



MINISTRY OF
JUSTICE
Tāhū o te Ture

Te Kooti Whenua Māori



Māori Land Court

RETENTION AND DISPOSAL APPRAISAL REPORT

Te Kooti Whenua Māori
Māori Land Court

Te Kooti Pira Māori
Māori Appellate Court

Court records

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Scope:	Records of the substantive functions of the Court

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What is a Retention and Disposal Appraisal Report?

This retention and disposal appraisal report is produced in satisfaction of the requirements set out in the Public Records Act 2005.

The purpose of the Public Records Act 2005, among other goals, is to ensure that full and accurate records of the affairs of central and local government are created, maintained and provide for the preservation of, and public access to, records of long term value. The Act provides a framework within which public offices (such as the Māori Land Court and the Ministry of Justice) create and maintain public records and the transfer of those documents aged over 25 years old to the Chief Archivist at Archives New Zealand.

To satisfy this requirement for transfer, all public offices are required to review all their public records which have been existence for 25 years, and develop what is commonly referred to as a retention and disposal appraisal report, which identifies and catalogues its records, determines whether or not those records are of ongoing historical value, and should therefore be retained (and eventually transferred to the Chief Archivist) or determine the manner in which they should be disposed (this could be by transferring them to a local community group or iwi authority).

The development of this retention and disposal report provides the Māori Land Court a framework under which our records can be categorised and indexed across our registry offices and provides the required authority (from the Chief Archivist) on which records we will retain, which are of historical value and which are not, on what basis we will transfer records to the Chief Archivist and what we will do with records when they are no longer required.

A retention and disposal report does not mean that all records over 25 years old will automatically be transferred, nor has any decision of the transfer of records of the Court been made. This appraisal report allows the Court to seek an authority from the Chief Archivist on the potential transfer of records - once that authority is granted - then a separate process will be undertaken to determine what, if any, records will be transferred.

Records that are still in ongoing use by the Māori Land Court will be retained (regardless of age) until they are no longer required by the Court, or, where there are conservation issues around the age, fragility or ongoing availability of that record.

It should also be noted that, even if the Court's records are transferred to the Chief Archivist, they remain available to the public (and the Court) either through Archives New Zealand, or upon request by the Māori Land Court to have the records retrieved and sent to a registry office.

Executive Summary

This appraisal report has been prepared specifically for the physical paper records of the Māori Land Court and Māori Appellate Court which are held at the seven district registry offices throughout New Zealand. These records comprise the administrative documentation that support and give effect to the decisions of the Māori Land Court and Māori Appellate Court pertaining (but not being limited to) the exercise of the jurisdiction of the Court with respect to the ownership and utilisation of Māori land and the subsequent maintenance and accuracy of the Māori land title records by the Court administration.

The Māori Land Court (formerly the Native Land Court) has existed since 1865 and the Māori Appellate Court (formerly the Native Appellate Court) since 1894. Whilst some Court records have already been transferred to Archives New Zealand, Registry Offices continue to hold a significant volume of aged records, some dating back to the creation of the Court and some even pre-dating the establishment of the Native Land Court.

Records relating to the investigation of ownership of Māori Customary Land, its subsequent conversion to Māori Freehold Land and the chain of ownership, alienation and use of that land, are fundamental to the history of New Zealand, and are the subject of continuing interest and inquiry with important rights attached. They document not only the statutory functions of the Court of record in New Zealand but also reflect the political and social climate affecting Māori and legislation relating to Māori.

Many of the records covered by this report provide evidence of the legal status, rights, interests and entitlements of individuals relating to current and former Māori Land, the whakapapa of Māori land owners and the general characteristics, use and occupation of the land prior to colonisation in New Zealand. These records are of profound cultural importance to Māori and to the nation as a whole. They are also of significance to the on-going process of historical claims and inquiries brought under the Treaty of Waitangi Act 1975 and they provide a rich and detailed resource for New Zealand social and economic history.

Accordingly, most of the records covered by the report have been recommended for retention as public archives.

The Court has, since its creation, been a unit within a number of different and former government agencies. As such, record keeping in the Court has been variable with a former district focus resulting in many different classifications and arrangements of records, similar to the records of General land administration managed by Land Information New Zealand and its predecessors. This report has attempted to provide relatively generic classes based on the functions and activities of the Court in order to capture the various sequences of records kept in the different District registries.

1.1. Volume of Records

The estimated volume of Court records based on records currently held either at Registries or in external storage facilities measured in linear metres: 8,264m.

Scope of Retention and Disposal Appraisal Report

This appraisal report is intended to cover the permanent record and audio recordings of the Māori Land Court as defined by rules 7.16 and 7.19 of the Māori Land Court Rules 2011.

Public Office (Agency) Information

Name of public office:	Te Kooti Whenua Māori / Māori Land Court
Alternative name:	Te Kooti Pira Māori / Māori Appellate Court
Public offices' physical location:	Taitokerau District - Whangārei registry office and Auckland Information Office Waikato-Maniapoto District - Hamilton registry office Waiariki District - Rotorua registry office Tairāwhiti District - Gisborne registry office Tākitimu – Hasting registry office Aotea - Whanganui registry office Te Waipounamu - Christchurch registry office Office of the Chief Registrar – Wellington National office
Year established:	The Māori Land Court was established as the Native Land Court under the provisions of the Native Lands Act 1865 subsequently becoming the Māori Land Court under the provisions of the Māori Purposes Act 1947. The Māori Appellate Court was established as the Native Appellate Court under the provisions of the Native Land Court Act 1894 subsequently becoming the Māori Appellate Court under the provisions of the Māori Purposes Act 1947.
Year disestablished:	Current

1.2. The Māori Land Court Business Unit

The Ministry of Justice is primarily responsible for the provision of the overall administrative and financial support services to both the Māori Land Court and the Māori Appellate Court (hereinafter referred to as the “Court”) through the Māori Land Court Business Unit (otherwise known as the Court administration).

The Business Unit provides a range of services that support the Court process through the provision of:

- Court processing and support services to the Māori Land Court and Māori Appellate Court;
- Administration services to support judicial decision-making and the statutory functions of the Chief Registrar, Registrars, Deputy Registrars and Officers of the Court;
- Access to the current and historic permanent record of the Court;

- Proactive advisory and facilitation services to promote the retention, use, development and control of Māori Land as taonga tuku iho by Māori owners, their whānau, their hapū and their descendants; and
- Effective management, maintenance, access, custody and preservation of the Māori Land Court electronic and physical records.

The Court has a Chief Judge, a Deputy Chief Judge, seven permanent Judges, two temporary and one acting Judge distributed throughout the country across the Māori Land Court registries.

The jurisdiction of the Court is set out in Te Ture Whenua Māori Act 1993, which empowers the Court to hear matters relating to Māori Land and General Land owned by Māori with respect to (but not limited to) the following:

- Succession to, and the transfer of, interests in Māori Land;
- The creation, review and enforcement of the obligations of trusts and incorporations;
- The replacement, removal and appointment of trustees;
- Alienation of Māori Land by way of lease, mortgage, easement, gift or sale;
- Title improvement by way of subdivision, aggregation, amalgamation and occupation; and
- Appeals.

In addition the Court also has jurisdiction to hear cases under other statutes such as the Māori Fisheries Act 2004, the Māori Commercial Aquaculture Claims Settlement Act 2004, the Fisheries Act 1996, the Protected Objects Act 1975 and the Trustee Act 1956.

Whilst the Court is a formal court of record, the conduct of hearings is determined by the presiding Judge and cases are often prosecuted by the applicant or members of the public as opposed to the requirement of formal representation. Where a case involves complex issues of law and fact or tikanga or customary concepts, the Court may call upon expert evidence and representation be provided. The use of Te Reo Māori is a common occurrence in the Court.

Further information about specific functions of the Court can be found in section 6 discussing particular classes of records.

1.3. History of the Māori Land Court

As a precursor to the current Court, a Native Land Commission was established by the Native Lands Act 1862. Whilst the commission did have hearings in the Kaipara, it was subsequently replaced by the current court of record known as the Native Land Court under the Native Lands Act 1865.

Following a long period of parliamentary petitions, the Native Appellate Court was established under the Native Land Court Act 1894 to hear and determine appeals from the Native Land Court.

In the intervening period, both Courts have continued under subsequent legislation, being renamed the Māori Land Court and Māori Appellate Court under the Māori Purposes Act 1947 and continuing under Te Ture Whenua Māori Act 1993.

