



SURVEY AND SPATIAL NEW ZEALAND

17 June 2021

NEW ZEALAND CADASTRAL LAW EXAM

WRITTEN EXAMINATION

**CANDIDATES ARE REQUIRED TO ANSWER QUESTION 1
AND ANY OTHER FOUR (4) OF QUESTIONS 2 TO 6.**

THE EXAM IS WORTH A TOTAL OF 100 MARKS.

THE MINIMUM PASS MARK IS 60 (60%).

All questions are worth twenty (20) marks each.

Should all questions be attempted, Question 1 and only the first 4 questions in the order they appear will be marked, unless it is clearly indicated that any particular attempted answer should not be marked.

A maximum of two (2) hours is allowed to complete the exam.

Question 1 – COMPULSORY

Rules for Cadastral Survey 2010, Surveyor-General's Rulings, & Standard for Lodgement of Cadastral Survey Datasets 2013 (Lodgement Standard)

Total 20 marks

- 1a. What is the definition of a “vector”, as defined in the Rules for Cadastral Survey 2010 Terms and Definitions? (1 mark)

“a bearing and distance between two points”.

- 1b. What is the definition of “official geodetic projection”, as defined in the Rules for Cadastral Survey 2010 Terms and Definitions? (1 mark)

“a projection in terms of an official geodetic datum approved by the Surveyor-General for use in a specific area and in force at the time of the survey”.

- 1c. Rule 6.1 Rules for Cadastral Survey 2010 lists three duties of a surveyor when defining a boundary by survey. What are these three duties? (3 marks)

- (a) **gather all evidence** relevant to the definition of the boundary and its boundary points, (1 mark)
(b) **interpret that evidence** in accordance with all relevant enactments and rules of law, and (1 mark)
(c) **use that evidence** to determine the correct position of the boundary and the boundary points in relation to other boundaries and boundary points. (1 mark)

- 1d. Rule 6.5(a) Rules for Cadastral Survey 2010 requires a parcel boundary to be defined in its horizontal extent by one of five types of boundary. List four of these types of boundaries. (2 marks)

- (i) a right-line boundary.
(ii) an arc boundary.
(iii) a water boundary.
(iv) an irregular boundary.
(v) a permanent structure boundary. (½ mark each)

- 1e. Rule 7.2(a) Rules for Cadastral Survey 2010 deals with new boundary marks and lists four mark types that are acceptable. List the four acceptable mark types? (2 marks)

- (i) a wooden peg, chamfered at the top, with a minimum width of 45 mm and at least 3000 mm² in cross section, or (½ mark)
(ii) a post, or (½ mark)
(iii) any other type of peg that is clearly labelled as boundary mark, or (½ mark)
(iv) if (i), (ii) and (iii) are impractical, any other type of mark which must, if practical, be clearly labelled as a boundary mark. (½ mark)

1f. Rule 7.3.3(b) Rules for Cadastral Survey 2010 details the requirements relating to Witness marks which must be in a different position to the new boundary point. List the three requirements for a witness mark so that it can be reasonably expected to survive and remain useable. Also state how long a witness mark can be reasonably expected to survive and remain useable. (2 marks)

(b) A witness mark must be in a different position to the boundary point it is witnessing, and be:

- (i) made of sufficiently **durable material**, (½ mark)
- (ii) set in sufficiently **stable material**, and (½ mark)
- (iii) located in a **suitable position**, (½ mark)

so that it can be reasonably expected to survive and remain useable for at **least 10 years**. (½ mark)

1g. What vector information must a CSD Plan include to be able to satisfy Rule 9.3 Rules for Cadastral Survey 2010? (3 marks)

- (a) the **source CSD type and number** for each adopted vector, distance, bearing and arc in the CSD, (1 mark)
- (b) any **bearing adjustments applied** to each CSD from which a bearing was adopted in the CSD, and (1 mark)
- (c) information identifying whether every bearing, distance and arc included in the CSD Plan has been **calculated, measured, or adopted**. (1 mark)

