Arrested (re)development? A study of cross lease and unit titles in Auckland

Craig Fredrickson

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Executive summary

Increased density in already urbanised areas of Auckland will be required to reach the goals of a compact city set out in *The Auckland Plan*, and will require a significant level of redevelopment and intensification. However, the presence of multi-owned properties across the city presents a barrier to redevelopment. In this regard, cross lease title and unit title properties are the most prevalent type of multi-owned property in Auckland, with these two title types accounting for 31 per cent of all titles in Auckland. Over fourth-fifths (81 per cent) of parcels associated with cross lease titles or unit titles are zoned to allow higher-density residential in the Auckland Unitary Plan (decisions version[1]) and approximately 44 per cent of those titles have dwellings that were built in the 1970s or earlier. Many of these dwellings could be nearing the end of their physical or economic life, and with the zoning of these properties allowing higher-density development, the ability of many of them to be redeveloped is severely restricted, primarily due the complicated nature of their ownership.

This study was initiated in order to understand the quantum and nature of cross lease titles and unit titles in Auckland and their potential impacts on future (re)development. The project was undertaken in two phases. The first sought to identify the location, nature, and form of properties and dwellings associated with cross lease titles and unit titles through the analysis of spatial datasets. The second phase comprised interviews with relevant professionals to better understand the drivers and influences that cross lease titles or unit titles have on the potential redevelopment of properties.

Property title data sourced from Land Information New Zealand (LINZ) on 15 March 2016 allowed the quantification of both cross lease titles and unit titles in Auckland and in New Zealand. For titles in Auckland, analysis using the title data allowed assessment of:

- Titles by the local board they are in,
- Plan zoning of the land underneath these titles,
- Number of titles in cross lease title and unit title schemes,
- Number and age of dwellings in the schemes, and
- Redevelopment potential of the land associated with the titles.

This study reveals that there were 215,958 cross lease titles in New Zealand, of which 100,148 (47 per cent) were in Auckland. Cross lease titles accounted for 18 per cent of all titles in Auckland, the second most popular title type after freehold. Cross lease titles are spread across all of Auckland's local board areas, with Albert-Eden, Devonport-Takapuna, Hibiscus and Bays, Howick, Kaipātiki, and Ōrākei each having more than 8000. Assessment of cross lease titles by Auckland Unitary Plan (decisions version) zoning shows that 98 per cent were in residential zones, and the largest number of cross lease titles are found in the Mixed Housing Suburban

[1] The 'decisions version' of the Auckland Unitary Plan was approved by Auckland Council on 19 August 2016.

zone (48,359), followed by the Mixed Housing Urban zone (27,010). There are 39,636 cross lease schemes, and they range in size from two to 65 titles, with an average of 2.5 titles per cross lease scheme. Nearly a quarter (23 per cent) of dwellings on cross lease titles were built in the 1950s or 1960s and a further 23 per cent built in the 1970s. Using the results of Capacity for Growth Study modelling[2] it is estimated that an additional 23,285 dwellings could be built if all sites associated with cross lease titles were redeveloped.

Analysis of unit titles showed that they comprise 13 per cent (75,376) of the total titles in Auckland. Auckland has 53 per cent of New Zealand's total unit titles. Unit titles are concentrated in the Waitematā Local Board area, which has 66 per cent of Auckland's total, with a high concentration in the city centre. Analysis of unit titles by Auckland Unitary Plan (decisions version) zoning shows that 65 per cent are in business zones and 34 per cent are in residential zones. The high proportion of unit titles in business zones is due to the large number of apartment blocks in the city centre, and other town centres, where the underlying zoning is business, even if the building is for residential use. In Auckland 6318 unit title schemes were identified, which ranged in size from two to 827 unit titles, with an average of 11.9 titles per scheme, 57 per cent of schemes had only two units title associate with them. Over half (51 per cent) of dwellings on unit titles were built since the 2000s and a further quarter (26 per cent) were built in the 1980s and 1990s. Redevelopment of sites with unit titles on them under the provisions of the Proposed Auckland Unitary Plan could yield an additional 8365 dwellings.

Interviews with professionals who had experience with cross lease title or unit title properties were undertaken; in total I interviewed seven people including legal professionals, valuers, an academic, and a surveyor. I spoke to a further three developers who stated that while they were willing to participate in the project, they could not offer any in-depth information since they purposefully avoided dealing with the redevelopment of cross lease title and unit title properties due to their inherent difficulties.

All participants shared their views on cross leases, about a range of topics. Those that deal with cross lease titles all commented that new cross leases were rare. Most of the work they undertook in this area was related to issues including:

- Incorrect flat plans and problems related to renovations,
- Relationships between co-lessees, and
- The costs related to and the management of cross lease properties.

Many participants also commented that the value of properties can be affected because they are cross lease titles. Comment was also made on the public's general lack of understanding about how cross lease agreements work. Other topics related to processes that could be improved, particularly around arbitration as a method of resolution between co-lessees and the

[2] Results are from the Capacity for Growth Study 2013 (Proposed Auckland Unitary Plan) and reflect the rules and zoning of this plan. Capacity modelling for the current Auckland Unitary Plan, which is currently operative in part, had not been completed at the time of this study.

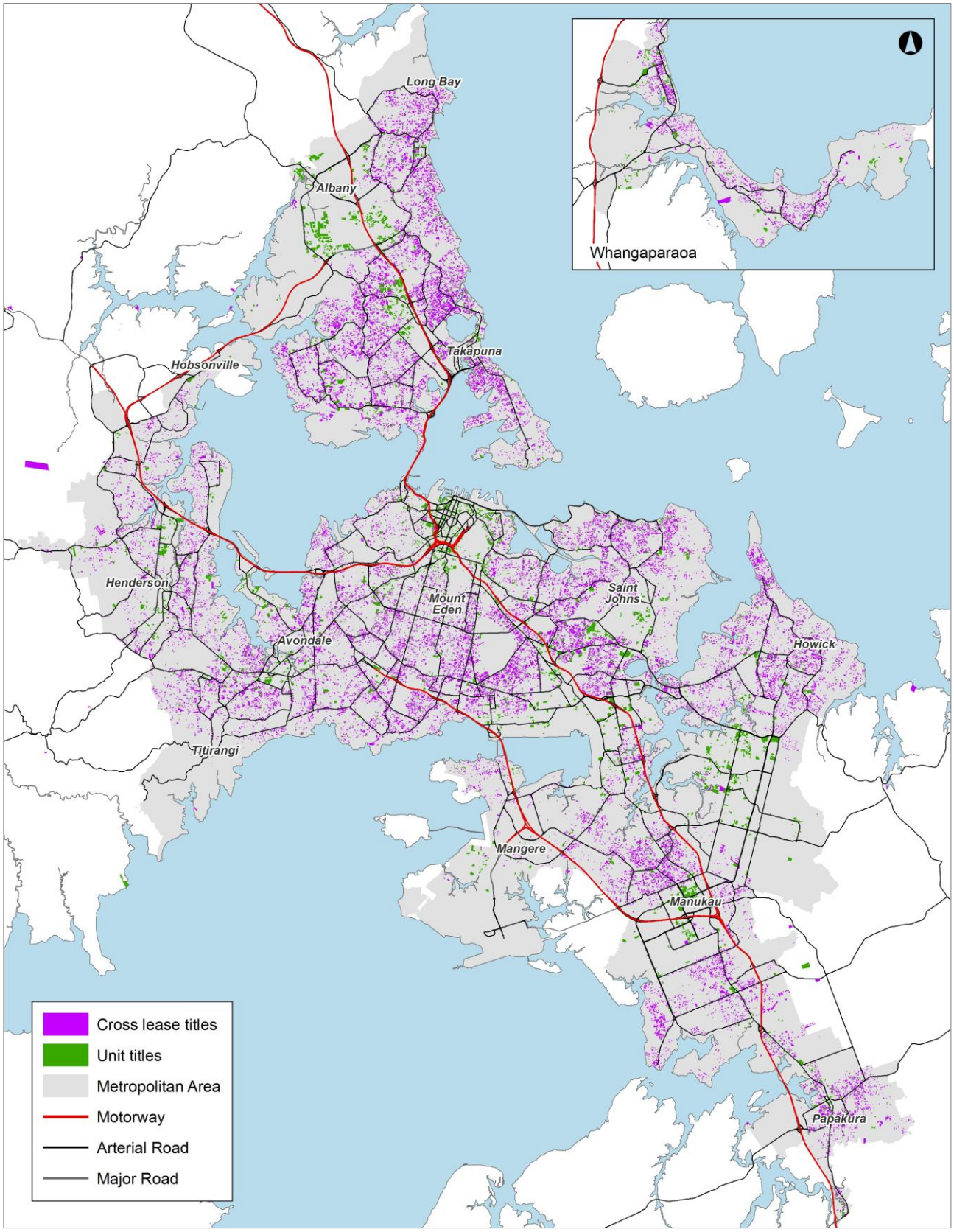
difficulty in the conversion of cross lease titles to another form – such as a freehold or unit title. Comments were also made about redevelopment of cross lease properties, with participants noting the difficulty of the process and the fact that many developers choose to avoid such properties.

Fewer observations were made about unit titles. Nevertheless, they covered a similar range of topics including the lack of public understanding about unit titles, unit titles versus freehold titles, and the surveying of unit titles. Unit title management, bodies corporate, and the Unit Titles Act 2010 were most commented on by the interview participants, with many remarking on the shortcomings in the previous and current legislation. The redevelopment of unit title properties was also discussed, with some commenting that similar to cross lease properties, developers avoid unit titles when considering redevelopment projects.

Despite increased residential densities being enabled by the Auckland Unitary Plan a number of obstacles exist that may limit the city's ability to intensify in existing urban areas. Auckland has a large number of cross lease title and unit title properties in its urban area, and many are in locations that have been identified for intensification. Cross lease and unit titles, and their complicated ownership structures, may limit redevelopment; it is likely that land assembly or ownership assembly must first take place. Land or ownership assembly is a constraint that can prevent development, but mechanisms, to agglomerate land and ownership, such as the use of urban development authorities, are a way of overcoming this constraint.

Participants in this research raised a number of other issues relating to cross lease and unit titles and noted that these would require a number of changes by either council or the Government for resolution. Suggestions included a mechanism by which cross lease title and unit title properties could be converted to freehold without the need to comply with council's planning rules on minimum site size and the separation of underground services, a concept suggested by the New Zealand Law Commission in 1999. The need to raise awareness of cross lease and unit title owner's obligations and responsibilities was also identified. What form this would take is difficult to conceptualise, given the wide range of resources that are already available for unit title owners on the one hand, and the nature of cross leases which means that every cross lease agreement may be different, on the other.

Cross lease title and unit titles in Auckland's main urban areas



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1.0 Introduction

Increased density in already urbanised areas of Auckland will be required to reach the goal of a compact city outlined in *The Auckland Plan*. The Plan has the goal of accommodating between 60 and 70 per cent of dwelling growth to 2041 inside the Metropolitan Urban Limits (as at November 2010), as expressed in the Plan's Development Strategy targets (Auckland Council, 2012). This is further supported by the Auckland Unitary Plan Independent Hearings Panel who, in their recommendation on the Auckland Unitary Plan, indicated their support for the compact city model with higher densities in and around centres and corridors or close to public transport routes (Auckland Unitary Plan Independent Hearings Panel, 2016).

Cross lease titles and unit titles are two types of property ownership that are used in New Zealand. Cross lease titles are unique to New Zealand. Strata title statues developed in New South Wales (NSW) and Victoria before New Zealand, with the Victoria statue forming the basis for New Zealand's unit title legislation (McMorland & Gibbons, 2013). Both are mechanisms for shared ownership of a single property, often referred to as 'multi-owned property' or 'commonly owned property' in literature. Both ownership types are common across Auckland. As at March 2016 Auckland had 100,145 cross lease titles and 73,376 unit titles – together cross lease titles and unit titles account for 31 per cent of the total titles in Auckland.

Just like Auckland, other cities are seeking to enable urban renewal and redevelopment in existing suburbs to accommodate more dwellings. In their study on urban redevelopment in Sydney Troy, Randolph, Crommelin, Easthope, and Pinnegar (2015) assert that urban regeneration needs to move from disused or industrial areas to existing residential suburbs – and "replacing existing multi-unit housing presents a complex challenge" given the "complexities of their ownership structure" and difficulties in obtaining owner agreement (Troy, Randolph, Crommelin*, et al.*, 2015, p. vi). Easthope, Hudson, and Randolph (2013), on their research in Sydney, also view the presence of multi-owned properties in areas earmarked for renewal as a barrier to redevelopment. Issues such as high land values, the legislation governing multi-owned properties in New South Wales, compliance with newer building codes, and developer profitability have also been noted as potential barriers to redevelopment (New South Wales Department of Planning, 2005).

In order for Auckland's existing urban area to accommodate additional new dwellings, a significant level of redevelopment and intensification will be required. Properties in Auckland that have complex ownership structures, such as those with cross lease titles or unit titles, are undoubtedly more difficult to redevelop; cross lease properties require all the owners of a property to unanimously agree to development or redevelopment (New Zealand Law Commission, 1999; Pidgeon, 2014b; Ministry of Business Innovation and Employment, 2015), whereas unit titled properties require a special resolution of the body corporate with at least a 75 per cent majority (Unit Titles Act 2010).

For both title types, any owner or group of owners may apply to the High Court under s339 of the Property Law Act 2007 for a court order for the sale or division of property among co-owners, which could involve the compulsion to sell all units for redevelopment. Under s342, the Court considers a range of factors including the comparative hardship between the applicant(s) should

the order be refused, and those who would be caused hardship if it was approved. Alternatively, all titles on a property would need to be under single ownership (i.e. purchased by a single buyer) before redevelopment can occur. The 'hold out problem' occurs when there are problems with gaining consensus amongst the owners of properties where land or ownership agglomeration is required before redevelopment (Menezes & Pitchford, 2004; Miceli & Sirmans, 2007; Plassmann & Tideman, 2007; Cadigan, Schmitt, Shupp, & Swope, 2011; Cunningham, 2013). Issues identified apply equally to the redevelopment of cross lease title and unit title properties. In this regard, it is evident that the large number of parcels in Auckland with a cross lease title or unit title are likely to impede the city's ability to intensify effectively, particularly within areas closest to, and including, the inner city.

The provisions of the Auckland Unitary Plan facilitate an increase in the number of higher density residential developments such as high- and low-rise apartment buildings and attached dwellings such as terraced houses and duplexes around town centres and in existing suburbs. Parcels associated with cross lease titles and unit titles account for 18 per cent of the total parcels in Auckland, and over fourth-fifths (81 per cent) of parcels associated with unit or cross lease titles being zoned for higher-density residential[3] in the Auckland Unitary Plan (decisions version), unit and cross lease properties, if redeveloped, could contribute to the supply of new dwellings. It is also perhaps pertinent to note that a number of these new higher density developments will be created and sold as unit titles.

Will the nature, location, ownership structure, and other attributes of cross lease title and unit title properties in Auckland arrest potential (re)development opportunities? And if so, what can be done to minimise their impact?

1.1 Purpose of the research

The two broad aims of this project are:

1. To identify the location, nature, and form of properties and dwellings associated with cross lease titles and unit titles through the analysis of spatial datasets (phase one), and
2. To discover the drivers and influences that affect the ability of current properties with cross lease titles or unit titles to be redeveloped in the future (phase two).

Phase one of this project responded to the following questions:

- How many cross lease titles and unit titles are there in Auckland? How many cross lease and unit title schemes are there? And how many parcels of land do the cross lease titles and unit titles cover?

[3] Higher-density residential zones include: Terrace House and Apartment Buildings zone, Mixed Housing Urban zone, and Mixed Housing Suburban zone.

- Where are cross lease titles and unit titles located, and what are the planning rules that apply to these properties? Does the current or proposed zoning allow for the redevelopment of properties at higher densities than currently permitted?
- What is the nature of the existing buildings on cross lease titles and unit titles, and what effect does this have the redevelopment potential of these properties?

In addition to investigating the location and characteristics of cross lease titles and unit titles, it is also important to understand the history and context of these two title types. This report includes an overview of their history, their current status, how they work, and an outline of some of their issues. These aspects of the report have been included to give those who are unfamiliar with cross lease titles and unit titles some understanding. While some reference to, and comment on, legal aspects of these title types have also been included in this report to provide context, they have not been explored in depth. A detailed legal study is beyond the scope of this report.

Phase two of this study comprised interviews with professionals who had been involved in the redevelopment of either cross lease title or unit title properties. Participants sought included planners, surveyors, lawyers, and property developers. Through these interviews, I developed a greater understanding of the factors that influence decisions about the redevelopment cross lease titles and unit titles sites, particularly with regard to specific hurdles that needed to overcome in order to facilitate the redevelopment of such sites. While a wide range of participants were sought, in the end I only spoke to people from a few professional areas. The feedback received from the study participants are their individual views, opinions, and observations, and they should not be viewed as the view of their entire industry or others within their industry.

2.0 Understanding property terminology

Property terminology can often be confusing. Frequently a number of terms with formal or legal meaning are used interchangeably in common language, leading to. This section provides clear definitions for commonly used property terms used throughout this report.

2.1 What is a title?

A property title is the record under the New Zealand land transfer system[4] that shows a property's: proprietors (owners), legal description, and the rights and restrictions registered on the title (e.g. a mortgage, an easement, or a covenant) (Land Information New Zealand, 2016c). A Certificate of Title (CT) is produced by LINZ and contains this information (Figure 1). Other information contained on a CT includes: the title's unique identifier, the certificate's issue date, the legal descriptions of the parcels of land associated with the title, and the total area of the title. The common term 'property' should be thought of as the land or area listed on a CT.

As well as the property title information, LINZ also keeps a copy of the title plan for each title. A title plan is the plan deposited by LINZ when a new title is created (Land Information New Zealand, 2016c). Most title plans have two parts; a title sheet and a survey sheet, with unit titles plans having a third – a supplementary record sheet. The title sheet shows the plan deposited when the title was created, and is a simple diagram of the property's boundaries, area and dimensions, a detailed survey plan, or a combination of both (Land Information New Zealand, 2016b). The survey sheet contains detailed survey observations (Land Information New Zealand, 2016a). Sample copies of a title sheet and a survey plan are shown in Figure 2 and Figure 3, respectively.

In New Zealand there are numerous types of titles. The most common are: freehold titles (also known as fee simple titles), leasehold titles, unit titles and cross lease titles. Other less common title types include: life estate, gazette notice, records embodied in the register, supplementary record sheet, and timeshare titles.

Section 2.2 and 2.6 explore the nature of cross lease titles and unit titles in Auckland in further detail.

[4] This New Zealand land title system is known as a Torrens system; it was created and introduced in Australia in 1858 by Sir Robert Torrens. In this system the land register shows the actual state of ownership as well as evidence of ownership, and the government guarantees all rights shown in the register. Shortly after Torrens introduced the concept of title registration in Australia, a modified system developed in England (Hanstad, 1998).

Figure 1: Example of Certificate of Title (image sourced from Land Information New Zealand, 2015)

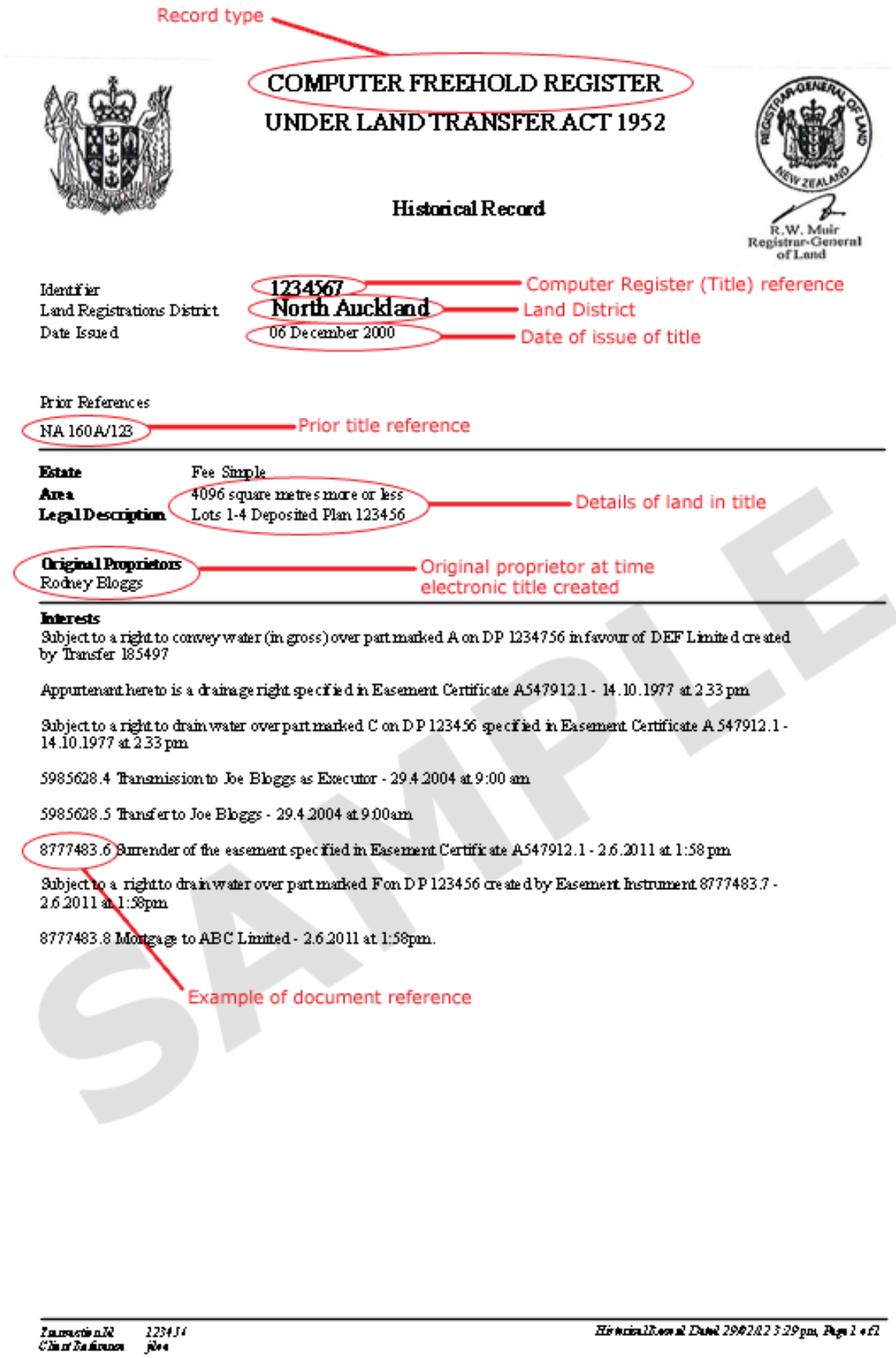


Figure 2: Example of cadastral survey plan (title sheet) (image sourced from Land Information New Zealand, 2016b)

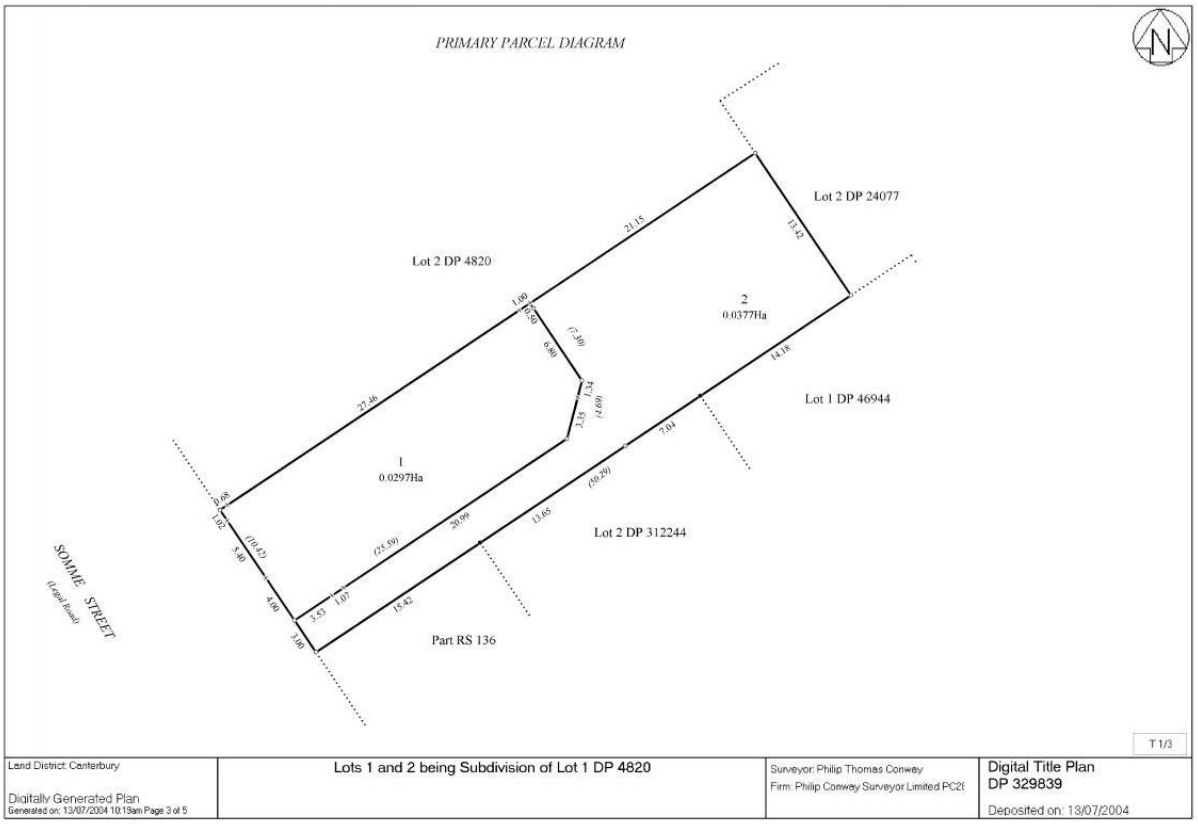
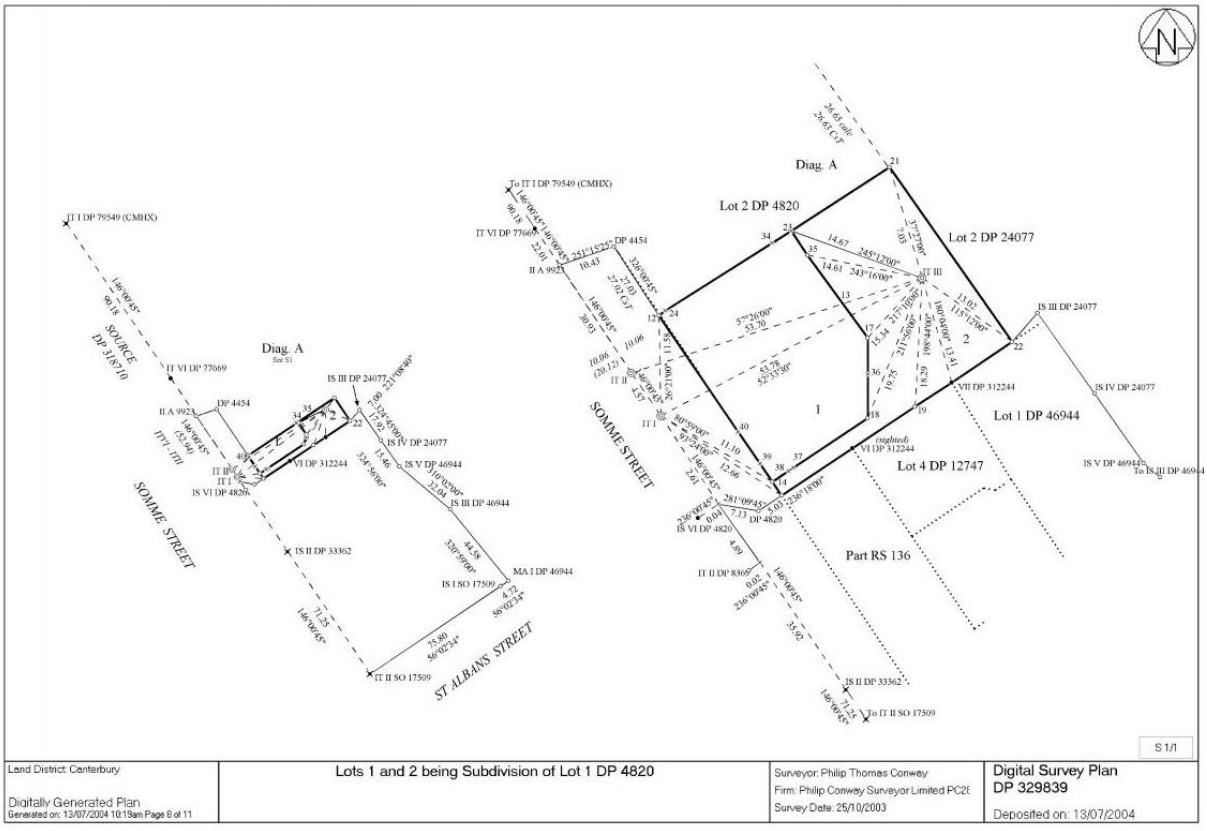


Figure 3: Example of cadastral survey plan (survey sheet) (image sourced from Land Information New Zealand, 2016a)



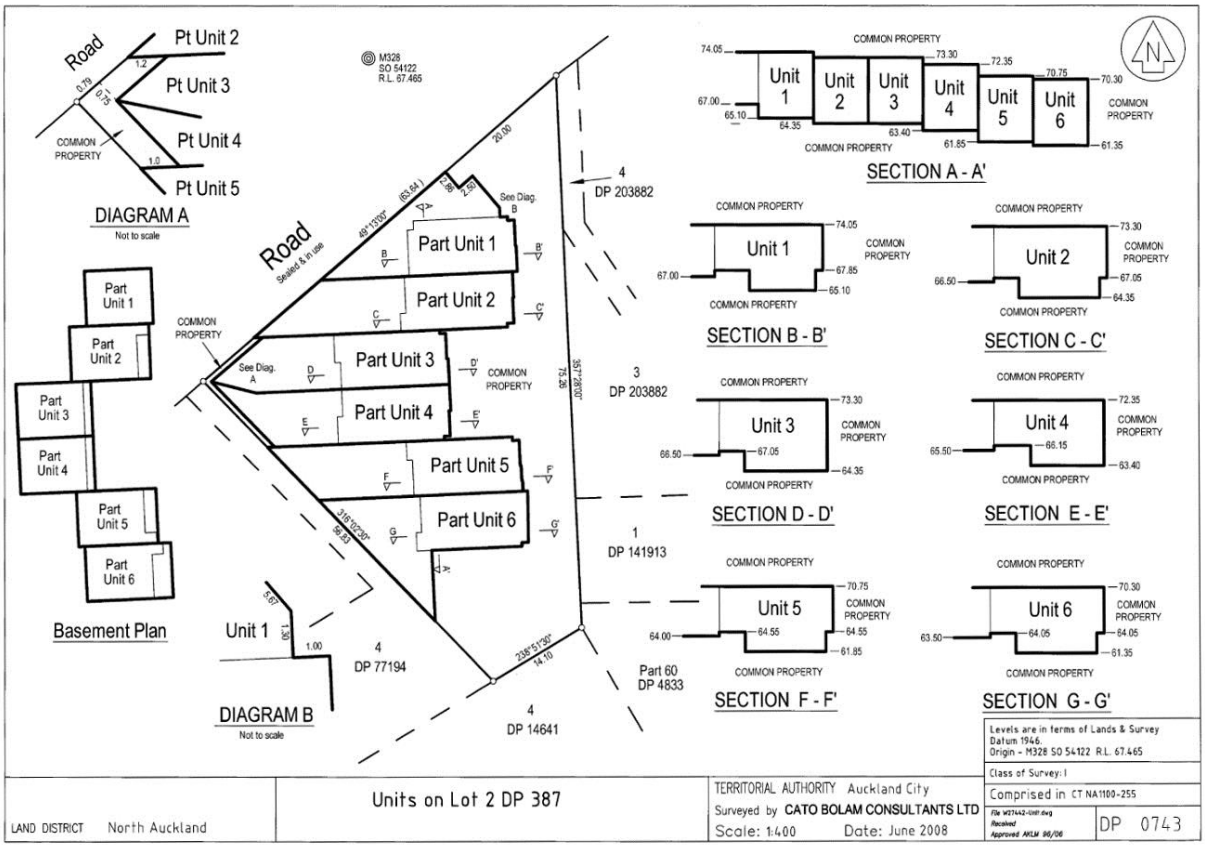
2.2 What is a parcel?

A parcel most often refers to a piece of land (also known as a lot or a section) and refers to a single allotment on an approved survey plan. All areas of land, water, and sea in New Zealand are contained in parcels. This includes all rivers, lakes, wetlands, estuaries, tidal areas, and the marine area within New Zealand's 12 Mile Territorial Sea Outer Limit. No parcel can overlap another parcel, and each has a unique identifier.

The boundaries of parcels are detailed on cadastral survey plans, the main type being a deposited plan (DP). DPs show in diagram form the physical extent of the parcels that have been surveyed. An example of a survey plan is shown (Figure 2 and Figure 3). Under New Zealand's land transfer system, each parcel of land is described with an appellation, more commonly known as a parcel's legal description. This appellation includes the parcel's lot number and the DP number. For example, the lot and DP number for Lot 1 as shown in Figure 2 is Lot 1 DP329839 (the first lot on Deposited Plan 329839).

Cadastral survey plans for a unit title scheme show both the boundaries of the parcel as well as the extent of the units on the parcel (Figure 4)

Figure 4: Example of cadastral survey plan (title sheet) showing units on a parcel (image sourced from LINZ via a land record search*)



* Note address details have been removed from this image

2.3 So what's the difference between a title and a parcel?

As outlined above, a parcel is a surveyed and measured piece of land and has a unique identifier (its appellation), whereas a title refers to the areas specified on a CT and includes ownership and encumbrance information. Parcels or parts of parcels are referred to on a CT to indicate the area or areas that the CT applies to.

2.4 How do a parcel and title relate to each other?

The relationship between parcels and is explained in the following series of diagrams and commentary (see Figure 5, Figure 6, Figure 7, Figure 8, and Figure 9).

Figure 5 illustrates a single dwelling on a property. This example applies to most stand-alone suburban homes in Auckland. In this case, there is a single parcel on a single title, which has a single house on it (one parcel to one title).

Figure 5: Example of a scenario with one parcel and one title

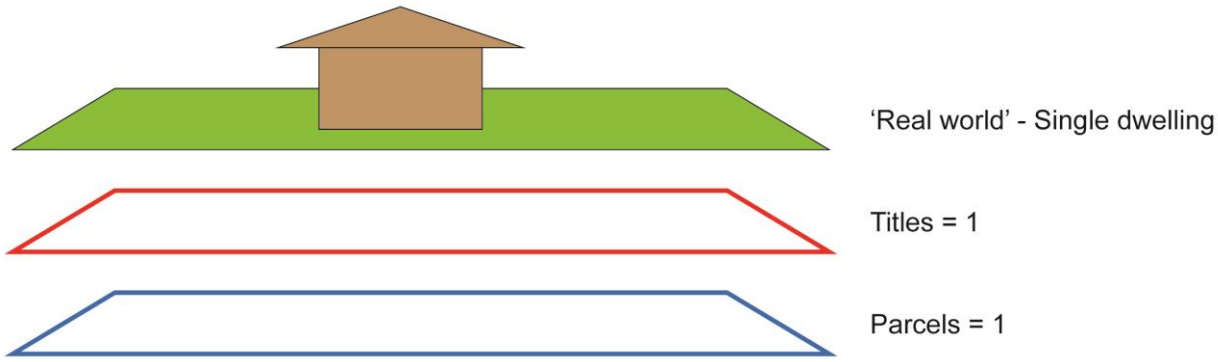


Figure 6 illustrates a scenario with two parcels on a single title with a single house on it (two parcels to one title). Despite there being two parcels since both parcels are contained on a single title, there is single ownership. Although there are two parcels, the real world view is the same as that seen if there was a single parcel. A real world example of this scenario is shown in Figure 7. The red lines denote the parcel boundaries, but the blue lines denotes that both of these parcels are on a single title.

Figure 6: Example of a scenario with two parcels and one title

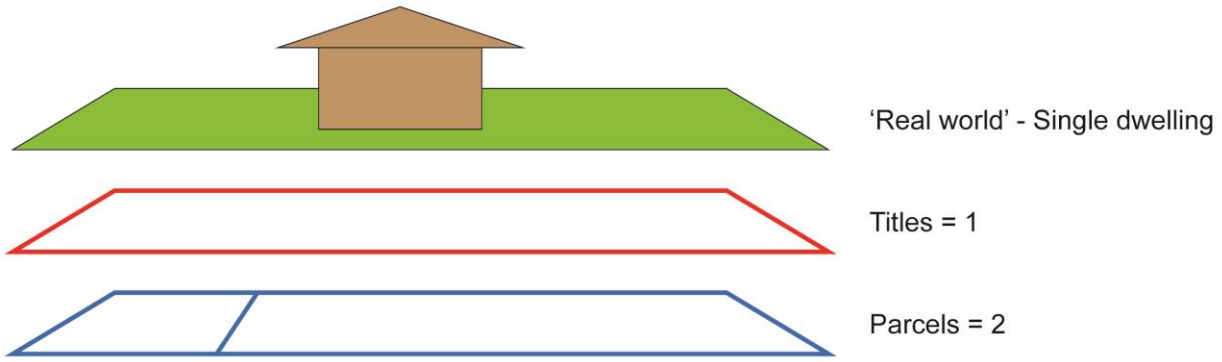


Figure 7: Example of a property with one title and two parcels

Many cross lease titles and unit titles have multiple titles for a single parcel of land Figure 8 illustrates two dwellings on one parcel, each with its own title (one parcel to two titles). While many presume that units need to be attached to one another, that is not always the case and stand-alone dwellings can be on both cross lease titles and unit titles.

Figure 8: Example of a scenario with one parcel and two titles

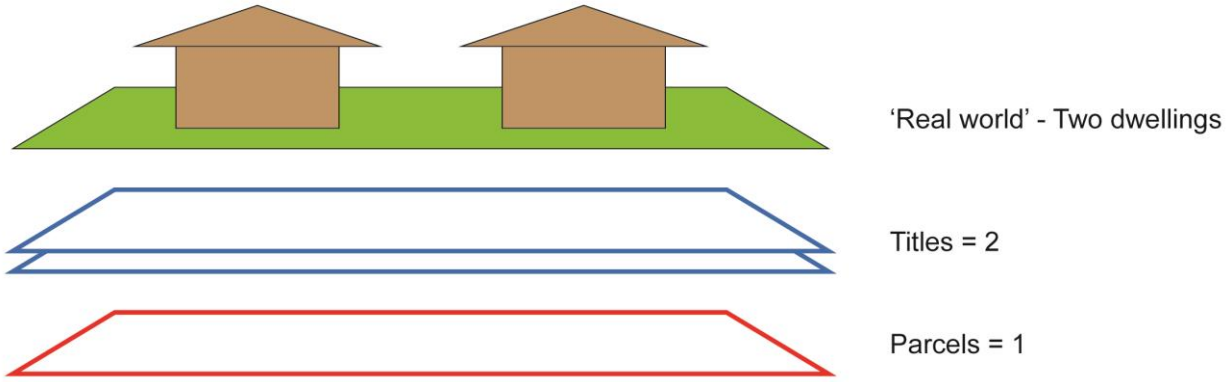
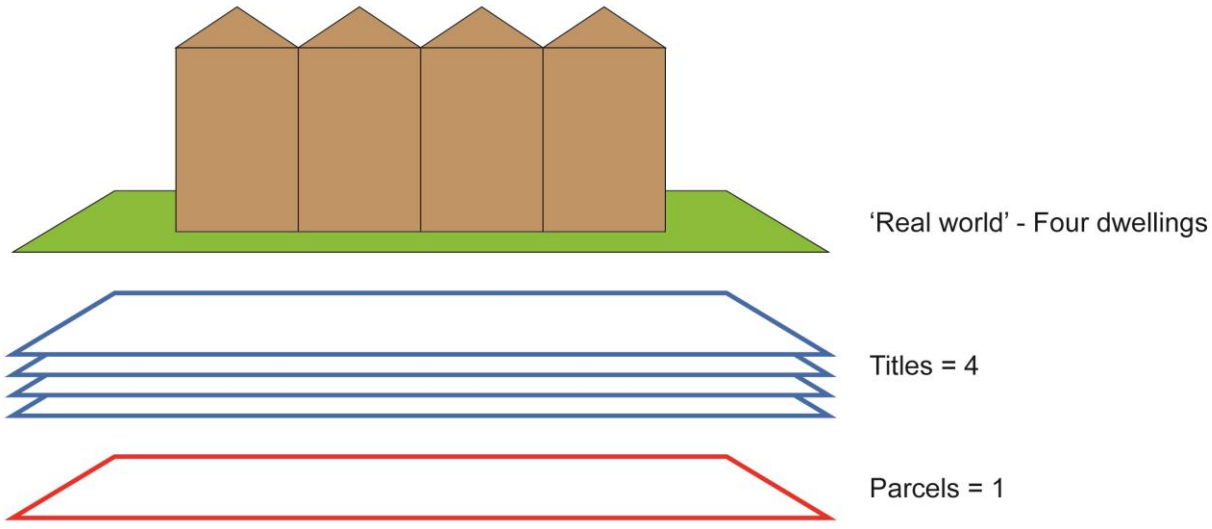


Figure 9 best illustrates an example often seen with properties that have unit titles. In this example a row of four terraced houses are shown on a single parcel, with each house having its own title, meaning there are four titles.

