

Torrens *talk*

Survey and Title Information for Land Professionals

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Land Transfer and Cadastral Survey Legislation Bill

The introduction of the Land Transfer and Cadastral Survey Legislation Bill achieves another significant milestone for the second stage of the **Landonline** automation project.

The Bill largely re-enacts the Land Transfer (Automation) Amendment Act 1998, and includes new amendments to the Land Transfer Act 1952 and Survey Act 1986 to support the introduction of electronic lodgement for title and survey transactions.

The key Land Transfer changes provide for:

- electronic workspace facilities for preparing and lodging title transactions
- making land subject to the electronic lodgement regime
- certification of transactions for electronic lodgement
- auditing and monitoring electronic transactions
- removal of duplicate certificates of title
- regulating the scope of electronic lodgement
- sanctions for fraud or misuse of the system.

Other changes have been made to improve and clarify:

- procedures for the creation and removal of easements and covenants
- requirements as to the form of instruments
- provisions relating to the lodgement and removal of caveats.

The key changes for **Landonline** Stage Two are discussed in more detail below.

Electronic Workspace

Landonline Stage Two includes the concept of an electronic workspace for preparing and

lodging transactions in digital form. Clause 24 of the Bill authorises the Registrar-General of Land (RGL) to approve such facilities provided they meet certain criteria.

Although there is scope for the RGL to approve workspace facilities provided by third parties, LINZ will develop and provide the initial electronic workspace. This is provided for in clause 24(5) of the Bill.

To meet the requirements for registration set out in clause 25(1)(a) of the Bill, an electronic instrument must be prepared in an approved electronic workspace.

Electronic Transactions Land

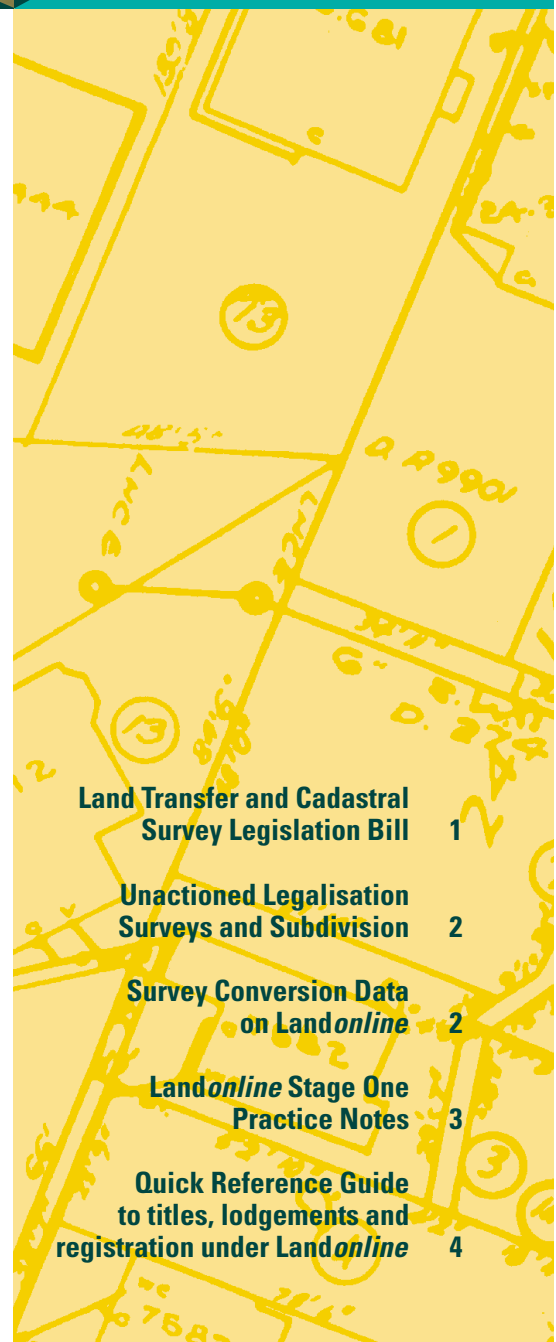
During the pilot and transitional stages of the implementation of **Landonline** Stage Two, it may be necessary to limit the application of the electronic lodgement provisions to land within a particular region or even particular titles.

A mechanism for this is provided in clause 27 of the Bill. This enables the RGL to trigger the application of the electronic lodgement regime, by tagging specific titles as 'electronic transactions land' or by making a declaration to that effect as to land in a particular area by notice in the Gazette.

Certification

Another important feature of the legislative framework for electronic lodgement is the proposed certification regime. This is catered for in clause 60 of the Bill, which inserts new sections 164A to 146E in the principal Act.

