

Bulletin



Cadastral Surveyors Licensing Board

Issue 7 · September 2019

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Board Membership

The current Board members are -

- Vicki Nalder (Chair) and Neale Faulkner, who are appointed as nominees of bodies representing licensed cadastral surveyors;
- Merryn Maguire and Tony Nikkel appointed directly by the Minister;
- Belinda Greer, who has never been a licensed cadastral surveyor and is not employed in the surveying profession, was appointed by the Minister so the Board has the views of non-surveyors in its deliberations;
- Surveyor-General, Anselm Haanen, as an *ex-officio* member of the Board pursuant to section 13(1) (b) Cadastral Survey Act 2002;
- Mr Craig McInnes is a substitute member of the Board;
- Adina Thorn is a substitute lay member of the Board.

Mark Dyer retired as Surveyor-General in August 2018.

The Board members three year term expire in December. Nominations for vacancies are currently being considered.

Licensing Standards

The Board is currently reviewing the standards required under Sec 11(1)(d) of the Cadastral Survey Act to apply and renew licenses. The Board sees a need for a broader statement of the objectives and outcomes of the Standards which could be modernised to take a more outcome-based approach to the competencies that licensed surveyors require

The Board continues to recognise the examination process conducted by Survey and Spatial New Zealand (S+SNZ) as evidence that applicants applying for initial licences meet the required competencies. S+SNZ is undertaking a full review of the competency requirements for all surveyors including those in the cadastral

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stream. The Board is working closely with S+SNZ to ensure that any revised competencies meet the Boards standards for a licensed cadastral surveyor.

The Board is also working with the School of Surveying at Otago University on a review of the academic curriculum. This is to ensure that the courses offered meet the Standards required under the Cadastral Survey Act.

Licensing Statistics

Licences issued

The table below shows the number of licenses issued and resignations over recent years (to 30 June 2019).

- Renewed means the number of licenses renewed at 30 June 2018.
- New means the number of initial licenses issued during the year.
- Re-applied means the number of licenses issued to surveyors who failed to renew by 30 of June 2019, or had let their licence lapse for some time.
- Non-renewals means surveyors who chose not to renew their licenses and deceased surveyors.

	18/19	17/18	16/17	15/16
Renewed	661	650	648	631
New	31	25	16	24
Re-applied	16	17	10	13
Overseas	3	6	2	3
Total	712	698	676	671
Non-renewals	24	37	25	23

The current number of licensed surveyors is 692 (16 September 2019).

Professional Misconduct Hearings

The Board has received nine complaints of alleged professional misconduct against surveyors since its last Bulletin in June 2016. Six were from members of the public and three from the Surveyor-General. After investigation, the Board found no evidence in any of the complaints from the public to warrant a disciplinary hearing.



Two of the complaints from the Surveyor-General resulted in disciplinary hearings. One of the complaints from the Surveyor-General was upheld, and the surveyor was found guilty of professional misconduct in terms of the Cadastral Survey Act 2002. The following is the effect of the Order made by the Board –

Finding of Professional Misconduct

Cadastral Survey Act 2002

Pursuant to section 44 of the Cadastral Survey Act 2002, notice is hereby given that following a hearing held in Wellington on 22nd November 2018, the Cadastral Surveyors Licensing Board of New Zealand found a Licensed Surveyor, guilty of professional misconduct as described in Schedule 2 of the Cadastral Survey Act 2002.

The complaint was from the Assistant Surveyor-General and concerned professional misconduct in a number of respects:

- To have been negligent in the conduct of, or failure to conduct, any cadastral survey;
- To have certified to the accuracy of any cadastral survey where the operation of the pegging and ground marking was not carried out in accordance with the standards;
- To have supplied to the Surveyor-General any erroneous information in relating to any cadastral survey, cadastral mark, or boundary, knowing the information to be erroneous in any material particular;
- To have failed without reasonable cause to perform his duty imposed on him by the rules.

The irregularities and non-compliances included –

- *falsely recording the placement of a peg at a boundary point when in fact the mark was never placed;*
- *falsely recording in the survey report that there were no suitable old marks available to base survey definition on when in fact there were a number of old marks available;*
- *falsely recording in the CSD, measurements to several boundary marks when in fact no such measurements were made;*
- *falsely recording an instrument set up at a witness mark for the purposes of falsifying a measurement to a boundary mark.*

The disciplinary powers of the Board allow it to do one or more of the following:

- order that the cadastral surveyor's licence be cancelled and that the name of the cadastral surveyor be removed from the register;
- 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;
- 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 that order.



In this case, the surveyor no longer held a licence as a cadastral surveyor. On that basis, none of the disciplinary options available to the Board under section 39(2) were open to it. Neither was the Board in a position, by an order, to impose licensing conditions.

However, the Board concluded that, if the surveyor did hold a licence at the date of its decision, it would have made an order under section 39(2)(a) cancelling the licence and fixing 1 July 2020 as the earliest date that a re-application would have been accepted to apply for a new licence. The Board would also have expressly reserved the right to impose conditions on the surveyor's practice.

In the event of any re-application for a new Licence, the Board set its expectation that the surveyor would reflect on the competencies required to practise as a licensed cadastral surveyor and how to satisfy the Board of meeting those competencies.

The Board also imposed costs of \$3,000 plus GST, as a contribution to the costs and expenses of the hearing and the preceding investigation.