Figure 9: Example of a scenario with one parcel and four titles



2.5 What is a cross lease title?

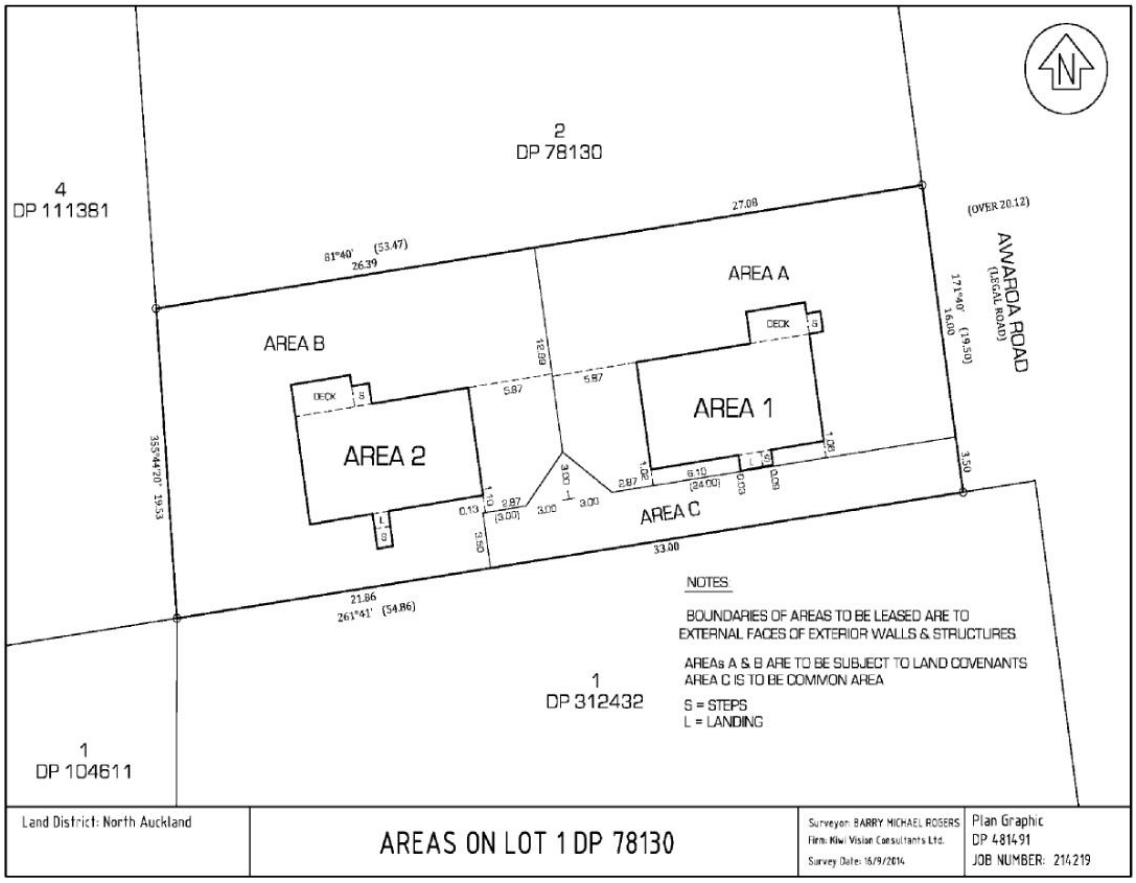
Cross lease titles are a form of title issued that is unique to New Zealand. Cross leases create a separate CT for two or more dwellings on a single parcel of land without the need for a subdivision (Pidgeon, 2014b). Legally, a cross lease creates two layers of rights on a property; the rights of

ownership, and the rights of use (HomeLegal, 2015). McMorland and Gibbons (2013) describe cross leases as built on a structure of an underlying estate (usually a freehold title), owned by 'flat' owners as tenants in common (co-lessees), with each leasing to each other their respective flats and sometimes exclusive use areas.

Cross leases were not created by statute; they are a legal device created by lawyer Bryan Mahon in the late 1950s to allow the individual ownership of units or flats in a single building (Pidgeon, 2014b). However, after legislative changes they were used as a way to circumvent subdivision rules in order to enable construction of more than one dwelling on a site that would otherwise be too small for subdivision (Espie, 1995; Pidgeon, 2014b). Almost 60 years after their development, cross leases are still causing confusion (Espie, 1995; Pidgeon, 2013, 2014b).

A CT for a cross lease title is similar to that for a freehold title but notes that, in addition to the share in the freehold or fee simple estate, the title is also 'leasehold' and includes the term of the lease. Unlike a freehold title, the CT for a cross lease title also includes a 'flat plan' (Figure 10). The flat plan for a cross lease title shows the areas associated with the cross lease document, illustrates the area of the property, the location and extent of the flats or dwellings on the property, and in some cases the area of exclusive use. In the example shown in Figure 10, Area 1 and Area 2 are houses on the property. Area A and B being areas of exclusive use on the property; Area A is associated with Area 1 and Area B is associated with Area 2. Area C is common area (in this case a driveway) shared by both the lease holders.

Figure 10: Example of cross lease title flat plan from a Certificate of Title (image sourced from LINZ via a land record search)



The term ‘cross lease’ can be used to describe a number of related but different things. As outlined above, a ‘cross lease’ is a lease, but the term is also used as an abbreviation of ‘cross lease title’. The term can also describe a ‘cross lease scheme’ or a ‘cross lease property’. A scheme consists of all the cross lease titles on a property, or all the titles on a cross lease agreement, and is similar to a unit title scheme. The term cross lease property is just another term for a cross lease scheme.

2.6 What is a unit title?

Unit titles are a form of property title issued in New Zealand. Interestingly, the Unit Titles Act 2010 provides an interpretation (definition) of a ‘unit title development’, rather than a ‘unit title’. It states “unit title development means the individual units and the common property comprising a stratum estate” (Unit Titles Act 2010). In turn, this refers to a “unit” which, “in relation to any land, means a part of the land consisting of a space of any shape situated below, on, or above the surface of the land … all the dimensions of which are limited, and that is designed for separate ownership” (Unit Titles Act 2010, Section 5(1)). Units on a unit title are laid out on a cadastral survey plan and show the boundaries of each unit title’s area. An example of a cadastral survey plan (title sheet) for a unit title is shown in Figure 4. The term ‘unit title scheme’ often abbreviated to just ‘scheme’ is the same as a ‘unit title development’ and refers to all the units and the common area contained on a single unit title plan.

Common to all unit title developments is the body corporate. The body corporate is a legal entity created in the Unit Titles Act 2010 to manage the unit title developments, and which makes the most important decisions concerning the property. All the owners of the unit title development comprise the body corporate (different to the body corporate committee mentioned below). The common property is owned by the body corporate and the owners of all the units are entitled to the common property as ‘tenants in common’, and each unit owner has a share in the ownership of the common property proportional to their ownership interest (or proposed ownership interest) in their respective units (Unit Titles Act 2010, Part 2, Section 54(1) and (2)).

It is important to note that a body corporate of a unit title development of nine or fewer principle units *may* form a body corporate committee, whereas a unit title development of ten or more principal units *must* form a body corporate committee, unless the body corporate by special resolution (passed by 75 per cent of eligible voters at a meeting which has a quorum of 25 per cent of eligible voters[5]) decides not to form one (Unit Titles Act 2010, Part 1, Section 112 (1) and (2)). Any matters at a committee meeting must be decided by a simple majority (over 50 per cent of votes) (ibid. Section 113) and the body corporate committee must report to the body corporate on the exercise of it duties or powers (ibid. Section 114). While the operational rules of the body corporate are prescribed in Section 217(i) of the Unit Titles Act 2010 and apply to all bodies corporate, these

[5] For example, in a unit title scheme with 100 units, a meeting can be held with a quorum of 25 owners and a special resolution can pass with 19 votes. The Unit Titles Act 2010 reduced the numbers required for a quorum to one-quarter, compared to the one-third required under the Unit Titles Act 1972.

can be amended, revoked or added to by ordinary resolution (over 50 per cent of votes a meeting with a quorum of 25 per cent of eligible voters) at a general meeting providing they are not inconsistent with the provisions of the Act or any other enactment or rule of law (Unit Titles Act 2010, Part 2, Section 106(3) and (4)) (Puustinen & Lysnar, 2014).

2.7 Multi-owned property schemes

Schemes that enable properties to have multiple owners take many forms depending on the jurisdiction; they are often referred to as common interest developments or common interest properties. In many western societies contemporary types of shared residential property ownership mostly fall in one of three categories; co-operatives, strata titles/condominiums/units, and homeowner associations/planned communities.

In the case of housing co-operatives a company or a corporation usually owns a building and members own shares in the co-operative (Ganapati, 2014). Each member owns an interest in the co-operative, usually as a shareholder, and the member has an exclusive right to occupy a particular unit in the building. This is governed by a proprietary lease or an occupancy agreement (Northcountry Cooperative Development Fund, n.d.). New Zealand has some company lease schemes which usually predate the Unit Titles Act 1972.

The second category is that of unit titles, which are also referred to as strata titles or condominiums. In this tenure type, a purchaser has individual ownership of part of a property, called a 'lot' or a 'unit', with other parts being owned in common with the rest of the owners (Law Society of New South Wales, 2009). Unit, strata or condominium schemes have a committee, board, or council to oversee the administration and management, including insurance, maintenance, and rules for the property (British Columbia Government, 2015; Queensland Government, 2015; Tenancy Services, 2016). In New Zealand this committee is known as a body corporate[6]. Some of the first strata title legislation was enacted in the Australian state of New South Wales in 1961 (NSW Fair Trading, 2012) and Victoria in 1967. The New Zealand Unit Titles Act 1972 was based on the Victoria legislation (McMorland & Gibbons, 2013). More recently (September 2004) the United Kingdom has created a new form of tenure termed 'commonhold'. This allows each commonhold property to be held freehold with a share in common areas (Driscoll, 2016), making it similar to a unit, strata or condominium.

The third type of multi-owner property ownership is a homeowner association, also known as community title in New South Wales. Here, each dwelling is owned by a homeowner, while common property including streets and parks owned collectively by the association, of which each homeowner in the development is a member (Auckland Regional Growth Forum, 2003). Examples of homeowner associations exist in Auckland, often as gated communities, including Taylor Close in Blockhouse Bay, and Weiti Bay (currently under development), southeast of Silverdale.

[6] While a body corporate committee often consists of a mix of owners and an external professional who acts as the body corporate secretary, the body corporate itself comprises all the owners of the unit title development.

In addition to these three main ownership types, other multi-owned property types exist, including community land trusts and customary land. Community land trusts are often created by non-profit organisations that provide affordable housing where the trust owns the land on which houses are built (Greenstein & Sungu-Eryilmaz, 2005). Customary land ownership often includes communal rights to some areas of land such as pasture but also provides private rights to residential parcels (Food and Agriculture Organization of the United Nations, 2002). While customary land is often described as being owned by a group, not all members necessarily have equal access to the land (Australian Agency for International Development, 2008).

New Zealand has two types of multi-owned property that are unique: Māori freehold land and cross lease titles. Māori freehold land is ancestral land that has been handed down through successive generations from the original owners to the current owners; it is often referred to as multiple-owned due to the many owners with interest in the land (Kingi, 2008). There are 1.4 million hectares of Māori freehold land on 27,137 titles in New Zealand with approximately 2.3 million ownership interests in those titles – an average of 85 owners per title (Isaac, 2011).

To put the number of multi-owned properties, and the number of people they house, into context – in the United States of America it is estimated that in 2015 around 21 per cent of the US population, or 68 million people, lived in 26 million dwelling units in 338,000 common interest properties (including homeowner associations, condominium communities and cooperatives) (Community Associations Institute, 2016). In New South Wales, "half of the state's population is expected to be living or working in a strata or community scheme" by 2033 (NSW Fair Trading, 2013, p. 2). While numbers do not exist for Auckland or New Zealand, some estimates can be made. Assuming each unit title and each cross lease title is equal to one dwelling, there are 359,084 dwellings in multi-owned schemes in New Zealand in total, as at March 2016. Statistics NZ estimates that there were 1,809,800 dwellings as at March 2016, making the proportion of multi-owned dwellings 20 per cent of the country's total.

3.0 Cross leases: context and background

This section of the report specifically addresses cross lease titles; it outlines what a cross lease is, its history, the restrictions on cross lease holders, some of the issues with cross lease titles and associated properties, and the future for cross leases.

3.1 History of cross lease titles

The New Zealand planning system began with the enactment of the Town-planning Act 1926 (Miller, 2011). Prior to this, town planning was undertaken using a standardised approach by the Government Survey Department, with plans featuring 99 foot wide streets and quarter acre sections (McClean, 2007). Despite the 1926 Act requiring all towns and cities with a population of 2000 or more to have town plan, there were less than five approved plans by the late 1940s due to the lack of trained planners, the Depression and then World War II (WWII) (Miller, 2011). Nevertheless, despite not having a plan in place, councils were able to rely on Section 34 of the Act, which allowed them to "prohibit work which appeared likely to contravene a scheme, had one been approved, or would contravene town planning principles, or would interfere with the amenities of the neighbourhood" (New Zealand Productivity Commission, 2015a, p. 5).

After the housing shortage following World War I, a number of Government initiatives were put in place to address the situation, including the State Advances Act (Howden-Chapmam, 2015) and the state housing scheme (Annabell, 2010). Construction of houses reduced significantly during the Depression, but increased strongly in the pre-World War II years and well into the first two years of the war as the Government continued to encourage house construction despite the turmoil in Europe. Even so, the unavailability of labour during WWII led to a housing shortage, officially estimated at 20,000 in 1942 (Taylor, 1986). This shortage continued in the post-war period as strong demand for new dwellings continued (Derby, 2012; Bassett & Malpass, 2013).

In the late 1950s, lawyer Bryan Mahon identified that while there were a number of large sections with homes on them in Auckland, there were insufficient properties available to purchase, and there was no mechanism for prospective buyers to easily purchase a flat or unit (Orr, 2013c). It wasn't until the commencement of the Unit Titles Act 1972 that a mechanism became available for the individual direct ownership of a unit or flat in a multi-unit property. Prior to this it was only possible through obtaining an indirect title to a flat or unit by one of two methods. The first was a Deed of Arrangement, which defined the rights of all joint owners with provisions for executing a further Deed every time a change of ownership occurred (Orr, 2013c). The second was through a company lease scheme, where shares in a company are divided into the same number of flats or units and gives the holder of the shares a right to occupy the specified unit or flat (McMorland & Gibbons, 2013). Banks disliked both methods were which made obtaining a mortgage for such properties difficult (McMorland & Gibbons, 2013; Orr, 2013c).

With no way to divide a fee simple title into units, Mahon saw "an opportunity to assist in opening up access to land for property development to meet high demand" (Orr, 2013c, p. 4). Legislative changes through the Municipal Corporations Amendment Act 1958 and the Land Subdivision in Counties Amendment Act 1958 specified that the lease of part of a building was not a subdivision

of land; it was this change that allowed the cross lease system to be created, allowing for the first time the ownership of individual flats or units (New Zealand Law Commission, 1999). Interviewed by Orr (2013c), Mahon notes that he drafted the first cross lease documents after consultation with retired Land Registrar Tom Dennett. Dennett had reservations about potential issues with the cross lease proposal and the Public Works Act 1928, but Mahon convinced him that an undivided share provided by a lease of the fee simple title was sufficient; the first fully registered cross lease was in Milford on Auckland's North Shore (Orr, 2013c).

Mahon intended cross leases to be an instrument for creating separate certificates of title for two or more flats in a single building/structure without the need to subdivide the land (Pidgeon, 2014b). However, further law changes through the Municipal Corporations Amendment Act 1971 and the Counties Amendment Act 1971 enabled cross leases of separate buildings on the same lot for the first time, greatly facilitating 'infill' housing (New Zealand Law Commission, 1999). It was not possible to register separate areas on a cross lease to begin with, which was essentially viewed as a subdivision. As the process evolved, District Land Registrars began to issue CTs that had a restrictive covenant allowing lessee's to be granted an area that the other lessees were excluded from (New Zealand Law Commission, 1999; Orr, 2013c).

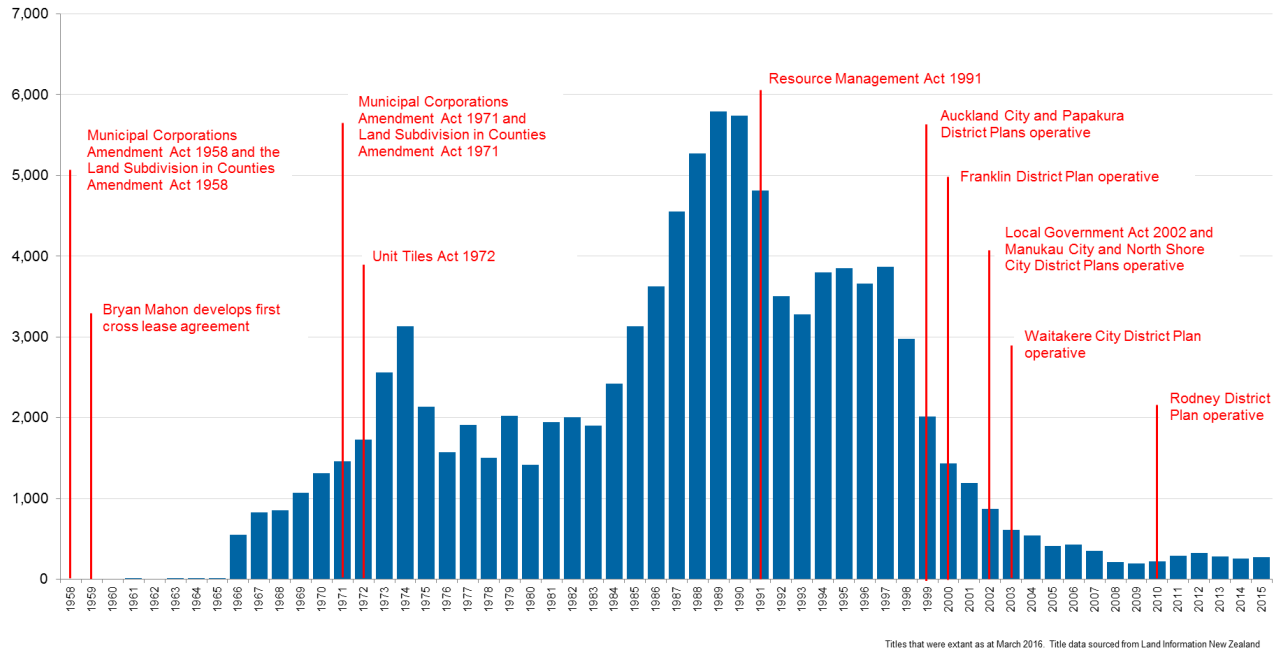
Cross leases become a popular method of development as they allowed for infill housing on older and larger suburban properties to take place, and they were not required to comply with the minimum lot sizes of the planning rules for standard subdivision (Eves, 2008). Since the leases were not considered a subdivision they were also seen as a cost effective method of service provision because drainage and stormwater for the units were often combined (Pidgeon, 2013). They also avoided reserve contributions, and so higher dwelling densities could be realised for lower cost (Eves, 2008). The survey costs of cross leases were also less than for a subdivision, and it was not necessary that easements for rights of way be created (Espie, 1995).

The shortcomings of both company lease schemes and cross lease schemes for multi-dwelling properties (especially multi-storey buildings) eventually resulted in the Unit Titles Act 1972 (UTA) (McMorland & Gibbons, 2013). Despite the UTA, the number of cross leases continued to rise until the introduction of the Resource Management Act 1991 (RMA). The RMA introduced more rigorous controls for subdivision and development, the charging of reserve contributions, and the standardisation of drainage rules, for cross leases were brought into line with fee simple subdivision (Pidgeon, 2013). This was done as 'first generation' district plans became operative. In Auckland's legacy council areas, plans became operative between 1999 and 2011 (Auckland (isthmus) 1999, Papakura 1999, Franklin 2000, Manukau 2002, North Shore 2002, Waitakere 2003, Rodney 2011)[7]. The district plans also introduced the ability to develop dwellings at higher densities in some suburbs than was previously allowed by the district planning schemes written under the Town and Country Planning Act 1977. All of these factors meant that it was no longer possible to develop cross lease properties to circumvent the rules; or if it was possible there was little or no financial advantage.

[7] Note that aspects of these plans would have been in effect before they became fully operative.

When the RMA came into force, the number of new cross lease titles issued began to fall away, but not immediately (Figure 11). Most of the new cross lease titles issued in recent years have been the result of renewing existing cross leases and the reissue of their titles. This occurs when extensions, alterations or the rebuilding of existing houses on a cross lease title takes place. When this happens the resurveying of the property and a new 'flat plan' is required to be submitted to LINZ and new titles issued.

Figure 11: Cross lease titles in Auckland extant in March 2016, by issue date, annotated with cross lease related milestones



It should be noted that despite the decrease in popularity of new cross lease developments, they still occur. McMorland and Gibbons (2013) state that the 'one size fits all' nature of the Unit Titles Act 2010 and the complexity and costs involved, means that some smaller urban housing project developers still choose a cross lease arrangement rather than a unit title scheme.

3.2 Issues and other disadvantages of cross leases

The issues and disadvantages of cross leased properties are wide-ranging. The rights of owners (co-lessees) and their obligations are often misunderstood by property buyers, sellers, and real estate agents (Thomas, 1994b; Espie, 1995; Pidgeon, 2013). These misunderstandings lead to further issues occurring, often when a cross leased property is bought or sold. Espie (1995) also notes that many cross lease owners presume that their property rights are similar to that of a freehold lot, when, in fact, this is not the case and owner's rights are more limited.

3.2.1 Buying and selling of cross lease properties

Often, issues with cross lease properties only come to light when they are bought and sold. Prospective buyers need to thoroughly check the title, lease, and flat plans to make sure that no

unauthorised building work has been undertaken, thus making the title defective (Espie, 1995). An incorrect flat plan on the associated title creates a 'defect of title', which can affect the saleability of a property (New Zealand Herald, 2010). Such defects occur when alterations and extensions are made to a dwelling on a cross lease title and the changes are not legally recorded or consented to by co-lessees. Added to this is the increased popularity of auctions; the short timeframes involved in this type of sale process compound issues, with buyers often making a purchase without fully investigating the cross lease (Gibson, 2013). Pidgeon (2014b) notes that if a defective title is discovered during a sale process, it must be rectified before a sale can take place[8].

3.2.2 The discounted value of cross lease properties

In New Zealand's larger cities, two separate residential housing markets have evolved, one comprising freehold property, and the other cross lease properties (Eves, 2008). This is most notable in Auckland where a large proportion (46 per cent) of the country's cross lease titles exist. The perceived and actual disadvantages of cross lease titles mean that these properties sell for a lower median price compared to similar freehold title properties in the same location (Eves, 2008; Rehm, 2014). Modelling and analysis undertaken by Rehm (2014) illustrates that the greater the number of leases in a cross lease, the greater the difference in sale price between cross lease and freehold properties (Table 1). Rehm also notes that larger sites (those larger than 614 square metres) have a greater price differential compared to freehold properties, when compared to smaller cross lease properties (those 614 square metres or smaller).

Table 1: Price discount of cross lease properties, by number of dwellings on property with cross lease titles; adapted from Rehm (2014)

Number of dwellings on property with cross lease titles	Discount rate
Two	3.5%
Three	5.0%
Four	6.5%
Five or more	7.5%

It is also worth noting that research by Eves (2008) shows that despite having a lower median price, cross leases had the highest average annual capital return between 1992 and 2006 compared to similar freehold properties in the same location.

[8] The Real Estate Institute of New Zealand/Auckland District Law Society standard sale and purchase agreement has mechanisms to deal with this; a vendor is required to meet a purchaser's requisition by depositing a new plan with a new cross lease, while some defects are permitted when the additions are within an exclusive use area and are not attached to the flat.

3.2.3 Alterations, extension and other changes to structures

As mentioned above, alterations to dwellings, including extensions, and construction or changes to other structures (e.g. sheds, garages, decks, and even fences) on cross lease properties can lead to breaches of the lease (Espie, 1995; Pidgeon, 2013). Many owners, however, believe that they can alter or extend their home without obtaining permission from the other co-lessees in the cross lease (New Zealand Herald, 2010), when they actually require the written consent of the other co-lessees to undertake any building work to 'their' property (Espie, 1995; Burgess & Dravitzki, 2008). In this regard, Espie notes that owners of detached or stand-alone flats on cross leases are often unlikely to consult with other owners before undertaking building work. In some cases changes to internal partitioning (Espie, 1995) or structural alterations such as the installation of French doors and changes to load bearing walls (Smallfield & Anor v Brown (1992) 2 NZ ConvC 191,110), can be held to be 'structural alterations', and so requires consent of co-lessees.

As such, cross lease owners need a working/flexible/tolerant relationship with other co-owners (Burgess & Dravitzki, 2008). If consent of the co-owners is not obtained before works are completed, or council consents are not obtained, renovations and/or additions may have to be removed (Espie, 1995; New Zealand Herald, 2010).

Changes to the external dimensions of buildings as the result of alterations require a new flat plan to be prepared. This is done by a surveyor and the amended plan is then deposited with LINZ. Once a new lease document with the amended flat plan has been registered, a new certificate of title is issued (Espie, 1995). Any works undertaken without consent, and not shown on a re-drawn flat plan (requiring a new title to be issued), may create a 'defect of title' (New Zealand Herald, 2010); this could place an owner in breach of the conditions of the cross lease and potentially any mortgage over the property. Once a new flat plan or a change in lease has occurred and a new title issued, any existing mortgages on the cross lease properties will need to be discharged and new mortgages registered over the new titles (Pidgeon, 2014b).

3.2.4 Maintenance and repair

Burgess and Dravitzki (2008) note that cross leases generally require owners to also keep interiors of buildings in good repair. In this regard, cross leases include clauses to ensure buildings are kept in good condition and that common areas are maintained. Issues can arise if owners fail to comply with their obligations, with legal proceedings the only redress for other owners (Espie, 1995).

3.2.5 Insurance

The potential for issues to arise in relation to the insurance of cross lease properties is high, especially as the nature of cross leases has changed since they were first created. When Mahon developed the cross lease agreement, he included a clause that required all units to be insured by a single insurance policy, a clause later removed by many lawyers. In 2013 Mahon was quoted as saying he "…felt that there should only be one policy otherwise there could be problems" (Orr, 2013b). For units that are joined, it is preferable that they are insured jointly. Some cross leases require this, but often this clause isn't observed by owners (Pidgeon, 2014b). While the terms of

cross leases with stand-alone dwellings may not require a single insurance policy, cross lease flat owners who insure themselves with different insurers have decreased insurance security (Espie, 1995). In this regard, cross lease owners rely heavily on the other owners to ensure each flat is adequately insured; issues with cross leases and insurance can lead to delays in rectifying problems (Espie, 1995). Orr (2013a) also notes that under the 999 year cross lease there is an obligation for owners (lessors/lessees) to reinstate their dwellings; this could prevent redevelopment opportunities that may arise if a house is severely damaged or destroyed, as houses would have to be replaced with similar to what was on the site previously.

Orr (2013a) provides a good example of an insurance issue relating to a cross lease occurring in the wake of the Christchurch 2011 earthquake. In this case three conjoined units, each with a different insurer, suffered damage as a result of the earthquake. Each insurer had a differing opinion on the level of rebuilding or reinstatement required, and some units were more damaged than others. Orr noted that at the time of his writing the article, two years after the quake, there was still no solution. A Christchurch-based law firm partner is quoted in Orr (2013a, p. 3) as observing "cross leases, insurance and large-scale earthquakes do not mix at all well", and that insurance companies are finding that cross leases often cause delays and are a "major source of frustration". Pidgeon (2014b) also notes that the Christchurch earthquakes demonstrated that cross lease flat owners who are insured by different companies may have to wait for extended periods for insurance issues to be resolved while insurers negotiate and argue liability, especially when underground services and common areas are affected. As a result of difficulties with insurance and rebuilding after the Canterbury earthquakes the Canterbury Earthquake Rebuild Authority (CERA), the Earthquake Commission (EQC), the New Zealand Insurance Council, Ministry of Business Innovation and Employment (MBIE) and Christchurch City Council has developed repair guidelines and protocols which have improved the process of dealing with insurers (Ministry of Business Innovation and Employment, 2015).

3.2.6 Redevelopment issues where buildings are different ages

Issues also arise when dwellings and other buildings on a cross lease property are of different ages and an older dwelling reaches the end of its economic life and needs to be refurbished or rebuilt. The New Zealand Law Commission (1999, p. 6) notes that the economic life of a dwelling is likely to be shorter than the lease term (usually 999 years) and that "there is no machinery for resolving differences as to whether or not a cross-lease scheme should be terminated".

3.2.7 Cost of undertaking changes to the lease and titles

When alterations or changes to buildings on a cross lease take place, a new flat plan is required to be surveyed, drawn, then submitted and new titles issued; this exercise can often be expensive (Pidgeon, 2013). Expenses can include fees for lawyers, architects, surveyors, and council fees (Orr, 2013a). An example cited in Orr (2013a) notes that changes undertaken, with cooperation of the neighbour, ended up costing $7,200 in surveying, LINZ and legal costs. There are also cases cited where 'innocent' and/or unaware owners have had to gain neighbours consent for alterations retrospectively and in some situations sums of money are 'extorted' to get sign-off (Pidgeon, 2013). In one case, a neighbour was paid $20,000 or more to achieve sign-off (Gibson, 2013).

3.2.8 Resolution by arbitration

Often the only formal way to deal with issues raised in disputes between cross lease owners (co-lessees) is through arbitration according to the terms of the lease. Arbitration is costly and there is no provision for costs to be awarded for unreasonable behaviour by one of the parties (Gibson, 2013; Pidgeon, 2013). The current cross lease arbitration clause means that the cost of arbitration compared to the cost of the works being disputed can be significant (Orr, 2013a). This resolution process differs from the process for the owners of unit titles have who the alternative of disputes resolution via the Tenancy Tribunal in many circumstances (Gibson, 2013).

3.3 The future of cross lease titles

3.3.1 Cross leases – "a ticking time bomb"?

With cross lease titles comprising 18 per cent of the property titles in Auckland, due consideration needs to be given to their future, since many of the dwellings on properties with cross lease titles were constructed in the early 1960s and so could soon be nearing the end of their economic or physical life. This point, along with others, was noted in the Law Commission's 1999 report *Shared Ownership of Land*. The Commission proposed that cross leases be converted to fee simple titles through a bill, thus allowing a simple low cost conversion of cross leases, with councils unable to levy reserve and other contributions (Law Commission, 1999). However, the proposals by the Law Commission relating to cross lease titles were dropped when unit title reforms were put in place, including the reforms provision for the simple conversion of cross lease titles to unit titles (Gibson, 2013) (discussed in Section 3.3.2).

Joanna Pidgeon, partner of Pidgeon Law, President of the Auckland District Law Society, Chair of their Property Disputes Committee, and member of their Property Law Committee, has publicly raised the many issues with cross lease titles. She has lobbied for reform and often notes that the 1999 Law Commission report on cross leases has still not been actioned. Pidgeon (2013, p. 5) refers to cross leases as a "ticking time bomb" and argues that when buildings on cross lease titles come to the end of their natural life, cross leases need to have a mechanism to deal with this. She also notes that there are further issues when flats on a cross lease are of a different age and one needs to be rebuilt, and is a strong advocate for the overhaul of cross lease titles and their conversion to fee simple titles. This has only been exacerbated with the impact of leaky buildings and the need to re-clad and re-build.

Seven fellow lawyers agreed with Pidgeon's opinion that legislative change was needed to address issues with cross leases, with a number citing specific examples of problems with the title type (Orr, 2013b). There was also disagreement with her view, with Ayres (2013, p. 4) stating in a letter to the LawNews editor that cross leases do not "require immediate remedy nor are they 'ticking time bombs'". Ayres (2013) suggests that it may not be appropriate to impose potentially expensive conversion requirements on existing cross lease owners, and that given many of their lease terms are 999 years this is likely to be irrelevant given the lifespan of New Zealand homes.

Despite calls for legislative change, a spokesperson for then Minister of Housing Nick Smith (now Minister of Building and Construction) stated that "the issue was not on the political agenda"

(Gibson, 2013). Similarly, neither the New Zealand Property Investors Federation president Andrew King or the Auckland Property Investors Association see many issues with cross leases. King notes that cross lease properties are cheaper to buy and therefore make good rentals (Gibson, 2013). For Ghisel and Tolan (2014), however, the 2010 and 2011 Christchurch earthquakes have brought to light a number of issues related to cross leases, and the likelihood of further issues is high given that New Zealand is prone to natural hazards (earthquakes, flooding, etc.).

Exact figures on the numbers of issues that arise with cross leases are not available. Under the terms of most cross leases, disputes are arbitrated privately, and there is no public visibility or counting of these disputes.

3.3.2 Conversion of cross leases to fee simple or unit titles

There are undoubtedly advantages for owners of cross lease properties to convert their cross lease titles to a freehold or unit title. These include: autonomy over one's own property, release from the contractual terms of the cross lease, potential for reduced disputes with neighbours and the availability of alternative disputes resolution mechanisms. Fee simple properties are more valuable (Eves, 2008; Ghisel & Tolan, 2014), and fee simple and unit titles are both seen as more saleable (Pidgeon, 2014b, 2014a). Some aspects of cross lease properties can be seen as advantageous, including the ability of co-lessees to restrict or limit the amount or kind of development that occurs on a co-lessee's property (McMorland *et al.*, 2017).

The conversion of cross lease titles to freehold titles or unit titles are a means of avoiding future potential problems when dwellings need to be rebuilt (New Zealand Law Commission, 1999; Pidgeon, 2013) or facilitating the redevelopment of individual sites or larger suburban areas. Ghisel and Tolan (2014) proposed that the Canterbury rebuild be considered an opportunity to convert appropriate cross lease title properties into standard freehold, with the Christchurch City Council generally accepting that conversions would not introduce additional effects (as would be assessed under the RMA). The upgrading of common driveways and the separation of water and drainage would still be required, but in the post-quake environment where many rebuilds or repairs are taking place, this may be easier than previously (Ghisel & Tolan, 2014).

However, there are benefits to retaining a cross lease title. Pidgeon (2014b) observes that cross leases provide the ability to control development by the co-lessee. In comparison, unit titles use a democratic process with a majority rule. Furthermore, cross leases can be cheaper to manage than unit titles and do not require the creation of easements for services of access. Other advantages to cross lease titles include higher dwelling densities (than for single dwellings on a property), reduced survey costs, reduced need for easements, and reduced levels of disclosure compared to unit titles (McMorland *et al.*, 2017).

Burgess and Dravitzki (2008) argue that in many cases unit titles are preferable to cross lease titles as they allow individual ownership of units and a share of common property. In this regard, conversion of suitable cross lease properties to unit titles is allowed under the Unit Titles Act 2010, but only if a flat plan is correct, otherwise a full subdivision consent is needed (Pidgeon, 2014b).

Nevertheless, there is currently no simple way to convert a cross lease property to freehold. Owners face costs for resurveying and depositing new flat plans. As noted by Pidgeon (2014b), local councils often require the separation of underground services, increased driveway widths, upgrading of buildings to deal with fire wall issues, and payment of reserve contributions.

In effect, Pidgeon argues that there needs to be an easier way to convert cross lease to fee simple when there is no change in effects produced by the legal subdivision under the RMA, similar to that proposed by the New Zealand Law Commission.

4.0 Unit titles: context and background

4.1 History of unit titles in New Zealand

Unit titles are a mechanism of ownership that can be used for properties with a range of uses including residential, commercial, or industrial. A history of unit titles and the context in which the Unit Titles Act 1972 was enacted is provided by Dupuis, Dixon, Lysnar, and Mouat (2003) as follows:

> *The UTA was first introduced into Parliament as the Flat and Office Ownership Bill in December 1971. Commenting that 'we are now living in an age of transition', Sir Leslie Munro viewed the bill as consistent 'with the progress of modern civilisation', stating that 'in this country we are probably moving from the front-yard and back-yard concept of life to the flat and apartment concept, with people going out into the country at weekends' (Munro, 1971:1089). Based on Australian legislation from Victoria and New South Wales, the UTA became somewhat more complex because of the greater amount of leasehold land to be dealt with in New Zealand. Designed to overcome shortfalls in both the company share and cross lease forms of title, the Act was also regarded as a forward-looking measure to lessen urban sprawl and encourage the principle development of high-rise residential and commercial developments within city environments (Alston et al., 2000).*

A significant amount has been written about unit titles in New Zealand, especially after the growth of terraced housing and apartments in New Zealand cities in the 1990s and the subsequent realisation that some of these buildings suffered from leaky building syndrome (LBS)[9]. The issue of LBS highlighted the degree to which the Unit Titles Act 1972 did not sufficiently protect property owners and drew attention to the fact that body corporate rules could be written in a way that favoured the developer, body corporate management companies, and associated contractors (Dupuis *et al.*, 2003).

[9] Lawyers who have written on land and property law including on the topic of unit titles (and cross leases) include Donald McMorland, Thomas Gibbons, Rod Thomas, Tim Jones, and Joanna Pidgeon, among others (Thomas, 1987, 1992, 1994a, 1998c, 1998b, 1998a, 1999; Alston, Bennion, Slatter, Thomas, & Toomey, 2000; Jones, Fuller, & Waghorn, 2003; Jones, 2005; Thomas, 2006b, 2006a; Gibbons, 2008; Bennion, Brown, Thomas, & Toomey, 2009; Jones & Fry-Irvine, 2010; Thomas, 2010b, 2010a; Gibbons, 2011; Pidgeon, 2011b, 2011a; Thomas, 2011a, 2011b, 2011c, 2012b, 2012a, 2012c; Gibbons, 2013b, 2013a; McMorland & Gibbons, 2013; Thomas, 2013b, 2013c, 2013a, 2013d; Gibbons, 2014a, 2014b; Pidgeon, 2014a; Thomas & Gibbons, 2014; Thomas, Jones, & Greenwood, 2014; Gibbons, 2015, 2016; McMorland et al., 2017).

Researchers have also looked at unit titles, primarily as they relate to the experiences of property owners and residents. This includes Dupuis *et al.* (2003) as mentioned above, Dixon, Dupuis, Lysnar, Spoonley, and Le Heron (2001), and Dixon and Dupuis (2009).

In 2014 Puustinen & Lysnar wrote about the extent to which the Unit Titles Act 2010 and its Finnish equivalent (the Finnish Limited Liability Housing Companies Act 2010) allow for intensification, major repairs and improvement of existing housing stock. The recent publication of the discussion document 'Review of the Unit Titles Act 2010 (2016) by the Ministry of Business, Innovation and Employment focuses on the following issues as key to improvement of the Act in its current form:

- improving the disclosure regime to make more comprehensive information about a unit or apartment and the body corporate available to prospective buyers earlier in the purchase process;
- strengthening body corporate governance without inhibiting flexibility and autonomy to govern units and unit complexes;
- increasing the professionalism and standards of body corporate managers;
- ensuring long-term maintenance plans accurately detail expected repair and maintenance expenses for the near to medium future; and
- making the dispute resolution process a more accessible and appropriate recourse mechanism for resolving unit title disputes.

The Unit Titles Act 2010 was amended by the Regulatory Systems (Building and Housing) Amendment Act 2017. The Act makes it easier for developers to alter the default body corporate rules, remove a six month time limit for cancelling a unit title scheme following a decision by the High Court, along with a number of other minor changes to the Act (Office of the Minister of Housing, 2016). Minister Smith has noted that recent changes in the equivalent legislation in Australia will be examined as part of the review to help inform policy changes in New Zealand (Smith, 2016).

4.2 Redevelopment of unit titles in New Zealand and overseas

The redevelopment of unit title, strata title, or condominium development can vary greatly among jurisdictions. This sub-section outlines how the law addresses redevelopment in New Zealand, Australia, Hong Kong, and Singapore.

4.2.1 New Zealand

Under New Zealand's original unit title legislation, the Unit Titles Act 1972, two sections relate to the redevelopment of unit title properties: the "cancellation of plan on application of proprietors" (s45) and 'redevelopment' (s44). For the cancellation of unit titles by the owners, the threshold through a special resolution was 75 per cent of the eligible voters who vote on the resolution (Reid & Pocock, 2016). For the redevelopment of a unit titled property, which in terms of the Act is where the area of unit or units is enlarged or changed and there are impacts on either common property or another unit, a unanimous resolution of the proprietors of all units is required (Unit Titles Act 1972).

The Unit Titles Act 2010 replaced New Zealand's original unit title legislation and maintains the 75 per cent threshold for the passing of a special resolution for cancellation of a unit title plan, defined

as 75 per cent of eligible voters voting for a resolution at a meeting of owners with a quorum of 25 per cent of eligible voting owners, significantly reducing the numbers necessary to pass a special resolution. In addition to this change, the 2010 Act no longer requires a unanimous resolution for a redevelopment, although all owners materially affected by the changes need to give their consent and a special resolution must be passed (Unit Titles Act 2010). Dorrington (2012) notes that what amounts to 'material' has no set criteria under the act, so extreme care would need to be taken before a body corporate chairperson approved a redevelopment plan.

In New Zealand the cancellation of a unit plan under s177 of the Unit Titles Act 2010 is both a special and a designated resolution (s212(k) Unit Titles Act 2010). A designated resolution triggers a notification procedure which must be completed in accordance with the Act (Sections 213 to 216 Unit Titles Act 2010). Notice is given to all units and chargeholders (e.g. mortgagees, encumbrancees, caveators etc.), and they have 28 days to object to the resolution by filing a claim in the Tribunal or Court. This places a changes the onus from requiring 100 per cent of owners to consent, to requiring someone who does not agree to actually file court proceedings to object.

