

The Disciplinary Process for Licensed Cadastral Surveyors in New Zealand

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SUMMARY

The integrity of the national cadastre in New Zealand depends, at least in part, on the competency and the honesty of the surveyors who are authorised to contribute data to it. While trust must be placed in those who are ‘licensed’ or ‘registered’, or in some other respect permitted to provide such data, checks and audits are required to ensure that standards are maintained.

The Cadastral Survey Act 2002 (the Act) requires surveyors contributing to the cadastre to obtain and renew annually a licence issued by the Cadastral Surveyors Licensing Board of New Zealand (CSLB). The Board issues and monitors standards that licence holders must meet, and their surveys are checked by Land Information New Zealand (LINZ) before being accepted into the cadastral record. Where discrepancies are found they are investigated and reported on. The Surveyor General then considers the magnitude and significance of any errors found, and may bring the licensed surveyor before the CSLB by way of a complaint. After consideration of the notification by the Surveyor General, the CSLB decides whether to accept the complaint. If accepted, the Act requires that a hearing be held. Anyone else may also bring complaints to the Board relating to ‘professional misconduct’ as defined in the Act. As this definition relates mostly to technical matters, complaints from the public are rare.

This paper describes the disciplinary process that has been put in place, the principles that have affected its development and the remedial measures open to the CSLB. By using specific examples, the nature of errors made in recent cases are discussed, their generic causes are identified, and penalties the Board can impose are described. The paper comments on the pressures that surveyors have been under over the last decade, principally due to changes to the cadastral record system, and also to the extraordinarily high demand for services. The paper comments on how these have translated into the professional conduct of New Zealand surveyors with respect to the cadastre.

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1. INTRODUCTION

In the late 1990s there was a government drive in New Zealand to minimise regulation of business and reduce controls on the free operation of market forces. Many areas of the economy were deregulated and the Government of the day sought to remove restrictions on the entry into and control over professions. This was exacerbated by several high profile cases of fraud or inappropriate ethical behavior by respected medical, legal and accounting professions. Enthusiasm for this general policy waned following the failure of some tradespeople to provide adequate levels of work, notably in the house building area where many 'leaky buildings' were supplied to the market. Had the review of the Surveyors Act 1986 taken place 12 months later, and with the failure of the free market in the building industry, the outcome for surveying may have been different.

The New Zealand Institute of Surveyors (NZIS), the principal body representing professional surveyors, was created as body of statute in 1900, having previously existed as a private incorporation since 1888. During the 1990s it lobbied for changes to some of its powers under the then current legislation (the Surveyors Act 1986) in order to be more responsive to change and to increase its disciplinary powers. It was therefore a willing, if not eager, participant with the Government in reviewing the regulation of the Surveying profession. The result of this review was that the NZIS was removed from statute and became an Incorporated Society, and as such able to amend its own constitution, and the Survey Board of New Zealand (SBNZ) was replaced by the Cadastral Surveyors Licensing Board (CSLB) with a narrowed focus. A more detailed explanation of these events may be found in Coutts and Grant, 2005.

This paper describes and assesses the outcome of these regulatory and administrative changes, specifically the disciplinary process that has been put in place, the principles that have affected its development and the remedial measures open to the CSLB. By using specific examples, it discusses the nature of errors made in recent cases, indicates their generic causes, and describes what penalties are available to the Board. The paper comments on the pressures that surveyors have been under over the last decade, principally due first to changes to the cadastral record system, and second to an extraordinarily high demand for services. The paper comments on how these have translated into the professional conduct of New Zealand surveyors with respect to the cadastre.

2. HISTORICAL SHARED RESPONSIBILITY

Since the passage of the first legislation setting up the institutional arrangements for surveying in New Zealand, the New Zealand Institute of Surveyors and Board of Examiners Act 1900, the competency standard setting and disciplining of professional surveyors in New Zealand has been shared between three bodies namely:

- a department of state, variously known as the Department of Lands and Survey, the Department of Survey and Land Information, and now the Department of Land Information New Zealand (LINZ);
- an examining and registration board known as the Survey Board of new Zealand, (SBNZ)
- the professional association, the NZIS.

