

Retention and Disposal Schedule Report  
for  
Land Information New Zealand

Core Paper Records held in Processing Centres  
Phase 2:  
Title registration documents and instruments

Revised following Archives NZ 2<sup>nd</sup> review v.11

[Name Removed]  
February 2013

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**File/Document ID:**

**Date:**

October 2010

**Name of public office:**

Land Information New Zealand (LINZ)

**Public office contact:**

[Name Removed]

**Report author:**

[Name Removed]

**Disposal type:**

Retention and disposal schedule

**Coverage:**

Land Information New Zealand processing centres

**Scope:**

Core paper records relating to land titles registration held by processing centres that are not already covered by disposal authorities, otherwise known as *registered and lodged land title documents, or 'instruments'*  
*Excludes* mortgages, which are live until discharged  
*Includes* types of administrative records supporting land titles services not already covered by a disposal authority.

# 1 Executive summary

## 1.1 Overview

Land Information New Zealand (LINZ) developed a Core Paper Records (CPR) Strategy in 1999 to oversee the transition from paper to electronic format for Core Paper Records held by the then Branch and Regional offices of LINZ (now held by Processing Centres in Hamilton and Christchurch and in commercial off-site storage). The CPR Strategy was also intended to manage the core historical records to ensure long-term preservation and access. The Strategy covered Survey and Title records but excluded Crown Property Records. A retention and disposal schedule was developed and approved by the Chief Archivist in 2002 (DA1) covering many core land title and survey records. Some records were excluded from the DA1 schedule.

This current appraisal report is Phase 2 of a project to develop disposal authorities for all core paper records now held in regional Processing Centres and ultimately to combine the authorities into a single retention and disposal schedule for implementation across all Processing Centres. This project aims to 'fill in the gaps' so that all core paper land records belong to a disposal class in a disposal authority approved by the Chief Archivist.

Phase 2 covers the registered and lodged title documents<sup>1</sup> or 'instruments' that were excluded from DA1 (hereafter referred to as 'documents'). When DA1 was developed there was some controversy over some of the disposal recommendations for some documents, which led to their being excluded from the final schedule for DA1.

This appraisal report and retention and disposal schedule is slightly unusual in that the nature of the documents and the methods of aggregating them mean actually implementing disposal recommendations would be an enormous time and resource-intensive task. However, it is possible to assign an archival value and a future disposal action to the documents, even if the implementation of the recommendations is some time in the future. Therefore, as well as seeking authority for the disposal recommendations, LINZ will also require an agreement for deferral of transfer of these records.

The documents have been appraised according to type of document, rather than as a whole (that is, as 'all documents') and disposal recommendations have been made according to the evidential and informational value of each type of document, and whether it is 'the best record' of the particular action or transaction on land that it records.

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<sup>1</sup> This is a land-title processing specific term that does not mean document in the generally understood recordkeeping sense. See this appraisal report (Section 7) and the appraisal report for DA1, pp9-12 for a discussion of the nature of the registered and lodged documents.

Some records have been recommended for retention following discussions with Archives New Zealand regarding the social history or other research value in the records.

The retention and disposal schedule lists each type of document and provides a disposal recommendation and archival value for each type. There are three disposal actions in the schedule. They are:

- Retain as public archives
- Destroy
- May be destroyed when all business, administrative or legal use ceases.

LINZ staff consulted during the development of this schedule were concerned about the use in the schedule of the term 'destroy' without any qualifiers. There is a view that all parts of the title record, including the registered and lodged documents should be retained by LINZ indefinitely, and that therefore a disposal recommendation of destroy is misleading.

However, the Chief Archivist cannot agree to a disposal recommendation of 'retain by agency', because this is not a disposal action under the definition provided in the Public Records Act 2005. Therefore the disposal recommendation for some types of documents that are not recommended for retention as public archives has been combined with the retention period and worded as: 'May be destroyed when all business, administrative or legal use ceases'.

Because of the difficulty of separating the 'dead' documents from the 'live' documents, the retention period for the records covered in this schedule is not expressed as a specific time period, even for those records that are recommended for retention as public archives.

Records covered by this appraisal were identified from the LINZ Core Paper Records Inventory, which lists all records held by Processing Centres. The inventory does not provide full and accurate quantities of records.

## ***1.2 Percentage of records recommended for retention and destruction***

At present it is not clear how many linear metres of these records are held by LINZ. A conservative estimate is that there are some 15,000 linear metres in storage. Because of the methods of aggregating the records it is not possible to ascertain how many of those records are 'dead' and thus can have a disposal action applied. Therefore it is not possible even to estimate the percentage of records that will be destroyed or retained as archives. There are very few document types that have been recommended for retention as archives.

This is a retrospective schedule for existing hard-copy documents. There are no on-going paper records now created by LINZ, as the title record is now fully electronic. Therefore the quantity of records held in hard copy will not increase.



## 2 Appraisal circumstances

LINZ has developed a project charter to oversee the management of its paper and electronic records. Seven key projects have been identified. These are:

1. A Digitisation Plan
2. The Virtual Counter
3. Appraisal and Disposal of Records
4. Storage Plan
5. Transfer Plan
6. Crown Property Access Project
7. National Records Management Plan

The Core Paper Records (CPR) Strategy developed in 1999 oversaw the transition from paper to electronic format for Core Paper Records held by the then Branch and Regional offices of LINZ. The CPR Strategy was also intended to manage the core historical records to ensure long-term preservation and access. The Strategy covered Survey and Title records but excluded Crown Property Records. A retention and disposal schedule was developed and approved by the Chief Archivist in 2002 (DA1). A further disposal authority for post-1960 discharged mortgages was approved by the Chief Archivist in 2003 (DA180).

Subsequent work by LINZ has identified some 168 record sets (groups of similar records) held by LINZ in the main processing centres. Of the identified record-sets, 72 were excluded from the DA1 retention and disposal schedule because they were either to have their archival value determined at a later date or they did not appear to be "core" records; i.e. records common across all offices.

This current appraisal report is Phase 2 of a project to develop disposal authorities for all core paper records now held in regional Processing Centres and ultimately to combine the authorities into a single retention and disposal schedule for implementation across all Processing Centres. This project aims to 'fill in the gaps' so that all core paper land records belong to a disposal class in a disposal authority approved by the Chief Archivist.

Phase 2 covers the registered and lodged title documents<sup>2</sup> or 'instruments' that were excluded from DA1. When DA1 was developed there was some controversy over some of the disposal recommendations for some documents, which led to their being excluded from the final schedule for DA1.

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<sup>2</sup> This is a land-title processing specific term that does not mean document in the generally understood recordkeeping sense. See this appraisal report (Section 7) and the appraisal report for DA1, pp9-12 for a discussion of the nature of the registered and lodged documents.

Reasons for separating the retention disposal schedule development process into 2 phases have largely to do with the nature of the registered and lodged title documents. It was considered that the documents required a different type and degree of consultation about their disposal recommendations.

Implementation of the disposal recommendations for documents will also be significantly different from the implementation of disposal of records covered by the Phase 1 schedule, because of the quantity and methods of aggregation of the documents.

Phase 1 covered:

- Records that were common to several or more than one branch or regional office prior to the closing of those offices in 1999-2000, and were then transferred to the custody of one of LINZ's processing centres (Auckland, Hamilton, Christchurch and Dunedin)
- Records that were excluded from the retention and disposal schedule approved by the Chief Archivist in 2002 (DA1), including Crown Property records
- Records that are not registered and lodged title documents or 'instruments'.

Phase 3 will cover the main correspondence/filing systems used in district offices.

The records covered in this appraisal are either held in Processing Centres or are in commercial off-site storage.

### 3 Public office (Agency) information

<b>Name of public office:</b>	Land Information New Zealand, National Office
<b>Alternative name/s:</b>	LINZ
<b>Public office's physical location/s:</b>	Wellington
<b>Year established:</b>	1 July 1996
<b>Year disestablished:</b>	Current
<b>Name of controlling public office/s:</b>	None
<b>Name of controlled public office/s:</b>	Land Information New Zealand Processing Centres Christchurch, Auckland, Hamilton, Dunedin, Wellington

Land title administration and surveying have been the responsibility of various government agencies since the beginning of government administration in New Zealand. Despite the interrelationship between land title administration and surveying, the two functions were, until the late 20<sup>th</sup> century, the responsibilities of different agencies. When the Department of Justice was disestablished in 1996, the two functions were brought within the one agency, Land Information New Zealand, (LINZ) from the Department of Survey and Land Information (DOSLI) and the Land Titles office (part of the Department of Justice).

<b>GAIMS code</b>	<b>Agency name</b>	<b>Dates</b>
AAAC	Colonial Secretary's Office/Department of Internal Affairs	1841 - 1858
ABNH	Land Titles Office	1841 - 1995
ABWN	Land Information New Zealand	1996 - current

The records covered by this appraisal may have been created by any one of the agencies listed above, but are now in the custody of LINZ. The records are those created and maintained by the branch and regional offices only. Prior to the closing of branch offices, there were branches in the following places, although land registration functions were not carried out in Rotorua, Whangarei, Palmerston North or Whanganui:

- Invercargill (records now held by Dunedin Processing Centre)

- Hokitika (records now held by Christchurch Processing Centre)
- Blenheim (records now held by Christchurch Processing Centre)
- Nelson (records now held by Christchurch Processing Centre)
- Napier (records now held by Wellington Processing Centre)
- Gisborne (records now held by Wellington Processing Centre)
- New Plymouth (records now held by Hamilton Processing Centre)
- Whangarei (records now held by Auckland Processing Centre)
- Rotorua (records now held by Hamilton Processing Centre)
- Palmerston North (records now held by Wellington Processing Centre)
- Whanganui (records now held by Wellington Processing Centre).

Regional Offices were renamed Processing Centres in 2002. Some Processing Centres were closed in 2010 and 2011. Records from these centres will be transferred to off-site storage.

## 4 Methodology

LINZ has, since the beginning of the Core Paper Records Strategy in 1999, developed an inventory of all records held by the branch and regional offices, and now by the Processing Centres. This inventory lists records by general type, land district, specific name, and other details of storage and custody. The thesaurus used to identify the type of record is large and there are some overlapping terms, as well as somewhat generic terms such as 'deeds', which may refer to a deed of title (a core land record covered by DA1) or to a deed of easement (a registered document excluded from DA1). There are few date ranges provided for entries, unless they are part of the specific title provided, and quantities are not always recorded.

### 1. Remove 'non-core' records

The first step in this appraisal was to work through this inventory to remove the 'non-core' records; that is records specific to a particular land district. Most of these records are 19<sup>th</sup> century or early 20<sup>th</sup> century records and will be appraised and disposed through Archives New Zealand Legacy Records projects in later appraisal projects separate from this one.

At this point it was also determined that Branch and Regional office main post-1914 correspondence/filing systems be excluded from this appraisal and the Phase 1 appraisal, as they are not 'core' land records. These records will be appraised later.

### 2. Sentencing process

Once the 'non-core' records were removed from the inventory, a sentencing process was undertaken to identify all records that were covered by DA1. The DA1 implementation guide was used to assist in this process. It lists all the record sets identified by LINZ at the time of the appraisal (1999-2002) and notes either the DA1 class number or that the record set is excluded from

DA1. The sentencing process was somewhat complicated because the descriptive terms for the records had changed from the record set descriptions used when the DA1 appraisal was undertaken, and use of the current thesaurus terms has not been consistent between Processing Centres.

The sentencing process involved not only marking up the inventory list with the appropriate DA1 record class, but also:

- viewing records in the Wellington Processing Centre to further identify their content and context
- discussing record types with subject matter experts within LINZ
- asking Processing Centres to provide further information about some records listed in the inventory.

The result of the sentencing process was a list of records that were either specifically excluded from DA1 or did not fit any of the DA1 classes and/or did not appear to be included in the record sets covered by DA1.