Agencies that have provided administration support to the Māori Land Court are as follows¹:

Native Affairs Department	1865 – 1893
Department of Justice	1893 – 1906
Department of Native Affairs	1906 – 1953
Department of Māori Affairs	1953 – 1989

¹ Archives New Zealand Archway <http://archway.archives.govt.nz/ViewFullAgency.do?code=ACIH>

Department of Justice	1989 – 1995
Department for Courts	1995 – 2003
Ministry of Justice	2003 - current

1.4. Legislation Governing the Court's Records

The Māori Land Court and Māori Appellate Court are continued as courts of record under the Te Ture Whenua Māori Act 1993 and are administered in accordance with this Act and the associated rules and regulations issued under this Act which include the:

- Māori Reservations Regulations 1994;
- Māori Occupation Orders Regulations 1994;
- Māori Incorporations Constitution Regulations 1994;
- Māori Land Court Rules 2011;
- Māori Assembled Owners Regulations 1995; and
- Māori Land Court Fees Regulations 2013.

In its long history, the Court has operated under a number of different legislative provisions which have included but are not limited to the following major pieces of legislation:

- Native Land Act 1862;
- Native Land Act 1865;
- Native Land Act 1867;
- Native Land Act 1873;
- Native Land Court Act 1880;
- Native Land Division Act 1882;
- Native Land Court Act 1886;
- Native Land (Validation of Titles) Act 1892;
- Native Land Court Act 1894 (consolidating and establishing the Native Appellate Court);
- Native Land Laws Amendment Act 1899;
- Māori Lands Administration Act 1900;
- Māori Land Settlement Act 1905;
- Native Land Act 1909 (which included the jurisdiction for Adoptions, later repealed in 1962);
- Native Trustee Act 1920;
- Native Land Act 1931;
- Māori Affairs Act 1953;
- Māori Affairs Amendment Act 1967;
- Māori Affairs Amendment Act 1974; and
- Māori Land Act 1993 / Te Ture Whenua Māori Act 1993.

Recordkeeping Environment

Prior to 2000, the record keeping of the Court was managed at a regional level focussed on the proceedings of the Court, contained in regional Minute Books and the decisions that resulted from those proceedings. File classification structures and indexes were developed in isolation from other regional offices and are a result of the administration of the Court by different agencies.

Launched in 1999, the Māori Land Information System (MLIS) was developed to provide an integrated information technology solution for the Court by bringing together a case processing system with a land registry system and an integrated document management system. The MLIS facilitated the transfer of previously paper based information on ownership, title, memorial, minute book and court orders to a digital system which allowed access to the permanent record of the Court by staff, the judiciary and clients.

The historical record of the Court from 1866 to 2001 was added to the MLIS between 1999 and 2001 as part of a dedicated imaging programme. The current imaged record of the Court has continued to increase as staff maintain, add and update application documents in the MLIS. As a new application is made to the court, all associated documentation is imaged into the MLIS for storage electronically.

Whilst the Court has, since the launch of MLIS, moved to an electronic operating model, storing its documents electronically as part of the system, technological advancements in the past 25 years have now overtaken the system which now requires significant investment to take advantage of more modern record and land management systems. In addition to these technical limitations, regulations and rules associated with the Court required it to maintain both the electronic and paper records. This duplication of process continues to be current practice.

In response to the need to review its records under the Public Records Act 2005, the Court undertook a Preservation of the Record project, which was initiated in 2009, creating Records Preservation Officer roles in each of the seven district registries to implement a national record handling and preservation strategy for the Court record.

Records Preservation Officers have carried out an extensive programme of work to identify, list and repackage into appropriate containers, the large quantities of records held by the Court. This programme of work is on-going.

Present day application records are (once concluded) filed both electronically by application number in the MLIS and physically on a closed application file by the last minute book reference associated with the application, or on the related Trust file (if the application related to a management structure) or by personality or estate file (if the application related to a succession) in the district registry office in which the land is located, or where there is no defined land, in the district registry office in which the application was last heard or ordered.

This variation of record keeping across the regional and national environments has been addressed on an office by office basis by grouping records based on the class of each document across a set of generic classes.

Section 6 sets out a description of the classes used to categorise documents held by the Court.

1.5. Permanent Record of the Court

The Māori Land Court and Māori Appellate Court are courts of record and have all the powers and duties that are inherent in a court of record. The record of the Court is contained within its permanent record, which is defined by rule 7.19 of the Māori Land Court Rules 2011 as comprising:

- A. The minute books, that is, the books or binders containing the hard-copy record of the proceedings of the Court; and
- B. The files of the Court containing the hard-copy applications and other documents or materials compiled by the Court in respect of each proceeding; and
- C. Original orders and recommendations issued by the Court or a Registrar; and
- D. Instruments of alienation, statements of account, block order files, or other documents or plans, or copies of them relevant to the Court title record and deposited with or held by the Court; and
- E. Any other documents, plans, materials, or records that –
 - a) A Judge or Registrar considers necessary to preserve the Court’s historical record of title and ownership; or
 - b) A Judge or Registrar considers necessary for the Court to function as a court of record; or
 - c) Are required to be kept of maintained under Te Ture Whenua Māori Act 1993; and
- F. Any copy or image of any of the material in (a) to (e) above that is kept in electronic form in accordance with rule 7.23 of the Māori Land Court Rules 2011; and
- G. Any other record of the Court kept in electronic form in accordance with rule 7.23 of the Māori Land Court Rules 2011.

The rules go on to define in whom the custody of that record resides², how access may be provided³, maintenance of the record⁴ and what is classed as the electronic form⁵ of the permanent record.

Methodology

This retention and disposal appraisal report has been developed from previous appraisals of the records held in district registry offices carried out in 2008. Those appraisals have been integrated into this single appraisal report which now covers the required documents contained in the permanent record of the Court (regardless of location).

Susan Skudder, SWIM was engaged to review the material provided and provide expert guidance in to the development of the report.

Document classes have been developed to cover the common types of records held in district registry offices. They are designed to be function/activity-based classes and are not based on any specific series of records, specifically named records or naming conventions that may have been used by district registry offices.

Given the variation of records across the Court, classification may also result in only a limited number of records being listed.

In addition, where necessary, an additional description has been added to some classifications to ensure clarity as to the coverage of that class for court staff.

2 Custody of the permanent record under rule 7.20 of the Māori Land Court Rules 2011

3 Access to the permanent record under rule 7.21 of the Māori Land Court Rules 2011

4 Maintenance of the permanent record under rule 7.22 of the Māori Land Court Rules 2011

5 Electronic form of the permanent record under rule 7.23 of the Māori Land Court Rules 2011

1.6. Relevant Precedent

Archives New Zealand holds several series of records that are covered by classes in this appraisal report, including alienation files (e.g. series 11466, CH270), succession registers (e.g. series 10220), application registers (e.g. series 10106) subdivision and partition registers (e.g. series 10001).

There have been no recent (i.e. 21st century) appraisals of Māori Land Court records, apart from the appraisals noted above, which have not been through the Archives New Zealand approval process.

Retention and disposal schedules for Land Information New Zealand⁶ and the schedule for Court records⁷ provide some relevant precedent for this appraisal, as the Māori Land Court is responsible for title administration as well as being a court of record.

1.7. Internal Consultation

The Māori Land Court retention and disposal report and accompanying schedule was developed with the assistance of Susan Skudder from SWIM Ltd.

All staff of the Māori Land Court including Judges were invited to review and provide feedback on the proposed retention and disposal report and schedule of the Court.

In addition, experts from within the Ministry of Justice – Eamonn Bolger and members of Special Jurisdictions were consulted.

Feedback in general was positive, the schedule and report were noted as having been well ordered with excellent use of historical contextualisation of the Court as a “Court” (Judicial entity) and as a business unit (Crown entity).

The grouping of records under general umbrella headings was noted as very useful and will be most beneficial for clients of the Court, the public and other stake holders.

Of the concerns that were raised, these were aimed almost entirely at records that will be classified as coming under “Court disposal action”, or which are considered by some registries as being part of the continuing record of the Court in that they are regularly accessed and maintained.

The Report and schedule received minor amendments in line with feedback received to the text of descriptions.

1.8. External Consultation

Given the historic and cultural content of the Court records an extensive external consultation program was processed.

The external stakeholder consultation process was undertaken on advice received from ANZ and Eamonn Bolger, Senior Advisor Courts Records, Ministry of Justice.

External stakeholders were defined as ‘groups, individuals and government agencies with an interest in the Māori Land Court records’. Maori authorities and organisations, government agencies with a significant interest in the Courts work (for example Waitangi Tribunal, Te Puni Kōkiri, Land Information New Zealand), law firms with a long standing interest and participation in the Court’s work, organisations of Maori lawyers, research organisations, faculties (for example university history, law and Māori studies departments) and Treaty historians.

