

CADASTRAL LAW WRITTEN EXAMINATION 2015
Suggested Answers

Question 1 – Compulsory

Rules for Cadastral Survey 2010 (RCS 2010) & current Surveyor-General Rulings

Total 20 marks

No.	Question	Answer	Mark
1A	What is the meaning of “disturbed” in relation to an old survey mark as defined in the RCS 2010 Terms and Definitions?	means that the mark is in a position different from that originally placed and does not include a change of position due to deep-seated movement	2
1B	What is the meaning of “reinstated” in relation to a survey mark as defined in the RCS 2010 Terms and Definitions?	means a new survey mark has been placed in the position of a previous survey mark that has not been found	1
1C	Rule 3.2.1 RCS 2010 details requirements for Class A accuracies. The rules detail two requirements when Class A accuracies have to be use and one when they may be used. Please list these three requirements.	<p>Class A accuracies</p> <p>(a) must be used for a boundary and its associated boundary points that are:</p> <p>(i) in an urban area, or</p> <p>(ii) are intended as a result of a survey to be in an urban area;</p> <p>(b) must be used for the boundary and the associated boundary points of any parcel that is not in an urban area, but is used, or is intended as a result of a survey to be used, for intensive commercial, industrial, or residential purposes; and</p> <p>(c) may be used in any other circumstances.</p>	
1D	Rule 5.3 RCS 2010 requires that an area must be assigned to		3
	(i) each primary parcel except where it is a residue parcel or balance parcel. The area must include the areas of all movable marginal strips in that primary parcel,	(i) must be correctly calculated from its boundary information,	
	(ii) each parcel intended for a lease except where the parcel is defined by one or more permanent structure boundaries, and	(ii) may be rounded to one part in 1000 or 0.0001 ha, whichever is greater, and	
	(iii) each portion of land being claimed as accretion.	(iii) must not be less than 0.0001 ha.	
	In assigning an area to a parcel listed above two requirements under this rule are listed that must be met in assigning the area and one that may be met. Please list these 3 requirements.		

1E	According to Rule 6.1 RCS 2010, what is the duty of a surveyor when defining a boundary by survey?	(a) gather all evidence relevant to the definition of the boundary and its boundary points,	3
		(b) interpret that evidence in accordance with all relevant enactments and rules of law, and	
		(c) use that evidence to determine the correct position of the boundary and boundary points in relation to other boundaries and boundary points.	
1F	Rule 6.8 RCS 20101 requires you to meet one of two requirements for a stratum boundary. What are the two requirements?	A stratum boundary must be:	2
		(a) a surface that is mathematically described where at least one point has a reduced level, or	
		(b) a surface of a water body or the bed of a water body.	
1G	Rule 7.4.2 RCS 20101 requires a permanent reference mark to be within a specified horizontal distance of at least one boundary point that is required to be witnessed. What is the specified distance for: i) a Class A boundary point ii) a Class B boundary point that is not an extensive rural boundary point		2
		Class A 300 metres	
		Class B 500 metres	
1H	Rule 7.4.3 RCS 2010 details requirements relating to Permanent Reference Marks (PRM). The rule states that a PRM must be in a different position to a new boundary point and lists 3 further requirements it must meet in order that it can reasonably be expected to survive and remain useable for at least 50 years. What are these 3 requirements?	(i) made of sufficiently durable material,	3
		(ii) set in sufficiently stable material, and	
		(iii) located in a suitable position	

