

## Foreword

This land registry handbook is a practical, user-friendly and informative guide for registry staff when accepting and processing Land Court applications.

It comes in two parts:

1. Common applications, which includes legislative references, guidelines, forms and fees; and
2. Registry procedures, which outlines procedures with more detailed explanations.

The manuals will serve as a written record of existing procedures and used to support registry staff training.

I gratefully acknowledge the initiative and commitment on the part of the Pacific Justice Sector Programme (PJSP) to produce this handbook, and the financial backing by the New Zealand Government through the Ministry of Foreign Affairs and Trade. I particularly commend the outstanding work of Tiara Tukuniu (Deputy Registrar, Department of Justice, Niue), Janine Ford and Delwyn Te Moni from the PJSP team who spent many hours collaborating to prepare and produce this handbook.

This joint effort has resulted in a manual for staff of which we can all be proud and which will go towards improving the standards and quality of services provided by the registry.

**Chief Justice Craig Coxhead**

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## Chapter 1: Pre-application investigation and search

### 1.1 Legislative references

- Niue Land Registration Regulations 1969, r [28](#)
- Niue Land Courts Bench Book, Chapter 2, s [7](#), and Chapter 3, s [8.2](#)
- Land Court Rules 1969 [Schedule 2](#) – Fees schedule

### 1.2 Purpose

Before any application is filed, parties are required to provide details and background pertaining to the land subject to their application. The registry staff will provide reasonable assistance to the parties to enable them to complete a search, but no search may be made by the registrar or court registry staff except as approved by the Resident Commissioner by special arrangement. No responsibility shall be incurred by the registrar or staff for the accuracy of any information obtained by any such search.

### 1.3 Procedure

Applicants are required to file their application along with all the information and copies of any titles or court proceedings to support their application.

Parties can seek assistance from court registry staff to reference previous proceedings and obtain certified copies of documents from existing files.

Staff can use the case tracking system (CTS) to search for previous proceedings under the same land name. For any applications prior to August 2021, parties must manually search the land registers to reference and obtain copies of previous orders.

### 1.4 Related topics

- Registering an application

## Chapter 2: Registering an application

### 2.1 Legislative references

- Niue Amendment Act (No 2) 1968, s [41](#)
- Land Court Rules 1969, rr [13](#) and [44](#), [Schedule 2](#) – Fees schedule
- Niue Land Courts Bench Book, Chapter 2, s [7](#)

### 2.2 Purpose

Once an application has been vetted and accepted, it must be assigned a case number. It is a legal requirement that all applications are then recorded in the land register.

### 2.3 Procedure

Obtain the number for each individual application by registering it in the case tracking system (CTS). Separate training is provided on how to use CTS.

Once registered in CTS, endorse the application number on all documents.

Make a corresponding entry into the manual land register application – see r [13\(3\)](#) of the Land Court Rules 1969.

No application is to be registered unless the fee has been paid.

The register records the following initial details:

- application number
- date filed
- applicant's name
- land name
- village
- nature of application.

As the application progresses it will be updated with:

- surveyor
- investigation date
- gazette date
- court date
- disposal date
- minute book reference
- remarks.

Create a file checklist if one has not already been provided. Update details for steps 1-5 of the checklist.

## 2.4 Applications made by email

Applications may be submitted by email for vetting.

Follow the general application procedures to check if all requirements for acceptance have been met.

When an application is received by email, print out the email and all attachments and ensure that they are date stamped with the date of receipt of the email. The emailed documents should be retained to be placed on file.

If the emailed application and supporting documents are in order:

- email or contact the applicant to advise that they are now able to file the original application and supporting documents.
- advise that they must pay the prescribed fee – see the fees schedule. Provide the registry account details so they can deposit the filing fee directly into an account. Account details are set out below.
- advise that confirmation of the deposit in payment of the filing fee must accompany the original of their application.
- advise the applicant that their application cannot proceed until the originals are received and payment has been verified.

If the application and supporting documents are deficient:

- email or contact the applicant and advise them of what more is required before the application can be accepted.
- advise the applicant that until the defects are corrected, their application has not been accepted and no further action will be taken.

