



SURVEY AND SPATIAL NEW ZEALAND

16 June 2022 xxx

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

Cadastral Survey Rules 2021, Surveyor-General's Rulings and Standard for Lodgement

Total 20 marks

- 1a. Rule 6 of the Cadastral Survey Rules 2021 lists the 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; and (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 boundary points in relation to other boundaries and boundary points. (1 mark)
- 1b. Rules 7 to 12 of the Cadastral Survey Rules 2021 define the various permitted forms of boundaries. List the six different forms of boundaries. (3 marks)
- Rule 7-Right-line boundaries (½ mark)
 - Rule 8 – Arc boundaries (½ mark)
 - Rule 9 – Irregular boundaries (½ mark)
 - Rule 10 – Water boundaries (½ mark)
 - Rule 11 – Water centre-line boundaries (½ mark)
 - Rule 12 – Height-limited boundaries (½ mark)
- 1c. Rule 31 of the Cadastral Survey Rules 2021 identifies three types of boundary points or marks on a cadastral survey that must be referenced by a permanent reference mark. Identify the three types of points or marks. (3 marks)
- a. **a primary parcel boundary point** (marked or unmarked) **that is being defined by survey**, other than a point on a water boundary, a water centre-line, or an irregular boundary: (1 mark)
 - b. **every new or old boundary mark on the boundary of a parcel under survey:** (1 mark)
 - c. **a new height-limited primary parcel boundary point that is defined by a reduced level.** (1 mark)

- 1d. Rule 51(1) of the Cadastral Survey Rules 2021 allows for an inaccurate relationship between a non-primary parcel boundary and the underlying primary parcel where the underlying parcel is not created by the survey

Identify: a) when the relationship **may** be inaccurately determined; and b) **must** be inaccurately determined. (2 marks)

- a. **may be inaccurately determined if class B accuracies would normally apply:** (1 mark)
- b. **must be inaccurately determined if none of the underlying parcel boundaries meet the applicable accuracy standard.** (1 mark)

- 1e. Rule 74 of the Cadastral Survey Rules 2021 identifies 4 characteristics of the units of measure to be used in cadastral surveys. Identify the four characteristics. (4 marks)

- a. **A distance and a reduced level must be expressed in metres.** (1 mark)
- b. **A bearing must be expressed in sexagesimal degrees, minutes, and seconds notation, clockwise from north.** (1 mark)
- c. **A bearing, a distance, a reduced level, and an area must be recorded to sufficient significant figures to reflect the accuracy requirements in these rules.** (1 mark)
- d. **A horizontal distance and area must be reduced to the ellipsoid used for the official geodetic datum as defined in Schedule 3.** (1 mark)

- 1f. Rule 78 of the Cadastral Survey Rules 2021 identifies the four pieces of information that must be included within a record of survey for each vector. List these four pieces of information. (2 marks)

- a. **the source CSD number for each vector, distance, bearing, and arc that has been adopted; and** (½ mark)
- b. **any bearing adjustments applied to each CSD from which a bearing is adopted; and** (½ mark)
- c. **information indicating whether any bearing, distance, or arc has been calculated, measured, or adopted; and** (½ mark)
- d. **for measured vectors, the type of equipment used.** (½ mark)

1g. What is the definition of the following terms, as defined in Schedule 2 of the Cadastral Survey Rules 2021?

- Boundary Point (½ mark)
- Parcel (½ mark)
- Reinstated (½ mark)
- Renewed (½ mark)

boundary point means a point on a parcel boundary, whether marked or unmarked
(½ mark)

parcel means an area or a space that is a single contiguous portion of land separately identified in a CSD or in the cadastre
(½ mark)

reinstated, in relation to a survey mark, means a new survey mark placed in the position of a previous survey mark that has not been found
(½ mark)

renewed, in relation to a survey mark, means a new survey mark placed in the same position as an old survey mark that has been found
(½ mark)