LINZ is the repository of the survey and title record, and the Crown guarantees, for ownership and spatial location, the titles that it issues. While not guaranteeing individual surveys, LINZ is dependant on the integrity of the cadastre that underpins the issue and guarantee of titles to land. It therefore requires that only suitably qualified surveyors undertake boundary location and demarcation (cadastral) surveys. While “authorization” of surveyors to do this work was first undertaken by government local officials, the 1900 legislation established a separate body, the SBNZ, to carry out the “registration” function, albeit chaired by the Surveyor-General and with members appointed by the Minister of Lands.

These components were put in place after 1900, but problems were still perceived with issues such as the charges surveyors made for surveys, unauthorized personnel carrying out work, and too many “titles” in use (such as ‘authorised’, ‘registered’ and ‘licensed’). Further legislation, in the form of the Surveyors Registration Act 1928 and the Surveyors Act 1938, required all Registered Surveyors (those who had passed the requisite tests of the SBNZ) to be members of the NZIS. Both the SBNZ and the NZIS were empowered to discipline Registered Surveyors, but only the SBNZ could remove their Registration.

In the intervening years, between 1938 and 1966, the tests for Registration as a Surveyor had grown to include not only topographical and control surveys, land title definition and land law, but also municipal engineering and urban and rural planning. The NZIS accepted those who passed this Registration test as full members without further examination, but only after an enquiry as to their ‘good character’. While there was no public concern regarding this issue, and the NZIS considered that these additional areas were relevant to the general practice of professional surveying in the New Zealand context, officials were of the view that this was not only unnecessary, but beyond the scope that the original legislation had intended.

In 2002, after considerable debate, new legislation in the form of the Cadastral Survey Act 2002 (henceforth referred to as the Act) was passed. One of the objectives of officials at this time was to disentangle the close and complicated relationships that had grown up between the three organizations referred to above. While there was no evidence that this was in any way detrimental to the system, it lacked separation, but more importantly, transparency. The principal effects of the changes for the purposes of this paper, were that the SBNZ was disestablished and replaced by a new Cadastral Surveyors Licensing Board of New Zealand (CSLB) and the NZIS was removed from the statute. In addition, the standards required in order to gain a cadastral licence were restricted to cadastral competencies only, with only minor recognition of the wider issues of land subdivision. For further explanation of the structure, role and functioning of the CSLB in matters related to cadastral surveyors in New Zealand see Coutts (2008).

Under this regime, discipline by the CSLB is restricted to matters related to cadastre, and any other disciplinary issues are left to the relevant professional bodies to deal with, should the offender be a member of such a body. Beyond this, other matters of unprofessional conduct were therefore left for the market to deal with. In order to assist the CSLB with discipline, “professional misconduct” is defined in a Schedule to the Act (see Appendix 1).

It is not the function of the CSLB to deal with boundary disputes. While these are relatively uncommon in New Zealand, they do occur from time to time and the appropriate place for such disputes is the Court system.

3. COMPLAINTS UNDER THE NEW SYSTEM

Part 4 of the Act, which includes sections 34 to 46, introduces professional misconduct, outlines the broad procedures the CSLB must follow and defines its powers and rights and those of anyone involved with disciplinary proceedings. Section 35 states that any person may make a complaint against a licensed cadastral surveyor (LCS), and may include a member of the CSLB or a person acting on behalf of the Crown. In this latter case, it is in the name of the Surveyor-General that complaints are usually made. The procedure for processing complaints under the new system is described in the following sections.

3.1 Statutory procedure

The process begins when the CSLB is notified of a complaint, which as noted above, may come from anyone. The Board meets at approximately two-monthly intervals and does not delegate any part of the process. The first requirement on receiving a complaint is that the CSLB must inform the surveyor concerned and may proceed to investigate its validity. In the notification the surveyor is invited to respond to the allegations made. In addition, the Surveyor-General is required by s.35(4) to provide any information that he has that may be relevant to the complaint.

Complaints are received by the Secretary and placed on the agenda for the next meeting. Having received the information, the CSLB must decide whether to “accept” or “decline” the complaint. The Board does not take the decision to accept or decline cases lightly. It is usual that all members have read the full files of correspondence and technical information supplied, and the decision typically follows a robust debate on the issues raised. In order to proceed, the CSLB must be convinced that there is a case to answer, and if so convinced, it will resolve to “accept” the complaint.

