

Queensland



SURVEY AND MAPPING INFRASTRUCTURE ACT 2003

Act No. 71 of 2003

Queensland



**SURVEY AND MAPPING
INFRASTRUCTURE ACT 2003**

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Queensland



Survey and Mapping Infrastructure Act 2003

Act No. 71 of 2003

An Act to provide for developing, maintaining and improving the State's survey and mapping infrastructure, and for other purposes

[Assented to 22 October 2003]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Survey and Mapping Infrastructure Act 2003*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Purposes of Act

(1) The main purposes of this Act are to provide for the following—

- (a) developing, maintaining and improving the State survey and mapping infrastructure;
- (b) maintaining and improving cadastral boundaries throughout the State and information held by the department about the boundaries;
- (c) coordinating and integrating survey and mapping information;
- (d) improving public access to survey and mapping information;
- (e) defining administrative areas, and describing and working out administrative area boundaries.

(2) The purposes are to be achieved mainly by providing for the following—

- (a) the making of standards and guidelines for achieving an acceptable level of survey quality;
- (b) the obligations and powers of persons carrying out surveys;
- (c) the establishment and maintenance of recognised permanent survey marks;
- (d) the recording of survey and mapping information, including the establishment of the following State datasets—

- (i) the administrative area boundary dataset;
- (ii) the State remotely sensed image library;
- (iii) the State digital cadastral dataset;
- (iv) the survey control register.

4 Act binds all persons

(1) This Act binds all persons, including the State, and, as far as the legislative power of the Parliament permits, the Commonwealth.

(2) Nothing in this Act makes the Commonwealth or the State liable to be prosecuted for an offence.

5 Definitions

The dictionary in the schedule defines particular words used in this Act.

PART 2—SURVEY STANDARDS AND SURVEY GUIDELINES

6 Survey standards

(1) The chief executive may make written standards for surveying (“**survey standards**”) to achieve an acceptable level of survey quality.

(2) A survey standard must—

- (a) be consistent with the principles, stated in a regulation, to be applied in carrying out a survey; and
- (b) state—
 - (i) the area to which it applies; and
 - (ii) the type of survey to which it applies.

(3) A survey standard may be made about all or any of the following for a survey—

- (a) the coordinate reference framework to be used;
- (b) the information to be collected;

- (c) the information to be shown on the plan of survey, including how the information must be shown;
- (d) the accuracy level to be achieved;
- (e) the characteristics of the survey marks to be used;
- (f) another matter prescribed under a regulation for this subsection.

(4) The coordinate reference framework mentioned in subsection (3)(a) must be consistent with the geodetic reference framework prescribed under a regulation for use for surveying and mapping in the State.

(5) A survey standard is a statutory instrument, but is not subordinate legislation.

7 Survey guidelines

(1) The chief executive may make written guidelines for surveying (“**survey guidelines**”) stating ways of complying with survey standards.

(2) A survey guideline must —

- (a) identify the survey standard to which it applies; and
- (b) state the ways in which a survey may be carried out to comply with the survey standard.

(3) A survey guideline is a statutory instrument, but is not subordinate legislation.

8 Consultation for survey standard or survey guideline

Before making a survey standard or survey guideline, the chief executive may consult with any or all of the following—

- (a) the entities, including the surveyors board, considered by the chief executive as representing the interests of surveyors in the State;
- (b) a local government whose area is affected by the standard or guideline;
- (c) another entity the chief executive considers appropriate.

9 When survey standards and survey guidelines have effect

(1) A survey standard has no effect unless the Minister notifies the making of the standard by gazette notice.

(2) The standard takes effect—

- (a) on the day the gazette notice is published in the gazette; or
- (b) if a later day is stated in the gazette notice—on the later day.

(3) The gazette notice must state that a copy of the standard and the provisions of any document applied, adopted or incorporated by the standard are available for inspection, without charge by the chief executive—

- (a) during normal business hours at each department office; and
- (b) on the department's stated web site on the Internet.

(4) The gazette notice is subordinate legislation.

(5) A survey guideline has effect when it is published as required under section 10(1)(b).

10 Public access to survey standards and survey guidelines

(1) The chief executive must keep a copy of each survey standard and survey guideline and each document applied, adopted or incorporated by a survey standard or survey guideline available for inspection, without charge by the chief executive—

- (a) during normal business hours at each department office; and
- (b) on the department's web site on the Internet.¹

(2) On payment of the fee decided by the chief executive, a person may obtain a copy of a survey standard or survey guideline from the chief executive.

11 Inconsistencies between survey standards and survey guidelines

If there is an inconsistency between a survey standard and a survey guideline, the survey standard prevails to the extent of the inconsistency.

¹ The department's web site on the Internet is www.nrm.qld.gov.au.

12 Regulation may make provision about survey standard and survey guideline matters

(1) A regulation may make provision about anything for which provision may be made by a survey standard or survey guideline.

(2) If there is an inconsistency between a regulation and a survey standard or survey guideline, the regulation prevails to the extent of the inconsistency.

PART 3—CARRYING OUT SURVEYS

Division 1—Obligations of surveyors, surveying associates and surveying graduates

13 Compliance with survey standards

(1) A surveyor, surveying associate or surveying graduate must comply with each relevant survey standard in carrying out a survey, unless the person has a reasonable excuse.

(2) If a person contravenes subsection (1)—

(a) the chief executive may refer the matter to the surveyors board;
or

(b) for a contravention by a surveyor—

(i) the chief executive, instead of acting under paragraph (a), may take action under division 5; or

(ii) the registrar of titles may take action under division 5.