This list was then separated into the records to be covered by Phase 1 and the registered and lodged documents that are appraised in this Phase 2 report.

#### **4.1 Schedule format**

The format of the schedule in general follows the format developed for DA1. All schedules developed from this project will be combined into one retention and disposal schedule for implementation use by LINZ.<sup>3</sup> The numbering of the classes in this appraisal includes additions to classes listed in the DA1 schedule, and then start at 19 (the classes in DA1 are from 1–12 and the classes in Phase 1 from 15-18). The numbering also follows the DA1 system, in that sub-classes are assigned alphabet letters rather than numbers (e.g. 20a, 20b, etc.). However in this schedule the retention period and final disposal has been combined (see section 4.1 below) and an extra column has been added to identify that internal permission for disposal is required.

The schedule has fields for:

- Reference
- Class
- Document type/description
- Record evaluation
- Final disposal recommendation and LINZ retention period
- Permission for disposal

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<sup>3</sup> DA numbers will be included in the integrated schedule.

#### **4.1.1 Disposal class reference numbers**

Following formal review of the schedule, Archives New Zealand asked that a further class be added to the schedule to cover all documents dated up to 1924. This necessitated changing the following class numbers. Therefore the final iteration of the schedule has two sets of class numbers to provide a cross-reference to previous class numbers that have been discussed by Archives New Zealand, external consultees and LINZ. Once the schedule has been approved the cross-reference field will be removed, as it will not be relevant for implementation.

#### **4.1.2 Disposal recommendation**

LINZ staff consulted during the development of this schedule were concerned about the use in the schedule of the term 'destroy' without any qualifiers. This is in part because in the past records may have been destroyed without any consultation and they were concerned that the schedule could potentially be used without reference to an implementation guide or other explanatory document. In addition, there is a view that all parts of the title record, including the registered and lodged documents should be retained by LINZ indefinitely, and that therefore a disposal recommendation of destroy is misleading.

However, the Chief Archivist cannot agree to a disposal recommendation of 'retain by agency', because this is not a disposal action under the definition provided in the Public Records Act 2005. Therefore the disposal recommendation where records are not recommended for retention as public archives has been combined with the retention period and worded as: 'May be destroyed when all business, administrative or legal use ceases'.

#### **4.1.3 LINZ retention period**

Because of the difficulty of separating the 'dead' documents from the 'live' documents, the retention period for the records covered in this schedule is not expressed as a specific time period, even for those records that are recommended for retention as public archives. See section [7.5.3](#) for further discussion on this point.

#### **4.1.4 Authority for disposal**

This column has been added so that it is clear that no disposal, whether destruction or transfer, of registered and lodged documents may be carried out without permission from the Registrar General of Land (RGL). In the case of some documents that are related to the acquisition of Crown land, the Manager Crown Property Regulatory group (MCPR) has also been added to ensure that there can be a review by this manager to ensure that other records from which the copies of the lodged documents originated are still in existence, before any disposal takes place. .

## 5 Consultation

### 5.1 *LINZ staff consulted for the development of the schedule*

[Name Removed]	Property Rights Analyst, Wellington
[Name Removed]	National Records Coordinator
[Name Removed]	Property Rights Analyst – Titles, Wellington
[Name Removed]	Portfolio Manager, Crown Property
[Name Removed]	Help Desk Technical Advisor, Hamilton
[Name Removed]	Communications Co-ordinator
[Name Removed]	Advisor Crown Property Regulatory
[Name Removed]	Senior Advisor (Cadastral Survey)
[Name Removed]	Senior Advisor, RGL
[Name Removed]	Registrar-General of Land
	Core Paper Records Steering Committee Processing Centre representatives (from Auckland, Hamilton, Wellington, Christchurch and Dunedin)

### 5.2 *External stakeholders consulted for the development of this schedule*

LINZ managed the external consultation process by sending letters to its full list of stakeholder contacts (250 contacts) notifying them of the appraisal report and retention and disposal schedule and directing them to the documents published on the LINZ web-site. A total of 16 responses were received, some of which related to implementation or other issues not germane to this appraisal report.

Appendix Two contains a list of all stakeholders from whom comments were received.

Appendix Three contains copies of the substantive comments received.

See sections 9.4.1, 9.4.3, 9.4.4 and 9.4.8 for specific discussion of comments from stakeholders.

## 6 Relevant precedent

The appraisal report and schedule and appraisal job file for DA1 (OP99/81) provided contextual information and discussion of the documents ultimately excluded from DA1 classes. Some of the discussion in the DA1 appraisal report has been repeated here, as the nature of the records has not changed since that report was written.

The appraisal report and job file for records held in the "Muniments Room" of LINZ National Office (2001/41) was also consulted to ensure that no records already appraised were covered in this appraisal.

Other jurisdictions' disposal authorities for similar records were also consulted in the development of this retention and disposal schedule. Australian state and territory records/archives authorities that have disposal authorities for the records of land registration are:

- Public Record Office Victoria – Retention and Disposal Schedule for Records of Land Registry PROS 07/10
- State Records Authority New South Wales – Department of Lands (Land and Property Information), Geographic Names Board and Board of Surveying and Spatial Information Functional Retention and Disposal Authority FA238
- Queensland State Archives – Department of Environment and Resource Management Retention and Disposal Schedule QDAN 653
- ACT Government Territory Records Office – Territory Records (Records Disposal Schedule – Registrar-General's office Records) Approval 2006 (No. 1)

In all cases except PROS 07/10, the recommendation is for the retention of instruments (dealings) or documents as archives. However, in the case of the Queensland and New South Wales records, the primary record of most of these documents is in electronic format, and the other formats of the records (microfilm or paper) are authorised for destruction once the electronic format is verified and any other conditions have been met<sup>4</sup>.

The ACT authority provides for the retention of original instruments up until a point when instruments were captured in an electronic system<sup>5</sup>.

PROS 07/10 recommends the destruction of most instruments after various periods of time:

- Transfers, easements, covenants and 'other measures which impact on the proprietorship of land titles' are to be destroyed after all statutory obligations have been met<sup>6</sup>

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<sup>4</sup> FA238, classes 8.9.6, 8.9.7 p102; QDAN653, classes 6.14.1 - 6.14.6, pp 72 - 74

<sup>5</sup> ACT RDS 2006 (No.1), class 4.4.1, p.36

<sup>6</sup> PROS 07/10, class 2.2.0, p. 10



- Caveats on title registration are to be destroyed 15 years after the lapse or withdrawal of the caveat<sup>7</sup>
- Body corporate liaison records (notifications of existence, establishment and winding up, changes of contact details, adoption and forwarding of rules) are to be destroyed seven years after the body corporate is wound up.<sup>8</sup>

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<sup>7</sup> PROS 07/10, class 2.3.0, p. 10

<sup>8</sup> PROS 07/10, class 2.11.0, p.15

## 7 Background information to the evaluation of records

### 7.1 *Electronic land register*

LINZ has been moving from paper to electronic records systems since the inception of Landonline in 2000. Landonline is an integrated land information and transaction service which creates a digital register, which is now the official land record. All survey and title information now received by LINZ is either received in digital format or converted to digital format. Back-capture projects have converted some but not all of the registered documents.

Not all registered documents are being digitised automatically. All titles, survey plans and the majority of live easements, live caveats, live leases, live covenants and live deeds existing as easements on a title have been back-captured. Other documents will be scanned 'on demand'; that is, if requested, the paper document will be retrieved and then scanned into Landonline.

Landonline was implemented prior to the development of the Archives New Zealand Digitisation Standard, so it may not meet the requirements of that Standard that must be met before digitised originals can be authorised for destruction.

### 7.2 *System of land administration*<sup>9</sup>

Registers and lodged documents are part of the *Torrens (Land Transfer) System* adopted by New Zealand in 1870 with the passing of the Land Transfer Act. It is a system of registered and state guaranteed titles

The fundamental principles of the Act are:

- It should not be necessary for a person who is dealing with land to investigate the history of the registered proprietor's title
- Everything that is registered should give an indefeasible title in the absence of fraud
- A registered interest should be secure.

The *Deeds System* which preceded the Torrens System was a system in which instruments were registered. Registration of the instruments did not confer validity or pass title. Execution of the instrument passed title and created the estate or interest. From 1924, Deeds land was compulsorily brought under the Land Transfer Act. The Deeds System is therefore mainly a historical system only.

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<sup>9</sup> The discussion under this heading is in large part taken from the appraisal report for DA1 (OP99/81)

There are separate systems for administration of Crown land and Maori land although some Crown land and Maori land is registered in the Torrens system. While both Crown and private land is administered by LINZ, Maori land title is administered by the Maori Land Court (MLC), although LINZ is responsible for the system of survey for Maori land and for registration of MLC Orders and documents relating to Maori land within the Land Transfer system.

### **Land title records**

The Land Transfer Act 1952 provides for the creation and maintenance of a number of records, most importantly the land title register. The register is the legal and evidential record of transactions concerning a parcel of land. The backbone of the register is a record of every grant of land and every certificate of title to land. Everything else affecting the land in each grant or certificate of title is recorded or noted on the register as a memorial. That is, basic information from the registered documents is recorded (memorialised) on the title documents. The register comprises title documents, plans (any plan that forms part of the legal description) and registered and lodged documents.

In the terminology of the Land Transfer Act, title documents constitute 'a separate folium of the register' while the instruments (plans and registered and lodged documents) are deemed to be 'embodied in the register'.<sup>10</sup>

Originally the register was in the physical form of bound volumes. From 1961 it became a loose-leaf system, with the title documents, plans, and registered and lodged documents aggregated in separate sequences. Title documents received a Volume and folio number, while documents received only a document number. Registered documents that were considered to be a folium of the register received both a document number and a volume and folio number, effectively meaning that they are treated as title documents.

Until 1961 the registered and lodged documents were generally managed in separate sequences by type of document. After 1961 they were usually aggregated into single sequences of all registered and lodged documents and given a sequential number. In some registries the sequential number was prefixed with an alphabetical prefix.

With Landonline the register has become an electronic record and the electronically stored titles information is the authoritative record.

## **7.3 Types of documents**

There are several types of documents that are generally described as registered and/or lodged documents.

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<sup>10</sup> A Senior Advisor from the Office of the Registrar General of Land has noted that the terminology in the Land Transfer Act was in part derived from the physical processes that were carried out at the time of the Act's drafting (interview with [Name Removed], 13 May 2010)

1. Registrable documents/instruments - the caveat, easement, covenant, etc. documents that create or give notice of an interest in land. There are many different types of documents that may be lodged and registered against land under many different statutes. Documents that cancel, withdraw, revoke, surrender the interest in land registered in earlier documents are also registrable instruments.
2. 'Authority documents' that provide evidence of an individual's legal authority to deal with land. Generally there is a statutory duty to send authority notifications to the Registrar. These authority records include powers of attorney, Friendly Society and Credit Union returns, Trustees returns, Deeds of appointment.
3. Supporting documents, such as certificates of death or wills, which are provided as support to the registrable or lodged document, usually a transmission of rights in land.

Several other records are listed in the Core Paper Records (CPR) Inventory that relate to administrative records supporting the titles process. Several of these types of records have already been covered by DA1. The records not covered by DA1 have been included in this schedule so as to provide coverage of all records in the CPR inventory.

### **7.3.1 Documents excluded from this retention and disposal schedule**

Mortgage documents, including variations, are excluded from this appraisal and retention and disposal schedule, because they are live documents unless discharged. Once discharged, mortgages were usually filed in a separate sequence of 'discharged mortgages', which are the non-current records to which a disposal recommendation can be made. DA180 provides a disposal authority for discharged mortgages.

## **7.4 Systems of arrangement**

As noted above, since 1961, most documents have been arranged in simple numerical or alphabetically-prefixed numerical sequences, sometimes by type, but more generally by date of receipt. Prior to 1961, most documents were kept in sequences by type, again numbered and arranged by date of receipt. Naming conventions for documents have differed between district land registries, so that it can be difficult to determine exactly which documents are being described in a particular sequence in the CPR Inventory. In addition, some land registries separated document types out at a lower level of detail than others, so that, for example, in some offices a sequence of "certificates" might contain several different types of certificate, while in another office, at least some certificates would be described separately.