Finally, the Board considered whether it should publish the effect of the Order in any publications it thinks fit. The Board decided that it should publish the order in this bulletin, together with a summary of the matters raised by the complaint and this decision.

The Board decided not to publish the surveyor's name, making allowances for personal circumstances at the time and giving credit for the willingness to admit the failings in professional conduct at the Hearing.

Notices of Significant Failures

Significant failure notices are made to the Board by the Surveyor-General under s7(1)(d) Cadastral Survey Act 2002, and usually result in the requirement to correct the error under s52 of the Act.

The Board has received 27 notices to comply with the Rules for cadastral survey since its last Bulletin in June 2016. The Board reviews all the notices from the Surveyor-General in detail and usually asks the surveyor for an explanation of how and why the errors occurred, and what action the surveyor has taken to prevent similar errors occurring again.

Depending on the surveyor's response, the Board might take further action. One of the steps the Board always takes in monitoring these surveyors is a more in depth review of their applications before their licences are renewed. This review continues for three years after receiving the notice. In some cases, the Board has asked applicants for additional information to confirm their competency before renewing their licence, and other times applications for licences have not been approved.

The most common cause of significant failures is the failure to gather and interpret evidence to determine the correct location of boundaries (Rule 6.1). This often results in incorrect boundary marking, and incorrect boundary dimensions and parcel areas in datasets.



Some examples are set out below:

- **Water boundary:** a survey incorrectly adopted part of a water boundary from an old survey when a more recent adjoining survey had made a better fix of the stream banks. As water boundaries are ambulatory, this had resulted in some encroachments into the adjoining title which had not been accounted for - the survey erroneously included portions of stream beds in the new titles issued.

This was a failure of Rule 3.4 which requires that water boundaries must be determined to sufficient accuracy to take into account (amongst other things), the risk of overlap or ambiguity in boundaries. All the relevant survey records need to be examined, as neither Landonline spatial nor the title diagram may indicate which portions of stream beds are excluded from titles.

In all cases surveyors need to research all relevant title and survey records to determine the appropriate application of accretion, erosion, better survey fix or adoption.

- **Boundary witnessing:** As the result of misreading a pegging tie distance (in links) from an old plan, a boundary point was re-pegged short of the existing boundary. The error occurred because the distance was misread (by a field technician) from a poor copy of the original plan and it was not flagged by the Landonline pre-validation reports.

This can be a common issue when reading old records. In this case a simple missing line calculation would have confirmed the correct value.

Alternatively, better images of plans can be obtained from LINZ, together with the original field notes or traverse sheets if required. A large number of scanned field notes are now available in Landonline.

Other matters concerning the Board -

High Requisition rates: The continuing high number of errors made by some surveyors as manifested by the number of requisitions, is a concern for the Board. The Board considers certification of a dataset as correct as being the key responsibility of a licensed surveyor. Quality assurance systems need to be designed to ensure all datasets will comply with the Rules the first time they are certified. Some of these errors have resulted in significant failure notices to the Board.

Complaints from the Public: The Board has received several complaints from the public recently regarding the services that some individuals and firms advertise. It is aware of several persons who are not licensed cadastral surveyors acting in a way that could give cause to believe they are licensed. LINZ, as administrator of the Cadastral Survey Act 2002, is following up on these complaints in terms of s58 of the Act. The Board has a strong interest in protecting the title of 'licensed cadastral surveyor' in the eyes of the public.

Cadastral Surveys – Property Access

The Board has received several enquiries from the public with regard to unethical behaviour by licensed surveyors or their employees while carrying out cadastral surveys. In particular, some of the issues that



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have been raised relate to unauthorised entry on to land for the purposes of carrying out a cadastral survey, and the direction given by a licensed cadastral surveyor in relation to such field survey.

A surveyor has no more right under the Act to enter private land than any other member of the public without prior authorisation from the Surveyor-General -refer section 53 of the Cadastral Survey Act 2002.

Also note that section 57 of the Act 2002 states: *Unlicensed persons are not to act as licensed cadastral surveyors for the purposes of a cadastral survey, unless under the direction of a licensed surveyor.*

For further information see the LINZ website at -

<https://www.linz.govt.nz/land/surveying/survey-system/cadastral-survey-act>

Other Items of Interest

- (i) The Board has moved its administration support functions from Engineering NZ to Bakertilly (Staples Rodway) for accountancy and tax compliance. Annual audits continue to be carried out by Grant Thornton NZ. A new website has recently been established and maintained by BC Systems Consultancy Ltd. The layout of the website is similar to the old site, but will be updated to provide more useful information.
- (ii) The Board has moved to online licence applications. Paper hard copy Licences will no longer be issued – a pdf version will be available for download if required from the new website.
- (iii) When Surveyors re-apply for a Licence after allowing it to lapse the Board places significant weight on the certifications provided by referees to meet the standard for Re-applications. The Board wishes to remind surveyors that those certifications should not be made lightly, as not all re-applications have been successful.

Do we have your correct contact details?

Section 29 of the Act requires licensed cadastral surveyors to notify the Board of any change to their business address. Please remember to check your member details at sign-in on the Board website. It is especially important we have your latest email address at Licence renewal time to avoid the risk of missing the annual deadline and no longer having a current Licence.

The address for feedback to the board is

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