(3) However, this section does not apply to a person to the extent the person is exempted from complying with a survey standard under division 2.

(4) In this section—

“relevant survey standard”, for a survey, means a survey standard applying to—

(a) the area in which the survey is being carried out; and

(b) the type of survey being carried out.

14 How to comply with survey standards

A surveyor, surveying associate or surveying graduate may comply with a survey standard by adopting and following—

- (a) the ways stated in a survey guideline for complying with the survey standard; or
- (b) other ways that achieve an equal or better level of compliance.

15 Obligation on person placing permanent survey mark

(1) This section applies if a surveyor, surveying associate or surveying graduate places a permanent survey mark in carrying out a survey other than a State survey.

(2) The person responsible for preparing the plan of survey must, within 40 business days after the mark is placed, give the chief executive a copy of the plan of survey in the approved form, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

16 Obligation on cadastral surveyor

(1) A cadastral surveyor must, within 40 business days after placing a survey mark in carrying out a cadastral survey, or supervising the placement of the mark, give the chief executive a copy of the plan of survey complying with subsection (2), unless the surveyor has a reasonable excuse.

Maximum penalty—20 penalty units.

(2) If a recognised permanent survey mark was used as a reference point in carrying out the survey, the plan of survey must show the relationship between the cadastral survey and the recognised permanent survey mark.

17 Resolving inconsistencies between plans of survey

(1) This section applies if—

- (a) there is an inconsistency in the identification of a boundary shown on 2 or more plans of survey registered, lodged for registration, or deposited, under the *Land Act 1994* or *Land Title Act 1994* or given to the chief executive under section 16; and

- (b) the surveyors responsible for carrying out the surveys are aware of the inconsistency.

(2) The surveyors must make reasonable efforts to resolve the inconsistency.

(3) If the surveyors fail to comply with subsection (2) or are not able to resolve the inconsistency, the relevant person may take the reasonable action the relevant person considers necessary to resolve the matter.

(4) In this section—

“relevant person” means—

- (a) for a plan of survey registered, lodged for registration, or deposited under the *Land Act 1994*—the chief executive; or
- (b) for a plan of survey registered, lodged for registration, or deposited under the *Land Title Act 1994*—the registrar of titles; or
- (c) for a plan not mentioned in paragraph (a) or (b) and given to the chief executive under section 16—the chief executive.

Division 2—Exemption from survey standard

18 Application for exemption

(1) If a surveyor, surveying associate or surveying graduate reasonably believes it is impractical for the person to comply with a survey standard for a particular survey, the person may make written application to the chief executive for an exemption from all or part of the survey standard for the survey.

(2) The application must—

- (a) state the provisions of the survey standard, and the survey, for which the exemption is sought; and
- (b) as briefly as possible, explain why the person believes it is impractical for the person to comply with the survey standard for the survey.

19 Decision on application

(1) After considering the application, the chief executive may, by written notice given to the applicant—

- (a) give the exemption, with or without conditions; or
- (b) refuse to give the exemption.

(2) If the chief executive decides to give the exemption on conditions or to refuse to give the exemption, the notice must also state the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the applicant may apply to the Minister for a review of the decision within 30 business days after the day the notice is given.

20 Review of decision

(1) As soon as practicable after receiving an application for review of a decision under section 19(2)(c), the Minister must—

- (a) review the decision; and
- (b) decide to confirm, amend or set aside the decision; and
- (c) give written notice to the applicant of the Minister's decision and the reasons for it.

(2) For section 13(3), the Minister's decision on the review is taken to be the chief executive's decision on the application for exemption.

Division 3—Surveyors' powers

21 Power to place a permanent survey mark

(1) A surveyor may place a permanent survey mark on land that is—

- (a) unallocated State land; or
- (b) vested in, or under the control of, the State; or
- (c) a road.

(2) A surveyor may place a permanent survey mark on the following land if its owner or occupier consents to the placement of the mark—

- (a) freehold land;
- (b) land subject to a lease, licence or permit under the *Land Act 1994*.

(3) In this section—

“**owner**”, for land mentioned in subsection (2)(b), means the holder of the lease, licence or permit.

“**unallocated State land**” means unallocated State land under the *Land Act 1994*, schedule 6.²

22 Power to enter places

(1) Subject to section 23, a surveyor may enter a place mentioned in section 21(1) or (2) at any reasonable time for—

- (a) carrying out a survey; or
- (b) placing a permanent survey mark on the land.

(2) Subsection (1) does not apply to a building or other structure where a person resides.

23 Surveyor’s notice of entry

(1) Before entering a place mentioned in section 21(2), a surveyor must do or make a reasonable attempt to do each of the following things—

- (a) identify himself or herself to a person present at the place who is an occupier of the place;
- (b) tell the person—
 - (i) the purpose of the proposed entry; and
 - (ii) that the surveyor is permitted under this Act to enter for the purpose.

² *Land Act 1994*, schedule 6—

“**unallocated State land**” means all land that is not—

- (a) freehold land, or land contracted to be granted in fee simple by the State; or
- (b) a road or reserve, including a national park, conservation park, State forest or timber reserve; or
- (c) subject to a lease, licence or permit issued by the State.