The majority of the complaints that have been accepted to date have come from the Surveyor-General. In his submissions the Surveyor-General has provided files showing very thorough investigation having already taken place, and has obviated the need for further investigation by the CSLB before a decision whether to accept has been made. The CSLB is empowered to not receive or investigate a complaint if it considers that it is vexatious or trivial (s.36).

When the Board decides to accept a complaint, it is then required to inform immediately the cadastral surveyor concerned. In so doing, there is a requirement to

- state that the CSLB believes that there is one or more reason to believe that a case for exercising its disciplinary powers over “professional misconduct” exists;
- to supply the cadastral surveyor with the particulars that support that belief, and
- to set a date for a hearing into the complaint to be held that is not less than 28 days from the time of the notification.

Complaint hearings are not open to the public although the Board has the ability to over-ride this general principle in any specific case. To date this has not happened. The Surveyor-General, who for all other purposes is a member of the Board, is not a member for disciplinary purposes, and any Board member who has laid the complaint or who has a conflict of interest in the case, is disqualified from sitting as a member of a hearing panel. The CSLB makes its decision by simple majority, is required explicitly by the Act to observe rules of natural justice, and is permitted to receive evidence even though it may not comply with the rules of evidence in a general court of law.

Following the making of a decision to uphold a complaint, the Board may make an “order” in writing. The order must contain the reasons for the decision and include detail of the surveyor’s rights of appeal. The order takes effect from the date it is served on the surveyor in question, unless the Board specifies that this should occur from a later date. The CSLB may then decide to publish its order, including naming the individual concerned. This may happen through the NZ Gazette (the official organ of the New Zealand Government) or by paid advertisements in professional journals. It could also be made available to the news media.

Any LCS found guilty of professional misconduct has the right of appeal against the judgment. Appeals are heard in the District Court, the “lowest” tier in the hierarchy of the New Zealand judicial system. In hearing such an appeal the Court will call on the complainant and the respondent to participate, and will not call the CSLB to defend its judgment. The District Court’s decisions are final.

3.2 Board policy procedure

To date the CSLB has received complaints from the Surveyor-General, from members of the public, and most recently from another Licensed Cadastral Surveyor. Those lodged by the Surveyor-General have been accompanied by a file documenting the originating problem and the detailed communications between his office and the surveyor in question. None of these complaints have generated further investigation by the Board prior to holding a hearing (in those instances when the complaint was accepted).

Most of the complaints generated by the public have been not been accepted as they were outside the jurisdiction of the CSLB. In the one case that was accepted, the Board’s investigation was conducted by a senior private practitioner residing in the same region who

provided two reports on the circumstances of the survey, answered specific questions specified in his brief, and expressed some opinions.

On the receipt of all complaints from the public particular care is taken to identify the issue or issues raised to determine whether they fall within the ambit of the Act. In most of these cases, which have not been accepted, the issues have related to misunderstanding of the constraints of the definition of “professional misconduct” and have usually been related to the quality of the communication between the surveyor and their client.

As the five members of the CSLB who are involved are distributed through the length of the country, the cost of a special meeting would be significant. Having accepted a complaint, and in order to optimise the time of the members and minimise the costs, it has so far been the Board’s practice to schedule hearings to coincide with the next regular Board meeting. The Board conducts its hearings in an inquisitorial manner with all of the members of the CSLB present (but excluding the Surveyor-General), and the Board’s legal advisor, the complainant and the LCS who has been complained against. The CSLB Secretary is also in attendance. The participants are able to bring people to support them or to be represented by counsel.

Following introductions the complainant is invited to present his/her case. Apart from points of clarification the complainant has the right to do this without interruption. The Board members may then ask questions of the complainant. While cross-examination is not permitted, with the consent of the Chair of the Board, the defendant may be permitted to ask questions of the complainant. However, this is a privilege rather than a right. When this presentation has been completed, the LCS is then invited to present his or her defence. Again, they have the right to present their case without interruption followed by a period of questioning, as before. The complainant is then given the opportunity to respond to or comment on any matters raised by the surveyor’s submissions. When all of these steps are complete the hearing is over. The Chair reserves the Board’s decision and adjourns the hearing.