1h. Schedule 4 of the Cadastral Survey Rules 2021 provides a definition of those marks that are suitable for use as a cadastral survey network mark. What is that definition? (1 mark)

A survey mark is suitable for use as a cadastral survey network mark if it has been assigned a NZGD2000 coordinate with a Landonline order 6 or better.
(1 mark)

QUESTION 2

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

Total 20 Marks

2a. Section 3(a) of the Cadastral Survey Act 2002 states that one purpose of the Act is to maintain the accuracy of the cadastre. Identify the three methods by which the accuracy of the cadastre is maintained. (3 marks)

- (i) **requiring cadastral surveys to be done by, or under the direction of, licensed cadastral surveyors; and** (1 mark)
- (ii) **requiring cadastral surveyors to meet standards of competence to be licensed; and** (1 mark)
- (iii) **providing for the setting of standards for cadastral surveys and cadastral survey data; and** (1 mark)

2b. Section 7(1) of the Cadastral Survey Act 2002 sets out the duties and functions of the Surveyor General. Identify eight of these functions and duties. (4 Marks)

The functions and duties of the Surveyor-General are—

- (a) **to maintain a national geodetic system:**
- (b) **to maintain a national survey control system:**
- (c) **to determine how the spatial extent (including boundaries) of interests under a tenure system must be defined and described, by setting standards under section 49:**
- (d) **to advise the Board of any significant failures by cadastral surveyors to comply with the standards referred to in paragraph (c):**
- (e) **to set standards for integrating new cadastral surveys into the cadastre by the chief executive:**
- (f) **to set standards for the structure, storage, and provision of cadastral survey data by the chief executive:**
- (g) **to set standards for determining when cadastral survey datasets may be used to define interests under tenure systems:**
- (ga) **to issue guidelines about standards set by the Surveyor-General under this Act:**
- (h) **to provide advice to agencies or officers responsible under any enactment for tenure systems on matters relating to the spatial definition of interests under those systems:**
- (i) **to undertake research and liaise with persons and organisations for the purposes of his or her functions:**
- (j) **to audit compliance by cadastral surveyors with the standards referred to in paragraph (c):**
- (k) **to audit the exercise of the chief executive's functions under section 9(a), (d), and (e):**
- (l) **to perform any other functions conferred on him or her by this Act, any other enactment, or the Minister.**

½ a mark each

2c. Section 39(2) of the Cadastral Survey Act 2002 identifies the three disciplinary actions that the Board may take against a surveyor when satisfied that the surveyor is guilty of professional misconduct. List the three possible actions. (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, practise 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)

2d. 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) of the 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**, (1/2 mark), require the cadastral surveyor responsible for the error to **undertake, or arrange to be undertaken**, (1/2 mark) the work necessary to **correct the error within a time that the Surveyor-General considers reasonable.** (1 mark)

2e. Section 22 of the Cadastral Survey Act 2002 deals with requirements for any person entitled to be licensed by the Board as a cadastral surveyor. List the two requirements. (2 marks)

A person, on payment of the prescribed fee, is entitled to be licensed as a cadastral surveyor if the person satisfies the Board—

- (a) **that he or she meets the Board's standards** for the licensing of cadastral surveyors; and (1 mark)
- (b) **that he or she is not precluded from holding a licence** because of an order made by the Board under section 39. (1 mark)

2f. Schedule 2 of the Cadastral Survey Act 2002 sets out those circumstances where a Licensed Cadastral Surveyor is considered guilty of professional misconduct. List 6 of these circumstances. (6 marks)

- (a) to have been **negligent in the conduct of, or failure to conduct, any cadastral survey:** (1 mark)
- (b) to have **certified to the accuracy of any cadastral survey** or cadastral survey dataset **without having personally carried out or directed the cadastral survey** and the related field operations: (1 mark)
- (c) to have **certified to the accuracy of any cadastral survey** or cadastral survey dataset **without having carried out sufficient checks to ensure the accuracy** of the entries in any field book and the accuracy of all calculations, working plans, and other

cadastral survey records that may have been made by any person employed by him or her in relation to the cadastral survey: (1 mark)