(2) For doing or attempting to do the things mentioned in subsection (1), the surveyor may, without the occupier's consent—

- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
- (b) enter part of the place the surveyor reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

24 General powers after entering places

After entering a place under section 22, a surveyor may—

- (a) carry out the survey for which the entry was made; and
- (b) place survey marks for the survey on the land; and
- (c) if authorised under section 21, place permanent survey marks on the land; and
- (d) inspect and maintain any recognised permanent survey mark on the land; and
- (e) take onto the place any person, equipment and materials the surveyor reasonably requires for exercising a power under this division.

25 Power to uncover buried survey mark

(1) This section applies if a surveyor who is carrying out a survey reasonably believes a survey mark that is essential for carrying out the survey is buried under the surface of land.

(2) Subject to subsection (3), the surveyor, or a person acting under the direction or authority of a surveyor (the “**other person**”), may take the action the surveyor reasonably considers necessary to uncover the mark.

(3) The surveyor or other person—

- (a) must cause as little damage as possible in uncovering the mark; and
- (b) must not cause any permanent damage to any property on the land.

Division 4—Other matters about the exercise of surveyors' powers

26 Notice of damage

(1) This section applies if—

- (a) a surveyor damages property when exercising or purporting to exercise a power under division 3; or
- (b) a person acting under the direction or authority of a surveyor (the “**other person**”) exercising or purporting to exercise a power under division 3 damages property.

(2) The surveyor must immediately repair or reinstate the property if it is possible.

(3) If it is not possible to immediately repair or reinstate the property, the surveyor must immediately give notice of particulars of the damage to the person who appears to the surveyor to be the owner of the property.

(4) If the surveyor believes the damage was caused by a latent defect in the property or circumstances beyond the surveyor's, or other person's, control, the surveyor may state the belief in the notice.

(5) If, for any reason, it is impractical to comply with subsection (3), the surveyor must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

(6) This section does not apply to damage the surveyor reasonably believes is trivial.

(7) In this section—

“**owner**”, of property, includes the person in possession or control of it.

27 Obstructing a surveyor

(1) A person must not obstruct a surveyor in the exercise of a power under division 3, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) If a person obstructs a surveyor and the surveyor decides to proceed with the exercise of the power, the surveyor must warn the person that—

- (a) it is an offence to obstruct the surveyor, unless the person has a reasonable excuse; and

(b) the surveyor considers the person's conduct an obstruction.

(3) In this section—

“**obstruct**” includes assault, hinder and threaten, and attempt to obstruct.

Division 5—Correcting survey errors

28 Correcting survey errors

(1) The chief executive may, if the procedure under sections 29 to 31 is followed, ask a surveyor who is responsible for a survey error made in a survey, for which a plan of survey has been lodged under an Act other than the *Land Title Act 1994*, to correct the error at the surveyor's expense.

(2) The registrar of titles may ask a surveyor who is responsible for a survey error made in a survey for which a plan of survey has been lodged or deposited under the *Land Title Act 1994* to correct the error at the surveyor's expense if—

- (a) the registrar can not correct it under that Act, section 15;³ and
- (b) the procedure under sections 29 to 31 is followed.

29 Show cause notice

(1) Before asking a surveyor to correct a survey error, the chief executive or registrar of titles must give the surveyor a written notice (the “**show cause notice**”) stating the following—

- (a) that the person believes the surveyor has made a survey error that is capable of being corrected by the surveyor;
- (b) the facts and circumstances that are the basis for the belief;
- (c) that the person proposes giving the surveyor a notice (the “**correction notice**”) asking the surveyor, at the surveyor's expense, to correct the error;
- (d) that the surveyor may make, within a stated period, written submissions to show that the surveyor has not made a survey error that is capable of being corrected by the surveyor.

3 *Land Title Act 1994*, section 15 (Registrar may correct registers)

(2) The stated period must end at least 20 business days after the show cause notice is given.

30 Considering submissions

The chief executive or registrar of titles must consider any written submission made by the surveyor to the person within the period stated in the show cause notice.

31 Giving correction notice

(1) If, after complying with section 30, the chief executive or registrar of titles still believes the surveyor has made a survey error that is capable of being corrected by the surveyor, the person may give the surveyor the correction notice.

(2) The correction notice must be written and must state—

- (a) the error the person reasonably believes is capable of being corrected; and
- (b) the reasonable steps the surveyor must take to correct the error; and
- (c) a reasonable period, of at least 20 business days after it is given, in which the surveyor must take the steps.

(3) If the surveyor does not comply with the correction notice, the person who gave the notice may refer the matter to the surveyors board.

Division 6—Miscellaneous

32 Authority for cadastral surveyor to act for another in particular circumstances

(1) The original surveyor for a plan of survey may, in writing, authorise another person who is a cadastral surveyor (an “**authorised surveyor**”) to take the action necessary to comply with any requirement about the plan made by—

- (a) the registering entity; or
- (b) for a plan required for a purpose under the *Mineral Resources Act 1989*—a person acting under that Act.

(2) As soon as practicable after giving the authorisation, the original surveyor must give a copy of it to the surveyors board.

(3) Subsection (4) applies if—

- (a) a plan of survey has been lodged or deposited for registration; and
- (b) the chief executive reasonably believes the original surveyor is not able to comply with a requirement about the plan.

(4) The chief executive may ask the surveyors board to authorise another person who is a cadastral surveyor (also an **“authorised surveyor”**) to take the action necessary to comply with the requirement.

(5) The authorisation given by the surveyors board must be written.

(6) An authorised surveyor—

- (a) may take the action for which the person is authorised; and
- (b) must certify on the plan of survey that the action has been taken under an authority under this section.