So far there is only one example of a unit title scheme termination under the Unit Titles Act 2010 and an application for sale under s339 of the Property Law Act 2007 using the lowered 75 per cent threshold The case of Lake Hayes Property Holdings Ltd v Petherbridge (2014). All but one of the units in the nine unit development, a former motel, were owned by Lake Hayes Property Holdings who wanted to dissolve the unit title scheme and sell the property for redevelopment. The other owner (Petherbridge) opposed the company's decision to apply to the court to cancel the unit title scheme. Ultimately the High Court sided with the Lake Hayes Property Holdings and ordered the unit owner to accept an offer of sale from the owner of the rest of the property, noting that "the site requires redevelopment" (Marvini, 2014). The Court found it was just and equitable to cancel the unit plan, and the Court ordered that Petherbridge sell her unit to the majority owner under s339 of the Property Law Act because of the hardship the applicant would suffer if an order was not made by the Court given the need to redevelop the complex.

When a unit title plan is cancelled the property becomes a freehold title with each of the former unit holder's interests becoming a proportionate share in the ownership of the property. There have been a few instances of problems related to the cancellation of unit title plans following the Christchurch earthquakes of 2010 and 2011 concerning disagreement over the distribution of the proceeds of insurance settlements and land sales due to out of date or incorrect ownership interests for distribution and seeking to have them reassigned. Examples include Dominion Finance Group Limited v Body Corporate 3892902 ([2012] NZHC 3325) and Mills v Body Corporate 47522 ([2013] NZHC 1854). The Regulatory Systems (Building and Housing) Amendment Act 2017 has made changes to the Unit Titles Act 2010 to prevent some of these problems from happening again, such as the body corporate's ability to use a by special resolution to not reassess ownership interest on cancellation of the unit plan and also removing the requirement to cancel the unit plan within six months of a High Court order to do so.

4.2.2 Australia

NSW was the first jurisdiction in Australia to introduce legislation to govern the management of strata titles in 1961 (Reid & Pocock, 2016). In Greater Sydney, 27 per cent of the dwelling stock is a flat, unit or apartment, and the proportion is growing (Troy, Randolph, Crommelin*, et al.*, 2015). However, the popularity of strata housing schemes over the past 50 years in Sydney has created potential barriers to the renewal of strategic centres, where the majority of new dwellings are expected to be constructed (2005 Metropolitan Plan for Sydney as cited in Troy, Randolph, Pinnegar, & Easthope, 2015). In order to facilitate redevelopment on sites that have strata schemes, these schemes must be terminated first. A discussion paper by NSW Fair Trading (2012) notes two main reasons for the NSW Government initiating a review of the strata laws in 2012. The first was that there was no effective way to terminate strata schemes when there was not unanimous agreement among owners. The second was the need for redevelopment of existing strata schemes as part of urban consolidation programmes in Sydney. In particular, the age of many of Sydney's strata schemes has been identified as a potential issue, as more than one quarter of schemes are older than 35 years (Troy, Randolph, Crommelin*, et al.*, 2015). The age of the schemes means that many of the buildings do not meet current Building Code of Australia Standards nor can they be easily retrofitted (NSW Fair Trading, 2012). With the need for more housing in Sydney's existing urban area to accommodate a growing population, the redevelopment and replacement of older strata schemes with higher density developments is an important source of new dwellings (NSW Fair Trading, 2012; Troy, Randolph, Crommelin*, et al.*, 2015).

As a response, the NSW Government enacted the Strata Schemes Management Act 2015 and the Strata Schemes Development Act 2015 (NSW Fair Trading, 2016). The new legislation removes the requirement of the consent of 100 per cent of unit holders to terminate a strata scheme in order to enable redevelopment, lowering the threshold to 75 per cent (Troy, Randolph, Crommelin*, et al.*, 2015).

In Queensland, strata or unit schemes are referred to as 'community title schemes' and are governed by the state's Body Corporate and Community Management Act 1997. Queensland currently requires unanimous consent of all unit holders within a scheme to consent for its cancellation (Reid & Pocock, 2016) in order for redevelopment to take place.

In this regard, the Queensland Property Council and a Gold Coast City councillor, backed by the Property Council of Australia, are calling for lowering the thresholds for the termination of a scheme to allow for the easier facilitation of redevelopment (Emery, 2016; Passmore, 2016). This follows a report from Griffith University which recommend the lowering of the unanimous consent to 75 per cent of all unit holders in a scheme for its termination, as is the case in NSW and New Zealand (Reid & Pocock, 2016).

The termination of a unit title scheme in the Northern Territory, which is required before redevelopment can take place, requires unanimous support from a scheme's unit holders under the Termination of Units Plans and Unit Title Schemes Act 2014 (Northern Territory). If there is not unanimous support among unit holders, application for an exemption can be made under the Act if the scheme has 10 or more units; in such cases, a sliding threshold applies and is based on the age of the building. If a building is less than 15 years, old the threshold is lowered to agreement of

95 per cent of unit holders, if the building between 20 and 30 years old, but the threshold is 90 per cent, and if the building is 30 years or older the threshold is 80 per cent.

4.2.3 Hong Kong

The territory of Hong Kong has a small land area and a large population; the urban area of Hong Kong has the highest population density in the world (Yeh, 2011). As such, the Government of Hong Kong has sought to "make efficient use of the scarce land resources" through its planning policy (Planning Department of the Government of the Hong Kong Special Administrative Region, 2016, p. 1) and other means.

Unit titles in Hong Kong are known as a 'Deed of Mutual Covenant', which divides a building and land granted under government lease[10] into equal and undivided shares (Reid & Pocock, 2016). A deed can be terminated for the redevelopment of the property under the Land (Compulsory Sale for Redevelopment) Ordinance, when 90 per cent of deed holders consent. In cases where a residential building is over 50 years old, an industrial building is older than 30 years but not in an industrial zone, or each deed holder has more than a 10 per cent share, the deed can be terminated with 80 per cent of deed holders consent (Legislative Council of the Hong Kong Special Administrative Region, 2012).

4.2.4 Singapore

Singapore uses the term 'strata titles' and has similar thresholds to Hong Kong for the redevelopment of strata schemes. In Singapore, under the Land Titles (Strata) (Amendment) Act 1999 (Singapore), owners can make a collective sale of the building to a single purchaser with 80 per cent consensus or 90 per cent consensus when a building is less than ten years old; the purchaser then owns 100 per cent of the strata scheme and can apply to have the scheme terminated (Reid & Pocock, 2016). Troy, Randolph, Crommelin*, et al.* (2015) note that since the introduction of this legislation the amount of renewal has increased in Singapore. Despite this, Christudason (2009) has presented a number of shortcomings with the legislation, noting the effects of forced sales on owners who did not want to sell.

[10] Virtually all land in Hong Kong is owned by, and leased from, the Government of the Hong Kong Special Administrative Region (Lands Department of the Government of the Hong Kong Special Administrative Region, 2005).

4.3 Development types associated with unit titles in New Zealand

Most often, unit titles bring to mind apartment blocks and terraced housing complexes, but unit titles can be used as an ownership mechanism across a range of property types, including residential, commercial or a mixture of the two.

4.3.1 Residential development types associated with unit titles

Unit titles are often associated with apartments, blocks of terraced houses, or 'sausage flats', but can also include stand-alone dwellings. Apartment blocks that are unit titles and shown below (Figure 12).

Terraced houses, also known as townhouses, row houses, or linked houses, are multi-storey houses that are attached to their neighbour or neighbours and are built in rows or terraces (Figure 13)

A 'sausage flat' is a term used to describe a group of units that are joined together in a row, but unlike terraced houses, are on a single level. This kind of development was popular in Auckland and New Zealand in the 1960s and 1970s (Figure 14).

While most unit titles have dwellings that are attached to at least one other dwelling, detached or stand-alone dwellings can also be developed on unit titles. Over the last few decades large numbers of building consents were granted on parcels associated with unit titles - in 1993 over half of the consents issued on parcels that are currently associated with unit titles were for stand-alone dwellings. For example, Figure 15 shows two neighbouring parcels of land; both of which are unit titles – aerial photography of the sites show that both properties have stand-alone dwellings located on them. Despite not being connected unit title schemes with stand along dwellings must be managed the same way as other unit title schemes, including having a body corporate.

The two parcels seen in Figure 15 present two interesting scenarios. According to data from the District Valuation Roll (DVR), the two dwellings on the property shown on the bottom half of the figure were built in the 1970s. It is likely that these dwellings were built at or around the same time and were established on unit titles at the time of construction. The top parcel, on the other hand, has one dwelling that was built in the 1940 and being built in the 1990s. Why the owner or developer of this property chose to create unit titles rather than a cross lease or undertake a fee simple subdivision is unknown.

Figure 12: Example of residential apartment blocks that have unit titles

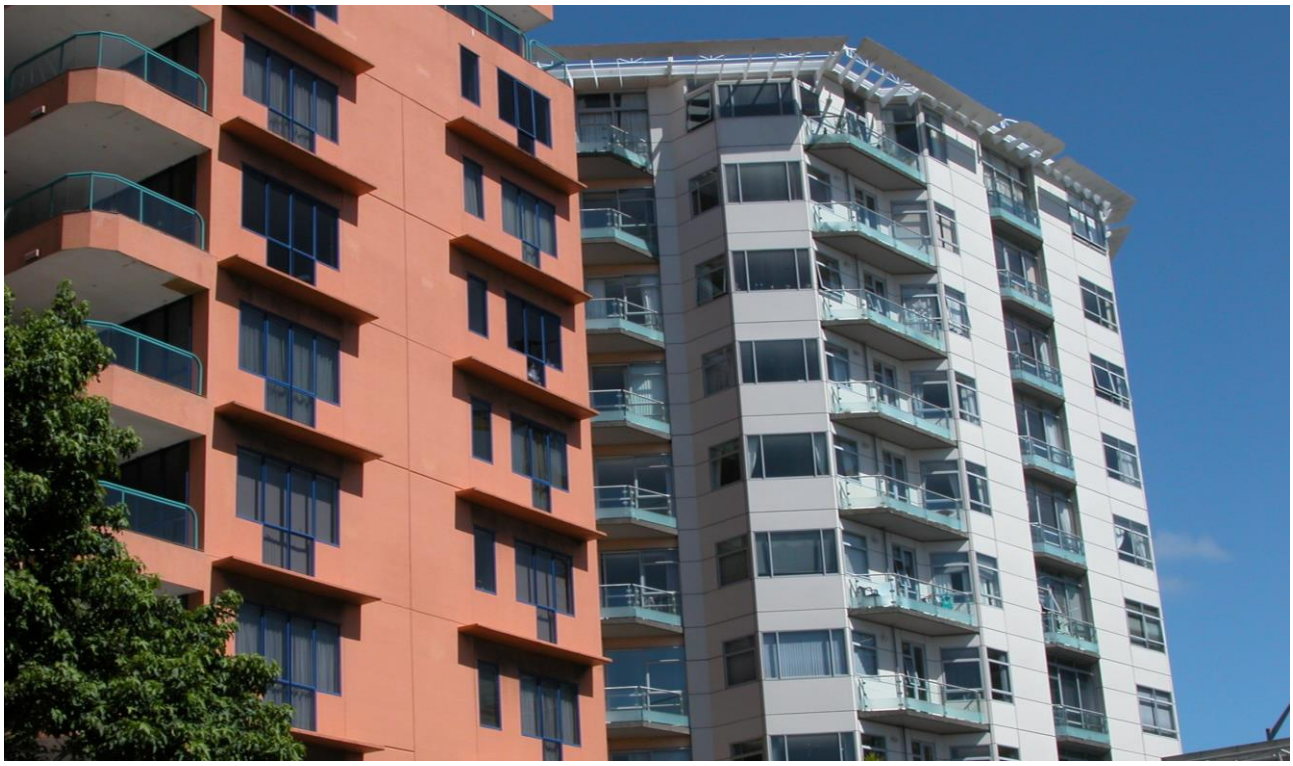


Figure 13: Example of terraced houses that have unit titles

Figure 14: Example of ‘sausage flats’ that have unit titles

Figure 15: Example of stand-alone (detached) dwellings on unit titles, Māngere Bridge, Auckland

4.3.2 Other development types associated with unit titles

Unit titles are not just used for residential developments. They are also used as the ownership structure for mixed use, commercial, or industrial developments. A popular type of development in the last decade has been mixed use properties, often with retail or office space on the ground or lower floors with residential space above (Figure 16 and Figure 17). Unit titles can be used for office buildings as well. Floors or spaces within a building can each have a separate title, often with different ownership, much like an apartment building (Figure 18). Retail developments may also be held in unit title; in many cases these are small rows of shops, side by side (Figure 19). Roller door units in industrial areas are another development type associated with unit titles. These types of units are usually in light industrial areas (Figure 20).

Figure 16: Example of mixed use (residential and commercial) that have unit tiles, Symonds Street, Newton,

Figure 17: Example of mixed use commercial (office and retail) that is unit titled, The Chancery (from Fields Lane), Auckland CBD

Figure 18: Example of office block that has unit titles, corner of Hobson and Victoria Streets, Auckland CBD

Figure 19: Example of retail centre that has unit titles, Great North Road, Avondale

Figure 20: Example of buildings in industrial area that has unit titles, Ellice Road, Glenfield, Auckland

5.0 Spatial analysis of cross lease and unit titles

Identifying the characteristics and location of cross lease titles and unit titles in Auckland and New Zealand forms and comprises the primary focus of this study; this section outlines the spatial analysis required to do this. The following subsections outline the data used to undertake the analysis, the process undertaken to identify the cross lease titles and unit titles, and how other data sources were used to further analyse the title information. The results and findings of this spatial analysis can be found in sections 6.0, 7.0, 8.0, and 9.0. The spatial analysis was undertaken in March and April 2016, based on parcel and title information sourced on 15 March 2016.

Analysis and subsequent reporting have been undertaken using two distinct entities related to properties: titles and parcels. The first is titles, or the land or space contained on a single CT. The second is parcels, often also referred to as a 'lot'. Both titles and parcels have been used for analysis as, outlined in Section 2.0, they are two distinct spatial entities. In the case of unit titles and cross lease titles there will be more than one title associated with each parcel. Furthermore, while a parcel provides the legal description of a piece of land, a title provides the ownership information about a piece of land.

For the purposes of this study, a cross lease title as signifies a single dwelling, while a parcel denotes the collection of dwellings (or the total development) on a single property – or signifies a single cross lease scheme. For example, a parcel of land that has three cross lease titles associated with it could be considered as one property with three dwellings on it (regardless of whether those dwellings are stand-alone or physically connected).

5.1 Datasets used in analysis

Spatial data detailing the location and extent of property titles in New Zealand, along with associated legal information, and parcel boundaries, were downloaded from the LINZ online data portal (https://data.linz.govt.nz/). A number of other spatial datasets were used to identify the location and further attributes of cross lease titles and unit titles (Table 2).

Table 2: List of data, descriptions and sources used to analyse the location and nature of titles

Data	Description	Organisation; source
Titles	Polygons (shapes) showing the boundaries of land contained on each Certificate of Title. Data extract 10 March 2016.	Land Information New Zealand; LINZ Data Service
Parcel boundaries	Polygons showing the boundaries of each parcel of land. Data extract 10 March 2016.	Land Information New Zealand; LINZ Data Service
New Zealand territorial authority boundaries	Polygons indicating the boundaries of New Zealand/s cities, districts, and unitary authorities.	Statistics New Zealand; 2013 census-based geographic boundary files
Auckland Council local board boundaries	Polygons indicating the extents of the local board areas for Auckland	Statistics New Zealand; 2013 census-based geographic boundary files

Data	Description	Organisation; source
Legacy Auckland territorial authority boundaries	Polygons indicating the boundaries of the legacy territorial authorities in Auckland, that existed prior to the formation of Auckland Council on 1 November 2010	Auckland Council; SDE*
Metropolitan Urban Limits (MUL)	Metropolitan urban limits of Auckland, as at March 2016.	Auckland Council; SDE*

Zoning (legacy council operative district plans)	Extents of zoning defined by polygons for the operative district plans of the Auckland region, collected for and used as part of the Capacity for Growth Study 2012:
	• Auckland City District Plan
	  • Central Area Section 2005
	  • Isthmus Section 1999
	  • Proposed Hauraki Gulf Islands Section (Decision Version) 2009
	• Franklin District Plan 2000
	• Manukau City District Plan 2002
	• North Shore City District Plan 2002
	• Papakura District Plan 1999
	• Rodney District Plan 2011
	• Waitakere City District Plan 2003
		Auckland Council; SDE*

Zoning (Decisions version of the Auckland Unitary Plan)	Extents of zoning defined by polygons for the Auckland Unitary Plan, as published in the decisions version on 19 August 2016	Auckland Council; SDE[11]
Building consents	Points indicating the approximate location of building consents issued. Information associated with building consents include the month of issue, address, building type, floor area consented, value of building works, and number of dwellings or structures.	Auckland Council and Statistics New Zealand; data collated by Auckland Council's Research and Evaluation Unit
District Valuation Roll (DVR)	Polygons indicating the extent of Rates Assessment Areas are joined to a data extract from the DVR, which provides information including actual property use, number of units (number of dwellings) and indicative age of construction.	Auckland Council; District Valuation Roll

[11] SDE refers to Auckland Council's ArcGIS geospatial repository

5.1.1 Note on zoning and district plans

Two sets of zoning information were used. When the analysis was first undertaken, there were seven operative district plans (as listed in Table 2) that provided the planning rules for Auckland. The analysis and reporting of the results by zone are based on the extents of the district plan zones that existed in the then operative district plans at the time the study commenced (March 2016). Please note that while these are referred to as 'operative district plans' in this study, most of the provisions of these plans has now been succeeded by those of the Auckland Unitary Plan (from November 2016 only operative in part).

For completeness, cross lease and unit titles were also analysed against the most up to date zoning available, which was from the Auckland Unitary Plan (decisions version, August 2016).

5.2 Overview of analysis

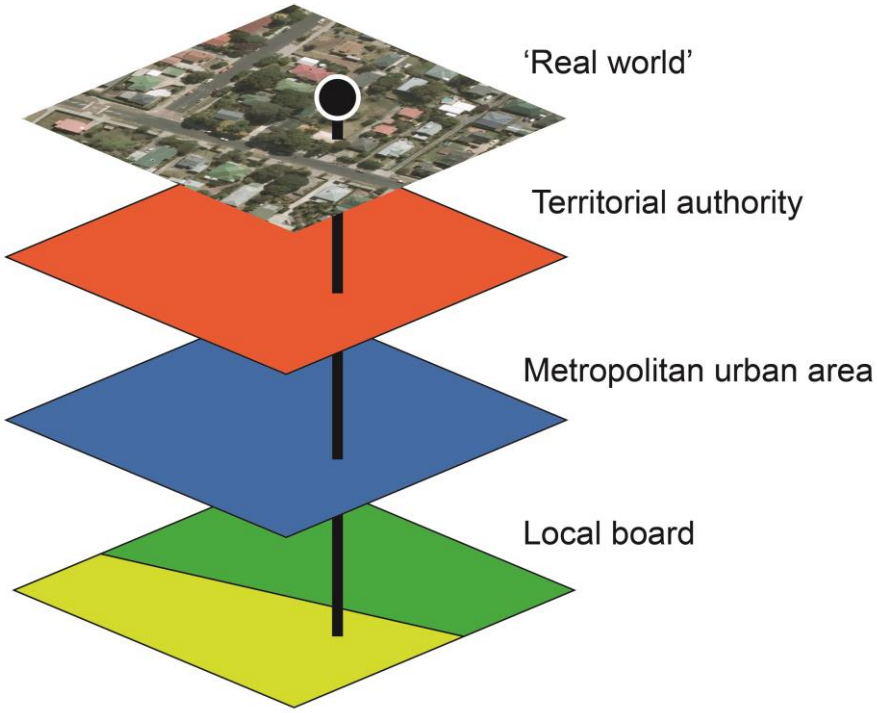
5.2.1 Tagging titles with additional information

The first piece of spatial analysis undertaken on cross lease titles and unit titles was an overlay analysis. This established a number of attributes for each title, including but not limited to: its local board, the zoning of the parcel underneath the title, and whether it is inside or outside the 2010 Metropolitan Urban Limits (MUL).

The overlay analysis is a spatial query; each title polygon is converted to a centre point, and that point is then 'tagged' with information from other layers based on its location (Figure 21). Once a point has been tagged with the attributes of the other layers, this information is joined back to the original title polygon, and saved for mapping and further analysis. This analysis was undertaken in specialist geospatial software called FME[12].

[12] FME is a software product that incorporates an integrated collection of tools for spatial data transformation and data translation, and is published by Safe Software Inc. of Surrey, British Columbia, Canada. FME is considered to be a GIS (Geographic Information Systems) utility that enables conversion between data formats and processes and is able to manipulate and generate data geometry and attributes.

Figure 21: Illustration of overlay analysis of cross lease and unit title titles and other spatial data



5.2.2 Extracting parcels associated with titles, and tagging the parcels with additional information

As well as tagging titles with additional information, it is also important to know the nature of the parcels associated with cross lease and unit titles. Cross lease title and unit title polygons are converted to centre points; these are overlaid on a parcel polygon layer and where there is an overlap the parcel is tagged as having a cross lease or a unit tile on it. Once a parcel has been identified as having a cross lease or unit title on it, it is further tagged with additional information using the same method as outlined in Section 5.2.1.

5.2.3 Calculating the number of cross lease title schemes and unit title schemes

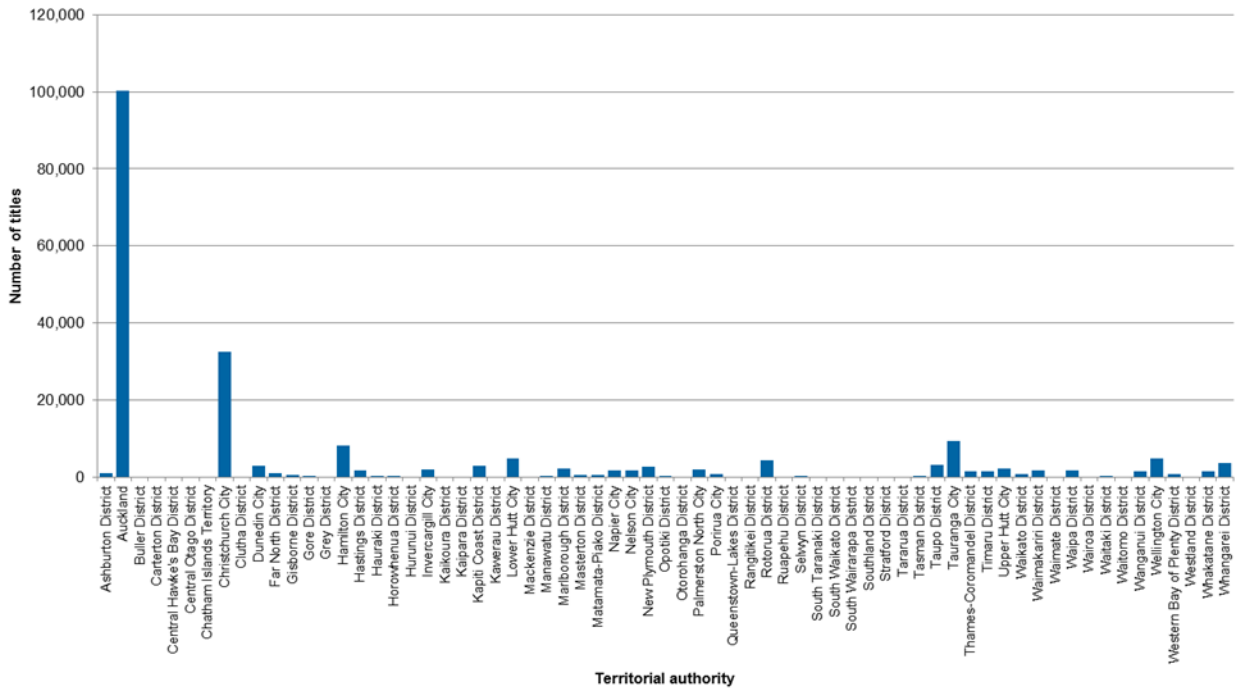
For the purposes of this report, the terms 'cross lease scheme' and 'unit title scheme' are used to describe the collective of titles that cover a single property. For instance, if there are three units with unit titles on a single site, the collection of these three units together are described as a 'unit title scheme'. This analysis gives an estimate of the number of cross lease or unit title schemes in Auckland. The analysis was undertaken in FME; and a FME transformer (an analysis tool) was used to identify where cross lease or unit titles shared the exact same shape in the same location. Where this occurred a polygon was created showing the extent of the scheme which included a count of the number of titles that matched, exposing the number of units within the scheme. The results of this analysis can be found in Section 7.5 for cross leases and Section 9.7 for unit titles.

6.0 Cross lease titles in New Zealand cities and districts

All territorial authority areas in New Zealand have at least two cross lease title in them. As of March 2016, cross lease titles in New Zealand totalled 215,958.

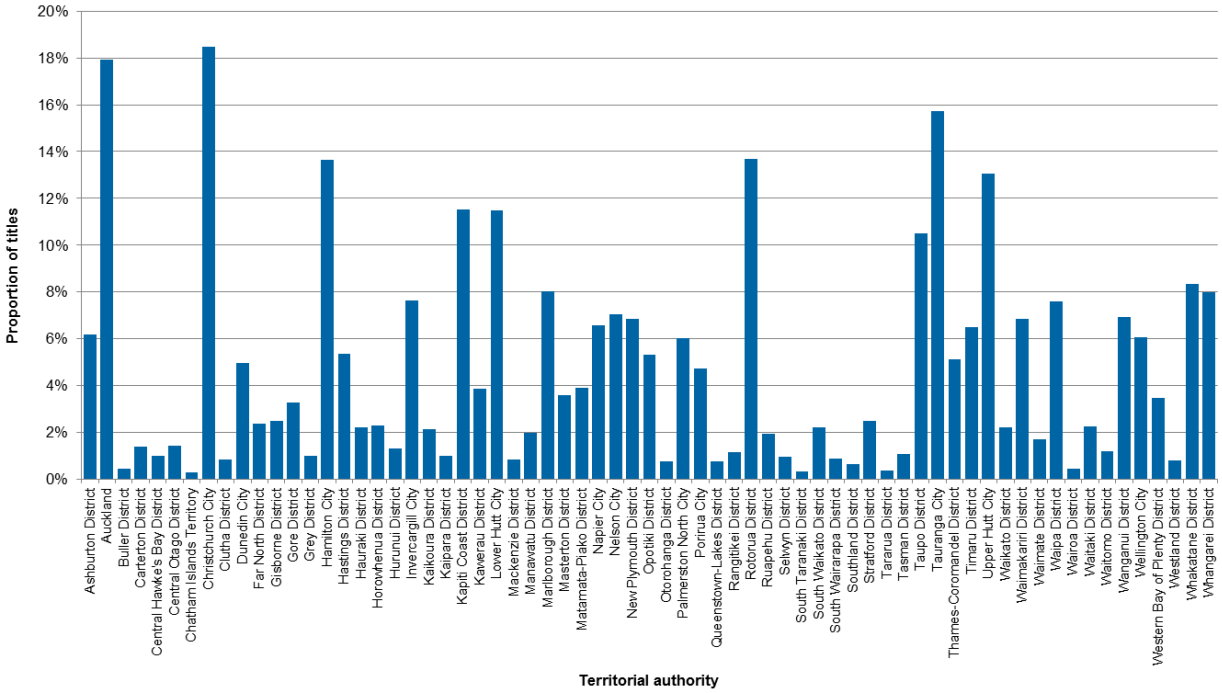
Across the country the distribution of cross lease titles is very uneven (Figure 22). Auckland has the largest number of cross lease titles with 100,148, 47 per cent of the national total. Christchurch City has the second highest total with 32,566 cross lease titles, or 15 per cent of cross lease titles nationally. Tauranga City and Hamilton City also have a notable number of cross lease titles within their boundaries: 9372 titles and 8191 titles, respectively (each comprise around four per cent of the national total of cross lease titles). Tables showing the number and proportion of cross lease titles in each territorial area, and the number and proportion of parcels associated with cross lease titles by territorial authority area can be found in Appendix A and Appendix B.

Figure 22: Number of cross lease titles across New Zealand



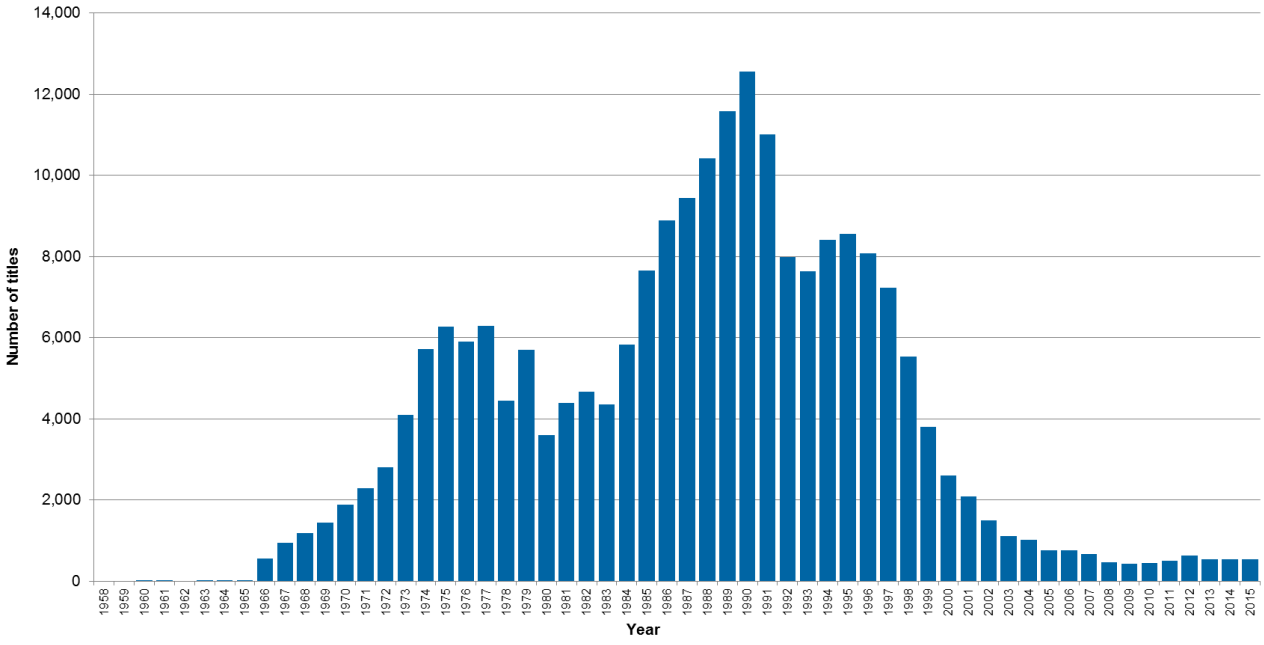
When comparing cross lease titles as a proportion of the total number of titles (Figure 23), there is less difference amongst territorial authority areas; 18 per cent of both Auckland and Christchurch's total number of titles are cross lease titles. Other areas that have notable proportions of cross leases are: Tauranga City with 16 per cent, Rotorua District and Hamilton City each with 14 per cent, Kapiti District with 12 per cent and Taupō District with 11 per cent.

Figure 23: Proportion of total titles that are cross lease titles



Title information sourced from LINZ includes the date of issue; this can be used to show the age distribution of titles (Figure 24).

Figure 24: Distribution of cross lease titles in New Zealand by year of issue (as at March 2016)



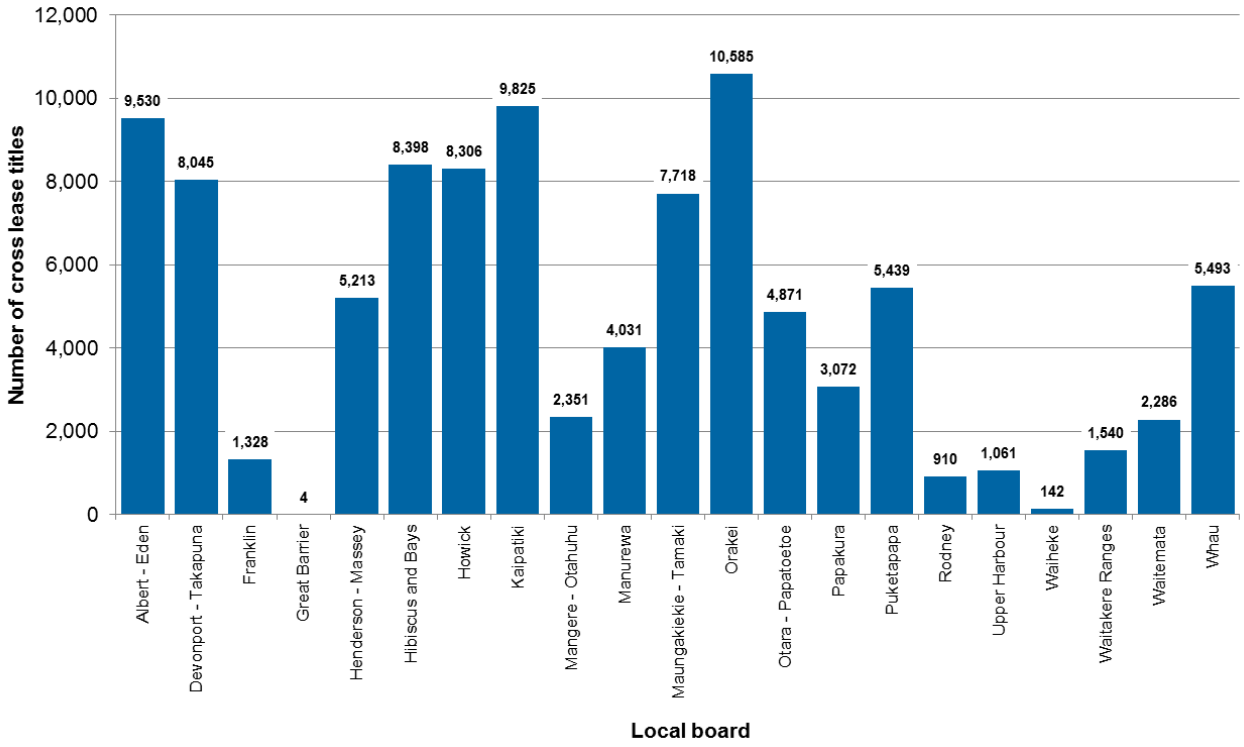
7.0 Cross lease titles in Auckland

7.1 Geographic distribution of cross lease titles in Auckland

The 100,148 cross lease titles in Auckland are well-spread across most of Auckland's main urban area, and are located in older suburbs as well as those more recently developed (Figure 26).

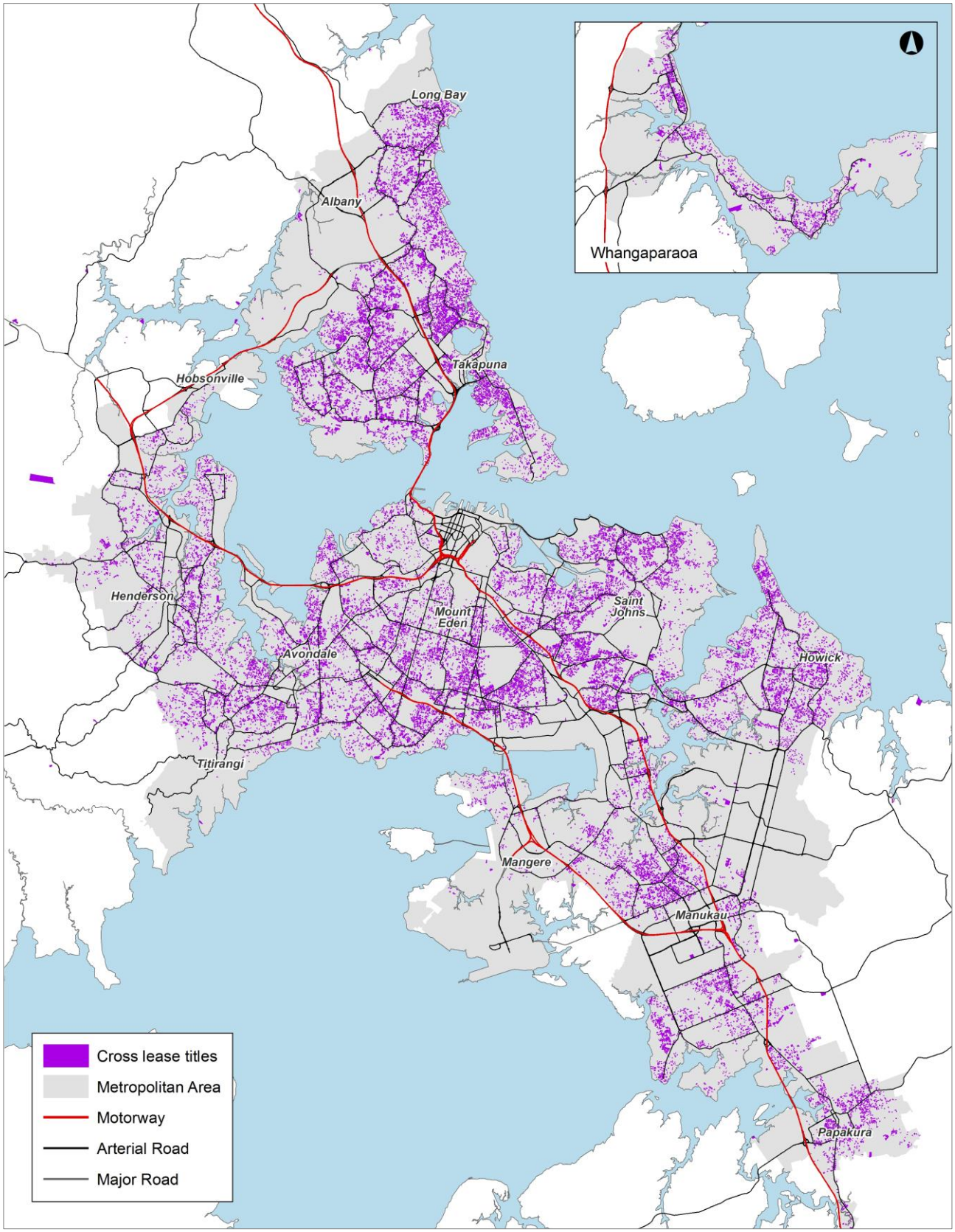
All local board areas in Auckland contain cross lease titles, although the number in each area varies considerably (Figure 25): Great Barrier has the least with four cross lease titles, while Ōrākei has the most with 10,585. The local board areas with the highest numbers of cross lease titles, Albert-Eden, Devonport-Takapuna, Hibiscus and Bays, Howick, Kaipātiki, and Ōrākei, all contain large areas of residential suburbs developed before the 1960s. These older suburban areas would originally have been developed with large lot sizes, which made them suitable for accommodating a second dwelling. This, coupled with restrictive subdivision rules and their location, made these areas popular for cross lease development. Cross lease titles in the Kaipātiki Local Board are explored in greater depth in Section 7.12.

Figure 25: Distribution of cross lease titles in Auckland



A map showing the boundaries of Auckland's local boards can be found in Appendix C. The number and proportion of cross lease titles for each of Auckland's local board areas can be found in the table in Appendix D, while the number and proportion of parcels associated with cross lease titles for each of Auckland's local board areas can be found in Appendix E.

Figure 26: Location of cross lease titles in Auckland's main urban areas



7.2 Current (operative) district plan zoning of parcels associated with cross lease titles

Parcels associated with cross lease titles were tagged with their current operative district plan zoning. Ninety nine per cent of parcels associated with cross lease titles are zoned residential, with the remaining one per cent mostly in business zones.