⁶ Archives New Zealand reference for Land Information New Zealand DA1 and DA566

⁷ Archives New Zealand reference for Court records DA564

On 20 June 2014, an email and physical letter requesting input into the disposal recommendations in the draft RDS was sent to stakeholders. Also, on 20 June 2014, an invitation to submit feedback on the draft RDS was placed on the Māori Land Court and Waitangi Tribunal website's. Additionally a noticed was placed in the Māori Land Court Panui of which held a mailing list of up to 4700.

The deadline for submissions was 1st August 2014. There was however, flexibility with this date with the few submissions received after it also considered.

The Court's Record Review Committee met on the 16th October 2014 to consider the feedback received.

The outcome of which:

Ref .no.	Record Type	Change
4.17	Agencies Records	Disposal criteria altered from D2 to A1, A2, A3, A4, A5
5.2/5	Copies of Minute Books	Typed copies of historic hand written minute books were separated from this class and appointed their own class – disposal criteria A1, A2, A4, A5 Description redefined appropriately.
5.4	Sound Recordings of Court proceedings	Pertaining to those recordings in existence. Disposal class altered from D3 to A1, A2, A3, A4, A5 Description redefined appropriately
7.7	Sound Recordings of Māori Appellate Court proceedings	Pertaining to those recordings in existence. Disposal class altered from D3 to A1, A2, A3, A4, A5 Description redefined appropriately
8.4	Māori Freehold Land Registration project records	Description redefined appropriately
11.3	Duplicate maps and plans	Description redefined appropriately

1.9. Schedule Format

The retention and disposal schedule spreadsheet (attached as Appendix 1) has the following fields:

Reference number	A number assigned to each disposal class, which may be used during implementation
Record class	The broad class of records
Description	A description of the record class, including some examples of the records described
Court disposal action	The disposal action to be taken by the court. This statement includes the 'retention period', which is the time the record should be retained by the court <i>after it is closed</i> and before disposal
Restriction on Access	The restriction to be applied once deposited to archives New Zealand
Archival value recommendation	A recommendation of the archival value of the record based upon the Archives New Zealand appraisal policy, precedent and disposal criteria and worded in terms aligning with the definition of disposal in the Public Records Act
Disposal Criteria	The criteria for recommending the retention of public records as public archives
Precedent schedule	Relevant precedent for this appraisal

The disposal recommendation has been separated into two fields:

- The archival value recommendation, and
- The court disposal action.

This format echoes the format of the retention and disposal schedule for other courts (DA564).

The two separate fields allow the retention schedule to express the archival value recommendation as well as the final disposition from the perspective of the Court, and are intended also to avoid confusion on the part of Court staff implementing the retention schedule. The implementation version of the schedule will include only the court disposal action field.

The archival value recommendation has been expressed as:

- Retain as public archives, or
- Not of archival value.

The court disposal action has been expressed as:

- Transfer to Archives New Zealand after a minimum retention period of 25 years from date record closed
- May be destroyed after [specified retention period]
- May be destroyed or discharged after [specified retention period]

In some cases the specified retention period for records recommended to be destroyed or discharged is 'once no longer administratively required by the Court'. This retention period recognises that the court may have a long-term need to refer to these records.

There is also the addition of a disposal action of 'may be destroyed or discharged' for some classes of records which recognises that these classes refer to duplicates of maps and plans or copies of minute books. Rather than formal disposal, such records can be passed onto Māori organisations for reference, cultural or historical purposes.

1.10. Disposal Criteria

The criteria for recommending the retention of public records as public archives are: (note a reference to the Māori Land Court should be read as applying both to the Māori Appellate Court and the Māori Land Court)

Criterion number	Description
A1	Records have legal value as evidence of entitlement to, or interests in, Māori land
A2	Records provide evidence of the current or former legal status and fundamental rights, interests and entitlements of individuals
A3	Records provide evidence of the role of the Māori Land Court over time in the administration and management of Māori land and the affairs of landowners and of the fulfilment and/or failure of the Crown to meet its obligations under the Treaty of Waitangi
A4	Provide information that has research potential in the areas of social, political and economic history of New Zealand
A5	Records provide information that contributes to knowledge and understanding of Māori history, society and culture generally and the genealogical history/whakapapa of Māori land owners.
A6	The records provide access to other records recommended for retention as public archives; e.g. indexes to records, registers of records, translations of records

The criteria for recommending the destruction or discharge of public records are:

D1	Concern routine administrative matters only, including duplicate records or reference material that can be obtained from other primary sources.
D2	Concern routine operational matters only or are not considered to be a part of the Court record and do not have archival value but are maintained for reference purposes.
D3	Contain information duplicated, summarised, more complete and/or more readily accessible in other records recommended for retention or elsewhere.

Description of Classes

1.11. Records Dated up until 1921

Description

This class has been included in the appraisal report for the following reasons:

- It aligns the appraisal report for the Māori Land Court with the schedule for the records of other courts (DA564), which also has this provision;
- Although it does not directly align, it also covers the period of retention as archives of all land title registered and lodged documents indicated in the schedule for Land Information New Zealand title documents, DA566 (up to 1924);
- It enables non-specific coverage of 19th century and early 20th century records that may not fit into other classes in the appraisal report because they are unique to a particular registry (such as the Papatupu minute books, predating the Māori Land Court, that are held in the Taitokerau office). This obviates the need for one-off appraisals of such records; and
- It encompasses the period in which the last large blocks of land held under customary title were investigated by the Native Land Court (1880 - 1921)⁸

Value

All records in this class are considered to have archival value, in common with the provisions in DA564 and DA566, because of their age, the relative scarcity of records from the 19th century and early 20th century, and the likelihood that some 'one-off' significant pre-Land Court records may still be held in registries.

Records recommended for retention as public archives:

Reference no.	Record type	Description	Disposal criteria
1.1	Records dating from before 1921	All records dating from before 1921	A1, A2, A4, A5, A6

Records recommended for destruction:

None

⁸ <http://www.library.auckland.ac.nz/subject-guides/maori/guides/maori-land-timeline.html>

1.12. Adoption Records

Description

This class of records includes those records containing documentation related to Māori adoptions which was a function of the Court from 1909 until 1962.

Adoptions were originally managed under section 162 of the Native Land Act 1909 which stated that: *‘the Native Land Court shall have jurisdiction to make an order under this Part of this Act for the adoption of a child by a Native’*.

Section 18 of the Adoption Act 1955 explicitly stated that adoption orders under the Act applied to Māori and sections 19(1) and (2) of the Act effectively provided that customary Māori adoption (whāngai) carried out since the commencement of the Native Lands Act was not legally binding. However, the Act still provided that adoption orders could be made in the Māori Land Court.

The Adoption Amendment Act 1962 ended the jurisdiction of the Māori Land Court in adoptions.

Adoption records held by the registries include:

- Personal files of adoption cases containing applications, orders, letters of administration and supporting information including personal information such as wills and whakapapa (in some district registries known as ‘personality files- adoption’)
- General adoption files - files about the process of adoptions, that often include schedules (lists) of adoptions
- Indexes to adoption records
- Registers of adoptions
- Minutes of adoption proceedings. Some registries kept separate sequences of minute books for hearing adoption proceedings. The records of these hearings have been included in this class as a separate sub-class because restriction on access for any record concerning adoption is different from restrictions recommended for other classes of records.

Not all registries hold all these types of records. These records are closed series, as the Māori Land Court no longer has the jurisdiction over adoptions. The date range of the records is c. 1905 – c. 1963.

Value

Adoption records provide significant information about the adoptee, birth parents, adoptive parents and the wider whānau to which they belong. While the Court minutes will record the formal proceedings of the Court, the ancillary information in the individual adoption records provides important contextual information including whakapapa. Succession to Māori land is intimately tied up with identity and whakapapa and thus adoption records may be essential to an application for succession.

Minutes record the proceedings in some details and therefore provide not only a record of the proceedings themselves but contextual information about the adoption process.

The ‘general’ adoption files provide information about the broader context of the adoption process, as well as lists of adoptions carried out by the court that could assist in identifying adoption cases.

Indexes and registers provide points of access to the individual records.

Aside from the evidence of legal status and interests that the records may provide, they are also of high research value from both a genealogical and social history perspective.

Archives New Zealand already holds records of non-Māori adoptions, and the recently completed schedule for Courts case files recommends the retention as archives of non-Māori adoptions.

Note that restrictions on access will apply to any records transferred to Archives New Zealand. See section 7 for further information.

