

## Important:

This article was published on Wednesday, 10 April 2019 - 4:38pm. The information is accurate at the time and is used for reference purposes only.

For up-to-date information please [visit the Land Information New Zealand website \(http://www.linz.govt.nz\)](http://www.linz.govt.nz).



## [Landwrap April 2019 \(/news/2019-04/landwrap-april-2019\)](/news/2019-04/landwrap-april-2019)

Issue 151

In this month's Landwrap we have an invitation to take part in a survey, as well as updates on the residential land statements and the Overseas Investment Act 2018; the review of the rules for cadastral survey; Authority and Instruction forms; and The New Plymouth District Council (Waitara Lands) Act 2018

### Landwrap survey

As a valued Landwrap reader, Land Information New Zealand is keen to find out what you like about the newsletter, or what we could do better. We want to make Landwrap as useful as possible and your opinion is important to us.

We'd appreciate you taking the time to complete the 5-minute survey - and don't worry, it's completely confidential. You have three weeks to complete the survey.

We will aggregate the survey results and report them anonymously in a future edition of Landwrap.

[Help us to improve Landwrap](https://landinformationnz.au1.qualtrics.com/jfe/form/SV_0NbGENsgDGvt1Kl)

([https://landinformationnz.au1.qualtrics.com/jfe/form/SV\\_0NbGENsgDGvt1Kl](https://landinformationnz.au1.qualtrics.com/jfe/form/SV_0NbGENsgDGvt1Kl))

Thank you for taking the time to complete the survey.

### Residential land statements required under section 51A of the Overseas Investment Act 2018

Section 51A of the Overseas Investment Act 2005 (the Act) requires a person who is acquiring an interest in residential land to make a statement as to whether the transaction requires consent under the Act.

Where a residential land statement is required, the practitioner must obtain it before lodging, or directing to be lodged, the instrument. This applies to both electronic instruments lodged via e-dealing and paper instruments lodged as a manual dealing.

If the practitioner:

1. has not obtained the statement; or
2. has reasonable grounds to believe that the statement is not correct in a material particular;

the practitioner must not lodge, or direct to be lodged, the instrument [s51C(1) of the Act].

### **Retain a copy of the statement for 10 years**

Section 51C(2) of the Overseas Investment Act 2005 specifies that the practitioner must retain a copy of the residential land statement for at least 7 years . This applies to statements that support paper instruments lodged manually.

In the case of an electronic instrument, a copy of the statement must be retained for 10 years after the date on which the instrument is lodged. The statutory requirements are captured as part of the practitioner's e-dealing certifications (as set out in LINZS20012 Certification of Electronic Instruments (Statutory Requirements and Retention of Evidence) Standard 2018) and the retention of evidence requirements in s30(1) of the Land Transfer Act 2017 and r7(6) of the Land Transfer Regulations 2018 apply.

[LINZS20012 Certification of Electronic Instruments \(Statutory Requirements and Retention of Evidence\) Standard 2018 \(//www.linz.govt.nz/regulatory/20012\)](http://www.linz.govt.nz/regulatory/20012)

To avoid confusion, we recommend you retain all statements for a 10 year period.

### **Statements not required as evidence for e-dealing compliance reviews**

Even though the compliance requirements are captured as part of the practitioner's e-dealing certifications, a copy of the statement ordinarily will not be required for compliance review purposes and should not be provided with the A&I form (and other supporting documentation).

A copy of the statement must be retained so that it is available **if requested by the Overseas Investment Office**.

### **Statements should not be uploaded as part of an electronic instrument or sent in as part of a manual dealing**

The statement must not form part of the Register and therefore must not be uploaded as part of an electronic instrument, or produced with a manual dealing.

If a statement is lodged with LINZ electronically:

- this will cause the dealing to step down to Lodge; and
- practitioners can expect the dealing to be rejected/requisitioned to have the attachment removed from the electronic instrument.

If a statement is lodged with LINZ manually:

- we will return the statement to you. It will not be entered into Landonline.

[About residential land statements \(//www.linz.govt.nz/overseas-investment/information-for-buying-or-building-one-home-live#statement\)](http://www.linz.govt.nz/overseas-investment/information-for-buying-or-building-one-home-live#statement)

[Eligibility to buy a home to live in \(https://www.newzealandnow.govt.nz/living-in-nz/housing/buying-building\)](https://www.newzealandnow.govt.nz/living-in-nz/housing/buying-building)

[About New Zealand visas \(https://www.immigration.govt.nz/new-zealand-visas/options/live-permanently/all-resident-visas\)](https://www.immigration.govt.nz/new-zealand-visas/options/live-permanently/all-resident-visas)

[Provisions in the Overseas Investment Act 2005 \(http://www.legislation.govt.nz/act/public/2005/0082/latest/LMS111919.html\)](http://www.legislation.govt.nz/act/public/2005/0082/latest/LMS111919.html)

## Update on the review for the rules for cadastral survey

Feedback on the Stage 2 – Part 2 Consultation on proposed changes to the Rules for Cadastral Survey closed on 7 March 2019. We received 23 submissions from the Survey and Spatial NZ Cadastral Stream, Survey and Spatial NZ Hawkes Bay & Taranaki branches, Institute of Cadastral Surveying and licensed surveyors.

A summary of feedback received on the Part 2 proposed changes to the Rules for Cadastral Survey is now available.

[Stage 2 – Part 2 Consultation on Proposed Changes to the Rules \(http://www.linz.govt.nz/land/surveying/rules-standards-and-guidelines/review-rules-for-cadastral-survey/stage-two-%E2%80%93-consultation-proposed-changes-rules\)](http://www.linz.govt.nz/land/surveying/rules-standards-and-guidelines/review-rules-for-cadastral-survey/stage-two-%E2%80%93-consultation-proposed-changes-rules)

“We have been busy over the last three weeks collating and summarising the feedback received,” says Acting Surveyor-General, Anselm Haanen. “I have noted the high quality of the submissions and appreciate the considerable time that has been invested in the process.”

