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FOR LAND AND PPSR INFORMATION
www.landinfo.net.nz

APRIL 2008 :: IN THIS ISSUE

- :: [Comments from the General Manager, Janelle Weir](#)
- :: [-SURVEY + NEW TITLE FAST-TRACK - are you taking advantage?](#)
- :: [Have us on your edealing team before the next role out of E-capable documents](#)
- :: [Survey Results](#)
- :: [LINZ Issues](#)
- :: [PPSR Issues](#)
- :: [Real Estate Statistics](#)
- :: [A Big Thankyou](#)

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 or phone 0800 106 206

:: AN EXTENSION OF YOUR OFFICE ::

Comments from the General Manager, Janelle Weir

Welcome

Welcome to LANDinfoNET's first newsletter for 2008. To be successful in any business, access to relevant information is crucial. LANDinfoNET has 36 years experience and prides itself in providing you with timely, accurate information and a range of tools and services designed to maximize our value to your business. We trust you will find our newsletter both relevant and helpful.

In this edition, rather than focusing on the doom and gloom reported in most publications concerning the property market at the moment, we have chosen to focus on pertinent issues and matters of interest. However, should you still need your dose of the depressing, please just scroll down the Real Estate statistics at the end of the newsletter.

Our sustainability – We're here to stay

You are all aware of the major legislative changes that occurred in 2007 and continue to happen in 2008 regarding e-registration and e-lodgement. Of course this had an impact on our business, you would have felt the impact on your operations as well.

Luckily for us our client base is large, varied and hugely supportive of us. Like any good business we have adjusted to the change in our environment and are looking forward and positively to the future. We have a wide range of services we are expert in which enables us continue to provide all the support you are used to for a long time yet.

Welcome Back Marian

I am pleased to announce the return once again of Marian Kempster back to the fold after having her second child (two is plenty Marian). We have missed her cheerful manner and wealth of experience, we are extremely excited to have her back.

Introducing Rachel

I would also like to introduce you to our newest team member, Rachel Quartley. Rachel may be a familiar name to some of you as she has worked in a number our client's practices. Rachel is a qualified legal executive with a vast array of experience and skills. Her role is that of a support one to the consultants, we are very lucky to have her.

What to look for in this edition

Our feature articles this newsletter surround Fast track Lodgment Process, a topical matter at the moment as highlighted in the last issue of Law Talk - Property Law Section. As well as the next role out of e-capable documents emphasizing the benefits of LANDinfoNET associating with your Landonline license, also a current and relevant issue at present.

A tip for Xtra Clients

Lastly I again would like to apologise to the 10% of our xtra customers who are still experiencing issues receiving emails from us. I assure you we have done absolutely everything in our power to resolve this issue directly with yahooextra with very little success. We have also had our IT people spend countless hours attempting to provide a solution but also with little luck. **Fortunately, I Have a helpful tip for you, if you order searches via our website, simply go to "last 30 days jobs", click the view tab, under the heading "files" click the green tick and you can open and print the search and invoice from there.** Alternatively, we are happy to fax anything to you at no charge.

Thank you for taking the time to read our newsletter, we look forward to working with you in 2008.

E-SURVEY + NEW TITLE FAST-TRACK - are you taking advantage?

The time it takes for LINZ to approve plans and issue titles can prove a headache for the client and undoubtedly they would love that time to be reduced as much as possible. Even for an e-survey it can take up to 10 working days to approve the plan - registration of the documents to deposit that plan can then take another 15 working days. This makes a total of 25 working days - or five weeks - to achieve issue of titles.

There is a process known as E-SURVEY + NEW TITLE FAST-TRACK that you may be familiar with that enables this total time to be reduced to a total of 12 working days. To ensure this timeframes is achieved there are a few requirements to be met and they are as follows:

1. The process is only available for dealings lodged with an associated e-survey.

2. The dealing and e-survey must be lodged on the same day or within 24 hours of each other.
3. If the dealing or e-survey are rejected or requisitioned, the timeframe reverts to the LINZ target timeframe of 10 working days for the e-survey and 15 working days for title issue.
4. The e-survey and dealing must be lodged with FAST-TRACK request form. (This form can be downloaded from the LINZ website (keyword 'Fast-Track').
5. Effective co-ordination and communication between the surveyor and the solicitor or their agent is essential to ensure the process runs smoothly.

