



**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 ::

November's Comments

- By Wayne Martin – Key Accounts Manager

Welcome to the last Newsletter for 2006.

As you read this I'm sure that you will be overflowing with work which all must be cleared before Christmas comes upon us.

Once again you will be aware the property market is a hot topic. Although volumes for October tapered off, November has climbed back up. This is not unusual as spring is always a good time to sell with many people listing their homes for sale to display the best features at this time of year, combined with purchasers wanting to be in their new homes by Christmas.

This is a timely reminder that LandinfoNet's search hours are up to 7pm weekdays and 12 noon on Saturdays to our clients and hope you find this useful.

No doubt you are looking forward to wind down and to enjoy Christmas with family

and friends. I would like to take the opportunity to wish you all a Merry Christmas and look forward to meeting with you in the New Year.

eDealing Update

A&I FORMS

In the process of providing our eDealing service, LANDinfoNET has noticed that a couple of A&I forms have come to us incorrectly filled out. Although in most cases these have not effected the transaction itself, it will certainly affect the practitioners when LINZ carry out their audit process.

In response to this LANDinfoNET now provides all firms with our own A&I form, which is more detailed and simpler to use than other options. To avoid mistakes we have included brief prompts throughout the A&I form, to assist practitioners and offer peace of mind.

If you would like a copy of our A&I form, one can be downloaded from our website free of charge by clicking on the "MS Word and Print forms" link at the bottom of the left hand nav bar.

LANDinfoNET- A LEGITIMATE eDEALING OPTION

Just a quick reminder to all practitioners that LANDinfoNET's eDealing service has been formulated following consultation with both the New Zealand Law Society and LINZ. Ours is the only such service offered by a legal agent and is already used by a number of solicitors throughout the country. LANDinfoNET prides itself on providing your firm with eDealing solutions, not eDealing problems.

If you would like to know more about LANDinfoNET's A&I forms or eDealing service in general please contact Wayne Martin or David Barker on 0800 106 206

Feature Article: UNIT TITLES - Transferring Accessory Units

- By David Barker- Consultancy Team Leader

An Accessory Unit may be transferred from the owner of one principal unit to the owner of another principal unit – see s 10 Unit Titles Act 1972. In practical terms this happens when the owner of an apartment transfers their car park to the owner of another apartment in the same development.

For example: The owner of PU1 transfers AU1 (which is the car park) to the owner of PU2.

Key Points to be aware of:

- The transfer would describe the Accessory unit in the legal description and would show 'Part' of the title
- If PU1 & AU1 are subject to a mortgage then that mortgage must be partially discharged as to the Accessory Unit (see s10 (5))

- If PU2 is subject to a mortgage then that mortgage is deemed to be registered over the accessory unit (see s10 (4))
- New titles are required for both the title that the AU is coming from and the title that the Unit is going to. The transfer should include a request for this to happen (see s10 (4))

Other likely scenarios you may encounter involving independent dealings with Accessory Units including possible solutions:

- If the titles are subject to leases then the lease over the title that the AU is coming from would need to be partially surrendered and on the title that the AU is going to a new Lease would need to be registered over the AU. Or the existing lease a new lease would need to be surrendered and a new lease registered for both the PU and AU.
- If the owner of an apartment had two car parks but wished to sell the apartment but wished to retain one of the car parks then that owner could only do that if they owned another apartment that the car park could be transferred to. Alternatively if they did not own another Apartment but wish to 'retain' the car park then they could transfer the Apartment and car parks and lease back one of the car parks.

Section 10 Unit Titles Act 1972 Independent dealings with accessory units restricted

1. Except where it is transferred to the proprietor of a principal unit shown on the same unit plan, no accessory unit or any interest in it may be sold, leased, mortgaged, or otherwise disposed of or dealt with except as part of a sale, lease, mortgage, disposition, or other dealing which includes a principal unit or a corresponding interest in a principal unit:

Provided that the proprietor of a principal unit included in the same certificate of title as an accessory unit may let the accessory unit on a weekly tenancy or on a tenancy determinable at the will of either of the parties by one month's notice in writing

2. No certificate of title relating to an accessory unit shall be issued except as part of a certificate of title relating to a principal unit
3. No principal unit which is for the time being included in the same certificate of title as an accessory unit (not being a certificate of title issued under paragraph (a) of section 8(1) of this Act), and no interest in any such principal unit may be sold, leased, mortgaged, or otherwise disposed of or dealt with except as part of a sale, lease, mortgage, disposition, or dealing which includes the accessory unit or a corresponding interest in the accessory unit, as the case may be, or where there is a concurrent sale of the accessory unit in accordance with subsection (1) of this section
4. Where any accessory unit is being transferred independently of a principal unit to a person who is the proprietor of a principal unit shown on the same unit plan, the instrument of transfer in respect of the accessory unit shall contain a request to the Registrar for the accessory unit to be included in the certificate of title for the principal unit; and upon registration of the instrument of transfer the accessory unit shall become subject to all mortgages and charges then affecting the principal unit
5. Where an accessory unit is for the time being included in the same certificate of title as a principal unit the accessory unit may not be transferred apart from the principal unit while it remains subject to any mortgage or charge
6. Notwithstanding anything to the contrary in the Land Transfer Act 1952, any purported sale, lease, mortgage, disposition, or dealing with any unit in contravention of subsection (1) or subsection (3) of this section shall be void and of no effect:

Provided that nothing in this subsection shall affect the devolution of any unit upon the death of the proprietor thereof to the administrator of that proprietor.