There are however, several post-1961 sequences of single document types, which have been created usually because of specific practices at a particular Land Registry Office. During the conversion of records into Landonline, certain types of 'live' documents

were extracted from the normal sequencing system to be scanned. These records were then filed separately (i.e. were not put back into the existing sequence). Although these new sequences were usually made up of a number of different document types, there is at least one instance of a post-digitisation single document type sequence. It is possible that if it is decided that more types of documents will be digitised, more such new multiple document type or single document type sequences will be created.

#### **7.4.1 'Dead' and 'live' documents**

'Live' documents are current documents. 'Dead' documents are those that have been discharged or superseded. Discharged and superseded documents are not removed from the sequences (except for discharged mortgages), so that any given sequence of documents (whether a specific type of document or not) will contain both 'dead' and 'live' documents.

Discharge documents themselves can be registered and lodged documents (e.g. discharge of statutory land charge, discharge of mortgage, cancellation of consent condition). The discharge or superseding of a document is memorialised in the register against the certificate title to which they refer. The register provides the authoritative record, but will not contain all the information from the document, particularly if it is for a partial cancellation or withdrawal, because the detail in the document will identify which parts have been cancelled or withdrawn.

### ***7.5 Implications of assigning archival value to registered and lodged documents***

#### **7.5.1 Cost of storage**

One of the reasons for LINZ undertaking this project is the cost of storage of the paper records. LINZ has some 15,000 linear metres (a conservative estimate) of registered and lodged documents in commercial storage.

As noted in the appraisal report for DA1, for Archives New Zealand to consider the transfer to its custody of any proportion of these records, 'the evidential or informational value needs to be high'.<sup>11</sup> The costs associated with the long-term storage and preservation by Archives New Zealand of these records will be high.

#### **7.5.2 Cost of implementation of disposal action**

The appraisal report for DA1 noted that 'it would be unfeasible to recommend the retention of certain types of documents'<sup>12</sup> because of the current system of arrangement (that is, arrangement into numerical sequences regardless of document type).

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<sup>11</sup> OP99/81 appraisal report, p. 9

<sup>12</sup> Idem

That appraisal report was written before the completion of the Core Paper Records Inventory, which now shows that there are many sequences of single document types, not all dating from before 1961.

Thus it is possible *actively* to assign different archival values to different types of documents if they are described separately. It is possible to assign *conceptually* the same archival values to the same types of documents even though they are not separately described or physically arranged. The effect of assigning value would be nugatory as the implementation costs of separating different types of documents from the numeric sequences would be so high that such a process could not be carried out.

Given that 'dead' and 'live' documents are kept in the same sequences, it is also unlikely that any disposal action will be carried out on large pre-1961 single document sequences, because separating the 'dead' from the 'live' documents would also be a costly exercise.

### **7.5.3 Administrative value to LINZ and continuing custody**

As noted in the appraisal report for DA1<sup>13</sup>, many of the core land title records identified as being of permanent archival value are of administrative value to LINZ and must be retained by LINZ for some considerable time. All 'live' documents are necessarily of administrative value because they are still live.

However, the 'dead' documents are also still considered by the Registrar-General of Land to be a permanent part of the register that may be required for administrative purposes.

The practical effect of assigning archival value to registered and lodged documents is very little because 'dead' documents even if of archival value and no longer of administrative use are not likely to be separated from the 'live' documents and transferred to the custody of Archives New Zealand in the foreseeable future, except where entire sequences of documents comprise all 'dead' documents.

Nevertheless, the Public Records Act 2005 requires the transfer of public records over 25 years old to the custody of the Chief Archivist (s. 21). It also allows for the deferral of transfer of public records over 25 years old, for a specified time, by agreement between the Chief Archivist and the administrative head of a public office (s. 22).

Many of the registered and lodged documents held by LINZ are over 25 years old, and some are considerably older. LINZ will be applying to the Chief Archivist for deferral of transfer for registered and lodged documents.

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<sup>13</sup> *ibid*, p.24

#### **7.5.4 Why assign archival value?**

Why assign archival value to the documents at all if it is unlikely that any disposal action can be implemented in the foreseeable future?

Regardless of whether or not the disposal action can be implemented at the present time, and which public office has custody of them, the records still have an archival value; that is, evidential and/or informational value.

While presently there are no plans to digitise all registered and lodged documents, that might not be the case in the future. While presently Archives New Zealand might consider the costs of permanent preservation of several kilometres of documents outweigh considerations of value, that might not be the case in the future.

With reference to the administrative value of the records, the appraisal report for DA1 makes the point that the older the records are, the more likely the primary users will be historical researchers, which means that the administrative value for LINZ is lower. In addition, '[t]here comes a point...where the age of the record means that preservation [conservation] needs will outweigh the administrative convenience of having the records close at hand' and there will be a need for the records to be managed by Archives New Zealand.<sup>14</sup> This can only happen if archival values have been assigned to the records.

It is therefore appropriate to evaluate the records and assign archival value to them, even if they will be maintained by LINZ for some time in the same arrangement as at present.

## **8 Evaluation of records**

This section discusses issues that have been considered in developing the disposal criteria and evaluating the *archival value* of the records covered by this retention and disposal schedule. As noted in section [4.1.1](#), the on-going administrative value to LINZ is identified in the combined disposal recommendation and retention period for records not recommended for retention as public archives.

### **8.1 Previous considerations of value**

The appraisal report for DA1 notes that although the register is a continually existing legal record, to be maintained in its entirety over time irrespective of format; '...its constituent parts (the title documents and registered documents) may have

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<sup>14</sup> Ibid, p.24

limited life span... In all cases, the cancelled, discharged or superseded document effectively loses its legal evidential value and becomes largely an historical record'.<sup>15</sup>

In fact, as noted in section 8.2 below, the 'dead' document only loses its legal evidential value *as a record of interest in land*. It does not necessarily lose its evidential value *as a record of the process of registration of interest in land*. Nor does it necessarily lose its informational value. The information it contains may be of archival value in terms of research use.

The appraisal for DA1 considered the registered and lodged documents as a whole and initially recommended the retention as public archives of all documents registered and lodged prior to 1 April 1960. The appraisal report states that though 'there is merit in the argument to retain only the title documents' [as having the highest informational value], 'the potential for public disquiet over such a decision is great. It would thus seem prudent to apply a grandfather clause to the registered and lodged documents'<sup>16</sup>.

The date of 1960 was chosen because of the significant changes in recordkeeping practices in land registries from 1961, as discussed in section 7.2 above. It was therefore in part a decision made in consideration of the implications of implementation of the recommendations. If archival value is considered separately from implementation issues, then this date becomes irrelevant.

A further recommendation was made that all authority records, with the exception of pre-1914 Powers of Attorney, Friendly Society and Trustee notifications, could be destroyed. The date of 1914 was chosen as it is a grandparent date commonly applied by Archives New Zealand, and has no significance in terms of recordkeeping practices within land registries. It was considered that records from the 19<sup>th</sup> century had intrinsic value because of age and the relative scarcity of documents from the 19<sup>th</sup> century<sup>17</sup>.

It seems therefore that an intrinsic value based on age was applied to registered and lodged documents, which assumes that research value is higher for the older records, but the same for most types of records. There is some validity in this view, as earlier records tend to contain fuller information as opposed to more modern documents of a standardised format and content.

When the original recommendations of this appraisal were consulted on, there was some opposition from some interest groups to the recommendation for destruction of post-1961 registered and lodged documents and post-1914 authority records. Some of the feedback indicated that some registered and lodged documents were perceived to have a higher long-term value than

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<sup>15</sup> Ibid, p. 8

<sup>16</sup> Ibid, p.10

<sup>17</sup> Ibid, p.15



others for the purposes of research.<sup>18</sup> This feedback was particularly in relation to the value of some documents to Treaty of Waitangi research claims, notably, Powers of Attorney documents and lease documents.

After considerable discussion between LINZ, Archives New Zealand and interest groups, the retention and disposal schedule for DA1 was amended to exclude most registered and lodged documents and most authority records.

At the time of the appraisal for DA1, discharged mortgages were one of the types of registered and lodged documents under consideration. Much of the discussion in the DA1 appraisal report was around the potential research value of discharged mortgages, in particular the value of the financial data they contained. Since then a separate disposal authority has been approved for discharged mortgages (DA180).

In the 1960s and 1970s, National Archives had some discussion with the Land Titles Office regarding the value of leases, transmissions and transfers. Leases and transmissions were determined to be records required to be kept 'indefinitely' and transfers were considered of lesser value, although no formal disposal authority was developed from these discussions. At some point it appears that caveats were authorised to be destroyed five years after the date of total withdrawal.<sup>19</sup>

## ***8.2 Evidential and informational value of documents***

There are many different types of documents that can be registered against land under many different statutes, some of which are specific to certain issues or actions, such as Treaty of Waitangi claims settlement legislation, or legislation to create a National Park.

For LINZ's current purposes, it may be more appropriate and potentially less controversial to assign archival values to types of registered and lodged documents (including authority records) than to consider them all of equal value, with only age to differentiate them. This is not to say that criteria of age, scarcity and the significance of particular historical periods have not been considered in this evaluation.

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<sup>18</sup> OP99/81, pt 6 consultation documents

<sup>19</sup> NA 2/47/1, pts 1- 4

As noted in section 7.4.1 above, 'dead' documents have little legal evidential value as a record of interest in land, because the interest no longer applies. However, a Senior Adviser for the RGL has noted:

*'Even after the documents are cancelled, discharged etc. or superseded, they still form part of the register and the records can be used to prove the facts of registration (e.g. what was registered, who signed and when) and the validity of the registration. Customers also have a legal right of access to these records.'*

*Even though some of the records originate from other sources (e.g. Maori Land Court, Government departments and territorial authorities) and may be retained by those agencies, the documents lodged/registered/deposited with LINZ are the authoritative records of what was registered/lodged/deposited against the title. These records may be used to confirm the validity of what was lodged/registered/deposited with LINZ and the actions undertaken by LINZ.<sup>20</sup>*

In other words, the registered and lodged documents are considered to be an integral part of the register whose administrative value does not cease when the information they contain is no longer of current relevance to the property to which they refer. They retain an administrative evidential value for the title registration process.

Consideration then has to be given to the informational value of the records for research purposes. The main issues here are:

- Do the records provide information about possession and use of the land that cannot be obtained elsewhere, and are they the best record of the particular information being sought?
- Are they records of an action or transaction about the land that is likely to be of research interest in the future?

The relative value of the information is also a consideration, and the objectives of the Archives New Zealand appraisal policy have been used as a measure for that value, particularly the memory and the accountability objectives.

### **8.2.1 Are the documents the primary records of an activity or transaction?**

The title records as a whole, both titles and documents, provide the *primary evidential* record of the *activity of land registration*. Although summary details from the document are memorialised on the title, the document will still be required to confirm the validity of the document and of the signatures, which do not appear on the title itself. The document may also contain other information beyond what is recorded on the register. For example, easement documents include the rights and powers and any amendments to implied rights and powers. For research into the legality or validity of rights in land, then, some types of documents, such as transfers and easements, will be the best source of information and the best evidence.

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<sup>20</sup> Email from [Name Removed], Senior Advisor, Office of the RGL, 26 April 2010

There is a distinction between the primary record of the registration of the transaction about the land and the *primary record about the action or transaction that is being registered*. Records of the consultation during the development of DA1 show that often the focus of users of the records was on the information the document contained about the action on the land, rather than information about the registration of that action.

The question is then whether *all* 'dead' documents are the best source of evidence and information about the specific activity or transaction that the particular document type records. That is, are they the primary evidence of and the primary information about the activity or transaction, or only the primary evidence of the registration of that action or transaction?