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The Land Transfer and Cadastral Survey Bill (as outlined on the front page), also has a number of changes that will be of great significance to surveyors, the principle ones being:

- to provide for the electronic lodgement of digital cadastral datasets
- to enable a more effective distribution of cadastral standards between statute and rules made by the Surveyor-General
- a more effective system of occupational regulation of cadastral surveying based on licensing.

These changes will be described in more detail in the next issue of *Torrenstalk*.

Tony Bevin
Surveyor-General

Subdivision of Parcels Affected by Unactioned Legalisation Surveys

It is unfortunately common for there to be a significant delay between approval of a legalisation survey taking land, say under the Public Works Act 1981, and the gazettal and registration of that action. Until the action is gazetted, the land has not legally been taken and the original underlying parcel is still current. After gazettal, the new parcels, including the balance parcel, become part of the current layer and further survey action such as subdivision can take place on the balance parcel. Where the action applies to land held in a certificate of title, the description of the land in the title does not change until the gazette has been registered against the title.

The result of this is that where the action has not been gazetted, any subsequent subdivision of the land must subdivide the whole parcel as if the legalisation plan had not taken place. In these circumstances the surveyor must either:

- encourage the land-taking authority to gazette the action before lodgement of a subdivision of the balance, or
- lodge a survey subdividing the whole parcel and include new parcels corresponding to sections on the legalisation plan with these sections to vest on deposit.

In cases where the latter option is required, the parcel definition from the approved legalisation plan should be adopted. The surveyor may need to ensure that the resource consent covers these additional parcels.

In some cases, the legalisation survey may have been partially actioned by gazettal, in which case the surveyor will need to take extra care to determine the extent of the current balance parcel that is being subdivided.

Survey Conversion Data Appears in Landonline

Surveyors using **Landonline** in Otago, Southland and Westland will have noticed that additional information has appeared as a result of the Survey Conversion project. The main benefits of this data will arise once digital extract and digital lodgement are available under **Landonline** Stage Two. This data is already being utilised by **Landonline**, however, when processing new surveys.

The Survey Conversion project captures bearings and distances and mark details for current parcel boundaries, as well as some traverse data. It then uses these to generate coordinates and an Order for the marks, as well as an SDC ('Survey-accurate Digital Cadastre') status where satisfied that accuracy requirements of the 1998 Survey Regulations have been met. The Conversion also improves the definition of the boundary points and lines that make up a parcel, including points from abutting parcels – that is its 'topology'. For more information about Survey Conversion see *Survey Quarterly* Number 24 (Dec 2000).

The conversion project is scheduled to take several years, and continuously loads data into **Landonline** as it is captured and quality assured.

The Survey Conversion Areas (SCAs) for Otago, Southland and Westland have already been completed, with Nelson and Marlborough planned for completion in January/February 2002, followed by Canterbury.

Users will see this data in a number of places in **Landonline**:

- in the Spatial Window, the majority of converted marks will now appear in the GD2000 Marks 'D' layer (ie, 6th and 7th Order nodes)
- the SDC layer will show a pink circle around nodes that have achieved SDC status
- the vectors for the bearing and distances captured will appear in the Cadastral Vectors layer

- the Marks folder in the tree will list all the surveys for which **Landonline** has recorded an observation to that mark
- the Survey folder in the tree may include a 'Survey View' item, which upon selection will display a spatial view of the data that **Landonline** holds for that survey. For converted surveys, this data will seldom be complete, but typically includes data for current live parcels.

The converted data is used by **Landonline** to provide more reliable results when validating new surveys against any underlying data that it holds. This will highlight conflicts, including mark names, observations that do not fit reliable **Landonline** coordinates, and observations that do not agree with those in **Landonline** (including any adoptions). Further and very significant checks validate that the points (nodes) on the

new survey correctly match and include all the existing boundary points from the underlying parcel. This topological consistency ensures that there are no gaps or overlaps on boundaries. Where the conflict is not caused by errors or inconsistency within **Landonline**, an appropriate requisition item may be raised in the usual way.

More significant benefits from Survey Conversion will arise once Stage Two has been implemented. Surveyors will be able to digitally extract the survey-accurate coordinates, observations, and mark details, as well as other data for their own use, whether in the office or field (such as for computations and for locating existing marks). The converted information will also facilitate the subsequent import, capture, and validation of new surveys, especially where the data are explicitly linked to the matching data in **Landonline**.

RGL Rulings



This section contains rulings and decisions of the Registrar-General of Land arising from appeals, legal opinions and practice issues agreed to by all District Land Registrars. A principal aim has been standardisation of interpretation and practice nationwide. The information is applicable in all LINZ offices.

Robbie Muir
Registrar-General of Land

1. **Landonline** Stage One Practice Notes

1.1 Hamilton Region

Landonline Implementation in Hamilton

The **Landonline** system was implemented in the Hamilton Regional Office on 5 November 2001.

A quick reference guide outlining the **Landonline** lodgement and registration process is set out on page 4.