Place all the emailed documents into a folder endorsed with the applicant's name pending receipt of the original documents and confirmation of payment.

The application is only registered when the original documents are received, and confirmation of payment has been made.

The applicant can otherwise organise for a family member or representative to lodge the original application and supporting documents on their behalf and make payment direct to the registry office.

## 2.5 Online payments

Online payments can be made to:

- Niue High Commission in Wellington  
Account Number: 03-0104-0837147-00  
Westpac  
  
or
- Niue Government  
Account No: 03-0104-0837147-02  
Westpac
- Reference Account numbers to use:
  - 234-3212 for Land Division for applications
  - 236-3412 for Surveyors - Certificates of Title, and
  - 236-3212 for Surveyors - reflags, plans and map information.

The applicant can send a copy of confirmation of payment with their original documents or the administration officer in charge of financial reporting will print out a statement of any recorded payments that can be used to confirm payment.

Once the application has been registered, the documents should be made into a file.

## 2.6 Related topics

- Setting up a file



## Chapter 3: Setting up a land file

### 3.1 Legislative references

- Niue Land Courts Bench Book, Chapter 3, s [7.1](#)

### 3.2 Purpose

As soon as an application has been registered, a case file is set up to store all the documents related to each case.

All documents are to be placed on file under the correct tabs to ensure the judge or commissioners can quickly locate and access clearly identified information.

### 3.3 Procedure

You will need a file-rite folder, a file coversheet and the tabbed dividers.

All documents are to be date stamped and placed onto the file in date order, with the most recent documents on top for each tab divider.

### 3.4 File coversheet

Create a file cover-page following the file cover-page template provided.

Fill in the information on the coversheet with:

- the nature of the application
- date of filing of application
- application number
- land district location
- applicant's name
- legislative authority for application.

Where there are two or more related applications eg: s 10 Application for Determination of Land Title and s 14 Appoint Leveki Magafaoa, make up one file and ensure that the coversheet is endorsed with the full details of each application separately – refer to the file cover-page template provided.

Further provision is made on the coversheet to record any gazette notices that will occur later in proceedings.

The cover-page is inserted into a plastic adhesive slip and attached to the outside of the file.

### 3.5 File coversheet abbreviations

The table below lists abbreviations used to denote applications and orders made on the file coversheet.

DT	Application for Determination of Title
LM	Application for Appointment of Leveki Magafaoa
RLM	Application to Remove Leveki Magafaoa
JLM	Application for a Joint Leveki Magafaoa
CLM	Application to Change Leveki Magafaoa
OO	Application for an Occupation Order
OA	Application for an Order Access
L	Application for Confirmation of Lease
CHR ORD	Application for Confirmation of Charging Order
OCLD	Application to Discharge Charging Order
SCV	Application for Variation of Lease
LS	Application to Surrender of Lease
OP	Application for a Partition
RCL	Registrations of Crown Land
RNL	Registrations of Niuean Land
W	Warrant
CT	Certificate of Title
CJ	Chief Judge
J	Justice
LC	Land Commissioners
C	Commissioners
CA	Confirmation of Lease
COA	Court of Appeal
LC	Local Court

### 3.6 Tab dividers

There are six-tab dividers, named:

- Applications
- Search
- Correspondence

- Directions and memorandum
- Court minutes
- Orders

The documents to put under each tab are identified in the table below.

Applications	<p>Application:</p> <ul style="list-style-type: none"> <li>○ emailed copy of application,</li> <li>○ applicant’s statement and supporting submission,</li> <li>○ supporting documents, including any: <ul style="list-style-type: none"> <li>○ conditions/terms of the Leveki Magafaoa</li> <li>○ consent from the Magafaoa for appointing a Leveki Magafaoa</li> <li>○ family meeting minutes and their supporting signatures</li> <li>○ evidence/record of discussions with adjacent landowners</li> <li>○ any other proof or signs of occupation of or connection with the land by the claimant and other persons included in their claim.</li> </ul> </li> <li>○ objections, and</li> <li>○ notice of intention to appear</li> </ul>
Search	<p>Provisional survey plan:</p> <ul style="list-style-type: none"> <li>○ land investigation report,</li> <li>○ ancestry and genealogy records,</li> <li>○ certificate of title, and</li> <li>○ the names and the approximate location of cultivations, villages, burial places, with names of relatives of the claimant and persons included in their claim who have been there, and any other places or marks of historical interest.</li> </ul>
Correspondence	<p>Letters:</p> <ul style="list-style-type: none"> <li>○ emailed correspondence,</li> <li>○ notice of court sitting,</li> <li>○ Gazette advertisements,</li> <li>○ statement of service,</li> <li>○ referrals to judicial officers, and</li> </ul>