In some cases, the registrable documents are certificates or notices regarding the actions or agreements of local authorities or government agencies with registered owners or others regarding rights in land or conditions imposed upon transactions in land. In those cases, the primary and more complete record of the specific action, condition of use, or use of land is the notice and other information held in the records of the issuing authority. For example, building, subdivision and resource consent records held by local authorities contain the full record of the consent process; the Māori Land Court holds the primary record of all orders of that Court required to be registered against land; and the Ministry of Economic Development holds the primary record of licensing for mining and exploration of land.

Some documents registered against land are required to be gazetted as well as lodged with a land registrar. Indeed, the document types 'gazette notices' and 'proclamations' are copies of such published notices that must also be registered against land titles. (Unfortunately, the memorial on the title does not refer to the Gazette number or page number, so that it is not possible to use the title document to track the publication of the notice).

Non-registrable documents, provided to support the document, may be copies of information from other sources (for example, death certificates) and therefore are not the primary source of the supporting information.

In other words, some documents are not the primary or the full record of an activity or transaction and more complete information about that activity may be created and maintained by another agency. Therefore, in terms of archival value the documents are not the best source of information about that activity or transaction.

Should the documents not exist, the titles register would still provide at least some summary information about the particular action in respect of the land, and arguably could provide an indication of which other agency might hold further information about the activity or transaction.

## **8.2.2 Ease of access to primary records**

An issue raised in the last round of consultation was the relative ease in which land title records could be researched in comparison with difficulties in accessing the primary source record in other agencies. This concern was also raised in some of the feedback received when external stakeholders were consulted as part of the development of this appraisal report. However, this consideration has to be weighed against the cost of retaining the records as opposed to advocating for improved access to arguably more valuable sets of records in other agencies.

There is also the issue of the continuing availability of the primary record; that is, have these records been identified as records of archival value? It is not LINZ's responsibility to retain records because other agencies have not, even if they should have retained them. Nor is it LINZ's responsibility to conduct a 'cross-agency' appraisal to ensure that the value of other records relating to or constituting the 'original' of the registered and lodged documents has been considered. Nonetheless, the issue of access has been considered in the development of the disposal criteria.

## **8.2.3 Does a summary record contain sufficient information?**

The basic information in registrable documents is recorded on the corresponding title document, so that the title record is a summary record of the documents affecting the title. However, as noted above, not all the details on the document are summarised on the title.

In the case of authority documents that are not registered against the title, frequently both indexes and registers have been created to assist land registry staff to quickly and easily find either summary information about the authority or to access the document itself. These indexes and registers are not a formal part of the titles registration process and may differ between offices, and also may not provide complete coverage of all the documents received.

A concern raised in the last round of consultation regarding disposal of documents was whether the summary information on the title was adequate for research purposes, especially in terms of research for Treaty of Waitangi claims or indeed other claims regarding the alienation of land or the management of leasehold land.

In regard to some transactions on land, it is sometimes necessary in investigating a title to go back to the documents themselves to confirm specific information that has not been summarised in the title register. For example, some documents creating easements have a plan showing the easement, which is not recorded on the title, but may be necessary to prove exactly where on the land the easement existed, even if the easement has been surrendered.

For the registrable documents to be of research value, then, there must be additional information in the registrable document or instrument that is not summarised on the title document.

#### **8.2.4 Difference between medium term value and permanent value**

Another question considered in the development of the disposal criteria is: are all documents of permanent value or should some be retained only for as long as is required to provide the information necessary for Treaty of Waitangi claims or other claims on land? That is; are the documents of research value for a limited period of time or is their value enduring?

There is a difference between medium term value and permanent archival value. Because the medium term can be a relatively long period of time, even in some cases over 100 years, there is a tendency to assume that records needed in the medium term therefore have archival value. This is not necessarily the case. If the records are used in the medium term and have no further research value after a specific time, then they do not meet the research use criterion for archival value.

#### **8.2.5 Intrinsic value**

An issue also to be considered is whether some of these documents have intrinsic value because of their age, the relative scarcity of documents from the time and any value they have as artefacts. Scarcity of older documents is not a consideration in this appraisal, as there are considerable numbers of registered documents extant.

The age of a document does not necessarily invest the information it contains with any greater meaning or informational value; however, there may be specific social, cultural or historical research reasons why the records should be kept as archives as an example of the type of activity carried out.

#### **8.2.6 Accessibility of registered and lodged documents**

As discussed earlier in this report, registered and lodged documents were either numbered and arranged in sequences according to document type or numbered and arranged in straight numerical sequences. There are some indexes and registers to specific types of documents. Otherwise, the documents are normally accessed by first having found the document number in the land title register. This means that a search for a particular document must start with the title record itself, which summarises the basic details if the document is registered.

Conceivably, research use might be made of sequences of individual document types, such as easements, covenants, etc., as it has in the past with discharged mortgages. However, most research use of the documents appears to be related to specific titles.

### **8.3 Disposal criteria**

Development of disposal criteria for the evaluation of these records has taken into account:

- the considerations discussed above
- the disposal criteria and recommendations made in the appraisal report for DA1
- the Archives New Zealand Appraisal policy
- administrative and research use of records as indicated by LINZ staff
- specific recommendations from Archives New Zealand regarding the retention as archives of particular records

#### **8.3.1 Criteria for the recommendation for the retention of records as public archives:**

- A1 Records that contribute to the establishment of legal rights in land; that is, records that supplement the summary record contained in the land title register by providing additional information that can significantly contribute to the settlement of legal claims and providing additional information that assists research into land rights
- A2 Records that provide the best evidence of the interaction of Government and citizens regarding legal rights in land and the impact of Government activities on land ownership; that is, records that supplement the summary record contained in the land title register by providing additional information that can significantly contribute to the evidence
- A3 Records that provide information supplementary to the summary record contained in the land title register that contributes to the protection, well-being and/or social benefit of the current and future generations; for example records that provide information about the condition of the land, or the impact on the environment of certain activities
- A4 Records that are treated by the Office of the RGL as title documents and numbered as part of the register, rather than being memorialised on the title. Retain as being 'title documents' as defined in DA1

- A5 Records that provide evidence of historical 'social security' activities, prior to the introduction of social welfare systems, such as records relating to the maintenance of destitute persons or to the protection of married women's' property, or provide evidence of historical social conditions such as consents under the Married Women's Property Act
- A6 Records that provide the best surviving evidence of an activity on the land because the primary record from which the instrument originated is known not to have been retained, such as Court orders where the original court records have not survived
- A7 Records that assist in the understanding of the creation and management of land title records, such as document transfer registers
- A8 Records are the 'best available' record because the primary record created by another agency has not or may not have been adequately maintained and LINZ and its predecessors have retained the 'best set'

### **8.3.2 Criteria for the recommendation for destruction of records as not of long-term value**

- D1 Records where the primary authoritative record was created and was/is held by another agency and where that record is likely to be retained as a record of permanent value, including records created by another agency but now held by LINZ
- D2 Records that are duplicated by other LINZ records recommended for retention as archives
- D3 Records that are duplicates of published information or information held in another format by LINZ
- D4 Records of short term administrative use
- D5 Records that do not meet any of the criteria for retention as archives; that is, they do not provide supplementary information of research value over the summary record on the title

## 9 Description of classes

The classes developed for this retention and disposal schedule include classes:

- based on types of records
- based on the disposal criteria
- that are extensions of classes in DA1.

The latter classes are numbered according to the classes in DA1.

The main class, of registered and lodged documents, has been broken into sub-classes representing for the main part the disposal criteria that have been used to determine their value.

It should be noted that documents can be named in different ways in different offices, and that some names can cover a wide range of documents; e.g. certificates, applications, memoranda. This adds to the complexity of determining archival value, as well as to determining if all types of documents have been captured in this retention and disposal schedule and report.

All document names listed in the following section have been taken from the Core Paper Records Inventory and/or the LINZ thesaurus developed to be used in the creation of the inventory. In some cases the documents listed are of a single type, such as easements; in others they represent a range of different documents, for instance, cancellations. It is entirely possible that some document types listed exist only in very small quantities within larger sets of documents listed simply as 'documents' in the CPR inventory.

### 9.1 *Administrative records supporting land titles services*

<b>Class number:</b>	<b>Class title:</b>
3	Administrative records supporting land titles services

The records in this class are types of records that were not covered specifically in class 3 of DA1. It is the intention of this report and schedule to add these types to the class 3 of DA1. Therefore the class numbering follows on from the DA1 class numbering.

Most of the records listed are of administrative value only to LINZ and have no permanent value. The exception is the document transfer registers. These registers record the transfer of documents between land registries when another land registry was created. Although they were created for administrative purposes only and ceased to be of use when the new land registry was fully operational, Archives New Zealand staff report that these registers assist in understanding how the document



sequences were created, numbered and managed. Therefore they have been recommended for retention as records of permanent value.

**Recommended for retention as public archives:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
3f	Document transfer register	Registers recording the transfer of documents between land registries, when a new land registry was established	A7

**Recommended for destruction by LINZ once administrative use has ceased:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
3g	Attendance deed	Summons to DLR to appear at Court as a witness or to provide or submit evidence	D4
3h	Declaration of loss register	Book recording all declarations of loss (of certificate of title) lodged with an office containing lodgement details, CTs affected, names of persons lodging. Used to track stages of registration and advertising	D4
3i	Notice of requirement to produce instrument	Notice from DLR to proprietor asking for production of instrument Land Transfer Act 1952, s. 211	D4

## 9.2 Authority records

Class number:	Class title:
4	Authority records

This class continues class 4 of the DA1 schedule.

Authority records are records that provide evidence that an individual has legal authority to deal with land. They include Powers of Attorney notifications, and notification of the names of trustees and deeds of appointment for trusts, Friendly Societies, Credit Unions and other bodies. They have an administrative value for LINZ in that they provide evidence that the person has or had the legal authority to act. They are in effect a 'point-in-time' record; that is they show that the named person can perform a transaction on the land at a particular time.

DA1 recommended the retention as archives of all indexes to authority records. The indexes record the name of the person(s) given the power, the nature of the power and when it was granted. However, as noted in section [8.2.2](#) they may not be comprehensive.

### **Friendly Societies**

In the case of Friendly Societies and other trusts covered by the Friendly Societies and Credit Unions Acts, most land registries appear to have created registers that record the changes of name of the trustees taken from the notices, so that there is a means of tracing changes without having to go back to the notices themselves. However, the registers are only partial because the name changes were only recorded if there was a transaction on the land. Therefore, changes of trustees over time when there were no transactions on the land are not recorded in the registers.

Because the Friendly Society registers are not comprehensive, their value as a summary record is limited. The notices or returns from which the registers are constructed do not contain any further information that warrants their retention as archives. In addition, a more comprehensive record of trustees for these organisations was created by the Registrar of Friendly Societies. Archives New Zealand holds Friendly Societies returns and other documentation of Friendly Societies from the late 19<sup>th</sup> century until the mid-1990s (series 537 and 581). More recent information about Friendly Societies and Credit Unions can be found in the electronic register maintained by the Companies office.

### **Powers of Attorney**

It has been argued that Powers of Attorney in particular are of research interest in the case of Treaty of Waitangi claims. A researcher consulted for the development of the DA1 schedule noted that land was sometimes alienated while managed by

Power of Attorney, and that therefore claim issues will rely on establishing what period the Power of Attorney covered and how the Power was authorised (and consequently whether it was in breach of Treaty principles). The specific powers may not be found in the Power of Attorney register therefore the Power of Attorney will need to be researched.

In the later part of the 20<sup>th</sup> century, many financial institutions and organisations lodged standard Powers of Attorney, which do little more than state the name of the person or organisation granting the Power, the person it is granted to and the date (which may be summarised in the indexes already recommended for retention in DA1). These types of Powers of Attorney are standard forms from banks identifying officers with signing powers and do not appear to have any archival value.