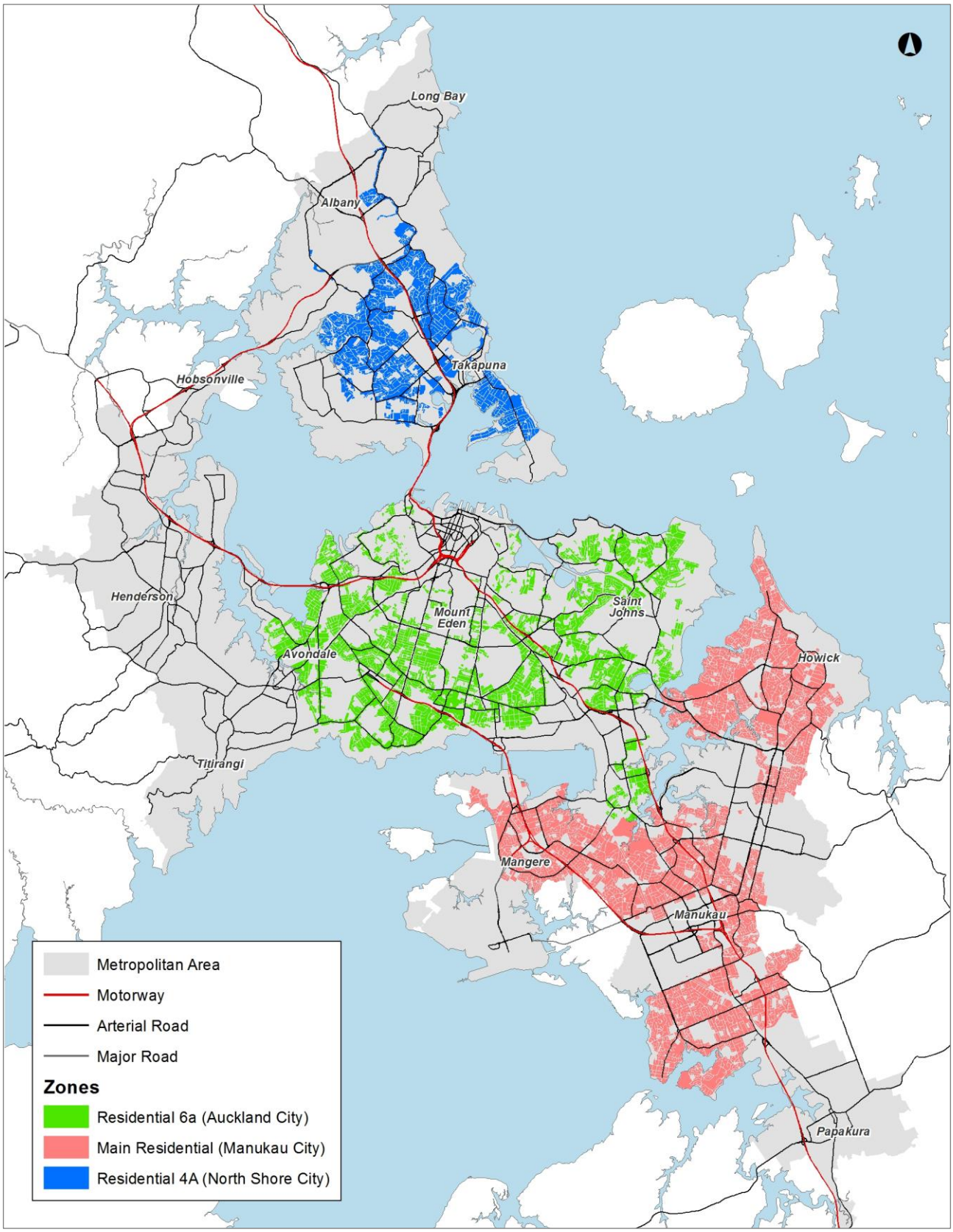
Prior to the introduction of the Auckland Unitary Plan, which provides a single planning document for the city, there were seven district plans and over 500 zones. For brevity only those zones that have 100 or more parcels associated with cross lease titles in them are detailed in this section and in Table 3. The Residential 6a zone in the former Auckland City had the highest number of parcels - of all parcels associated with cross leases, a quarter are in this zone. The former Main Residential zone for Manukau City, and the former Residential 4A zone of North Shore City also have large numbers of parcels associated with cross leases, accounting for 18 per cent and 14 per cent of the total, respectively. The Residential 6a, Main Residential, and Residential 4a zones combined have 57 per cent of parcels associated with cross lease titles in Auckland. These three zones cover large areas (Figure 27). Another reason that the number of cross leases in these zones is high is they include areas of the city that were developed some time ago. Due to the age of these areas, the original property sizes were large, and this means that there the right size to accommodate second dwellings, making them ideal for infill development. This is coupled with the fact that the rules in these areas did not permit subdivision at the time, and as such cross lease developments were created.

Table 3: Parcels associated with cross lease titles, by operative district plan zone (for zones that have a count of more than 100)

Operative district plan area (former council area)	Operative district plan zone	Count of parcels	Proportion of total
Auckland City	Residential 6a	10,641	24.8%
	Residential 5	2,177	5.1%
	Residential 2B	506	1.2%
	Residential 1	486	1.1%
	Residential 6b	472	1.1%
	Residential 7a	465	1.1%
Franklin District	Residential	515	1.2%
Manukau City	Main Residential	7,823	18.2%
	Residential Heritage 7	374	0.9%
	Residential Heritage 6	152	0.4%
North Shore City	Residential 4A	5,990	14.0%
	Residential 4B	2,687	6.3%
	Residential 2B	823	1.9%

Operative district plan area (former council area)	Operative district plan zone	Count of parcels	Proportion of total
	Residential 3A	230	0.5%
	Residential 6a	180	0.4%
	Residential 6A1	155	0.4%
	Residential 6C	136	0.3%
	Residential 6B1	127	0.3%
	Residential 3C	122	0.3%
Papakura District	Residential 1	1,011	2.4%
	Residential 2	335	0.8%
Rodney District	Residential Medium Intensity	1,322	3.1%
	Residential High Intensity	510	1.2%
	Residential Eastern Peninsula	235	0.5%
Waitakere City	Living	2,149	5.0%
	Living 2	1,110	2.6%
	Living 1	1,039	2.4%

Figure 27: Extent of Residential 6a (Auckland City), Main Residential (Manukau City), and Residential 4a (North Shore City) zones



7.3 Auckland Unitary Plan (decisions version) zoning of parcels associated with cross lease titles

Analysis of parcels associated with titles against the zoning from the Auckland Unitary Plan (decisions version) zoning shows that 98 per cent of parcels associated with cross lease titles are zoned residential (Table 4 and Appendix F). Analysis by zone shows that 51 per cent of parcels associated with cross lease titles were in the Mixed House Suburban zone, 26 per cent in the Mixed House Urban zone, 12 per cent in the Single House zone, and nine per cent in the Terrace Housing and Apartment Buildings zone.

The Mixed House Urban, Mixed House Suburban, and Terrace Housing and Apartment Buildings zones in the Auckland Unitary Plan (decisions version) are all designed to allow higher density dwellings to be constructed; 86 per cent of parcels associated with cross leases are in these zones. Properties with cross leases have potential for redevelopment for higher density dwellings, as parcels with cross leases on them are often large in size (more than 800 square metres). However, redeveloping parcels with more than one dwelling and with multiple owners is likely to be more difficult to achieve in comparison to a single dwelling, as it is probable that there is more capital invested in the improvements and dealing with multiple owners is less straightforward than dealing with a single owner.

Table 4: Count of parcels associated with cross lease titles by Auckland Unitary Plan (decisions version) zone

Auckland Unitary Plan (decisions version) zone	Count of parcels	Proportion of total
City Centre	2	0%
Countryside Living	5	0%
Future Urban	4	0%
General Business	3	0%
Hauraki Gulf Islands	65	0%
Heavy Industry	19	0%
Large Lot	45	0%
Light Industry	102	0%
Local Centre	52	0%
Major Recreation Facility	2	0%
Māori Purpose	7	0%
Metropolitan Centre	1	0%
Mixed Housing Suburban	21,678	51%
Mixed Housing Urban	11,138	26%
Mixed Use	431	1%

Auckland Unitary Plan (decisions version) zone	Count of parcels	Proportion of total
Neighbourhood Centre	47	0%
Public Open Space - Conservation	4	0%
Public Open Space - Informal Recreation	6	0%
Public Open Space - Sport and Active Recreation	5	0%
Road	5	0%
Rural and Coastal settlement	38	0%
Rural Coastal	5	0%
Rural Conservation	1	0%
Rural Production	5	0%
School	6	0%
Single House	5,056	12%
Strategic Transport Corridor	9	0%
Terrace Housing and Apartment Buildings	4,059	9%
Town Centre	82	0%
Waitakere Ranges	5	0%
Waitakere Ranges Foothills	2	0%
Total	42,889	

7.4 Cross lease titles by Auckland Unitary Plan (decisions version) zoning

Measuring the total number of cross lease titles by the zone is also an important metric to understand. Nearly all cross lease titles (98 per cent) are in residential zones of the Auckland Unitary Plan (decisions version) (Table 5 and Appendix F). The largest amount of cross lease titles are found in the Mixed Housing Urban zone (48,359), followed by the Mixed Housing Urban zone (27,010).

Table 5: Number of cross lease titles by Auckland Unitary Plan (decisions version) zone group

Auckland Unitary Plan (decisions version) zone grouping	Number of cross lease titles	Proportion of total
Business	2,146	2%
General	192	0%
New growth	9	0%
Public Open Space	28	0%
Residential	97,702	98%
Rural	33	0%
Special purpose zone	38	0%
Total	**100,148**	

Table 6: Number of cross lease titles by Auckland Unitary Plan (decisions version) zone

Auckland Unitary Plan (decisions version) zone	Number of cross lease titles	Proportion of total
City Centre	5	0%
Countryside Living	9	0%
Future Urban	9	0%
General Business	8	0%
Hauraki Gulf Islands	146	0%
Heavy Industry	70	0%
Large Lot	84	0%
Light Industry	330	0%
Local Centre	108	0%
Major Recreation Facility	7	0%
Māori Purpose	14	0%
Metropolitan Centre	5	0%

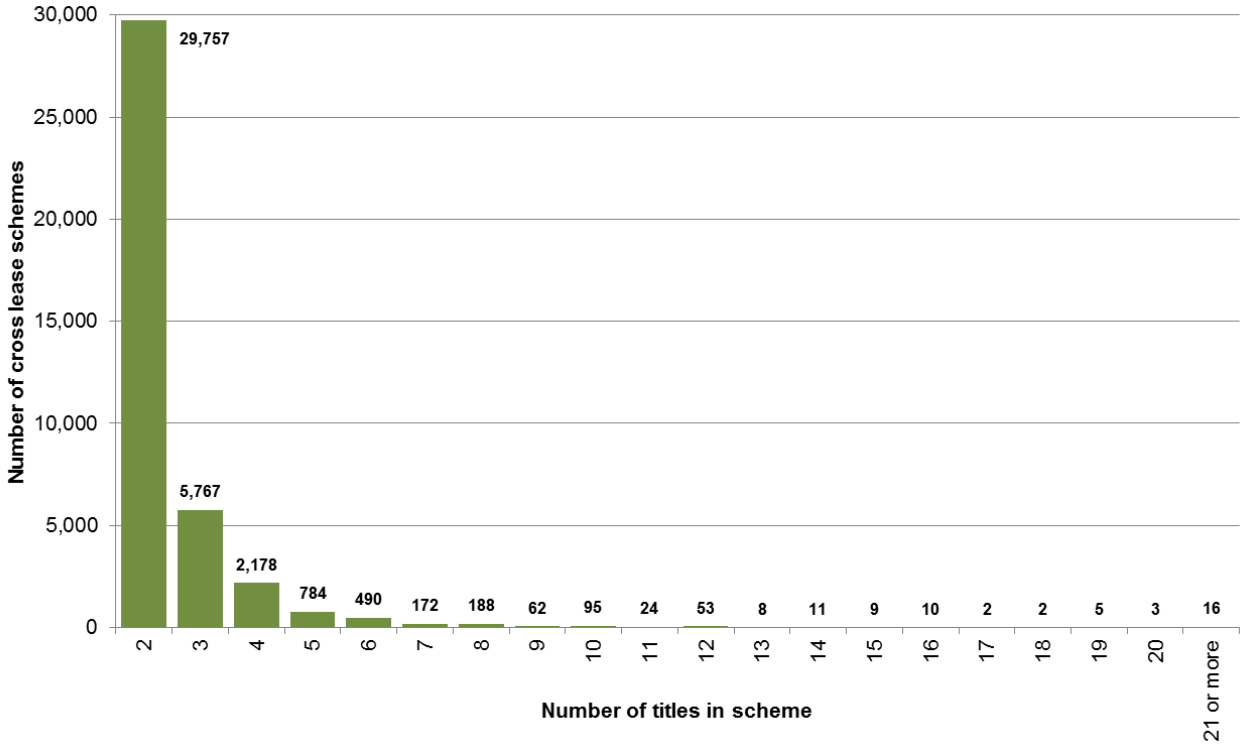
Auckland Unitary Plan (decisions version) zone	Number of cross lease titles	Proportion of total
Mixed Housing Suburban	48,359	48%
Mixed Housing Urban	27,010	27%
Mixed Use	1,291	1%
Neighbourhood Centre	97	0%
Public Open Space - Conservation	8	0%
Public Open Space - Informal Recreation	10	0%
Public Open Space - Sport and Active Recreation	10	0%
Road	8	0%
Rural and Coastal settlement	63	0%
Rural Coastal	7	0%
Rural Conservation	2	0%
Rural Production	10	0%
School	17	0%
Single House	11,216	11%
Strategic Transport Corridor	38	0%
Terrace Housing and Apartment Buildings	10,970	11%
Town Centre	232	0%
Waitakere Ranges	4	0%
Waitakere Ranges Foothills	1	0%
Total	**100,148**	

7.5 Number of cross lease titles in cross lease schemes

There were 39,636 cross lease schemes in Auckland. The number of cross lease titles in a scheme ranged from two to 65. The average number of cross lease titles per scheme was 2.5 (Figure 28). Three quarters (75 per cent) of cross lease schemes have only 2 titles in them, whereas less than one per cent (0.6 per cent) of schemes have 10 or more cross lease titles in them. Only 16 schemes had 21 or more cross lease titles on them.

The scheme with the highest number of titles (65) appears to have been built in the 1960s, pre-dating the Unit Titles Act 1972, and is a residential apartment block near Newmarket. Thus, using a cross lease would have been one of the few mechanisms available for the developer to provide shared ownership of the property.

Figure 28: Cross lease schemes by size of schemes



7.6 Size (land area) of parcels associated with cross leases

In order to understand the nature of the cadastral pattern that has led to cross lease developments becoming popular and also to identify parcels that may be suitable for redevelopment, assessment of parcel size is required. This redevelopment suitability was especially important under the provisions of the Proposed Auckland Unitary Plan, which included the ability to develop properties in the Mixed Housing Urban and Mixed Housing Suburban residential zones at a higher density if they are 1200 square metres or larger (Auckland Council, 2013). Since the publication of the Proposed Auckland Unitary Plan, Auckland Council changed its position on these rules as part of the Unitary Plan hearings process. Mixed Housing Urban zone now has no density restrictions and the threshold to develop at higher densities in the Mixed Housing Suburban zone has been

lowered and now applies to all sites larger than 1000 square metres (Auckland Council, 2015a, 2015b).This means that all 11,138 parcels associated with cross lease titles in the Mixed Housing Urban zone and the 8984 parcels associated with cross lease titles in the Mixed Housing Suburban zone that are 1000 square metres or larger can be redeveloped under the higher-density provisions.

Almost four-fifths (79 per cent) of parcels associated with cross lease titles are 800 square metres or larger, 60 per cent are between 800 square metres and 1200 square metres in size, and just under a fifth (18 per cent) are 1200 square metres or larger (Table 7). A large proportion of parcels associated with cross lease titles fall with in this size range due to the planning practices and planning rules under which these urban areas were originally developed. The quarter acre section (1012 square metres), a common feature of New Zealand town planning (McClean, 2007), was used to layout many residential areas in Auckland. These quarter acre parcels later proved suitable to accommodate two dwellings and be ideal for cross lease development, with 4242 parcels associated with cross lease titles being a 'quarter acre' or around 1012 square meters in size (within a range of plus or minus 10 square metres).

Table 7: Count of parcels related to cross lease titles in Auckland, by size category and local board area

Local board	Parcel size category								
	0 to 400 m^2	400 to 800 m^2	800 to 1200 m^2	1200 to 1600 m^2	1600 to 2000 m^2	2000 to 5000 m^2	5000 to 10,000 m^2	10,000 m^2 or larger	Total
Albert - Eden	115	1,093	1,667	400	81	56	1	0	**3,413**
Devonport - Takapuna	106	685	2,158	389	89	57	1	1	**3,486**
Franklin	19	100	314	82	20	25	6	2	**568**
Great Barrier	0	0	3	0	1	0	0	0	**4**
Henderson - Massey	64	463	1,471	270	70	76	5	2	**2,421**
Hibiscus and Bays	51	160	3,078	567	119	90	11	8	**4,084**
Howick	177	859	2,362	472	88	73	3	2	**4,036**
Kaipātiki	74	1,075	2,547	520	155	161	11	4	**4,547**
Mangere - Ōtāhuhu	15	172	483	131	42	39	7	1	**890**
Manurewa	85	301	1,157	204	44	48	2	2	**1,843**
Maungakiekie - Tamaki	53	400	1,726	459	107	69	3	1	**2,818**
Ōrākei	118	944	2,399	513	137	100	1	1	**4,213**
Otara - Papatoetoe	48	148	1,317	308	65	39	1	0	**1,926**
Papakura	26	271	847	148	34	40	2	2	**1,370**
Puketāpapa	51	277	1,891	197	59	52	1	1	**2,529**
Rodney	12	68	222	62	26	28	8	14	**440**

Local board	Parcel size category								
	0 to 400 m^2	400 to 800 m^2	800 to 1200 m^2	1200 to 1600 m^2	1600 to 2000 m^2	2000 to 5000 m^2	5000 to 10,000 m^2	10,000 m^2 or larger	Total
Upper Harbour	27	128	320	24	10	18	3	3	**533**
Waiheke	0	1	14	12	15	13	4	2	**61**
Waitakere Ranges	29	73	408	120	40	35	7	5	**717**
Waitematā	145	364	212	64	27	18	0	0	**830**
Whau	45	239	1,294	357	94	116	15	0	**2,160**
Total Auckland	**1,260**	**7,821**	**25,890**	**5,299**	**1,323**	**1,153**	**92**	**51**	**42,889**

The average size of parcels associated with cross lease titles provides some further context about the nature of cross lease development. The average size of parcels associated with cross lease titles by local board area ranges from 780 square metres in Waitematā to 3177 square metres in Rodney (Table 8). The large average size in the Rodney Local Board area is likely skewed by three large rural properties with cross leases, two of which are over 20 hectares.

Table 8: Average size of parcels related to cross lease titles in Auckland, by local board area

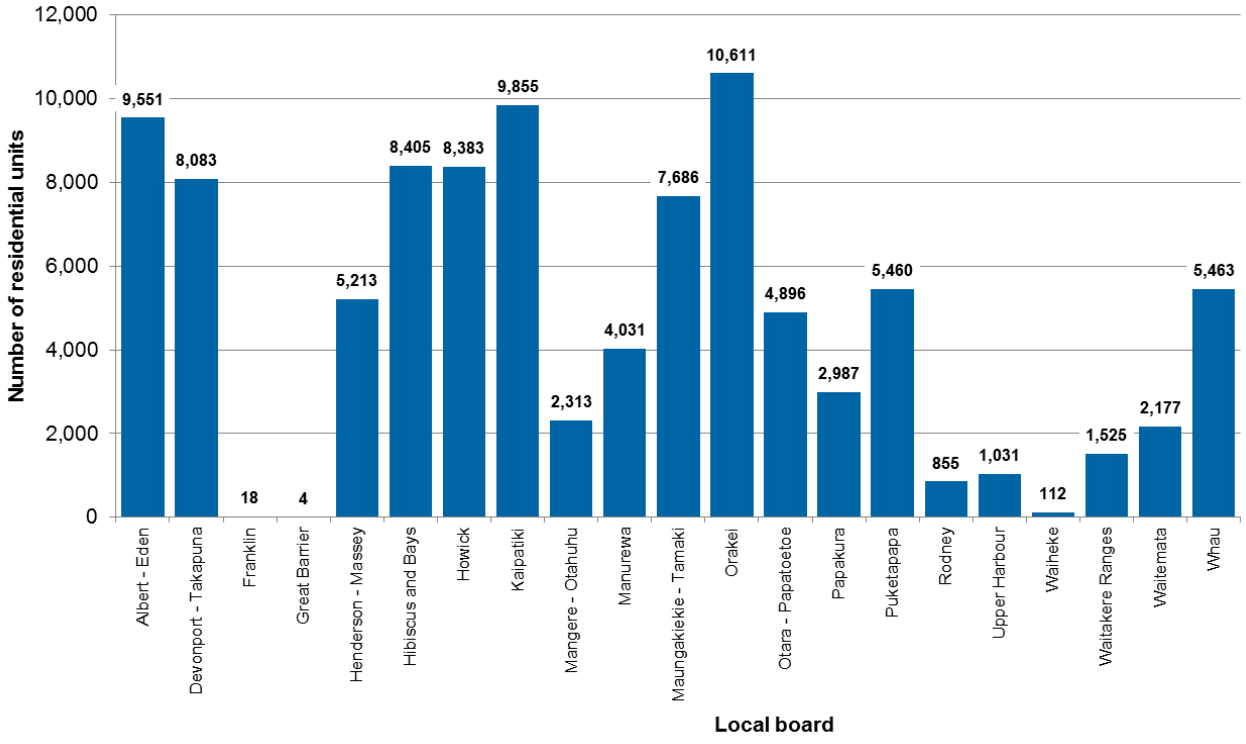
Local board	Average size (m^2)
Albert - Eden	933
Devonport - Takapuna	979
Franklin	1,230
Great Barrier	1,095
Henderson - Massey	1,028
Hibiscus and Bays	1,129
Howick	965
Kaipātiki	1,039
Māngere - Ōtāhuhu	1,132
Manurewa	996
Maungakiekie - Tāmaki	1,053
Ōrākei	982
Ōtara - Papatoetoe	1,041
Papakura	1,061
Puketāpapa	962
Rodney	3,177

Local board	Average size (m^2)
Upper Harbour	1,036
Waiheke	2,889
Waitākere Ranges	1,366
Waitematā	780
Whau	1,160
All of Auckland	**1,052**

7.7 Number of dwellings on parcels associated with cross lease titles

Using council's DVR it is possible to estimate the number of rateable residential units (used in this study as a proxy for the number of dwellings) that are on parcels associated with cross lease titles. At the time of this study there were 98,659 residential units on residentially zoned parcels associated cross lease titles (Figure 29). Ōrākei Local Board area has the highest number with 10,611 and Albert-Eden and Kaipātiki have more than 9000.

Figure 29: Number of residential units (dwellings) on parcels associated with cross lease titles in Auckland



7.8 Age of dwellings on parcels associated with cross lease titles

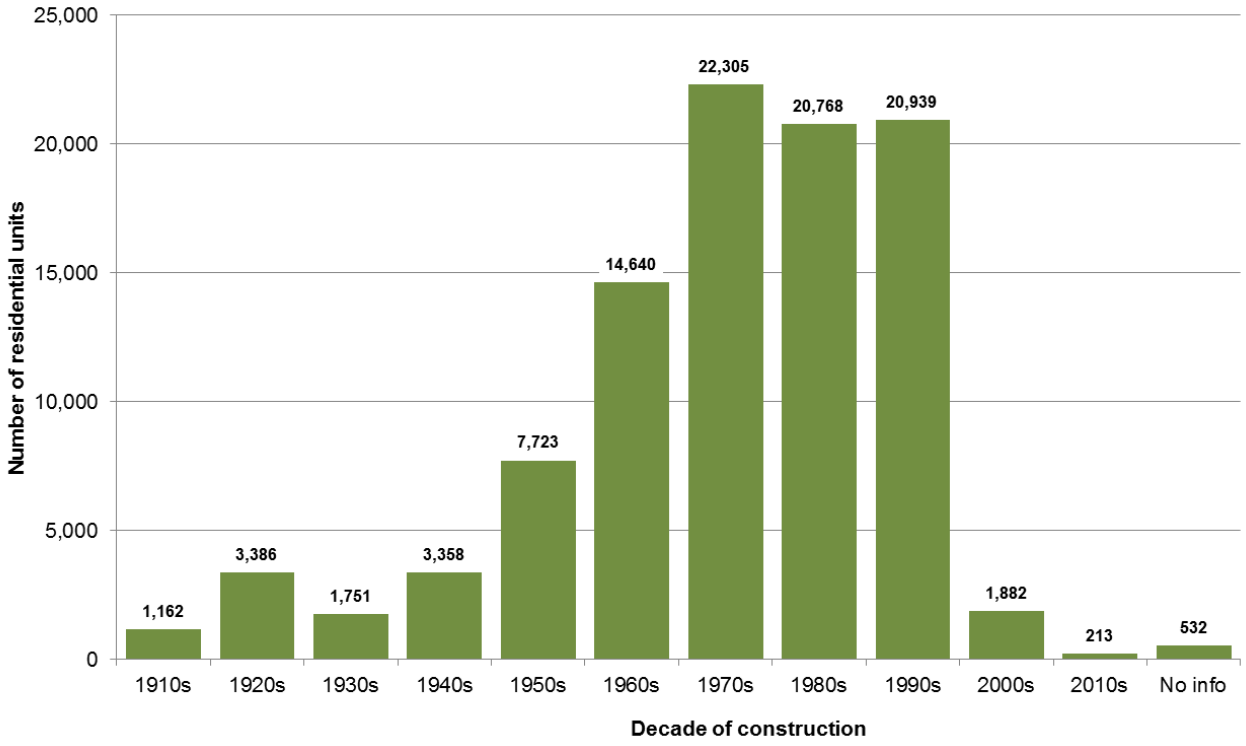
The approximate ages of dwellings that sit on cross lease titles can also be attained from the DVR. The average lifespan of New Zealand houses is unknown. Johnstone (as cited in Page & Fung,

2009) defines the economic life of a dwelling as the period when the market value of the property, including demolition and site clearing, is less than the value of an alternative use of the property. In New Zealand, site redevelopment is a major reason for the demolition of existing dwellings (Page & Fung, 2009).

In addition to this basic calculation, the heritage or cultural value of a house may also need to be taken into account. For the demolition and redevelopment of a house to be economically viable, a house needs to be young enough in order to be considered as having no or low heritage value but not so young that demolishing any existing dwelling or dwellings on a property and redeveloping the site would be uneconomic. As an example, a dwelling built in the 1960s may be considered too young to be considered a heritage building, but may be coming to the end of its economic life.

Nearly a quarter (23 per cent) of dwellings on cross lease titles were built in the 1950s or 1960s, a further quarter (23 per cent) were built in the 1970s (Figure 30). Many of these dwellings will be nearing the end of their economic lives and will be suitable for redevelopment either now or within the next decade. In addition there may be a number of more modern buildings on cross lease titles with leaky building issues (Harris, 2017) that may need to be redeveloped in the near future.

Figure 30: Residential units rated on parcels associated with cross lease titles in Auckland



* only on residential zoned land

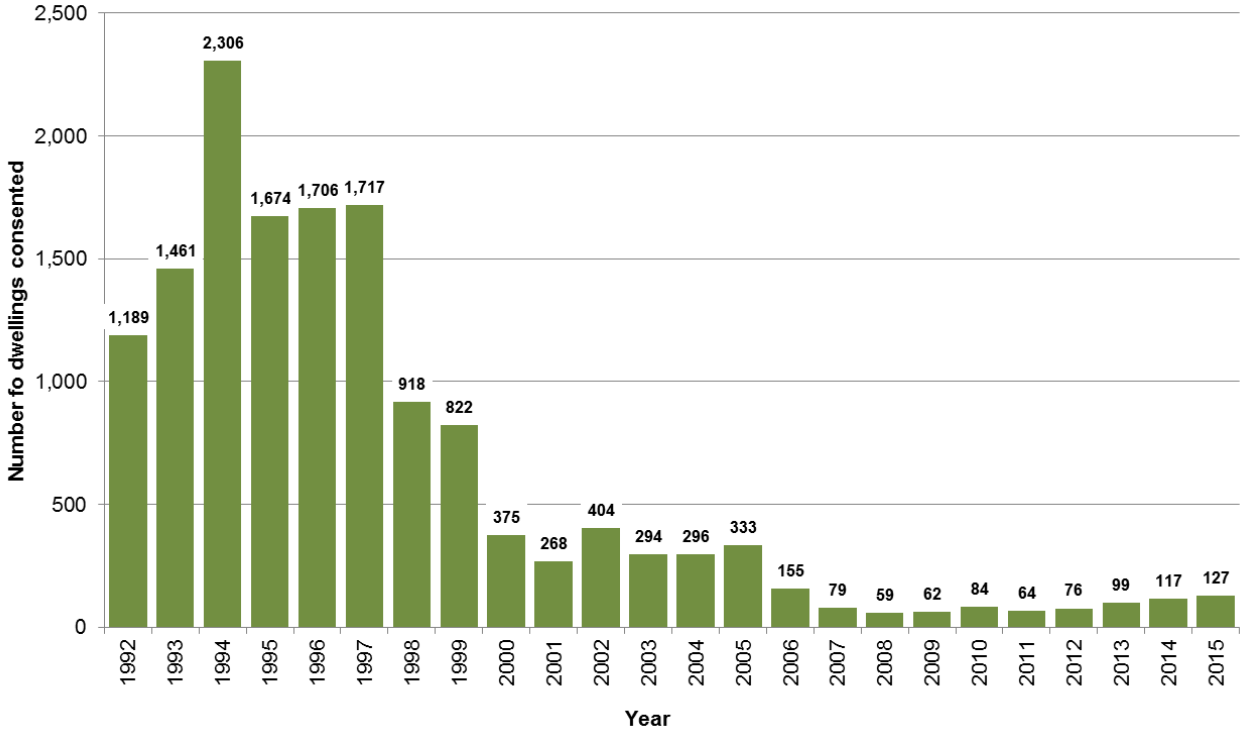
7.9 Residential building activity on parcels associated with cross lease titles

Recent building activity, measured by counting how many building consents have been issued for new dwellings, can be an indication of the renewal of housing stock on existing cross lease developments.

This analysis has been undertaken only for consents that were on parcels zoned residential under operative district plans, making this analysis consistent and comparable with the analysis undertaken for unit titles.

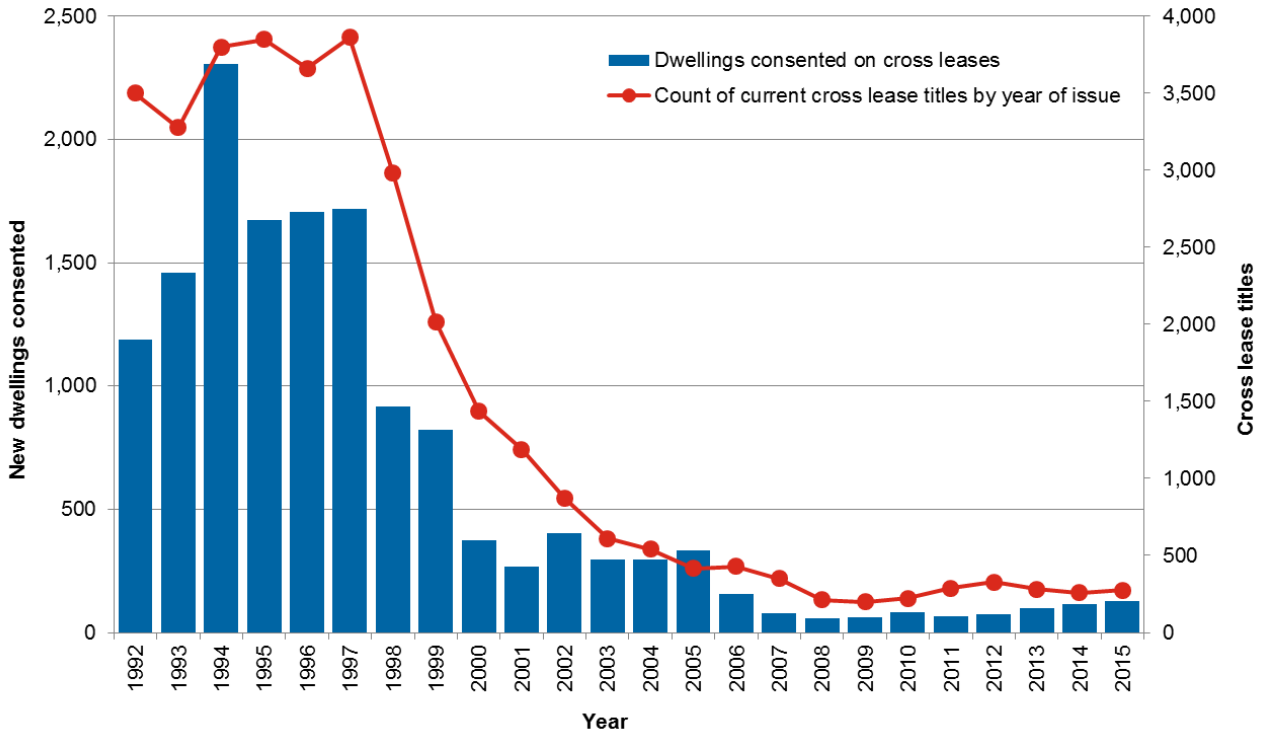
Figure 31 shows dwellings consented on parcels associated with cross lease titles, by year, beginning in 1992, the first whole year for which data is available. In the early-to-mid 1990s over 1000 new dwellings per year were consented on parcels associated with cross lease titles. There was a strong decline from 1998 onwards. Unfortunately building consent data does not indicate whether a new dwelling is replacing a demolished house or is an additional house, so it is not possible to measure net change.

Figure 31: New residential dwellings consented on residential zoned parcels associated with cross lease titles in Auckland



The decline in the number of new dwellings consented on parcels associated with cross lease titles was most likely driven by the enactment of RMA and subsequent decline in the issue of fewer new cross lease titles (Figure 32). Another possibility is that as time passed, there were less properties suitable and available for infill development on a cross lease as they had already been developed.

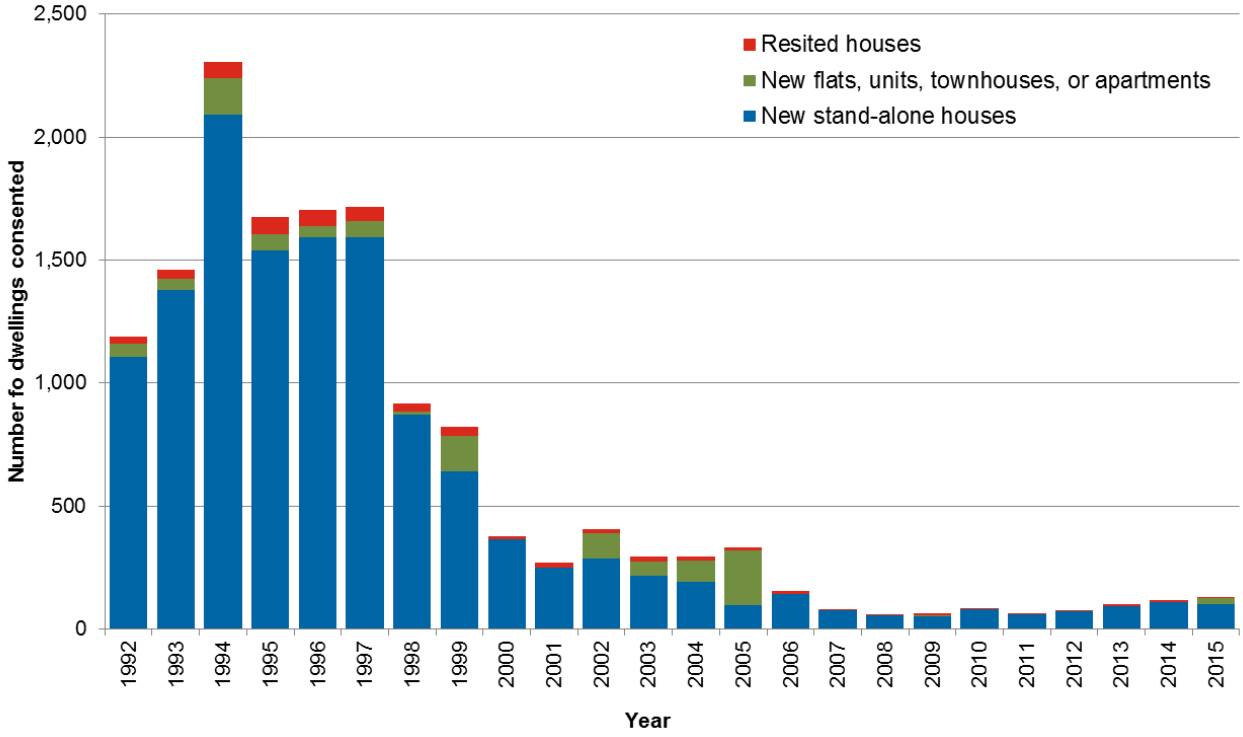
Figure 32: Dwellings consented on cross leases and number of current cross lease titles by year of issue



Information about the typology of new dwellings can be extracted from building consent information; dwelling types include: stand-alone houses, flats, units, townhouses, apartments, and re-sited houses.

Stand-alone houses are the most prevalent type of dwelling that has been consented on parcels associated with cross lease titles. Between 1992 and 2015, at least 90 per cent or more of dwellings consented have been stand-alone houses, in all but seven years (Figure 33).

Figure 33: New residential dwellings consented on residential zoned parcels associated with cross lease titles by type in Auckland

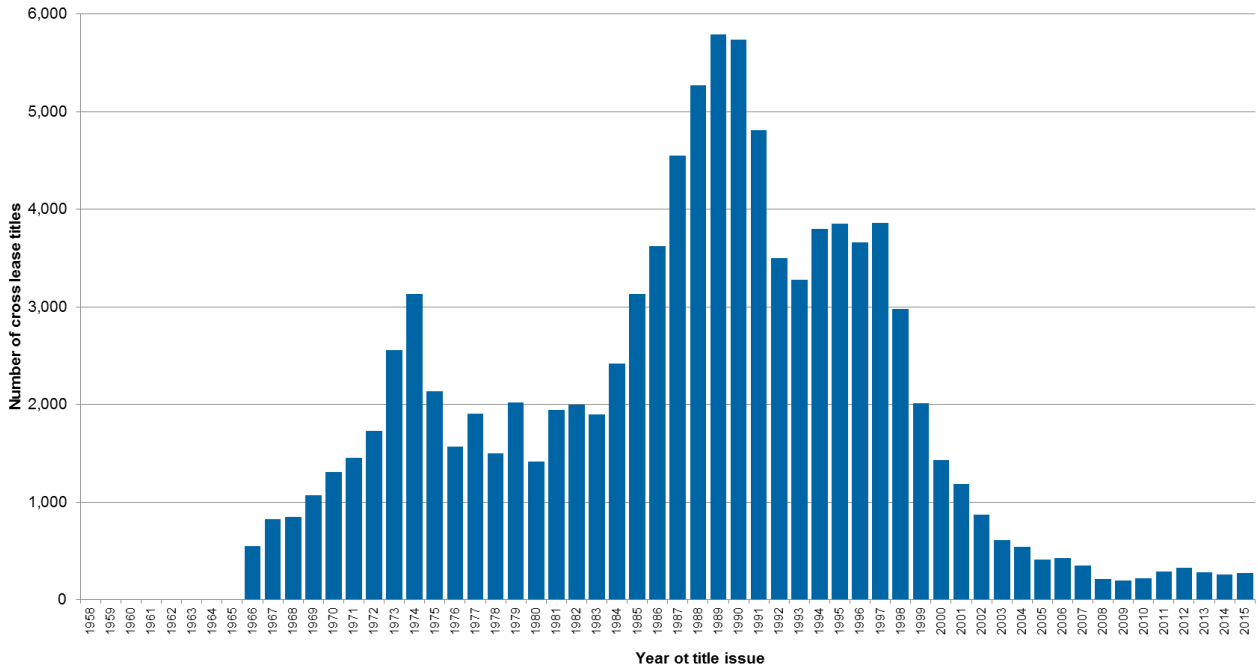


In the last five years (2011 to 2015) a total of 483 new dwellings have been consented on parcels associated with cross lease titles in residential zones. Of that total, 436 (90 per cent) were consents for stand-alone houses and only 25 'attached' dwellings (flats, units, terraced houses, or apartments) were granted consent (five per cent in total). Between 1992 and 2015, 22 consents (five percent) were granted for the re-siting of houses on parcels associated with cross lease titles in residential zones.

7.10 Age of cross lease titles

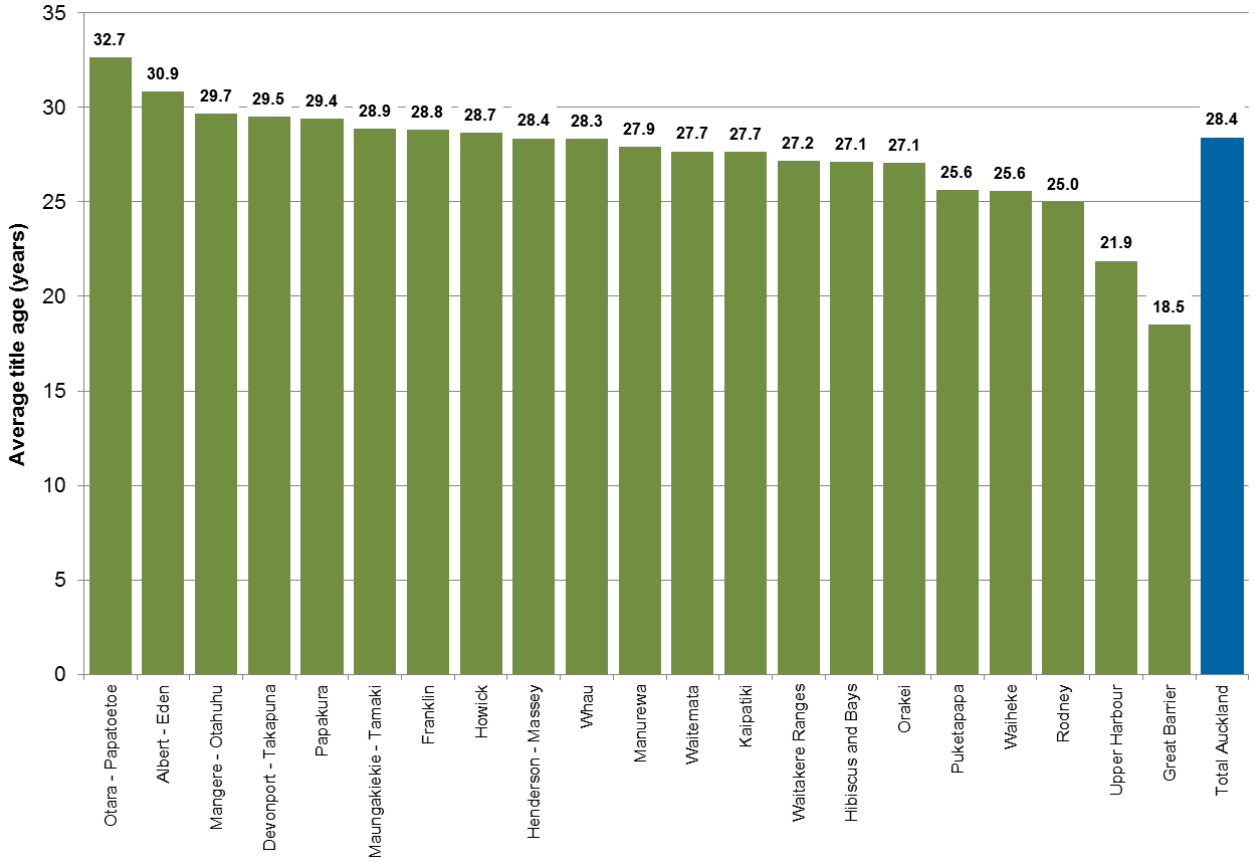
The passing of the RMA in 1991, and subsequent writing and implementation of district plans under the RMA resulted in fewer cross lease developments. New cross lease titles existing at the time of analysis peaked in 1989, and then decreased rapidly between 1990 and 1991 (Figure 34). The early 1990s saw a plateau and even a slight increase in the number of cross lease titles issued, before decreasing rapidly again in 1998. Between 200 and 300 cross lease titles were issued in Auckland annually between 2007 and 2015. Most of these new cross lease titles are likely to be a result of alterations and changes to existing cross lease units rather than creation of new cross lease titles.