The next step involves finalising the proposals based on the feedback received. We will then work with the Parliamentary Counsel Office drafting the Rules. We expect to carry out a final consultation on the draft rules in the fourth quarter of 2019.

## Does a client’s Authority and Instruction (A&I) form expire?

At times you may hold an A&I form that was signed some months, maybe even years, ago and for whatever reason the instruments have not yet been registered.

Recently our Customer Support team has received several enquiries asking whether:

- these signed A&I forms expire over time; or
- there is any limitation on how long you can rely on the A&I form for.

A signed A&I form does not expire and there is no limitation on how long you can rely on the A&I form. In the A&I forms approved by the New Zealand Law Society and Registrar-General of Land, the client irrevocably authorises and instructs the firm to register the instruments as an e-dealing (for example see section 4(e) of the Private Individual A&I form).

However, regardless of whether a client has signed an approved A&I form or a different form of authority, the certifying practitioner should always consider whether the client’s authority and instruction is still valid at the time they come to certify the related instrument. It is up to the certifying practitioner to determine whether it is still appropriate to certify that they have proper authority to proceed, in light of the client’s original instructions and any relevant issues or change of

circumstances since the A&I form was signed, or whether it is better to have the client sign a new A&I form.

[Authority & Instruction \(A&I\) \(//www.linz.govt.nz/land/land-registration/prepare-and-submit-your-dealing/authority-instruction-ai\)](https://www.linz.govt.nz/land/land-registration/prepare-and-submit-your-dealing/authority-instruction-ai)

[A&I form FAQs \(//www.linz.govt.nz/kb/854\)](https://www.linz.govt.nz/kb/854)

## **Transfers of land subject to s22 New Plymouth District Council (Waitara Lands) Act 2018**

The New Plymouth District Council (Waitara Lands) Act 2018 (“the Act”) came into force on 17 March 2019 and deals with land in Waitara owned by the New Plymouth District Council (“the Council”). This includes land which is leased by the Council on perpetually renewable ground leases, referred to in the Act as “Waitara Endowment Land”.

Section 22 of the Act provides that a lessee of any Waitara Endowment Land has the right to purchase the fee simple estate in the land subject to the lease. To facilitate that, a notice was lodged by the Council under section 59 of the Act requiring the Registrar-General of Land (“RGL”) to note the freehold and leasehold titles of Waitara Endowment Land with a notice that the land is subject to the right of purchase by the lessee. The affected titles will now include a notation stating “Notice under section 59 of the New Plymouth District Council (Waitara Lands) Act 2018 that the within land is subject to section 22 of the Act (which provides that a lessee of any Waitara Endowment Land has the right to purchase the fee simple estate in the land that is subject to the lease.)”

The RGL is required to ensure that this notice remains on the freehold and leasehold titles for each property until the freehold title is transferred to a lessee exercising their right to purchase.

A flag has been set in Landonline to ensure that LINZ is able to remove or retain the section 59 notice as needed. This flag prevents registration from being completed automatically for any title affected by a section 59 notice. This means that if a transaction would usually be an AUTOREG transaction (such as a transfer, transmission or mortgage), it will fail pre-validation. If the dealing is still submitted as an AUTOREG transaction, it will automatically be rejected by Landonline.

To prevent this from happening, the instrument needs to step down to become a Lodge instrument. A practitioner can change an AUTOREG instrument to LODGE by changing the instrument mode to ‘complex’ and adding text to it. We suggest using wording such as “This transfer is not prevented by section 22 of the New Plymouth District Council (Waitara Lands) Act 2018” as the text added will form part of the instrument and is able to be viewed once the instrument is registered.

Once text is added to the instrument, the dealing will step down to LODGE and will be processed by LINZ staff.

## **Related Content**

- [Certification of Electronic Instruments \(Statutory Requirements and Retention of Evidence\) Standard 2018 – LINZS20012 \(/regulatory/20012\)](#)
- [Information for buying or building one home to live in \(/overseas-investment/information-for-buying-or-building-one-home-live\)](#)

- [Stage two – Consultation on Proposed Changes to the Rules \(/land/surveying/rules-standards-and-guidelines/review-rules-for-cadastral-survey/stage-two-%E2%80%93-consultation-proposed-changes-rules\)](/land/surveying/rules-standards-and-guidelines/review-rules-for-cadastral-survey/stage-two-%E2%80%93-consultation-proposed-changes-rules)
- [Authority & Instruction \(A&I\) \(/land/land-registration/prepare-and-submit-your-dealing/authority-instruction-ai\)](/land/land-registration/prepare-and-submit-your-dealing/authority-instruction-ai)
- [A&I form FAQs \(/kb/854\)](/kb/854)

## Related External Content

- [Eligibility to buy a home to live in \(https://www.newzealandnow.govt.nz/living-in-nz/housing/buying-building\)](https://www.newzealandnow.govt.nz/living-in-nz/housing/buying-building)
- [About New Zealand visas \(https://www.immigration.govt.nz/new-zealand-visas/options/live-permanently/all-resident-visas\)](https://www.immigration.govt.nz/new-zealand-visas/options/live-permanently/all-resident-visas)
- [Provisions in the Overseas Investment Act 2005 \(http://www.legislation.govt.nz/act/public/2005/0082/latest/LMS111919.html\)](http://www.legislation.govt.nz/act/public/2005/0082/latest/LMS111919.html)

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## Articles referenced within this issue

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