(If you have any questions relating to this article please give Dave Barker a call on 0508 534 251 or email him at davidb@landinfo.net.nz

Enhancement of Our Service

After valuable feedback from many of our customers and some long hours from our IT developers, we are now able to email your invoice along with your title/document/plan search directly to you. We are also able to email your invoice and abstract back to you on the day we lodge them at LINZ.

This has proved to be very popular with many of our customers in terms of:

- More efficient accounting practices, we have the ability to email an invoice copy to your accounts department for each job if you select this property
- The ability to charge your client immediately as opposed to waiting for invoices & abstracts to arrive in the post a day later
- A more accurate and timely receipt of your invoices
- A positive move towards a more paper less environment

Should you also wish to receive your invoices and or abstracts via this method, please contact **Tracy Brady on 0800 106 206** or email her tracyb@landinfo.net.nz and give her your email address, she will be happy to help you.

Unless we hear from you to the contrary, from January 2007 we will be changing all our customers over to receive invoices in this manner. We hope you enjoy the benefits and efficiency of faster receipt of invoices, and for those of you wanting to move towards a more paperless environment, less paper to be buried in.

SPAM Filters Preventing us Emailing You

We have been experiencing some difficulty lately getting our emails through some of your spam filters. Could you please notify your IT department to allow all emails with attachments through your spam filters from LANDinfoNET so that you do not experience any delays in receiving titles/documents and letters from us.

LINZ Issues

Barry's Departure

If you have used Barry Green for your consultancy or sub-divisional matters in the past LANDinfoNET are lucky to have 4 more consultants just as experienced as Barry who are able to assist your firm.

If you do have work that you would have normally forwarded to Barry, please now address this to David Barker our Consultancy Team Leader, or any one of the consultants known to you. For any telephone queries David can be reached at our

usual number 0800 106 206.

Noting & Confirmation Requirements by the Maori Land Courts and Linz in Respect of Aliens of Maori Freehold Land

- By Roger Fielding- Land Transfer Consultant

Part 7 of the Te Ture Whenua Maori Act 1993 makes various requirements in respect of whether or not certain types of alienations of Maori Freehold Land need to be noted or confirmed by the Maori Land Court.

Sections 150A – C inclusive are particularly relevant to documents/alienations being registered at LINZ. These Sections are drafted in terms of alienations of Maori Freehold Land but do not appear to apply to secondary interests such as, for example, Transfers or Mortgages of Leases of Maori Freehold Land.

It seems fairly clear-cut then, which types of alienations will attract the further attention of the Maori Land Court and which ones will not. However, LINZ has recently introduced a policy of making requirements that these secondary types of interests will also need noting or confirmation by the Maori Land Court.

LINZ base their requirements on the fact that they have seen documents turning up for registration (that they previously thought would not require any noting or confirmation) with Maori Land Court certificates endorsed on them and therefore feel that they have no option but to ask for the extra requirements, because some within the Maori Land Court system do seem to consider that the noting or confirmation of the secondary interests to be a requirement under the Te Ture Whenua Maori Act 1993.

The Registrar-General of Land has approached the Maori Land Court to try and establish a consistent approach on these matters but this still awaits a resolution. The Registrar-General Land sees the Maori Land Court as ultimately being responsible for these determinations.

In the meantime you are likely to be asked by LINZ to have any Land Transfer documents submitted to the Maori Land Court for their further consideration and approval even though Sections 150A – C of the Act may not appear to apply to them.

Not all Maori Land Courts have been consistent in their noting and confirmation requirements either, so if you cannot obtain the extra endorsements then a letter from the Maori Land Court stating that they do not consider the document/s need to be noted or confirmed would be sufficient for LINZ to proceed with registration.

If you have any questions regarding this article please contact
Roger on 0508 534 251 or at rogerf@landinfo.net.nz

Title Searching via GPS

- By Marian Kempster- Searching & Office Administration

LANDinfoNET is proud to offer comprehensive options for searching. We can investigate and locate property with all varieties of descriptions including Global Positioning Systems (GPS).

We have recently completed a search where a client required us to identify an area of land only using the GPS bearings provided. We were able to pin point the locality of the property and supply a spatial printout showing the area of land and surrounding

properties.

As not all GPS systems are created equal the coordinates can differ slightly, but the spatial printouts we supply show the area and neighbouring properties to eliminate errors.

As technology continues to change the way we do searching and registration, LANDinfoNET believes in working with our clients in finding solutions for those unusual and tricky dealings. Please contact us with any query you may have, our team will always endeavour to find the right solution for you.