The Board, following a brief break during which the parties depart, debates the question of whether the complaint has been substantiated. If it finds that the complaint has not been proven then there is little more to discuss. In the case where the complaint is upheld the Board must then decide on what Order it will make as a consequence. The nature of the Order is given to the Board Secretary, who will then prepare a draft Order with the assistance of the Board’s counsel. After comment by the members of the Board the Order is then signed by the Chair and dispatched to the LCS. A copy is sent to the complainant.

During a hearing, a full record of the proceedings is taken and minutes produced. The hearing is recorded on tape, though will only be transcribed on request (which has not yet been necessary). Following circulation amongst the members in draft form for comment, the final minutes are confirmed at the next CSLB meeting. These form part of the Board’s official records.

3.3 Principles to be applied

Related to the procedural steps above, the Act requires that in the exercise of its disciplinary functions, the Board must observe the rules of natural justice. While these are few in number they are critical to achieving a fair and just outcome from the process. As noted earlier, the Board's judicial functions are fundamentally "inquisitorial" rather than "adversarial". That is, it is the function of the CSLB to gather all the facts relevant to the issues presented, and not merely to adjudicate on the evidence that the parties place before it. In this way the Board is at liberty to carry out its own investigations and gather whatever information it considers necessary in order to reach an appropriate conclusion.

Complainant: Any LCS complained about is entitled to know who it is that has lodged the complaint, and is given adequate facility to defend him/herself against any accusations made. The Board does not deal with anonymous complaints, but cannot compel either the complainant or the respondent to appear before it if they do not wish to do so. While to date it has not been presented with a case where neither have appeared, the Board has dealt with cases where the respondent has not appeared but only supplied written statements.

Evidence: The respondent LCS must be given all the information that is available to the CSLB and all documentation that is held by the Surveyor-General. This information should ideally be available in reasonable time before the hearing so that suitable advice and adequate responses can be prepared. In practice, detailed statements and some information (by both parties) is only supplied at the hearing itself.

Peer evaluation: The LCS is entitled to be judged by an impartial panel of his/her peers. For this purpose the Board is made up of former or current LCSs, with the addition of a lay member to add the dimension of the interests of the general public. Since New Zealand is a small country and the surveying community a restricted number within it, it is inevitable that there will be many instances where the accused LCS is known to one or more of the Board members. While there have been instances where CSLB members have found it necessary to declare relationships with defending LCSs, none has yet deemed it necessary to disqualify themselves from a hearing. Additionally, having been invited, no complainant or respondent has objected to the continuance of any member to hear a case.

3.4 Disciplinary powers of the Board

The fundamental purpose of the Cadastral Survey Act 2002 is ". . . to promote and maintain the accuracy of the cadastre . . ." (s.3(a)). It is not intended in this Act, specifically, to *punish* people whose actions threaten that accuracy. It does, however, have some powers to enforce standards for surveyors and indirectly, cadastral surveys.

In particular, the CSLB has only three avenues for its Orders in dealing with a proven case of professional misconduct. Specifically it can:

- cancel a licence;
- suspend a licence; or

- permit, for a period up to three years, a LCS to continue to practice but only under conditions of employment, supervision, relevant training or education, or other specified conditions.

In addition, the Board may require a guilty party to pay any costs and expenses of and incidental to the hearing or the investigations into the complaint.

Clearly, these requirements can have a punitive effect on a cadastral surveyor who is found to be guilty of professional misconduct as they may restrict the ability to earn a livelihood from cadastral survey practice. However, the prime purpose of these actions is to protect the cadastre from loss of integrity rather than to extract any form of retribution from the cadastral surveyors concerned. It is appropriate now to consider what constitutes professional misconduct in this context of cadastral surveying.

4. PROFESSIONAL MISCONDUCT

The 2nd Schedule of the Act is quite explicit, through twelve clauses, in describing the nature of professional misconduct with respect to cadastral surveys. The first aspect in the list, not surprisingly, is negligence in the conduct of a survey. Negligence can be generally interpreted as not doing something that a competent surveyor would do in undertaking a cadastral survey.

The following three clauses relate to personal knowledge of a survey that they have certified as being correct. The first refers to not having personally carried out or directed a cadastral survey (including the related field work); the second to certifying a cadastral survey without having carried out sufficient checks to ensure its accuracy, including calculations, working plans and other records; the third refers to certifying a cadastral surveyor without complying with the standards set by the Surveyor-General.