While some Powers of Attorney may provide additional information, the quantity of those that do not and that are effectively standard forms is greater. Given that the indexes containing some summary information are being retained as archives, the Powers of Attorney on the whole do not appear to contain sufficient extra information to warrant their retention as archives.

#### **'Deeds of appointment' and 'trustee notices'**

'Deeds of appointment' and 'trustee notices' are for trusts that are not Friendly Societies, etc. There are no registers or indexes for these documents, and they are not registered against the title. Given that no summary record exists nor any other source (either in LINZ or elsewhere in government) for a collection of these notices, and that these records may have some value for research into Treaty of Waitangi and other claims against land, it is recommended that they are retained as archives.

#### **Wills**

Wills are authority records under the Deeds system, required for proof of transmission of rights in land. As such they are not of evidential legal value, as the Deeds system is now a mostly historical system. The quantity of wills records remaining in land registries means that they are of little use for any kind of broad time-series analysis, and their use for genealogical research is limited to those persons whose wills have survived. These records are recommended for destruction by LINZ once administrative use has ceased.

Wills registers have been recommended for retention as archives based on advice from Archives New Zealand that they provide cross-references to related records in the Deeds and Torrens system.

#### **Recommended for retention as public archives:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
4f	Trustees/trustee notices	Notice of names of trustees in whom the property of the trust is vested	A1

4g	Deeds of appointment	Notices of the appointment of trustees	A1
4i	Wills registers	Wills were summarised in registers and indexed at the front of the volume	A7

**Recommended for destruction by LINZ once administrative use has ceased**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
4c	Powers of attorney	Authorising someone to act on behalf of another person, not a registrable document	D5
4d	Friendly Society and Credit Society notices/returns	Notice of names of trustees in whom the property of the trust/Friendly Society/Credit union is vested Friendly Societies and Credit Unions Act 1982 ( Friendly Societies Act 1909 and subsequent amendments)	D1
4e	Friendly Society Registers	The register records the changes of the names of trustees, which are taken from the notices, so that the register provides a record over time of the changes that have occurred to trustees when transactions are made on the land	D5
4h	Wills	Wills that were required under the Deeds system to provide evidence of transmission	D5

### ***9.3 Registered or lodged documents dated up to 1924***

Following reviews of this schedule by Archives New Zealand and comments by external parties, Archives New Zealand has recommended that all registered or lodged instruments up until 1924 are retained as archives. These records cover the period prior to compulsory registration under the Land transfer system. Therefore a specific class has been created for these records. All other following classes cover records dated from 1925. Note that this means a change in the numbering sequence of the classes from previous drafts of the schedule and report.

#### **Recommended for retention as public archives:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
19	Registered or lodged instruments dated up to 1924	Registered or lodged instruments of any kind dated up to 1924	A1, A2, A3

### ***9.4 Registered or lodged documents dated from 1925 that notify the cancellation etc. of other registered or lodged documents***

<b>Class number:</b>	<b>Class title:</b>
20	Registered or lodged documents dated from 1925 that notify the cancellation etc. of other registered or lodged documents

Some registered or lodged documents can only be cancelled or withdrawn by other documents. There are a number of different names for such documents. They include cancellation, discharge, release, revocation, withdrawal; and partial cancellation, discharge, release, rescission, revocation, surrender, withdrawal or expiry.

These documents are summarised in the titles register and generally, because they are an instrument cancelling, revoking, etc. another instrument, do not contain as much information as the original instrument. Partial cancellations, withdrawals, etc. must

be retained by LINZ so as to identify which part has been cancelled, withdrawn, etc. at least until all parts have been cancelled, withdrawn, etc.

These records are recommended for destruction once administrative use by LINZ has ceased, except where the documents relating to the action that is being cancelled, withdrawn etc. are recommended for retention as public archives. In those cases so too are the cancellation documents, as they complement the primary documents. (See also section 9.4.5).

#### Recommended for retention as public archives:

Sub-class	Document type	Description	Disposal criteria
20h	Surrender of easement	Transfer and Surrender of easement, Surrender of easement without transfer	A1
20i	Surrender of profit a prendre		A1
20j	Surrender of land covenant		A1

#### Recommended for destruction by LINZ once administrative use has ceased:

Sub-class	Document type	Description	Disposal criteria
20a	Cancellations	Includes: Cancellation of licence to occupy under Land Transfer Act 1952 s.121K Cancellation or expiration of consent notice under Resource Management Act	D5

Sub-class	Document type	Description	Disposal criteria
		1991, s. 221(5) Cancellation of bond under Local Government Act 1974, s 304, 348 Resource Management Act 1991, s. 109(2) Cancellation of amalgamation condition under Resource Management Act 1991, s. 241 - (The amalgamation condition itself is noted on the survey plan. A certificate of cancellation is required if the plan has been approved or deposited) Cancellation of building line restriction under Local Government Act 1974 Application to cancel a joint family home under Joint Family Homes Act 1964, s. 10(1)	
20b	Discharges	Includes discharge of: Family benefit charge Charging order Statutory land charge Lien Compensation certificate Certificate of consent Irrigation charge Earthquake Commission notice Tax charge	D5
20c	Removal of limitations as to title	Removes any limitations on title	D5

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
20d	Rescission of forestry licence	Document rescinding or setting aside the licences under Crown Forests Assets Act 1989	D5
20e	Rescission/ revocation of agreement	Document rescinding or setting aside the agreement	D5
20f	Revocation	Revokes an existing condition on the land	D5
20g	Surrender	Surrender of an interest in land under various legislation. Includes surrender of: Mining/Prospecting/Exploration Permit under Crown Minerals Act 1991 Surrender of mining licence Surrender of deferred payment licence Surrender of forestry agreement	D5
20k	Withdrawal	Includes withdrawal of: Caveat Notice of claim Notice of desire to acquire land under Public Works Act, s.18	D5
20l	Partial cancellation, discharge, release, revocation, surrender, withdrawal or expiry of covenant	Where the cancellation etc. does not apply to all the land or all the conditions on the relevant instrument	D5





## 9.5 Registered or lodged documents/instruments dated from 1925

Class number:	Class title:
21	Registered or lodged documents/instruments dated from 1925

This class covers most of the remaining registered or lodged documents. It includes sub-classes for registered or lodged documents where the action or agreement regarding a right in land or a condition imposed upon transactions in land is held in more complete or comprehensive form in the records of another agency, and for registered or lodged documents that are published records.

This class includes the orders of various courts, certificates and notices regarding resource and building consents from local authorities and certificates and notices originating from the action of other government agencies.

### 9.5.1 Court orders dated from 1925

There are several different types of Court order listed in the Core Paper Records Inventory. All are orders from a Court concerning rights in land or a charge on land. They include rating orders (a charge on land for payment of rates), charging orders, maintenance orders (a charge on land for the maintenance of destitute persons), memorials of judgement (a record of a Court judgement) and Māori Land Court orders concerning the status of and rights in Māori Land.

These records have been classed together because they are all documents which record a decision that is also recorded in another, primary record held in another agency.

#### **MLC orders**

*Partition orders* from the Māori Land Court are treated as provisional titles and numbered as a folium of the register. Following the precedent in DA1, that documents that are considered to be part of the title register are of archival value (e.g. mining licences) Māori Land Court partition orders are recommended for retention as archives.

Māori Land Court orders are recorded in the records of that Court and are retained permanently in that record. The complete summary record of the determination of the status of the land is assumed to be in the records of the Māori Land Court. MLC orders registered with LINZ are a record only of those orders in the Land Transfer system and of the recorded status at the time of any transaction. Although the Te Ture Whenua Maori Act 1993 requires that MLC orders are registered under the Land

Transfer Act, advice from the Māori Land Court is that partly because of the historic fragmentation of Māori land and also because many orders are not lodged, many MLC orders were not registered.<sup>21</sup>

In 2005, LINZ and MLC started a project to capture all these orders and as at June 2010 all orders have been registered, although in some cases consolidated orders have been registered. Therefore retention of the LINZ copies of MLC orders does not guarantee a complete record of all orders regarding Māori land. In response to the external consultation, a view from MLC was that the orders held by LINZ mostly comprise incomplete histories of a particular land block<sup>22</sup>.

However, the view from experienced Treaty of Waitangi researchers is that there are valid reasons for retaining MLC orders deposited with LINZ and its predecessors as public archives. The submission from the researchers is quoted below and provides more than adequate justification for retention as public archives on the grounds of research value, as the best available record and as records that contribute to the settlement of legal claims and the investigation of rights in land.

“We submit that, in our research experience using the records of the Court and those held by Linz, it cannot be assumed that all relevant Maori land records can be found in the MLC. In many cases the MLC records are incomplete and important records now only survive in Linz systems. It is not the case of it just being easier to find some Maori land records in Linz. In some cases the records held by Linz differ from those in the MLC (and vice versa) and in some cases records that are in theory duplicates of MLC records at Linz are now the only record that survives. It is our experience that, historically, LINZ predecessor agencies and the MLC have been poor at communicating with each other. Many actions of the MLC which should have been registered in the LINZ record have not been. For instance partitions and successions of registered titles were often not entered into the LTO record, public works takings and other actions entered onto the LTO record were often not entered onto the MLC record. In some cases, Maori land records were kept poorly by all agencies involved and any surviving records are valuable information because of this..... Where the MLC records of orders are so confused as to be unfathomable the Linz record can also provide an important alternative access route.

“In some cases where it may be assumed that the Maori Land Board or MLC are the primary record keepers, they in fact have kept records very poorly. An example is lands vested in the Maori Land Boards. During the process of vesting, the lands were converted from Maori to general land title. However the record of the lands have frequently fallen victim to poor record keeping by the Land Boards, and only incomplete records survive within the Land Transfer Act system. An example is former Maori Land Board (now Maori land incorporation) lands in the Whanganui district. The historically poor record keeping by the Maori Land Court has been illustrated by the current Maori Freehold Land Registration Project which has uncovered many difficulties with Maori land registration. It is therefore not wise to assume (without adequate checking) that because one agency is considered the primary record keeper it will hold all important records or that records in another agency are merely duplicates. Our research indicates that practical checks must be undertaken before such assumptions can be validly relied on. The only safe way to dispose of

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<sup>21</sup> OP99/81, pt. 6 consultation documents

<sup>22</sup> Email from [Name Removed], Records Preservation Officer, Hastings Māori Land Court, received by LINZ on Monday 7 February 2011

any records relating to Maori lands is on a case by case basis, and such a process would far outweigh the costs that might be incurred with record storage.”<sup>23</sup>

Therefore all MLC court orders and partition orders are recommended for retention as public archives.

### **Other court orders**

Other Court Orders, such as rating orders and charging orders are recorded in the records of the Court in which the orders are made, and do not contain enough additional information value to warrant retention as archives, particularly as the Court records of Court orders are likely to have been retained as archives. However, it appears that in the Auckland region there was some destruction of court order records dated prior to 1929, which means that the Court order instruments are the best surviving record from that particular land registry<sup>24</sup>. Although some Court records from Napier prior to the 1931 earthquake have survived and are held by Archives New Zealand<sup>25</sup>, it seems prudent to also recommend the retention of any Court orders from Napier prior to 1931. Therefore separate classes have been created to cater for the retention of Court orders from Auckland prior to 1929 and Napier prior to February 1931.

Archives NZ holds 19 series of maintenance order records<sup>26</sup> and four series of records of orders under the Married Women’s Property or Property Protection Acts<sup>27</sup>, from which records originated the copies of the orders lodged against the title that are being considered in this appraisal. However, it has been recommended by Archives New Zealand that these particular orders should be retained, as evidence of early ‘social security’ measures and as records that may be of value in social history research.