	<ul style="list-style-type: none"> <li>○ receipts/statements for confirmation of payment of filing fees.</li> </ul>
Directions and memorandum	<p>Directions made by the judge or land commissioners in the course of the proceedings:</p> <ul style="list-style-type: none"> <li>○ memoranda made by the judge or land commissioners in the course of the proceedings.</li> </ul>
Court minutes	<p>Court minutes:</p> <ul style="list-style-type: none"> <li>○ copy of any previous court minutes from other related applications.</li> </ul>
Orders	<p>Court's decision regarding the application.</p> <p>Copies of any previous court orders from other related applications.</p>

Update the existing land application checklist at step 6 and place the checklist as the first document on the inside of the folder, on top of the application tab divider.

After the file is made up, if the application is for determination of land title or interest, partition or appointment of leveki, it is listed for land investigation. Other applications that do not require a survey are listed directly for hearing.

If the application is for charge, lease confirmation of alienation, change of leveki, occupation, exchange, reservation, easement, adoption, or vesting land, it is listed directly for a hearing.

If an application for injunction is made for titled land it proceeds to a hearing – applications for untitled land must go through the land investigation process.

### 3.7 Related topics

- Land investigation report and provisional plans

## Chapter 4: Land investigation report and provisional plan

### 4.1 Legislative references

- Niue Amendment Act (No 2) 1968, s [22](#)
- Land Act 1969, ss [10](#), and [47-49](#)
- Niue Land Courts Bench Book, Chapter 3, s [2.1](#)

### 4.2 Purpose

The court may require supporting information relating to the property in question, including information gathered from surveying it – see s 10 of the Land Court Act 1969.

Under the land investigation programme, after the application has been filed and registered, the registrar or deputy registrar will authorise court staff to enter onto the land to complete a land investigation and a preliminary survey.

A provisional plan is drawn up to use during the court proceedings along with the investigation report and a final survey is required to put into effect the orders made by the court and to produce the certificate of title.

### 4.3 Procedure

After an application is registered and the file made up, the application is listed for a site visit to allow for completion of the investigation report by a deputy registrar or court administrator and for the surveyor's provisional plan.

After discussion with the surveying technical officer, the deputy registrar in conjunction with the senior court administrator will confirm the land investigation programme, listing the applications, dates and times for site visits. This is the same information contained in the land investigation radio announcement.

Under cover of a letter, forward a copy of the land investigation programme to the applicant and/or any occupier. The appointment date should be at least two weeks from the date of the letter, to allow the Leveki or occupier reasonable time to prepare for the visit.

The court administrator will contact the Broadcasting Corporation of Niue (BCN) and confirm the total cost for the announcements.

The confirmed programme and invoice/cost is sent to the administration officer who will request a purchase order from the Treasury Department. The purchase order is usually received on the same day as the request is made. On receipt of the purchase order, the court administrator will hand deliver or email both the purchase order and the confirmed investigation programme to the BCN to initiate the public announcements in advance of the site visit.

The public announcement will contain the information from the land investigation programme and will run over a week.

A copy of the programme is given to the surveying technical officer who will assign a surveyor. The surveyor will do their own search and investigation in preparation for the site visit, checking mappings, boundaries, adjacent surveys, and markers – see s 47 of the Land Act 1969.

The surveyor will organise transport for the court administrator or deputy registrar and arrange for chainmen to attend to assist with marking and measuring the boundaries of the land affected by the application.

The court administrator must ensure that the authority to enter any land is completed and signed by the registrar or deputy registrar prior to the site visit – see s 49 of the Land Act 1969. The signed authority is given to the applicant and/or occupant at the site before the site investigation and preliminary survey begin. A copy is retained on the file.