The next three clauses relate to dishonesty directly relating to surveys. These include, knowing of deficiencies, fabricating field notes or knowingly supplying the Surveyor-General with erroneous information; all of which are identified as forms of professional misconduct. This is followed by items of a similar nature with respect to being found guilty of giving incorrect information to the CSLB and to misuse of a cadastral surveying license. The remaining clauses relate to cadastral surveyors not carrying out specific and lawful requirements of the Court, or the Surveyor-General, or having used an authority to enter onto property in an inappropriate manner.

In exercising its disciplinary powers on the matters of general negligence, incompetence, dishonesty or insubordination, the CSLB considers all of the evidence supplied in support of a complaint. The focus is on how these may have affected the accuracy of the cadastre, as specified as the prime function of the Act, and by implication, the Board.

There are other matters outside this definition that are likely to be the cause of complaints by cadastral surveyor's clients. It is usually instances of these other forms of behaviour that generate complaints that are not accepted by the CSLB, being outside its statutorily mandated

powers. Such other “offences” are generally termed “unprofessional conduct” in the New Zealand system. Unprofessional conduct may be dealt with through the complaint mechanisms of professional bodies, in particular the NZIS. Surveyors who do not belong to a professional body escape discipline for breaches of the broader aspects of professional conduct. Unprofessional conduct under these circumstances may include ethical issues, dubious business practice, disagreements with the professional judgements of other surveyors, deficiencies in business communication, and disputes over fees. In some instances the latter are disguised as complaints about the former aspects of professional activities.

5. DISCUSSION

In the six years since the inception of the new Board, there have been 26 complaints received by the Board, of which only 10 have been “accepted”. With such a small number it is not possible to do a comparative analysis, and the time period is not long enough to consider the development of any trends that might lead to predictions. The CSLB has published a newsheet (CSLB, 2008) for the information of practitioners analysing in some detail the complaints that have been upheld up to April 2008 to explain the nature of misconduct detected and prosecuted so far, and is preparing a second publication.

	2002	2003	2004	2005	2006	2007	2008	Total
Accepted	0	0	1	2	3	1	3	10
Declined	0	1	0	7	2	2	4	16
Total	0	1	1	9	5	3	7	26

Table 1. Complaints received by the CSLB 2002-08

In the first three years none were accepted, but since then a steady though small trickle has grown, especially from the Surveyor-General. Having developed from nothing there now seems to be a regular supply from the Surveyor-General. While not all of the Surveyor-General’s complaints have been accepted, it can be noted that the investigatory work that proceeds the lodging of a complaint, combined with the technical and professional competence of the staff of the Office of the Surveyor-General (OSG), tends to minimize the chance that the complaint will be declined.

Members of the public, while not appreciating the subtlety of the distinction between professional misconduct and unprofessional behaviour, usually do not have the knowledge or resources to prepare a substantive case. The Board nevertheless treats all complaints seriously, and if considered appropriate and relevant, it will refer a complainant to the professional body.

5.1 Representation

Within the context of the hearing, respondents are permitted to be represented by counsel, or to have someone else speak for them. The Board has so far refrained from actively encouraging the presence of lawyers, consistent with its inquisitorial rather than adversarial

procedures. In the cases so far, the CSLB has only twice had legal counsel for the respondent present. In both cases they were defending complaints laid by the Surveyor-General. In neither case did the Surveyor-General engage counsel, but presented the complaint with the assistance of one of his Senior Advisors.

The experience of legal representation so far has been equivocal. In the first instance the lawyer added little to the defence, and had his representations been critical, would not have benefited his client. In the second case the lawyer had a better understanding of the needs of the survey profession and did an adequate job in representation. In both cases it was beneficial to the complainant that the CSLB's approach is inquisitorial, and that the Board is comprised of qualified and experienced surveyors.

It has been noticed by the Board that most LCSs, and probably most people, are not their own best advocates. While not actively encouraging the participation of lawyers specifically, respondents are encouraged to bring people to speak for them, or at least give them support. Other surveyors, who understand the technicalities as well as the realities of practice, make the best advocates or supporters for respondent cadastral surveyors. In the one case where a private citizen has had a complaint accepted by the CSLB and brought before it in a hearing, a lay spokesperson for the complainant did a good job of keeping the complainant on track and relevant to the professional issues, despite the fact that the complaint was not upheld.