Figure 34: Cross lease titles in Auckland by year of title issue



The average age of a cross lease title in Auckland is 28.4 years (Figure 35); the average age of cross leases by local board ranges from 18.5 years for the Great Barrier Local Board area to 32.7 years for Otara-Papatoetoe Local Board.

Figure 35: Average title age, in years, by local board



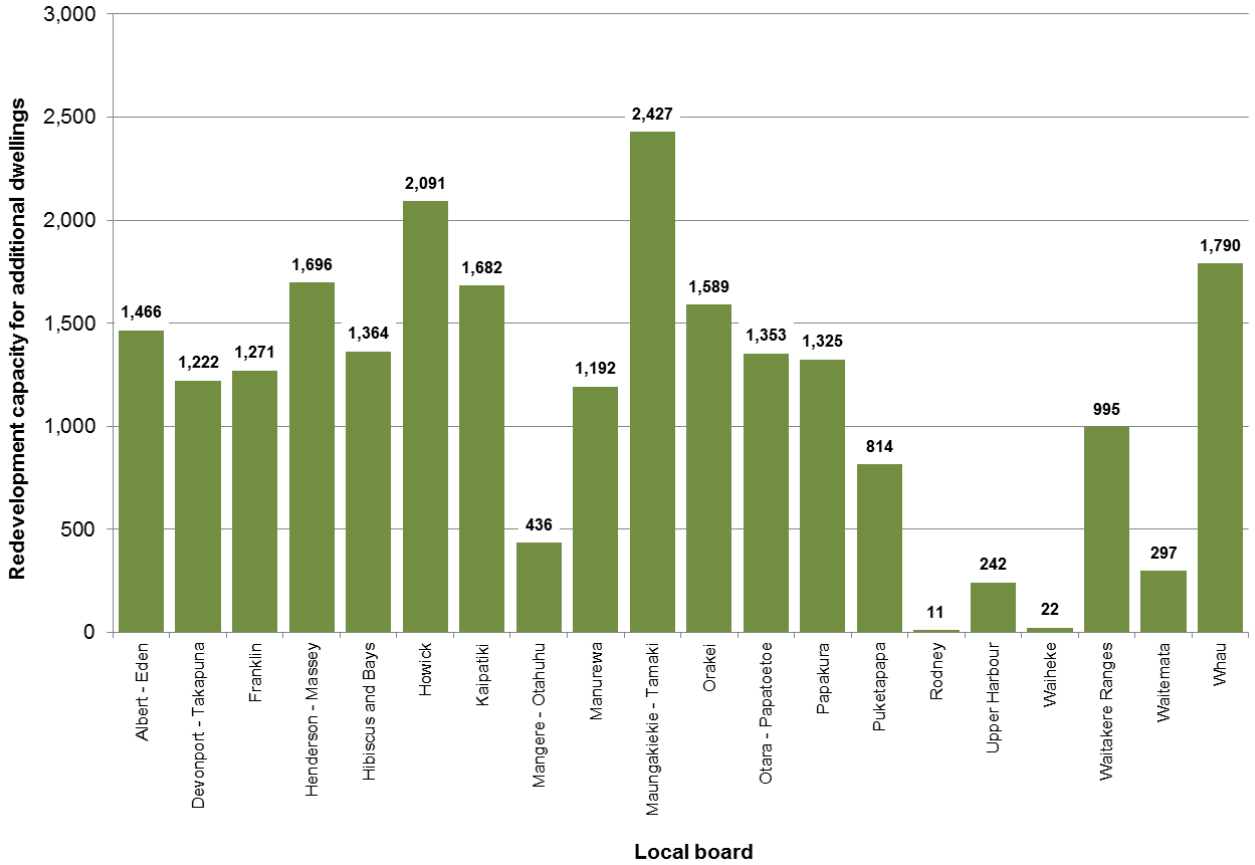
7.11 Redevelopment potential under the provisions of the Proposed Auckland Unitary Plan

The number of net additional dwellings that could be added to a property if it was developed under the provisions of a district plan is measured through Auckland Council's Capacity for Growth Studies (Regional Growth Forum, 1998; Gamble, 2010; Fredrickson & Balderston, 2013; Balderston & Fredrickson, 2014b). The Capacity for Growth Study 2013 used the provisions published in the Proposed Auckland Unitary Plan to model the capacity for additional dwellings on residential properties (Balderston & Fredrickson, 2014a, 2014b). The outputs from the study have been analysed here against parcels associated with cross lease titles in order to calculate the redevelopment potential of these sites.

Parcels associated with cross lease titles, if redeveloped, could accommodate an additional 23,285 dwellings (Figure 36). However, and as outlined in previous sections, while there is significant 'potential' redevelopment capacity on these cross lease titles, potential issues could prevent the realisation of much of the redevelopment, including:

- Properties that have multiple owners or complicated ownership structures, such as cross leases, are generally much harder to develop than freehold properties. Individual owners may not wish to sell or redevelop their property or, if they do, they may wish to sell and gain a premium, leading to what is referred to as “the holdout problem”. Currently, for a cross lease property to be redeveloped, all the holders of cross leases on site must agree or the leases must come under single ownership. Alternatively, Section 339 of the Property Law Act 2007 could be used to force the sale or property and the division of the proceeds, or the sale and purchase of property from one co-owner to another (Property Law Act 2007).
- The value of the improvements on a property means that it is economically unfeasible or not sufficiently profitable for redevelopment to take place at present. This means that the values of the buildings on a property are worth too much to demolish or remove.
- Cross lease properties with dwellings of different ages may be more difficult to redevelop, as the dwellings generally end their economic or physical lives at different times. This could lead to partial redevelopment through the replacement of one of the existing dwellings, thus tying up the land and development potential of a site until the new house has reached the end of its economic life. This could then mean that other dwellings on the site are rebuilt in the meantime, again further delaying possible opportunity for redevelopment.

Figure 36: Redevelopment capacity for additional dwellings under the Proposed Auckland Unitary Plan on parcels associated with cross lease titles



7.12 Cross lease titles in Kaipātiki Local Board case study

This case study exploring the results of analysis of cross lease titles in the Kaipātiki Local Board illustrates how cross lease developments evolved in Auckland and became so numerous.

The Auckland Harbour Bridge officially opened in May 1959, and this new road link across the Waitematā Harbour to the Auckland isthmus drove residential expansion throughout the North Shore (Heritage Consultancy Services, 2011). Residential subdivision in suburbs such as Northcote in the 1950s and 1960s provided large tracts of low density housing (Heritage Consultancy Services, 2011). These suburbs provided single houses on large sections, often a quarter acre in size. However, planning rules in these suburbs often prevented infill subdivision[13] on these large sections, and when the cross lease system was developed there was a strong uptake in the former North Shore City. This is evident in the current Kaipātiki Local Board area (part of the former North Shore City), with large numbers of cross lease titles still in place today in its suburbs, which include Northcote, Birkenhead, Birkdale, Beach Haven, Glenfield and Hillcrest (Figure 37).

Almost one-third (32 per cent) of titles in the Kaipātiki Local Board area are cross lease titles: 9825 cross lease titles of a total of 30,693, and comprise eleven per cent of the Auckland's cross lease titles. They cover an area of 472 hectares.

Cross lease titles are distributed widely across the local board area (Figure 37). New zoning rules that apply under the Auckland Unitary Plan will allow higher-density dwellings in most of Kaipātiki. This is reflected in the number of parcels associated with cross lease titles (88 per cent) that have been zoned Mixed Housing Suburban, Mixed Housing Urban, and Terrace Housing and Apartment Buildings (Table 9) all of which actively encourage higher-densities.

[13] Infill subdivision refers to instances where a property is subdivided in order for an additional free-standing house to be built either the front or back of property, with the existing dwelling remaining in place.

Figure 37: Location of cross lease titles in Kaipātiki Local Board area

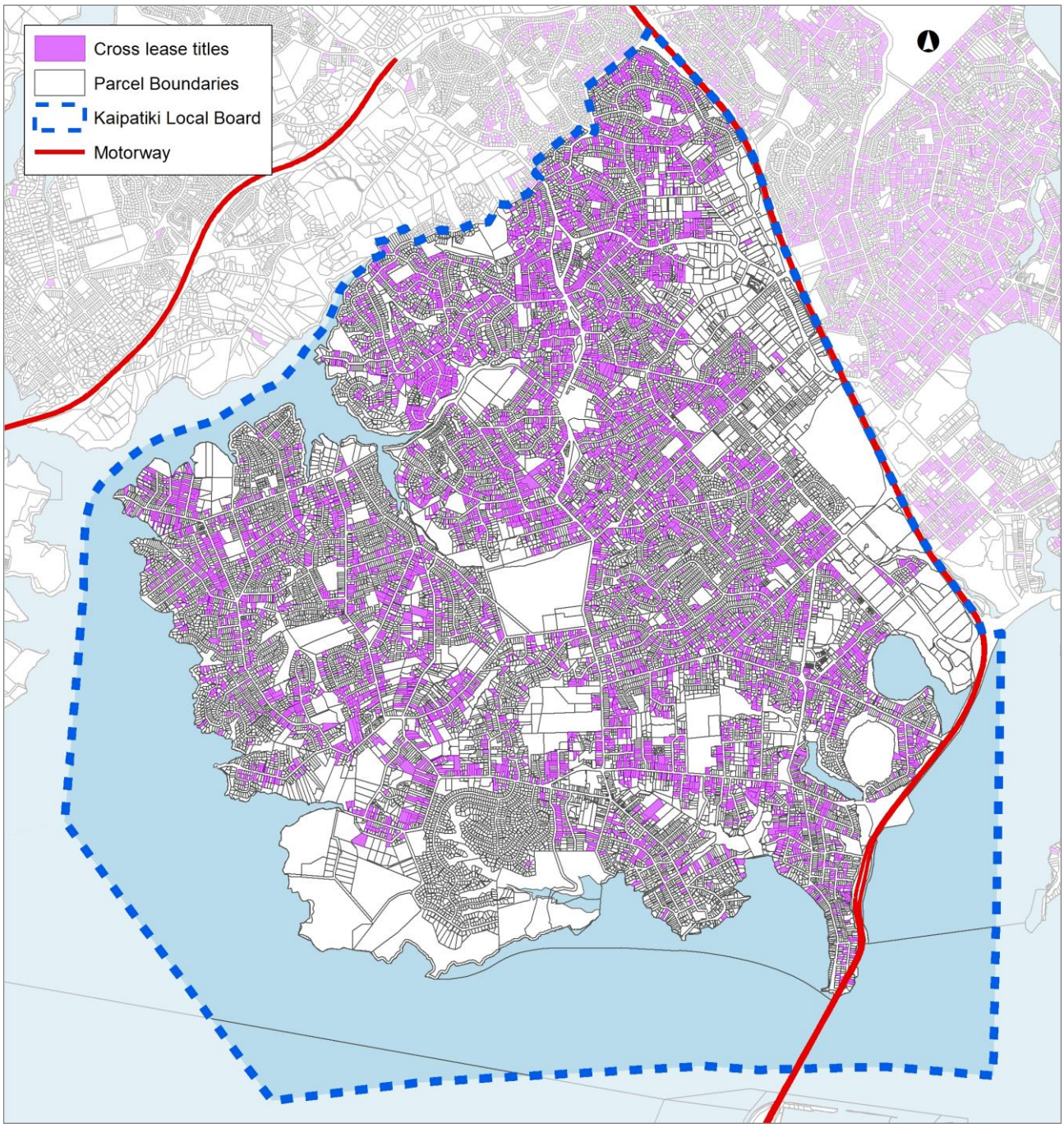


Table 9: Zoning of parcels associated with cross lease titles Kaipātiki Local Board area

Auckland Unitary Plan (decisions version) zone	Count of parcels	Proportion of total
Light Industry	14	0%
Mixed Housing Suburban	2,554	56%
Mixed Housing Urban	1,162	26%
Mixed Use	2	0%
Neighbourhood Centre	2	0%
Public Open Space - Informal Recreation	1	0%
Single House	545	12%
Terrace Housing and Apartment Buildings	267	6%
Total	**4,547**	

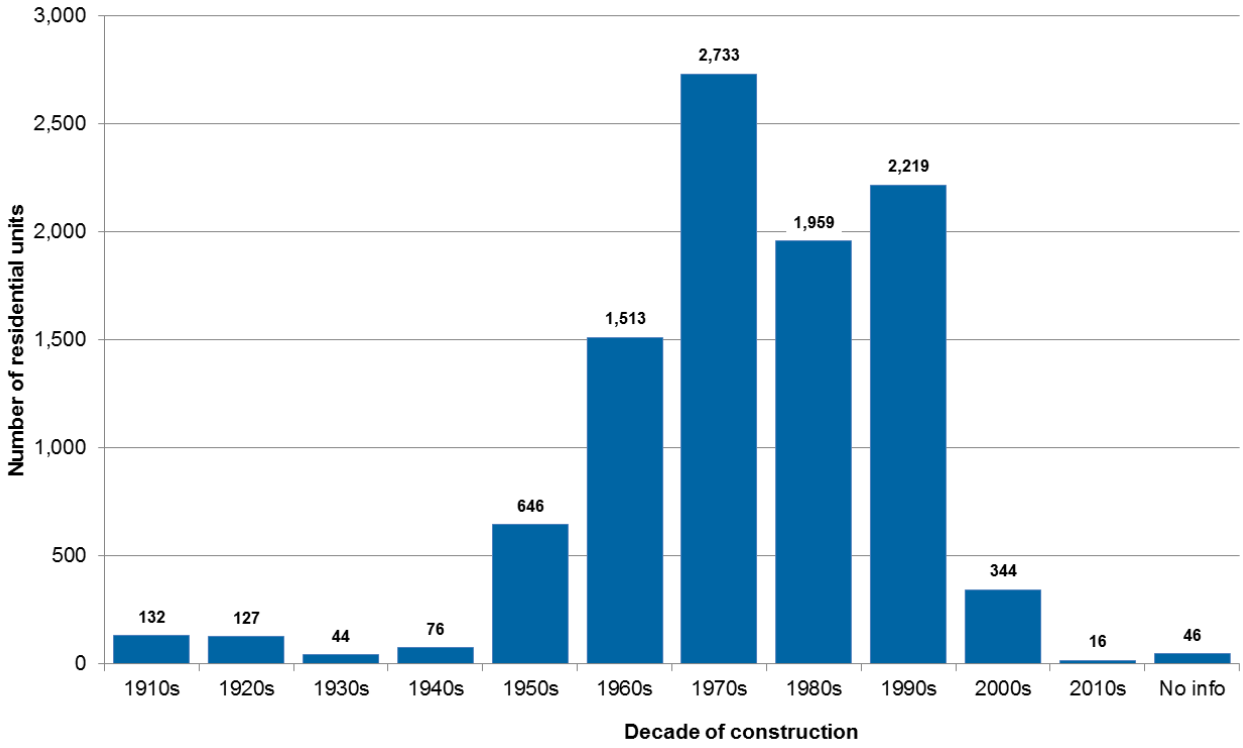
Three-quarters of the parcels associated with cross lease titles in Kaipātiki are 800 square metres or larger (Table 10). Larger parcels are more suitable for residential redevelopment at higher densities under the new provisions of the Auckland Unitary Plan. Smaller sites, especially those with more than one dwelling could be harder to redevelop, but zoning and the age of existing dwellings will also play a part in a developer deciding whether to proceed.

Table 10: Size of parcels related to cross lease titles in the Kaipātiki Local Board area

Parcel size category	Number of parcels	Proportion of total
0 to 400 m2	74	2%
400 to 800 m2	1075	24%
800 to 1200 m2	2547	56%
1200 to 1600 m2	520	11%
1600 to 2000 m2	155	3%
2000 to 5000 m2	161	4%
5000 to 10,000 m2	11	0%
10,000 m2 or larger	4	0%
Total	4,547	

The age of residential units in Kaipātiki range from those built in the 1910s through to today, with almost half (43 per cent) built in the 1960s and 1970s (Figure 38). Some of the older dwellings on cross lease titles are likely to be coming to the end of their physical or economic lives and may be suitable for redevelopment. However, any redevelopment is likely to be piece-meal and only involve a single dwelling rather than multiple dwellings, given that 74 per cent of parcels associated with cross lease titles have at least one dwelling that was built in the 1970s or later.

Figure 38: Age of residential units rated on parcels associated with cross lease titles in the Kaipātiki Local Board area*



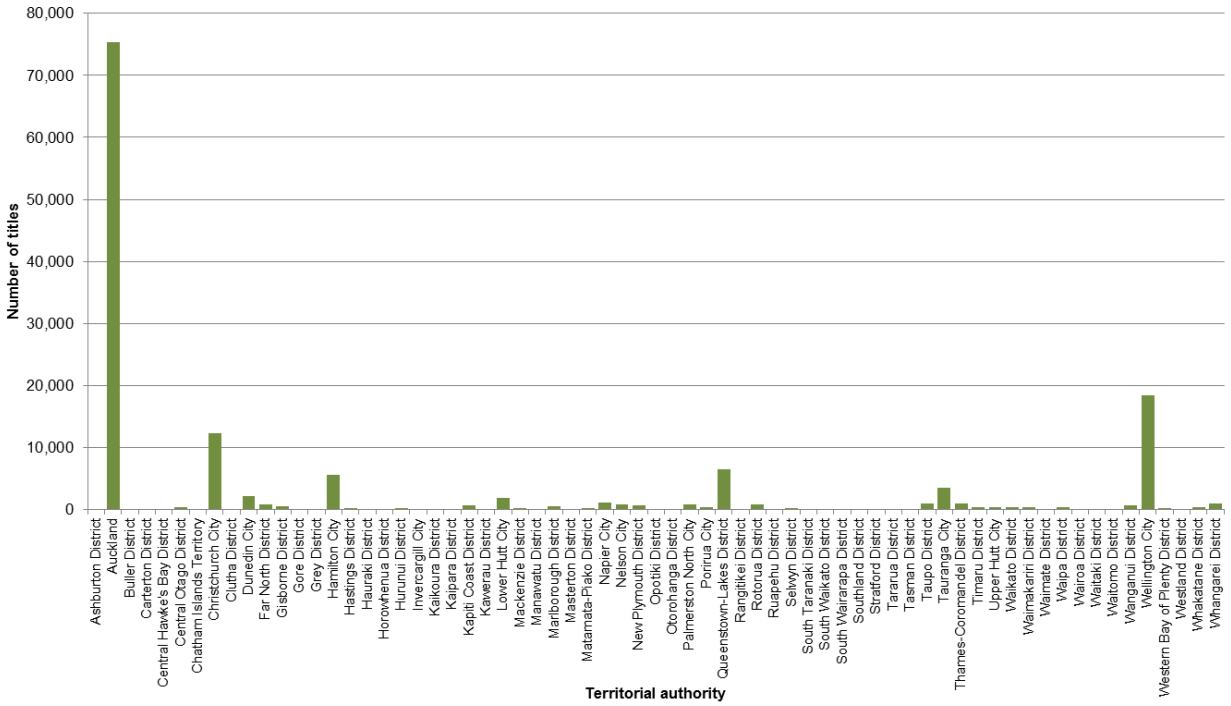
* only on residential zoned land

The new zoning rules of the Auckland Unitary Plan, the size of the parcels, and the age of dwellings on these properties, may make the of cross lease properties in the coming years an attractive prospect for redevelopment. Despite this attraction, developers may be discouraged from comprehensive redevelopment of entire cross properties due to relatively young age of some of the dwellings on them, and their complicated ownership structures. Instead partial redevelopment may only take place where only one dwelling is redeveloped. Undertaking only partial redevelopment of a site will prevent the redevelopment of the whole site at a higher density until the new houses have depreciated enough to make economically viable.

8.0 Unit titles in New Zealand cities and districts

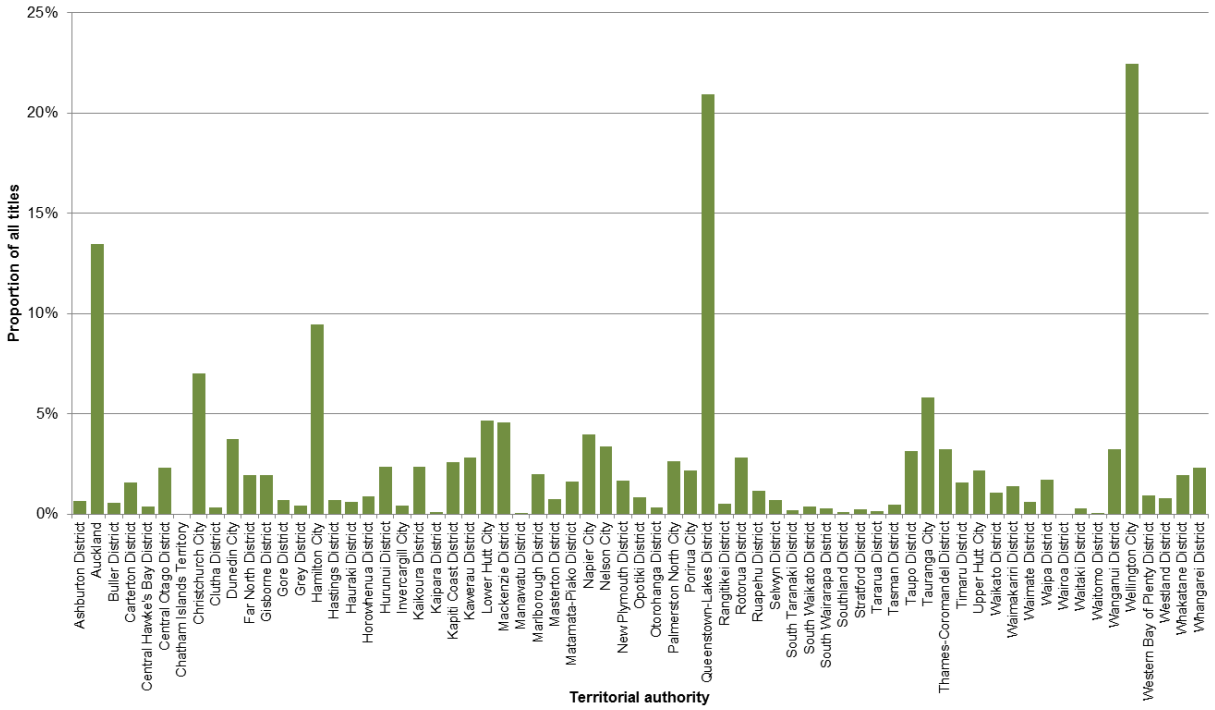
Unit titles are spread across all territorial authorities in New Zealand, with the exception of the Chatham Islands Territory. Auckland has the largest number of unit titles with 75,376, comprising 53 per cent of New Zealand's total (Figure 39). Other territorial authorities with large numbers of unit titles are Wellington City with 23,242 unit titles and Christchurch City with 12,378 unit titles.

Figure 39: Unit titles across New Zealand



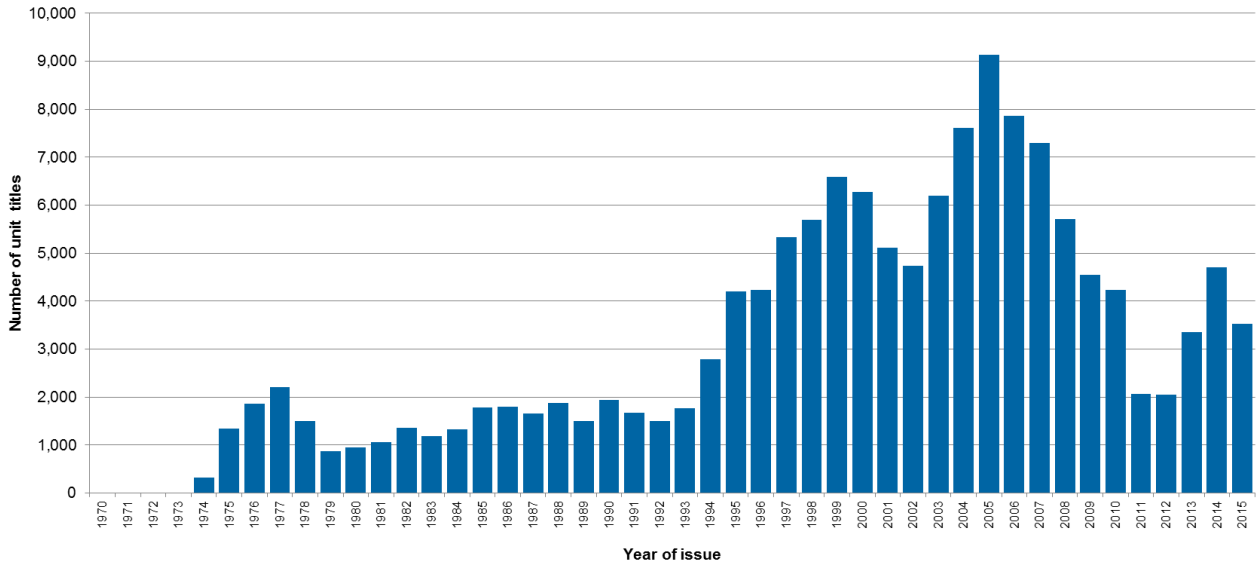
When comparing the proportion of unit titles as a proportion of the total number titles within a territorial authority area, the distribution is somewhat different (Figure 40). Wellington City has the highest proportion (22 per cent) of unit titles of any territorial authority closely followed by Queenstown-Lakes District with 21 per cent. Just 13 per cent of Auckland's titles are unit titles.

Figure 40: Proportion of distribution of unit titles



Title information sourced from LINZ includes the date of issue; this can be used to illustrate the age distribution of titles for Auckland and the rest of New Zealand (Figure 41).

Figure 41: Distribution of unit titles in New Zealand by year of issue (as at March 2016)



9.0 Unit titles in Auckland

9.1 Overview

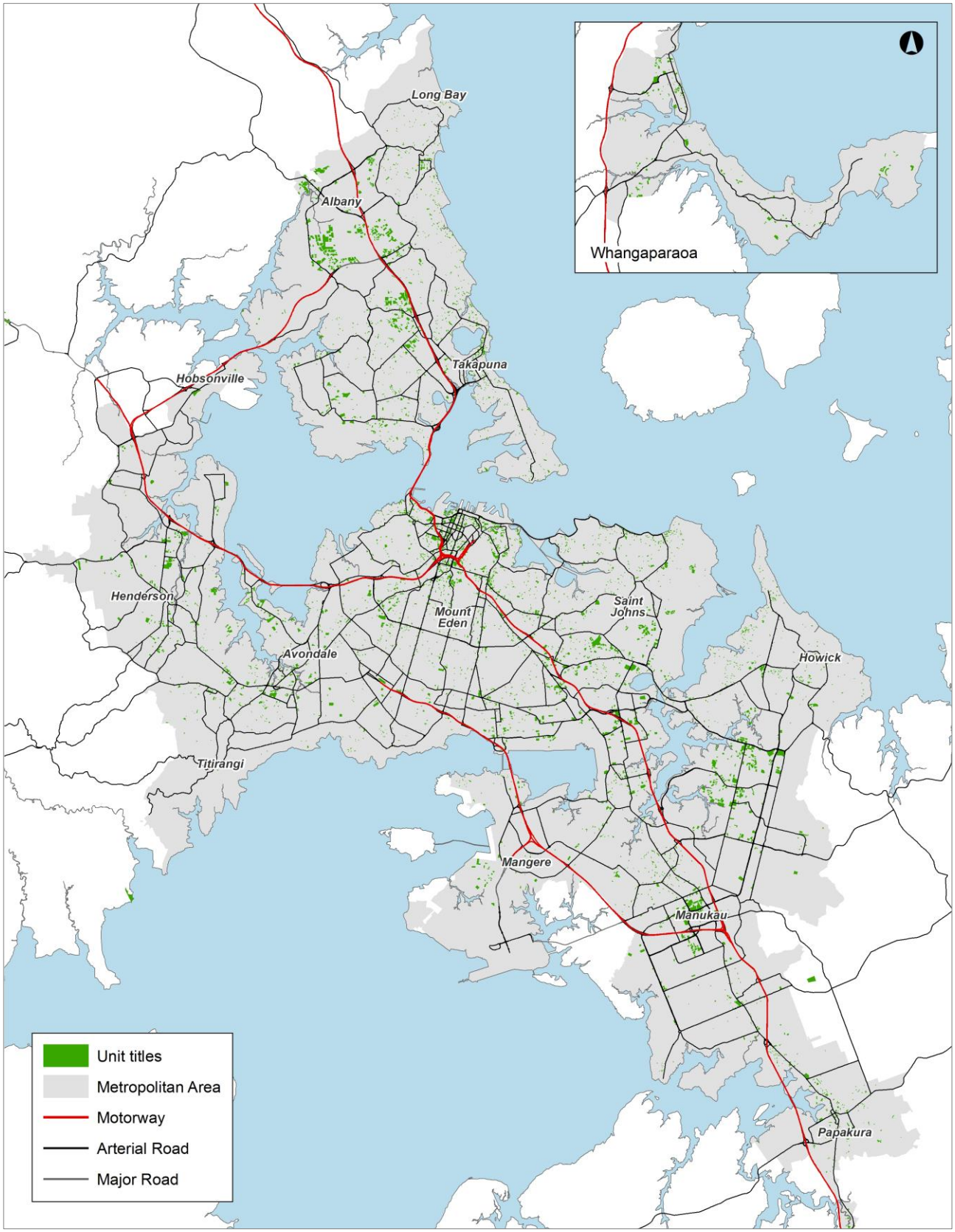
This section examines unit titles in a number of contexts, including the geographic distribution across Auckland, by local board area, and zoning from both the operative district plans and Auckland Unitary Plan (decisions version). Other aspects that are analysed include the attributes of parcels associated with unit titles, the age of dwellings, the nature and level of recent building activity, and the future development potential of properties with unit titles. Appendix E includes the number and proportion of parcels associated with unit titles for each of the local board areas in Auckland. See Section 4.0 for an overview of the methods used to undertake the analysis presented in this section.

9.2 Geographic distribution of unit titles in Auckland

Auckland's 75,376 unit titles are not as evenly-spread across Auckland's main urban area as cross lease titles (Figure 26). While unit titles occur in older suburbs, there are also clusters in more recently developed suburbs such as Albany and Flat Bush, as well as in and around the city centre (also called the central business district, or CBD).

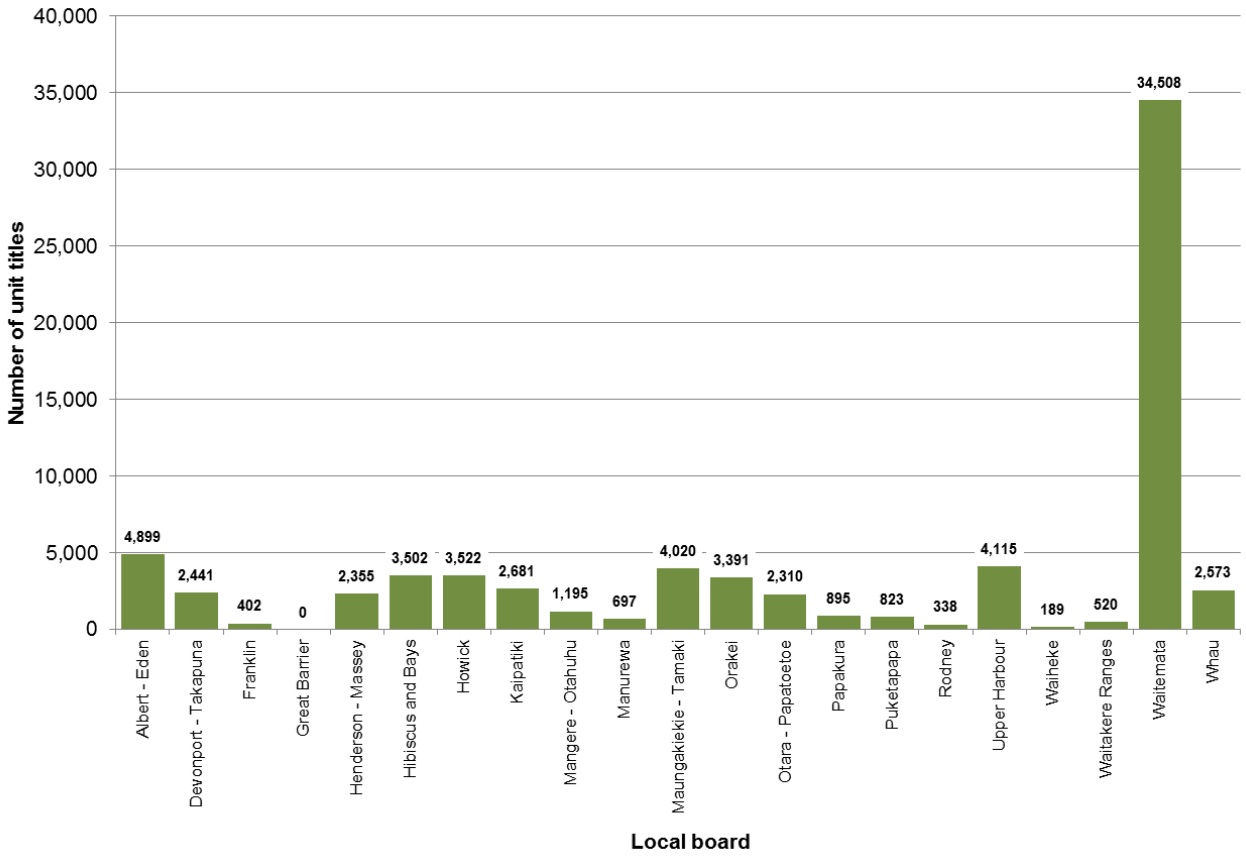
Unlike cross lease titles, unit titles are used for both residential and commercial developments. A number of unit titles are located in industrial areas and business parks and are likely to be used for commercial or industrial use. Unit tiles in other business areas, such as the city centre or around town centres, are a mixture of residential developments, with unit titles also used for shops or offices (see Section 4).

Figure 42: Location of unit titles in Auckland's main urban area



All local board areas in Auckland contain unit titles, with the exception of Great Barrier. The vast majority (34,508 unit titles or 66 per cent) are located in Waitematā (Figure 42). The CBD, located in the Waitematā Local Board area, has a high concentration of apartment buildings, which accounts for the high number of unit titles in this local board area. Three other local board areas contain notable proportions of unit titles: Upper Harbour (19 per cent), Albert-Eden (14 per cent), and Maungakiekie-Tāmaki (also with 14 per cent).

Figure 43: Count of unit titles in Auckland



9.3 Actual use of unit titles

In November 2016, the Ministry of Business, Innovation and Employment (MBIE) requested analysis from several of the country's major cities on the 'actual use' of unit titles. This was used to determine the number of residential and non-residential unit titles in each city. The analysis was undertaken using title type sourced from LINZ and a matching process to each council's DVR; the DVR contains an 'actual use' field which is collected as part of the valuation and rating process and saved for each rating assessment. The result of the analysis undertaken for Auckland, Tauranga, Wellington, and Christchurch was supplied by MBIE to Auckland Council (Table 11).

Christchurch City had the lowest proportion (67 per cent)of residential unit titles from any of the four territorial authorities surveyed, and Wellington City had the highest proportion (84 per cent).

Table 11: Actual use of unit titles

Council area	Residential or non-business[14] unit titles	Business or on-residential unit titles[15]	Total unit titles matched	Proportion of unit titles in council area that are residential	Proportion of unit titles in council area that are commercial
Auckland	54,759	19,304	74,063	74%	26%
Tauranga City	2,707	777	3,484	78%	22%
Wellington City	15,280	2,725	18,005	84%	15%
Christchurch City	8,198	4,027	12,225	67%	32%

Source: E. Young-Ebert (MBIE), personal communication, 19 December 2016.

9.4 Current (operative) district plan zoning of parcels associated with unit titles

Analysis included tagging parcels associated with unit titles with their current operative district plan zoning. Fifty-eight per cent of parcels associated with unit titles are zoned residential and 39 per cent are zoned business; the remaining three per cent fall within 'special' zones.

The Residential 6a zone in the former Auckland City had the highest number of parcels: of all parcels associated with unit titles, 14 per cent are in this zone (Table 16). The former Main Residential zone in Manukau City and the former Residential 4A zone in North Shore City also have notable numbers of parcels associated with unit titles, accounting for eight per cent and six per cent of the total, respectively.

Whereas almost all parcels associated with cross lease titles were in residential zones due to their nature as a solely residential title type, the same is not true for unit titles. Business zones have notable numbers of unit titles in them, including the Business MU and Business 4 zones in the former Auckland City, the Business 9 zone in the former North Shore City and the Business 5 zone in the former Manukau City (Table 16).

[14] Data supplied were for total unit titles that were 'residential', except for Auckland Council, which supplied numbers for 'non-business' unit titles.

[15] Per footnote 6.

Table 12: Parcels associated with unit titles by operative district plan zone (for zones that have a count of more than 100)

Operative district plan area (former council area)	Operative district plan zone	Count of parcels	Proportion of total
Auckland City	Business 2	116	2%
	Business 4	238	3%
	Business 5	124	2%
	Business MU	361	5%
	Residential 1	103	1%
	Residential 5	194	3%
	Residential 6a	1,003	14%
	Residential 6b	110	1%
	Residential 7a	203	3%
	Residential 7b	121	2%
Manukau City	Business 5	302	4%
	Main Residential	580	8%
North Shore City	Business 9	328	4%
	Residential 4A	438	6%
	Residential 4B	221	3%
Papakura District	Residential 1	136	2%
Waitakere City	Living	138	2%
	Working	148	2%

9.5 Auckland Unitary Plan (decisions version) zoning of parcels associated with unit titles

Examination of parcels associated with unit titles against the zoning from the Auckland Unitary Plan (decisions version) zoning reveals a 58 and 41 per cent split of parcels zoned residential compared to those zoned business (

Table 13). Analysis by zone shows that 25 per cent of parcels associated with unit titles are in the Mixed House Suburban zone, 15 per cent in the Mixed House Urban zone, 14 per cent in the Light Industry zone, 11 per cent in the Terrace Housing and Apartment Buildings zone, nine per cent in the mixed use zone and seven per cent in the Single House zone.

Table 13: Zoning of parcels associated with unit titles under the Auckland Unitary Plan (decisions version)

Auckland Unitary Plan (decisions version) zone	Count of parcels	Proportion of total
Business Park	10	0%
City Centre	381	5%
Countryside Living	1	0%
Future Urban	1	0%
General Business	158	2%
Hauraki Gulf Islands	23	0%
Healthcare Facility	3	0%
Heavy Industry	165	2%
Large Lot	2	0%
Light Industry	1,013	14%
Local Centre	96	1%
Marina	2	0%
Metropolitan Centre	130	0%
Mixed Housing Suburban	1,837	0%
Mixed Housing Urban	1,113	2%
Mixed Use	635	25%
Neighbourhood Centre	123	15%
Public Open Space - Informal Recreation	1	9%
Road	1	2%
Rural and Coastal settlement	3	0%
Rural Coastal	4	0%
School	1	0%
Single House	538	0%
Strategic Transport Corridor	2	0%
Terrace Housing and Apartment Buildings	809	0%
Town Centre	308	0%
Waitakere Ranges	1	0%
Waitakere Ranges Foothills	1	0%
Business Park	10	7%
Total	**7,362**	

9.6 Unit titles by Auckland Unitary Plan (decisions version) zoning

Measuring the total number of unit titles by zone is also an important metric to understand. Almost two-thirds (65 per cent) of unit titles are on land that is zoned 'business' (Table 14). There is no way to determine from the data available whether each of these unit titles is used for residential or non-residential use, and in some zones there will be developments that have both, or mixed uses. Many of Auckland's large apartment blocks, concentrated in the CBD and in other major commercial centres, are on business zoned land. Apartments in the CBD are more prevalent due to the zoning rules around building heights, and bulk and location, are more permissive than in other zones. The CBD and major centres are also often close to public transport services and high-concentrations of employment, making them popular places to live. Over 30 per cent of unit titles are in the City Centre zone, which covers the entirety of the CBD (Table 15). A large number of unit titles (9,634) are also found in the Mixed Use zone (10 per cent).