(7) Despite any other law or practice, if an authorised surveyor gives the registering entity a copy of the person’s authorisation, the registering entity must accept anything done by the authorised surveyor under subsection (6) as if it were done by the original surveyor.

(8) In this section—

“original surveyor”, for a plan of survey, means the cadastral surveyor responsible for the survey’s survey quality.

“registering entity”, for a plan of survey, means the person responsible for registering the plan under a registration Act.

“registration” means registration under a registration Act.

“registration Act” means the *Land Act 1994* or *Land Title Act 1994*.

“requirement”, about a plan of survey, means—

- (a) a requisition or requirement made under a registration Act; or
- (b) a show cause notice or correction notice.

PART 4—SURVEY MARKS

Division 1—Establishing recognised permanent survey marks

33 State surveys

(1) The chief executive may cause a survey of high precision, called the State control survey, to be carried out for establishing recognised permanent survey marks throughout the State.

(2) In addition, the chief executive may cause another survey to be carried out in a particular part of the State for establishing recognised permanent survey marks in the part.

34 Chief executive may obtain information about survey marks placed other than in carrying out a State survey

(1) If the chief executive reasonably considers a survey mark placed in carrying out a survey other than a State survey is of value for a survey and mapping infrastructure purpose, the chief executive may—

- (a) in writing, ask the relevant person, for—
 - (i) a copy of the plan of survey in the approved form; or
 - (ii) other information necessary to establish the survey mark as a recognised permanent survey mark; or
- (b) cause a survey to be carried out for establishing the survey mark as a recognised permanent survey mark.

(2) Subsection (1)(a)(i) does not apply if the person has given the chief executive a copy of the plan of survey under section 15 or 16.⁴

(3) The relevant person must comply with a request made under subsection (1)(a) within the reasonable period stated in the request, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—20 penalty units.

(4) In this section—

⁴ Section 15 (Obligation on person placing permanent survey mark) or 16 (Obligation on cadastral surveyor)

“relevant person” means—

- (a) if paragraph (b) does not apply—the surveyor, surveying associate or surveying graduate who placed the survey mark; or
- (b) if the mark was placed by a surveying associate or surveying graduate under a surveyor’s supervision—the surveyor; or
- (c) if the mark was placed by or for a public authority—the public authority.

35 Establishing survey marks as recognised permanent survey marks

(1) The chief executive must establish each permanent survey mark placed in carrying out a survey as a recognised permanent survey mark.

(2) If the chief executive reasonably considers another survey mark placed in carrying out a survey is suitable as a recognised permanent survey mark, the chief executive may establish the survey mark as a recognised permanent survey mark.

(3) A survey mark is established as a recognised permanent survey mark by the chief executive—

- (a) recording each of the following details about the mark in the survey control register—
 - (i) the mark’s unique identifying number;
 - (ii) a plan or other information identifying the mark’s location;
 - (iii) a brief description of the mark;
 - (iv) the name of the surveyor, surveying associate, surveying graduate or public authority who placed the mark;
 - (v) the date when the mark was placed; and
- (b) classifying the mark as a recognised permanent survey mark in the register.

36 Removing or changing classification of recognised permanent survey mark

If the chief executive considers a recognised permanent survey mark is no longer suitable as a recognised permanent survey mark, the chief

executive may remove or change the classification given to the mark under section 35(3)(b).

Division 2—Maintaining recognised permanent survey marks

37 Responsibility for recognised permanent survey marks placed in carrying out State surveys

The chief executive is responsible for maintaining the physical integrity of a recognised permanent survey mark placed in carrying out a State survey.

38 Responsibility for recognised permanent survey marks on State-controlled roads

(1) Subject to section 37, if a recognised permanent survey mark is on a State-controlled road, the department whose chief executive may, under the *Transport Infrastructure Act 1994*, section 26,⁵ exercise powers for the road is responsible for—

- (a) maintaining the physical integrity of the survey mark; and
- (b) giving the chief executive updated information about the survey mark for the survey control register.

(2) In this section—

“**State-controlled road**” means a road or land, or part of a road or land, declared under the *Transport Infrastructure Act 1994* to be a State-controlled road.

39 Responsibility for recognised permanent survey marks on local government controlled roads

Subject to section 37, if a recognised permanent survey mark is on a road under the control of a local government, the local government is responsible for—

- (a) maintaining the physical integrity of the survey mark; and

⁵ *Transport Infrastructure Act 1994*, section 26 (Chief executive to have power of a local government for State-controlled roads)

- (b) giving the chief executive updated information about the survey mark for the survey control register.

40 Responsibility for recognised permanent survey marks on land, other than roads, controlled by a public authority

Subject to section 37, if a recognised permanent survey mark is on land, other than a road, under the control of a public authority, the public authority is responsible for—

- (a) maintaining the physical integrity of the survey mark; and
- (b) for a public authority other than the department—giving the chief executive updated information about the survey mark for the survey control register.

41 Notifying public authority about responsibility for recognised permanent survey marks

The chief executive must give each public authority, other than the department, that is responsible under section 38, 39 or 40 for maintaining a recognised permanent survey mark—

- (a) a written notice informing the public authority of its responsibility under the section for the mark; and
- (b) a copy of the current information about the mark recorded in the survey control register.