Records recommended for retention as public archives:

Reference no.	Record type	Description	Disposal criteria
2.1	Adoption case files (personalty - adoption files)	Individual adoption case files containing applications, orders, letters of administration and supporting information including personal information such as wills, whakapapa and birth certificates	A2, A4, A5
2.2	Adoption index cards	Indexes to adoption records	A6
2.3	Adoption files (general)	General adoption files (i.e. not specific case files) about the process of adoption	A3, A4
2.4	Adoption registers	Registers of adoptions; registers of adoption files	A6
2.5	Adoption minute books	Court minute books recording adoption proceedings	A2, A4, A5

Records recommended for destruction:

None

1.13. Records Concerning the Court's Management of the Affairs of Individuals

Description

This heading is rather broad to take into account the various ways in which the different Court registries have managed information relating to the Court's management of the affairs of individuals. The greatest proportion of the records in this class is records relating to deceased estates and succession to the deceased individual's interests. Other records in this category may include but are not limited to the appointment of trustees to manage the estates of individuals with disabilities or due to their minority (known now as kaitiaki trusts).

In some registry offices these records are contained in a series of records called personal or personalty files (personalty is a legal term meaning personal property). In some registries, anything to do with an individual in dialogue with the court, including deceased estate management and appointment of trustees, but also correspondence about interests in land and requests for financial assistance, is filed on the 'personal' or personalty' file.

In other registries deceased estate management records have been managed as separate file series and there may be more than one series of records to do with deceased estates. Registries have a variety of records called estates files, wills files, probate files, letters of administration files, and war gratuities files, all of which concern the winding up of a deceased person's estate and the succession to the interest. Wills files may contain original wills or only copies of wills. In some cases, the wills files also contain the information about the granting of probate, for which the Māori Land Court had jurisdiction until 1967 (under section 79 of the Māori Affairs Amendment Act 1967, jurisdiction to determine probate reverted to the then Supreme Court [now High Court]).

Records include the following types of information:

- applications for succession and supporting information
- applications for probate
- original wills and copies of wills
- death certificates and copies of death certificates
- derivation of interest minutes (whakapapa)
- whakapapa
- certificates of value (regarding value of the deceased person's estate)
- applications for letters of administration and supporting documents
- court orders and copies of court orders
- applications for vesting interests held by administrator
- copies of court minutes
- details of estate and executor's accounts
- schedules of land
- Court correspondence with the Public Trustee, Māori Trustee and the Stamp Department
- Records of disputes over succession and entitlement
- Details of children of deceased
- Statements of receipts and payments (e.g. for administrator of estate)

The personal or personalty files, where they exist, are a continuing series. Other files are closed series. The date range of the records is from 1870s – current.

Value

While the Court minutes record proceedings of the Court in granting succession, and succession applications may appear in other records sequences (see below section 6) the ancillary information in the files about individuals provides important contextual information with regard to succession and land ownership, including whakapapa. Succession to Māori land is through whakapapa or descent, which means that these records are also a rich continuing resource for Māori over time for identifying interests in land. Appointment of trustees records are similar in nature to the Protection of Personal and Property Rights (PPPR) case files generated in the Family Court and recommended for retention as archives in DA564.

The records also provide evidence of and information about the significant role of the Māori Land Court over time in the affairs of individuals.

They have high research value from both a genealogical and social history perspective.

Registers and indexes provide valuable finding aids.

Therefore all records in this class are recommended for retention as archives.

Restrictions on these records may apply. See section 7.

Records recommended for retention as public archives:

Ref. no.	Record type	Description	Disposal criteria
3.1	Deceased estate management	Records concerning the management and winding up of a deceased person's estate and approving/recording the passing on of their land interests. Includes records in the various registries known as estates files, wills files, probate files, letters of administration files, personal files, personalty files, war gratuities files	A1, A2, A3, A5
3.2	Appointment of trustees records	Records concerning the appointment of trustees for an individual with a disability. Includes personal files, personalty files.	A1, A2, A3, A5
3.3	Records of court interaction with individuals over interests in and succession to land	Correspondence and other documents pertaining to an individual. Includes personal files, personalty files	A1, A2, A3, A5

Records recommended for destruction:

None

1.14. Records about Land Use

Description

This class covers records about the land itself as distinct from records specifically about the owners of the land. Most of the types of records in this class concern title reconstruction and improvement processes under Te Ture Whenua Māori Act 1993 to facilitate the use and occupation of the land by Māori landowners.

The class also encompasses all records to do with the use of land and with processes to change Māori land titles since the inception of the Māori Land Court. It includes but is not limited to records of alienation of land, including purchase under Public Works Acts and the Europeanisation of Māori land (the Court had powers regarding Europeanisation under part 28 and section 433 of the Māori Affairs Act 1953 and previous acts). Many of the title improvement process records held in the registries date from the time that the Māori Affairs Department managed this particular function.

This class of records also includes information related to making changes to land title through the sale of Māori land, transfer of shares in Māori land between owners or to new shareholders, alienation of Māori land by lease or license, including the licensing of timber, flax and mineral rights.

In a similar way to how the various Land Title Offices managed the registration of European land interests, district registry offices of the Māori Land Court managed the aggregation of information about title reconstruction and improvement activities differently. Records created by the various registries regarding these processes include a range of variously titled file series, such as:

- Incorporation records: Incorporation is the process of establishing a legal body corporate structure to assist and promote the use and administration of Māori freehold land. A Māori incorporation is a structure similar to a company and any land or assets are vested in the Incorporation. Former land owners become shareholders in the Incorporation rather than owners in the land. Māori incorporations are designed to manage whole blocks of land and are the most commercial of all Māori land management structures. Records include:
 - Schedules of land vested in the incorporation
 - Annual reports, financial reports and accounts of the incorporation
 - Information about management structures and membership
 - Order of incorporation
 - Copies of court orders
 - Court directions
 - Correspondence between the court and the incorporation
 - Winding up of incorporations

- Trust records: The Māori Land Court has exclusive jurisdiction to create certain types of trusts under part 12 of Te Ture Whenua Māori Act 1993. Which are as follows:

Ahu Whenua trusts, which are land management trusts designed to promote the use and administration of the lands on behalf of the owners.

Whenua tōpū trusts, again a land management trust, which provide for iwi or hapū based trusts designed to facilitate the use and administration of the land on behalf of a wider class of owner, normally a whānau, hapū or iwi grouping. This type of trust is also used for receiving Crown land as part of any treaty of Waitangi claim settlement or for the re-vesting

public works land in collective rather than individual ownership.

Whānau trusts are related to interests in land, and allow individuals or groups to bring together their individual interests in different Māori and General Land blocks for the benefit of a defined class of beneficiary, normally the descendants of the people vesting their shares in trustees.

Kaitiaki trusts are related to interests in land, and are established to manage the affairs of any owner who, due to their mental infirmity, minority, disability or imprisonment are unable to manage their own affairs.

Pūtea trusts allow the Court on application by an interested party, to vest the uneconomic interests of one or more owners of Māori land into a single entity. Any benefit derived from the trust are used to fund Māori Community Purposes (mostly charitable) as defined by section 218 of Te Ture Whenua Act 1993.

Trust records include those created under previous legislation, in particular those that resulted from applications under section 438 and 439 of the Māori Affairs Act 1953, which were the pre-cursors to the current Ahu Whenua Trust structure.

There is significant variation in how district registry offices maintained trust files with some filing applications regarding trusts in separate sequences. Records may be separated by type of trust, and in some cases the records of particular types of trusts may be on the personal/personalty files. Records include:

- Appointment of trustees
 - Applications for new trusts, replacement trusts, variations to trusts and supporting information
 - Vesting orders
 - Copies of court minutes
 - Court orders
 - Trust reports and accounts
 - Trust correspondence with the Court
 - Consolidation records: Consolidation was the process whereby scattered interests in small, usually unprofitable blocks of land were brought together into larger shares in a larger block, generally in family groupings. Usually there was a record or 'book' for each consolidation scheme, and there may also be other associated records concerning the derivation of interests. Consolidations largely ceased after the passing of the Māori Affairs Act 1953. Records include:
 - Lists of owners, the titles they own interest in and the value of the interest
 - Rates schedules
 - Correspondence between owners and the Court
 - Consolidation orders
 - Amalgamation records: Amalgamation is when two or more Māori and/or General land blocks were amalgamated to make one or more resulting blocks. This usually occurred where there was some common ownership and such an amalgamation would result in some economic benefit for example the creation of a farming unit. When land is amalgamated, the blocks of land are merged, the former titles are cancelled and a single combined ownership list is issued. Records include:
 - Lists of owners, the titles they own interest in and the value of the interest
 - Land valuations
 - Rates schedules
-