Question 2 – Parts 1 and 3 of the Walking Access Act 2008

Total 15 marks

No.	Question	Answer	Mark
2A	Summarise the two principal purposes of the Act given in Section 3.	<p>Purpose: The purpose of this Act is</p> <p>(a) to provide the New Zealand public with free, certain, enduring, and practical walking access to the outdoors (including around the coast and lakes, along rivers, and to public resources) so that the public can enjoy the outdoors; and</p> <p>(b) to establish the New Zealand Walking Access Commission with responsibility for leading and supporting the negotiation, establishment, maintenance, and improvement of—</p> <p>(i) walking access (including walkways, which are one form of walking access) over public and private land; and</p> <p>(ii) types of access that may be associated with walking access, such as access with firearms, dogs, bicycles, or motor vehicles.</p>	2
2B	What two types of interest in the land can the Commission negotiate under Section 26 if they consider private land should be made available for the use of a walkway?	<p>Negotiation of walkway over private land If the Commission considers that all or part of any private land should be made available for use as a walkway, it may negotiate an agreement with the landholder for—</p> <p>(a) an easement or lease over all or that part of the land (as the case may be) for use as a walkway; or</p> <p>(b) the purchase of any land that includes all or that part of the land (as the case may be) proposed for use as a walkway.</p>	2
2C	Section 30 requires the Commission to assign a distinctive name to a walkway over private land. In assigning a name whose views must the Commission to take into account?	<p>In assigning the name, the Commission must take into account the views (if any) of—</p> <p>(a) hapū or iwi that have manawhenua (customary authority over land) in the area in which the walkway is located; and</p> <p>(b) any other persons or organisations that the Commission considers representative of persons who have an interest in the naming of the walkway.</p>	2

No.	Question	Answer	Mark
2D	Section 39 (1) specifies how public notification is to be undertaken when closing a walkway. The section details 3 requirements relating to how a closure must be notified. What are these 3 things?	<p>Public notification of closure of walkway</p> <p>(1) A closure must be publicly notified—</p> <p>(a) by signs erected at all points at which the closed walkway could be entered; and</p> <p>(b) in a daily or other newspaper circulating in the area in which the walkway is located; and</p> <p>(c) if the controlling authority thinks it desirable in the circumstances, by any other method of giving public notice.</p>	3
2E	Section 39 (2) states that all signs erected for the purpose of giving notice of the closure of a walkway are required to specify 4 things. Name 3 of these?	<p>(2) All signs and notices under subsection (1) must specify—</p> <p>(a) the name of the walkway; and</p> <p>(b) the period during which the walkway will be closed; and</p> <p>(c) that it is an offence to enter the walkway during the period of closure; and</p> <p>(d) the reason for the closure.</p>	3
2F	Section 37 (1) details 4 functions that a controlling authority of a walkway has. Name 3 of these functions.	<p>A controlling authority of a walkway has the following functions:</p> <p>(a) erecting and maintaining poles, markers, or other suitable indicators to mark the line of the walkway:</p> <p>(b) erecting and maintaining, at the controlling authority's discretion,—</p> <p>(i) any stiles, fences, or other structures that are necessary or desirable to enable members of the public to use the walkway:</p> <p>(ii) notices warning members of the public who use the walkway not to trespass on any land adjoining the walkway:</p> <p>(c) providing for the proper control and use of the walkway:</p> <p>(d) generally promoting and maintaining the walkway for the pleasure, safety, and welfare of members of the public.</p>	3

Question 3 – Parts 2, 6 and 10 of the Resource Management Act 1991

Total 15 marks

No.	Question	Answer	Mark
3A	Section 6 details seven aspects considered as matters of national importance. Three of the listed seven matters specifically relate to inappropriate subdivision and development. Name two of the three matters that relate to inappropriate subdivision and development.	<p>Matters of national importance In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:</p> <p>(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:</p> <p>(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:</p> <p>(f) the protection of historic heritage from inappropriate subdivision, use, and development.</p>	2
3B	Section 100 states “A hearing need not be held in accordance with this Act in respect of an application for a resource consent unless – “and provides for two circumstances that would necessitate a hearing. Name the two circumstances.	<p>100 Obligation to hold a hearing A hearing need not be held in accordance with this Act in respect of an application for a resource consent unless—</p> <p>(a) the consent authority considers that a hearing is necessary; or</p> <p>(b) either the applicant or a person who made a submission in respect of that application has requested to be heard and has not subsequently advised that he or she does not wish to be heard.</p>	2
3C	Where a hearing of an application for a resource consent is necessary Section 101 (3) requires the consent authority to give notice of the hearing. Who does the consent authority have to give this notice to and how many days’ notice is required?	<p>The consent authority shall give at least 10 working days' notice of the commencement date and time, and the place, of a hearing of an application for a resource consent to—</p> <p>(a) the applicant; and</p> <p>(b) every person who made a submission on the application stating his or her wish to be heard and who has not subsequently advised that he or she does not wish to be heard</p>	3