Division 3—Interfering with survey marks

42 Offence about interfering with survey mark

(1) A person must not interfere with a survey mark the existence of which the person knows or ought reasonably to know, unless—

- (a) for a cadastral survey mark for a boundary—the person interferes with the mark in order to erect a fence, wall or other permanent structure along the boundary; or
- (b) for a recognised permanent survey mark—the person interferes with the mark under an authority given under section 43; or

- (c) for a mark other than a recognised permanent survey mark—the person, before interfering with the mark—
 - (i) causes a survey to be carried out to establish the relationship between the mark and at least 2 recognised permanent survey marks; and
 - (ii) gives the chief executive a copy of the plan of survey; or
- (d) the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) It is not a reasonable excuse for a person to interfere with a survey mark if the person could have obtained, but did not seek, an authority under section 43 for the interference.

43 Authority to interfere with recognised permanent survey mark

(1) A person may apply to the chief executive for authority to interfere with a recognised permanent survey mark.

(2) The chief executive may—

- (a) give the authority, with or without conditions; or
- (b) refuse to give the authority.

(3) If the chief executive gives the authority on conditions or refuses to give the authority, the chief executive must give the applicant a written notice stating the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the applicant may apply to the Minister for a review of the decision within 30 business days after the day the notice is given.

(4) As soon as practicable after receiving an application under subsection (3)(c), the Minister must—

- (a) review the chief executive's decision; and
- (b) decide to confirm, amend or set aside the chief executive's decision; and
- (c) give written notice to the applicant about the Minister's decision and the reasons for it.

(5) For section 42(1)(b), the Minister's decision on the review is taken to be the chief executive's decision about the authority.

44 Reinstating recognised permanent survey mark

(1) If a person interferes with a recognised permanent survey mark in contravention of section 42, the chief executive or public authority responsible under division 2 for maintaining the mark may take the action reasonably necessary to reinstate the mark's physical and survey integrity.

(2) The costs reasonably incurred by the chief executive or a department in reinstating the mark are a debt payable by the person to the State.

(3) The costs reasonably incurred by another public authority in reinstating the mark are a debt payable by the person to the public authority.

(4) If the person is convicted of an offence against section 42, the court may, as well as imposing a penalty for the offence, order the person to pay the amount of the costs to the State or public authority under subsection (2) or (3).

Division 4—Miscellaneous

45 Reporting and recording changes in recognised permanent survey mark

(1) This section applies if a surveyor, surveying associate or surveying graduate becomes aware of—

- (a) an apparent irregularity in information recorded in the survey control register for a recognised permanent survey mark; or
- (b) the disrepair, destruction or removal of a recognised permanent survey mark.

Example of an apparent irregularity for subsection (1)(a)—

Observations made by the surveyor relating to the recognised permanent survey mark differ from the information recorded for the mark in the survey control register.

(2) As soon as practicable after becoming aware of a matter mentioned in subsection (1), the person must give the chief executive written notice of the matter.

(3) The chief executive must record details of the matter in the survey control register.

PART 5—RECORDING SURVEY AND MAPPING INFORMATION

Division 1—State datasets

Subdivision 1—State digital cadastral dataset

46 State digital cadastral dataset

(1) The chief executive must keep a dataset (the “**State digital cadastral dataset**”) comprising—

- (a) a digital graphic representation of each parcel of land in the State; and
- (b) the following current details about each parcel of land mentioned in paragraph (a)—
 - (i) a unique description of the land, including, for example, its real property description;
 - (ii) the approximate coordinates for the corners of the parcel; and
- (c) a digital graphic representation of—
 - (i) roads; and
 - (ii) natural features forming a boundary of land; and
- (d) the approximate coordinates of the roads and natural features mentioned in paragraph (c).

(2) The chief executive may, without fee, obtain information necessary to update and improve the dataset from the land registry kept under the *Land Act 1994* or *Land Title Act 1994*.

(3) Subsection (2) does not limit the sources from which the chief executive may obtain information for updating the dataset.

(4) Subsection (1)(a) and (b) do not apply to a parcel of land shown on a building format or volumetric format plan of survey.

(5) In this section—

“building format” plan of survey means a plan of survey that defines land using the structural elements of a building, including, for example, floors, walls and ceilings.

“structural elements”, of a building, includes projections of, and references to, structural elements of the building.

Example—

Projections might be used to define a lot that includes a balcony, courtyard, roof garden or other area not bounded, or completely bounded, by a floor, walls and a ceiling.

“volumetric format” means a plan of survey that defines land using 3 dimensionally located points to identify the position, shape and dimensions of each bounding surface.

47 Effect and use of information in State digital cadastral dataset

(1) The recording, in the State digital cadastral dataset, of information about a parcel of land does not create or affect an interest in the land.

(2) If the information in the dataset is inconsistent with information recorded or noted in the land registry kept under the *Land Act 1994* or *Land Title Act 1994*, the information recorded or noted in the land registry prevails to the extent of the inconsistency.

(3) Information recorded by a public authority, other than in the land registry, about the coordinates of land boundaries must be consistent with the dataset.

Subdivision 2—Other State datasets

48 Administrative area boundary dataset

The chief executive must keep a dataset (the **“administrative area boundary dataset”**) of information—

- (a) given to the chief executive under section 49; or
- (b) otherwise obtained by the chief executive about an administrative area boundary.

49 Public authority may give chief executive information about administrative area boundaries

A public authority may give the chief executive information about the boundaries of an administrative area for recording in the administrative area boundary dataset.