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<sup>23</sup> Submission to Archives New Zealand from [Name Removed] and [Name Removed] (Waitangi Tribunal) sent to Archives NZ 27 February 2012

<sup>24</sup> Reported by Regional Archivist, Auckland

<sup>25</sup> W3244

<sup>26</sup> For example, CAHY CH24, DAAC D137, D256, AAMW W3155

<sup>27</sup> For example AAOW W3244, CAHS D478

**Recommended for retention as public archives:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21a.2	Court orders from Auckland or South Auckland land registries dated prior to 1929	Order of a Court concerning the land	A6
21a.3	Court orders from Napier land registry dated prior to February 1931	Order of a Court concerning the land	A6
21a.6	Maintenance order	Maintenance orders under the Destitute Persons Act 1894, registered against titles	A5
21a.8	Protection order	Court orders under the Married Women's Property Protection Act 1880	A5
21a.9	Māori Land Court Order	Includes all orders from the Māori Land Court. Can also be known as Native Land Court Orders. Includes Exchange Order, Inclusion Order, Succession Order, Trustee Order, Determination Order. Excludes Partition Order	A1, A8
21a.10	Māori Land Court Partition Order	Can also be known as Native Land Court Orders.	A4

**Recommended for destruction by LINZ once administrative use has ceased:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21a.1	Rating order	A charge on land made under the Rating Powers Act 1988	D1
21a.4	Court orders from all land registries except Napier prior to February 1931, and Auckland and South Auckland prior to 1929, covering all time periods except those identified in classes 20a.2 and 20a.3	Order of a Court concerning the land	D1
21a.5	Charging order	Order of the Court for payment of money, made under various Acts, where the money to be paid is a charge on land, to be recorded by the DLR against the title, deed or mining privilege	D1
21a.7	Memorial of judgment	A record of a court judgement regarding land usually as security for a debt	D1
21a.11	Declaration of change of status of land/ status declaration/ status declaration order	MLC declaration regarding change of status of "general land owned by Maori" to Māori freehold land, or vice versa under the Te Ture Whenua Māori Act 1993/Māori Land Act 1993,	D1

Sub-class	Document type	Description	Disposal criteria
		Māori Affairs Amendment Act 1967	

### 9.5.2 Documents dated from 1925 regarding local authority consents and notifications

Under several Local Government Acts, Building Acts and the Resource Management Act, certain local authority consents and notifications of restrictions on building or conditions on building must be lodged and registered against land titles. The information from the consent, notification or certificate is summarised in the land titles register.

Complete information about the subdivision, building or resource consent, with all the supporting documentation, should be available from the relevant local authority. Consent records are classed as protected records under the schedule to section 41 of the Public Records Act 2005, and local authorities normally retain these records, as well as, generally, summary database records about the consent process. In addition, where the consent, condition or notification concerns land hazards, Regional Councils maintain records concerning land hazards, including lists of contaminated sites, and lists of other land hazards. Road naming, stopping, taking and legalisation records are generally also retained as archives by local authorities. Building line restrictions are resolutions of Council, which therefore appear in the minutes of Councils, and these records are also protected records under section 41 of the Public Records Act 2005.

However, recordkeeping in local government has been variable, both before and after local government amalgamation in 1989, and the protected records schedule was not gazetted until 1990. It is likely that at least some of these records expected to be maintained by local authorities have not in fact been retained as records of permanent value or are not accessible or locatable even if they have been retained. It is likely that in LINZ and its predecessors have retained records more comprehensively than some local authorities and that some LINZ copies of lodged and registered documents relating to local authority consents and notifications may be the only remaining or accessible records of these activities. It is therefore recommended that these documents are retained as public archives so as to ensure that there is a national set of these records.

**Recommended for retention as public archives:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21b.1	Certificate of amalgamation condition	Condition in a subdivision consent requiring amalgamation of land or ownership of land in the subdivision into a particular title under Resource Management Act, s. 220(1)(b)	A1, A8
21b.2	Completion certificate	Certificate from local authority showing that the conditions relating to a subdivision have been complied with Local Government Act 1974, s.306	A1, A8
21b.3	Certificate noting creation of private drains	Local Government Act 1974, s. 461, 462	A1, A8
21b.4	Road name certificate	Advice from local authority on name of road, when road named for first time Local Government Act 1974, s.319A	A1, A8
21b.5	Certificate of special order regarding naming, diverting, lay-out of roads	Local Government Act 1974, s.320	A1, A8



<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21b.6	Certificate of bond regarding agreement between landowner and a local authority to comply with conditions imposed by local authority on an activity on the land (such as permission to form a private road)	Local Government Act 1974, s.304 320, 348 , Resource Management Act 1991, s. 109(2)	A1, A8
21b.7	Certificate of consent to construct a cellar within a certain distance of a road or adjoining property	Local Government Act 1974, s.354	A1, A8
20b.8	Esplanade strip notice	Notice of creation of esplanade strip to be registered before a survey plan for a subdivision can be registered Resource Management Act 1991, s. 224	A1, A8
21b.9	Consent under s.221(4)(a) Resource Management Act 1991	Notice of a subdivision consent granted under a condition to be complied with on a continuing basis; notice must specify condition and is deemed to be an instrument and a covenant	A1, A8

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21b.10	Certificate of flats plan approvals by local authority	Local Government Act 1974, s. 314	A1, A8
21b.11	Certificate of subdivision approvals and conditions	Resource Management Act 1991, s.226, Local Government act 1974, s.279, 308, 643, Building Act 1991 s. 37	A1, A8
21b.12	Certificate regarding conformance of a reclamation with resource consents, regional plan and any consent conditions	Resource Management Act 1991, s.245	A1, A8
21b.13	Building consent notice/ Certificate under s. 36, 37 of Building Act 1991	Notification to DLR of a building consent granted under s.72 regarding land subject to natural hazards and identifying the hazard(s) Building Act 2004, s.73 Building Act 1991, s. 36, 37	A1, A8
21b.14	Building line restriction certificate	A certificate setting out where buildings can be erected on a parcel of land	A1, A8
21b.15	Dedication; Notice of road dedication	Dedication of land as a road Reserves Act 1977, s. 111	A1, A8

**Recommended for destruction by LINZ once administrative use has ceased:**

None

**9.5.3 Documents dated from 1925 where the primary record was created and was or is held by another government agency or by another division of Land Information New Zealand**

Documents in this sub-class include documents required to be lodged when:

- land is taken for public works (including the creation of roads)
- access rights or prospecting or exploration rights are granted under the Crown Minerals Act (and preceding legislation)
- the agencies managing state housing built pipelines
- sustainable forest management plans and permits are approved by the government agency responsible for forestry.

As with the consents, conditions and notifications from local authorities, the primary and more comprehensive record concerning these activities was created and was or is held by the relevant government agency. In some cases the records have been transferred from agencies such as the former Public Works Department to LINZ's predecessors and are now held by the Crown Property Group of LINZ.

Under the Crown Minerals Act 1991 s.81, exploration and mining permits were required to be registered against the title; other types of permits or licences were not, but were required to be filed by the District Land Registrar (DLR).

In the case of the records of prospecting and exploration licences, there is a retention and disposal schedule for the licensing records held by the Ministry of Commerce, which recommends the retention of both Head Office and Regional Office licensing records (OP99/015). In addition, mining permits granted under the Resource Management Act are recorded by the relevant regional authority and are records that are generally retained under the schedule to section 41 of the Public Records Act 2005.

The appraisal report from DA1 noted that while Ministry of Commerce Regional Office records dated from 1901, not all Regional Office held records dating back so far. That appraisal recommended that all prospecting and exploration licensing documents from prior to 1945 should be retained so as to ensure "a complete record of prospecting licences for a document-scarce period". It is not clear why this recommendation was altered prior to the authorisation of the DA1 schedule, nor is it clear why the date of 1945 was chosen as a grandparent date, since the Ministry of Commerce Head Office licensing files generally date from the 1970s onwards.

Retaining individual prospecting and exploration licenses and mining permits would possibly complement other records of prospecting/exploration/mining in New Zealand. However, the records are accessible only as individual licences in numerical sequence, which limits their usefulness if they have only been deposited with the Land Registrar and have not been registered

against the title. Moreover, mining licences themselves, which are considered a folium of the land titles register, and registers of mining licenses, have been recommended for retention under DA1.

Records of forestry management plans and deeds of easement over Crown Forestry land are held by the Ministry of Agriculture and Forestry, and are summarised in the title register.

This sub-class includes documents lodged and noted on the title regarding land taken for public works, notably the compensation certificate and the notice of intention to take land, as well as other documents regarding land taken for roads and vesting of stopped roads. The notice of intention to take land for public works is published in the Gazette as well as being sent to the DLR for registration. Basic information from these documents is recorded on the title. In addition, many of the records of the Public Works Department, its predecessors and successors, regarding land taking for public works projects, are held by Archives New Zealand, again providing a more comprehensive record than that to be found in the registered and lodged documents. Archives New Zealand also holds records of the Planning Tribunal and Environment Court concerning appeals against the taking of land for public works.

Although pre-1913 correspondence records and some 1913 - 1930 registered files of the Head Office of the Public Works Department were destroyed in the Hope Gibbons fire of 1952, a considerable number of records created by the district offices of the Public Works Department and its successors is currently held by the LINZ Crown Property Group and will be transferred eventually to Archives New Zealand under an existing schedule for records of the former Public Works Department. Many of these records concern land taken for public works.

Other records concerning similar land taking processes created by LINZ's predecessors (for example, the Department of Survey and Land Information) are also likely to be recommended for transfer to Archives New Zealand in the future. Once again, these records provide a more comprehensive record of the land acquisition process than do the individual documents that are lodged against the title and that in fact originated from these records.

During the external consultation, some concerns about documents relating to the acquisition of land by the Crown were raised by LINZ accredited suppliers (agencies that contract to LINZ to provide services concerning the management, acquisition and disposal of Crown property). Their concerns related mainly to their use of some documents as the 'best record' of the acquisition or ownership of land by the Crown. In some cases the documents were considered the best record because of ease of research use.

The Manager of the Crown Property Regulatory Group (MCPR) was consulted on the comments from the accredited agents in order to clarify Crown Property requirements. This further consultation has resulted in no change to the disposal recommendations for documents in this sub-class; however the Manager Crown Property Regulatory group has been added to

the authority for disposal. This means that the MCPR must be consulted before any disposal takes place. The documents affected by this recommendation are:

- Compensation certificates
- Notices of intention to take land
- Deferred payment licences
- Certificates under s.116 Land Act.

The Manager Crown Property Regulatory group notes that 'in most cases there will be file records that the crown agency holds on the acquisition that will also have these documents'<sup>28</sup>. The addition of the Manager Crown Property Regulatory as an authority for disposal ensures that any documents that are the only extant copy can be identified before any disposal takes place.

However, it has been noted by Treaty of Waitangi researchers that there is a particular issue with some records regarding road takings of Maori land:

'With Linz copies of roads takings on Maori land, the report relies on the gazette notice of the taking as being the primary record. In most cases this is reasonable. However there are a group of Maori land road taking records for which this does not apply. This concerns takings of roads on Maori land for which no compensation was payable. This was the so-called 5% rule for Maori land for road and rail takings. Our research indicates that these takings were very rarely gazetted. It was assumed there was little point notifying by gazette where no compensation could be claimed anyway. With no gazettes, for these records the Linz copy may be the only evidence available. This needs to be properly checked and if gazettes are not sufficient in these cases the Linz record should be kept. The easiest way might be to keep all the Linz road taking records re Maori land until the provision ended in 1929.'<sup>29</sup>

Given the system of arrangement of the registered and lodged documents, it is not possible to separate the documents regarding the taking of Maori land from other records of land taking. It has therefore been recommended that two classes of documents up to 1929 are retained as public archives, in order to ensure the retention as archives of documents that are potentially the only records of taking of some Maori land for this period. The classes are certificates of consent and notices of intention to take land. While these documents will encompass more than the taking of Maori land for roads, their retention may also assist in filling gaps where the Public Works Department Head Office records have not survived the Hope Gibbons fire.