1h. Rule 11.2 Rules for Cadastral Survey 2010 states that a cadastral survey for a monumentation CSD is exempt from compliance with certain rules. List four of the rules that a monumentation CSD is not required to comply with. (2 marks)

The cadastral survey for a monumentation CSD is not required to comply with the following rules:

- (a) 4.1(a), Horizontal datum – orientation, (½ mark)
- (b) 4.2, Horizontal datum – connection, (½ mark)
- (c) 7.3, Witnessing of boundary points, (½ mark)
- (d) 7.4, Permanent marks, (½ mark)
- (e) 8.1(a), (d) and (e), Content of a CSD, and (½ mark)
- (f) 8.2, Survey Report (½ mark)

1i. The retention of field information is covered in Rule 14 Rules for Cadastral Survey 2010. State how the retention of field information must be undertaken. (2 marks)

All relevant field information must either:

- (a) be **included in the CSD** to which it relates, provided that it is in a form that **ensures permanent usability**, or (1 mark)
- (b) be **retained for a period of at least seven years from certification** and made available to the Surveyor-General or the Chief Executive on request. (1 mark)

1j. Rule 2(a) Standard for Lodgement of Cadastral Survey Datasets 2013 sets out the two intended users of this standard. Who are these two users, and for what purpose is it used? (2 marks)

- (i) **licensed cadastral surveyors when lodging CSDs with LINZ for approval as to survey, (1 mark)**
- (ii) **LINZ staff when approving CSDs for integration into the cadastre (1 mark)**

Question 2

Parts 1, 2, 4, 5 and 6 and Schedule 2 Cadastral Survey Act 2002

Total 20 marks

- 2a. For the purposes of the Cadastral Survey Act 2002, what is the meaning of “cadastre”, as specified in Section 4 of that Act? (1 mark)

Cadastre means all the cadastral survey data (½ mark) held by or for the Crown and Crown Agencies (½ mark)

- 2b. Section 7 Cadastral Survey Act 2002 deals with functions and duties of the Surveyor-General. In exercising his or her functions under subsection (2), the Surveyor-General must have regard to four matters. What are they? (4 marks)

- (a) **the risks to the Crown and owners of interests in land of inaccuracies in cadastral surveys; and (1 mark)**
- (b) **the efficiency and effectiveness of measures to manage risks to the accuracy of cadastral surveys; and (1 mark)**
- (c) **the efficiency with which the costs and benefits of those measures will be allocated among the Crown, cadastral surveyors, current and future owners of land, and other parties; and (1 mark)**
- (d) **the use of cadastral survey data for purposes other than cadastral surveys. (1 mark)**

- 2c. Section 11(1) Cadastral Survey Act 2002 deals with the functions and duties of the Cadastral Surveyors Licensing Board. List six of the seven functions and duties of the Board. (3 marks)

- (a) **to maintain a register of cadastral surveyors licensed under this Act: (½ mark)**
- (b) **to receive applications for licences under this Act as cadastral surveyors and to issue licences in proper cases: (½ mark)**
- (c) **to set fees for the issue and renewal of licences under this Act: (½ mark)**
- (d) **to issue and update standards that persons applying for licences, or the renewal of licences, under this Act must meet: (½ mark)**
- (e) **to investigate complaints about cadastral surveyors and take disciplinary action in appropriate cases under this Act: (½ mark)**
- (f) **to provide statistical information to the Minister about cadastral surveyors as requested by the Minister: (½ mark)**
- (g) **to perform any other functions or duties conferred on it by this Act or any other enactment. (½ mark)**

- 2d. If the Cadastral Surveyors Licensing Board, after conducting a hearing in accordance with Part 4 of this Act, is satisfied that a licensed cadastral surveyor has been guilty of professional misconduct, the Board may order an appropriate course of disciplinary action. Section 39(2) Cadastral Survey Act 2002 lists three types of orders that can be imposed on a licensed cadastral surveyor. What can the Cadastral Surveyors Licensing Board order? (3 marks)