- Records of leases and mortgages on the existing titles
 - Applications
 - Court orders
 - Correspondence between owners and the Court
 - Records of owners' meetings
 - Aggregation records: Aggregation is when a common ownership list is created where there are several people with interest in the same blocks of land. The titles remain separate but there is one common ownership list. Records include:
 - Lists of owners, the titles they own interest in and the value of the interest
 - Land valuations
 - Rates schedules
 - Records of leases and mortgages on the existing titles
 - Applications
 - Court orders
 - Correspondence between owners and the Court
 - Records of owners' meetings
 - Partition records: Commonly referred to as a sub-division, partition is when one or more owners separates their interests from the other owners and create a separate title. Records include:
 - Applications
 - Court orders
 - Land valuations
 - Rates schedules
 - Records of leases and mortgages on the existing titles
 - Correspondence between owners and the Court
 - Records of owners' meetings
 - Alienation records: Landowners granting certain rights of their land to another person including vesting orders, sale, leasing, mortgaging of the land, use of land under the Public Works Act 1981 (or any preceding Public Works related legislation), licensing of timber, flax and mineral rights (sale of timber flax and minerals was also deemed to be an alienation under the Native Land Act 1909). Some district registry offices kept the timber and mineral grants records separate from records about other forms of alienation whilst others kept separate records of leases; generally these files contain the original memorandum of lease document. There are also separate records of transfers of ownership, which usually include the original memorandum of transfer. Records include:
 - Original deeds, copies of deeds
 - Lease documentation, including memoranda of lease documents
 - Transfer documentation
 - Statements to the court
 - Minutes of meetings of owners
 - Licences – occupation licences; timber, flax, mineral rights licenses
 - Leasing or sale history of the land in question
 - Lists of owners
-

- Court orders
 - Court minutes
 - Applications and supporting information
 - Correspondence with the court
- Survey records: Records documenting surveying to establish boundaries, or suitability of land for various purposes. Records may include:
 - Survey plans and reports
 - Survey requisitions
 - Chain of title reports
 - Plan approval reports (reports reviewing survey plan areas against court record series)
 - Court order diagrams
 - Correspondence
 - Court minutes
- Conversion fund records: Under Parts 12 and 13 of the Māori Affairs Act 1953 the Māori Trustee could acquire 'uneconomic or other interests' in Māori land, which was paid for from a 'conversion fund' held by the Māori Trustee. The Māori Trustee could then on-sell those interests either to the Crown or to other Māori landowners. Records were called 'conversion fund' records because the interest in the land was purchased from the conversion fund, even if the record was about the later sale of the interest in the land by the Māori Trustee. In some cases these records are called 'sold files'. Records include:
 - Consolidation orders
 - Land valuations
 - Lists of beneficiaries
 - Applications for investigation of title
 - Records of monies paid for interests in land
 - Survey correspondence
 - Title instruments
- Reservations records: Māori reservations were previously created by recommendation by the Court to the Governor General who then issued an Order in Council under section 439 of the Māori Affairs Act 1953 and are currently covered by sections 338 and 339 of Te Ture Whenua Māori Act 1993. In addition, reservations are also subject to the Māori Reservations Regulations 1994 (formerly the Māori Reservations Regulations 1963).

It should be noted that Māori Reservations are not the same as Māori reserves, the later being subject to the provisions of the Māori Reserved Lands Act 1955.

Any Māori freehold land or any general land may be set aside as a Māori reservation. A reservation may be established for several different purposes including a village site, a marae, a church site, wāhi tapu, papakāinga, urupā, and a catchment area among other purposes. An application must be made to the Māori Land Court to establish a reservation and the Court will conduct a hearing, and issue a recommendation that such land be set aside as a Māori reservation for a defined purpose and specific class of person or person(s).

Once made, the recommendation is then forwarded to the Chief Executive of Te Puni Kōkiri, the Ministry of Māori Development, who then publishes the recommendation in New Zealand Gazette thereby formalising the creation of the reservation.

Once established, the court may appoint trustees to administer the land. Any leases or licence of the land require the consent of the court and any revenue from leasing or licensing must be used as directed by the Court. Records include:

- Applications
 - Records of meetings of landowners and interested parties
 - Appointment of trustees
 - Correspondence with the Court about the administration of committees
 - Correspondence regarding the purpose of the reservation application
 - Copies of Gazette notices
 - Trust nominations and supporting information
 - Trustee committee records
 - Agencies records: Records of the process of appointment of agents to negotiate on behalf of the owners. Records include:
 - Correspondence between government departments, local bodies, the Registrar and agents acting for owners
 - Lists of owners
 - Court authorisation of appointment of agents
 - Applications and supporting documentation
 - Copies of court minutes
 - Land utilisation records: records of programmes to use the land, such as forestry, farming, etc. Land utilisation records may relate to land managed by trusts. Records include:
 - Land use reports
 - Improvement reports
 - Photographs of land improvements
 - Correspondence with the Court regarding land utilisation
 - Applications and supporting information
 - Vesting orders
 - Court orders
 - Trust accounts
 - Mortgages
 - Europeanisation of Māori land: Records of the change of status from Māori land to 'general' land. Records include:
 - Correspondence between Native Affairs Department and Native Land Court
 - Copies of Court minutes
 - Court recommendations
 - Applications
 - Decisions of appellate court
 - Correspondence about disputes over the land in question
 - Land status declarations
 - Court orders
 - Gazette notices
 - Notifications to Lands and Deeds Registry or Land Titles offices
 - Records relating to the taking of land for the Crown: records concerning compensation for land taken for Crown purposes under the Public Works and other Acts (e.g. for roads, easements, drains, etc.) and records concerning the offering back of land taken under various Acts (land that became surplus to requirements had to be offered back to the successors of the original owners). Records include:
 - Compensation details
 - Appointment of agents for landowners
 - Maps of land
 - Survey notices
-

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- Lease information
 - Particulars of title
 - Agreements with landowners
 - Copies of court orders
 - Identification of successors
 - Correspondence with parties to the transactions
 - Position sheets summarising activities undertaken to identify original owners and successors
 - Meeting minutes
 - Copies of Court minutes
 - Town and Country planning records: Records relating to local authority planning information in the local authority districts covered by a Māori Land Court district registry. When Town and Country planning was superseded by the Resource Management Act, separate records concerning District and Regional plans do not appear to have been created. Records include:
 - Correspondence between the Court and local authorities
 - Copies of District Schemes
 - Planning consents for activities on Māori land
 - Pre-Board and Board files are held by some District registries (although they are sometimes combined in one sequence). They concern transactions in Māori land by the Māori Land Councils established under the Māori Lands Administration Act 1900 and the Māori Land Boards that superseded the Councils under the Māori Land Settlement Act 1905 (under a later act, the Native Land Act 1931, the members of the Board were the Judge and the Registrar of the Māori Land Court in the relevant Māori land district registry). Māori Land Councils and their successors were established in part to prevent Māori being defrauded by European purchasers of land and to manage 'surplus' land. A separate category of papakāinga lands was to be inalienable. Papatupu block committees were appointed by Councils to investigate title to large areas remaining outside the Court system in Northland and the East Coast. There was provision for Councils to take over management of some categories of land. Māori Land Boards could sell or develop 'surplus' land. Records in these files include applications, confirmation of transfer of land, schedules of owners, lease documentation.
 - Title improvement records: Records about title improvement activities that do not specify the type of improvement activity. Records may include information about alienations, mortgages, leases, improvement reports and other improvement processes.
 - Title improvement enquiries: Records concerning enquiries about improvements either planned or existing. The records do not document an improvement process, but are responses to enquiries that note what documents were provided to the enquirer. Both ingoing and outgoing correspondence can prove useful when re-constructing the decision making process which lead to title improvements (such as consolidations, amalgamations and others).

The date range of these records is from 1880s to current.

Value

Many of the records in this class are permanent records of the Court as defined by the Māori Land Court Rules 2011; that is they are 'the files of the Court containing the hard-copy application and other documents or materials compiled by the Court in respect of each proceeding' (s.7.19 (b)), or 'instruments of alienation' (s. 7.19 (d)).

Notwithstanding that fact, most of these records also provide a rich and detailed record of the changes to Māori landholding and ownership over time and the uses to which the land has been put. They also provide a means of tracing the history of the changes to and transfer of interest in Māori land that may

be the only record of that transfer, as frequently actions of the Māori Land Court that should have been registered in the general land titles record (held by Land Information New Zealand and its predecessors) were not registered.

In addition, they provide records of the activities of Māori landowning entities, which may be the most comprehensive collected record of those entities.

The pre-Board and Board records also document the role of the Councils and Boards in managing land transactions and in managing the land itself. They also provide evidence of the ownership of interest in land, when that ownership changed, and what happened to the land.

In addition these provide a view of the approaches to Māori land ownership over time and are a source for research into Māori land holding, and social and economic history. They also document a key function of the Māori Land Court in managing the processes of title reconstruction and improvement.

Records concerning town and country planning could be considered not the primary record given that the original of any consent should be maintained by the relevant local authority, and records of consents are protected records under the schedule to 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. In order to ensure that information about planning consents for Māori land are accessible and can be used for the purposes of investigating the history of a particular block of land, these records have been recommended for retention as archives.