During the site investigation, the court administrator or deputy registrar will seek information about the land from the Leveki and/or occupier to form the basis of the investigation report for the court hearing. This will include details about the boundaries of the land claim and its historic usage. Anyone who is present will be heard - if necessary, the court administrator or deputy registrar will advise and assist them to complete a notice of intention to appear or file a written statement. Particular attention should be paid to any matter in dispute. All these details will be noted so that the court administrator or deputy registrar can compile a full investigation report on return to the office.

On return to the office, the surveyor will draw up a provisional plan of the surveyed land, including the applicant's name and application number. This may be able to be completed immediately but never-the-less is expected to be completed within a week of the site inspection. If necessary, the surveyor, deputy registrar or court administrator will contact the applicant to attend the office and check the provisional plan and sign that it is correct. Both the surveyor and the applicant must sign the provisional plan before it is put on file and placed under the search tab divider. If the applicant does not agree with the initial provisional plan drawn up, another site visit may ensue, requiring advertisement and authority again.

The court administrator or deputy registrar writes up their investigation report. The report is placed on the file under the search divider tab and may be made available to the parties on request.

Once the investigation report and provisional plan are completed the matter is listed as ready for allocation of a court hearing date.

#### 4.4 Related topics

- Court hearing – allocate a date of hearing
- Court hearing – prepare for court hearing
- Court hearing – final land survey and Certificate of Title

## Chapter 5: Allocate a date of hearing

### 5.1 Legislative references

- Land Court Rules 1969, r [19](#)
- Niue Land Courts Bench Book, Chapter 2, s [6.2](#)

### 5.2 Purpose

The Chief Judge will determine when the court will sit and it is the registrar or deputy registrar's responsibility to allocate dates of hearings for all outstanding cases that require a hearing.

Both the High Court Judges and land commissioners have shared jurisdiction to hear and determine land applications.

Once the case has been added to the ready for hearing list, the registrar or deputy registrar, and court administration officer will allocate the dates of hearing for all applications.

### 5.3 Jurisdiction

Judges will sit twice a year, April-May and November. Otherwise, matters are set before the land commissioners who will sit according to the workload demand and as arranged by the registrar or deputy registrar.

Not less than five commissioners will be convened to hear applications for ownership, possession, occupation utilisation, determine right, title, estate interest title or interest in any land or alienation or to determine interests of owners or occupiers, to authorise survey of land.

Otherwise, two commissioners have jurisdiction to determine all other matters, eg: appointment of Leveki Magafaoa, claim to recover damages, injunctions, to create easement or any other matter relating to land interests (unless legislation expressly provides for a commissioner to sit alone).

To be able to determine a full list of court applications, it is the normal practice to convene a panel of five members to hear both a disputed matter along with unopposed or consented applications.

### 5.4 Confirming the schedule

The Chief Judge will determine and advise the registrar whether the workload requires one or two judges to attend.

A draft of the proposed schedule of cases to be heard is sent to any sitting judges and the land commissioners for their confirmation, checking for any conflict of interest. Applications are re-scheduled as they direct.

The court administration officer, registrar or deputy registrar will have the confirmed court schedule sent via the registry email to the "government email" distribution list that includes government departments and the chamber of commerce.

Then the registrar:

- sends a copy to the Office in Parliament to have the schedule posted to the government website,
- attaches it to the public notice board at the registry reception,
- issues it with notice of hearing to the parties to the proceedings, and
- advertises it by notice in the government gazette.

### 5.5 Related topics

- Court sitting – notify Parties of court hearing
- Court sitting – gazette notices



## Chapter 6: Court sitting – gazette notices

### 6.1 Legislative references

- Niue Amendment Act (No 2) 1968, s [46\(2\)](#)
- Land Court Rules 1969, rr [10\(2\)](#) and [19](#)

### 6.2 Purpose

The registrar or deputy registrar must have all applications to be heard, listed and published in the government gazette to ensure that all affected parties to an application are notified of a court sitting and hearing of a land application.

### 6.3 Procedure

Once the court schedule has been confirmed, the court administration officer will prepare the gazette notice. The gazette notice lists the:

- applications to be heard,
- date and time of hearing,
- venue, and
- presiding judicial officer.