- (a) order that the cadastral surveyor's licence be cancelled and the name of the cadastral surveyor be removed from the register: (1 mark)
- (b) order that the cadastral surveyor's licence, and his or her entitlement to obtain a renewal of the licence, be suspended for a period not exceeding 3 years: (1 mark)
- (c) order that the cadastral surveyor may, for a period not exceeding 3 years, practice but only subject to any conditions as to employment, supervision, relevant training or education, or otherwise that the Board may specify in the order. (1 mark)

2e. If an error is found in a cadastral survey dataset affecting any title under the Land Transfer Act 2017 or any title or tenure under any other Act, Section 52(1) Cadastral Survey Act 2002 allows the Surveyor-General to require a remedy. What may the Surveyor-General require in the event that an error has been found? (2 marks)

If an error is found in a cadastral survey dataset affecting any title under the Land Transfer Act 2017 or any title or tenure under any other Act, the Surveyor-General may, in **writing** (½ mark), require the cadastral surveyor responsible for the error to **undertake, or arrange to be undertaken** (½ mark), the work necessary to **correct the error within a time that the Surveyor-General considers reasonable** (1 mark).

2f. An infringement offence, as defined under Section 59 Cadastral Survey Act 2002, is an offence under any of Sections 54 to 57 Cadastral Survey Act 2002. List the four types of offences under these sections. (2 marks)

Section 54 – Obstruction of cadastral surveyor. (½ mark)

Section 55 – Interference with survey marks. (½ mark)

Section 56 – False cadastral survey marks. (½ mark)

Section 57 - Unlicensed persons not to act as licensed cadastral surveyors. (½ mark)

2g. The offence of placing false cadastral survey marks is dealt with under Section 56 Cadastral Survey Act 2002. What are the criteria set out in this section that determines the placement of a peg or mark to be an offence? (2 marks)

(a) that is **not a cadastral survey mark properly placed**; and (1 mark)

(b) with the **intention of causing any person to believe that it is a cadastral survey mark** placed in that position for the purposes of a cadastral survey. (1 mark)

2h. Section 58 Cadastral Survey Act 2002 deals with offences relating to terms implying that a person is a licensed cadastral surveyor and is therefore liable on conviction to be fined. List the three situations that this applies to. (3 marks)

(a) not being a licensed cadastral surveyor, uses, or causes or permits to be used, written words, titles, or initials, or an abbreviation of words, title, or initials, that are intended to cause or may reasonably cause a person to believe that the person using them is a licensed cadastral surveyor or is qualified to act as a licensed cadastral surveyor: (1 mark)

(b) knowing that another person is not licensed under this Act, and with the intent to deceive, makes a statement or does an act calculated to suggest that the other person is a cadastral surveyor or is licensed under this Act; or (1 mark)

(c) with intent to deceive, makes use of a licence issued to him or her or to another person under this Act. (1 mark)