- (d) **to have certified to the accuracy** of any cadastral survey carried out by the cadastral surveyor or under his or her personal direction if the **operation of pegging** and ground marking, and all other requirements of the cadastral survey, **have not been carried out in accordance with standards set under Part 5:** : (1 mark)
- (e) **to have certified to the accuracy of any cadastral survey** or cadastral survey dataset, **knowing it to be defective:** : (1 mark)
- (f) **to have made any entry in any field book** or other record that purports to have been derived from actual observation or measurement in the field, **if in fact it has not been so derived:** : (1 mark)
- (g) to have **supplied to the Surveyor-General** or the chief executive **any erroneous information** in relation to any cadastral survey, cadastral survey mark, or boundary, **knowing the information to be erroneous** in any material particular: (1 mark)
- (h) **to have been convicted of any offence** against section 31 or section 58(b) or (c) (1 mark)
- (i) **to have failed to comply with any conditions imposed by the Board** under section 39(2)(c) or (7) or the High Court on any appeal against an order under section 39: (1 mark)
- (j) to have **failed to comply with any requirement imposed under section 52:** : (1 mark)
- (k) to have **persistently exercised the powers of entry** conferred by section 53 **in an unreasonable manner:** (1 mark)
- (l) **to have failed, without reasonable cause, to perform any duty imposed on licensed cadastral surveyors by standards** set by rules made under section 49. (1 mark)

QUESTION 3

Resource Management Act 1991

Total 20 Marks

- 3a. The purpose of the Resource Management Act 1991 is to “promote the sustainable management of natural and physical resources”. List **two** of the three considerations that support sustainable management as listed in section 5(2) of the Resource Management Act 1991. (2 marks)

In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

- (a) **sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and (1 mark)**
 - (b) **safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and**
 - (c) **avoiding, remedying, or mitigating any adverse effects of activities on the environment. (1 mark)**
- 3b. Section 11(1) of the Resource Management Act 1991 specifies situations where the subdivision of land is permitted. Aside from s11(1)(a) describing, among other things, resource consents and the subsequent survey plans, what are **four** of the other six situations where subdivision is permitted? (4 marks)

- (b) **effected by the acquisition, taking, transfer, or disposal of part of an allotment under the Public Works Act 1981 (except that, in the case of the disposition of land under the Public Works Act 1981, each existing separate parcel of land shall, unless otherwise provided by that Act, be disposed of without further division of that parcel of land); or**
- (c) **effected by the establishment, change, or cancellation of a reserve under section 338 of Te Ture Whenua Maori Act 1993; or**
- (ca) **effected by a transfer under section 23 of the State-Owned Enterprises Act 1986 or a resumption under section 27D of that Act; or**
- (cb) **effected by any vesting in or transfer or gift of any land to the Crown or any local authority or administering body (as defined in section 2 of the Reserves Act 1977) for the purposes (other than administrative purposes) of the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act; or**
- (cc) **effected by transfer or gift of any land to Heritage New Zealand Pouhere Taonga or the Queen Elizabeth the Second National Trust for the purposes of the Heritage New Zealand Pouhere Taonga Act 2014 or the Queen Elizabeth the Second National Trust Act 1977; or**
- (d) **effected by any transfer, exchange, or other disposition of land made by an order under subpart 3 of Part 6 of the Property Law Act 2007 (which relates to the granting of access to landlocked land).**

(1 mark per point)

- 3c. Section 218 of the Resource Management Act 1991 defines subdivision as the division of an allotment. What are the four definitions of allotment under s218(2)? (4 marks)

In this Act, the term allotment means—

- (a) **any parcel of land under the Land Transfer Act 2017 that is a continuous area and whose boundaries are shown separately on a survey plan**, whether or not—
 - (i) the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or
 - (ii) a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or
- (b) **any parcel of land or building or part of a building that is shown or identified separately—**
 - (i) **on a survey plan**; or
 - (ii) on a license within the meaning of subpart 6 of Part 3 of the Land Transfer Act 2017; or
- (c) **any unit on a unit plan**; or
- (d) **any parcel of land not subject to the Land Transfer Act 2017.**

