

CREATING A SUPER CITY: INTEGRATION ISSUES

PART 5: TAKING A STATUTORY APPROACH TO PROPERTY TRANSFERS

integrate /in-ti-greyt/ verb (-ting) to make up, combine, or complete to produce a whole or a larger unit

On 1 November 2010 each existing Auckland local authority will be dissolved and the functions, duties and powers of each of those authorities will become the functions, duties and powers of the Auckland Council. Under section 35(b) of the Local Government (Tamaki Makaurau Reorganisation) Act 2009, all property belonging to existing local authorities vests in the Auckland Council on 1 November 2010.

There are literally thousands of items of property registered under the Land Transfer System in the names of the 8 existing local authorities and their various Council Controlled Organisations. In addition, many items of property remain registered in the names of local authorities that existed before the 1989 Local Government Reorganisation Orders, for example, properties remain in the names of Rodney County Council and Mt Wellington Borough Council.

The new Auckland Council's aggregated property portfolio will comprise titles to land, and all interests that the existing local authorities, CCOs and the predecessor local authorities hold as lessees under leases, grantees under easements, and encumbrancees under encumbrances and other rent charges.

In addition, there are many other documents in the local authorities' names such as caveats, consent notices and deeds of covenant under the Resource Management Act 1991 and notices under the Building Acts 1991 and 2004 which sit slightly outside of the category of "property".

Some 20 years after the 1989 reorganisation, transmission documents are still regularly prepared, sworn on behalf of the local authority and lodged for registration to vest property of the predecessor councils in the current local authorities. This ongoing tidy up process has taken considerable time and resources, ultimately at some cost to ratepayers.

No doubt the current government is alert to the need to transfer of the region's property portfolio to the Auckland Council in an efficient manner. The overall objective should be to eliminate the need for transmission and other vesting documents to be prepared and registered at the cost of the Auckland Council (ratepayers).

The question is how best to achieve transmission of property registrations given that section 35 of the Local Government (Tamaki Makaurau Reorganisation) Act will not complete the task.

Consideration should be given to empowering and funding the Registrar General of Land to compile a list of all the titles and instruments currently in the name of the existing local authorities, the CCOs and the predecessor councils and then automatically transmit those property rights and other documents into the name of the Auckland Council, or to the relevant CCO of the Auckland Council without the need for further documentation. Significant time and cost could be saved by simply changing all references on titles to a current local authority, or predecessor council to "now Auckland Council". No doubt the Auckland Transition Agency will need to be involved in the planning for this process.

Similarly, references to the predecessor bodies in regulatory documents such as consent notices and bonds could be automatically changed to the Auckland Council to save the need for reciting the circumstances under which the Auckland Council comes to enforce them in any enforcement documentation.

The recent digitalisation of the land transfer system will make these tasks relatively straightforward, although time consuming.

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