

11. LAND INFORMATION NEW ZEALAND E-DEALING DELEGATIONS

General Manager responsible:	General Manager Regulation and Democracy Services, DDI 941-8549
Officer responsible:	Legal Services Manager
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PURPOSE OF REPORT

1. The purpose of this report is to seek from the Council appropriate delegated authority to the Legal Services Manager to enable the Council's solicitors (including those employed in the Legal Services Unit) to comply with the statutory and legal professional requirements in order to undertake land conveyancing transactions on behalf of the Council in the new electronic format known as 'e-dealing' on the Land Information New Zealand internet based land registry system known as 'Landonline'.

EXECUTIVE SUMMARY

2. The solicitors employed by the Council's Legal Services Unit frequently act for the Council in conveyancing transactions involving the acquisition and disposal of land. Occasionally the Council's external solicitors are also asked to act for the Council in relation to such transactions.
3. Traditionally the legal documents required to be registered to give effect to these transactions have been recorded on paper. However, Land Information New Zealand, the Government department responsible for the registration of land, has determined that 100% electronic lodgment of all land title transactions via an internet based system known as 'Landonline' will be phased in by 1 July 2008.
4. The 'Landonline' system enables registered users to conduct secure electronic title and survey transactions in real time, automating and speeding up traditional (and sometimes prolonged and complex) manual processes. 'Landonline' has not been designed for public access or use and its title lodgment and registration functions can only be accessed by authenticated, registered users, ensuring the integrity of the titles register is maintained at all times.
5. Whilst local authorities are expressly exempted from the otherwise compulsory requirement to 'e-deal' using 'Landonline' and are permitted to continue registering land registry documents in the traditional paper format, the Legal Services Unit wishes to voluntarily adopt the 'Landonline' system in relation to the documents with which it deals when acting on land conveyancing transactions on behalf of the Council. This will enable these transactions to be dealt with more efficiently and will thus lead to savings in terms of time and therefore cost.
6. It is a requirement of section 164A of the Land Transfer Act 1952 and Rule 3.03 of the New Zealand Law Society's Rules of Professional Conduct that all solicitors, when creating and registering documents on 'Landonline', have the express written authority of their client in the form of a standard 'Authority and Instruction Form' in respect of **each** individual land conveyancing transaction.
7. The New Zealand Law Society's Rules of Professional Conduct do not permit, in circumstances where the solicitor acts for a single client (as in the case of the solicitors employed in the Council's Legal Services Unit where their sole client is the Council) a single 'Authority and Instruction Form' to be signed to cover all land conveyancing transactions undertaken on behalf of that client. It is an express requirement that a 'Authority and Instruction Form' (attached) be signed by the Council as client in respect of **each** individual land conveyancing transaction.
8. Therefore to avoid the need to obtain the Council's approval for each individual 'Authority and Instruction Form' in relation to each individual land conveyancing transaction it is proposed that the Council delegate to the Legal Services Manager the express authority to sign the required 'Authority and Instruction' forms on behalf of the Council.

FINANCIAL IMPLICATIONS

9. There are no financial implications arising from the recommendation.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

10. Not applicable. The delegation sought is purely administrative or procedural in nature to enable the solicitors acting for the Council (both internal and external) to comply with section 164A of the Land Transfer Act 1952 and Rule 3.03 of the New Zealand Law Society's 'Rules of Professional Conduct' when completing the registration of land transactions in the new 'Landonline' electronic environment on behalf of the Council.

LEGAL CONSIDERATIONS

11. It is a requirement of section 164A of the Land Transfer Act 1952 and Rule 3.03 of the New Zealand Law Society's Rules of Professional Conduct that all solicitors, when creating and registering documents on 'Landonline', have the express written authority of their client in the form of a standard 'Authority and Instruction Form' in respect of **each** individual land conveyancing transaction.
12. The New Zealand Law Society Rules of Professional Conduct do not permit, in circumstances where the solicitor acts for a single client (as in the case of the solicitors employed in the Council's Legal Services Unit where their sole client is the Council) a single 'Authority and Instruction Form' to be signed to cover all land conveyancing transactions undertaken on behalf of that client. It is an express requirement that an 'Authority and Instruction Form' be signed by the Council as client in respect of each individual land conveyancing transaction.
13. Clause 32 of the Seventh Schedule of the Local Government Act 2002 expressly provides that "for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee or other subordinate decision making body, community board, or member or officer of the local authority any of its responsibilities, duties or powers".

Alignment with LTCCP and activity management plans

14. Not applicable.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

15. Yes – there will be an enhanced level of service due to greater efficiency.

ALIGNMENT WITH STRATEGIES

16. Not applicable

Do the recommendations align with the Council's strategies?

17. Not applicable

CONSULTATION FULFILMENT

18. Not applicable.

STAFF RECOMMENDATION

It is recommended that the Council delegate to the Legal Services Manager the power to sign on behalf of the Council all necessary 'Authority and Instruction' forms as required from time to time:

- (a) To authorise and instruct the solicitors acting for the Council (including those solicitors employed by the Legal Services Unit) to undertake land conveyancing transactions electronically by e-dealing on behalf of the Council on the Land Information New Zealand internet based land registry system known as 'Landonline'; and
- (b) To comply with the requirements of section 164A of the Land Transfer Act 1952 and Rule 3.03 of the New Zealand Law Society's Rules of Professional Conduct.