(1 mark per point)

- 3d. List the four types of amalgamation conditions under s220(1)(b) of the Resource Management Act 1991. (4 marks)

- (b) Subject to subsection (2), a condition that any specified part or parts of the land being subdivided or any other adjoining land of the subdividing owner be—
 - (i) **transferred to the owner of any other adjoining land and amalgamated with that land or any part thereof**; or
 - (ii) **amalgamated, where the specified parts are adjoining**; or
 - (iii) **amalgamated, whether the specified parts are adjoining or not, for any purpose specified in a district plan or necessary to comply with any requirement of the district plan**; or
 - (iv) **held in the same ownership, or by tenancy-in-common in the same ownership, for the purpose of providing legal access or part of the legal access to any proposed allotment or allotments in the subdivision**:

(1 mark per point)

- 3e. Section 236(c) of the Resource Management Act 1991 gives a territorial authority the power to set aside additional esplanade reserve upon subdivision – sometimes known as the “top up” provision.

In order for s236 to apply, the land already set aside must have been reserved (or reserved from sale) in one of three forms.

List these three types forms of reservation.

(3 marks)

Where—

- (a) land along the mean high water mark or the mark of mean high water springs of the sea, or along the bank of any river, or along the margin of any lake, has—
- (i) **been set aside as an esplanade reserve** under this Part, or has been reserved for the purpose specified in section 289 of the Local Government Act 1974, or for public purposes pursuant to section 29(1) of the Counties Amendment Act 1961 or section 11 of the Land Subdivision in Counties Act 1946; or
 - (ii) **been set aside or reserved for public recreation purposes pursuant to any other enactment** (whether passed before or after the commencement of this Act and whether or not in force at the commencement of this Act); or
 - (iii) **been reserved from sale or other disposition pursuant to section 24 of the Conservation Act 1987, or section 58 of the Land Act 1948**, or the corresponding provisions of any former Act; and
- (1 mark per point)

- 3f. Section 4 of Schedule 4 of the Resource Management Act 1991 sets out the seven pieces of additional information required in an application for subdivision consent. List **six** of the required pieces of additional information.

(3 marks)

An application for a subdivision consent must also include information that adequately defines the following:

- (a) the position of all new boundaries:
- (b) the areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan:
- (c) the locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips:
- (d) the locations and areas of any existing esplanade reserves, esplanade strips, and access strip
- (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:
- (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):
- (g) the locations and areas of land to be set aside as new roads. (1/2 mark per point)

QUESTION 4

Parts 2, Subpart 4 of Part 3 and Subpart 4 of Part 4 Land Transfer Act 2017

Total 20 Marks

- 4a. Section 3(b) of the Land Transfer Act 2017 identifies the four fundamental principles of the Torrens system that the Act looks to maintain. Identify these four principles. (4 marks)

- i. **provide security of ownership** of estates and interests in land: (1 mark)
- ii. **facilitate the transfer of and dealings with estates** and interests in land: (1 mark)
- iii. **provide compensation for loss** arising from the operation of the system: (1 mark)
- iv. **provide a register of land that describes and records the ownership** of estates and interests in land (1 mark)

- 4b. Section 5 (Interpretation) of the Land Transfer Act 2017 identifies four things that are included within the definition of land. List these four things. (2 marks)

Land includes—

- (a) estates and interests in land: (½ mark)
- (b) buildings and other permanent structures on land: (½ mark)
- (c) land covered with water: (½ mark)
- (d) plants, trees, and timber on or under land (½ mark)

- 4c. Section 10 of the Land Transfer Act 2017 sets out the five purposes of the register. Identify four of the purposes of the register. (4 marks)