50 State remotely sensed image library

The chief executive must keep a library (the “**State remotely sensed image library**”) containing the remotely sensed images of land and coastal waters of the State the chief executive considers are of value for—

- (a) a survey and mapping infrastructure purpose; or
- (b) defining an administrative area, or describing or working out an administrative area boundary.

51 Survey control register

(1) The chief executive must keep a register (the “**survey control register**”) for recording information about survey marks obtained by the chief executive under this Act.

(2) In addition to the details recorded under section 35(3),⁶ the register must contain, for each recognised permanent survey mark—

- (a) the details recorded under section 45(3); and
- (b) information about the survey mark taken, under section 69,⁷ to form part of the register; and
- (c) updated information about the survey mark given to the chief executive under sections 38 to 40.

(3) The register may also contain other information about a survey mark—

- (a) given to the chief executive for recording in the register; or
- (b) that the chief executive considers is of value for a survey and mapping infrastructure purpose, including, for example, the integration of survey and mapping information.

6 Section 35 (Establishing survey marks as recognised permanent survey marks)

7 Section 69 (Existing survey control database)

52 Other datasets

The chief executive may keep another dataset for a survey and mapping infrastructure purpose and publish information about the dataset on the department's website on the Internet.

Subdivision 3—Other provisions about State datasets

53 Chief executive may arrange for another entity to keep a State dataset

The chief executive may enter into an arrangement with another entity to—

- (a) keep a State dataset for the chief executive; and
- (b) provide access by persons to the information contained in the dataset.

54 Access to information in State datasets

(1) A person may—

- (a) on payment of any fee decided by the chief executive, inspect the information contained in the publicly available part of a State dataset held in the department; and
- (b) on payment of the fee decided by the chief executive, or under an agreement entered into between the person and the chief executive, obtain a copy of all or part of the information from the chief executive.

(2) If a State dataset is kept by an entity under section 53, a person may—

- (a) on payment of any fee decided by the entity, inspect the information contained in the publicly available part of the dataset; and
- (b) on payment of the fee decided by the entity, or under an agreement entered into between the person and the entity, obtain a copy of all or part of the information from the entity.

Division 2—Obligations of persons to provide information and data for survey and mapping infrastructure purposes

55 Surveyor’s obligation

(1) If a surveyor intends carrying out a survey the surveyor considers, or should reasonably consider, is of value for a survey and mapping infrastructure purpose, the surveyor must give the chief executive written notice—

- (a) stating the surveyor’s intention to carry out the survey; and
- (b) asking the chief executive for advice about—
 - (i) any specifications for the survey required by the chief executive for a survey and mapping infrastructure purpose (the “**required specifications**”); and
 - (ii) any contribution the chief executive agrees to make towards the cost of the survey (the “**agreed contribution**”); and
- (c) stating enough information about the survey to enable the chief executive to make a decision about the required specifications and agreed contribution.

(2) As soon as practicable after receiving the notice, the chief executive must, in writing, give the surveyor the advice requested.

(3) The surveyor must comply with the required specifications in carrying out the survey.

(4) If the surveyor complies with the required specifications in carrying out the survey, the chief executive must make the agreed contribution for the survey.

56 Public authority’s obligation

(1) If the chief executive reasonably considers a public authority holds information or data that is of value for a survey and mapping infrastructure purpose, the chief executive may, in writing, ask the public authority for a copy of the information or data.

(2) The public authority must, on payment by the chief executive of the fee decided by the public authority for the copy, give the copy to the chief executive.

PART 6—ADMINISTRATIVE AREAS

Division 1—Defining administrative areas

57 Ways of defining an administrative area

(1) An administrative area must be defined in 1 or more of the following ways—

- (a) by delineating its boundaries on a plan in a distinctive way, including, for example, by using symbols, colouring or hachuring;
- (b) by describing its boundaries by reference to 1 or more of the following—
 - (i) lines described by length and bearing referenced to a stated datum;
 - (ii) a natural or other suitable feature;
 - (iii) the real property description of land adjoining the area;
 - (iv) parish, county or locality boundaries;
 - (v) boundaries shown on a plan of survey lodged under the *Land Act 1994* or *Land Title Act 1994*;
 - (vi) the coordinates, taken from the State digital cadastral dataset, of the corners and bends of the area;
 - (vii) metes and bounds;
 - (viii) the area or boundary of another administrative area defined under this subsection;
- (c) by listing the real property descriptions of land comprising the area;
- (d) another way, approved by the chief executive, as appropriate for defining the area.

(2) The definition of an administrative area other than under subsection (1) does not affect the validity of the area's establishment.

*Division 2—Working out administrative area boundaries***58 Application of div 2**

(1) This division applies to—

- (a) the description of an administrative area boundary in an instrument establishing or changing the area; and
- (b) the delineation of an administrative area boundary on a plan.

(2) However, this division does not apply if a contrary intention appears in—

- (a) the instrument or plan; or
- (b) the law under which the instrument or plan is made.

59 Meaning of particular words used in describing an administrative area boundary

In the description of an administrative area boundary—

“**bank**” means—

- (a) for a watercourse, the line—
 - (i) along the outer limits of the defined channel of the watercourse; and
 - (ii) following the highest points of land in the channel that are covered by the watercourse water, whether permanently or intermittently; and
- (b) for a lake, the line—
 - (i) along the outer limits of the depression of the lake; and
 - (ii) following the highest points of land in the depression that are covered by the lake water, whether permanently or intermittently.