Because compensation was not offered for the '5% Maori land', retention of compensation certificates or certificates of grants of land in exchange would not provide more information about the land taking and these documents have not been recommended for retention as archives.

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<sup>28</sup> Email from Manager Crown Property Regulatory group to Appraiser, 13 May 2011

<sup>29</sup> Submission to Archives New Zealand from [Name Removed] and [Name Removed] (Waitangi Tribunal) sent to Archives NZ 27 February 2012

**Recommended for retention as public archives:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21c.2a	Certificate of consent (up to 1929)	Certificate notifying consent for land to become a road, detailing the land so designated, the names of the persons consenting and the land, if any, to be vested in the owners as compensation for land taken for roading, or noting that no land is vested under Public Works Act 1981, s.115, 118	A8
21c.3a	Notice of intention to take land (up to 1929)	Notice of intention to take land for public works (notice is gazetted as well as registered against title) Public Works Act 1981, s.23	D1

**Recommended for destruction by LINZ once administrative use has ceased:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21c.1	Certificate or notice of declaration of limited access road	Describes land affected by road and may specify a crossing place under Public Works Act 1981, s. 158, 159, Transit New Zealand Act 1989, s.91, 94	D1

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21c.2b	Certificate of consent (1930 and later)	Certificate notifying consent for land to become a road, detailing the land so designated, the names of the persons consenting and the land, if any, to be vested in the owners as compensation for land taken for roading, or noting that no land is vested under Public Works Act 1981, s.115, 118	D1
21c.3b	Notice of intention to take land (1930 and later)	Notice of intention to take land for public works (notice is gazetted as well as registered against title) Public Works Act 1981, s.23	D1
21c.4	Compensation certificate	Compensation for land taken under Public Works Act 1981, s.19	D1
21c.5	Certificate for grant of land in exchange for land taken for public works	Public Works Act 1981, s. 107	D1
21c.6	Certificate regarding vesting of stopped road	Public Works Act 1981, s. 117, 120	D1
21c.7	Pipe line certificate	Certificate from Housing NZ detailing the land through which pipes are laid	D1

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21c.8	Certificate re sustainable forest management plan	<p>The plan must be recorded against the land. If there is no certificate of title, then the plan can be registered as a separate folium of the Register, but must be accompanied by a certificate from a licensed cadastral surveyor stating that the land is within the boundaries of a parcel of land identified on a plan lodged with the Chief Surveyor of the relevant land district.</p> <p>A certificate of variation, cancellation, amendment or renewal of a sustainable forest management plan must be lodged with the DLR and registered against the land Forests Act 1949, s. 67K</p>	D1
21c.9	Certificate re sustainable forest management permit	Permit from the Ministry of Agriculture and Forestry must be lodged with the DLR and registered against the land; Forests Act 1949, s. 67M	D1
21c.10	Easement certificate	Public access easement certificate under Crown Forest Assets Act 1989	D1



<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21c.11	Certificate of extension of mineral permit	Crown Minerals Act 1991	D1
21c.12	Mining rights (permit) certificate	(Includes diagram showing water races, dams and boundaries) Resource Management Act 1991, s. 417	D1
21c.13	Notice of forfeiture of mining licence	Notice in writing from Mining Registrar of a decree of forfeiture of a mining licence Mining Tenures Registration Act 1962, s.3	D1
21c.14	Notice of access rights under Crown Minerals Act	Notice of access arrangements to land for prospecting/exploring lasting over 6 months is lodged with DLR and registered against the land Crown Minerals Act, s.83	D1
21c.15	Prospecting and exploration licences	Unlike mining licenses, which are permits that give rights in land and are treated similarly to titles (they are a folium of the Register) exploration and prospecting licences are simply registrable or lodged documents that are evidence of licence to explore or prospect on the land	D1

#### 9.5.4 Registered and lodged documents/instruments dated from 1925 that are published

Gazette notices and proclamations about certain actions must be registered and therefore copies of the notices and proclamations are kept. The summary information is on the title and the full information may also be found in the Gazette. The Office of the RGL has noted that the memorial on the title does not state the Gazette volume number or page number, which therefore means it is difficult to use the title memorial as a key to retrieval of the actual notice. Nevertheless, the notice may still be accessed through the Gazette, and it is the Gazette that is the primary record of the notice.

Several of the stakeholders consulted noted that in the case of the Gazette notice being for the acquisition of land by the Crown, the registered copy of the notice itself has become the default title instrument for the recording of subsequent memorials affecting the land. In effect, the Gazette notice has become a title document rather than simply a lodged document and thus must be treated as if it were a folium of the register (even though it may not be numbered as a folium of the register). The Manager Crown Property Regulatory Group agrees with this assessment<sup>30</sup>.

As 'de facto' title documents, the Gazette notices then are covered by DA1 class 2.04. However, to avoid any confusion, Gazette notices are listed in this schedule with a recommendation for retention as public archives.

In the case of proclamations, the Manager Crown Property Regulatory group has been added to the Authority for Disposal.

#### Recommended for retention as public archives:

Sub-class	Document type	Description	Disposal criteria
21d.1	Gazette notice	Copies of Gazette notices that are registered and thus filed as documents/instruments Land Act 1948 Land Transfer Act 1952	A1, A2

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<sup>30</sup> Ibid

**Recommended for destruction by LINZ once administrative use has ceased:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21d.2	Proclamation	Similar to Gazette notice	D3

**9.5.5 Documents dated from 1925 that contribute to the establishment of legal rights and further research into land ownership**

Discussions with LINZ staff identified that there were some types of documents where the basic information recorded on the title would not suffice for the investigation of legal rights and further research into land ownership, in particular where the documents contained plans, such as transfers, easements, profit a prendre and forestry rights, or where they contain terms and conditions that are not memorialised in the register, such as leases.

Transfers show which land was transferred, and although transfers have been digitised, there is sometimes difficulty in using the digitised image to identify the different colourings used in plans to designate different areas. Even when easements have been surrendered, disputes may still arise about the exact location of an easement, which may be identified on the plan.

However, some types of transfers, such as transfer and mergers of lease or mortgage, transfer of mining rights, and others, do not contain additional information to that memorialised in the register as they are simply a mechanism for transferring ownership. These types of transfers are listed in the schedule under sub-class 21h and in this report under section 9.4.8.

Covenants (which restrict the use of the land) are regarded by the Registrar General's office as 'high risk' documents about which there are often disputes that require recourse to the documents themselves. They too may contain additional information that may assist with the establishment of legal rights.

During the consultation on the recommendations of DA1, it was noted that lease documents are particularly important to the Treaty of Waitangi claims process. Leases of land are a major issue because of alleged breaches in the legal and administrative regimes covering Maori land. Although the fact of the lease is summarised on the title, the terms and conditions of the lease are not. This means that lease documents contain information that is of value for further research over and above the summary

information in the land title register. Licences to occupy are similar to leases and may also contain terms and conditions that are not recorded in the register.

This consideration applies to leases and licences to occupy for non Māori land as well.

Variations of leases, licences to occupy and easements can make changes to the rights and the clauses in the original document that will not be memorialised in the register.

Other types of variations do not contain additional information. These types of variation are listed in the schedule under sub-class 21h.45 and in this report in section 9.48.

Easements, profit a prendre, forestry rights, covenants, lease, licence to occupy and, lease and licence to occupy renewal documents, and variations of leases, licence to occupy and leases have therefore been recommended for retention as public archives.

LINZ is of the view that transfer documents described in class 21e9 are of archival value as they assist in the establishment of legal rights and investigation of land ownership, for the reasons provided above. However Archives New Zealand is of the view that considerations of the quantity of transfer records outweigh other factors in determining archival value. Therefore the disposal action for class 21e9 is neither 'destroy' nor 'retain as public archives', as LINZ does not wish a disposal action of destroy. The disposal action is 'Retain as permanent part of the Land Register for purposes of the Land Transfer Act 1952'.

#### **Recommended for retention as public archives:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21e.1	Covenant	Agreements of various kinds restricting use of the land, or prohibiting certain uses or activities. Includes land covenants, fencing covenants, open space covenants, building restriction covenants, road access covenants	A1

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21e.2	Easement, easement certificate	The right to use the land without possession, under Land Transfer Act 1952, s.90A.	A1
21e.3	Deed of easement	Easement or covenant over Crown Land where there is no Title. The Easement document is registered and given a Title Reference. Land Act 1948	A1
21e.4	Forestry right	A right to establish, maintain and harvest trees on land for the proprietor of land or another person, granted by the proprietor Forestry Rights Regulation Act 1983	A1
21e.5	Lease	Lease of land Land Transfer Act 1952, s. 115	A1
21e.6	Licence to occupy	An instrument that is executed by a flat or office owning company and by a shareholder and that grants to that shareholder the right to occupy or use a specified office or residential flat by virtue of the shares of which the shareholder is the registered holder; or is evidence of the right of that shareholder by virtue of the shares of which the shareholder is the registered holder to occupy or use a specified office or	A1

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
		residential flat. Land Transfer Act 1952, s. 121C	
21e.7	Profit a prendre	A document granting the right to share in the land or to take from the natural produce of the land	A1
21e.8	Renewal of lease	Renewed lease is subject to all encumbrances, interests etc. as the prior lease Land Transfer Act 1952, s.117	A1
21e.10	Variation	Variation on lease, licence to occupy and easement.	A1

**Recommended for destruction by LINZ once administrative use has ceased:**

None.

**Recommended to be retained as permanent part of the Land Register:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
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21e.9	Transfer	Transfer of a right or interest in land to another. Primarily transfer of ownership of land, but also includes: Transfer and Grant of Easement, Transfer and Merger of Easement, Transfer and Surrender of Easement, Grant of Easement Without Transfer,	A1
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### 9.5.6 Documents dated from 1925 that provide information of social benefit to current and future generations

This sub-class relates to documents concerning irrigation agreements, which provide information about the land on which the irrigation schemes were built, as well as contributing to the establishment of legal rights (water rights). Information that there is an agreement is entered on the title but all particulars of the agreement may not be entered.

Irrigation schemes have been created in various parts of the country since at least the beginning of the 20<sup>th</sup> century. The use of water for various activities on the land and rights to water are still a contentious issue in some areas. These records will assist research in the future regarding the impact of particular activities on the environment.

Although there are some other records relating to the development of irrigation schemes held by Archives New Zealand (AAQU 889, AATE W3397), their quantity is not great, and in this instance the future research value of these documents is enough to warrant their retention, even if some are found to be duplicated elsewhere.

#### Recommended for retention as public archives:

Sub-class	Document type	Description	Disposal criteria
21f.1	Irrigation agreement	Irrigation agreements between the Crown and landowners under the Public Works Amendment Acts 1910 and 1911	A1, A2. A3

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21f.2	Irrigation notice	Notice of the constitution of an irrigation district for the purpose of an irrigation scheme, and particulars of the charge on land as a result of the scheme Public Works Act 1981, s. 220, 221, or Notice of right of owner of irrigation scheme to use land on which irrigation scheme is sited Irrigation Schemes Act 1990, s.4	A1, A2, A3
21f.3	Irrigation charge certificate	Certificate noting that there is a charge outstanding on land for irrigation. Stops transfers, encumbrances etc. being registered while it is in force under Public Works Act 1981, s. 221	A1, A2, A3

**Recommended for destruction by LINZ once administrative use has ceased:**

None.

**9.5.7 Registered and lodged documents dated from 1925 that are duplicated in other LINZ records**

Certificates under section 116 of the Land Act 1948 were required to be copied to the Office of the Registrar-General of Land. The LINZ National Office copies of the section 116 certificate were transferred to Archives New Zealand under the disposal authority for records from the "Muniments Room" (2001/141). The remaining district land office copies do not need to be retained as archives. The Manager Crown Property Regulatory has been added as an Authority for Disposal to this sub-class so that any documents that are the only extant copies may be identified before any disposal takes place.