Due the complexity of the documents that are often required for a subdivision it is very common for the dealing to be requisitioned or rejected. As it is imperative under the FAST-TRACK process that the dealing is not rejected or requisitioned LANDinfoNET Limited offers a service for our solicitor clients whereby we thoroughly pre-check all of the documents to minimise this risk (our consultants typically lodge about half a dozen subdivision dealings per day for our solicitor clients).

Once any required amendments have been made and the dealing is ready to lodge LANDinfoNET contact the surveyor and co-ordinate lodgment of the dealing and the e-survey to ensure the lodgment timeframe is met. This will ensure issue of title is achieved without difficulty and as quickly as possible.

For further information on this service please contact the David, Roger or Elaine.

Have us on your Edealing team before the next role out of E-capable documents

Q: Associate LANDinfoNET to your eDealing team?

A: A great idea, read on.

Q: Sounds great but what about the security implications?

A: LANDinfoNET's client-to-client confidentiality has always been in the paper environment and continues to be second to none in the electronic age; our principal has by statute the controlling hand.

Q: By associating with you are you able to Certify and sign.

A: No, the certify and sign continues to give our principal the controlling hand in the dealing, we complete all other processes once we receive the A & I form and your instructions.

Some background: associating us to your eDealing team costs nothing and is as simple as filling out a 3-question form. However it does take 6 working days for LINZ to process, this is why we advise you to associate NOW, therefore if you do face a situation where you need us to urgently help (through any number of reasons), we can if we are associated if not we need to wait the six working days and we all know how long 6 hours is in this fast paced industry, 6 days can be destroying.

Now the benefits: Once associated with us, you can use us for all your edealing's or just when you are overloaded, we don't mind how you want to utilise us we will fit into whatever situation best suits your needs.

100% eDealing by October 2008: LINZ are gradually working towards having all documentation either registered or lodged electronically, more complex transfers and mortgages will be available to register electronically around April 2008, with easements and new title dealing being able to be lodged electronically by October

2008.

Complexity of new dealings: The complexity level of both lodging and registering easements and other documentation to deposit plans and complete settlements will rapidly increase, and with this extra complexity comes a burden placed on the conveyancer in terms of both time and accountably, LANDinfoNET have thrived on the challenges associated with the continually changing environment and will continue to be a robust weapon in your arsenal to meet deadlines and satisfy your clients requirements.

Under eLodgment there will still be a rejection process, consents and other attachments will need to be scanned to form part of the lodgment and once associated we are here to ensure that settlements are completed and titles are issued within premium time frames.

Q: How do we go about associating with LANDinfoNET Limited?

A: Simple, for our web users, log into the secure area and click on the Edealing banner add at the top of the screen and fill out and submit the form, for non web users contact Janelle Weir or David Barker.

If you do not utilize our website, please use [this link](#) to have LANDinfoNET associate with your license.

Survey Results

Towards the end of 2007 we conducted a survey surrounding how our customers perceived our Searching Service, our Consultancy and Registration Service and your overall perception of fees and services. Thank you very much to all those who took part, we really appreciate your comments and have taken them all on board. Below is a brief summary of the results and the measures we have taken to improve.

Searching

80% considered **accuracy of results** Excellent,
20% considered it Good

80% considered our **turnaround time** Excellent,
20% considered it Good

85% considered our **quality of customer service** to be Excellent,
12% Good,
3% Adequate

90% considered our **overall Quality of service** Excellent,
7% Good,
3% Adequate

Consultancy/Registration

81% considered the **quality of advice provided** Excellent,
19% considered it Good

83% considered the **timeliness of advice provided** Excellent,
16% Good,
1% Poor