The purpose of the register is to—

- a. **provide a public record of land** that is subject to this Act, including a record of—
 - (i) title to estates and interests in land registered under this Act; and
 - (ii) other information relating to estates and interests in land that is recorded in the register under this Act: (1 mark)
- b. **provide the mechanism for creating title to estates and interests in land** that, subject to this Act, cannot be set aside: (1 mark)
- c. **facilitate the transfer of and dealings with estates and interests in land** that is subject to this Act: (1 mark)
- d. **facilitate giving effect to the purposes of this Act:** (1 mark)
- e. **enable compliance with the requirements of any other Act** for the registration or notation under this Act of instruments or other matters affecting land or estates or interests in land. (1 mark)

- 4d. Section 108(1) of the Land Transfer Act 2017 identifies three documents that may be used to register or surrender an easement. List the three different types of documents that may be used. (3 marks)

The following must be used in order to register an easement or a *profit à prendre* or the surrender of an easement or a *profit à prendre*:

- a. an **easement instrument** under section 109; or (1 mark)
 - b. a **transfer instrument** under section 73; or (1 mark)
 - c. in the case of an easement, a **deposit document under section 110 together with the deposit under section 224 of a plan** to which the deposit document relates. (1 mark)
- 4e. The grantor or the grantee of an easement may apply to the Registrar to extinguish a redundant easement. Under Section 115(2) of the Land Transfer Act 2017 what two circumstances need to be satisfied for an easement to be considered redundant. (2 marks)
- a. all or part of the benefited land no longer adjoins the burdened land as a result of a subdivision or for any other reason; and (1 mark)
 - b. as a result, the easement has no practical effect. (1 mark)
- 4f. Section 201(1) of the Land Transfer Act 2017 sets out two methods that the Registrar may use to remove the limitations from a limited title. Identify both of these methods. (2 marks)
- a. **create a replacement record of title that is not subject to the limitation.** (1 mark)
 - b. **note on a limited record of title that the record of title is no longer subject to the limitation; or** (1 mark)
- 4g. Section 202(1) of the Land Transfer Act 2017 states the Registrar must not act to remove the limitations from a limited record of title that is limited as to parcels unless three conditions have been met. Identify these conditions. (3 marks)
- a. the Registrar is satisfied by the **deposit of a survey plan** or other evidence **that no part of the land is held in occupation adverse to the title of the registered owner** of the land; and (1 mark)
 - b. the Registrar gives **notice to the owners or occupiers of any adjoining land of the Registrar's intention to take the action;** and (1 mark)
 - c. **within the prescribed period specified in the notice,** or any period of extension allowed by the Registrar, **no person to whom a notice is given lodges a caveat** under section 207. (1 mark)

QUESTION 5

Unit Titles Act 2010

Total 20 Marks

5a. Provide the meaning of the following terms as defined in Section 5 of the Unit Titles Act 2010:

- a) Building elements (2 marks)
- b) Unit (2 marks)

building elements includes the **external and internal components** of any part of a building or land on a unit plan that are **necessary to the structural integrity** of the building, **the exterior aesthetics of the building**, or **the health and safety of persons who occupy or use the building** and including, without limitation, the roof, balconies, decks, cladding systems, foundations systems (including all horizontal slab structures between adjoining units or underneath the lowest level of the building), retaining walls, and any other walls or other features for the support of the building

(Marks based on keywords, ½ mark per keyword / concept)

unit, 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**, or partly in one such situation and partly in another or others, **all the dimensions of which are limited, and that is designed for separate ownership**

Marks based on concepts – part of the land, space, above, on below, limited dimensions and designed for separate ownership – ½ mark each

5b. Section 7 of the Unit Titles Act 2010 provides the definition of Principal Unit. What is the definition of Principal Unit? (2 marks)

In this Act, principal unit means **a unit—**

- (a) **that is designed for use (whether in conjunction with any accessory unit or not) as a place of residence or business or for any other use of any nature, and that is shown on a unit plan as a principal unit;** and
- (b) that—
 - (i) **contains a building or part of a building** or is contained in a building (although the unit may or may not be bounded by the physical dimensions of the building);
or
 - (ii) **is 1 or more car parks.**