Table 14: Number of unit titles, by Auckland Unitary Plan (decisions version) zone group

Auckland Unitary Plan (decisions version) zone grouping	Number of unit titles	Proportion of total
Business	49,337	65%
Coastal	18	0%
General	192	0%
New growth	22	0%
Residential	25,651	34%
Rural	10	0%
Special purpose zone	146	0%
Total	**75,376**	

Table 15: Number of unit titles, by Auckland Unitary Plan (decisions version) zone

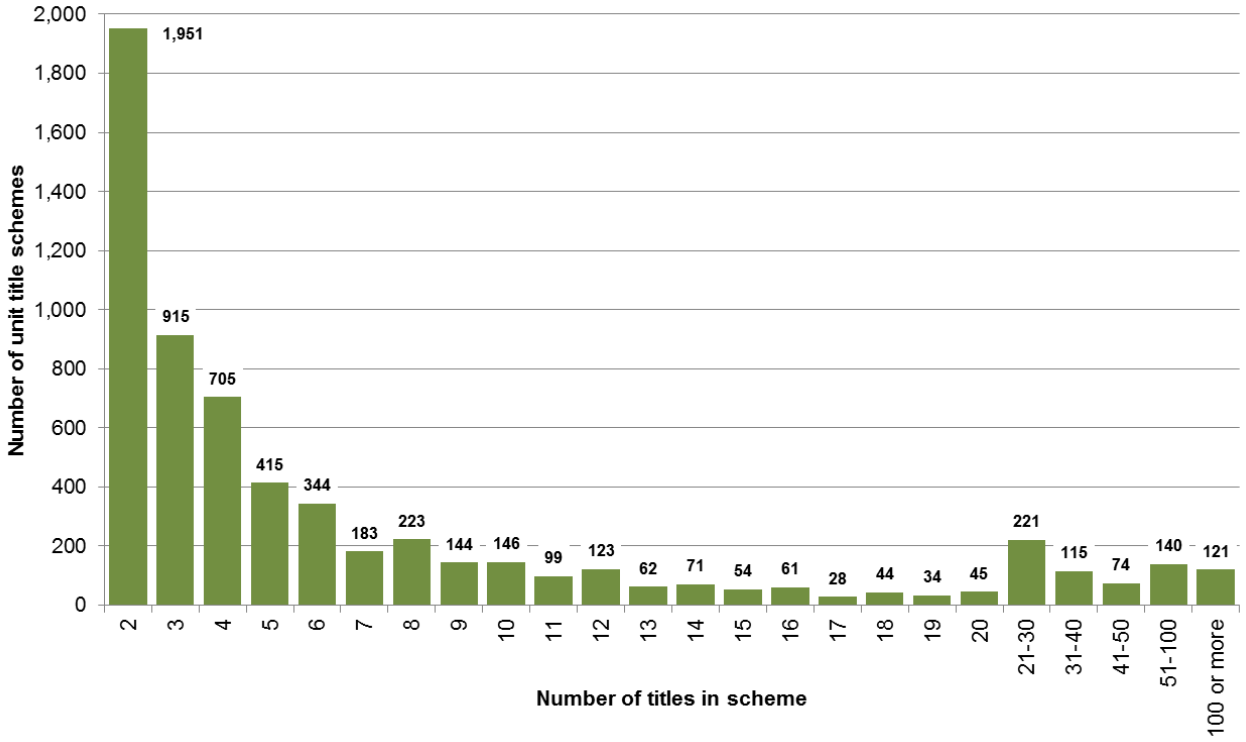
Auckland Unitary Plan (decisions version) zone	Number of unit titles	
Business Park	65	0%
City Centre	24,009	32%
Countryside Living	1	0%
Future Urban	22	0%
General Business	1,017	1%
Hauraki Gulf Islands	189	0%
Healthcare Facility	146	0%
Heavy Industry	848	1%
Large Lot	8	0%

Auckland Unitary Plan (decisions version) zone	Number of unit titles	
Light Industry	6,138	8%
Local Centre	814	1%
Marina [rcp/dp]	18	0%
Metropolitan Centre	3,693	0%
Mixed Housing Suburban	7,493	0%
Mixed Housing Urban	6,956	5%
Mixed Use	9,634	10%
Neighbourhood Centre	580	9%
Rural and Coastal settlement	16	13%
Rural Coastal	4	1%
Single House	2,658	0%
Strategic Transport Corridor	3	0%
Terrace Housing and Apartment Buildings	8,520	0%
Town Centre	2,539	0%
Waitakere Ranges	3	0%
Waitakere Ranges Foothills	2	0%
Total	**75,376**	

9.7 Number of unit titles by unit title scheme

The number of unit title schemes, the term used to describe all of the unit titles on a property and shown on a unit title plan, totalled 6318 in Auckland, with the number of unit titles in schemes ranging from two to of 827 (Figure 44). Close to one-third (31 per cent) of schemes have only two units in them; half (57 per cent) have four or less units in them. Nearly one-quarter of schemes (23 per cent) have 10 or more units in them. Interestingly, there are 121 schemes that have 100 or more units in them. The scheme with the largest number of units (827) is not a residential unit title scheme but is a parking building which appears to have a unit title for each parking space. The average number of unit titles per scheme was 11.9.

Figure 44: Size of unit title schemes



9.8 Size (land area) of parcels associated with unit titles

Parcel size is an important metric that can be used to understand the nature of the cadastral pattern. Almost three quarters (74 per cent) of parcels associated with unit titles are 800 square metres or larger; 30 per cent are between 800 and 1200 square metres in size (Table 16). Large parcels, those 1200 square metres or larger, associated with unit titles, make up 44 per cent of the total.

Table 16: Size of parcels related to unit titles in Auckland

Local board	Parcel size category								
	0 to 400 m^2	400 to 800 m^2	800 to 1200 m^2	1200 to 1600 m^2	1600 to 2000 m^2	2000 to 5000 m^2	5000 to 10,000 m^2	10,000 m^2 or larger	Total
Albert - Eden	40	146	188	98	29	57	26	5	**589**
Devonport - Takapuna	34	73	196	49	28	34	14	1	**429**
Franklin	5	12	19	5	3	12	2	4	**62**
Great Barrier	0	0	0	0	0	0	0	0	**0**
Henderson - Massey	12	60	104	36	26	69	19	15	**341**
Hibiscus and Bays	13	35	313	53	21	83	23	6	**547**
Howick	12	163	179	44	33	161	49	13	**654**
Kaipātiki	12	128	160	47	35	98	37	18	**535**

Local board	Parcel size category								
	0 to 400 m^2	400 to 800 m^2	800 to 1200 m^2	1200 to 1600 m^2	1600 to 2000 m^2	2000 to 5000 m^2	5000 to 10,000 m^2	10,000 m^2 or larger	Total
Mangere - Ōtāhuhu	8	30	48	22	14	44	22	5	**193**
Manurewa	9	12	32	12	10	48	7	6	**136**
Maungakiekie - Tamaki	22	55	177	64	37	108	48	23	**534**
Ōrākei	62	146	220	95	51	103	14	4	**695**
Otara - Papatoetoe	16	19	84	34	23	75	35	7	**293**
Papakura	10	55	117	31	10	32	7	2	**264**
Puketāpapa	9	28	86	19	4	9	8	4	**167**
Rodney	6	6	10	7	2	11	1	10	**53**
Upper Harbour	5	64	10	23	24	179	70	24	**399**
Waiheke	0	0	6	1	3	9	1	3	**23**
Waitakere Ranges	3	11	19	13	9	14	4	2	**75**
Waitematā	225	308	159	110	62	146	22	7	**1,039**
Whau	20	18	119	43	27	78	17	12	**334**
Grand Total	**523**	**1,369**	**2,246**	**806**	**451**	**1,370**	**426**	**171**	**7,362**

The average size of parcels associated with unit titles also provides some context about the nature of unit title development. The average size of parcels associated with unit titles by local board area ranges from 1242 square metres in Waitematā, to 7634 square metres in Rodney (Table 17).

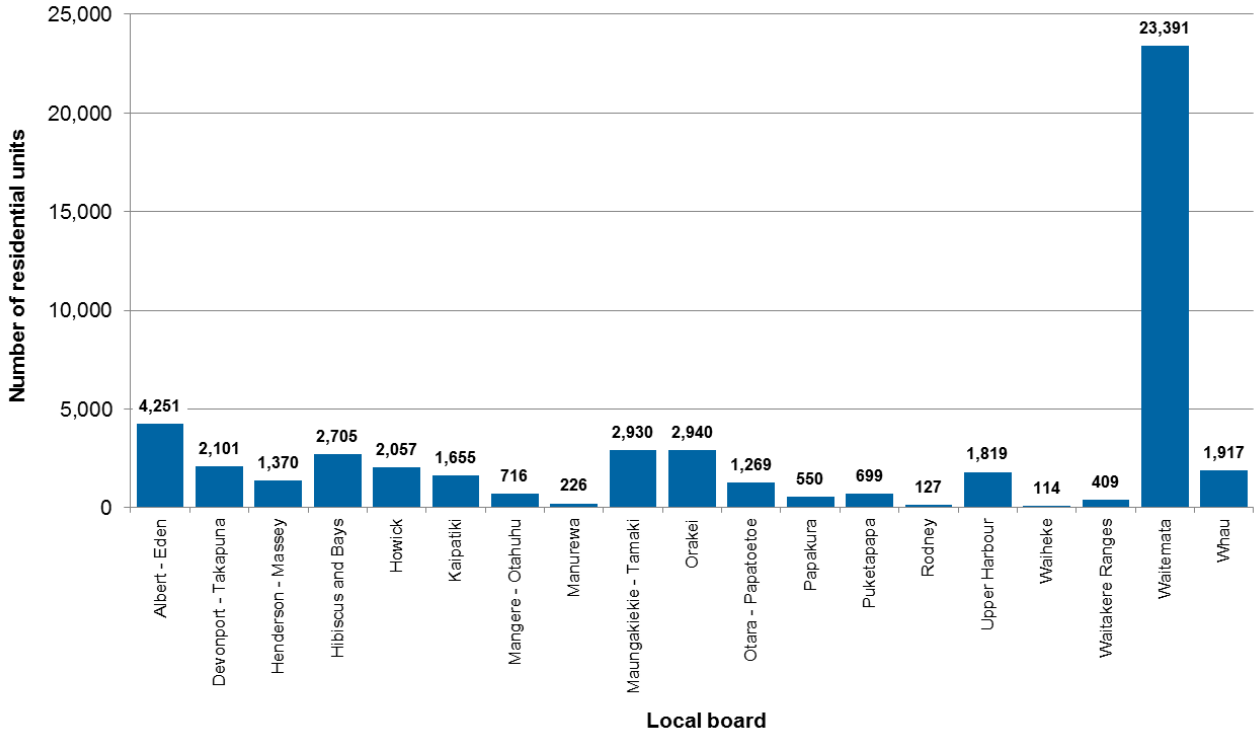
Table 17: Average size of parcels related to unit titles in Auckland

Local board	Average size (m^2)
Albert - Eden	1,519
Devonport - Takapuna	1,326
Franklin	3,344
Henderson - Massey	2,470
Hibiscus and Bays	1,828
Howick	2,371
Kaipātiki	2,173
Mangere - Ōtāhuhu	2,517
Manurewa	2,715
Maungakiekie - Tamaki	2,794
Ōrākei	1,413
Otara - Papatoetoe	2,938
Papakura	1,701
Puketāpapa	1,744
Rodney	7,633
Upper Harbour	3,885
Waiheke	6,430
Waitakere Ranges	2,649
Waitematā	1,274
Whau	2,387
Total Auckland	**2,116**

9.9 Number of dwellings on parcels associated with unit titles (in residential zones)

Using council's DVR, the number of rateable residential units (used in this study as a proxy for the number of dwellings) that are on parcels associated with unit titles can be estimated. At the time of the study, there were 51,246 residential units (dwellings) on residentially zoned parcels that were associated unit titles. The Waitematā Local Board area had the highest number of dwellings with nearly half (46 per cent) of the total number of dwellings on parcels associated with unit titles (i.e. 23,391 dwellings) (Figure 46). All the other local boards have much lower numbers in comparison, with the next highest board, Albert-Eden local board, has 4251 dwellings.

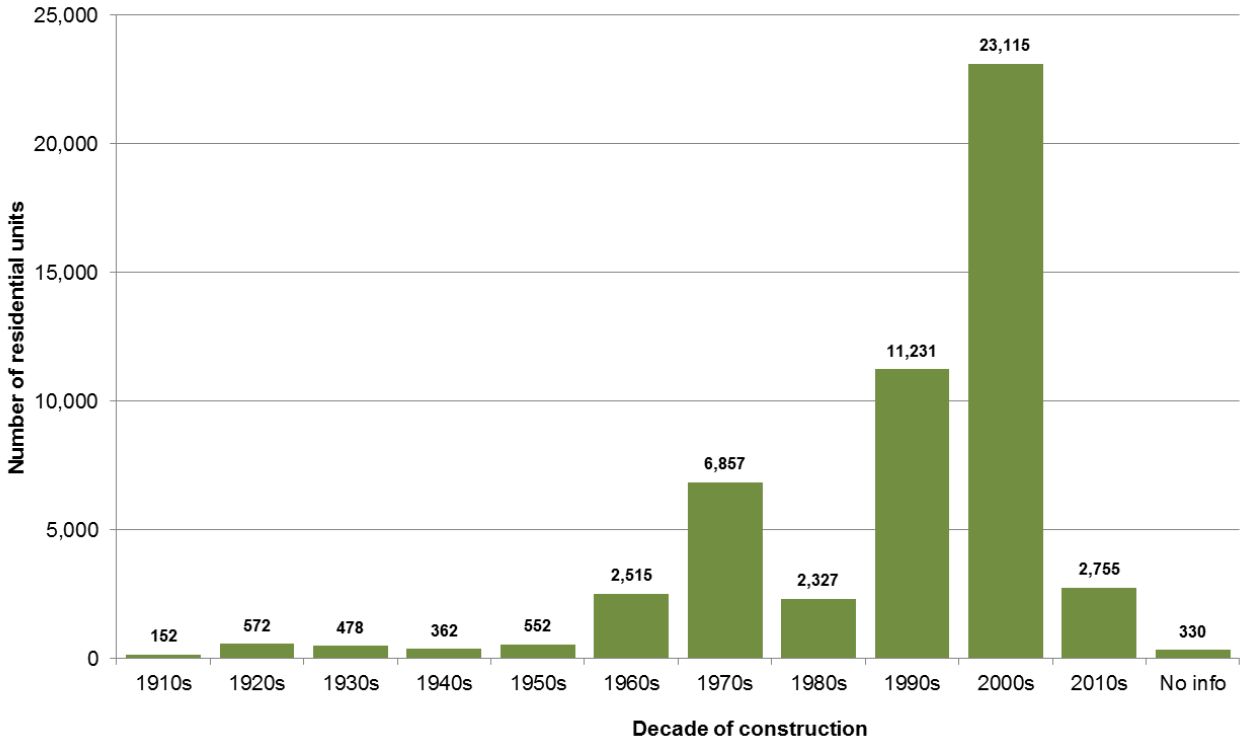
Figure 45: Number of residential units (dwellings) on parcels associated with unit titles



9.10 Age of dwellings on parcels associated with unit titles

Over half (51 per cent) of dwellings on unit titles were built in the 2000s or later, and a further quarter (26 per cent) were built in the 1980s and 1990s (Figure 46). The high number of dwellings built in the 2000s corresponds with the building boom experienced in the mid-2000s (Ministry of Business Innovation and Employment, 2014), which included a large number of apartment developments constructed in and around Auckland's CBD (Friesen, 2009).

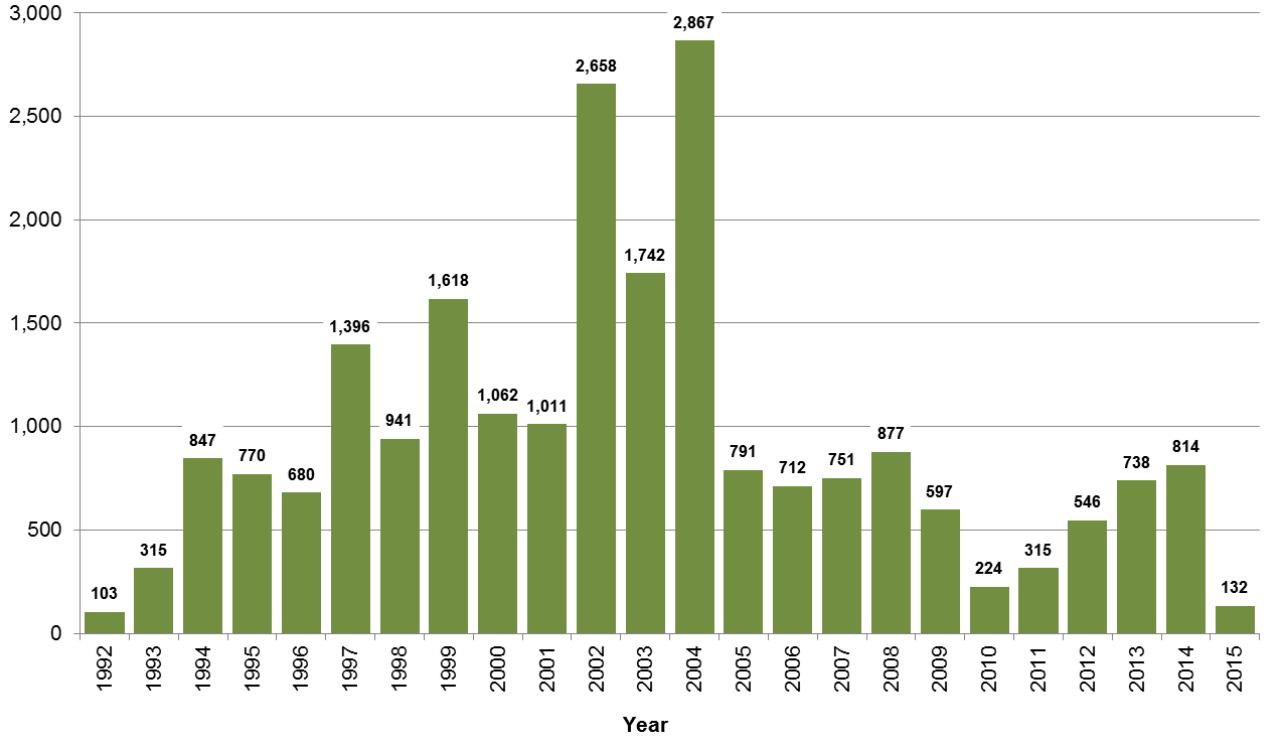
Figure 46: Residential units rated on parcels associated with unit titles in Auckland



9.11 Residential building activity on parcels associated with unit parcels

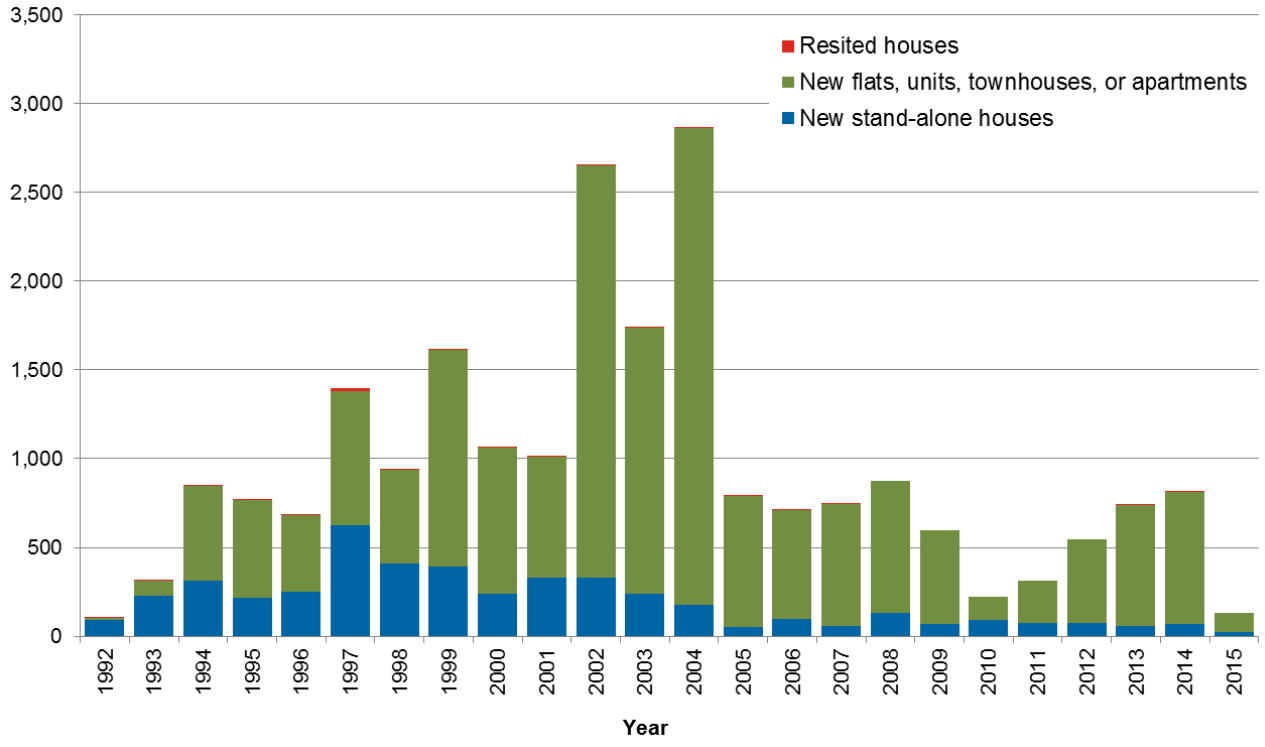
Large numbers of dwellings were consented on parcels associated with unit titles in both 2002 and 2004 (Figure 47). These high numbers correspond with the large number of apartments consented in the mid-2000s (Goodyear & Fabian, 2014). Note this analysis has been undertaken on all unit titles regardless of their zoning, though the available building consent information is only for residential dwellings.

Figure 47: New residential dwellings consented on residential zoned parcels associated with unit titles for Auckland



Most of the dwellings consented on parcels that are currently associated with unit titles are for new flats, units, terraced houses or apartments (Figure 48). Surprisingly, over the last two decades, large numbers of stand-alone houses have also been granted building consent on parcel associated with unit titles. In 1993 nearly three quarters (72 per cent, 226 of 315) of the dwellings consented were for stand-alone dwellings, and in 1997 consents were issued for 623 stand-alone dwellings. This may be the case because unit titles were used as a way to circumvent subdivision rules, allowing for additional stand-alone dwellings to be built on sites that already had an existing dwelling.

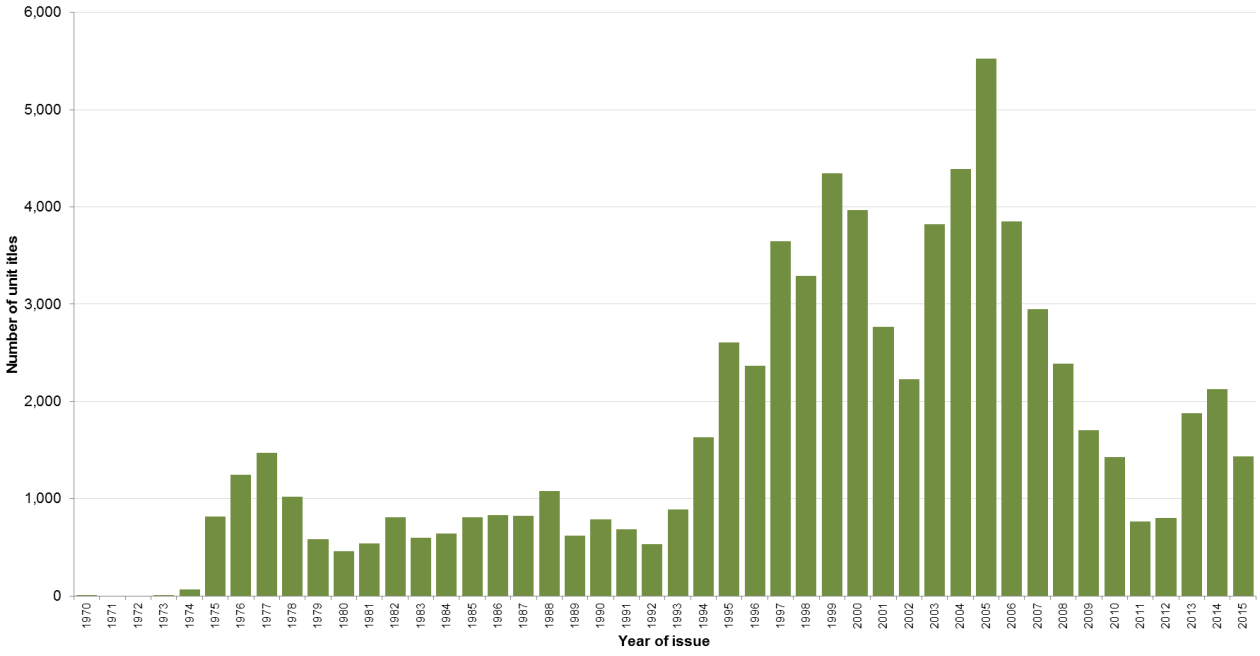
Figure 48: New residential dwelling types consented on residential zoned parcels associated with unit titles



9.12 Age of unit titles

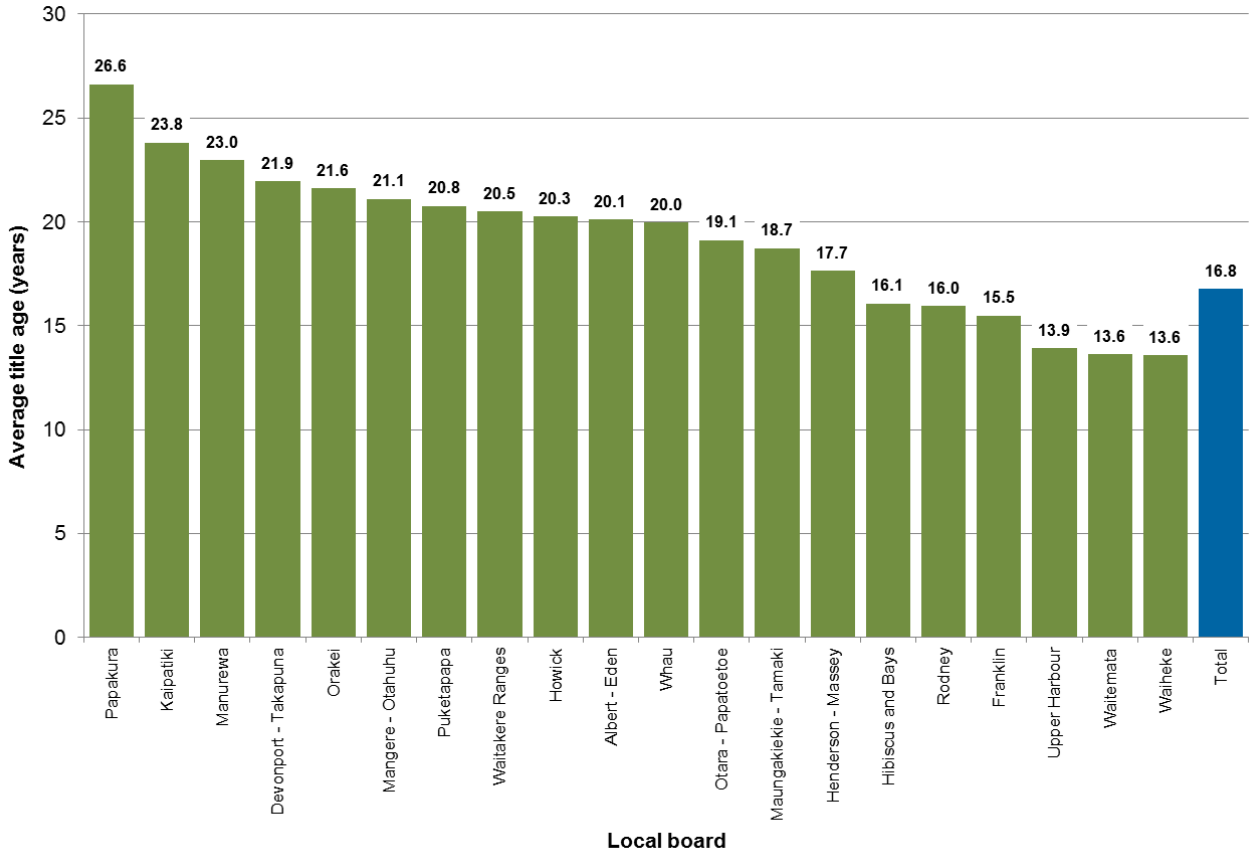
At least 800 new unit titles have been created every year in Auckland since 1993, with the exception of 2011 when 768 unit titles were created. The largest number of unit titles created in a single year was in 2006, when 3848 were issued (Figure 49). Of the unit titles issued in 2006, nearly three quarters (74 per cent or 2841) were in the Waitematā Local Board area. Over the period between January 1970 and March 2016, 46 per cent of unit titles issued in Auckland were in the Waitematā Local Board area.

Figure 49: Unit titles in Auckland by year of title issue



The average age of a unit title in Auckland is 16.8 years; the average age of unit titles by local board area ranges from 13.6 years for Waiheke to 26.6 years for the Papakura Local Board (Figure 50)

Figure 50: Age of Unit titles in Auckland

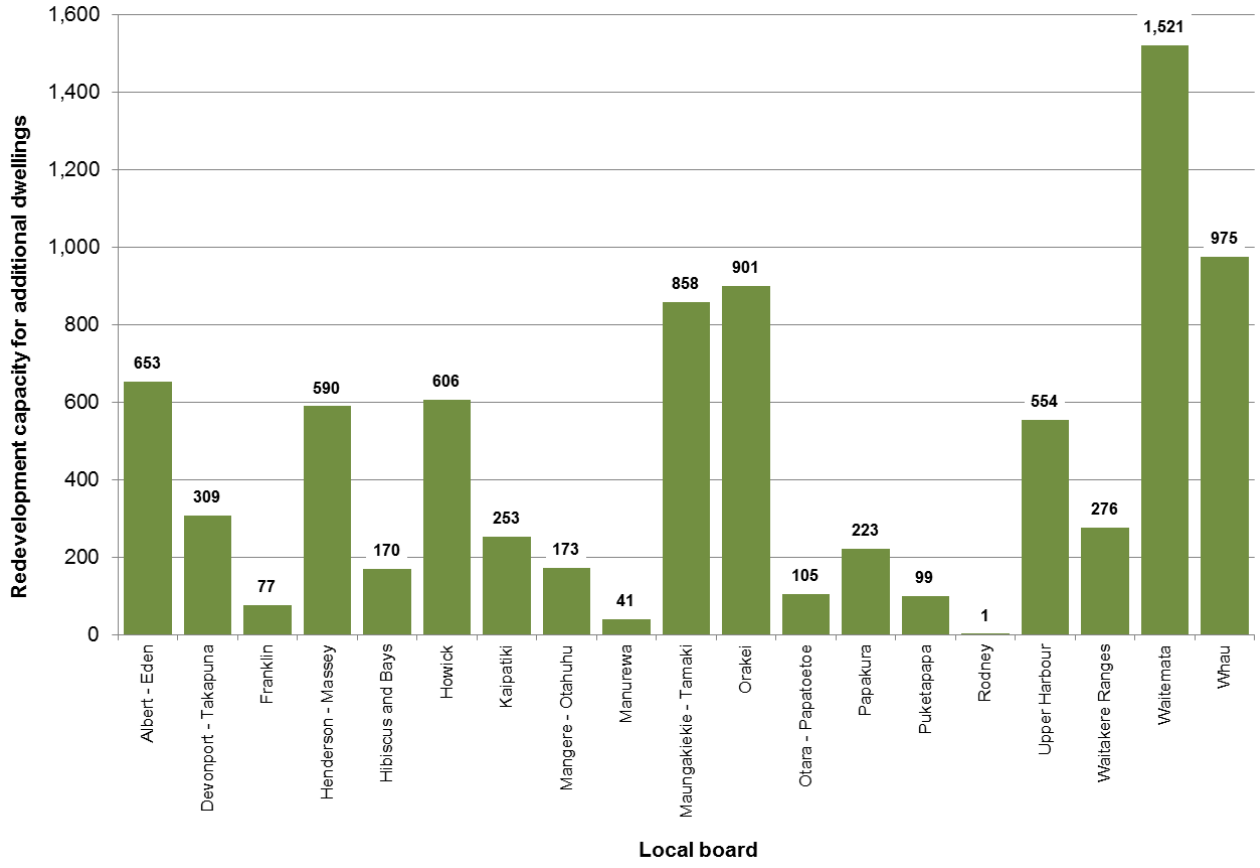


9.13 Redevelopment potential under the provisions of the Proposed Auckland Unitary Plan

Parcels associated with unit titles in Auckland could accommodate an additional 8365 dwellings if redeveloped. Parcels associated with unit titles in the Waitematā have the potential to accommodate an additional 1521 dwellings (Figure 51).

It must be noted that much of this 'plan enabled' capacity would be uneconomical to realise. Many of the unit titles developments in existence are likely to be multi-storey and not very old, making redevelopment any time in the near future an unlikely scenario. However, a number of unit title developments that suffer from weather tightness issues (leaky building syndrome) may be economically feasible to redevelop. An example is the Pepperwood Mews development in Kelston, which after suffering from weather-tightness issues and being declared structurally unsound (McCracken, 2009; Western Leader, 2014) was partially demolished and rebuilt (Roberts, 2015).

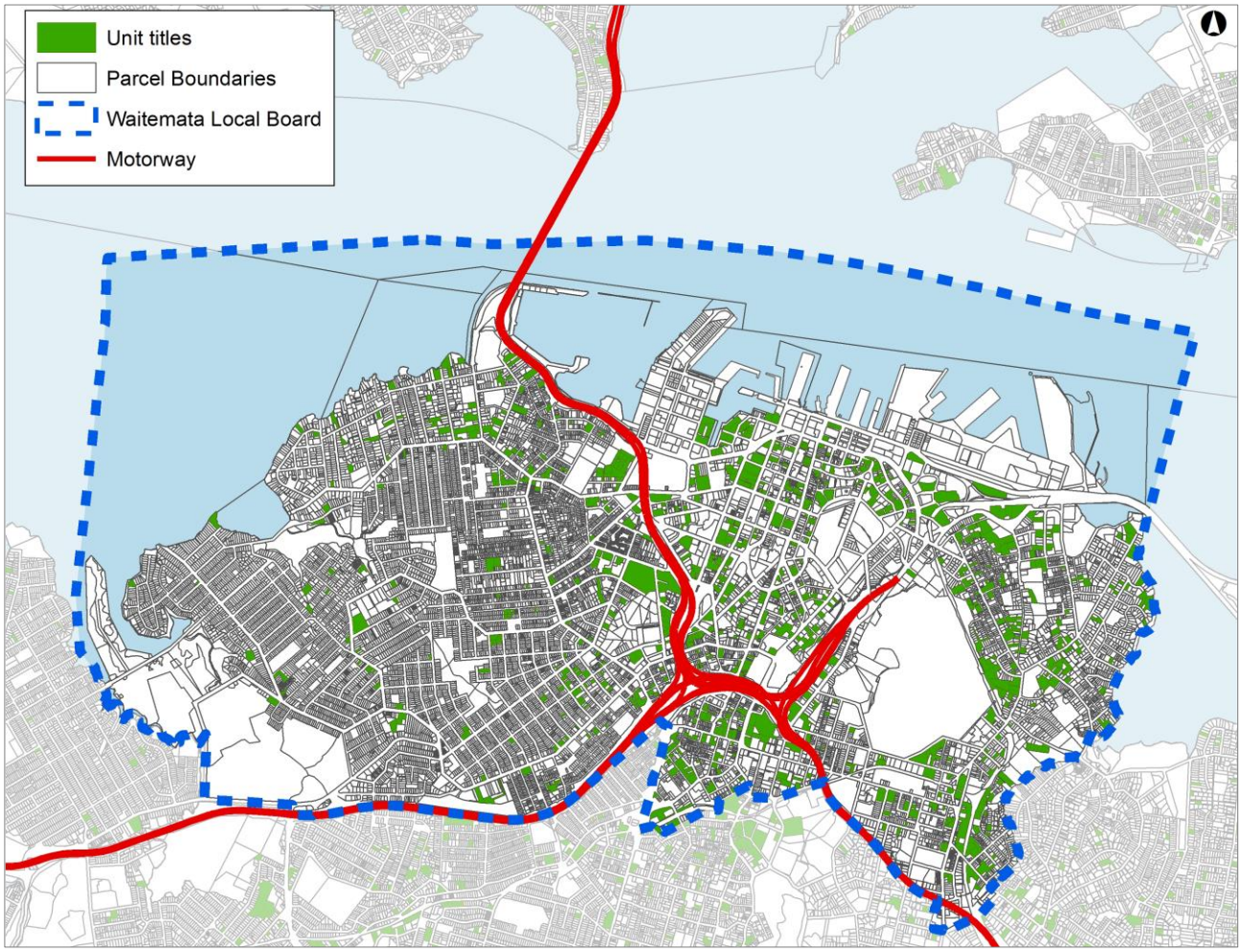
Figure 51: Redevelopment capacity for additional dwellings under the Proposed Auckland Unitary Plan on parcels associated with unit titles



9.14 Unit titles in the Waitematā Local Board area case study

The Waitematā Local Board area, which is in central Auckland and includes the CBD, contains 46 per cent of the total unit titles in Auckland (Figure 52). This makes it an ideal area to examine in more detail.

Figure 52: Location of unit titles in the Waitematā Local Board area



Perhaps not surprisingly given the large number of apartment buildings in Auckland's CBD, a third (32 per cent) of the unit titles in Auckland are in the CBD (Figure 53). This comprises 69 per cent of the unit titles in the Waitematā Local Board area. Other areas within the Waitematā Local Board area that also have concentrations of unit titles are the suburbs of Newmarket, Parnell, Eden Terrace and the St Mary's Bay/Herne Bay area.

Given the presence of the CBD in Waitematā Local Board area and the high number of apartments located there, over a third (37 per cent) of the unit titles are on parcels that have the 'City Centre' zone under the Auckland Unitary Plan (decisions version) (Table 18).

Figure 53: Location of unit titles in Auckland's city centre

Table 18: Zoning of parcels associated with unit titles for Waitematā Local Board area

Auckland Unitary Plan (decisions version) zone	Count of parcels	Proportion of total
City Centre	381	37%
Local Centre	11	1%
Metropolitan Centre	30	3%
Mixed Housing Suburban	40	4%
Mixed Housing Urban	32	3%
Mixed Use	251	24%
Neighbourhood Centre	5	0%
Single House	95	9%
Strategic Transport Corridor	1	0%
Terrace Housing and Apartment Buildings	140	13%
Town Centre	53	5%
Total	**1,039**	

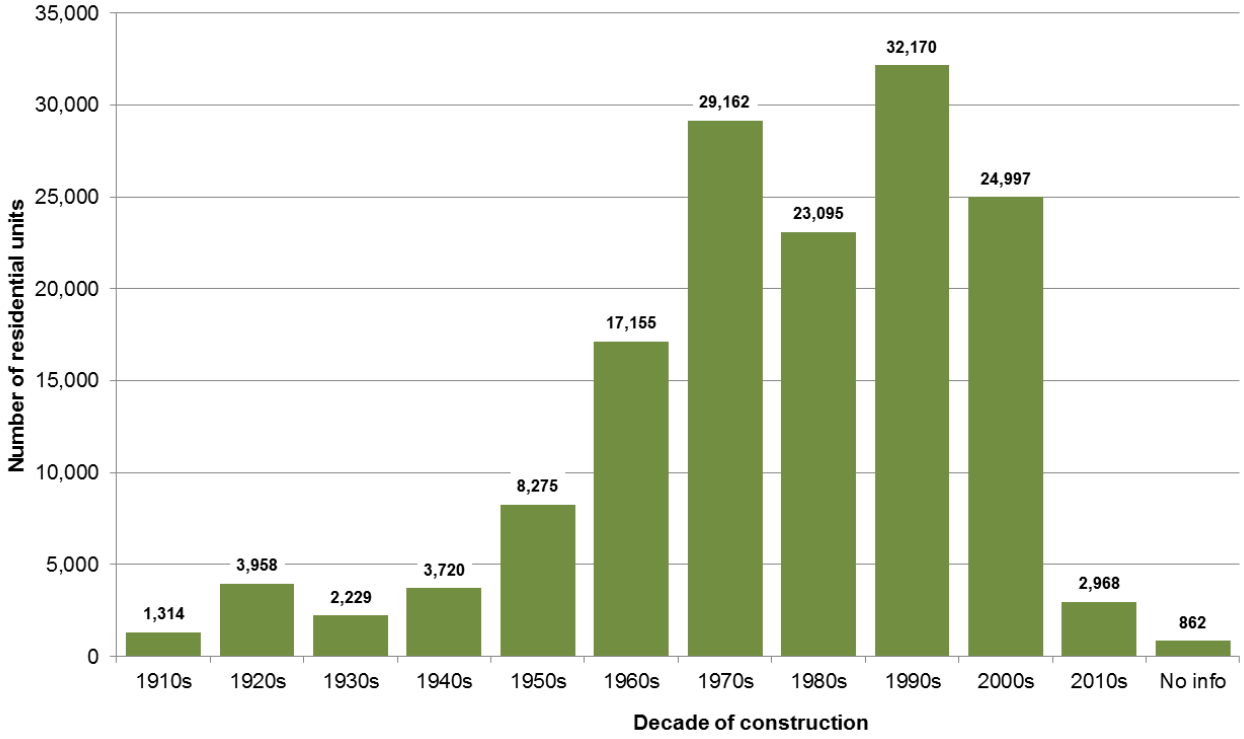
Over half (52 per cent) of parcels associated with unit titles in the Waitematā Local Board area are smaller than 800 square metres; a much higher proportion than the Auckland region as a whole, which has only 21 per cent smaller than 800 square metres. The reason for this may be that many of the suburbs in Waitematā Local Board area are historic, developed during Auckland's early European settlement (1840 to 1890) - a time when small cottages on small land parcel sizes were common. As these areas have been redeveloped, the parcel sizes have remained and new developments, including apartment buildings, have been built within the existing property boundaries.