“**bed**”, of a watercourse, means the land that is—

- (a) alternately covered or left bare as the water of the watercourse increases or diminishes; and
- (b) adequate to contain the water at its average flow without reference to extreme droughts or extraordinary freshets during floods.

“high-water mark” means the ordinary high-water mark at spring tides.

“lake” includes a lagoon, swamp, marsh, or other natural collection of water, whether permanent or intermittent, and not contained in an artificial work.

“low-water mark” means the ordinary low-water mark at spring tides.

“tidal watercourse” means the part of a watercourse in which the tide ebbs and flows.

“watercourse” means a river, creek or stream in which water flows, whether permanently or intermittently, in—

- (a) a natural channel, whether or not artificially improved; or
- (b) an artificial channel that has changed the course of the watercourse.

60 References to features forming part of an administrative area boundary

In the description of an administrative area boundary—

- (a) a reference to the left or right bank of a watercourse is a reference to the left or right bank when facing downstream; and
- (b) a reference to a dam is a reference to the line—
 - (i) along the outer limits of the dam; and
 - (ii) following the highest points of land covered by the dam water at full supply level; and
- (c) a reference to a mountain, mountain range, hill, or similar natural feature is a reference to the feature’s watershed; and
- (d) a reference to a natural feature having a high-water mark is a reference to the high-water mark; and

Example of ‘natural feature having a high-water mark’—

Bay, inlet, harbour, gulf, shore or coast.

- (e) a reference to a tidal lake or watercourse is a reference to the high-water mark along the lake or watercourse; and
- (f) a reference to a non-tidal lake is a reference to the bank of the lake; and
- (g) a reference to a non-tidal watercourse is a reference to the line along the middle of the bed of the watercourse; and

- (h) a reference to a railway or road is a reference to the centre line of the railway or road.

61 Working out an administrative area boundary shown on a plan

On a plan, the boundary of an administrative area marked—

- (a) along the line of a coast, harbour, tidal watercourse or tidal lake, is the high-water mark along the coast, harbour, watercourse or lake; or
- (b) along and within—
- (i) the banks of a non-tidal watercourse; or
- (ii) the boundaries of a road or railway;
- is the line along the middle of the bed of the watercourse, or the centre line of the road or railway; or
- (c) along a watercourse, road or railway shown by a single line, is the line along the middle of the bed of the watercourse, or the centre line of the road or railway; or
- (d) along but to 1 side of a non-tidal watercourse, or a road or railway, is—
- (i) for a watercourse—the bank of the watercourse nearer to the marked boundary; or
- (ii) for a road or railway—the boundary of the road or railway nearer to the marked boundary.

PART 7—MISCELLANEOUS

62 Evidentiary provisions about State remotely sensed image

(1) This section applies to any proceeding.

(2) A certificate, purporting to be signed by the chief executive or by a person authorised by the chief executive, and stating any of the following matters about a State remotely sensed image of land or coastal waters accompanying the certificate is evidence of the matters stated—

- (a) the image is a State remotely sensed image, or a copy of a State remotely sensed image of a stated area;
- (b) the location of the area shown in the image;
- (c) a feature or point, or the location of a feature or point, shown in the image;
- (d) the date and time when the image was taken or made;
- (e) the approximate scale of the image.

(3) The signature on the certificate is evidence of the signature it purports to be.

(4) A person who purports to be authorised by the chief executive to sign the certificate is taken, in the absence of evidence to the contrary, to be authorised to sign the certificate.

(5) A party to the proceeding intending to challenge a matter mentioned in subsection (2) must give at least 28 days notice of the party's intention to adduce relevant evidence.

(6) In this section—

“State remotely sensed image” means a remotely sensed image taken or copied from the State remotely sensed image library.

63 Protection from liability

(1) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents civil liability attaching to an official, the liability attaches instead to the State.

(3) In this section—

“official” means—

- (a) the chief executive; or
- (b) an officer or employee of the department; or
- (c) a surveyor carrying out a State survey; or
- (d) a person helping a surveyor mentioned in paragraph (c) at the surveyor's direction.

64 Deciding fees

(1) This section applies to an entity authorised under this Act to decide a fee payable to the entity for a copy of a document or information contained in a document.

(2) The fee decided by the entity must be not more than the entity's reasonable cost of producing the copy.

65 Approval of forms

The chief executive may approve forms for use under this Act.

66 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may create offences and prescribe penalties of not more than 20 penalty units for offences against the regulation.

PART 8—TRANSITIONAL PROVISIONS AND REPEALS*Division 1—Transitional provisions***67 Existing State control survey**

From the commencement of this section, the State control survey carried out under the repealed Survey Act continues and is taken to form part of the State control survey kept by the chief executive under section 33(1).

68 Existing established permanent marks

On the commencement of this section, an established permanent mark within the meaning of the repealed Survey Act, in existence immediately before the commencement, is taken to have been established under this Act as a recognised permanent survey mark.

69 Existing survey control database

(1) This section applies to information about permanent marks, within the meaning of the repealed Survey Act—

- (a) held by the chief executive under that Act immediately before the commencement of this section; and
- (b) commonly known as the survey control database.

(2) On the commencement, the information is taken to form part of the survey control register.

70 References to Administrative Boundaries Terminology Act 1985

In an Act or document, a reference to the *Administrative Boundaries Terminology Act 1985* is, if the context permits, taken to be a reference to this Act.

71 References to repealed Survey Act

In an Act or document, a reference to the repealed Survey Act is, if the context permits, taken to be a reference to this Act.