No.	Question	Answer	Mark
3D	Section 221 (1) requires a territorial authority to issue a consent notice in certain circumstances. What are these circumstances?	Where a subdivision consent is granted subject to a condition to be complied with on a continuing basis by the subdividing owner and subsequent owners after the deposit of a survey plan (not being a condition in respect of which a bond is required to be entered into by the subdividing owner, or a completion certificate is capable of being or has been issued), the territorial authority shall, for the purposes of section 224, issue a consent notice specifying any such condition.	3
3E	What are the purposes of Esplanade Reserves and Esplanade Strips as defined by Section 229?	<p>229 Purposes of esplanade reserves and esplanade strips</p> <p>An esplanade reserve or an esplanade strip has 1 or more of the following purposes:</p> <p>(a) to contribute to the protection of conservation values by, in particular,—</p> <p>(i) maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or</p> <p>(ii) maintaining or enhancing water quality; or</p> <p>(iii) maintaining or enhancing aquatic habitats; or</p> <p>(iv) protecting the natural values associated with the esplanade reserve or esplanade strip; or</p> <p>(v) mitigating natural hazards; or</p> <p>(b) to enable public access to or along any sea, river, or lake; or</p> <p>(c) to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.</p>	5

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

Total 15 marks

No.	Question	Answer	Mark
4A	What comprises “cadastral survey data” according to the interpretation of Section 4?	<p>cadastral survey data—</p> <p>(a) means information in or derived from cadastral surveys, and related information; and</p> <p>(b) includes survey system information and tenure system information</p>	2
4B	If, after conducting a hearing, the Cadastral Licensing Board is satisfied that a licensed cadastral surveyor is guilty of professional misconduct, the Board may do 1 or more of 3 things. What 3 things, in addition to ordering the cadastral surveyor pay costs and expenses, are available under Section 39 (2) for the Board to do as disciplinary action?	<p>The Board may do 1 or more of the following:</p> <p>(a) order that the cadastral surveyor's licence be cancelled and the name of the cadastral surveyor be removed from the register:</p> <p>(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:</p> <p>(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</p>	3
4C	Section 47 details the general duties in relation to a cadastral survey. Who can undertake a cadastral survey and who is responsible for a cadastral survey?	<p>General duties in relation to cadastral surveys</p> <p>(1) A cadastral survey must be conducted by a cadastral surveyor or a person acting under the direction of a cadastral surveyor.</p> <p>(2) In conducting a cadastral survey, a cadastral surveyor or a person acting under his or her direction must comply with this Part and any regulations, standards, and rules made under it</p> <p>(3) A cadastral surveyor is responsible for a cadastral survey conducted by a person acting under his or her direction</p>	2
4D	If an error is found in a cadastral survey dataset affecting any title under the Land Transfer Act 1952 or any title or tenure under any other Act, Section 52 of the Cadastral Survey Act provides the Surveyor-General with what powers to deal with such a situation?	If an error is found in a cadastral survey dataset affecting any title under the Land Transfer Act 1952 or any title or tenure under any other Act, the Surveyor-General may, in writing , require the cadastral surveyor responsible for the error to undertake, or arrange to be undertaken, the work necessary to correct the error within a time that the Surveyor-General considers reasonable	2

No.	Question	Answer	Mark
4E	Section 53 of Act details aspects relating to powers of entry for cadastral survey purposes. What does this section authorise a cadastral surveyor to do and what requirements are to be met in undertaking what is authorised? What specifically does the section not permit a cadastral surveyor to do?	<p>53 Powers of entry for cadastral survey purposes</p> <p>(1) A cadastral surveyor authorised either generally or specifically by the Surveyor-General may, for the purpose of conducting a cadastral survey or the installation of a survey mark,—</p> <p>(a) enter and re-enter any land at reasonable times, with or without any assistants, aircraft, boats, vehicles, appliances, machinery, and equipment that are reasonably necessary for the conduct of the cadastral survey or to install the survey mark; and</p> <p>(b) on any land, do all things necessary or required of him or her for the proper conduct of the cadastral survey or the installation of the survey mark.</p> <p>(2) Before exercising any of the powers conferred by subsection (1) in respect of any land that is not a road, the person doing so must, if practicable, give reasonable notice to the occupier of the land of the intention to exercise those powers.</p> <p>(3) Subsection (1) does not confer on any person the power to enter any dwelling/house or other building unless the entry is authorised by a warrant given by a District Court Judge on written application on oath, which must not be granted unless the Judge is satisfied that reasonable efforts have been made to obtain consent to the entry and that the entry is necessary for the purpose of conducting a cadastral survey.</p> <p>(4) A person exercising any power under subsection (1) must produce evidence of his or her identity and authority to exercise the powers conferred by this section—</p> <p>(a) if practicable on first entering the land or premises; and</p> <p>(b) whenever subsequently reasonably requested to do so.</p>	6

