



SURVEY AND SPATIAL NEW ZEALAND

18 June 2020

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 an “irregular boundary”, as defined in the Rules for Cadastral Survey 2010 Terms and Definitions? (1 mark)
- 1b. What is the definition of a “cadastral survey network mark”, as defined in the Rules for Cadastral Survey 2010 Terms and Definitions? (1 mark)
- 1c. Class B accuracies must be used for a boundary and its associated boundary points except in two situations as stated in Rule 3.2.2 Rules for Cadastral Survey 2010. What are these two situations? (2 marks)
- 1d. Rule 5.3(c) Rules for Cadastral Survey 2010 lists three considerations for showing areas accurately to parcels. What are these three considerations? (3 marks)
- 1e. List the four different parcel types that can be used for unit title development parcels under Rule 5.5.2 Rules for Cadastral Survey 2010. (2 marks)
- 1f. 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)
- 1g. A stratum boundary must meet two criteria, as stated in Rule 6.8 Rules for Cadastral Survey 2010. What are these two criteria? (2 marks)
- 1h. Rule 7.3.2 Rules for Cadastral Survey 2010 requires at least one witness mark on a cadastral survey to be within the applicable horizontal distance for each of the boundary points specified. What is the specified distance for:
 - (a) a Class A boundary point? (½ mark)
 - (b) a Class C boundary point? (½ mark)
- 1i. In addition to the heading ‘Memorandum of Easements’ or ‘Schedule of Easements’, what information must be included in a new schedule under Rule 10.2.1(b) Rules for Cadastral Survey 2010? (2 marks)
- 1j. The retention of all relevant field information for a CSD is covered in Rule 14(b) of the Rules for Cadastral Survey 2010. What is the minimum period that this field information needs to be retained and who may request that information during that time? (1 mark)

- 1k. What is the purpose of the Lodgement Standard, as specified in the Standard for Lodgement of Cadastral Survey Datasets 2013? (1 mark)

- 1l. What is the definition of “live parcel”, as defined in the Standard for Lodgement of Cadastral Survey Datasets 2013 Terms and Definition? (1 mark)

Question 2

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

Total 20 marks

- 2a. What are the three main purposes of the Cadastral Survey Act 2002, as listed under Section 3 of that Act? (3 marks)
- 2b. What is the definition for the “national survey control system”, as specified in Section 4 Cadastral Survey Act 2002? (1 mark)
- 2c. The Cadastral Surveyors Licensing Board may receive complaints of professional misconduct. What are the two types of complaints that can be received, as stated in Section 35(1) Cadastral Survey Act 2002? (1 mark)
- 2d. Section 38(1) Cadastral Survey Act 2002 deals with the hearing of complaints against a licensed cadastral surveyor by the Cadastral Surveyors Licensing Board. What are the two criteria that the Board need to adhere to? (1 mark)
- 2e. Section 47 Cadastral Survey Act 2002 details the general duties in relation to a cadastral survey. Who can undertake a cadastral survey and who is responsible for a cadastral survey? (3 marks)
- 2f. 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 provides the Surveyor-General with what powers to deal with such a situation? (2 marks)
- 2g. Section 54 Cadastral Survey Act 2002 deals with obstruction of a cadastral surveyor whereby a person commits an offence who knowingly obstructs or hinders that cadastral surveyor, or a person assisting that cadastral surveyor, from carrying out certain activities. Provide the three activities as stipulated in this section. (3 marks)
- 2h. List six circumstances, pursuant to Schedule 2 Cadastral Survey Act 2002, where a licensed cadastral surveyor is guilty of professional misconduct in any proceedings or appeal under Part 4 of that Act. (6 marks)

Question 3

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

Total 20 marks

- 3a. Section 11(1) Land Transfer Act 2017 identifies eight items that the Registrar must record in the Register. List these eight items. (4 marks)
- 3b. Section 12(1) Land Transfer Act 2017 sets out five different types of estates for which the Registrar may create a record of title. Identify at least four of these different types of estates. (2 marks)
- 3c. Nine items are listed under Section 12(2) Land Transfer Act 2017 that must be contained within a record of title. List six of these items. (3 marks)
- 3d. In terms of access to the register as stated under Section 40(1) Land Transfer Act 2017, what must the Registrar provide on request and on payment of the prescribed fee or charge? (1 mark)
- 3e. Section 108(1) Land Transfer Act 2017 deals with the registration and surrender of easements and *profits à prendre*. List two of the documents and/or instruments either of which may be used in order to undertake the above. (1 mark)
- 3f. A deposit document used to create or surrender an easement on deposit of a plan must be in a form specified by the Registrar. What are the matters that need to be specified in a deposit document, as required under Section 110(3) Land Transfer Act 2017? (2 marks)
- 3g. When considering if an easement can be extinguished if it is redundant under Section 115(2) Land Transfer Act 2017, what two considerations apply? (2 marks)
- 3h. For the purpose of Section 197 Land Transfer Act 2017 (Subpart 4), what is the meaning of a **limited certificate of title**? (1 mark)
- 3i. Section 201(1) Land Transfer Act 2017 sets out two methods by which the Registrar may remove the limitations from a limited record of title. Identify both these methods. (2 marks)
- 3j. What matters must the Registrar have regard to, when satisfying himself or herself that limitation can be removed from a record of title, as stated in Section 201(3) Land Transfer Act 2017. (2 marks)