Division 2—Repeals**72 Acts repealed**

The following Acts are repealed—

- *Administrative Boundaries Terminology Act 1985*
- *Survey Coordination Act 1952.*

PART 9—OTHER ACTS AMENDED

Division 1—Land Title Act 1994

73 Act amended in div 1

This division amends the *Land Title Act 1994*.

74 Amendment of s 30 (Registrar must register instruments)

Section 30(1)(b)—

omit, insert—

‘(b) the instrument—

- (i) is not inconsistent with another Act or law; or
- (ii) is a plan of survey that is not inconsistent with another plan of survey.’.

Division 2—Mineral Resources Act 1989

75 Act amended in div 2

This division amends the *Mineral Resources Act 1989*.

76 Amendment of s 57 (Manner of marking out land proposed to be subject of mining claim)

Section 57(4), before ‘surveyor’—

insert—

‘cadastral’.

77 Section 241 (Manner of marking out land proposed to be subject of mining lease)

Section 241(4), before ‘surveyor’—

insert—

‘cadastral’.

78 Amendment of s 300 (Assignment, mortgage or sublease of mining lease)

Section 300(7), from ‘out,’—

omit, insert—

‘out by a person registered as a cadastral surveyor under the *Surveyors Act 2003*.’.

79 Amendment of s 407 (Minister may require survey)

(1) Section 407(2)—

omit, insert—

‘(2) The land must be surveyed by a cadastral surveyor.’.

(2) Section 407(3) and (4), ‘licensed surveyor’—

omit, insert—

‘cadastral surveyor’.

80 Amendment of s 408 (Surveyor not to have interest)

Section 408, ‘licensed surveyor’—

omit, insert—

‘cadastral surveyor’.

81 Amendment of schedule (Dictionary)

Schedule—

insert—

‘**“cadastral surveyor”** means a person registered as a cadastral surveyor under the *Surveyors Act 2003*.’.

SCHEDULE

DICTIONARY

section 5

“administrative area” means an area established for a purpose under an Act before or after the commencement of this Act.

“administrative area boundary dataset” see section 48.

“cadastral surveyor” means a surveyor who holds a registration endorsement under the *Surveyors Act 2003* for carrying out cadastral surveys.

“correction notice” see section 29(1)(c).

“establish” a survey mark as a recognised permanent survey mark, means record details about the mark, and classify the mark as a recognised permanent survey mark, under section 35(3).

“permanent survey mark” means a mark—

- (a) clearly identifiable as a survey mark; and
- (b) having the characteristics required under a survey standard for a permanent survey mark; and
- (c) placed as—
 - (i) evidence of a survey; and
 - (ii) an enduring reference point for surveys.

“physical integrity”, of a survey mark, means its durability and stability and long term usefulness for its intended purpose.

“plan”—

- (a) means a chart, map, photograph (including a remotely sensed image) and sketch of land; and
- (b) includes an electronically produced plan.

“public authority” means—

- (a) an entity declared under the *Public Service Act 1996* to be a department of government; or

SCHEDULE (continued)

(b) a local government or other entity established by an Act.

“reasonably believes” means believes on grounds that are reasonable in the circumstances.

“reasonably considers” means considers on grounds that are reasonable in the circumstances.

“recognised permanent survey mark” means a survey mark having a particular value for a survey and mapping infrastructure purpose and classified as a recognised permanent survey mark under section 35(3)(b).

“registrar of titles” means the registrar of titles under the *Land Title Act 1994*.

“repealed Survey Act” means the *Survey Coordination Act 1952*.

“road” means a road as defined under the *Land Act 1994*, section 93.

“show cause notice” see section 29(1).

“State dataset” means 1 of the following—

- (a) the administrative area boundary dataset;
- (b) the State remotely sensed image library;
- (c) the State digital cadastral dataset;
- (d) the survey control register;
- (e) another dataset kept by the chief executive under section 52.

“State digital cadastral dataset” see section 46.

“State remotely sensed image library” see section 50.

“State survey” means a survey carried out under section 33.

“survey” includes—

- (a) a survey of artificial features on, above or below the earth’s surface; and
- (b) recording the survey on a plan.

“survey and mapping infrastructure purpose” means a purpose stated in section 3(1)(a) to (d).

“survey control register” see section 51(1).

SCHEDULE (continued)

“survey error”—

- (a) means an error made in carrying out a survey that is capable of correction by—
 - (i) carrying out another survey; or
 - (ii) amending the plan of survey; or
 - (iii) lodging another plan of survey; and
- (b) includes carrying out a survey in contravention of a survey standard.

“survey guidelines” see section 7(1).

“surveying associate” means a person registered as a surveying associate under the *Surveyors Act 2003*.

“surveying graduate” means a person registered as a surveying graduate under the *Surveyors Act 2003*.

“survey mark” means a mark placed as—

- (a) evidence of a survey; or
- (b) a reference point for a survey.

“surveyor”—

- (a) means a person registered as a surveyor under the *Surveyors Act 2003*; and
- (b) for part 3, divisions 3 to 5—includes a surveying associate and surveying graduate.

“surveyors board” means the Surveyors Board of Queensland established under the *Surveyors Act 2003*.

“survey quality” means the quality of each of the following—

- (a) the way in which the survey is carried out, including the survey marks used;
- (b) the survey results, including the information collected and the accuracy level achieved;

SCHEDULE (continued)

(c) the plan of survey.

“survey standards” see section 6(1).