Question 3

Parts 2, 3, 6 and 10 and Schedule 4 Resource Management Act 1991

Total 20 marks

- 3a. In achieving the purpose of this Act, Section 6 Resource Management Act 1991 states that all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognize and provide for matters of national importance. List the eight matters of national importance that needs to be considered. (4 marks)
- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development: (½ mark)
 - (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development: (½ mark)
 - (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna: (½ mark)
 - (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers: (½ mark)
 - (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga: (½ mark)
 - (f) the protection of historic heritage from inappropriate subdivision, use and development: (½ mark)
 - (g) the protection of protected customary rights: (½ mark)
 - (h) the management of significant risks from natural hazards. (½ mark)
- 3b. Under Section 11(1)(a) Resource Management Act 1991, no person may subdivide land within the meaning of Section 218 of that Act unless the subdivision meets certain criteria. What are these criteria? (2 marks)
- (a) first, expressly **allowed by a national environmental standard** (½ mark), a **rule in a district plan as well as a rule in a proposed district plan** (½ mark) for the same district (if there is one), or a **resource consent** (½ mark); and second, is shown on one of the following:
- (i) a **survey plan**, as defined in paragraph (a)(i) of the definition of survey plan in section 2(1), **deposited under Part 10 by the Registrar-General of Land**; or (½ mark)
 - (ii) a **survey plan**, as defined in paragraph (a)(ii) of the definition of survey plan in section 2(1), **approved as described in section 228 by the Chief Surveyor**; or (½ mark)
 - (iii) a survey plan, as defined in paragraph (b) of the definition of survey plan in section 2(1), deposited under Part 10 by the Registrar-General of Land; or
- 3c. In certain circumstances, as specified in Section 106(1) Resource Management Act 1991, the consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions. What are the two circumstances stated in that subsection that could result in a subdivision consent not being granted? (2 marks)
- (a) there is a significant risk from **natural hazards**; or (1 mark)

(b) sufficient provision has not been made for **legal and physical access to each allotment** to be created by the subdivision. (1 mark)

3d. In Section 218(1) Resource Management Act 1991, the term “subdivision of land” is defined as meaning the division of an allotment in any one of five ways. List four of them. (4 marks)

In this Act, the term **subdivision of land** means—

(a) the division of an allotment—

- (i) by an **application to the Registrar-General of Land for the issue of a separate record of title for any part of the allotment**; or (1 mark)
- (ii) by the **disposition** by way of sale or offer for sale **of the fee simple to part of the allotment**; or (1 mark)
- (iii) by a **lease of part of the allotment** which, including renewals, is or could be **for a term of more than 35 years**; or (1 mark)
- (iv) by the **grant of a company lease or cross lease** in respect of any part of the allotment; or (1 mark)
- (v) by the **deposit of a unit plan**, or an application to the Registrar-General of Land for the issue of a separate record of title for any part of a unit on a unit plan; or (1 mark)

3e. Esplanade strips are created under Section 232 Resource Management Act 1991. State the six requirements of subsection (2) for an instrument creating an esplanade strip. (3 marks)

- (a) be in accordance with Schedule 10; and (½ mark)
- (b) be in a prescribed form; and (½ mark)
- (c) be created in favour of the territorial authority; and (½ mark)
- (d) create an interest in land, and may be registered under the Land Transfer Act 1952; and (½ mark)
- (e) when registered with the Registrar-General of Land, run with and bind the land that is subject to the instrument; and (½ mark)
- (f) bind every mortgagee or other person having an interest in the land, without that person’s consent. (½ mark)

3f. Esplanade reserves to vest on subdivision are dealt with under Section 231 Resource Management Act 1991. State the status of esplanade reserves and who shall administer them. (2 marks)

(1) An esplanade reserve required under section 230 or section 236—

- (a) shall be **set aside as a local purpose reserve** for esplanade purposes under the Reserves Act 1977; and (1 mark)
- (b) shall vest in and be **administered by the territorial authority**. (1 mark)

3g. Section 4 within Schedule 4 Resource Management Act 1991 deals with additional information that is required to be included in applications for subdivision consent. List six of these matters that are specifically required. (3 marks)

(a) the position of all new boundaries: (½ mark)

- (b) the areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan: (½ mark)
- (c) the locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips: (½ mark)
- (d) the locations and areas of any existing esplanade reserves, esplanade strips, and access strips: (½ mark)
- (e) the locations and areas of any part of the bed of a river or lake to be vested in a territorial authority under section 237A: (½ mark)
- (f) the locations and areas of any land within the coastal marine area (which is to become part of the common marine and coastal area under section 237A): (½ mark)
- (g) the locations and areas of land to be set aside as new roads. (½ mark)

Question 4

Part 1, Subparts 1 to 11 of Part 2 and Schedule 1 Unit Titles Act 2010

Total 20 marks

- 4a. List the meanings of the following terms provided in Section 5(1) Unit Titles Act 2010 for
- (a) Accessory unit
 - (b) Common property
 - (c) Future development unit
- (3 marks)