Records recommended for retention as public archives:

Ref. no.	Record type	Description	Disposal criteria
4.1	Incorporation records	Records relating to incorporations	A1, A2, A3, A4, A5
4.2	Trust records	Records relating to trusts	A1, A2, A3, A4, A5
4.3	Partition records	Records relating to the process of partition of interests in land	A1, A2, A3, A4, A5
4.4	Amalgamation records	Records relating to the process of amalgamations of interest in land	A1, A2, A3, A4, A5
4.5	Aggregation records	Records relating to the aggregation of interests in land	A1, A2, A3, A4, A5
4.6	Consolidation records	Records concerning the process of consolidation of interests. Includes consolidation scheme books, consolidation group books, consolidation data files	A1, A2, A3, A4, A5

Ref. no.	Record type	Description	Disposal criteria
4.7	Survey records	Records concerning the surveying of land for the purposes of title improvement and reconstruction	A1, A2, A3, A4, A5
4.8	Reservation records	Records concerning applications and subsequent recommendations regarding the establishment and management of Māori Reservations	A1, A2, A3, A4, A5
4.9	Alienation records	Records concerning the alienation of land, whether by sale, lease, licence, mortgage, taking under Public Works Acts, licensing of timber, flax and mineral rights. Includes timber, flax and mineral grants files, and lease files	A1, A2, A3, A4, A5
4.10	Conversion records	Records relating to the transfer in interest in land to the Māori trustee and to the sale of interest in land by the Māori trustee. Includes conversion applications and Māori trustee application files.	A1, A2, A3, A4, A5
4.11	Land utilisation	Records concerning land utilisation programmes	A1, A2, A3, A4, A5
4.12	Europeanisation of Māori Land	Records of the process of changing the title of Māori land to general land. Includes Confirmation of Status Registers	A1, A2, A3, A4, A5
4.13	Records relating to the taking of land for the Crown	Records concerning the taking of Māori land for the Crown and records of the return of surplus Crown and local body land taken under various Acts	A1, A2, A3, A4, A5
4.14	Pre-Board and Board files	Records concerning applications and transactions in land by Māori Lands Boards and their predecessors, Māori Land Councils	A1, A2, A3, A4, A5
4.15	Title improvement and enquiry records	Records concerning title improvement activities and enquiries concerning responses to enquiries about title improvements that have not been identified according to the record types listed elsewhere in this class.	A1, A2, A3, A4, A5
4.16	Town and Country Planning records	Records concerning town and country planning for districts within a Māori Land Court registry.	A1, A2, A3, A4, A5
4.17	Agencies records	Records concerning the appointment of agents to act on behalf of owners	A1, A2, A3, A4, A5

Records recommended for destruction:

None

1.15. Court Hearing Records and Legal Instruments

Description

This class of records is concerned with the Court's record of decision making and legal instruments which give effect to these decisions. The Court proceedings are recorded in minute books of the Māori Land Court, and decisions are recorded by Court orders, "sealed" with the official seal of the Court.

Minute books record the proceedings of the Court – these are usually a direct word for word transcription of a sound recording of the hearing which has been approved by the presiding Judge or Registrar. As well as the minutes of the Court in session, district registries also hold Registrar's minute books, which are the Registrar's minutes of proceedings.

Under rule 7.16 of the Māori Land Court Rules 2011, a sound recording of proceedings is required to be made by the Registrar, but is only retained for a period of 10 years if it has not been transcribed to form part of the permanent record of the Court. Once a transcription is made, the original recording no longer forms part of the permanent record of the Court and, in the absence of any rule requiring their retention (beyond the scope of rule 7.16) and in accordance with the principles of the Privacy Act 1993, as the recording is no longer required for the purpose for which it was collected, the recording is not normally retained.

In addition to Court minutes, there are various types of orders that the Court may issue. Court orders may be held in separate records from those related to the land in question, or may be held in records containing other information about a particular block of land, a deceased estate, an incorporation or trust, or other matter dealt with by the Court. Practices have varied over time.

This class is intended for the orders that are kept separately, as the orders kept with other records will be covered by the classes concerning those records. The class description for orders identifies some types of sequences of order records, but deliberately includes the phrase 'including (but not limited to)' so as to account for other types of sequences of order records that may be found to exist.

Block order files contain original signed orders of the Court relating to a particular block or sub-block, and also contain schedules of ownership changes, lists of shares held, block plans, certificates of title, and other information relating to the interests in the block. Block order files are specifically mentioned in rule 7.19 of the Māori Land Court Rules 2011 as being part of the permanent record of the Court.

Rates charging orders are the result of an application for an order charging unpaid rates against Māori freehold land. In some district registry offices the applications and resulting charging orders are kept together in a separate sequence. These records also include schedules of ownership information, schedules of title information and title search information (as prescribed by rule 15.3 of the Māori Land Court Rules 2011).

Trust payment orders are orders made by the Court for the payment of monies held on trust. Trust payment order records include information about the trust and the persons entitled to trust assets and their shares.

Foreign orders are orders made by another district registry of the Māori Land Court that apply to land in the District registry receiving the foreign order. Secured titles records are a particular sequence of orders regarding partitions and freehold orders.

Value

Both original minutes and orders form part of the permanent record of the court and are the primary record of the decisions made by the Court. They have significant legal value. In addition, the minute books provide a relatively detailed record of discussion of whakapapa and of land-holding over time.

Orders provide a record of what the Court determined should happen to the matter before it. Even rates charging orders provide information about ownership of the land in question which is of value for research into land-holding and ownership. The ancillary information that is often included in orders records also provides information about landholding and interest in land.

Typed copies of minute books were created from either important early hand written or unclear Minute Books or disputed, individual cases that are otherwise unclear in their original form. It is important however to distinguish this type of record from the normal typed minutes. In this context, what is referred to as “typed copies” are typed minutes that have been created on an ad-hoc basis in registries from the original hand written minute books.

These typed copies were typically created in duplicate; one copy for the application and a carbon copy filed on a separate file series. This is distinct from one to one direct copies of an original minute book (either handwritten or, more recently, typed originals) which has been made of all minutes books and which are already available at registry offices in which the original minute books were created.

Where held, typed copies of hand written minute books provide an important translation guide for users of the original record to enable them to decipher and translate hand written text which is often in short hand or, depending on the clerk or Judge, requires a high level technical proficiency or experience in dealing with early hand written script.

For these reasons retention of any typed copies of minute books, where they are available, is recommended to ensure that these important translation guides are not lost and can be used alongside the original text.

One to one direct copies of the original minute books are required to be produced and made available for normal office use and searching by the public in accordance with rule 7.17(5) of the Māori Land Court Rules 2011. Whilst these copies are not of archival value a copy of the series is likely to be retained in the Court indefinitely (especially when the originals are transferred to Archives New Zealand). Where several sets of copies exist, registry staff have indicated that they would prefer to discharge unneeded sets to Māori organisations rather than adopting formal disposal. Therefore the disposal action recommended is ‘may be destroyed or discharged once no longer administratively required by the Court’.

In the course of proceedings of the Māori Land Court and in accordance with rule 7.16, the Registrar is required to ensure that a sound recording is made – although this is only retained if the subsequent recording is not transcribed to form part of the permanent record of the Court. Recordings are held in electronic format and are an important and accessible medium which records formal and informal English but also varying Māori dialects in proceedings which contribute to Māori history, society and the genealogical history/whakapapa of Māori as spoken by Māori. We consider that, as well as the significant linguistic, anthropological and historical value in these recordings the cultural value of these recordings as taonga in their own right is an important consideration. For these reasons, we consider that these recordings be retained.

Records recommended for retention as public archives:

Ref. no.	Record type	Description	Disposal criteria
5.1	Original minute books of Court hearings	All original minute books of Court hearings, including minute books recording specific types of hearings; e.g. consolidations	A1, A2, A4, A5
5.2	Typed copies of historic original hand written minute books of Court hearings	All typed minute book copies of historic hand written court hearings, including minute books recording specific types of hearings; e.g. Consolidations	A1, A2, A4, A5
5.3	Court orders	All records of orders issued by the Court, including (but not limited to) foreign orders, order books, block orders, trust payment orders, rates charging orders, secured titles	A1, A2, A4
5.4	Sound Recordings of Court proceedings	Electronic sound recordings of proceedings of the Court (whether transcribed or not)	A1, A2, A3, A4, A5

Records recommended for destruction or discharge:

Ref. no.	Record type	Description	Disposal criteria
5.5	Copies of minute books	Copies of court minute books in any format (excluding typed copies of historic hand written minute books)	D3

1.16. Case Management Records

Description

Case management records concern the Court's management of proceedings brought before the Court.

As in other civil jurisdictions, every case begins with an application to the Court. Applications include any application filed with the Court and may include any supporting information.