1.2 Changeover Dates for New Plymouth Branch Office

Landonline title conversion will commence on

Monday 14, January 2002 for the New Plymouth office and is expected to take two weeks.

From 14 January, all plan and dealing lodgements for the Taranaki Land Registration District must be presented or forwarded to the Hamilton Regional Office for processing.

The New Plymouth office will remain open for title and document searching until 1 February 2002.

1.3 Wellington Region – Conversion Complete

Conversion of title records for the Wellington region is virtually complete. Remote access via **Landonline** is now the primary means of

access to these records. Information about this service is available at www.landonline.govt.nz

1.4 Closure of Gisborne and Napier Branch Offices

The branch offices of Land Information New Zealand in Gisborne and Napier were closed to the public as from 26 October and 2 November respectively.

2. Phase out of Legal Plan Requisitions

The October 2001 edition of *Torrenstalk* (Issue 18) included an item about the phasing out of legal plan requisitions. This has now been

completed, with the remaining regional office, Dunedin, ceasing legal plan requisitions as from 5 November 2001.

Comprehensive guidelines for plan deposit requirements are available from all LINZ offices. Although these guidelines cover most

scenarios, regional office help desk staff are also available to assist if required. Detailed technical queries should be made in writing.

Quick reference guide to titles, lodgements and registration under *Landonline*

Item	Customer Action	LINZ Action	Expected Results
Abstract	<ul style="list-style-type: none"> Leave the Firm Code blank, as you will be given a new User ID. Double check that fees are correct. All titles references must be correct. 	<p>Issue clients with a new User ID. Attach Priority Barcode on abstract and enter details into Landonline.</p> <p>Billing systems will apply for Credit Customers. Abstracts will only be validated where payment is by cash.</p>	<p>Two pages of the Abstract returned with documents.</p> <p>You will receive notification by letter that registration is authorised or rejected.</p>
Lodgements	<ul style="list-style-type: none"> A priority book will not be used. Deliver to counter of Regional LINZ Office and lodge registration. You will need to make sure that a LINZ staff member receives your lodgement. You may have to wait a moment. Postal lodgement is accepted. Lodgement is deemed to be 9.00 am the following day. (Caveats and Matrimonial Property Act Notices of Claim cannot be lodged by post.) 	<p>Accept lodgement and print priority barcode label and attach it to the first abstract. This will record the date and exact time of lodgement.</p> <p>Check to see if documents can be accepted.</p> <p>Image barcode labels (different from priority labels) are printed, as the documents will be scanned.</p> <p>Enter dealing into Landonline.</p>	<p>Notification that documents have been accepted or rejected.</p> <p>Duplicate copy of the title will be destroyed. A new computer duplicate title will be returned with the letter notifying rejection or registration.</p>
Productions	<ul style="list-style-type: none"> Present to the counter of the Regional LINZ Office. No change to form used. 	<p>Image the production slip and any supporting letters.</p> <p>Barcode label is attached to production and production given number.</p>	<p>Red (receipt) and yellow (authority to register) pages returned.</p> <p>New computer duplicate title returned with green (return) page.</p>
Documents	<ul style="list-style-type: none"> Only one copy of a document is required to be presented, eg mortgages are not presented in duplicate. Registered documents subject to further registration are not required to be produced for noting, eg Variation of Mortgage. Staple documents together in top left hand corner. Do not glue or stitch. Keep flat. Use a one-page form when appropriate. Should be on A4 standard weight paper (80-100 gsm) and executed in black or dark blue pen. Retain returned documents until notified of the final outcome. 	<p>A dealing is created in Landonline.</p> <p>Create an image barcode and attach it to the top left-hand corner on the front page of the document.</p> <p>If the label is going to cover relevant information, attach a blank A4 sheet of paper and affix label to that.</p> <p>Scan the document.</p>	<p>When implementation of Landonline is completed, documents will be held for 24 hours, then returned once scanned as LINZ will not keep a paper copy of documents.</p> <p>They will have a barcode label attached.</p> <p>In the interim, as the transition continues, documents will be held until registered or rejected and will be returned with the notification form.</p>

Additional copies of the above table are available from the LINZ Regional Offices, or check out the LINZ web site www.linz.govt.nz

Land Transfer and Cadastral Survey Legislation Bill continued from page 1

In order to comply with s164A, and to meet the requirements for registration set out in clause 25(1)(c) of the Bill, an electronic instrument must be accompanied by certifications specifying that:

- a) the person giving the certification has authority to act for the party specified in regulations in relation to that class of instrument and that party has legal capacity to give such authorisation
- b) the person giving the certification has taken reasonable steps to confirm the identity of the person who gave the authority to act
- c) the instrument complies with any statutory requirements specified by the Registrar for that class of instrument
- d) the person giving the certification has evidence verifying and supporting the certifications and that the evidence will be retained for the period prescribed for the purpose by regulations.