Accessory unit means **a unit that is designed for use with any principal unit** (including, without limitation, a garden, garage, car parking space, storage space, swimming pool, laundry, stairway, or passage) and that is shown on a unit plan as an accessory unit. (1 mark)

Common property means—

- (a) all the land and associated fixtures that are part of the unit title development but are **not contained in a principal unit, accessory unit, or future development unit;** and (1 mark)
- (b) in the case of a subsidiary unit title development, means that part of the principal unit subdivided to create the subsidiary unit title development that is not contained in a principal unit, accessory unit, or future development unit.

Future development unit, in relation to a subdivision of land or a principal unit into units in stages, means **a unit that is proposed to be developed or subdivided into 1 or more principal units** (with or without accessory units or common property) **at a later stage of the development,** and that is shown on a stage unit plan as a future development unit. (1 mark)

- 4b. Section 8(1) Unit Titles Act 2010 lists four meanings of redevelopment of a unit title development. What are these four meanings? (4 marks)

In this Act, redevelopment means—

- (a) **the subdivision** by sale, transfer, or partition into 2 or more new units (whether or not any new unit is on the same level as any other new unit) of— (½ mark)
 - (i) **a unit or units** shown on a deposited unit plan; or (½ mark)
 - (ii) a unit or units shown on a deposited unit plan and the whole or part of any stratum or strata formerly forming part of the common property shown on the deposited unit plan; or
- (b) **the enlargement of a unit** shown on a deposited unit plan by the inclusion in the unit of any stratum that immediately touches upon that unit and was formerly part of the common property or part of another unit shown on the deposited plan; or (1 mark)
- (c) **the transfer into the common property of a unit or part of a unit;** or (1 mark)
- (d) **the erection of 1 or more new units on the common property.** (1 mark)

- 4c. Section 32 Unit Titles Act 2010 defines instances where a unit plan for the subdivision of land must not be deposited, whilst Section 32(1) of that Act describes restrictions relating to the record of title in which the land is held. List these four restrictions. (4 marks)

A unit plan for the subdivision of land must not be deposited—

- (a) while the **record of title to any land to which it relates is limited** in any manner referred to in subpart 4 of Part 4 of the Land Transfer Act 2017, or is a qualified record of title under that Act: (1 mark)
- (c) while the land to which it relates is **held in more than 1 record of title** created under the Land Transfer Act 2017: (1 mark)
- (d) **unless the land to which it relates is the whole of the land in a record of title created under the Land Transfer Act 2017:** (1 mark)
- (e) unless the **grantor of the lease or licence**, if the land is held under a lease or licence, **the registered owner of any mortgage, encumbrance, or charge** affecting the land or any part of it, **and every caveator whose caveat** against the land was lodged with the Registrar before deposit of the plan, **have consented in writing to its being deposited.** (1 mark)

- 4d. Section 60(2) Unit Titles Act 2010 requires the Registrar to record any easements or covenants that affect the base land over which a unit title development is registered. How should these easements or covenants be recorded? (1 mark)

The Registrar must require any easements and covenants referred to in subsection (1) to be recorded (by diagram, words, or otherwise) **on the supplementary record sheet**, and must not note them on any record of title created under section 43.

- 4e. Under Section 61(1) Unit Titles Act 2010, who may vary, surrender or assign any easement or vary or revoke any covenant that exist before the deposit of a unit plan? (1 mark)

The **body corporate of a standard unit title development** or the **body corporate of a head unit title development** may, after a special resolution to do so, vary, surrender, or assign any easement or vary or revoke any covenant to which section 60 applies.