Marks based on concept – designed as a place of residence etc, shown as a principal unit, contains a building or part of a building, or is a 1 or more car parks. (1/2 mark each)

- 5c. Section 24 of the Unit Titles Act 2010 allows for plans to be deposited in stages in order to create unit developments. When a development is completed in stages, it is effected by the successive deposit of three types of plans under the Land Transfer Act 2017. Identify the three types of plans. (1½ marks)

Subdivision in stages is effected by the successive deposit under the Land Transfer Act 2017 of—

- (a) a **proposed unit development plan and a first stage unit plan together**; and
- (b) **1 or more further stage unit plans** (if any); and
- (c) a **complete unit plan**.

PUD and 1st Stage – ½ mark – both required for the half mark

Staged plans – ½ mark

Complete plan – ½ mark

- 5d. Section 73(1) and s73(2) and of the Unit Titles Act 2010 sets out the incidental rights enjoyed by the common property and each unit. List these rights. (2 marks)

The common property and each unit on a unit plan has appurtenant to it the following rights over the land to the extent necessary for the reasonable use and enjoyment of the common property or unit:

- (a) **rights of support, shelter, and protection**; and
- (b) **rights for the passage or provision of water, sewerage, drainage, gas, electricity, oil, garbage, air, all telecommunications and electronic services, and all other services of any nature.**

2)

The common property and each unit on a unit plan has appurtenant to it the following rights over the land:

- (a)
a right to the full, free, and uninterrupted access and use of **light to or for any windows, doors, or other apertures** existing at the date of deposit of the plan and enjoyed at that date; and
- (b)
a right to **maintain overhanging eaves** existing at the date of deposit of the plan.

Marked on concept. 1/2 mark for support, shelter and protection. 1/2 mark for the general theme of (b). ½ mark for light and air concept, ½ mark for overhanging eaves

- 5e. A certificate issued under section 32(2)(a) of the Unit Titles Act 2010 is certification by the territorial authority that two necessary conditions have been met. List these two conditions. (1½ marks)

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

(a) unless a certificate in the prescribed form has been given in writing by an authorised officer of the territorial authority in whose district the land is situated to the effect that—

(i) **every building (if any) shown on the plan has been erected, and all other development work has been carried out, to the extent necessary to enable all the boundaries of every unit and the common property shown on the plan to be physically measured; and**

(ii) **every principal unit shown on the plan conforms to the definition of principal unit in section 7:**

Every building has been erected (1/2 mark)..to the extent necessary to enable boundaries... (1/2 mark) every PU shown conforms to definition of PU (1/2 mark)

5f. Before a unit plan is deposited, the registered owner must assign an ownership interest to each principal and accessory unit. Section 38(3) of the Unit Titles Act 2010 identifies eight matters that the ownership interest is used to determine. List four of these matters.

(4 marks)

The ownership interest is used to determine a range of matters, including, but not limited to,—

(a) **the beneficial interest of the owner of the principal unit in the common property:**

(b) **the share of the owner of the principal unit in the value of any buildings, fixtures, and other improvements in relation to leasehold land:**

(c) **the voting rights of the owner of the principal unit** when a poll is requested under section 99:

(d) **the share of the owner of the principal unit in the underlying fee simple in the land on the cancellation of the unit plan:**

(e) **the extent of the obligation of the owner of the principal unit in respect of contributions levied by the body corporate** under section 121 in respect of any capital improvement fund:

(f) **the rights of the owner of the principal unit in relation to a distribution of any surplus money** of a capital improvement fund under section 131:

(g) **the extent of the obligation of the owner of the principal unit for payment of ground rental** under section 87:

(h) **the extent of the liability of the owner of the principal unit for damages and costs** under section 142.