Table 19: Size of parcels related to unit titles in the Waitematā Local Board area

Parcel size category	Number of parcels	Proportion of total
0 to 400 m2	225	22%
400 to 800 m2	308	30%
800 to 1200 m2	159	15%
1200 to 1600 m2	110	11%
1600 to 2000 m2	62	6%
2000 to 5000 m2	146	14%
5000 to 10,000 m2	22	2%
10,000 m2 or larger	7	1%
Total	**1,039**	

Ninety per cent of the dwellings on parcels associated with unit titles were constructed in the 1990s or later, and 60 per cent constructed in the 2000s or later (Figure 54). This illustrates that unit titles in Waitematā are relatively new, driven by the apartment construction boom in the CBD and the CBD fringe, firstly in the 1990s and then again in the 2000s (Friesen, 2009; Goodyear & Fabian, 2014).

Figure 54: Age of residential units rated on parcels associated with unit titles for Waitematā Local Board area



In Waitematā, 61 per cent of unit titles in the local board area have been issued since 2001. In the period between 2001 and 2010, 20,924 unit titles were created in Waitematā; these relatively newly created unit titles account for 27 per cent of the current regional total.

In the Waitematā Local Board there may be very limited opportunity to yield higher numbers of dwellings from the redevelopment of existing unit title properties. This is for several reasons including the fact that many of the parcels which have unit titles on them are small (less than 800 square metres). The relatively young age of development on these properties (over 60 per cent less than 20 years old) may also be a factor. In addition, the nature of the built form on these properties will also influence redevelopment: high-rise apartment buildings are likely to be harder and more expensive to redevelop than properties with low-rise or single level buildings.

Looking to the future, the Waitematā Local Board area is likely to see an increase in the number of unit titles. Currently, the development pipeline has a number of new developments planned, not just for the CBD, but also areas around its fringe (Moricz & Carleton, 2016). Other areas in Waitematā that are likely to experience increased numbers of unit titles are the pockets of Terrace House and Apartment Building, Mixed Housing Urban and Mixed Housing Suburban zoning that have been enabled through the Auckland Unitary Plan. These zones allow for higher density residential development, including terraced housing and low-rise apartment buildings, which in many cases are likely to be created as unit titles, in the suburbs of Freemans Bay, St Mary's Bay, Herne Bay, Newmarket and Parnell.

10.0 Insights from experts: Interviews with industry professionals

10.1 Introduction

Phase 2 of this study involved conducting interviews with professionals including planners surveyors, property lawyers, property developers, and body corporate members who had been involved in the redevelopment of a property with either a cross lease title or unit title. This section of the report outlines the research design including the methods used to recruit participants and then presents the findings from the interviews.

Semi-structured interviews were conducted in order to elicit information from professionals with experience in the redevelopment of cross lease title and unit title properties (Appendix K). The interviews were used to explore their experiences and gather a deeper understanding about:

- How multiple owners may affect a project
- Specific issues relating to cross lease title and unit title properties
- Potential benefits of cross lease title and unit title properties
- Solutions to problems related to cross lease titles and unit titles, on the part of council, the Government, or others
- General or other comments on cross lease title and unit title properties

The feedback received from the study participants are their individual views, opinions, and observations, and they should not be viewed as the view of their entire industry or others within their industry.

As part of this research project involved talking to people, approval for this aspect of the project was required from Auckland Council's Human Participants Ethics Committee. Approval was granted by the committee in March 2017 (application number 2016-06).

10.1.1 Participant recruitment

Participant recruitment was initially undertaken using the snowballing sampling method. This method uses a small number of people to nominate other participants who would be appropriate to participate in the research (Morgan, 2008). Given that this research project focuses on a narrow area of interest, snowball sampling was deemed a good way to find the people with the specific subject matter expertise needed.

Both personal and professional networks were used to seek participants. This included social media posts on Facebook and Linked In; word-of-mouth and recommendations from participants were also used. In total, eight participants were interviewed including two lawyers, a legal consultant, a surveyor, a property owner and body corporate committee member, two valuers, and an academic. In addition to the interviews a number of informal comments and feedback were received from individuals during the snowballing process which were taken into consideration during the interview analysis and report write-up.

10.1.2 Data analysis

Once the interviews were completed and transcripts had been approved by participants, points of interest in the interviews were identified and coded to identify broad themes, as presented in sections 10.2 and 10.3 below.

10.2 Cross leases: What did the experts have to say?

The participants I spoke to all had experiences with cross lease titles. The topics raised included: incorrect flat plans and defective titles, relationships between co-lessees, the conversion of cross lease titles to fee simple or unit title, and redevelopment. A summary of points of interest from the interviews is outlined below.

10.2.1 Few new cross leases

New cross leases are rare. Both the surveyor and one of the lawyers indicated that it has been some time since they have been involved in the creation of a new cross lease. However, the legal consultant was in the process of creating a new cross lease at the time of the interview. All three noted, that most of the work concerning cross leases was associated with to the creation and submission of new flat plans and issuance of new titles. This, as one lawyer noted included "fixing up old titles that aren't right" – when alterations or extensions had been made to houses on cross lease titles without the flat plan being updated. The lawyer also cited that another reason cross lease titles had fallen out of favour was because the council had made fee simple subdivision easier (through more permissive rules) and that property buyers had become "a bit more discerning about the value associated with a cross lease as opposed to a fee simple".

10.2.2 Incorrect flat plans and defective titles

Several participants noted that a number of issues arise with cross lease titles when alterations have been undertaken by property owners, these alterations are not included on an updated flat plan, and new titles for the properties are not issued – which makes the current titles defective. The academic noted that a large proportion of cross lease titles are likely to be defective:

> *[T]he title's defective and I would say based on talking to surveyors that about 60-65 per cent of cross leases are defective… (*Academic)

Feedback indicated that the primary reason that flat plans were not updated after building work had been completed was that property owners were not aware that they were required to do this. Owners often presume that after going through council consenting processes (building consent and/or resource consent) was all that was required, noted one participant. They further remarked that often owners only found out that this was a problem when they went to sell the property.

One participant suggested that council needed to be more proactive in terms of informing owners about their obligations under their cross lease agreement, noting that when applying for consent:

> *[I]t's something probably council could be a lot better at, is simply putting a one page pro forma letter out with every resource consent they issue relating to cross leases* (Surveyor)

Two participants indicated the expenses involved in having the property boundary and location of building footprints resurveyed for the flat plan in addition to lawyers' fees. Some suggested that this is often an ideal time to try to convert cross lease titles to freehold as the difference in cost between doing so may be outweighed by the benefits of having a freehold property.

A solution raised by one participant was to change the rules and waive the need for an updated flat plan provided that building consent and a Code Compliance Certificate for the work had been issued. In this regard the participant noted that the documentation from council processes should suffice.

10.2.3 The relationship between co-lessees

The relationship between co-lessees was raised as an issue with a number of participants who shared examples in which they had been involved, with one commenting that the "neighbourhood disputes you can get between these is so amazing". The examples provided included: consent for alterations, not understanding how cross leases work, the costs involved with cross leases, and the general management of cross lease properties. Terms of cross lease agreements require the consent of the co-lessees before any changes to the footprint of the building or structural alterations can be made. One participant spoke of a case where the redevelopment of one house on a cross lease property led to a rift between the co-lessees. The redevelopment was viewed by the co-lessees as being large and imposing on their portion of the property; as such, they withheld their consent. The matter was unable to be resolved, even after amended plans were drawn up to appease the co-lessees, and the dispute ended up in arbitration. In the end, the arbitrator determined that consent was not unreasonably withheld for the redevelopment, and costs were awarded against the owner who wanted to redevelop. This meant that they had to cover the co-lessees legal fees as well as their own – in addition to the time and money they had spent on architects and engineering fees for plans that they could not use. The interviewee noted that the relationship between the co-lessees was effectively over, and that they did not think that it could ever recover.

Another participant spoke of two owners who found that the garages on their properties weren't included on the flat plan. Both sets of owners decided that they would like to update the flat plan and then convert the titles to freehold. They noted:

> *Everyone agrees it's a good idea. But because they've fallen out socially they can't agree on anything. So it doesn't take very much to create an environment where no one's gonna agree…* (Lawyer 2)

Another participant noted that withholding consent can make things difficult between the co-lessees, but suggested that owners should be able to do what they wished on their share of the property such as one could if the property was freehold.

General agreement over how to manage common areas of cross lease properties, such as driveways could also raise issues between co-lessees, as consensus between owners is required. Further comments by participants about the relationships between co-lessees included:

> *[Y]ou don't have to mess around with your neighbours or the other owners and so forth because at times that could be very costly and painful.* (Legal consultant)

> *People should have productive and positive relationships with their neighbours and the community. People should not be embroiled in a legal dispute just to do what in some cases can just be a small renovation job.* (Lawyer 1)

> *So that really is in my mind the most central and most fundamental problem with cross-leases is the need to have a unity of minds to be able to get something done, and without that, unless there was some sort of statutory overlay that could be brought into place, but I don't see any reason why anyone would want to do that, it just won't buy any votes. It's not something you could build into the Land Transfer Act or something like that. It just isn't gonna work. So that's all there is to it.* (Lawyer 2)

One participant noted that minor building work may require a co-lessee's consent, even if it's not an extension or major alteration to the house. This may be difficult if the relationship among co-lessees is less than cordial and consent may be difficult to obtain without incurring costs.

10.2.4 Management of cross lease properties

Two participants remarked that there can sometimes be issues with cross leases in terms of how common property is managed. Both noted that a shortcoming of cross lease agreements is that there are no management provisions, apart from the rare cases where common insurance was provisioned, with one saying:

> *I think there's a real issue because there's no structure, as there is in the Unit Titles Act, for those people to actually make decisions about the common areas and things like that. They've all just got to sit around the table and come to some conclusion, whereas under the Unit Titles Act there's a whole lot of structure, there's legislation and structure around it.* (Surveyor)

Both participants noted the need for dialogue around issues that arise and need agreement from all co-lessees, and how a good relationship with co-lessees is required.

One of the lawyers commented that aspects of the way unit titles are managed could theoretically be used in cross lease situations but cannot in reality because provisions for them had not been included in many of the original leases. The lawyer noted that such provisions could be included and he was working on such a situation, saying:

> *So I've got one at the moment which is actually a cross-lease block… they're trying to put some of the unit title rules and regulations into a revised set of cross-lease.* (Lawyer 2)

If successful, the new cross lease would include provisions similar to those used for unit titles.

10.2.5 Understanding of cross leases

While a few participants commented in passing about owners and the public not understanding cross leases, the surveyor raised it as a specific issue. He noted that advisors such as solicitors were becoming more familiar with the title type and its limitations and issues, it was becoming more widely known that cross leases were not as good as freehold. He went on to say:

> *In terms of cross leases people actually don't understand what they actually have got, they think their house is their castle, the fences are the boundaries, they're the exclusive owner of it and they don't see it as being different from a fee simple subdivision. That's one of the issues, whereas when they dig into it they realise that they're a co-lessee of the land, and they [only] have exclusive occupancy of their house and the area around it…* (Surveyor)

The surveyor also noted that the owners for cross lease title houses get "particularly annoyed" when they go to council and get consent for building work such as extensions, which they then have built, live happily in the altered house, and then much later when they go to sell the house find out that their title is defective. In these situations, the home owners often blame council for not making them aware of the conditions of their cross lease. This is similar to the example given by another participant who also cited that cross lease owners, having applied for consent, think they have done everything by-the-book only to discover later that they were required to update their flat plan. They then question why council had not told them this was required.

10.2.6 Conversion of cross lease titles to fee simple or unit title

All participants commented on the conversion of cross leases to either unit title or fee simple. One noted that "converting cross leases to fee simples is an issue". Another participant noted that they encouraged their clients to try to convert their cross lease title properties to freehold if it was possible.

In discussions about the Unit Title Act 2010 two participants noted that that the Act had provisions for the conversion of cross lease titles to unit titles, with one noting:

> *[T]here is a provision in there for people to convert from a cross lease to a unit title very easily without getting a council subdivision consent."* (Lawyer 2)

The other commented that while the provision in the Act would aid with conversions, it could be only used when the cross lease flat plans were up-to-date, and couldn't be used as a mechanism to update the flat plans. A third participant pointed out that another disadvantage of the Act is the way that Section 191 is worded; this means that the boundaries of the principal units of the unit title must be the exactly the same as the cross lease, and also that:

> *[T]he restricted covenant areas become common property because [of] the wording of the Act. That's suboptimal.* (Academic)

The participant noted further that owners doing this would lose out; areas that were formerly exclusive use under the terms of the cross lease would now become common property.

Conversely, one participant noted that the legislation allowing the conversion from cross lease title to unit title was good:

> *The big advantage of that process is that you don't have to get a subdivision consent, the council don't have the ability to impose any conditions on you, like upgrading drainage, driveways etcetera, but the biggest single one is fire rating.* (Surveyor)

Most participants agreed that there should be a better mechanism to convert cross lease titles to freehold titles, with one saying:

> *It would be a very pragmatic way of dealing with the issues as long as people's general property rights were protected…* (Lawyer 1)

A number of participants noted that cost of converting a cross lease title to a freehold title can be prohibitive. For conversion to unit titles, the flat plan and titles needed to be updated before a conversion can take place, requiring a resurvey of the property and a lawyer. However, as mentioned the legal professionals I spoke to all suggested that as owners were incurring these costs anyway it was a good opportunity to convert the title to freehold if all possible. The cost of conversion to freehold was also raised, especially in relation to council rules in order to complete a subdivision[16].

Feedback suggested that council's subdivision rules relating to driveways and separation of underground services (water, wastewater, stormwater) caused the most problems, as the cost of widening driveways and installing new underground services for dwellings can be expensive. Several participants questioned why this needs to be done that given the houses are already there and there is no change in the number of houses, or how the houses will be used, with one participant observing:

> *If an existing thing is there and has been there for almost last 50 years then it is providing those amenities and it is providing the services. Everything is in place. There is such a thing as easements and the council should allow"* (Legal consultant)

Another participant commented:

> *[That owners] should be able to persuade councils to allow them to convert their titles, without those conversions being treated as a subdivision, in the sense that because the RMA is effects based legislation, there's no greater effect on the environment…*
>
> *And I would actually even argue that if the matter of it was actually tested in court, the council would probably come off second best because there's no greater effect on the environment* (Academic)

While another said:

[16] The conversion of cross lease titles to freehold titles is done in part through a fee simple subdivision.

I think that council should be encouraging of people to convert to fee simple. That's what they want to do. Don't put roadblocks in their way about silly engineering rules (Surveyor)

In discussions with participants, a number of solutions were mooted to encourage the conversion of cross lease titles to another title type. Primarily the suggestions were directed at council, with more than one participant suggesting that council should consider relaxing its subdivision policies for those wishing to convert their cross lease titles to freehold.

It is also pertinent to note that participants pointed out not every cross lease owner would want to convert their titles to freehold. They noted the advantages of cross leases were desirable, such as the ability to influence what a co-lessee can do on their portion of the property in order to protect views or prevent shading, with one commenting that:

[One of the] advantages is the fact that you do have some say over your co-lessees, or the other unit or the other flats in the development, whereas in a fee simple situation you have less. (Lawyer 2)

10.2.7 Value of cross lease properties compared to other title types

A number of participants commented on the effect a cross lease title can have on its property value, with one noting that he believed that they are worth 10 to 15 per cent less than some other title types because "they're basically stuffed". Another participant noted that people were "discerning about the value associated with a cross lease as opposed to a fee simple". This view is consistent with the economic analysis by Eves (2008) and Rehm (2014). However, other participants indicated the heated Auckland housing market meant that there was less difference between the purchase prices of cross lease properties compared to freehold properties, with one saying:

[That it is] hard to see any difference when it gets tight, but there should be a margin, cos you don't have the same rights, so it should be, but it's not always the case… (Valuer 1)

10.2.8 Costs related to having a cross lease title

One disadvantage raised by participants was the cost associated with cross lease titles. The combined cost of surveying, updating a cross lease's flat plan, and legal fees were all cited. The potential cost of the arbitration process was also raised.

The majority of participants also cited the non-financial costs related to cross lease titles, primarily around the relationship between co-lessees when disputes arise. Some also mentioned the emotional cost that disputes with cross leases can have on individuals and their families.

10.2.9 Arbitration

The arbitration process related to disputes between the co-lessees of a cross lease was raised as an issue by all three legal professionals. Issues put forward included the high financial cost of the

arbitration process and lawyer's fees, the slow pace of the mediation process, the binding nature of the arbitration and very limited ability for participants to appeal its outcome, and the effect that mediation can have on the relationship between the co-lessees who are parties to the arbitration. One lawyer summed up the arbitration process as follows:

> *[I]t takes on all of the attributes of a court in many respects. It may be slightly swifter but it does have all that, and in its own self it is a very torturous process. It's not straightforward. It's built into all cross lease documents and it's intended to try and help things out but really it doesn't."* (Lawyer 2)

The use of mediation rather than arbitration to resolve issues relating to cross leases was seen by both lawyers as a possible solution.

Mediation, which is used to resolve disputes concerning bodies corporate and unit titles (through the Tenancy Tribunal), could provide a cheaper more pragmatic way to resolve disputes. However, it should be noted that the arbitration clause is standard in almost all cross lease agreements and, as such, switching to an alternative way of resolving disputes would be difficult without legislative change.

10.2.10 Renovations and changes to existing buildings on cross lease titles

The most common form of development on cross lease properties appears to be from renovations and changes to existing buildings. Study participants noted a number of issues in this area, from renovations and development leading to incorrect flat plans, similar to those outlined in Section 10.2.2.

Two participants had dealt with the allocation of building coverage on cross lease titles. Because a cross lease property is treated by council's building consent department as a single site, the building coverage rules apply to the total property, rather than just the exclusive use areas. One interviewee shared an example where the first co-lessee on a cross lease extended their house, with the permission of the second co-lessee. When the second co-lessee went to extend their house at a later date they found that they were unable to under the planning rules, because the maximum building coverage for the property had already been reached. This required the second co-lessee to seek compensation, due to the fact that first owner had exceeded their half share of the property's rights. This issue was also raised by another participant. A solution proffered by one participant involved council keeping better track of cross lease titles and the building activity on them and not allowing building consent where an equal share of building coverage may be exceeded.

Another participant noted that one of the advantages of a cross lease title is that a co-lessee has some control over what the other co-lessees can do and can withhold consent, in some cases, to prevent renovations and redevelopment of which they do not approve. While this is an advantage for one co-lessee, it is a disadvantage to another. One participant shared their experience where a house on a cross lease title was to be demolished and substantially rebuilt – essentially a redevelopment. The co-lessee withheld consent for renovations citing that the changes were significant and would impact them. Even after changes to the development plans, the co-lessees still did not consent and as a consequence the case involved a costly arbitration process. The co-

lessees who sought to redevelop their house lost their argument. They were unable to redevelop their property as they had wished.

10.2.11 Redevelopment of cross lease properties

Significantly none of the study participants interviewed had any experience with the redevelopment of cross lease titled properties. An interviewee noted that redevelopment of cross lease properties was rare as there were plenty of other development opportunities still available that would be much easier to undertake. One participant noted:

> *[T]here's so many decent sized sites still available on a freehold basis, where they don't have the complications of having to deal with 3-4 owners, that I don't think they're going to be worried about cross lease and unit titles…* (Valuer 2)

Another noted that as cross lease titled properties involved multiple owners, redevelopment of part of a site is difficult. Furthermore, even if there was enough space at one end of the property that one co-lessee could develop because it was in their 'exclusive use' area; it was not legally possible for them to do so. The only way for redevelopment of this nature to occur would be if the titles were first converted to freehold, with one participant stating:

> *Even if you said one person won't, he's a stick in the mud, and then the other person says, "There's enough land at the back of mine for me to make two other units here," to be able to achieve that requires eventually the next door neighbour to consent to standardise the title.* (Lawyer 2)

The same participant observed that any sort of redevelopment of a cross lease property would require "a lot of meeting of the minds of people".

A number of participants commented on future redevelopment possibilities, with several noting that as land values increase and houses get older, there will be more incentive to redevelop. Comments included:

> *[W]hen the value of their asset becomes worthless in terms of structure, the land surpasses the freehold, the unit title value of that land, and that will happen, if you've got a sausage block from the 60s and all of a sudden you can go five storeys up with apartment blocks close to the town centre.* (Valuer 2)

> *…where there are very few vacant signs or huge subdivisions that can take place, and lots of the what we call sausage flats, you know the 3-4 in a row, 60s and 70s which are immediate around Takapuna town centre are probably coming to the end of their economic life… I think this is pretty much a future issue.* (Valuer 1)

> *In many respects redevelopment produces maybe smaller lot sizes but actually very nice attractive modern housing. That's got to be an attraction.* (Lawyer 2)

10.2.12 "Just too hard": Developers avoid cross lease properties

In addition to the seven professionals I interviewed, I had exchanges with a three developers who stated that while they were willing to participate in the project they could not offer any in-depth

information since they purposefully avoided dealing with the redevelopment of cross lease and unit title properties due to the difficulties inherent with such titles. One noted that:

> *[I]t's an area I would typically avoid as it is usually just too hard! I don't know anyone in particular who has had direct experience in this area, I'd guess many developers would just put it in the too hard basket unless there were exceptional circumstances.* (Property developer)

A number of participants also commented on the difficulty of redeveloping cross lease properties, with one noting that the easiest way to redevelop is to buy all the cross lease titles on a site first. One participant shared the following example:

> *There's one particular franchise of a house building company out west Auckland that went bust and I have another client as well who went in the same track. Trying to develop these ones at the back even where, say, it was a vacant site at the back, trying to develop them at the front and getting people to consent and arrangements like that created a huge amount of hassle. So both entities suffered financially for things - delays, costs greater than they expected all sorts of issues.* (Lawyer 2)

Another participant commented that redevelopment of cross lease titled properties are currently in the "too hard basket", but added that this will need to be addressed in time as the dwellings on the properties come to the end of their physical life.

10.3 Unit titles: What did experts have to say?

While participants were asked about both cross lease titles and unit titles, feedback on cross lease titles was more extensive than on unit titles. Participants raised a number of topics, particularly around unit title management and bodies corporate, unit title legislation, and redevelopment.

10.3.1 Unit title management and bodies corporate

The majority of participants expressed an opinion about the management of unit title developments and bodies corporate. While one noted that bodies corporate can work very well, another noted "I think generally body corps are a pain in the neck, unless they're well set up and well managed". Comment was also made on the fact that unit title owners, through their body corporate membership, have a better mechanism than cross lease title owners for dealing with disagreements through the dispute service operated by the Tenancy Tribunal.

The size of development was also noted as contributing to the effectiveness of a body corporate, with one participant noting that while unit titles are advantageous for properties with a large number of units, those with a large common area or shared driveway can be problematic. The participant noted that the body corporate system works well for "100 units or 20 or 15 or whatever", but when there are small numbers of units, such as eight or less, issues can arise. However, the participant did add "I've seen them work with six or seven where everyone works very closely together". Another participant added that the "obligations under the Unit Titles Act are really onerous if you've only got two-three houses", and also commented that in cases where there were only two units with equal shares there can be "grid lock" when it comes to resolving problems.

Another participant pointed out that “the more owners you've got, the more complicated it is. It's as simple as that”.

The relationships between unit title owners and dealing with bodies corporate were noted by a participant as potentially negative, stating that people would prefer to have a freehold title:

> *[That] people don't like holding hands with other people and sitting in rooms, and making decisions around the table collectively… you know their home is their castle.* (Surveyor)

10.3.2 Public understanding of unit titles

It appears that while public understanding of unit titles is better than that of cross lease titles, there are still misunderstandings about unit titles, with people often thinking that their rights and obligations are the same as those with a freehold property. One participant noted:

> *There’s a Body Corporate. They call the shots. You got to go where they go. You may change the Body Corporate [committee] but the ship keeps on rolling. So the idea that you’ve got a unit that you love and you want to keep it but everyone else wants to do something else, it’s just what you’re buying into.* (Academic)

10.3.3 Unit title versus freehold title

When discussing the disadvantages of unit titles with the participants, some commented that they would only recommend the creation of unit titles on a development if freehold could not be achieved, with one commenting:

> *If someone came to me and said we’re doing four to six, or something like this, as terraced houses we would probably pump for a freehold with party wall easements. Even just [for] two [houses]. The idea of using unit titles for such a small number never was a very good idea.* (Lawyer 2)

While the advantages of freehold over unit title were mentioned by several participants, they also acknowledged that unit titles are still the best mechanism of ownership for certain housing typologies, such as apartments.

In discussions about the higher-density residential developments likely under the provisions of the new Auckland Unitary Plan, the academic expressed some concern about the use of unit titles rather than freehold titles. These related to the social issues that can arise through dealing with bodies corporate and neighbours:

> *[I]t seems to me that somebody in council needs to be realising that if people want to do that by way of unit title instead of fee simple then they’re creating social problems for the future.* (Academic)

10.3.4 Surveying unit titles

The surveyor said that there are some issues around unit title plans and surveying. The first was the sub-standard quality of unit title plans created by some surveyors, although they also noted

that “Land Information New Zealand have addressed that and are requiring better plans”. The surveyor also noted that they had seen issues with the inconsistent application of unit title boundaries in the same development. He pointed out that sometimes boundaries were in the centre line of the wall and other times on the outside base of the wall; this could cause issues later when dealing with maintenance and remediation issues.

10.3.5 Legislation

Almost all of the participants commented on New Zealand’s unit title legislation. One thought that the current Act (2010) was “very good” compared to the previous Act (1972). The participant went on to add they felt there was still a number of problems with the current Act, further adding that they felt that the legislation was evolving and that the further changes now implemented (through the Regulatory Systems (Building and Housing) Amendment Act 2017) would improve it. One noted that perhaps more regular reviews of the Act might be an ideal way for the laws relating to unit titles to evolve, citing the NSW strata titles legislation as an example. A second participant commented that the Australian legislation was far ahead of New Zealand’s, adding further that the mechanisms NSW and Victoria have added to their legislation to deal with buildings or developments that are coming to the end of their useable life, were considerably ahead of New Zealand’s.

Participants noted a number of issues relating to the conversion of cross lease titles to unit titles (see Section 10.2.6). Two noted that changes to the legislation to encourage more conversions could be ideal.

Comment was made by participants that they believed that the current legislation was not suitable for many of the smaller unit title developments, with one saying:

> *I don't think the unit titles act is set up for the small guys, you know the two-to-three unit guys because it's too onerous for those people.* (Surveyor)

The surveyor also raised the issue of how staging of unit title developments was handled under the current legislation. They believed it was difficult for council to ensure a development complied with the Building Code and the Building Act, particularly in relation to the fire rating of a building. Compliance with the Code and Act are normally ensured before a unit title was issued, but believed that this is difficult or impossible when buildings in a staged development would need to be assessed before they had been constructed.

10.3.6 Redevelopment

Comments by participants about the redevelopment of unit titled properties were not extensive. As with cross lease title properties, there was an indication from one participant that developers avoided the redevelopment of multi-owned properties. There was also discussion about the “meeting of minds” between owners that was required before any development or redevelopment could take place. Some suggested that the best way to facilitate redevelopment was to acquire all the units on the site. In instances where there were ‘hold-outs’ or people that did not want to move, one of the valuers noted that there were other mechanisms that could be used. The valuer

suggested that developers could adopt a process where an agreement was made with an owner to sell their existing unit in exchange for a unit in the new building constructed through redevelopment. The valuer then went on to comment that they were aware of this being done in Auckland in the past. They also said that redevelopment was likely to become more common in coming years as buildings come to the end of their lives.

The case of Lake Hayes Property Holdings Ltd v Petherbridge ([2014] 15 NZCPR 590) was cited by the academic as an example of the new laws around cancellation of a unit plan for redevelopment, which is possible under the Unit Titles Act 2010. The participant noted that this was the first case of a unit title owner being forced to sell property in New Zealand in order to facilitate redevelopment, through the assistance of s339 of the Property Law Act 2007.

Another point raised by a participant related to the redevelopment of one or more unit titles on a property, stating that there was provision under the Unit Titles Act 2010 when units are redeveloped or extended. They commented that the process is easier by using what was called a simple redevelopment scenario or minor redevelopment. This may not change the number of units in a development.

11.0 Discussion

11.1 Redevelopment of cross lease titles and unit titles

Based on the analysis of spatial data and the interviews with property professionals, it is likely that residential intensification and redevelopment will be inhibited in areas that have been earmarked for intensification and zoned for higher-density residential development in Auckland, due to the large number of cross lease titled and unit titled properties in those areas

Interviews revealed that developers currently avoid undertaking redevelopment projects on land with these two title types due to the complications associated with cross lease title and unit title properties. This is echoed by Webb and Webber (2017), who note that redevelopment of this nature requires engagement with multiple owners, which adds further complexity to land assembly and imposes a risk to long-term revitalisation.

The quantitative analysis of cross lease titles and unit titles in Auckland for this study has revealed that there are over 40,000 parcels associated with these title types in zones that allows higher-density residential[17] under the provisions of the Auckland Unitary Plan (decisions version). At the time of the writing, modelling to estimate the capacity for additional dwellings under the new planning rules, and the amount of economically feasible capacity for additional dwellings had not been completed. However, results from the 2013 Capacity for Growth Study, which modelled the provisions of the Proposed Auckland Unitary Plan, showed that that version of the plan enabled an additional 31,650 dwellings on parcels associated with cross lease titles and unit titles across all of Auckland. Furthermore, the Auckland Unitary Plan is now operative in part and has more permissive rules than the Proposed Auckland Unitary Plan, allowing for increased density in many residential areas. It may take some time once the new rules of the Auckland Unitary Plan have become operative and to see if there is any real effect on intensification and redevelopment by cross lease titles and unit titles in Auckland.

However, if intensification and redevelopment are unable to occur in areas zoned for higher densities, new dwellings will be located in other areas through urban expansion and greenfield development. This is likely to have implications for delivery of the visions in *The Auckland Plan*, especially in decade two and three of the plan's timeline, when intensification is expected to accommodate a large number of new dwellings (Auckland Council, 2012). This will have flow-on effects to council's long-term planning processes, including the provisioning of infrastructure and the review of the Auckland Unitary Plan in approximately ten years' time.

In this regard, action needs to be taken to ameliorate the obstacles confronting the redevelopment of multi-owned properties. These obstacles are not confined to Auckland or New Zealand. In Toronto, Canada, the effects of multi-owned properties on urban redevelopment have been studied by Webb and Webber (2017). Also Troy, Randolph, Crommelin*, et al.* (2015) have undertaken

[17] Residential zones that allow higher-density dwellings include: Terraced Housing and Apartment Building zone, Mixed Housing Urban zone, and Mixed Housing Suburban zone.

research in Sydney, Australia. Both pieces of research highlight the physical, financial, and social difficulties that can arise, as well as the issue of government intervention and legislative change to enable and moderate the effects of urban renewal and intensification.

Under the provisions of the new Auckland Unitary Plan, the city is likely to see the creation of many more unit titles in the coming years, especially for new low- and high-rise apartment living. Will further changes to New Zealand's unit title legislation enable better management, maintenance and redevelopment of unit title schemes? Other jurisdictions, such as NSW in Australia have recently reformed the legislation that governs their equivalent of unit titles, and their experiences are likely to assist in the evolution of New Zealand's legislation. Queensland is also currently reviewing their legislation, and the outcome of this review and its implementation will also provide guidance for future changes in New Zealand.

Changes to the Unit Titles Act in 2010 lowered the threshold to redevelop a unit title scheme from a unanimous vote to a 75 per cent of those eligible voters at a meeting requiring only 25 per cent of eligible voting owners to make a quorum. To date notable cases of the cancellation of unit title plans include: Dominion Finance Group Ltd (in receivership and liquidation) v Body Corporate 382902, Mills v Body Corporate 47522, Lake Hayes v Pethebridge, and Mills v Body Corporate 47522.

There have been some instances of all owners in complexes selling all of their units together where they have had settlements from litigation in relation to leaky buildings (Pepperwood Mews in Auckland) and leaky building and insurance litigation after earthquakes (Amuri Park in Christchurch). In these two cases, the complexes were not liveable and the owners did not want to rebuild themselves with the litigation proceeds. Rather they wanted to pocket those proceeds and then sell the unit title developments and titles 'as is' without cancelling the plans to developers to let them either repair or demolish and rebuild.

It is likely that this mechanism may be used more as schemes come to the end of their physical and economic lives. Similarly, recent changes to legislation in NSW to also lower the threshold to 75 per cent in order to better facilitate redevelopment, and the sheer number of strata title schemes in urban Sydney, means many more examples of redevelopment are likely take place in coming years. Monitoring the new legislation for redevelopment in NSW may offer some insight into how effective this legislation is and provide examples of redevelopment outcomes that may inform further changes to New Zealand legislation.

Recently the Bay Palms apartment block in Browns Bay, Auckland rejected a proposal for a $14.5 million dollar repair bill to remediate weather tightness issues (Gibson, 2016). To recuse the cost of the repair bill on existing owners, a proposal was put forward to build and develop two additional floors on the block. Although it would cost more up front, the development could cross subsidise the increased costs of the remediation. However as many owners may not have funds to repair their actual units, they were not able to support the cost of further development of the site (Gibson, 2017).

11.1.1 Land Assembly

Strategic land use planning, especially for existing urban areas, can view land and space as a blank slate, often not fully taking into account either property boundaries or their ownership structures. As such, in order to overcome these constraints and realise a different urban form, processes like land assembly must first take place. Land assembly refers to the acquisition of adjoining pieces of land with different owners, in order to bring land under single ownership with the intention of undertaking redevelopment on the assembled site (Golland, 2003; Louw, 2008). While land assembly in the traditional sense refers to 'land', the same concept can be applied to the assembly of the ownership of units or shares of properties, which would be the case with both cross lease title and unit title properties.

Webb and Webber (2017) note that much of the literature on the topic of land assembly focuses on overcoming a limited number of individual property ownership constraints in order to redevelop land, rather than the multiple property ownership constraints that can occur in a single building or on a single parcel of land for redevelopment. Webb and Webber also note that aging suburbs that will eventually require revitalisation will be faced with difficulties related to land assembly because individual units will need to be acquired before any redevelopment takes place. While Webb and Webber's research focuses on condominium apartment buildings (the same as unit title buildings in New Zealand), I propose that the same principles and difficulties apply to single storey and low-rise unit titled properties and cross lease titled properties.

Rather than 'land assembly', this concept is known as 'ownership assembly' (Adams, Disberry, Hutchison, & Munjoma, 2001). Properties with multiple owners present difficulties for redevelopment projects, with ownership constraints creating disruptions to projects at the planning, marketing, or development stages (Adams & Watkins, 2002). The constraints presented by multi-owned properties is something Adams and Watkins (2002) describe as the "most destructive kind of constraint" noting that "multiple ownership of land, in particular, proved hard to resolve without the prospect of lucrative commercial development and/or state acquisition or intervention". Likewise, research by Fredrickson, Fergusson, and Wildish (2016) showed that between 2004 and 2014 there was only a small amount of land assembly for residential redevelopment in Auckland's urban area. Their research also showed that difficulties of the land assembly process, including what Webb and Webber refer to as the 'individual property ownership constraints', but did not address the multiple property ownership constraints which cross lease titles and unit titles present. The redevelopment of cross lease title and unit title properties has been identified in this study as being a major constraint. The difficulty of dealing with multiple-owners of properties was identified as a key reason why developers avoided such properties for redevelopment.

Mechanisms to overcome property ownership constraints can include the voluntary sale of land or through a division of government acquiring private property to be used for the benefit of the public, known as eminent domain (United States, the Philippines), compulsory purchase (United Kingdom, New Zealand, Ireland), resumption (Hong Kong), resumption/compulsory acquisition (Australia), or expropriation (South Africa, Canada) (Fredrickson *et al.*, 2016). These methods are seen as unfavourable due to strong social resistance, increasing costs, and the shifting roles of governments embracing liberal economy politics (Azuela & Herrera-Martín, 2009; Balla &

Alterman, 2010). The concept of 'land assembly districts' as proposed by Heller and Hills (2008) may be a way to overcome property ownership constraints in a more financially and socially equitable way than through these compulsory acquisition methods.

In its 2015 report, the New Zealand Productivity Commission recommended the use of urban development agencies (UDAs) as a mechanism to agglomerate land ownership in order to facilitate redevelopment, particularly in Auckland. The Commission noted that agglomerating land for development was particular challenge for developers (New Zealand Productivity Commission, 2015b). Based on this recommendation, the Government is currently considering how UDAs would be set up and operate in New Zealand – submissions on the proposal closed in May 2017 and a bill is currently being written (Ministry of Business Innovation and Employment, 2017).

11.2 Other issues

11.2.1 Subdivision and separation of services

Cross lease titles were created as a legal mechanism to manoeuvre around planning and subdivision rules. However, contemporary planning rules permit smaller lot sizes in many locations and numerous cross lease titled properties would be permitted to be subdivided today. A large proportion, though, would not be permitted to be subdivided as the underground services (water, wastewater, and stormwater) of many dwellings on cross lease titles do not meet the specifications required for subdivision consent. This issue was raised in interviews as a significant obstacle for many property owners seeking to convert their cross lease titles to freehold.

In this regard, Auckland's Watercare Services, the city's provider of drinking water and wastewater treatment, has a code of practice that requires a single connection per dwelling for water and one connection per lot for wastewater (Watercare Services Limited, 2015). These conditions are required to be met for subdivision consent to be granted. Sites that have multiple occupancies, such as cross lease title or unit title, have a single connection each for water and wastewater, with the pipes on the property the responsibility of the body corporate or co-lessees. The entire multiple occupancy is regarded as a single lot (Watercare Services Limited, 2015). For a cross lease title or unit title property to be converted to freehold it is required to meet the code of practice and provide a single connection for both water and wastewater for each dwelling separately.

Feedback from participants expressed that there was frustration with these rules given that there is no change in the level of environmental effect; the nature and number of dwellings on the property do not change. It should be noted that Tauranga City Council has the same rules for water and wastewater connections to properties, with the Infrastructure Development Code stating that there should be one connection per lot for both wastewater and water (Tauranga City Council, 2014). In contrast to the Auckland situation, it appears Tauranga City Council permit the conversion of cross lease titles to freehold titles without the need to separate underground services (RPC Land Surveyors, 2014). This raises the possibility for Auckland Council and Watercare to waive existing provisions in order to encourage more conversion of cross lease titles, and even unit titles to freehold titles.

Allowing the conversion of cross lease title to freehold title would reflect the recommendations made by the Law Commission in its 1999 report. While it must be stated that the Commission's report covers the legal implications and does not the mention servicing of properties, the report also advises that local authorities should not be able to prevent either the compulsory or voluntary conversion from cross lease title to freehold title by using the subdivision requirements of the RMA. This most likely includes complying with rules regarding the provision of underground services. The Law Commission indicates that they believed that no further costs relating to council process should be incurred by owners wishing to convert:

> *[T]he present mess is essentially the consequence of territorial local authorities making it easier for developers to cross-lease than subdivide. If, in permitting cross-leases, the local authorities have failed to make proper provision for the matters listed by Local Government New Zealand that is unfortunate, but the tidying up of the legal position that we propose should not be seized upon as an occasion to remedy such past blunders or levy fresh revenues or incur costs.* (New Zealand Law Commission, 1999)

11.2.2 Building coverage

Another issue that was raised during interviews was the monitoring and administration of site building coverage provisions of the relevant district plan on cross lease title properties. The issue would be the same for unit title properties as well. One participant shared their experience of dealing with a cross lease property where the extensions to one of the two dwellings on the property had raised the building coverage on the site to the maximum permitted under the zoning rules. This meant that if the other owner on the cross lease ever wanted to extend the other house they would be prevented from doing so, or have to apply for resource consent to potentially gain dispensation. There are other cases of this occurring too; in one example the neighbour of a cross lease owner sought permission for extensions to their house and the size of the extensions would have used all the allowable coverage, preventing extension of other buildings on the site. In such examples, the lawyers advise that owners of cross leases should think carefully before granting permission for building work in case it precludes further development for other owners (Inder Lynch Lawyers, 2010).

The Residential 6a zone in the former Auckland City Council District Plan has a maximum building coverage of 35 per cent of the site; this is the same as in the new Single House zone of the Auckland Unitary Plan. This means that an 800 square metre property in a zone with 35 per cent maximum building coverage could have 280 square metres of the site covered by building; split evenly between two cross lease titles; that is 140 square metres.

The suggestion was made by one of our participants that council should do more to monitor and administer the amount of building or site coverage on cross lease title properties and ensure that owners of cross lease properties don't exceed their share of the building coverage.

Two further participants suggested that council should do more to let the owners of cross lease properties know about their responsibilities, perhaps through the inclusion of a pro-forma letter when owners of dwellings on cross lease titles or unit titles make a consent application, or require written consent from co-lessees. This could be a simple way to educate owners on their

responsibilities and help to ensure they comply with their legal obligations that fall outside of council's jurisdiction. It is worth noting that Auckland Council's '*Building or renovating'* guide which is available free of charge already advises that cross lease title and unit title owners need to update their titles and flat or unit plans, and suggests owners contact their surveyor and lawyer for more information (Auckland Council, 2016).