81% considered the fairness of our billing structure Excellent,
18% Good,

1% Poor

97% said that their expectations were being achieved

Areas we are continuing to work on as a result

1. All searching staff are working towards a "SMART" customer service team objective to improve in this area.
2. We have improved our searching timeframe monitoring system to ensure 30 minute turnaround times are achieved consistently. **To back up to you our commitment in this area, during the month of April should you not receive your search within 30 minutes, call Janelle on 09 306 1492 and we will credit the agency portion of the search. Two conditions apply, 1) no computer issues causing delays either LANDinfoNET, LINZ, or your own have occurred and 2) should we have to contact you as the search is a "problem" the 30 minutes will start again from the time we discuss the issue with you.**
3. We have put in place an even more stringent Quality Control practice whereby only staff with a skill level of 4 (out of 5), are able to QA work.
4. As always regarding our billing structure, we encourage you to contact Janelle should you not find value in the consultancy advice provided and we will adjust or credit the invoice accordingly. Should you feel your volumes have increased and warrant a revisit of your pricing structure, again please contact Janelle on 09 306 1492 to discuss your pricing tier which is designed to offer you economies of scale.

LINZ Issues

The Property Law Act 2007 – By Roger Fielding

Commencement: The Act came into force on 1 January 2008 and a few matters of immediate concern have already arisen.

Powers of Attorney

According to Land Information New Zealand (LINZ):

1. The law fundamentally remains the same. A new form of certificate of non-revocation is prescribed in Schedule 1. This is a dual-purpose form that replaces the separate certificates in the former PLA 1952 for natural persons and bodies corporate.
2. Apart from that the differences are cosmetic and certificates of non-revocation in the old form should still be accepted if they accompany instruments executed on or after 1 January 2008.

At LANDinfoNET, we have recently noticed a couple of issues that you need to be aware of concerning the use of certificates of non-revocation. These issues have arisen mainly in Bank mortgages and are set out as follows:

1. The new form of certificate of non-revocation of power of attorney has been copied verbatim by some Banks with the result that the power of attorney number deposited at LINZ, under which the attorney is signing, is no longer being quoted in the certificates. This may be acceptable for e-dealing transactions but for dealings that still need to be lodged as paper transactions, the power of attorney number must still be quoted somewhere in the certificate or document being presented for registration because there is still a requirement to deposit the power of attorney with LINZ.
2. Some certificates of non-revocation of power of attorney are photocopies and

again that may have been accepted for e-dealings, however, LINZ do have a requirement that paper documents contain original signatures. We recommend that these photocopied certificates be replaced with ones containing original signatures.

Implied covenants in rights of way

In Schedule 5 there are implied covenants that are generally applicable to every vehicular right of way. Easement Instruments that are dated on or after 1 January 2008 should have replaced, any reference to the 9th Schedule to the Property Law Act 1952, with the new Schedule 5 of the Property Law Act 2007. This will not only affect the form, which creates the easement, but also any additional clauses that are often used in the forms. We suggest that someone should update your precedents.

Access Lots

An access lot is defined in s2 as a separate allotment in a subdivision that was created to provide access from all or any allotments of the subdivision to an existing road or street. They are often created by way of amalgamation condition in subdivisions.

Section 298 is a new provision. It confers the same implied rights to pass and re-pass on the registered proprietors of access lots as would apply to grantors and grantees of a vehicular right of way as set out in clause 1 of Schedule 5. Also the rights set out in clauses 2 (right to establish and maintain driveway) and 3 (right to have land restored after completion of work) of Schedule 5 apply as between those proprietors.

LANDinfoNET has always advocated the creation of rights of way over access Lots. Despite the new provision, we still recommend that rights of way be created over access lots because if they are not created, a party searching a title containing an access lot may not be aware that the new provisions apply to it because there will be nothing on the title to bring this to their attention. If an Easement Instrument is registered containing rights of way, then a memorial will appear on the title to indicate to all people that certain rights attach to the access lot.

For further details or clarification, contact Roger Fielding.

Digital plans and certificates – by Elaine Hancock

There is always speculation when a Surveyor scans in various certificates as to whether those certificates will be accepted by LINZ when documents are lodged for the deposit of the plan, or whether they will be required to be lodged as manual documents.

As a general "rule of thumb" all documents that appear on titles as memorials must be lodged as a manual documents, an example of this is a Consent Notice pursuant to Section 221 Resource Management Act.

The certificates that LINZ have accepted to date as being scanned in by the Surveyor have been C223 (subdivisional approval), C224 (restrictions on deposit of a plan), C348 (right of way over private land) and C241(4)(b) (cancellation of amalgamation condition) .