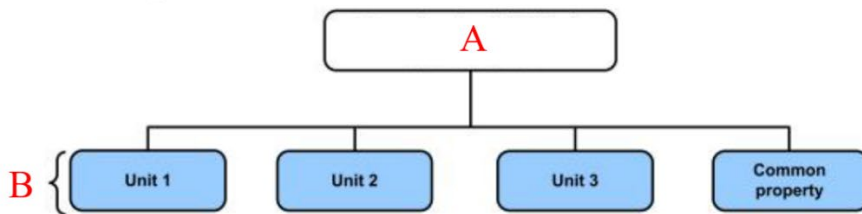
1 mark per keyword or group of keywords

5g. Schedule 1 of the Unit Titles Act 2010 shows an illustrative example of Unit Title developments. The below diagrams have been extracted from the schedule and information has been removed for this question. Complete the items labeled **A**, **B**, **C**, **D** and **E** in the following diagrams – note some are duplicated (5 marks)

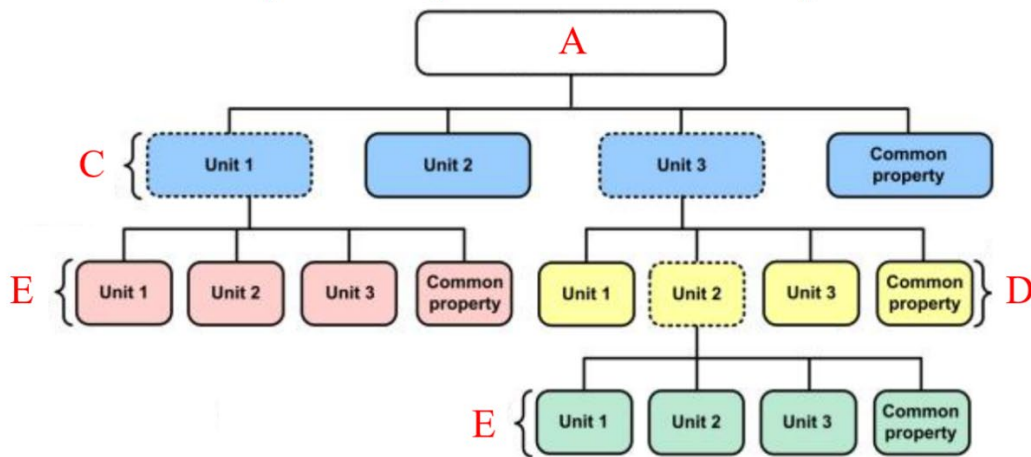
Schedule 1
Illustrative examples of unit title developments

ss 5(1), 9, 19(3)

—Example 1—



—Example 3—Layered unit title development



Answers:

A: base land subdivided by a unit plan (occurs twice) ½ mark each

B: Standard Unit Title development 1 mark

C: Head and parent unit title development ½ for each keyword

D: Parent and subsidiary unit title development ½ for each keyword

E: subsidiary unit title development (occurs twice) ½ mark each

QUESTION 6

Conservation Act 1987, Reserves Act 1977

Total 20 Marks

- 6a. Sections 19 to 23B of the Conservation Act 1987 describe seven specially protected areas. List 6 of these protected areas. (3 marks)

19 **Conservation parks**
20 **Wilderness areas**
21 **Ecological areas**
22 **Sanctuary areas**
23 **Watercourse areas**
23A **Amenity areas**
23B **Wildlife management areas**
(1/2 mark per correct answer)

- 6b. Section 24C of the Conservation Act 1987 lists the three purposes of 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
(b) **to enable public access to any adjacent watercourses or bodies of water**; and
(c) for **public recreational use** of the marginal strips and adjacent watercourses or bodies of water.
1 mark per highlighted answer

- 6c. Section 24F of the Conservation Act 1987 describes how, upon disposal of Crown land, the Crown retains the rights to half the bed of a river adjoining that land. What two conditions need to be met for this to apply? (2 marks)

Notwithstanding any other enactment or rule of law, where the Crown owns **part of the bed of a non-navigable river or stream** adjoining any land (**being a bed of not less than 3 metres in width**) and disposes of that land, that part of the bed of that river or stream shall remain owned by the Crown.