11.2.3 Financial costs of cross lease titles and unit titles

The financial costs relating to both cross lease title and unit title properties were raised in both the literature reviewed and in the interviews undertaken for this study. The costs to owners include the discount the market applies to cross lease titles and unit titles because of their nature, the costs of surveying and updating of titles if extensions or renovation work is undertaken, the cost of mediation (for unit titles) or arbitration (for cross lease titles) if issues cannot be resolved, and the cost of converting to a freehold title if its desired and possible. For unit titles other body corporate costs may also be incurred. Nearly all of the participants commented in some way on the financial costs related to cross lease titles and unit titles. The two issues raised most often related to cost of resolving cross lease disputes through arbitration and the cost of converting cross lease titles to freehold, including fees for surveyors, lawyers, the subdivision consent, and potentially other costs such as installing new underground service connections.

The cost of arbitration between owners of cross lease titles is not something that can be easily fixed, given that the provisions for arbitration are built into the cross lease agreements themselves. In this regard, changing the clause would require a change to the terms of the lease which is likely to come with some cost itself. Legislation could be passed however enabling cross lease owners to use the Tenancy Tribunal for dispute resolution.

As noted earlier, to reduce some of the costs related to the conversion of cross lease or unit title to freehold, council could remove the requirement for separated underground services. The Law Commission has argued that no further costs from council should be incurred by owners. They also proposed that LINZ registry fees should be waived, meaning that the only costs left for owners to bear would be the "irreducible minimum of legal and surveying costs" (New Zealand Law Commission, 1999). A participant also noted the time and expense of surveying and resubmitting amended flat plans, and then having new titles issued. One participant posed that there might be a cheaper mechanism, such as using plans that were submitted to council for building consent, once a Code Compliance Certificate has been issued, with LINZ accepting these as a supporting document, and waiving the requirement to issue a new title.

11.2.4 Social issues of cross lease titles and unit titles

While not a focus of this research project, the social issues around multi-owned housing was raised as a concern by one participant, who noted that with the increased numbers of higher-density residential developments that Auckland is likely to gain in the future under the new Auckland Unitary Plan, there are likely to be more social issues related to this area. This is something that should be explored further.

During the interviews, personal relationships between neighbours were mentioned as something that often breaks down; be it between owners or co-lessees, tenants, or members of bodies corporate. For cross lease properties some of the tension in these relationships appears to come from the misunderstanding about restrictions the lease imposes on owners, without the support of the more formal processes under the Unit Titles Act 2010, such as annual meetings and professional managers. Interview participants relayed examples where people didn't know what they were buying into when they purchased cross lease titled properties. Breakdowns in the relationship between neighbours and co-lessees often occurred when consent was required (but not given) from a neighbour and co-lessee for building work on their homes.

Redevelopment of multi-owned properties can also cause the breakdown of personal relationships between neighbours. Social issues that come to the fore in the redevelopment of multi-owned properties include the wellbeing of occupants (both property owners and tenants), aspects of inequality and social equity – including the effects on vulnerable groups including the elderly, less mobile people, and people on low or fixed incomes (Troy, Randolph, Crommelin*, et al.*, 2015).

Issues between owners and neighbours can also arise when there is tension between the democratic rights of the majority versus individual property rights. This occurs in jurisdictions that require less than a unanimous vote, including New Zealand, and especially in cases where owners are making decisions on high-cost projects, such as refurbishment or dissolution of the unit title structure (or similar) for sale or redevelopment (Christudason, 2009; Troy, Easthope, Randolph, & Pinnegar, 2017; Webb & Webber, 2017), although there are protection mechanisms for minority rights under the under s210 of the Unit Titles Act 2010. Concerns about the erosion of private property rights also arise (Christudason, 2009; Harris & Gilewicz, 2015).

Many interview participants were not aware that the threshold for dissolving a unit title scheme had been lowered to a 75 per cent majority at a meeting which only requires a 25 per cent quorum under the Unit Titles Act 2010. So far, there has only been one example of this occurring in New Zealand (Lake Hayes Property Holdings Ltd v Petherbridge [2014] 15 NZCPR 590). However, as older unit title schemes come to their end of the economic and physical lives in the coming years we may see more dissolutions in order to enable redevelopment, thus raising conflicts between majority and minority property rights, and the potential inequity of redevelopment.

11.2.5 Māori freehold land

Some of the issues identified through this research apply to other types of multi-owed land tenure, such as Māori freehold land which is governed by the Māori Land Court under Te Ture Whenua Māori Act 1993. The goal of the act is to maintain Māori land in Māori ownership, while also providing for the development of land. As noted by the Office of the Auditor-General (2004), it seeks to balance these often competing objectives.

Some of the barriers to developing Māori land, are similar to those of the redevelopment of cross lease titles and unit titles. These include a lack of a formal management structure, ownership structures and administration (and the number of shareholders), compliance and statutory process costs, and limited use of existing regional and national infrastructure (Coffin, 2016). Research looking at using Māori freehold land to help deliver affordable housing for Māori revealed other

barriers including the difficulties in gaining consent from landowners with shares in the land, especially when there was a large number of owners and financial risks associated with the development (Livesey, 2012).

Following a review if of the existing legislation, Te Ture Whenua Māori Bill was expected to be enacted by Parliament in 2017 and becoming effective in October 2018. The Bill proposes to give Māori land owners greater autonomy when making decisions, provide clearer guidance for decision making, better protect land from alienation, improve dispute resolution, and make better use of the Māori Land Court (Te Puni Kōkiri, 2017).

11.2.6 Awareness of obligations and responsibilities of cross lease title and unit title owners

Despite there being a large amount of easily accessible information for the public on unit titles and bodies corporate, there still appears to be a lack of understanding about the obligations of owners and the role of bodies corporate. Organisations including the Ministry of Business, Innovation and Employment's Tenancy Services, Consumer NZ, the Citizens Advice Bureau, and other sources such as books, websites, and the media, all provide information on the responsibilities of being an owner of a unit title and responsibilities of bodies corporate.

Due to the lack of special legislation governing cross lease title properties (unlike unit tiles) there appears to be less information available through formal channels that could help raise the awareness of an owner's responsibilities and duties. One of this study's participants noted that often property buyers don't know what they are getting into when buying a cross lease property, especially when buying at auction, when the sale and due-diligence timeframe is short. As such, some form of information to help owners, and prospective owners, of cross lease titled propertied may be advantageous; even if it is just to raise awareness of the difference between a cross lease title and freehold title. Any sort of mechanism to raise awareness of cross lease titles would need to be generalised, as the terms of each cross lease may be different, with lease specific information being provided by legal professionals as happens currently.

12.0 Recommendations

Strategy and urban planning

Property boundaries and property ownership need to be taken in to greater account when planning for and facilitating redevelopment in existing urban areas' needs. Ways of using the planning system to facilitate better built form outcomes from areas with fragmented land holdings should also be explored.

Urban redevelopment authorities

An urban redevelopment authority for Auckland, with powers under the Public Works Act, as recommended by the Productivity Commission and currently under consideration by the Government could facilitate land and ownership assembly. This may then facilitate effective redevelopment. Support for such an agency should be encouraged, but understanding of how the organisation will operate is important. Duplication with the Auckland Council's existing Pānuku Auckland Development should be minimised. Any potential social implications of using UDAs for commercial gain for private companies from the forced acquisition of land should be minimised.

Raising awareness

Cross lease and unit title owners need to clearly understand their awareness of their obligations, roles, and responsibilities. This is especially true of owners of cross lease properties, where the knowledge gap appears to be the largest.

Conversion of cross lease titles and unit titles to freehold

Adopting the recommendations of the Law Commission and creating an easy way for cross lease titles to be converted to freehold titles would be a way of avoiding cost and other problems for owners of cross lease properties. This would require a law change to override local council planning and infrastructure provision rules.

Flat plans and unit title plans

Changes in the way in which LINZ requires flat plans for cross leases and unit plans for unit titles may make it easier for owners and managers of properties to fulfil their obligations. This would potentially lessen the number of cross lease properties that have defective titles.

Arbitration alternatives for cross lease disputes

Accessing the resources of the Tenancy Tribunal to assist in the resolution of disputes between cross lease owners could be a way to reduce the monetary and time costs associated with disputes. This would only be possible with legislative change.

Further work

This research identifies either a gap or lack of availability of research on the subject of cross leases and other multi-owned property, how they compare to other title types and other forms property ownership, and their legal issues. Further research would add to the dialogue on legislative changes to address some of the identified issues. There appears to be much commentary on cross lease case law, but many observations calling for legal change are often supported by anecdotal evidence and opinion.

13.0 Conclusion

Auckland has a large number of both cross lease titles and unit titles. Their number, location, and nature, especially in areas zoned for higher-density residential under the rules of the Auckland Unitary Plan, will have an impact on urban redevelopment. As dwellings on cross lease titles and unit titles near the end of economic and/or physical life, opportunities for redevelopment will increase, but will the ownership structure of cross lease titles and unit titles arrest these redevelopment opportunities?

These cross lease titles and unit titles are distributed widely across Auckland, across Auckland Unitary Plan zones, range in age, and vary in the numbers of dwellings contained on the properties.

Industry professionals with experience of cross lease titles, unit titles, or both, stated that redevelopment of these properties is limited. The need for unanimous agreement for redevelopment of a cross lease property to take place, or a 75 per cent of voters at a meeting requiring a quorum of 25 per cent of owners and no objections to a designated resolution for unit titles (or an application to the High Court under s339 of the Property Law Act 2007), are key obstacles for land and ownership assembly. The need to assemble property to undertake redevelopment of cross lease title and unit title property can often not be overcome easily, and a mechanism such as an urban development authority may be a way to overcome these constraints.

Participants observed that additional barriers to redevelopment of these properties will arise in the future. Participants also noted the numerous issues that both title types have, and suggested a number of ways in which these could be improved.

While not relating to redevelopment, the interview participants remarked on a number of problems with both cross lease and unit title management; the roles, responsibilities, and expectations; and the cost. Given the large number of cross lease titles in Auckland, and the increasing number of unit titles, a number of these issues may need to be addressed in the near future in order to ensure that these title types remain an effective method of property ownership and management.

While the presence of cross lease titles and unit titles in areas earmarked for intensification under both *The Auckland Plan* and the *Auckland Unitary Plan* may create some impediments for the residential intensification of some areas, it may be take some time to find out whether cross lease titles and unit titles really do arrest redevelopment.

14.0 Glossary

Certificate of Title (CT)	A certificate of title records the legal owners of land and all dealings with the land, like transfers of ownership and mortgages, leases etc., registered under the Land Transfer Act 1952 (or the Unit Titles Act 2010). All certificates of title were converted into 'computer registers' between 1999 and 2002 (Landonline titles conversion), although the terms 'certificate of title' and 'title' are still commonly used. These may also be referred to as 'documents' or 'instruments'. (Land Information New Zealand, 2013)
Deposited plan	Sometimes also known as a 'Title Plan', these are plans recording land transfer subdivisions that have been deposited by the Registrar General of Lands; This could be a simple plan of the property's boundaries, area and dimensions, a detailed survey plan or a combination of both. Plans are identified by a number and a DP prefix such as 'DP 12345'. Most modern land transfers are identified by their position on a specific deposited plan, e.g. Lot 123 DP 4567. (Land Information New Zealand, 2013)
Parcel	A cadastral polygon with a legal description (can also be known as a property, section or lot). Can also be called a 'lot'.
Property	Generally refers to a block of land owned by an individual or business as set out in a Certificate or Certificates of Title. Can also be known as a site, section, lot or parcel.
Title	The land contained on a registered Certificate of Title. A title may contain one or more parcels.

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Photographs

Figures 12, 12, and 14 are sourced from the Auckland Regional Council Policy and Planning Department document archives.

Figure 12: Photograph taken January 2005.

Figure 13: Photograph taken May 2003.

Figure 14: Photograph taken August 2003.

Figures 16, 17, 18, 19, and 20 are the author's own photographs, taken for this project.

Figure 16: Photograph taken November 2016.

Figures 17, 18, 19, and 20: Photographs taken March 2017.

16.0 Appendices

Appendix A Count and proportion of cross lease and unit titles by territorial authority area

Territorial Authority	Total number of titles	Number of cross lease titles	Number of unit titles	Total number of cross lease and unit titles	Proportion of total titles that are cross lease	Proportion of total titles that are unit	Proportion of total titles that are cross lease or unit
Ashburton District	17,590	1,088	116	1,204	6%	1%	7%
Auckland	559,001	100,148	75,376	175,524	18%	13%	31%
Buller District	9,173	43	51	94	0%	1%	1%
Carterton District	5,426	76	86	162	1%	2%	3%
Central Hawke's Bay District	9,309	93	37	130	1%	0%	1%
Central Otago District	15,517	221	360	581	1%	2%	4%
Chatham Islands Territory	676	2	0	2	0%	0%	0%
Christchurch City	176,179	32,566	12,378	44,944	18%	7%	26%
Clutha District	16,677	140	55	195	1%	0%	1%
Dunedin City	59,494	2,951	2,226	5,177	5%	4%	9%
Far North District	46,284	1,099	892	1,991	2%	2%	4%
Gisborne District	25,463	639	492	1,131	3%	2%	4%
Gore District	8,094	264	55	319	3%	1%	4%
Grey District	10,616	108	43	151	1%	0%	1%
Hamilton City	60,085	8,191	5,669	13,860	14%	9%	23%
Hastings District	35,538	1,905	254	2,159	5%	1%	6%
Hauraki District	12,103	267	71	338	2%	1%	3%
Horowhenua District	19,201	438	172	610	2%	1%	3%
Hurunui District	9,416	124	221	345	1%	2%	4%
Invercargill City	26,861	2,052	110	2,162	8%	0%	8%
Kaikoura District	3,353	72	79	151	2%	2%	5%
Kaipara District	17,909	178	21	199	1%	0%	1%
Kapiti Coast District	26,098	3,006	676	3,682	12%	3%	14%
Kawerau District	2,955	114	84	198	4%	3%	7%
Lower Hutt City	41,847	4,799	1,959	6,758	11%	5%	16%

Territorial Authority	Total number of titles	Number of cross lease titles	Number of unit titles	Total number of cross lease and unit titles	Proportion of total titles that are cross lease	Proportion of total titles that are unit	Proportion of total titles that are cross lease or unit
Mackenzie District	5,022	42	229	271	1%	5%	5%
Manawatu District	16,668	332	11	343	2%	0%	2%
Marlborough District	28,931	2,321	574	2,895	8%	2%	10%
Masterton District	14,176	510	106	616	4%	1%	4%
Matamata-Piako District	16,121	630	261	891	4%	2%	6%
Napier City	28,669	1,890	1,143	3,033	7%	4%	11%
Nelson City	25,424	1,788	860	2,648	7%	3%	10%
New Plymouth District	38,591	2,651	649	3,300	7%	2%	9%
Opotiki District	6,078	324	50	374	5%	1%	6%
Otorohanga District	6,482	50	21	71	1%	0%	1%
Palmerston North City	34,300	2,063	911	2,974	6%	3%	9%
Porirua City	19,122	908	417	1,325	5%	2%	7%
Queenstown-Lakes District	31,360	240	6,566	6,806	1%	21%	22%
Rangitikei District	11,031	127	58	185	1%	1%	2%
Rotorua District	31,543	4,321	895	5,216	14%	3%	17%
Ruapehu District	11,575	224	136	360	2%	1%	3%
Selwyn District	26,828	260	192	452	1%	1%	2%
South Taranaki District	18,277	59	35	94	0%	0%	1%
South Waikato District	10,709	236	40	276	2%	0%	3%
South Wairarapa District	7,549	66	21	87	1%	0%	1%
Southland District	26,455	175	27	202	1%	0%	1%
Stratford District	6,115	153	14	167	3%	0%	3%
Tararua District	14,933	55	24	79	0%	0%	1%
Tasman District	28,659	312	129	441	1%	0%	2%
Taupo District	31,049	3,265	976	4,241	11%	3%	14%
Tauranga City	59,645	9,372	3,465	12,837	16%	6%	22%
Thames-Coromandel District	29,436	1,503	950	2,453	5%	3%	8%

Territorial Authority	Total number of titles	Number of cross lease titles	Number of unit titles	Total number of cross lease and unit titles	Proportion of total titles that are cross lease	Proportion of total titles that are unit	Proportion of total titles that are cross lease or unit
Timaru District	24,938	1,621	397	2,018	7%	2%	8%
Upper Hutt City	17,379	2,270	377	2,647	13%	2%	15%
Waikato District	33,928	747	360	1,107	2%	1%	3%
Waimakariri District	27,764	1,907	387	2,294	7%	1%	8%
Waimate District	5,849	100	36	136	2%	1%	2%
Waipa District	23,019	1,753	394	2,147	8%	2%	9%
Wairoa District	7,801	34	0	34	0%	0%	0%
Waitaki District	16,633	379	48	427	2%	0%	3%
Waitomo District	7,548	92	2	94	1%	0%	1%
Wanganui District	23,151	1,603	747	2,350	7%	3%	10%
Wellington City	82,260	4,999	18,453	23,452	6%	22%	29%
Western Bay of Plenty District	23,840	829	226	1,055	3%	1%	4%
Westland District	8,144	66	63	129	1%	1%	2%
Whakatane District	17,578	1,470	340	1,810	8%	2%	10%
Whangarei District	45,387	3,627	1,053	4,680	8%	2%	10%
Area Outside Territorial Authority	140	0	0	0	0%	0%	0%
Total New Zealand	**2,164,972**	**215,958**	**143,126**	**359,084**	**10%**	**7%**	**17%**

Appendix B Count and proportion of parcels associated with cross lease and unit titles by territorial authority area

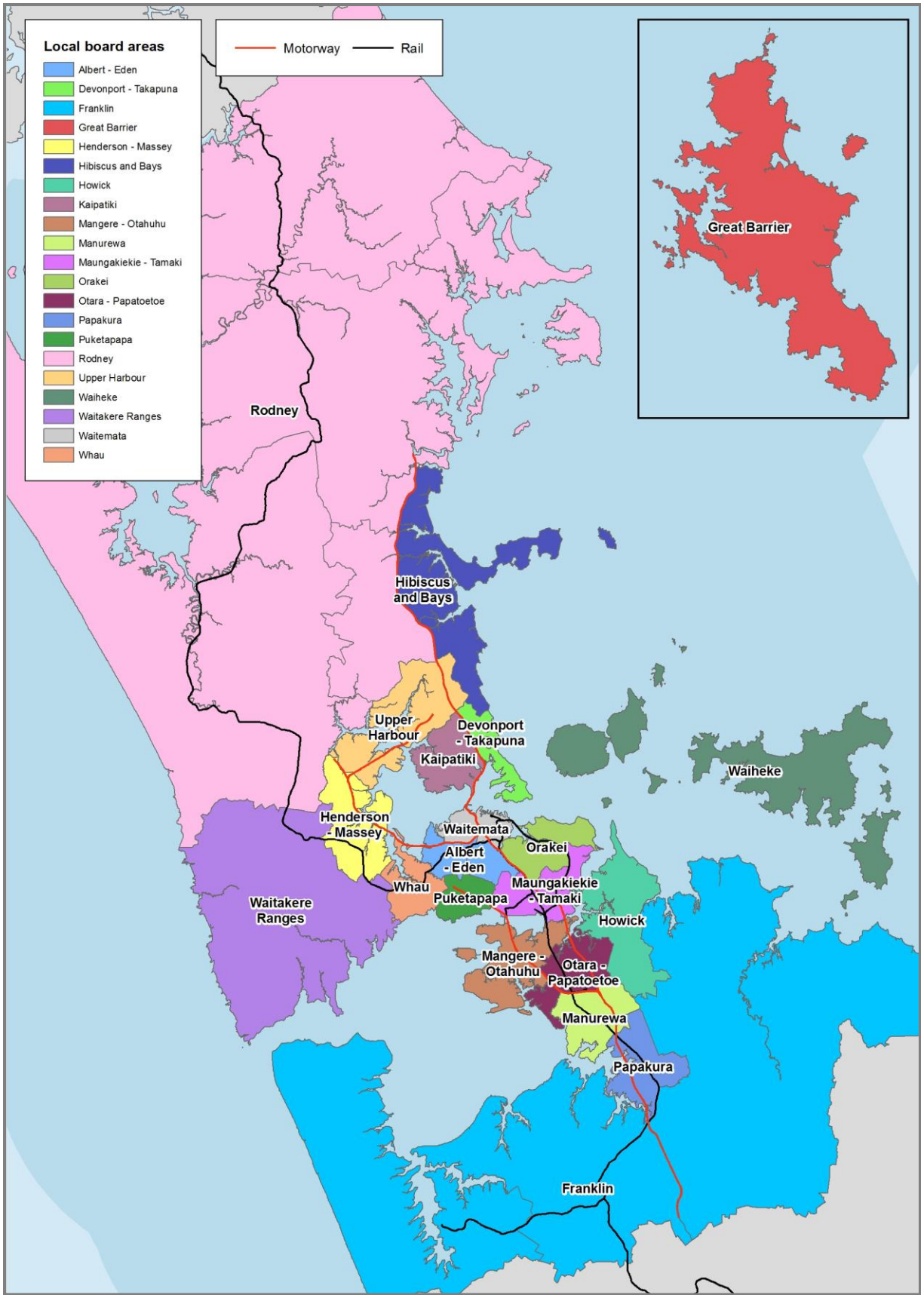
Territorial Authority	Total number of parcels	Number of parcels associated cross lease titles	Number of parcels associated with unit titles	Total number parcels associated with cross lease and unit titles	Proportion of total parcels that are that are associated with cross lease titles	Proportion of total parcels that are that are associated with unit titles	Proportion of total parcels that are that are associated with cross lease and unit titles
Ashburton District	21,569	453	15	468	2%	0%	2%
Auckland	454,613	42,889	7,362	50,251	9%	2%	11%
Buller District	14,108	22	4	26	0%	0%	0%
Carterton District	6,608	39	3	42	1%	0%	1%
Central Hawke's Bay District	11,952	41	2	43	0%	0%	0%
Central Otago District	21,595	95	124	219	0%	1%	1%
Chatham Islands Territory	959	1	0	1	0%	0%	0%
Christchurch City	156,460	13,924	2,009	15,933	9%	1%	10%
Clutha District	32,935	58	8	66	0%	0%	0%
Dunedin City	73,291	1,380	488	1,868	2%	1%	3%
Far North District	50,704	507	150	657	1%	0%	1%
Gisborne District	31,045	277	34	311	1%	0%	1%
Gore District	10,536	108	10	118	1%	0%	1%
Grey District	14,210	49	6	55	0%	0%	0%
Hamilton City	51,594	3,862	940	4,802	7%	2%	9%
Hastings District	36,585	867	34	901	2%	0%	2%
Hauraki District	16,044	134	11	145	1%	0%	1%
Horowhenua District	21,131	188	16	204	1%	0%	1%
Hurunui District	13,876	63	18	81	0%	0%	1%
Invercargill City	28,754	779	13	792	3%	0%	3%
Kaikoura District	4,331	33	5	38	1%	0%	1%
Kaipara District	22,707	79	7	86	0%	0%	0%
Kapiti Coast District	24,883	1,527	83	1,610	6%	0%	6%

Territorial Authority	Total number of parcels	Number of parcels associated cross lease titles	Number of parcels associated with unit titles	Total number parcels associated with cross lease and unit titles	Proportion of total parcels that are that are associated with cross lease titles	Proportion of total parcels that are that are associated with unit titles	Proportion of total parcels that are that are associated with cross lease and unit titles
Kawerau District	2,961	46	3	49	2%	0%	2%
Lower Hutt City	39,308	2,318	361	2,679	6%	1%	7%
Mackenzie District	6,440	21	6	27	0%	0%	0%
Manawatu District	22,128	139	3	142	1%	0%	1%
Marlborough District	34,366	1,051	92	1,143	3%	0%	3%
Masterton District	16,883	221	10	231	1%	0%	1%
Matamata-Piako District	18,449	287	28	315	2%	0%	2%
Napier City	24,691	882	80	962	4%	0%	4%
Nelson City	22,300	855	66	921	4%	0%	4%
New Plymouth District	40,339	1,118	99	1,217	3%	0%	3%
Opotiki District	7,824	152	5	157	2%	0%	2%
Otorohanga District	9,188	27	4	31	0%	0%	0%
Palmerston North City	35,585	845	153	998	2%	0%	3%
Porirua City	19,317	384	91	475	2%	0%	2%
Queenstown-Lakes District	24,239	109	939	1,048	0%	4%	4%
Rangitikei District	15,176	55	20	75	0%	0%	0%
Rotorua District	30,775	2,036	81	2,117	7%	0%	7%
Ruapehu District	16,277	89	18	107	1%	0%	1%
Selwyn District	31,213	126	16	142	0%	0%	0%
South Taranaki District	23,044	23	7	30	0%	0%	0%
South Waikato District	12,992	103	21	124	1%	0%	1%
South Wairarapa District	9,906	33	2	35	0%	0%	0%
Southland District	44,160	68	4	72	0%	0%	0%
Stratford District	8,470	63	4	67	1%	0%	1%
Tararua District	21,033	29	8	37	0%	0%	0%
Tasman District	35,766	165	20	185	0%	0%	1%

Territorial Authority	Total number of parcels	Number of parcels associated cross lease titles	Number of parcels associated with unit titles	Total number parcels associated with cross lease and unit titles	Proportion of total parcels that are that are associated with cross lease titles	Proportion of total parcels that are that are associated with unit titles	Proportion of total parcels that are that are associated with cross lease and unit titles
Taupo District	24,006	1,636	112	1,748	7%	0%	7%
Tauranga City	49,242	4,371	320	4,691	9%	1%	10%
Thames-Coromandel District	33,096	750	92	842	2%	0%	3%
Timaru District	28,786	656	139	795	2%	0%	3%
Upper Hutt City	16,390	948	70	1,018	6%	0%	6%
Waikato District	40,753	374	20	394	1%	0%	1%
Waimakariri District	29,754	891	40	931	3%	0%	3%
Waimate District	8,418	49	5	54	1%	0%	1%
Waipa District	25,275	820	52	872	3%	0%	3%
Wairoa District	10,040	13	0	13	0%	0%	0%
Waitaki District	25,926	149	12	161	1%	0%	1%
Waitomo District	10,619	48	2	50	0%	0%	0%
Wanganui District	25,390	696	170	866	3%	1%	3%
Wellington City	65,629	2,338	1,917	4,255	4%	3%	6%
Western Bay of Plenty District	26,903	408	21	429	2%	0%	2%
Westland District	13,180	30	3	33	0%	0%	0%
Whakatane District	19,465	712	59	771	4%	0%	4%
Whangarei District	48,770	1,494	176	1,670	3%	0%	3%
Area Outside Territorial Authority	487	0	0	0	0%	0%	0%
Total New Zealand	**2,195,449**	**95,003**	**16,693**	**111,696**	**4%**	**1%**	**5%**

Appendix C Map of local board boundaries

Figure 55: Map of Auckland's local board areas



Appendix D Count and proportion of cross lease and unit titles by Auckland Council local board area

Territorial Authority	Total number of titles	Number of cross lease titles	Number of unit titles	Total number of cross lease and unit titles	Proportion of total titles that are cross lease	Proportion of total titles that are unit	Proportion of total titles that are cross lease or unit
Albert - Eden	34,455	9,530	4,899	14,429	28%	14%	42%
Devonport - Takapuna	22,477	8,045	2,441	10,486	36%	11%	47%
Franklin	29,670	1,328	402	1,730	4%	1%	6%
Great Barrier	1,535	4	0	4	0%	0%	0%
Henderson - Massey	37,495	5,213	2,355	7,568	14%	6%	20%
Hibiscus and Bays	39,467	8,398	3,502	11,900	21%	9%	30%
Howick	45,965	8,306	3,522	11,828	18%	8%	26%
Kaipātiki	30,693	9,825	2,681	12,506	32%	9%	41%
Mangere - Otahuhu	19,124	2,351	1,195	3,546	12%	6%	19%
Manurewa	23,928	4,031	697	4,728	17%	3%	20%
Maungakiekie - Tamaki	28,210	7,718	4,020	11,738	27%	14%	42%
Ōrākei	32,614	10,585	3,391	13,976	32%	10%	43%
Otara - Papatoetoe	21,621	4,871	2,310	7,181	23%	11%	33%
Papakura	18,454	3,072	895	3,967	17%	5%	21%
Puketāpapa	17,448	5,439	823	6,262	31%	5%	36%
Rodney	30,644	910	338	1,248	3%	1%	4%
Upper Harbour	21,904	1,061	4,115	5,176	5%	19%	24%
Waiheke	6,890	142	189	331	2%	3%	5%
Waitakere Ranges	18,952	1,540	520	2,060	8%	3%	11%
Waitematā	52,202	2,286	34,508	36,794	4%	66%	70%
Whau	25,253	5,493	2,573	8,066	22%	10%	32%
Total Auckland	**559,001**	**100,148**	**75,376**	**175,524**	**18%**	**13%**	**31%**

Appendix E Count and proportion of parcels associated with cross lease and unit titles by Auckland Council local board area

Territorial Authority	Total number of parcels	Number of parcels associated cross lease titles	Number of parcels associated with unit titles	Total number parcels associated with cross lease and unit titles	Proportion of total parcels that are that are associated with cross lease titles	Proportion of total parcels that are that are associated with unit titles	Proportion of total parcels that are that are associated with cross lease and unit titles
Albert - Eden	24,935	3,413	590	4,003	14%	2%	16%
Devonport - Takapuna	16,462	3,486	429	3,915	21%	3%	24%
Franklin	31,992	568	62	630	2%	0%	2%
Great Barrier	1,954	4	0	4	0%	0%	0%
Henderson - Massey	33,900	2,421	341	2,762	7%	1%	8%
Hibiscus and Bays	33,185	4,084	547	4,631	12%	2%	14%
Howick	39,776	4,037	654	4,691	10%	2%	12%
Kaipātiki	23,627	4,547	535	5,082	19%	2%	22%
Mangere - Otahuhu	17,195	890	193	1,083	5%	1%	6%
Manurewa	21,929	1,843	136	1,979	8%	1%	9%
Maungakiekie - Tamaki	20,213	2,818	534	3,352	14%	3%	17%
Ōrākei	23,476	4,213	695	4,908	18%	3%	21%
Otara - Papatoetoe	17,160	1,926	293	2,219	11%	2%	13%
Papakura	16,933	1,370	264	1,634	8%	2%	10%
Puketāpapa	14,287	2,529	167	2,696	18%	1%	19%
Rodney	34,641	440	53	493	1%	0%	1%
Upper Harbour	18,754	533	399	932	3%	2%	5%
Waiheke	7,182	61	23	84	1%	0%	1%
Waitakere Ranges	19,586	717	75	792	4%	0%	4%
Waitematā	16,933	830	1,089	1,919	5%	6%	11%
Whau	20,492	2,160	334	2,494	11%	2%	12%
Total Auckland	**454,612**	**42,890**	**7,413**	**50,303**	**9%**	**2%**	**11%**

Appendix F Count of parcels associated with cross lease titles or unit titles, by Auckland Unitary Plan (decisions version) zone

Auckland Unitary Plan (decisions version) zone	Count of parcels associated with cross lease titles	Count of parcels associated with unit lease titles
Business Park	0	10
City Centre	2	381
Countryside Living	5	1
Future Urban	4	1
General Business	3	158
Hauraki Gulf Islands	65	23
Healthcare Facility	0	3
Heavy Industry	19	165
Large Lot	45	2
Light Industry	102	1,013
Local Centre	52	96
Major Recreation Facility	2	0
Māori Purpose	7	0
Marina	0	2
Metropolitan Centre	1	130
Mixed Housing Suburban	21,678	1,837
Mixed Housing Urban	11,138	1,113
Mixed Use	431	635
Neighbourhood Centre	47	123
Public Open Space - Conservation	4	0
Public Open Space - Informal Recreation	6	1
Public Open Space - Sport and Active Recreation	5	0
Road	5	1
Rural and Coastal settlement	38	3
Rural Coastal	5	4
Rural Conservation	1	0
Rural Production	5	0

Auckland Unitary Plan (decisions version) zone	Count of parcels associated with cross lease titles	Count of parcels associated with unit lease titles
School	6	1
Single House	5,056	538
Strategic Transport Corridor	9	2
Terrace Housing and Apartment Buildings	4,059	809
Town Centre	82	308
Waitakere Ranges	5	1
Waitakere Ranges Foothills	2	1
Total	**42,889**	**7,362**

Appendix G Count of cross lease and unit titles by Auckland Unitary Plan (decisions version) zone

Auckland Unitary Plan (decisions version) zone	Count of cross lease titles	Count of unit lease titles
Business Park	0	65
City Centre	5	24,009
Countryside Living	9	1
Future Urban	9	22
General Business	8	1,017
Hauraki Gulf Islands	146	189
Healthcare Facility	0	146
Heavy Industry	70	848
Large Lot	84	8
Light Industry	330	6,138
Local Centre	108	814
Major Recreation Facility	7	0
Māori Purpose	14	0
Marina	0	18
Metropolitan Centre	5	3,693
Mixed Housing Suburban	48,359	7,493
Mixed Housing Urban	27,010	6,956
Mixed Use	1,291	9,634
Neighbourhood Centre	97	580
Public Open Space - Conservation	8	0
Public Open Space - Informal Recreation	10	0
Public Open Space - Sport and Active Recreation	10	0
Road	8	0
Rural and Coastal settlement	63	16
Rural Coastal	7	4
Rural Conservation	2	0
Rural Production	10	0
School	17	0
Single House	11,216	2,658

Auckland Unitary Plan (decisions version) zone	Count of cross lease titles	Count of unit lease titles
Strategic Transport Corridor	38	3
Terrace Housing and Apartment Buildings	10,970	8,520
Town Centre	232	2,539
Waitakere Ranges	4	3
Waitakere Ranges Foothills	1	2
Total	**100,148**	**75,376**

Appendix H Participant information sheet

INFORMATION SHEET FOR PARTICIPANTS

Project: Cross Lease and Unit Title Study

Principal researcher: Craig Fredrickson

What is the aim of the research?

Auckland is a growing city, and will have an influx of new residents over the coming decades. Unit and cross lease titles are prevalent across much of Auckland's urban area, with many being in zones that have been identified for higher dwellings densities under the recently completed Auckland Unitary Plan. This study investigates whether unit titles and cross leases could impact residential redevelopment in these zones through undertaking data analysis and interviews with people that have been involved in the redevelopment of cross lease and unit titles properties in the past. It is hoped that through this research we can gain an understanding of people's experiences and potentially identify problems and solutions for difficulties identified.

Who is being interviewed?

We hope to interview a number of people who have been involved in any aspect of the redevelopment of properties that either had cross leases or unit titles on them; these could be developers, planners, lawyers, or property owners.

What will participants be asked to do?

You will have a face to face interview with a researcher from Auckland Council's Research and Evaluation Unit. The interview will take about 30 minutes. If you are unavailable for an interview in person, we are happy to conduct the interview via telephone. You will be asked to describe your experience in the redevelopment of cross lease or unit title properties, and then whether you have any suggestions for how the process could be improved.

With your consent, the interview will be recorded and later transcribed. You may request a copy of the transcript if you wish. If you do not wish to be recorded the interviewer will take notes. During the interview, you may choose not to answer any particular question(s). You may also request the removal of particular parts of the interview, or choose to withdraw from the research entirely, up until a week after the interview.

What uses will be made of the data?

The interviews will be analysed and the results presented in an Auckland Council technical report. Every effort will be made to ensure you are not identifiable in the report or related documents. It is also possible the findings of the research may be used to inform council's strategy and planning processes. The results may also be published in an academic journal or presented at conferences. Electronic interview transcripts and digital recordings will be securely stored and password protected. Any interview records will be retained in secure storage for five years, after which they will be destroyed.

If you have any questions, please feel free to contact me at: craig.fredrickson@aucklandcouncil.govt.nz or on (09) 484 6241 or 021 706 978.

Craig Fredrickson

Research and Evaluation Unit, Auckland Council

This project was approved by Auckland Council's Human Participants Ethics Committee on 22/09/2016, Ref 2016-006.

Appendix I Consent form

Consent Form for Participants

Project name: **Cross Lease and Unit Title Study**

Principal researcher: **Craig Fredrickson**

I have read the Information Sheet for this project and understand the purpose and content of the research. All my questions have been answered to my satisfaction. I understand that I am free to request further information at any stage.

I know that:

1. The interview will focus on the redevelopment of sites with cross lease and unit titles;
2. My participation in the interview is entirely voluntary;
3. My responses will remain confidential:
    a. My recorded responses will be used for analysis by the project team.
    b. My interview will be transcribed by a transcriber who has signed a confidentiality agreement.
    c. The researchers will do their best to make sure I will not be personally identified in any of the resulting publications.
4. I may decline to answer any particular question(s);
5. If I want to see a copy of the transcript of my interview, or if I said something in the interview that I would like changed or removed from the transcript, I will contact the researchers within one week of the interview taking place. A copy of the transcript may be requested from the interviewer at any time;
6. Personal identifying information [such as transcribed interviews and audio files] will be stored securely. All computers used are password protected and electronic information relating to your interview will be stored in a password protected folder that can only be accessed by the project team. Information obtained as part of the interview will be securely stored for at least five years, after which it will be destroyed;
7. The recording of my interview will be de-identified as much as possible. This means that my name and any information that identifies me will be removed from the transcript and any related material, such as reports and presentations. If the researchers are obliged to share the information with others by law they will not keep any information that connects my real name to the pseudonym that will be used.
8. The results of the project will be published as a technical report. In addition, findings may be presented and shared at meetings, conferences and/or published in an academic journal.

I agree to take part in this project: (yes / no)

I agree to have this interview recorded: (yes / no)

I would like a summary of the final research report: (yes / no)

If yes, please provide an email address here:

_____

Reuse of your data

The information you give us will be used for this research project as outlined in the Information Sheet. However, we would also like your permission to re-use your information for other research projects, provided that Auckland Council's ethics committee decides that you can't be identified and the information will help either you or others.

However, if you prefer that your information NOT be made available for any other research project, please tick the following box.

☐ **I do not wish my data to be re-used for any other purpose besides this research project.**

Name of participant .....……

Signature of participant .....Date: …… .

This research has been reviewed and approved by the Auckland Council Human Participants Ethics Committee, Application: 2016-006. If you have any concerns about the conduct of this research please contact the Chair of the committee at hpec@aucklandcouncil.govt.nz.

Appendix K Interview schedule

Interview Schedule

Project name: **Cross Lease and Unit Title Study**

Principal researcher: **Craig Fredrickson**

Date	
Interviewer	
Respondent Name	
Company (if relevant)	

Introduction

This interview is part of a study that council's research unit is undertaking to get a better understanding of how multi-owner properties, such as cross lease and unit titles, effect redevelopment opportunities in Auckland.

Research overseas has shown that there can be barriers to redeveloping properties that have multiple owners. Examples of properties with multiple owners in New Zealand are cross leases and unit titles. With a lot of potential for redevelopment in existing urban areas of the city enabled by the new Auckland Unitary Plan, we are hoping that through data analysis, and interviews such as these, we can gain some insight into the drivers and experiences behind the redevelopment of properties that have multiple owners. We are also interested in how things could be potentially improved to make the redevelopment of cross lease and unit title properties easier in the future.

Before we begin, I need to make sure that you understand the purpose and nature of this research, and that I have your consent to undertake the interview.

<<Go through consent form and request them to sign. If necessary, go through information sheet and answer any questions they have>>

This interview contains 7 questions, some of which require short answers and some which may require further description and/or explanation. I may prompt you for further information depending on your responses. This interview is expected to take approximately 45 minutes.

Please let me know if you have any queries or questions at any stage of the interview. You have the right to choose not to answer any question.

Do you have any further questions?

Section 1: Information about the respondent and/or their company

Q1: In what capacity were you involved in the redevelopment of a property with either a cross lease or unit title on?

Q2: What kind of properties were they – cross lease or unit titles?

If answered yes to both cross lease and unit titles, ask the following questions about their experiences with cross leases and unit titles separately if possible.

Section 2: Redevelopment of property

Q3: Thinking about the redevelopments on properties with either cross lease or unit titles that you have had a role in, can you tell us about how multiple titles and owners of the property affected the project?

Q4: Were there any specific problems or issues that arose because the property had a cross lease or unit title on it?

Q5: Were there any benefits, and if so, what were they, in undertaking redevelopment of properties with cross lease or unit titles on it?

Q6: What do you think could be feasible solutions to enable easier development or redevelopment of properties with cross lease or unit titles?

a. On the part of Council?

b. On the part of the central Government?

c. Any other parties?

Q7: Do you have any other comments you'd like to make?

Q8: We are interested in getting a range of views from people who have been involved in the redevelopment of cross lease or unit title properties. Is there anyone else that you think we should speak to as part of this research?

Thank you for participating in this interview. Once your interview has been transcribed, we will send you a copy of your interview transcript to look over. After you have received the transcript, you will have a week to review it and request any changes to it, or withdraw your involvement in this study.

This research has been reviewed and approved by the Auckland Council Human Participants Ethics Committee, Application: 2016-006. If you have any concerns about the conduct of this research please contact the Chair of the committee at hpec@aucklandcouncil.govt.nz.

Find out more: phone 09 301 0101, email rimu@aucklandcouncil.govt.nz or visit aucklandcouncil.govt.nz **and knowledgeauckland.org.nz**

Auckland Council
Te Kaunihera o Tāmaki Makaurau