**Recommended for retention as public archives:**

None



**Recommended for destruction by LINZ once administrative use has ceased:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21g.1	Certificate under s.116 Land Act 1948 Duplicates	Certificates for issue of freehold title (form B13A) under Land Act 1948	D3

### 9.5.8 Other registered and lodged documents/instruments dated from 1925

This sub-class covers the rest of the registered and lodged documents/instruments listed in the LINZ Core Paper Records inventory or in the LINZ thesaurus. They include caveats, encumbrances, certificates vesting land in particular government agencies or Crown entities, various certificates regarding subdivision etc. under the Unit Titles Act.

All of these records are summarised in the land title register and have no long-term evidential or informational value once cancelled, withdrawn or superseded. In addition some are a combination of information created by LINZ and by other government agencies, such as Certificate Regarding Right of First Refusal to Land under Ngai Tahu Claims Settlement Act or Certificate Describing Land to be Vested in State-owned Enterprises.

Archives New Zealand has recommended the retention as archives of consents under the Married Women's Property Act (class 21h.36), as providing evidence of historical social conditions. Therefore these records have been recommended for retention as archives.

Archives New Zealand has also identified that the Declaration Registers (class 21h.20), which are only found in the Hamilton office, provide nominal access to other records and therefore should be retained as archives.

In the case of deferred payment licences, which are a form of Crown land tenure, the Manager Crown Property Regulatory group has been added to the Authority for Disposal so as to ensure that any of these documents that are the only copy left in existence may be identified before any disposal takes place.

#### Recommended for retention as public archives:

Sub-class	Document type	Description	Disposal criteria

21h.20	Declaration register (Hamilton office)	Register recording document numbers, date of deposit, type of instrument lodged, parties involved, land affected & title reference, contains document types: declarations of trust, Deed of Settlement, Marriage Settlement, Agreements, Deeds of Trust, Power Of Attorney & Transmissions. Also known as "Little Zeds"	A7
21h.36	Married Women's Property Act consents	The Married Women's Property Act gave married women the capacity for acquiring, holding and disposing of property in the same manner as an unmarried woman. However, before a married woman living with her husband could enter into a partnership with anyone other than her husband, the husband had to sign a consent that was then filed in the office of the District Land Registrar Married Woman's Property Act 1884, s.26	A5

**Recommended for destruction by LINZ once administrative use has ceased:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21h.1	Agreement	Statutory agreement of long-term purchase; only after all payments had been made would title pass (e.g. under Housing Act state house tenants could buy the property they were renting)	D5
21h.2	Application to settle land as a joint family home	Application for registration of the settlement of land as a joint family home under Joint Family Homes Act 1964, s. 4,5, 12A	D5
21h.3	Caveat	Can be lodged against dealings in land/estate/interest if the person lodging claims to be entitled to the land etc. by virtue of unregistered agreement, transmission, or other instrument. Acts as a stop to further registration and a warning or notice of interest claimed	D5
21h.4	Notice of caveat	Registrar must notify caveator of any application lodged for registration of any instrument that affects the land under caveat Land Transfer Act 1952, s.145	D5
21h.5	Certificate of alteration in area, rental value, rent, purchase money, etc. of land	Land Act 1948, s. 113	D5

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21h.6	Certificate under s. 82(1)(b) Land Act 1948	Redefines land leased under the condition 'limited as to parcels' (so that the lease is no longer limited)	D5
21h.7	Certificate regarding right of first refusal to land under Ngai Tahu Claims Settlement Act	Ngai Tahu Claims Settlement Act 1998, s98	D5, D3
21h.8	Certificate noting right to acquire residual Crown Land under s.11 Waikato Raupatu Claims Settlement Act 1995	Waikato Raupatu Claims Settlement Act 1995, s.11	D5, D3
21h.9	Certificate regarding property vested in Rural Banking and Finance Corporation	Rural Bank and Finance Corporation Act 1989, s.22	D5
21h.10	Certificate describing land to be vested in State-owned Enterprises (in same form as section 116 Land Act certificate)	State Owned Enterprises Act 1986, s.26	D5, D3
21h.11	Certificates relating to removal of resumptive memorials on land	Ngai Tahu Claims Settlement Act, 1998, s.464	D5, D3

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21h.12	Certificate of application for title to specified settlement property	Ngai Tahu Claims Settlement Act, 1998, s.474	D5, D3
21h.13	Certificate of application to deposit a unit plan	Unit Titles Act 1974, s.5	D5
21h.14	Consultation certificate – agency consults with DLR regarding the practicality of a certain action with regard to land and DLR responds	Various legislative requirements	D5
21h.15	Certificate regarding land to be vested in Crown Research Institutes	Crown Research Institutes Act 1982, s. 36	D5
21h.16	Family benefit charge	Certificate of charge on land for which an advance on family benefit has been received in order to purchase the land Family Benefits (Home Ownership) Act 1964, s. 14	D5

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21h.17	Change of rules/address of body corporate	Notification of change of rules or address of body corporate of owners of unit titles. A registrable instrument. Rules are stipulated in the Act and the Act also stipulates that changes must be notified. Unit Titles Act 1972, s.37	D5
21h.18	Declaration of loss	If a Certificate of Title is lost, then a declaration of loss must be filled out, which is then registered against the title and either a provisional certificate is issued or the old certificate of title is cancelled and a new one issued. Land Transfer Act 1952, s.87	D5
21h.19	Declaration of trust	An instrument declaring that land is vested in a trust for a specific purpose (e.g. land for recreation, etc.)	D5
21h.21	Declaration as to value of land in plans	Declaration by surveyor of the value of land surveyed under the Land Transfer Act 1915	D5
21h.22	Deed of gift	Document advising that land to be transferred as a gift. Usually part of the transfer instrument; more common under the Deeds system	D5

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21h.23	Deferred payment license	Type of tenure of Crown Land where land could be acquired (alienated into private ownership) on the payment of a deposit and then paid for over a period of time Land Act 1948, s. 65	D5
21h.24	Encumbrance	An interest in or security over the land for payment of money Mortgages are encumbrances, but not all encumbrances are mortgages. If listed separately, an encumbrance document will not be a mortgage instrument	D5
21h.25	Fencing agreement	An agreement, or proviso, not being a fencing covenant, that relates in any way whatever to work on a fence between adjoining lands; and includes an agreement not to erect a fence. No expiry date, so would be carried over onto any new title created. Fencing Act 1908, Fencing Act 1978	D5
21h.26	Fencing covenant	Also an agreement regarding work on a fence between adjoining lands; but in a specified form with prescribed wording, and includes an agreement not to erect a fence. Expires in 12 years. Fencing Act 1978	D5



<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21h.27	Earthquake Commission notice	Notice by Earthquake Commission that the insurance of a property is cancelled, or that its liability is limited (due to conditions on the land or hazards not being rectified) under Earthquake Commission Act 1993, s. 28	D5
21h.28	Notice of claim	Notice of an interest in land under the Property (Relationships) Act . Has the same effect as a caveat Property (Relationships) Act 1976, s.43(2)	D5
21h.29	Notice of marriage, or Applications noting marriage	Proof of marriage registered on certificate of title, where name is being changed. The term "change of name" is now more commonly used.	D5
21h.30	Notice of conversion of unit title scheme	Notice of a resolution or court order to convert a unit title scheme Unit Titles Act 1972, s.60	D5
21h.31	Notice of settlement	Notice of an application to the Court to settle a unit title scheme Unit Titles Act 1972, s.48	D5
21h.32	Notice of intention to subdivide	Unit Titles Act 1972, s. 60	D5
21h.33	Notice of change of name/ Change of name	Change of name of mortgagee or of registered owner	D5

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21h.34	Lien	Right of detaining the property until a claim for payment of monies is satisfied Contractors and Workman's Liens Act 1892; Wages Protection and Contractors Liens Act 1939	D5
21h.35	Survey lien	A charge on a property until the survey fees have been paid.	D5
21h.36	Married Women's Property Act consents	The Married Women's Property Act gave married women the capacity for acquiring, holding and disposing of property in the same manner as an unmarried woman. However, before a married woman living with her husband could enter into a partnership with anyone other than her husband, the husband had to sign a consent that was then filed in the office of the District Land Registrar Married Woman's Property Act 1884, s.26	D5
21h.37	Merger	Merger of lease, merger of mortgage, merger of easement. Usually part of the transfer but may be registered and stored separately Land Transfer Act 1952, s.118A; Unit Titles Act 1972, s. 31	D5

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21h.38	Order for new title	OCT or ONCT. A registrable document that orders a new title to be created	D5
21h.39	Statutory Land Charge	Statutory charges that may be lodged against land, under specific legislation. Takes preference against other charges on the land	D5
21h.40	Certificate of charge	Under Statutory Land Charges Act 1928, s.6 and various other acts detailing specific charges on land	D5
21h.41	Tax certificate	Evidence of tax charges (see also Tax charge)	D5
21h.42	Tax charge	Charge on property for unpaid income tax deductions, which has priority over any other encumbrances, charges and mortgages Income Tax Act 1976, s. 367 (see also tax certificate)	D5

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21h.43	Transfer	Transfer and Merger of Lease, Transfer of Mortgage, Transfer and Merger of Mortgage, Transfer in Exercise of Power of Sale, Transfer of Certificate of Mining Rights under s417 Resource Management Act 1991, Transfer of Forestry Rights Registration Agreement, Transfer of Forestry Rights, Transfer of Lease, Transfer of Bond, Transfer of Licence under Crown Forest Assets Act 1989, Transfer of Mining/ Prospecting/ Exploration Permit under Crown Minerals Act 1991	D5
21h.44	Transmission	Application for transmission of estate or interest in land to ownership of the applicant, either the executor of a will, or the administrator of an intestate estate, or the survivor where there is joint ownership and one party dies. Provides evidence of death of owner and may contain copies of probates and wills. Land Transfer Act 1952, s.122 et seq	D5

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
21h.45	Variations	Documents indicating a variation on a condition or other action on the land (excluding variation of lease, licence to occupy, and easement)	D5

### ***9.6 Supporting documents - not registrable***

<b>Class number:</b>	<b>Class title:</b>
22	Supporting documents – not registrable

Notifications of death/death certificates are supporting documents, which are documents that are not registrable documents, but neither are they described as authority documents.

Notices of death/death certificates are required to prove death in the case of a transmission of ownership of land. In some offices the notifications are held separately from the transmissions; in others they are not. They are not the primary record of death, which is held by the Registrar of Births, Deaths and Marriages. Therefore they are recommended for destruction when all administrative use has ceased.

#### **Recommended for retention as public archives:**

None

**Recommended for destruction by LINZ once administrative use has ceased:**

<b>Sub-class</b>	<b>Document type</b>	<b>Description</b>	<b>Disposal criteria</b>
22a	Notification of death/ Certificate of death	Supporting document for transmission; not a registrable document in itself	D1

## 10 Access recommendations

There are no significant issues related to access recommendations for records covered in this disposal schedule. Access decisions and conditions will be determined and agreed at time of transfer.

## 11 Deferral of transfer

LINZ will be requesting a deferral of transfer for records over 25 years old under section 22 of the Public Records Act 2005.

Refer to any sentencing guidelines accompanying this report for specific recommendations:

- Records must be kept for the minimum period specified.
- Records may be destroyed at any point once the minimum retention periods have passed. Records do not have to be destroyed; the agency may keep them for longer if required.

This authority is valid for a period of 10 years from date of signing, unless previously agreed with the Chief Archivist.

## **12 Appendix One: Retention and Disposal Schedule**



## **13 Appendix Two: Table of responses from public consultation process**

Phase Two Retention and Disposal Schedule  
Public Consultation

Table of responses from Disposal schedule consultation. This table includes a breakdown of the responses and any specific issues noted that led to alterations in the main schedule.

While this table and the attached submissions contain the names and details of submitters, we understand that these will be treated with due care and will not be made generally available to the public.

[Removed]

## **14 Appendix Three: Copies of responses received in public consultation**