There have been problems regarding C243(e) certificates. In some cases LINZ have accepted the C243(e) certificate when they have been scanned by the Surveyor, but they have also been requisitioned/rejected for manual lodgement.

Therefore, for future registrations it would be prudent to lodge the 243(e) certificates manually.

As an aside, there have been a number of plans which have stated in the conditions of subdivision that various conditional easements are to be surrendered.

Please note that when this occurs not only do LINZ require the C243(e) Certificate from the Council, but a document surrendering the easements must also be lodged.

For any queries or clarification regarding this or any matter, please don't hesitate to contact Elaine.

Car parking easements – by *David Barker*

There can be problem in creating car-parking easements as this relates to the size of the marked area. As you are probably aware one of the fundamentals of an easement is that it allows a landowner to grant certain rights, falling short of occupation, over his or her land to some other person. Parking a car on someone else's land is clearly at odds with the fundamental principle of an easement. The Courts have however ruled that a car parking easement can exist provided the right does not amount to a claim to the beneficial owner of all of the servient area.

For example - a car parking easement over a servient area that measures 20 metres by 60 metres would pose no problem however a car parking easement over an area measuring 8 metres by 5 metres could be deemed to amount to exclusive occupation to the detriment of the servient owner - and it is therefore not possible for the servient owner to grant as an easement.

For more information or clarification regarding this or any matter, please don't hesitate to contact David.

Contacting the LANDinfoNET Consultants

Our Land Transfer Consultants Roger Fielding, David Barker 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

David 0508 534 251 LANDinfoNET Limited davidb@landinfo.net.nz

Elaine 0508 534 251 LANDinfoNET Limited elaineh@landinfo.net.nz

Roger, Dave and Elaine have a prior cumulative experience of working with LINZ as senior Land Registrars of over 60 years, please ensure you utilise their ongoing knowledge and resources as an "extension of your office". A team of registration clerks support Roger, Elaine and Dave to ensure they are free for high-end consultancy.

PPSR Issues

Responding to reminder letters

Should your firm receive a Notification Of Upcoming Expiry Letter from us, it is important should you not require the financing statement to be renewed to notify us by way of email or fax.

If we don't hear from you we WILL renew the financing statement as stated in our letter and your firm will incur the corresponding renewal fees.

By way of explanation, if the security was over an aero plane, an expensive piece of machinery or perhaps a building and you were absent and didn't see our letter in time and weren't able to respond, and we let it lapse... Houston we have a problem.

We feel it is a far lesser risk to renew by mistake, with the biggest problem being a \$23.00 fee incurred and the subsequent task of then having to discharge the financing statement, than letting a financing statement lapse by mistake and priority being lost. Once priority is lost, it cannot be regained no matter how honest the omission may be.

Our obligation is to your firm, therefore if the author who originally requested the registration 5 years prior is no longer at the firm, please advise us should you receive an expiry letter as we will not be aware if the client has gone with the author or not.

Any queries at all regarding this matter, please don't hesitate to contact Janelle, Marian or Vesna.

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Real Estate Statistics

The Real Estate Institute Of New Zealand's latest statistics show the slowdown continues for property values. January 08 reported the median house sale price at \$340,000, with February 08 sitting at \$337,500, a drop in sale price of \$2,500 and a \$6,000 drop from March 07.

On a positive note, February 08 accounted for 6,356 sales, up from both December and January 08, whether March 08 sustains the slight increase remains to be seen. Days to sell are now at 50, a number that has consistently grown each month since March 07.

Quotable Value's February statistics report the average New Zealand sale price increased to \$393,240 this month (from \$390,636 last month).

Whist REINZ and QV's stats vary, both report a subdued property market with declining national property values, properties staying on the market for longer, and the volume of sales dropping.

"Clearly the market is slowing down and taking a breather, and we expect this will continue given the current market conditions. It looks like we may be in for a sustained period of less activity in the property market" said Mr Blue Hancock, QV spokesperson.

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 2008.

If you have any questions regarding this newsletter, please contact Janelle Weir, LANDinfoNET's General Manager on 0800 106 206 or at janellew@landinfo.net.nz

**Feel free to phone our call free number 0800 106 206 and ask
for Janelle Weir 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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