The notice should be published in both Niuean and English languages. See the attached examples of gazette notices for each jurisdiction.

In the gazette register, allocate the next consecutive number for the notice, and record the details from the notice in the gazette register.

Prepare the gazette notice and give it to the registrar for signature.

The gazette must be published with at least 14 days' notice to allow any interested party the opportunity to file a notice of intention to appear and be heard – see r [19](#) of the Land Court Rules 1969.

A copy of the gazette is:

- emailed or posted to the parties, the lawyers and other affected parties along with the notice of court sitting,
- forwarded to the judge along with the case summary reports and copy of the files,
- placed on the public notice board at the registry reception,
- published in the "Niue Star" newspaper,
- sent by the registrar to the office in charge of the government website and posted there.

To advertise the gazette in the Niue Star, the court administrator will contact the newspaper to confirm the total cost for the gazette notice publication.

On receipt of an invoice, the gazette notice and invoice are sent to the administration officer who will request a purchase order from the Treasury Department. Purchase orders are obtained within a day. On receipt of the purchase order, the court administrator will either email or hand deliver both the purchase order and the gazette programme to the Niue Star to initiate publication of the gazette in advance of the court sitting.

#### 6.4 Related topics

- Court sitting – court hearing
- Court sitting – notify parties of court hearing

## Chapter 7: Court sitting – notify parties of court hearing

### 7.1 Legislative references

- Land Court Rules 1969, rr 7, [19](#) and [21](#)
- Niue Land Courts Bench Book, Chapter 3, s [8.3](#) – s [8.4](#)

### 7.2 Purpose

The deputy registrar is required to give notice of the court sitting to all interested parties to the application to ensure they have the opportunity to be heard, before a decision is made by the court.

### 7.3 Procedure

Notice of the court sitting is prepared by the court administrator in dual languages then signed and issued by the registrar or deputy registrar.

It is sent by email or hand delivered with a copy of the schedule at least three days before commencement of the hearing to:

- the applicant and lawyers,
- any party who has filed a notice of intention to appear,
- any other person the registrar thinks fit, or
- as directed by the judge or land commissioner

Service is governed by r 7 of the Land Court Rules 1969 and includes provision:

- for service on agents for any person absent from Niue, and
- for service on a personal representative of any deceased party.

It also allows for the court to make directions in other circumstances.

Attach a copy of the gazette notice and retain a copy of the notice of sitting for the file placed under the correspondence tab divider.

If the notice of sitting is being hand-delivered, also attach a copy of the notice of service and retain a copy for the file – refer to Service.

### 7.4 Related topics

- Court sitting – court hearing
- Service

## Chapter 8: Court sitting – prepare summary report for court hearing

### 8.1 Legislative references

- Niue Land Courts Bench Book, Chapter 3, s [2.1](#)

### 8.2 Purpose

In preparation for the court sitting the deputy registrar and court administration officer will research the background of the application and provide a summary of the application/s for the judge or land commissioners.

### 8.3 Procedure

After the provisional plan is completed, to prepare the summary use CTS to search for related applications pertaining to the land or issue forming the basis of proceedings.

Also check the application for references to previous applications or orders. Check the land register, minute book and land registrations for any related files.

Confirm the details and ensure certified copies of previous applications and decisions are on file.

Assemble all information in chronological order and prepare the summary report. Three examples of summary reports are provided in the following appendix.

It is good practice to:

- head the summary with the land name,
- for each previous application, detail the name of the applicant, application numbers and application type, the land name and CT reference number, land district and date of order/application and any resulting outcomes or orders, and
- record any other detail that could assist the judge or land commissioner.

Sign and date the summary report, scan and load it into CTS. File the original under the search tab divider.

Ensure all other documents including related written agreements, notices of publication and service, maps, plans of survey carried out or sketch plans prepared during inspections are scanned and loaded into CTS.

This will be a final opportunity for you to check that all documents in relation to the current application are in order. Check that the application is prepared, signed, sworn, filed, published, the date, time and place of hearing duly notified and served on all parties.

Update file check list.