5.2 Issues of competence

The cases heard by the CSLB that have been upheld have pointed out some particular lessons. The single most common issue has been the relationship between LCSs and their technical staff. In some cases the field staff have been incompetent or dishonest, making false entries in field notes, not placing ground marks in the way they have indicated in plans and data sets, or calculating "closing" observations or measurements. The particular concern for the Board, in most cases, is that the LCS was not sufficiently close to the detail of the survey to recognise these defects.

In two cases the general competence of the LCS was called into question. In one of those cases the cadastral surveyor had returned to the country after a number of years overseas practicing in areas of surveying other than cadastral, and in the other case the LCS was a sole practitioner working in an isolated professional environment. In these cases the Board is forced to consider the general current competence of the practitioner. In the former case the licence was cancelled, and in the latter case, after a second appearance before the CSLB on disciplinary issues, the surveyor did not renew his licence when it expired.

5.3 Admissions

In some cases, when LCSs have been confronted with complaints, they have tended to admit to or accept culpability without legal advice and before facing a hearing. This has not always been in their best interests, and in some cases, when a complaint has been lodged, has worked against their ability to mount any credible defence to the complaint. While this is

commendable in its openness and honesty, it has not always been prudent or, in some cases, desirable.

5.4 Stress

In a number of cases the extenuating circumstances have been related to work-place stress. There are cases where the pressure to turn around work has come from clients, especially with smaller firms, but on other occasions pressure has been from internal demands to complete particular surveys by close deadlines. Other forms of stress include having under-estimated the cost of work in the first instance, the lack of convenient survey control for the standard of cadastral survey required, not being able to deal with over-zealous junior staff, and the absence of a paternal government department such as that which many senior surveyors grew up with and that now no longer exists in the electronic environment.

Professional misconduct under this definition, and therefore applicable to complaints to the CSLB, is focused mainly on technical matters, and while matters of personal and professional integrity are referred to in the requirements to not knowingly provide erroneous or fabricated information to the cadastre (personified by the Surveyor-General) are referred to in the definition, unethical behavior by individuals in this context can be quite difficult to detect. Wrong cadastral data, once in the system, can remain undetected for decades, especially if the area surveyed is remote or not in need of further survey for a long period. The system therefore relies heavily on the personal standards of the individual LCS. It may be noted that the Cadastral Survey Act 2002 removed the need for any character checks before the issue of a license. A licence may be removed, however, if an LCS is convicted of certain nominated crimes under the Crimes Act 1961 (too numerous to discuss here but include theft, burglary, robbery, blackmail, deceit, access to computers for dishonesty and forgery). The system is therefore more reliant than before on ethical standards inculcated through the social, educational and training regimes of the surveying profession and the nation.

6. CONCLUSION

In New Zealand nearly all of the present LCSs are graduates of the School of Surveying at the University of Otago, and the majority are members of NZIS. When a CSLB order is published, therefore, the conviction becomes widely known and impacts directly and immediately on a surveyor's reputation. This in itself should act as a considerable deterrent to misconduct.

New Zealand is not alone in the stress that development trends have placed on all professional surveyors, planners, engineers and architects. The shortage of staff to carry out the over-supply of work that has been accepted by survey practices has placed a considerable load on practitioners. It is suggested that this has encouraged LCSs to place an unwarranted level of trust in technician support staff and to give graduate surveyors greater responsibility than their current post-graduation training merits. The demands on these people, in turn, have forced them to take shortcuts in order to complete work on time for their employers and their employer's clients. In some cases these para-professional staff have not been adequately

trained to the level of the work they have been expected to undertake and the supervising surveyors have been overly busy, resulting in a lack of sufficient checking, supervision and/or direction. In many cases it is only the prosecution before the CSLB that has brought about the instigation of appropriate quality assurance procedures.

The Board has already been made aware of two survey companies who, by their own internal checking systems have identified para-professional staff who have been dishonest in their cadastral work. These firms are being put to considerable time and expense to check the extent to which the integrity of the cadastre has been threatened, the degree to which they are exposed to disciplinary action by the CSLB, as well as correcting such work that they have found to be in error.