Applications will generally include any other supporting information required by the Court in satisfaction of any legislative or regulatory requirement. This may include but is not limited to information such as copies of whakapapa prepared for the Court, trustee consent forms, valuation reports, specialist reports and draft plans.

Registrar applications concern applications considered and ordered by the Registrar and are deemed to be Court applications and form part of the permanent record of the Court for the purposes of this exercise.

Recordkeeping concerning applications has varied over time. As noted in sections 6.2 and 6.3, applications could be filed with other information arranged by the particular process of the Court (e.g. estates management, title reconstruction and improvement processes). Otherwise, application records may be arranged in file series named 'applications', and arranged within the series in application order and by geographical area, or arranged by block name and date of application.

Value

Applications are part of the permanent record of the Court. They are the record of the supporting information provided by the applicants to provide the documentation required in order for the Court to make a judgement on the application. They provide a detailed view of the record of the transactional processes for Māori land titles and ownership over time.

All records in this class are recommended for retention as public archives.

Records recommended for retention as public archives:

Ref. no.	Record type	Description	Disposal criteria
6.1	Applications records	Applications records, including applications files, foreign applications, rates charging applications, applications block files, closed applications, ordered applications	A1, A2, A4, A5
6.2	Registrar's files	Registrar's records of matters relating to case management	A1, A2, A3, A4

Records recommended for destruction:

None

1.17. Records of Appeal and Review Processes

Description

Under section 44 of the Te Ture Whenua Māori Act 1993, the Chief Judge of the Māori Land Court has the jurisdiction to correct any mistake, error or omission in any fact or the presentation of facts to the Court in any proceedings (excluding those before the Māori Appellate Court) dating back to the establishment of the Court in 1865.

The Māori Appellate Court is constituted under Part 2 of Te Ture Whenua Māori Act 1993, and may consist of three or more Judges to hear appeals against orders or judgments (or the refusal to make an order or judgement) of the Māori Land Court.

Records in this class include:

- Applications to the Chief Judge under section 45 of Te Ture Whenua Māori Act 1993 or under similar provisions in preceding acts (including all supporting information)
- Minutes from hearings and decisions of the Chief Judge
- Orders of the Chief Judge
- Applications to the Māori Appellate Court (including all supporting information)
- Minutes of Māori Appellate Court hearings
- Orders issued by the Māori Appellate court in respect of appeals
- Audio recordings of Court hearings

Similar to the process in the Court of Appeal, the original records of the application that are under review or appeal are brought together with the application for review or appeal, so that all the relevant information is available to the judge.

Application records therefore include original application records, the application for appeal or review and supporting information and records of any investigation by the Court made in order to understand and rule on the application.

Value

These records are part of the permanent record of the Court. They document processes to redress perceived errors or omissions in the original court processes. They provide evidence of the process of the Chief Judge and the Māori Appellate Court as well as evidence of decisions about landholding. The supporting information and original applications hold information of value to Māori in determining their entitlement to interests in land and in genealogical research. In addition records of appeal and review have value to research in understanding changes in Māori land ownership over time.

The recommendations for the sound recordings of Māori Appellate Court proceedings are the same as in class 5.4 Sound Recordings of Court proceedings (see section 6.5).

All records in this class are recommended for retention as public archives.

Records recommended for retention as public archives:

Ref. no.	Record type	Description	Disposal criteria
7.1	Applications - Chief Judge	Applications to the Chief Judge under section 45 of Te Ture Whenua Māori Act (and similar provisions in predecessor acts)	A1, A2, A4, A5
7.2	Chief Judge Minute Books	Minutes and decisions of the Chief Judge	A1, A2, A4, A5
7.3	Chief Judges Orders	Original orders issued by the Chief Judge	A1, A2, A4, A5
7.4	Māori Appellate Court applications	Notice of Appeal and supporting papers, Chief Judge Minutes, Correspondence, "Record of Appeal" (reorganised file containing all relevant papers), Appellate Court Minutes, Appellate Court Order.	A1, A2, A4, A5
7.5	Māori Appellate Court Minute Books	Minutes and decisions of appeal hearings	A1, A2, A4, A5
7.6	Māori Appellate Court Orders	Original orders issued by the Māori Appellate Court	A1, A2, A4, A5
7.7	Sound Recordings of Māori Appellate Court proceedings	Electronic sound recordings of proceedings of the Court (whether transcribed or not)	A1, A2, A3, A4, A5

Records recommended for destruction or discharge:

None.

1.18. Maintaining the Title Record

Description

The Court is required to maintain records of ownership of Māori land. The Court has records of Māori land ownership dating from the inception of the Court in 1865. Over time systems of arranging and managing these records have changed, so that there are several different sequences of records concerning ownership of land.

Records concerning titles include:

- Memorials of ownership, which are similar to certificates of title, and include the names of the owners, the amount of shares owned by each person, a description of the land and a plan of the land
- Block files, which document succession information and title orders for each block of land
- Title binders and title order books, which include records of title orders for land blocks, schedules of owners, and succession information
- Certificates of Title records, which contain original certificates of title
- Title notices, which include legal notices of changes to title and ownership
- Crown Grants records. Under the Native Lands Act 1865, once the Court granted a certificate of title a Crown Grant to the land could be issued by the Governor
- Closed [title] files, which are records of former titles
- Original deeds to land. The Deeds system preceded the Torrens system of land titles. All deeds held by District registries date from the 1870s.

This class also covers records of the Māori Freehold Land Registration (MLFR) project undertaken by the Māori Land Court and Land Information New Zealand (LINZ) to align information in the Māori Land Information System (MLIS) and LINZ's Landonline.

Records compiled by the project are copies of existing minutes, orders, maps, correspondence and research information already held in other parts of the permanent record of the Court. Project records were gathered together to support the registration of instruments against (or to form the basis for the creation of) titles by the Registrar General of Lands and/or the Surveyor-General at LINZ. All such resulting surveys, registrations and/or title action resulted in an application or enquiry which now forms part of the permanent record of the Court.

Whilst Te Ture Whenua Māori Act 1993 requires that duplicates of all orders affecting titles be registered against that title for that land (and are therefore transmitted to LINZ for that purpose), prior to 1993, registration was not always required under earlier enactments and in all cases, and the original instruments are retained by the Māori Land Court. In addition, not all title records were/are capable of registration or in most cases, did not require registration at all. However, because of the nature of the change associated with the Māori land, its title or ownership, it has been retained in the records of the Court to ensure a full chain of title and ownership can be established for all current Māori Land and former Māori Land titles.

Value

Most of these records document fundamental legal entitlements, similar to the title information held by Land Information New Zealand, which is also of archival value (see DA1).

Records held by LINZ form part of the "land" record held by the Registrar General of Lands, whereas those held by the Māori Land Court form part of the "court" record.

The purposes of LINZ and the Māori Land Court are different and each agency has its own legislative and regulatory functions and responsibilities. The level of detail required to be

collected, maintained and retained in the Māori Land Court is significantly higher than that held by LINZ and in many cases involved a judicial process including the presentation of evidence and submissions as well as a recorded court outcome or result.

The majority of records held by the Māori Land Court have not, nor is it required to be, transmitted to LINZ for registration. However, these records form an important historical and rich cultural record of Māori Land title and ownership changes and usage from the original title investigation or status declaration up to the current record (or the date upon which the title was no longer within the jurisdiction of the Court).

In addition to the existing title record and those records held by LINZ, the Court has also retained any original Crown Grants (Kereti Karauna) or Proclamations that either granted or awarded Māori land to groups or whānau or hapū. Whilst we note that LINZ records may hold duplicates of these Crown Grants, the originals held by the Court also include title investigation, survey and ownership records and related administrative actions undertaken by the Court to progress the award of these Grants.

Together, the title and grants records provide an important historic and cultural connection between the investigation and granting of titles and the current (or former) holders of interests in Māori land.

All memorials of ownership, crown grants and title records are recommended for retention as public archives.

The records of the MFLR project contain duplicates which are either copied from the permanent record of the Court, or, if they resulted in action, now form part of the application or enquiry files held by the Court and would be held in case management records which have been identified for retention. As such we do not recommend their retention as archives.

Records recommended for retention as public archives:

Ref. no.	Record type	Description	Disposal criteria
8.1	Memorials of ownership and schedules of memorials	All records of memorials of ownership, including original memorials and schedules of memorials	A1, A2, A5
8.2	Records of titles to land	Records concerning titles to land, including certificates of title files, title orders, title binders, title notices, block files, closed [titles] files, original deeds to land	A1, A2, A5
8.3	Crown Grants	Any records of crown grants or proclamations issued under the Native Lands Act 1865 or any successor enactment or regulation	A1, A2, A5

Records recommended for destruction:

Ref. no.	Record type	Description	Disposal criteria
8.4	Māori Freehold Land Registration project records	Records of the joint project with Land Information New Zealand to align Māori Land Court title information with Landonline.	D2

1.19. Registers and Indexes

Description

It is common court practice to register both the receipt of applications and the orders resulting from court decisions (see Courts case file schedule for similar records). Over time the Māori Land Court district registry offices have created other registers to record Court processes, such as requests for survey, receipt of foreign applications or orders, title improvement schemes as examples.