If the hearing is being conducted by a judge, upload the file and send it to the judge two weeks prior to the hearing to allow them to prepare.

The original files are progressively delivered at least two days in advance of the hearing to the judge's hotel for them to read. Files for hearing on Monday and Tuesday are delivered to their hotel on their arrival in Niue and the remaining files delivered each subsequent day after court. Expect the judge to make contact or call into the office if they require any further clarification.

Local land commissioners will attend the office within two weeks prior to the hearing to view the files.

Have the files ready and make all related files and registers available for perusal and examination by the court.

Immediately inform the court on any development likely to affect the hearing of the case, for example, the non-service of documents or notices on parties.

Attend to any arrangements relating to the hearing as the court may direct.

## Chapter 9: Court sitting – court hearing

### 9.1 Legislative references

- Niue Amendment Act (No 2) 1968, s [43](#)
- Land Court Rules 1969, rr [23\(1\)](#), and [27](#)
- Niue Land Courts Bench Book, Chapter 3, s [1](#), s [2.1](#), s [6.1](#), s [7.2](#), s [8.4](#), s [8.5](#), and s [10](#).

### 9.2 Purpose

The Registry provide support to the judiciary to conduct the court sittings. A court clerk will be assigned for each court sitting to deliver the courtroom ritual, call the cases and ensure that the court minutes are captured.

### 9.3 Procedure

- Check the file to ensure that any pre-court directions for the court sitting have been attended to and the proceedings are ready.
- Ensure that the venue is set up, clean and tidy ready to begin.
- Test the recording equipment to ensure it is working and ready to record.
- Before court begins ascertain the names of all parties, lawyers, representatives, or agents and who they are acting for. Advise the judiciary if there are unexpected attendees.
- Enquire from the public or attending parties who is willing to deliver the opening prayer. It can be delivered by a member of the public or if necessary, by the land commissioners or the deputy registrar and the court administrator if required.
- Be punctual and ensure you are ready to start the court on time.
- Address the land commissioners as “Your Worships”. A judge is addressed as “Your Honour”.
- Lead the panel or the judge into courtroom and ask the court to stand: “All stand for their Worships/the Judge”.
- Wait until they are seated and announce: “This sitting of the High Court Land Division for [date] is now in session”.
- Deliver the opening prayer.
- Introduce the commissioners and hand over to them to open and address all the parties.
- Call the first case and invite parties to be seated.
- During the proceedings be ready to:
  - swear any party or witness if they are required to give evidence – see attached forms of oaths
  - collect any fresh written statements or further documents from the parties and hand them to the judiciary.
  - read any statements as directed

- provide interpretation and explanation of aspects of the proceedings for the parties where necessary
- record any exhibits produced.
- Try to anticipate what the judicial officers may require and have it ready and available for them. Attend to any directions given by the judicial officers during the proceedings.
- The land commissioners will announce when each case has been concluded and the deputy registrar or court administrator will call the next case and again introduce the parties.
- At the conclusion of the last case, thank the parties, lawyers and land commissioners for their attendance. Enquire if there is anything further from the panel before either the land commissioner, deputy registrar or court administrator delivers the closing prayer.
- Ask the court to rise when the judicial officers exit the court.

#### 9.4 Court minutes

A primary role for the court administrator is to record (digital audio) the minutes of the proceedings. The land commissioners will take their own personal minutes and notes of the hearing.

Record all the proceedings and what is said in the courtroom. Regularly monitor the digital audio recording to ensure it is working properly. Turn the recording on and off as is needed.

At the end of the court sitting, save the recordings to the local server under justice common server, land division in the folders for court minutes for every year and every court sitting under the day of the court hearing, ready to be transcribed.

#### 9.5 Related topics

- Court sitting – court minutes

## Chapter 10: Court sitting – court minutes

### 10.1 Legislative references

- Land Act 1969, ss [3](#), [4](#) and [39](#)
- Niue Amendment Act (No 2) 1968, s [51\(1\)](#) – s [51\(4\)](#)
- Niue Land Courts Bench Book, Chapter 3, s [7.2](#)

### 10.2 Purpose

The registrar is required to keep a register of all land and record the substance of every court order or instrument relating to that land. Minutes of every court hearing are kept and cross-referenced to the application and land.