Question 4

Parts 14 and 16 Te Ture Whenua Maori Act 1993

Total 20 marks

- 4a. State the principal purpose of Part 14 as stipulated under Section 286(1) Te Ture Whenua Maori Act 1993. (1 mark)
- 4b. A partition order must comply with the provisions of the Resource Management Act 1991, except in one particular circumstance as provided for under Section 301(1) Te Ture Whenua Maori Act 1993. Explain what this particular circumstance is. (1 mark)
- 4c. Section 307 Te Ture Whenua Maori Act 1993 deals with amalgamation orders, whilst Section 308 Te Ture Whenua Maori Act 1993 deals with aggregation orders. Describe how the two orders apply? (2 marks)
- 4d. Pursuant to Section 315(1) Te Ture Whenua Maori Act 1993, list the categories of land the Maori Land Court may create easements over and for what purpose. (3 marks)
- 4e. What consent is required under Section 317 Te Ture Whenua Maori Act 1993 before roadways can be laid out in the following circumstances?
a) Over any Maori freehold land
b) Over General land
c) Over Crown land
d) Connecting with any State highway. (4 marks)
- 4f. Section 320(4) Te Ture Whenua Maori Act 1993 states that no roadway shall be declared a road or street, without the consent in writing from two authorities. Who are these two authorities and the principal purposes of their respective control? (2 marks)
- 4g. Section 326B Te Ture Whenua Maori Act 1993 allows the Court to make an order granting reasonable access to landlocked Maori land. List at least four matters that the Court must have regard to when considering an application for reasonable access that are provided in subsection (4). (4 marks)
- 4h. State the two situations, pursuant to Section 332(1) Te Ture Whenua Maori Act 1993, where the Maori Land Court, or the Registrar, can require a survey of any Maori land to be undertaken. (2 marks)
- 4i. Section 332(1) Te Ture Whenua Maori Act 1993, also states that the Maori Land Court, or the Registrar, may transmit to the Chief Surveyor of the district in which the land is situated a document for such a survey to be undertaken. What is this document? (1 mark)

Question 5

Part 21 Local Government Act 1974 and Schedule 5 Land Transfer Regulations 2018

Total 20 marks

- 5a. According to Section 315 Local Government Act 1974, what effects do accretion and erosion have on a road along the bank of a river or stream or along the mean high-water mark of the sea or along the margin of any lake? (2 marks)
- 5b. Section 319 Local Government Act 1974 grants Council general powers in respect of roads. Identify ten of these powers. (5 marks)
- 5c. Section 342 Local Government Act 1974 deals with the stopping and closing of roads. Explain the two differences between stopping a road and closing a road, as provided for in that section of the Act. (1 mark)
- 5d. When disposing of land not required for road, pursuant to Section 345(1) Local Government Act 1974, what four actions may Council consider taking to dispose of that land? (4 marks)
- 5e. Schedule 5 Land Transfer Regulations 2018 classifies easements by reference to certain rights. List six of the seven rights referred to in the schedule. (3 marks)
- 5f. Describe what the terms “benefited land” and “burdened land” means in relation to an easement, as specified in the Schedule 5 (Interpretation) Land Transfer Regulations 2018. (2 marks)
- 5g. A grantee can exercise his or her rights of access to undertake works in respect to an easement, pursuant to Schedule 5(12) Land Transfer Regulations 2018. What actions must the grantee observe to access the property and follow when undertaking the required works? (3 marks)

Question 6

Parts 1 and 5 and Subpart 3 of Part 6 Property Law Act 2007

Total 20 marks

- 6a. List the meanings of the following terms provided in Section 4 (Interpretation) Property Law Act 2007, for
- (a) Land
 - (b) Encumbrance
 - (c) Lease
 - (d) Mortgage
- (4 marks)
- 6b. Section 276 Property Law Act 2007 deals with the effect of covenants made by two or more covenantors. How are these covenantors bound by the covenants? (1 mark)
- 6c. Section 277A(1) Property Law Act 2007 deals with covenants becoming void when the principal purpose of the covenant is to stop land being used for housing from some classes of people. What are these classes of people? (3 marks)
- 6d. As covered in Section 307C(1) Property Law Act 2007, a covenant in gross is binding in equity to whom? (2 marks)
- 6e. Pursuant to Section 307C(2) Property Law Act 2007, at what point does a covenant in gross cease to be binding on a person? (1 mark)
- 6f. Subpart 3 of Part 6 Property Law Act 2007 deals with landlocked land. What does the term “reasonable access” mean, as spelt out in Section 326 (Interpretation) of that Act? (1 mark)
- 6g. When an owner applies for an order granting reasonable access to landlocked land, under Section 327(2) Property Law Act 2007, who must the application be served on, unless the court directs otherwise? (4 marks)
- 6h. Section 328(2) Property Law Act 2007 identifies four categories of land whereby the court must not make an order pursuant to subsection (1) when granting reasonable access to landlocked land. List the four categories of land this applies to. (2 marks)
- 6i. Pursuant to Section 329 Property Law Act 2007, what matters must a Court have regard to, when determining an application for an order for reasonable access? (2 marks)