

Feedback on the *Proposed Rules for Cadastral Survey for Greater Christchurch*

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Please provide detailed comments and suggestions in the boxes below. You can also scan and attach any drawings or diagrams to assist.

The rows will automatically expand to accommodate comments of any length. To insert extra rows at the end of the table, go to the last cell and press the TAB key.

General comments:

1: Developing the Proposed Rules

Comment: Note that the context for proposed rules set out in 2.2.2, 2., first bullet point (page 6), is incorrect. There can be no absolute statement that "the documented record of the distances and bearings between boundary marks and their relationship with other survey marks cannot be relied on (adopted) for cadastral surveys". Cadastral surveying is evidence based, and if the evidence shows that such adoption is valid, then such adoption can be utilised.

2: Developing the Proposed Rules

Comment: Again, 2.2.2, 2., second bullet point (page 7), misinterprets the evidence basis of cadastral surveying.

3: Developing the Proposed Rules

Comment: In 2.2.6, first bullet point (page 9), reference is made to a "survey plan". This is poor terminology, in that a survey plan is a pre Landonline document depicting cadastral survey information, while its current equivalent document would be the Diagram of Survey.

4: The Proposed Rules

Comment: The writing of rules that specifically cover the Canterbury Earthquakes is in ICS's opinion short sighted and ad-hoc. It would have been more appropriate after five years for LINZ to have develop generalised conflict rules for the whole country, particularly as these will be required in the forthcoming review of the RCS 2010.

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5: The Proposed Rules

Comment: The "boundaries moved" principle set out in 2.3, third paragraph (page 9), is not a new idea. This principle is currently expressed in the RCS 2010, where 6.1(c) requires boundary definition in relation to other boundaries. What is new is that the principle is now expressed in an Act of Parliament.

6: Impact of the new legislation on survey and title

Comment: 2.4.1, first bullet point (page 10), refers to a scale diagram. This is again an example of poor terminology, as diagrams produced using the Landonline system are not necessarily to scale, or even proportional.

7: Impact of the new legislation on survey and title

Comment: In 2.4.2, first paragraph (page 11), it is unfortunate that LINZ still confuses the term cadastral survey with CSD. The CSA 2002 recognises these terms as different, with separate definitions included in section 4, and such confusion means LINZ are not able to adequately assess the risks associated with each item.

8: The extent the Proposed Rules balance the current practical issues faced by property owners and surveyors, with their long term needs.

Comment: The proposed rules do not appear to balance the current and long term needs of property owners, and such a judgement could be better informed with the release of LINZ's s7(2)(c) CSA 2002 assessment.

9: The extent the Proposed Rules contribute to restoring the cadastre.

Comment: ICS opposed The Act on the basis that informed and well-versed Cadastral Surveyors would place reliance on monumentation to define boundaries after the earthquakes. While the Act has now reinforced this reliance on monumentation, the Rules as proposed allow the deferral of parcel definition, and hence deferral of the alignment of the survey and title records of the cadastre.

10: The extent the Proposed Rules assist with developing surveying practices to give effect to the new legislation.

Comment: The addition of rules developed on an ad-hoc basis for the Greater Christchurch situation is unhelpful in the longer term, and does little to give effect to the new legislation.

11: Are there any other technical surveying standards the Proposed Rules should cover?

Comment: Rule 18 and some of the definitions in Rule 2 of the RCS 2010 needs to be revoked, while a "Good Survey Practice" rule needs to be reintroduced to the RCS 2010.

Specific comments and observations:

Rule	Page	Recommended changes and reason
RCS 2010		
18	59	Delete the whole of this rule. This rule was introduced specifically for the Canterbury earthquakes, and now needs to be removed in its entirety.
2	8	Delete the definition of block shift. This term was introduced specifically for the Canterbury earthquakes, and now needs to be removed.
2	9	Delete the definition of deep-seated movement. This term was introduced specifically for the Canterbury earthquakes, and now needs to be removed.
2	10	Delete the definition of ground movement. This term was introduced specifically for the Canterbury earthquakes, and now needs to be removed.

Proposed Rule 20		
20.1	15	Amend definition of 'affected boundary' to: a boundary where: (a) earthquake movement has changed its dimension sufficient to create a conflict, and (b) it has not been defined in terms of that earthquake movement and recorded in an approved cadastral survey The Act talks about movement, not accuracy tolerances. The RCS 2010 already define conflict, and specifies accuracy standards.
20.1	15	Amend the definition of 'disturbed' to: an old mark which is observed as physically disturbed
20.1	15	Add a definition of 'reliable' as: an old survey mark or evidence of an old survey mark that remains in its original relative position to the ground in which it was emplaced
20.2	16	With the repealing of Rule 18 from the RCS 2010, this rule can be deleted.