### 10.3 Procedure

After the court sitting is completed and the digital record saved, the court administrator will make a typed transcript of the minutes of the hearing.

Double check the minutes to ensure the application details are recorded correctly and the minutes are in the correct format.

Send the drafted minutes to the deputy registrar for final checking and approval to send to the judge for signature.

Once approved, send a copy to the judge to sign or organise for the land commissioners to attend the office and sign the minutes.

Enter the signed minutes into the land minute book and index. Record the volume and folio numbers on the minute.

Place a copy of the minutes on the file and note the file coversheet.

Distribute a copy of the signed minutes to the applicant and parties to the proceedings and complete service details. Note the file check list and record the minutes in CTS.

### 10.4 Related topics

- Service



## Chapter 11: Final land survey and certificate of title

### 11.1 Legislative references

- Land Act 1969, ss [10](#) and [47-49](#)
- Land Court Rules 1969, [Schedule 2](#) – Fees schedule

### 11.2 Purpose

A final survey is required to put into effect the orders made by the court and to produce the certificate of title – see s [47-49\(3\)](#) of the Land Act 1969.

An authority to survey enables the production of the final survey plan that forms the basis of the certificate of title, recording the true boundaries of the land and details as determined by the court.

### 11.3 Procedure

When the court minute has been signed by the judicial officer, there is a two-month stand-down period to allow for any rehearing and/or appeal period to lapse.

Only then is a final survey authorization prepared and signed by the registrar or deputy registrar.

This enables the final survey of the land to be completed by the surveyor who produced the provisional plan. The original authority is given to the senior surveyor or GIS/LIS technical officer and a copy kept for the file. No copy is provided for the applicant.

Record the authority for the final survey in the final survey register book and note the application number on both the authority and on the file coversheet.

The authority is given to the senior surveyor or GIS/LIS technical officer who will organise a date and time to conduct the final survey.

The draftsman or GIS/LIS technical officer will undertake the draughting to draw up the final survey plan according to the details of the order of the court. The finalised survey plan is submitted to the senior surveyor or GIS/LIS technical officer for approval and then given to the registrar to sign.

Once the registrar has signed the final plan, the draftsmen or GIS/LIS technical officer will draw up the corresponding certificate of title and pass this to the land registration officer. The land registration officer will:

- register the certificate of title in the land register and allocate a CT reference number,
- add the certificate of title to the instrument list and assign an instrument number,
- give the certificate of title to the registrar to sign,
- once signed, place a copy of the certificate of title and the instrument on the file,
- place a copy of the certificate of title and instrument into both the instrument folder and the abstract folder,

- file the original certificate of title into the Originals CT cabinets under the CT number, and
- contact the applicant to collect and pay for the CT. The CT is used for building permits, to secure loan applications and forms part of their own records.

Update the file coversheet and cross reference the CT number.

## Chapter 12: Orders

### 12.1 Legislative references

- Niue Amendment Act (No 2) 1968, s [51](#)
- Land Court Rules 1969, rr [31–32](#), and [Form 6](#) Order

### 12.2 Purpose

After the court minutes have been signed, they are sealed and entered into the minute book. Any orders requested can be drawn up and sealed if directed by the presiding judicial officer, but no order will issue until the appeal period has expired.

### 12.3 Procedure

Judges and land commissioners will complete their own decisions or judgments immediately after the court sitting.

Not all court hearings will require the issue of orders. Some may be directed by the judicial officers following the court hearing.

The registrar or deputy registrar may require any party to submit a draft order for signing and all orders should follow [form 6](#) of the Land Court Rules 1969. Any order should be checked against the decision and court minutes and follow the terms of the judgment.

Any orders that need to be drawn up are signed by the judge who issued the decision.

Update the file coversheet and scan the order into CTS.

### 12.4 File coversheet abbreviations

The table below lists abbreviations used to denote applications and orders made on the file coversheet.

