

29 May 2002

All Registered Surveyors

CADASTRAL SURVEY ACT 2002

The new land transfer and cadastral survey legislation introduces a number of changes of importance to surveyors. The purpose of this letter is to advise you of the main provisions of the Cadastral Survey Act 2002 which came into force on 1 June 2002.

1. Functions of Surveyor-General and Chief Executive

The Act separates responsibility for regulatory and operational functions in Land Information New Zealand. The Surveyor-General will be responsible for the maintenance of the geodetic and cadastral survey system, for setting standards for cadastral surveyors and for auditing performance to those standards.

The position of Chief Surveyor has been abolished and the position's functions transferred to the Surveyor-General, except for those relating to plan approvals and lodgements in the present Survey Regulations, which transfer to the Chief Executive of Land Information New Zealand.

The Chief Executive (with respect to the survey system) will be responsible for:

- (a) determining whether cadastral survey data sets (CSDs) and cadastral surveys comply with standards set by the Surveyor-General. (This is equivalent to the present plan approval function);
- (b) providing facilities to receive CSDs and to set conditions for their use (i.e. lodgement, including digital lodgement into **Landonline**);
- (c) integrating new cadastral surveys into the cadastre to standards set by the Surveyor-General; (i.e. maintenance of the database)
- (d) determining the structure, storage and access to cadastral survey data (i.e. access to **Landonline** and other records, to standards set by the Surveyor-General).

These functions will be carried out by the Operations Group of LINZ. The Chief Executive will audit compliance with (b) above, and the Surveyor-

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General will audit LINZ's compliance with standards relating to the other functions, i.e. (a), (c), (d).

This change in the traditional responsibilities recognises that, with the introduction of the second stage of **Landonline** and other regulatory changes, the approval of CSDs is an operational function. Provisions for exemptions or the interpretation or clarification of standards will be a regulatory function of the Surveyor-General and will be delegated to regulatory staff in LINZ's Regional Offices.

2. Cadastral Surveyors Licensing Board of New Zealand

This will replace the Survey Board. The new Board will consist of five members appointed by the Minister for Land Information, as well as the Surveyor-General. Two of the five members (one of whom must be or have been a licensed surveyor) will be nominated by a body or bodies representing surveyors. The Minister will appoint two other licensed surveyors and a lay person to the Board. The new Board will not be chaired by the Surveyor-General and will not be administered by Land Information New Zealand.

The Surveyors Professional Regulations 1977 have been repealed allowing the new Board to set its own competency requirements for the issue of new licences. It may, in the interim, recognise previous requirements.

The Board's standards will relate to the competencies required by surveyors to meet the Surveyor-General's standards, as well as the legislative requirements relating to the cadastral aspects of the subdivision of land.

The term "registration" will be replaced by "licensing". Licences issued by the Board will be for a maximum of three years and subject to renewal based on the maintenance of competency. The Surveyor-General will be required to audit licensed surveyors compliance with the standards for cadastral surveying and report any significant failures to the Board.

It is expected that the new Board will be formed as soon as possible after 1 June 2002. In the meantime, the outgoing Survey Board will complete examination processes for certificates of competency.

3. Transitional Arrangements

Registered surveyors holding an annual practising certificate immediately before the Cadastral Survey Act 2002 came into force will be entitled to continue as licensed cadastral surveyors until June 2003, as long as they pay the required licence fee to the new Board. The new fee hasn't been set, but cannot exceed the current Annual Practising Certificate fee for the first year.

The Board will also have the power to discipline surveyors and to cancel or remove licences, or set certain conditions as to practice.

4. Surveyor-General's Rules for Cadastral Surveys

The new Act will authorise the conduct of cadastral surveys to be governed by Rules made by the Surveyor-General instead of by Survey Regulations. This change will give more flexibility and the ability to change or modify Rules, although the changes will be subject to a specified process of consultation with the profession, the Cadastral Surveyors Licensing Board, and administrators of affected tenure systems.

The Act also allows the existing Survey Regulations 1998 to become the Surveyor-General's Rules (2002) which means the current regulations will carry over as is, with the only changes being those consequential upon the new Act, i.e.

- (a) changes of references to Chief Surveyor, to Surveyor-General or to Chief Executive as appropriate for the functions described above.
- (b) inclusion of provisions of the Survey Act 1986 relating to the practice of surveying, re sections 57, 58 and 60 (with appropriate consequential changes).

The form of the Surveyor's certificate signed by the surveyor will change to:

I(name), being a person entitled to practise as a licensed cadastral surveyor, certify that -

- (a) *The Surveys to which this dataset relates are accurate, and were undertaken by me or under my direction in accordance with the Cadastral Survey Act 2002 and the Surveyor-General's Rules for Cadastral Survey 2002/1:*
- (b) *This dataset is accurate, and has been created in accordance with that Act and those Rules*

(Signature)

(Date)

However section 68(4) of the Cadastral Survey Act provides that the current certificate in Schedule 1 of the Survey Regulations 1998 can continue to be used for surveys already under action.

A second version of the Rules will be introduced shortly to provide standards for digital lodgement and will include changes identified while operating the Survey Regulations 1998 over the last four years. These changes have been discussed with and have the agreement of the Institute of Surveyors.

The Rules will be posted on the LINZ Internet site. Copies will also be available from the Office of the Surveyor-General.

5. Cadastral Survey Guidelines

These will continue to be provided and kept up-to-date to reflect any changes in case law or the Surveyor-General's Rules and to document interpretations identified in the course of practice. Some immediate reference changes will be necessary to align the Guidelines to the Surveyor-General Rules (which are largely a carry-over of the Survey Regulations). Guidelines will also be developed for the application of the digital lodgement specifications to be included in the Surveyor-General's Rules. In the interim references in the guidelines to the Survey Regulations should be read as references to the Surveyor-General's Rules for Cadastral Surveys.

6. Accreditation

The accreditation process will be superseded by the introduction of licensing and the requirement for regular renewal of licensing.

New Departmental Fees and Charges Regulations will reflect this change, with abolition of the fee for standard examination. This amendment is expected to take effect on 1 July 2002. In the interim (after 1 June) Land Information New Zealand will charge only the limited examination fee for all Cadastral Survey Data lodgements.

7. Auditing of Cadastral Survey Data Sets and Cadastral Surveys

The current process and criteria for auditing cadastral surveyors which was introduced with accreditation, is under review. This is to take into account the impacts of the new legislation and standards, principally licensing and the ability for digital lodgement and prevalidation. These audits will consist of both field and desk top audits and in the normal course of events will be carried out after plan approval. These audits are designed to validate surveyors' compliance with the Surveyor-General's standards as set out in the Rules. Although the accreditation system will be replaced by licensing, its criteria and risk management provisions are still largely relevant.

There is also provision for the Surveyor-General to carry out supplementary audits where standard audits have identified a significant deficiency or pattern of errors that constitute a material risk to the integrity of the survey system. The cost of these additional audits will be charged directly to the surveyors, at an hourly rate of \$120 per hour plus GST for audit staff, plus any disbursements. I propose to discuss the criteria that will need to be applied to determine when such audits are justified with the Institute of

Surveyors, and will advise all licensed surveyors accordingly.

This letter provides a summary of the legislation, however I recommend that you obtain your own copy of the cadastral Survey Act 2002, for reference and study.

Yours faithfully

A J Bevin
Surveyor-General