 2006, showing a 9.3% increase over the 12-month period.

Despite all of these positive trends the number of days to sell a property has also grown significantly. In June 2005 the average days to sell a house was 30, in June 2006 this figure was 37. Although seven days doesn't seem like much, in relative terms this is quite an increase.

To summarize all of this, in 2006 more properties are being sold each month at a higher price than in 2005, but the number of days to sell these properties has increased. This indicates that the market is still strong throughout New Zealand in general and that there are still buyers in the market.

Some Final Thoughts

"Individuals play the game, but teams beat the odds" *US Navy Seals*

"People who say it cannot be done shouldn't interrupt those doing it"
Anonymous

"Success is only a matter of luck, ask any failure" *Anonymous*

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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