- 4f. Section 65 Unit Titles Act 2010 deals with redevelopment that requires amendments to a unit title plan. Section 65(1) of the Act identifies three conditions for when a redevelopment for the adjustment of a boundary between units can be completed by the deposit of an amendment to a unit plan. List the three conditions that apply. (3 marks)

This section applies if a redevelopment consists solely of the adjustment of the boundary between 1 or more units shown on a unit plan but the adjustment does not—

- 1) **affect the common property;** or (1 mark)
- 2) **materially affect the use, enjoyment, or ownership interest of any unit the boundary of which is not being adjusted;** or (1 mark)
- 3) **change the number of units.** (1 mark)

- 4g. Section 66 Unit Titles Act 2010 lists four requirements for an amendment to a unit plan under Section 65 of that Act. List these four requirements. (4 marks)

The amendment to the unit plan required by section 65 must—

- (a) **define the boundaries of the enlarged or reduced units;** and (1 mark)

- (b) **show any enlarged or reduced unit marked with numbers or letters not already used on the unit plan; and (1 mark)**
- (c) **specify which of the enlarged units and reduced units are principal units and which are accessory units; and (1 mark)**
- (d) **comply with the provisions of rules made under section 49 of the Cadastral Survey Act 2002. (1 mark)**

Question 5

Parts 4 and 4A Conservation Act 1987 and Part 3 Reserves Act 1977

Total 20 marks

- 5a. Sections 19 to 23B Conservation Act 1987 describes seven specially protected areas. List six of these specially protected areas? (3 marks)

Section 19 Conservation parks (½ mark)
Section 20 Wilderness areas (½ mark)
Section 21 Ecological areas (½ mark)
Section 22 Sanctuary areas (½ mark)
Section 23 Watercourse areas (½ mark)
Section 23A Amenity areas (½ mark)
Section 23B Wildlife management areas (½ mark)

- 5b. The nominal width of marginal strips and details of where marginal strips must be reserved from the sale, or other disposition of any land, by the Crown are covered under Section 24(1) Conservation Act 1987. What is the nominal width required for marginal strips and where must they be reserved from sale? (3 marks)

There shall be deemed to be reserved from the sale or other disposition of any land by the Crown a strip of land **20 metres wide** extending along and abutting the landward margin of – (½ mark)

- (a) **any foreshore**; or (½ mark)
(b) the normal level of **the bed of any lake** not subject to control by artificial means; or (½ mark)
(c) **the bed of any river or any stream** (½ mark) (not being a canal under the control of a State enterprise within the meaning of section 2 of the State-Owned Enterprises Act 1986 and used by the State enterprise for, or as part of any scheme for, the generation of electricity), being a bed that has **an average width of 3 metres or more**. (1 mark)

- 5c. Under Section 24A(1) Conservation Act 1987, who may reduce the width of a marginal strip, and what is the minimum width to which any marginal strip may be reduced to? (2 marks)

Notwithstanding section 24, in the case of a marginal strip extending along and abutting the landward margin of the sea or a lake, **the Minister** (1 mark) may, at any time before the disposition by the Crown of the land adjoining the marginal strip, approve the reduction of the width of the strip to **not less than 3 metres** (1 mark) if he or she is satisfied that its value in terms of the purposes specified in section 24C will not be diminished.

- 5d. Section 24C Conservation Act 1987 defines the three purposes for marginal strips. Describe the three purposes of marginal strips under that section. (3 marks)

- (a) **for conservation purposes**, in particular –
(i) the maintenance of adjacent watercourses or bodies of water; and

- (ii) the maintenance of water quality; and
- (iii) the maintenance of aquatic life and the control of harmful species of aquatic life; and
- (iv) the protection of the marginal strips and their natural values; and (1 mark)
- (b) **to enable public access to any adjacent watercourses or bodies of water;** and (1 mark)
- (c) **for public recreational use** of the marginal strips and adjacent watercourses or bodies of water. (1 mark)

5e. Section 24G Conservation Act 1987 sets out what occurs when the foreshore, margin of a lake or reservoir, as well as the course of a river or stream is altered, and how that alteration affects an existing marginal strip. Describe what occurs to the adjoining marginal strip when it is affected by the alteration of a river or stream only. (3 marks)