Question 5 – Sub-parts 1– 11 of Part 2 of the Unit Titles Act 2010

Total 15 Marks

No.	Question	Answer	Mark
5A	Section 19 provides a meaning of a “layered unit title development”. What two things are required for a grouping of unit title developments to constitute a layered unit title development under this section?	<p>A layered unit title development is a grouping of unit title developments in which—</p> <p>(a) there is 1 head unit title development; and</p> <p>(b) there is at least 1 subsidiary unit title development</p>	2
5B	Section 32 of the act describes instances where a unit plan for the subdivision of land must not deposit. Three of these restrictions relate to the computer register in which the land is held. List the restrictions.	<p>32 Restrictions on deposit of unit plans</p> <p>(1) A unit plan for the subdivision of land must not be deposited—</p> <p>(a) while the computer register to any land to which it relates is limited in any manner referred to in <u>Part 12</u> of the Land Transfer Act 1952:</p> <p>(b) while the land to which it relates is held in more than 1 computer register created under the <u>Land Transfer Act 1952</u>;</p> <p>(c) unless the land to which it relates is the whole of the land in a computer register created under the <u>Land Transfer Act 1952</u>;</p>	3
5C	Clause (2) of Section 32 of the act lists specific certificates or approvals required for a unit plan to deposit. List the certifications or approvals required.	<p>(2) A unit plan for the subdivision of land or for the subdivision of a principal unit must not be deposited—</p> <p>(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—</p> <p>(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</p> <p>(ii) every principal unit shown on the plan conforms to the definition of principal unit in <u>section 7</u>;</p> <p>(b) unless a certificate in the prescribed form has been given in writing by a registered valuer showing the ownership interest or proposed ownership interest fixed under <u>section 38</u> for each of the units on the plan:</p> <p>(c) until it has been approved in accordance with section 9 of the Cadastral Survey Act 2002</p>	4

No.	Question	Answer	Mark
5D	Section 47 provides for the Register General of Lands to set up a supplementary record sheet in relation to a unit plan. What information must the Registrar note on the supplementary record sheet?	<p>Supplementary record sheets On the deposit of a unit plan under <u>subpart 1 or 2</u>, or <u>section 24(2)(a)</u>, the Registrar must set up a supplementary record sheet on which the Registrar must note—</p> <p>(a) that the body corporate owns the common property; and</p> <p>(b) that the owners of all the units are beneficially entitled to the common property as tenants in common in shares proportional to the ownership interest (or proposed ownership interest) in respect of their respective units; and</p> <p>(c) appropriate memorials relating to—</p> <p>(i) all instruments that are registered and that affect the whole or any part of the base land and the common property (independently of the units) to which the unit plan relates; and</p> <p>(ii) all other matters that, in accordance with this Act, the regulations, and any other Act, have to be noted on the supplementary record sheet.</p>	4
5E	Under Section 55 (2) what happens to an access lot, or share of an access lot, owned by the registered proprietor of the base land on the deposit of the unit plan?	<p>55 Access lots.</p> <p>(2) On the deposit of the unit plan, the access lot, or share of the access lot, owned by the registered proprietor of the base land becomes part of the common property.</p>	1
5F	Pursuant to Section 60 what effect does the deposit of a unit plan have on existing easements and covenants affecting the base land?	<p>60 Existing easements and covenants affecting base land</p> <p>The deposit of a unit plan has no effect on any easement or covenant to which the base land is subject or on any easement or covenant that is appurtenant to the base land.</p>	1