Power Of Attorneys

- By Elaine Hancock- Land Transfer Consultant

We find today, that most Powers of Attorney which are lodged for registration are pursuant to the Protection of Personal Property Rights Act 1998. However, in some cases it appears that the incorrect Power of Attorney has been registered. This is particularly evident when we are dealing with estates by way of a Transmission involving executors or with Trusts when:

- a) A Trustee is for the time being out of New Zealand, or about to depart there from or
- b) Expects to be absent from New Zealand from time to time during administration of the Trust.
- c) Is, or maybe about to become temporarily incapable, by reason of physical infirmity of performing all his duties as a Trustee

The correct Power of Attorney to deal with such matters is pursuant to Section 31 of the Trustee Act 1956. The Certificate of Non Revocation to accompany this particular Power of Attorney also differs from the one under the Protection of Personal Property Rights Act.

Elaine is happy to answer any questions you have relating to this article. She can be contacted on **0508 534 251** or at [**elaine@landinfo.net.nz**](mailto:elaine@landinfo.net.nz)

Contacting the LANDinfoNET Consultants

Our Land Transfer Consultants Roger Fielding, David Barker, 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 [**rogerf@landinfo.net.nz**](mailto:rogerf@landinfo.net.nz)

David 0508 534 251 LANDinfoNET Limited [**davidb@landinfo.net.nz**](mailto:davidb@landinfo.net.nz)

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Elaine 0508 534 251 LANDinfoNET Limited [**elaine@landinfo.net.nz**](mailto:elaine@landinfo.net.nz)

Roger, Dave, Evan and Elaine have a prior cumulative experience of working with LINZ as senior Land Registrar for over 70 years, please ensure you utilise their ongoing knowledge and resources as an "extension of your office". A team of registration clerks support Roger, 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	14 working days
Parallel	15 + 25 working days	16 working days
New title	15 working days	15 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

Integration with the Med

- By Janelle Weir – General Manager

We are excited and pleased to announce LANDinfoNET's PPSR service is now fully integrated with the Ministry of Economic Development. This means real time registration for you 24/7 when you submit a registration on our newly upgraded website that will be launched to all LANDinfoNET customers before the end of the year. It also means when you submit a PPSR search request via the website, your results will be returned to you much faster than the current time frame of within 60 minutes, up to 75% faster in fact for requests with up to 25 results.

If you are a PPSR user and would like special access to this site before we launch it, so you can immediately enjoy the benefits of time saving automation with almost immediate results, please give Janelle Weir a call on 0800 106 206 or email janellew@landinfo.net.nz and she will provide you with a link that will give you access.

If you are not currently a website user, upon receipt of your emailed/faxed/posted request, one of our PPSR officers will submit the registration via our website on your behalf so you will also gain the benefit of the time saving automation, however this will be done within business hours.

As part of our PPSR service, LANDinfoNET provide notification of upcoming expiries which is extremely important because if your clients financing statement expires

before it is renewed, your crucial priority will be lost. The ministry does not offer this service if you go direct. Our enhanced notification service is now fully automated, therefore when requesting a PPSR registration, we now also ask you for an email address that will be monitored in 5 years for the notification to be forwarded. Five years is a long time, so we do give you an option to update it should it change, however some thought should be given as to which email address you supply us with.

Our PPSR officers are happy to discuss the above or any other matter you may have and welcome all queries big or small.

STD Codes on Financing Statements

- By Janelle Weir – General Manager

The ministry advises that the STD code on a financing statement is unable to be amended if you override the person acting on behalf of a secured party. An STD code for a secured party can only be amended via the secured party group option, which does not include "overrides".

They have said, "This is a work in progress and though the fax field is a mandatory entry we do not send any faxes or post any information, but correspond via email"

Ironically, even though the fax number field is a mandatory field on the PPSR when registering a financing statement, no faxes are actually sent from the ministry to these fax numbers.

It has been suggested to the ministry they make it an optional field with the ability to amend in their next lot of enhancements to their website.

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Real Estate Updates

The New Zealand housing market figures from REINZ shows the average price has moved from \$295,000 to \$324,000 for October. The number of property sales in October 2005 was 8,513 taking 28 days to sell, with October 2006 8,859 taking 29 days to sell. It is interesting to note that Dr Allan Bollard is attempting to encourage people to buy into businesses and not housing. As Murray Cleland, National President REINZ states " people will continue to invest in property as a default investment as it continues to perform well and doesn't expose them to unnecessary risks". The net migration is also up in October 2006, which should show November figures remaining steady.

Christmas Holiday Hours

We will be available until 4.00pm Friday 22 December 2006 and re-open for normal business hours Wednesday 3 January 2007.

A Big Thank You

Once again thank you for your continued support throughout 2006, we wish you and your colleagues a very Merry Christmas!!!

If you have any questions regarding this newsletter, please contact Wayne Martin, our Key Accounts Manager, on 0800 106 206 or waynem@landinfo.net.nz

Feel free to phone our call free number 0800 106 206 and ask for Wayne Martin 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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