Upon registration, instruments certified in this manner have the same effect as if executed by the parties to the transaction and are deemed to have been made in writing (s164E).

The power to give such certifications is restricted under s164B to persons who are qualified to do conveyancing. In addition, the RGL has the authority to revoke a person's certification rights if they have given false or fraudulent certifications.

Auditing and Monitoring of Electronic Transactions

Under s164C (as inserted by clause 60 of the Bill), conveyancers who use the electronic lodgement system are required to retain

supporting evidence to enable the RGL to audit the validity of their certifications. If required, this material must be produced for inspection within 10 working days.

The RGL is also authorised under clause 24(3) to monitor activities in the electronic workspace for the purposes of detecting fraud or improper dealings.

Removal of duplicate certificates of title

A significant change associated with **Landonline** Stage Two is the removal of the duplicate certificate of title. This is an obvious prerequisite, as the system can only work if lodgement and registration can occur electronically without having to produce the paper title. This is dealt with in clause 20, which prohibits the RGL from issuing new certificates of title and cancels all existing certificates of title for electronic transactions land.

LINZ does not propose to call in certificates of title cancelled under this provision, and owners may retain them if they wish. They will simply cease to have the status of duplicate titles. When new transactions are registered duplicate titles will not be required to be produced or updated.

Of course, a registered proprietor may still obtain an authoritative paper record of their title by requesting a search copy (or if necessary a certified copy) from LINZ.

Scope of electronic lodgement

Clause 64 of the Bill substitutes a new s236 in the principal Act, which sets out various regulation-making powers, including a power for specifying the categories of instrument

that may be lodged electronically.

The initial set of regulations will cater for the transactions that have been targeted for **Landonline** Stage Two. This covers transfers, mortgages and the full range of discharge transactions, including withdrawals of caveat and discharges of statutory land charge.

In future, this may be extended to include more complex transactions as the electronic lodgement system is further developed.

Sanctions for fraud or misuse of the system

Sanctions for incorrect or fraudulent certifications include barring or restricting access to the **Landonline** system permanently or for a time. The Bill also includes a criminal offence of knowingly or recklessly giving a false certificate, together with a more serious offence of giving a certificate with fraudulent intent. These matters are dealt with in the proposed amendments to section 225(1) and 226 of the principal Act, as set out in Schedule 1 of the Bill.

Submissions to Select Committee

The Bill was introduced on 5 November 2001. It had its first reading on 13 November 2001 and was referred to the Primary Production Select Committee for consideration. The Select Committee has called for submissions by 28 January 2002.

*The construction of **Landonline** Stage Two is well underway, with implementation targeted for late 2002. Facts sheets containing further information about the system are available from LINZ on request (contact Karen Lalor, CRS 2 Communications Co-ordinator, Tel: 04 462 7121, E-mail: landonline@linz.govt.nz).*

Operations



*The Operations section of **Torrenstalk** now appears on the LINZ website. The Internet gives us the ability to bring you the latest information on activity volumes and performance achievements as soon as they become available. LINZ's website also contains a wide range of survey and title information – including details on the recent decision by the Government regarding the storage of paper land records.*

Please send us your feedback by writing to info@linz.govt.nz and we'll see you on the Internet.

Carolina Gartner
General Manager Operations

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Operations

Address

Lambton House
160 Lambton Quay
PO Box 5501
Wellington
Ph 04-460 0110
Fax 04-472 2244

Operations Support

(see National Office
address above)

Auckland Regional Office

Private Bag 92016
Auckland 1
Price Waterhouse
Bldg
41-43 Federal Street
DX CP22017
Ph 09-377 1499
Fax 09-358 5072
(main)
Fax 09-358 5072
(titles)

Christchurch Regional Office

Torrrens House
195 Hereford Street
Private Bag 4721
Christchurch
DX WP20033
Ph 03-379 9793
Fax 03-366 6422
(main)
Fax 03-379 4007
(titles)

Dunedin Regional Office

John Wickliffe House
Princes Street
Private Bag 1929
Dunedin
DX YP80001
Ph 03-477 0650
Fax 03-477 3547
(main)
Fax 03-477 0031
(titles)

Hamilton Regional Office

Cnr Victoria &
Rostrevor Streets
Private Bag 3028
Hamilton
DX GX10069
Ph 07-838 2489
Fax 07-834 6788
(main)
Fax 07-834 6788
(titles)

New Plymouth Branch

Atkinson Building
Devon Street West
Private Bag 2027
New Plymouth
DX NP90062
Ph 06-758 0829
Fax 06-758 1673

Wellington Regional Office

Mayfair House
44-52 The Terrace
PO Box 5014
Wellington
DX SP 23512
Ph 04-496 9450
Fax 04-496 9420
(main)
Fax 04-496 9490
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