In the past, district registry offices have often created a series of nominal indexes as a manual system to record derivation notes for owner searches completed.

In a pre-IT environment this sort of index served as a first point of reference that staff used for owner or block information already searched. If an index card for an owner or a block existed then a prior search of that owner or land would already have been undertaken and the derivation notes provided a minute book reference or date to refer to. This often reduced the extent of the full, detailed search of the manual records which was a lengthy manual process.

Indexes like this were generally created for owner searches, Will and Administration files, adoption files, estate files, personal files, alienation files, European files and title improvement files.

As with the various offices of Land Information New Zealand and its predecessors, each District registry has created its own sets of indexes and registers, some concerning the same process or set of records but named differently and all reflecting the ways in which each Office managed its records.

Value

Because of the great age of many of the records held by the Court and the considerable changes to their arrangement over time, the indexes and registers are essential to the successful use of the records. Registers and indexes are invaluable resources that facilitate access, as well as providing insight into the recordkeeping processes of the district registries over time. Much of this information is now electronically available or has been incorporated into other records in the district registries but is still sometimes relied upon to locate records or information where the electronic record is not complete. Some card indexes also record stories and notations about a piece of land that may not be recorded elsewhere.

All registers and indexes relating to the Court are recommended for retention as public archives.

Note that registers of district registry administrative processes (e.g. incoming mail registers) are specifically excluded from this class.

Records recommended for retention as public archives:

Ref. no.	Record type	Description	Disposal criteria
9.1	Indexes	Indexes to registers, indexes to records sequences, indexes to minutes, indexes to land blocks, indexes to owners, etc.	A6
9.2	Registers	Registers of records, registers of Court processes (e.g. registers of succession, partition, alienation, estates, consolidations, survey, orders). Excludes registers concerning administrative processes of the District registries; e.g. incoming mail registers	A3, A6

Records recommended for destruction:

None

1.20. Requests for derivation or other information from the Court Record

Description

Any application for the transfer of interests in Māori land requires a search of the Court records to be undertaken by registry staff to ensure that the interests listed on an application or enquiry related to the person purported to have those interests.

A research report is then completed by registry staff to derive the source of and confirm of ownership of interests in Māori Land.

Under Te Ture Whenua Māori Act 1993, these research reports are referred to as “Part 4” searches, in reference to part 4 of Te Ture Whenua Māori Act 1993 which deal with the succession to and transfer of Māori Land interests from a deceased owner to the beneficiaries.

Some district registries have separate records sequences for these enquiries, which contain not only the original enquiry and/or application, but also the research report, chain of ownership information, court minutes and orders associated with those interests and may also include whakapapa lists.

In addition, there are also block correspondence series about land generally arranged by name of block or area of land.

These records include requests for information and court research, and may also include Court correspondence with applicants, local authorities, iwi authorities, solicitors, other government agencies, whānau and hapū members, relating to ownership and activities to do with the land block. They may also include orders, applications, titles, lists of owners, copies of wills, block plans and correspondence about specific issues to do with the land.

The content of these block correspondence records file series varies across registries and range across several other classes in this appraisal report.

Value

“Part 4” type research reports confirm ownership interests in Māori Land and consolidate the associated minutes and orders from which those interests are derived. The reports include whakapapa and genealogy evidence to support the request or application and provide an important summary of ownership information for current and former owners of Māori land. In addition, the report, through the derivation results, shows an important cultural link between former owners of the interest and the resulting transferee noted in the report.

Block correspondence records encompass those file series that have been maintained by registries to cover specific requests relating to defined land blocks and geographic areas across Māori Land Court districts. These records provide not only a historic snapshot of departmental, local and central government activity in the associated geographic region, but also include general and specific enquiries from owners and trustees of land associated with these records on whakapapa, land use, title improvement, survey, housing, development and transfer.

These record series provide an important snapshot of the social and cultural imperatives of these geographic regions over time.

Because recordkeeping in the Court has been variable over time, these records include information that sometimes, is not duplicated in other records about the land.

All records in this class are recommended for retention as public archives.

Records recommended for retention as public archives:

Ref. no.	Record type	Description	Disposal criteria
10.1	Requests and/or applications for derivation searches and confirmation of ownership of interests in Māori Land	Requests and/or applications to the Court to research and confirm the ownership of interests in Māori land through a Part 4 search under Te Ture Whenua Māori Act 1993 or any earlier enactment	A1, A2, A4, A5
10.2	Block Correspondence records / Court correspondence records about land	Records of correspondence concerning land and research into cases. Includes enquiries, correspondence with applicants, iwi, hapū, local authorities, solicitors, and other government agencies regarding applications, cases before the Court and enquiries relating to particular land blocks.	A1, A2, A3, A4, A5
10.3	Whakapapa lists	Whakapapa lists kept separately from other records	A1, A2, A4, A5

Records recommended for destruction:

None

1.21. Maps and Plans

Description

As to be expected for an agency dealing with land, the Court holds many maps and plans. Many survey plans, block plans and other plans showing easements, roadways, occupation, etc. are included in the records themselves, but some are held in separate sequences. There are maps and plans showing consolidations, land use, amalgamations, easements, reserves, etc. Some maps and plans have been created for the Court and some are published maps and plans that have been annotated with specific information. Some offices also have standard cadastral and other maps that are used for reference purposes.

The sets of plans named MLC plans are plans created by the predecessors of Land Information New Zealand. They are the same as the ML (Māori Land) series maintained by Land Information New Zealand (LINZ), but were created for the Māori Land Court and sometimes held by LINZ and its predecessors, presumably because the various Māori Land Court District registries did not have the space to store the plans. DA456 for LINZ recommended the return of the MLC plans from LINZ offices to the Māori Land Court.

Work will be undertaken to ensure that any plans identified for discharge are reviewed to ensure they are not originals, are not annotated, are not original ML Plans and that they are indeed copies of an existing plan.

Value

Original and annotated maps and plans complement the written record and may provide additional information that is not available in other records. This also includes what may be considered copies of a plan which, because of its age or the nature of the plan, has essentially become the only surviving record. They are recommended for retention as public archives.

Standard published, non-annotated maps and plans used for reference purposes and duplicate maps and plans are recommended for destruction or discharge when no longer administratively required. The recommendation for discharge has been included because in most cases duplicate maps and plans may be transferred to Māori organisations.

Records recommended for retention as public archives:

Ref. no.	Record type	Description	Disposal criteria
11.1	Original or annotated maps and plans	Original maps and plans showing land areas, easements, occupation, title improvement, etc. and annotated published maps and plans showing specific land-related information.	A1, A4,
11.2	MLC plans	ML maps and plans created by LINZ predecessor agencies (including the Department of Māori Affairs) for the Māori Land Court	A1, A4

Records recommended for destruction or discharge:

Ref. no.	Record type	Description	Disposal criteria
11.3	Duplicate maps and plans	Maps and plans that are copies of other maps and plans held by the Court	D3
11.4	Standard published maps and plans used for reference purposes	Standard published maps and plans used for reference purposes that have not been annotated	D1

Access Restrictions on Records held at Archives New Zealand

Any decisions on access to any document, record or record series that is currently held by Archives New Zealand or which may be transferred in the future will be made in accordance with the Archives New Zealand guide to Making Decisions on the Access Status of Public Records⁹.

In making a decision on restriction the following records have already been identified for restriction:

1. Adoption records: Restricted indefinitely under section 23 of the Adoption Act 1955 and section 15 of the Adult Adoption Information Act 1985. Any register or minute book that contains information relating to adoptions is covered by this restriction;
2. Personal and “personalty” files and records concerning the management of the affairs of persons with disability: Will be restricted for 100 years in order to protect sensitive personal information. This restriction aligns with the recommended restriction for Family Court records; and
3. Suppression: The Court may, under any enactment or regulation, restrict or suppress any document, record or record series held by Archives New Zealand. Where a Court imposed restriction or suppression applies, the associated document, record or record series must be restricted until further or other order of the Court.

The implementation guide will include instructions to Court staff on the identification of any record which has been restricted or suppressed by the Court.

All requests for access to the restricted records must be directed to the Chief Registrar of the Māori Land Court.

⁹ Available for viewing at Archives New Zealand or from their website at www.archives.govt.nz



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