DT	Application for Determination of Title
LM	Application for Appointment of Leveki Magafaoa
RLM	Application to Remove Leveki Magafaoa
JLM	Application for a Joint Leveki Magafaoa
CLM	Application to Change Leveki Magafaoa
OO	Application for an Occupation Order
OA	Application for an Order Access
L	Application for Confirmation of Lease
CHR ORD	Application for Confirmation of Charging Order
OCLD	Application to Discharge Charging Order

SCV	Application for Variation of Lease
LS	Application to Surrender of Lease
OP	Application for a Partition
RCL	Registrations of Crown Land
RNL	Registrations of Niuean Land
W	Warrant
CT	Certificate of Title
CJ	Chief Judge
J	Justice
LC	Land Commissioners
C	Commissioners
CA	Confirmation of Lease
COA	Court of Appeal
LC	Local Court

## 12.5 Related topics

- Court sitting – court minutes

## Chapter 13: Directions

### 13.1 Legislative references

- Land Court Rules 1969, r [12](#)

### 13.2 Purpose

During the course of the proceedings, you may require a direction of the judicial officer. This may be initiated by application from the parties, the court administrator or deputy registrar seeking a case management direction.

### 13.3 Procedure

Check that the directions being sought in an application are bona fide. The registrar has power under r [12](#) of the Land Court Rules 1969 to refuse to accept an application if it is not properly made.

Bona fide applications must:

- Be interlocutory in nature, eg: adjournment or directions as to service, injunction
- require a step by direction from the judge to progress the proceedings.

For both an application and case management direction, prepare a memorandum to the judge explaining why the matter is being referred to them and what direction is being sought – refer to Appendix 27.

In the memorandum record any other details that you think the judge would require. Forward the memorandum, any application and all the supporting documents to the judge for consideration – these should be listed in the memorandum. Retain a copy for the file under the file tab divider for directions and memorandum.

The judge will consider the memorandum, any application and compile their response. Type up the directions if not already provided and issue to the parties.

Scan the direction into CTS and place the original under the directions and memorandum tab divider.

Check for any action that is necessary to be undertaken by the case administrator, eg: direction for parties to hold a family meeting and issue the direction and instructions to the parties as necessary.

Monitor for compliance with the direction prior to any hearing.

## Chapter 14: Service of court documents on parties

### 14.1 Legislative references

- Land Court Rules 1969, r 7

### 14.2 Purpose

Notices, minutes, directions, and orders are served on all affected parties to ensure that they are given adequate notice to address the court and to be heard and informed of all court decisions, directions and orders.

Where the court is not satisfied that a party has been given sufficient notice for this, the proceedings may need to be adjourned allow them more time.

### 14.3 Procedure

A notice or other document required to be served on any person may be delivered to them either personally or, where that person is in Niue, by posting it by letter to their last-known place of abode or business in Niue or sent by email.

If the person is absent from Niue, the notice or document to be served may be delivered to their agent in Niue.

If the person is deceased, the notice or document may be served on their personal representative in Niue or lawyer.

Otherwise, a Judge may make an order directing the manner of service by other means or dispense with service all together.

Documents issued for service are:

- court decisions
- orders
- affidavits
- court minutes
- directions
- response to judicial directions
- submissions from parties
- memorandum from parties
- letter of objection from any party
- letter of withdrawal of objection
- caveat
- injunction application
- application for rehearing
- notice of appeal

- application for rehearing
- notice of rehearing.

#### 14.4 Service by post

Service by post is affected by registered mail. It is deemed to have been received when delivery would ordinarily be expected to have been delivered if the registered mail is not returned unclaimed.

Record the date of post of the document and note the application check list.

#### 14.5 Personal service

Where personal service is to be affected, prepare/attach the statement of service, both public copy and court copy. Ensure the statement lists all the documents attached to be served.

When service is affected ensure the court copy is completed with the details of service.

If service is acknowledged, the party will sign both copies of the statement of service and retain the public copy of the statement of service. They should also keep all the attached documents.

If the person being served takes possession of the documents and refuses to sign the statement, take a note to that effect on the statement. Still leave the attached documents in their possession. Return the completed court copy and put it onto the file promptly.

Note the application check list that service has been affected, record the statement of service in CTS and place the statement on file under the correspondence tab divider.

If service cannot be affected, make enquiries with the other parties to the proceedings or refer the matter to the judge for further direction.