- (1) Where, for any reason, the shape of any foreshore or of the margin of any lake or reservoir or of any bay or inlet of any lake or reservoir is altered and the alteration affects an existing marginal strip, a new marginal strip shall be deemed to have been reserved simultaneously with each and every such alteration.
- (2) Where, for any reason, **the course of any river or stream is altered** and the alteration affects an existing marginal strip, **a new marginal strip shall be deemed to have been reserved simultaneously with each and every such alteration.** (1 mark)
- (3) With respect to any foreshore, to any lake or reservoir and to any bay or inlet of any lake or reservoir, and to any river or stream, a marginal strip shall be reserved by subsection (1) or subsection (2) **on all land of the Crown, and on all land the title to which is subject to this Part, and on no other land.** (1 mark)
- (4) Every marginal strip reserved by subsection (1) or subsection (2) **shall be of such dimensions and be situated as if the marginal strip had been reserved under section 24** (½ mark), **and shall extinguish** either in whole or in part, as the case may require, **the existing reservation of the existing marginal strip** (½ mark) which would have continued but for the alterations referred to in those subsections.
- (5) Nothing in this section shall affect any right, title, or interest any person may have in respect of any assets or improvements existing on any marginal strip at the time such marginal strip is reserved by subsection (1) or subsection (2).
- (6) Subject to this section, the provisions of this Act shall apply to every marginal strip reserved by subsection (1) or subsection (2) as if such marginal strip had been reserved by section 24.
- (7) Nothing in this section shall apply to any marginal strip reserved by section 24(3).

5f. List six of the seven reserve classifications as set out under Sections 17 to 23 Reserves Act 1977. (3 marks)

Section 17 – Recreation reserves.

Section 18 – Historic reserves.

Section 19 – Scenic reserves.

Section 20 – Nature reserves.

Section 21 – Scientific reserves.

Section 22 – Government purpose reserves.

Section 23 – Local purpose reserves. (½ mark each)

- 5g. The purpose for nature reserves is set out under Section 20(1) Reserves Act 1977. State the purpose of these reserves and their intentions. (2 marks)

It is hereby declared that the appropriate provisions of this Act shall have effect, in relation to reserves classified as nature reserves, for the purpose of **protecting and preserving in perpetuity indigenous flora or fauna or natural features** (1 mark) that are of such rarity, scientific interest or importance, or so unique that **their protection and preservation are in the public interest** (1 mark).

- 5h. Section 61(2A) Reserves Act 1977 sets out to whom and for what purposes a local purpose reserve may be leased. List the two situations that are permitted to be leased under this section of the Act. (1 mark)

In addition to the powers of leasing conferred by subsection (2), the administering body, in the case of a local purpose reserve that is vested in the administering body, may lease all or any part of the reserve to any person, body, voluntary organisation, or society (whether incorporated or not) for any of the following purposes:

- (a) **community building**, playcentre, kindergarten, plunket room, or other like purposes: (½ mark)
- (b) **farming**, grazing, cultivation, cropping, or other like purposes. (½ mark)

Question 6

Parts 1 and 2 Marine and Coastal Area (Takutai Moana) Act 2011

Total 20 marks

- 6a. Section 4(1) Marine and Coastal Area (Takutai Moana) Act 2011 identifies four purposes of this Act. List these four purposes. (4 marks)

The purpose of this Act is to—

- (a) establish a durable scheme to ensure the **protection of the legitimate interests of all New Zealanders in the marine and coastal area of New Zealand**; and (1 mark)
- (b) **recognise the mana tuku iho exercised in the marine and coastal area by iwi, hapū, and whānau as tangata whenua**; and (1 mark)
- (c) provide for the **exercise of customary interests in the common marine and coastal area**; and (1 mark)
- (d) **acknowledge the Treaty of Waitangi (te Tiriti o Waitangi)**. (1 mark)

- 6b. List the meanings for the two following terms, as defined within Section 9(1) Marine and Coastal Area (Takutai Moana) Act 2011.