Question 6 – Part 14 Te Ture Whenua Maori Act 1993

Total 15 Marks

No.	Question	Answer	Mark
6A	According to Section 286 what is the purpose of Part 14 of the Act?	<p>286 Purpose of this Part</p> <p>(1) The principal purpose of this Part is to facilitate the use and occupation by the owners of land owned by Maori by rationalising particular landholdings and providing access or additional or improved access to the land.</p>	1
6B	Pursuant to Section 301 a partition order must comply with the provisions of the Resource Management Act 1991 with one exception. What is the exception?	<p>301 Compliance with provisions of Resource Management Act 1991 relating to subdivisions</p> <p>(1) This section applies to every partition of land by the court except for a partition into parcels to be held by owners who are members of the same hapu.</p>	1
6C	Pursuant to Section 290 in making a partition order the Maori Land Court may partition land in a number of ways. List the modes of partition.	<p>290 Modes of partition</p> <p>(1) The court may partition any land under this Part in any 1 or more of the following ways:</p> <p>(a) into parcels held by single owners in severalty;</p> <p>(b) into parcels held by 2 or more owners as joint tenants;</p> <p>(c) into parcels held by any number of owners as tenants in common together with owners holding as joint tenants;</p> <p>(d) into parcels held by 2 or more owners as tenants in common</p>	4
6D	Section 315 allows the Maori Land Court to create easements over different categories of land in favour of others. List the categories of land over which the Court can grant an easement, and the category of land, or person, who may benefit in each case.	<p>315 Court may create easements</p> <p>(1) The court may—</p> <p>(a) create easements over any land to which this Part applies for the purpose of being annexed to or used or enjoyed with any other land; or</p> <p>(b) create easements over any General land for the purpose of being annexed to or used or enjoyed with any land to which this Part applies; or</p> <p>(c) create easements in gross over any land to which this Part applies.</p> <p>(2) The grant of an easement under this section may be made subject to a condition for the payment of compensation in respect of the grant, or to any other conditions that the court may impose.</p> <p>(3) Where an easement is granted under this section for the purpose of providing access to any other land, the grant of the easement shall be made in accordance with the succeeding provisions of this Part.</p>	3

No.	Question	Answer	Mark
6E	For the purpose of providing access, or additional or improved access, and pursuant to Section 316 of Part 14, describe two situations where the Maori Land Court may lay out roadways.	<p>316 Court may lay out roadways</p> <p>(1) For the purpose of providing access, or additional or improved access, the court may, by order, lay out roadways in accordance with the succeeding provisions of this section and of this Part.</p> <p>(2) For the purpose of providing access, or additional or improved access, to any land to which this Part applies, the court may lay out roadways over any other land.</p> <p>(3) For the purpose of providing access, or additional or improved access, to any land other than land to which this Part applies, the court may lay out roadways over any land to which this Part applies.</p> <p>(4) Any order laying out roadways may be a separate order, or may be incorporated in a partition order or other appropriate order of the court.</p>	2
6F	<p>What conditions must be met under Section 317 before roadways can be laid out in the following circumstances?</p> <ul style="list-style-type: none"> • Over any Maori Freehold Land • Connecting with any State Highway • Over general land • Over any Crown Land 	<p>317 Required consents</p> <p>(1) The court shall not lay out roadways over any Maori freehold land unless it is satisfied that the owners have had sufficient notice of the application to the court for an order laying out roadways and sufficient opportunity to discuss and consider it, and that there is a sufficient degree of support for the application among the owners, having regard to the nature and importance of the matter.</p> <p>(2) The court shall not lay out roadways over any customary land without the consent of an agent appointed by the court pursuant to <u>Part 10</u> to represent the interests of those persons who may be entitled to apply for a freehold order in respect of the application for an order laying out roadways.</p> <p>(3) The court shall not lay out roadways over any General land without the consent of each owner.</p> <p>(4) The court shall not lay out roadways over any Crown land without the consent of the Commissioner of Crown Lands.</p> <p>(5) The court shall not lay out roadways connecting with any State highway without the consent of the New Zealand Transport Agency and the territorial authority for the district in which the connection would be effected.</p> <p>(6) The court shall not lay out roadways connecting with any public road without the consent of the territorial authority for the district in which the connection would be effected.</p> <p>(7) Notwithstanding anything in subsections (5) and (6), where a roadway is laid off as part of a partition to which <u>section 301</u> applies, a separate consent to the laying out of the roadway shall not be required from the territorial authority for the district in which the land to be partitioned is situated.</p>	4