This situation has been further exacerbated by the change from paper plans to a digital environment. The lodging and processing of paper plans had a considerable human input, and was de-centralised through 12 local offices around the country, many of which had their own “local customs” when it came to the acceptability of plans. The new digital lodgement system (*Landonline*) is centralized with all “cadastral survey datasets” (CSD) passing through the central office. This means that there are fewer people involved, adding to the consistency but unforgiving nature of the national system. Many of the acceptance criteria are also automated, so that if there are any items in the CSD that do not fit the criteria, the plan is rejected. This brings the CSD to the attention of the Surveyor-General’s staff and initiates closer scrutiny. This is likely to explain why the number of LCSs coming before the CSLB as a result of complaints from the OSG has increased.

Continuing change to the operating environment for licensed surveyors, in particular as technology develops, will maintain the need for continuing professional education amongst practitioners for them to continue to meet the required competencies. While the operating environment may be constantly changing, the standards of competency must be maintained, and the process of dealing with those who do not meet those competency standards must be consistent, transparent and just.

As noted above, when professional surveyors are confronted with workplace stresses that cause resources to be spread thinly across a practice, unanticipated and unfortunate outcomes can result. In such contexts systematic problems should quickly be identified and remedial measures reported to the profession through the professional bodies. Unfortunately these measures do not prevent instances of incompetence or unprofessional behaviour from sullyng the reputation of individuals who have been brought before the Board and found wanting in their performance. In these circumstances the surveying profession, as well as the community in general, are considerably better off as a result of the presence, functions and work of the CSLB than it would be in its absence.

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BIOGRAPHICAL NOTES

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Brian Coutts is the Chairman of the Cadastral Surveyors Licensing Board of New Zealand, and has been since its inception in 2002. He was previously president of the New Zealand Institute of Surveyors (NZIS), from 2004 to 2007 served as president of the Commonwealth Association of Surveyors and Land Economists (CASLE), and is a member of the Royal Institution of Chartered Surveyors Geomatics Faculty International Board. He is Associate Head of the National School of Surveying at the University of Otago in New Zealand and teaches introductory planning and New Zealand planning and resource management practice.

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APPENDIX 1

The Cadastral Survey Act 2002. Schedule 2: Professional misconduct .

1. A licensed cadastral surveyor is guilty of professional misconduct if the cadastral surveyor is found in any proceedings or appeal under Part 4 -

- (a) to have been negligent in the conduct of, or failure to conduct, any cadastral survey:
- (b) to have certified to the accuracy of any cadastral survey or cadastral survey dataset without having personally carried out or directed the cadastral survey and the related field operations:
- (c) to have certified to the accuracy of any cadastral survey or cadastral survey dataset without having carried out sufficient checks to ensure the accuracy of the entries in any field book and the accuracy of all calculations, working plans, and other cadastral survey records that may have been made by any person employed by him or her in relation to the cadastral survey:
- (d) to have certified to the accuracy of any cadastral survey carried out by the cadastral surveyor or under his or her personal direction if the operation of pegging and ground marking, and all other requirements of the cadastral survey, have not been carried out in accordance with standards set under Part 5:
- (e) to have certified to the accuracy of any cadastral survey or cadastral survey dataset, knowing it to be defective:
- (f) to have made any entry in any field book or other record that purports to have been derived from actual observation or measurement in the field, if in fact it has not been so derived:
- (g) to have supplied to the Surveyor-General or the chief executive any erroneous information in relation to any cadastral survey, cadastral survey mark, or boundary, knowing the information to be erroneous in any material particular:
- (h) to have been convicted of any offence against section 31 or section 58(b) or (c):
- (i) to have failed to comply with any conditions imposed by the Board under section 39(2)(c) or (7) or the High Court on any appeal against an order under section 39:
- (j) to have failed to comply with any requirement imposed under section 52:
- (k) to have persistently exercised the powers of entry conferred by section 53 in an unreasonable manner:
- (l) to have failed, without reasonable cause, to perform any duty imposed on licensed cadastral surveyors by standards set by rules made under section 49.

2. For the purposes of determining whether or not a licensed cadastral surveyor is guilty of professional misconduct, the fact that a cadastral survey or cadastral survey dataset may have been approved by or on behalf of the Surveyor-General or the subject of a determination by the chief executive that it complies with standards specified in rules made under section 49 is not relevant.