1 mark per concept “non-navigable” and “not less than 3m width”

- 6d. Section 17(1) of the Reserves Act 1977 lists the intended purposes for recreation reserves. Identify the purposes of these reserves. (2 marks)

It is hereby declared that the appropriate provisions of this Act shall have effect, in relation to reserves classified as recreation reserves, for the purpose of **providing areas for the recreation and sporting activities and the physical welfare and enjoyment of the public**, and for the **protection of the natural environment and beauty of the countryside**, with emphasis on the retention of open spaces and on outdoor recreational activities, including recreational tracks in the countryside.

Recreation and sporting activities – 1 mark (required)

Physical welfare and enjoyment of the public – 1 mark

Protection of natural environment and beauty of the countryside (alternative 1 mark)

- 6e. Section 20 of the Reserves Act 1977 lists the intended purpose of Nature reserves. Identify the purpose of these reserves. (1 mark)

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 that are of such rarity, scientific interest or importance, or so unique that their protection and preservation are in the public interest.**

General concept – ½ mark per concept, max two concepts

- 6f. The power for the administering body with the consent of the Minister to grant rights of way and other easements over reserves is given in Section 48 of the Reserves Act 1977. Identify **four** of the six purposes for which such an easement may be granted. (2 marks)

- (a) **any public purpose**; or
- (b) **providing access to any area included in an agreement, lease, or licence** granted under the powers conferred by this Act; or
- (c) **the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy**; or
- (d) **an electrical installation or work**, as defined in section 2 of the Electricity Act 1992; or
- (e) **the provision of water systems**; or
- (f) **providing or facilitating access or the supply of water to or the drainage of any other land not forming part of the reserve** or for any other purpose connected with any such land

½ mark per keyword / concept

- 6g. Section 61(2A) of the Reserves Act 1977 sets out to whom and for what purposes a local purpose reserve may be leased. List the two purposes for which such reserves may be leased. (1 mark)

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

½ mark per concept

- 6h. Section 77 of the Reserves Act 1977 covers Conservation Covenants. What are the conditions under section 77(5) that must be met in order for the Registrar-General of Land to register the covenant? (4 marks)

Where the burden of a covenant under this section applies to land comprising part of the land in a record or instrument of title, the Registrar-General of Land shall not enter in any register a notification of the covenant unless—

- (a) **the land to which the covenant relates is defined on an existing plan approved under the Land Transfer Act 2017 or a new plan approved under that Act; or**
- (b) **the document incorporating the covenant is accompanied by a certificate given by the Surveyor-General, or the Chief Surveyor of the land district in which the land is situated, to the effect that the covenant is adequately described and properly defined—**
 - (i) **or the nature of the covenant; and**
 - (ii) **in relation to existing surveys made in accordance with regulations for the time being in force for the purpose; and**
 - (iii) **in accordance with standards agreed from time to time by the Director-General and either the Surveyor-General or Chief Surveyor, as the case may be.**

Survey plan – 1 mark

Certificate showing nature – 1 mark

Relation to existing surveys made under older regulations – 1 mark

In accordance with the standards – 1 mark

- 6i. Section 77A of the Reserves Act 1977 deals with “Nga Whenua Rahui kawenata” or Rāhui covenants. Give the two reasons why the Minister could decide to use this tool to provide for the management of Māori land or Crown land held under a lease by Māori. (2 marks)

If satisfied that any Maori land or Crown land held under a Crown lease by Maori should be managed **so as to preserve and protect—**

- (i) **the natural environment, landscape amenity, wildlife or freshwater-life or marine-life habitat, or historical value of the land; or**
- (ii) **the spiritual and cultural values which Maori associate with the land,—**

the Minister may, subject to subsection (2), treat and agree with the owner or the lessee for a Nga Whenua Rahui kawenata to provide for the management of the land in a manner that will achieve those purposes:

(1 mark per point.)