- (a) Marine and coastal area (4 marks)
- (b) Common marine and coastal area (4 marks)

Marine and coastal area —

- (a) means the **area that is bounded,—**
 - (i) **on the landward side, by the line of mean high-water springs**; (½ mark) and
 - (ii) **on the seaward side, by the outer limits of the territorial sea**; (½ mark) and
- (b) **includes the beds of rivers** (1 mark) that are part of the coastal marine area (within the meaning of the Resource Management Act 1991); and
- (c) **includes the airspace above, and the water space (but not the water) above**, (1 mark) the areas described in paragraphs (a) and (b); and
- (d) **includes the subsoil**, (1 mark) bedrock, and other matter under the areas described in paragraphs (a) and (b)

Common marine and coastal area means the marine and coastal area other than -

- (a) **specified freehold land located in that area**; and (1 mark)
- (b) any **area that is owned by the Crown** (½ mark) and has the status of any of the following kinds:
 - (i) **a conservation area** (½ mark) within the meaning of section 2(1) of the Conservation Act 1987;
 - (ii) **a national park** (½ mark) within the meaning of section 2 of the National Parks Act 1980;
 - (iii) **a reserve** (½ mark) within the meaning of section 2(1) of the Reserves Act 1977; and
- (c) the **bed of Te Whaanga Lagoon in the Chatham Islands** (1 mark)

- 6c. Section 11 Marine and Coastal Area (Takutai Moana) Act 2011 defines the special status of the common marine and coastal area. Section 11(5) of that Act however identifies six rights and powers that are **not** affected by this special status. List three of these rights and powers. (3 marks)

The special status accorded by this section to the common marine and coastal area does not affect—

- (a) the **recognition of customary interests** in accordance with this Act; or (1 mark)
- (b) any **lawful use** of any part of the common marine and coastal area or **the undertaking of any lawful activity** in any part of the common marine and coastal area; or (1 mark)
- (c) any **power to impose, by or under an enactment, a prohibition, limitation, or restriction** in respect of a part of the common marine and coastal area; or (1 mark)
- (d) any **power or duty, by or under an enactment, to grant resource consents or permits** (including the power to impose charges) within any part of the common marine and coastal area; or (1 mark)
- (e) any **power, by or under an enactment, to accord a status of any kind** to a part of the common marine and coastal area, **or to set aside a part of the common marine and coastal area for a specific purpose**. (1 mark)
- (f) any status that is, by or under an enactment, accorded to a part of the common marine and coastal area or a specific purpose for which a part of the common marine and coastal area is, by or under an enactment, set aside, or any rights or powers that may, by or under an enactment, be exercised in relation to that status or purpose. (1 mark)

- 6d. What is not considered to be part of the marine and coastal area, on the commencement of the Marine and Coastal Area (Takutai Moana) Act 2011, as stipulated under Section 14(1) Marine and Coastal Area (Takutai Moana) Act 2011? (1 mark)

Any road, whether formed or unformed, that is in the marine and coastal area on the commencement of this Act is not part of the common marine and coastal area.

- 6e. Under Section 19(1) Marine and Coastal Area (Takutai Moana) Act 2011 who is deemed to be the owner of any abandoned structures within the common marine and coastal area? (1 mark)

The Crown is deemed to be the owner of any structure that is abandoned in the common marine and coastal area.

- 6f. Section 26(1) Marine and Coastal Area (Takutai Moana) Act 2011 defines the rights of access for individuals to the marine and coastal area. List the three individual rights of access allowed under this section of the Act. (3 marks)

Every individual has, without charge, the following rights:

- a) **to enter, stay in or on, and leave** the common marine and coastal area: (1 mark)
- b) **to pass and repass in, on, over, and across** the common marine and coastal area: (1 mark)
- c) **to engage in recreational activities** in or on the common marine and coastal area. (1 mark)