20.3	17	<p>The use of defined by survey/accepted terminology continues the poor drafting of the current rules. All land is affected (until proven otherwise) notwithstanding those differences may be less than allowable tolerances.</p> <p>This is a good survey practice issue (not just for Christchurch but for the whole country) and requires LINZ to oversee definition on an individual basis, with consistent leadership.</p>
20.4	18	<p>Boundaries requiring resurvey as a result of the earthquakes need to be treated as a new boundary and an origin using old survey marks in close proximity should apply based on good survey practice.</p> <p>It is to be noted that the origin's purpose is to test for relative rotation and scale, and if this identifies conflict, it is the hierarchy of evidence which will establish definition independent of the origin.</p>
20.4	18	<p>The prohibition on using boundary marking CSD's to define affected boundaries or points is welcome.</p> <p>It is believed that if LINZ were to waive the difference in fees between LT and SO surveys of affected parcels, it would be feasible to also prohibit using SO surveys to effectively redefine earthquake affected parcels, which would speed healing the differences between the survey and title records of the cadastre.</p>
20.4	19	<p>The diagrams in the commentary are not helpful, and those for Example A are unlawful in terms of the Act, which makes no reference to accuracies.</p>
20.5	20	<p>This is the status-quo situation dictated by good survey practice and other rules.</p>
20.6	21	<p>This is the status-quo situation dictated by good survey practice and other rules.</p>

20.7	22	<p>The current survey system does not support CSD's for non-primary parcels being able to change primary parcel and hence title dimensions. This still allows for the creation of easements over, for example, titles that are 'limited as to parcels'. This is because the survey work supporting the non-primary parcel location will generally stand (if good survey practice is used and has good LINZ oversight), even if the absolute calculations with the documentary title boundary are a little vague.</p> <p>In other words the position of the non-primary parcel is known independently of the primary parcel boundaries.</p> <p>ICS believes that to abandon such a situation will have a huge negative impact on the cadastre.</p> <p>An alternative may be to allow new easement boundaries on affected parcels to be surveyed to Class D standards, where the connection between the new easement and the survey network will allow easement dimension to be recalculated when it is subsequently necessary to redefine an earthquake affected primary parcel.</p>
20.8	24	<p>This clause has very poor wording and it is difficult to comprehend the intent.</p> <p>Non-primary parcels for cross-lease and unit titles are currently defined graphically, with no dimensions defined in Landonline.</p> <p>This may be considered to be similar to the comments for 20.7 above, and may also be a situation for Class D boundaries.</p>
20.9	25	<p>This is another common-sense good survey practice rule.</p>
20.10	26	<p>While this rule allows an existing irregular boundary to remain an irregular boundary where it follows the centreline of a water body, no consideration appears to have been given to the situation where a water boundary is affected. The default position is that it would need to be defined by survey, which would cause major problems of needing to address any potential right to accretion/dried up water body.</p> <p>It is recommended that a clause analogous to that in rule 6.7(b) of the RCS 2010 is inserted to cover this situation.</p>

Other comments and observations:

ICS represents approximately 40 Licensed Cadastral Surveyor's, who are experienced, passionate, and have a good understanding of the cadastre, cadastral surveying, and property rights.

We have become increasingly concerned at the policy and operational direction taken by LINZ in recent years, not only because of the effects on working surveyors, but also because of the effects on the New Zealand public and landowners.

Of particular note were the proposed guidance for surveyors locating boundaries in areas of shallow surface movement caused by the Canterbury earthquakes issued on 19 February 2015, which has now been proven to be fundamentally flawed by the passing of the Canterbury Property Boundaries and Related Matters Act, yet were a solution favoured by LINZ.

ICS opposed this latest legislation, primarily because established survey practice (reliance on monuments) would have provided correct solutions (in terms of the Act). A positive outcome of the Act however, is that it now further cements the place of monumentation as the fundamental cornerstone of land definition in one of the world's most geologically active countries, where boundaries are consistently on the move, sometimes at accelerated rates by earthquake.

The 'Proposed Rules for Cadastral Survey for Greater Christchurch' currently being consulted on are in many cases examples of 'Good Survey Practice' which would not need to be individually regulated upon, if a 'Good Survey Practice' rule were reintroduced to the RCS 2010.

For the survey profession to fully understand the impact of the proposed rules, LINZ need to release their section 49(3) & 7(2)(c) CSA 2002 assessments of the allocation of costs and benefits between the Crown, cadastral surveyors, current and future owners of land, and other parties, and their section 49(3)(e) CSA 2002 assessment of how the proposed rules will maintain public confidence in the cadastre.

ICS looks forward to contributing to the ongoing consultation process in the development of Rules for Greater Christchurch.

Please return your feedback form to LINZregulatorysubmission@linz.govt.nz.