

Survey and Mapping Infrastructure Regulation 2024

Explanatory notes for SL 2024 No. 144

made under the

Survey and Mapping Infrastructure Act 2003

General Outline

Short title

Survey and Mapping Infrastructure Regulation 2024.

Authorising law

Section 136 of the *Survey and Mapping Infrastructure Act 2003* (the SMI Act).

Policy objectives and the reasons for them

The objectives of the *Survey and Mapping Infrastructure Regulation 2024* (the SMI Regulation) are to:

1. support operation of the SMI Act by stating the principles to be applied in carrying out land boundary surveys, providing for technical survey standard and guideline matters, prescribing the geodetic reference framework (or datum) used in Queensland, and setting several key spatial definitions;
2. repeal and replace the expiring *Survey and Mapping Infrastructure Regulation 2014*;
3. make minor amendments to update the effectiveness and efficiency of the expiring *Survey and Mapping Infrastructure Regulation 2014*, to adopt current drafting practice and ensure the framework remains up to date.

The SMI Act provides for the development, maintenance and improvement of the State's survey and mapping infrastructure, including the system of land boundaries. Essentially, the SMI Act states how surveys are to be carried out and how various survey and spatial data are to be managed. The SMI Regulation supports the SMI Act to achieve these objectives by stating the principles to be applied in carrying out surveys and by providing for several key spatial definitions.

Section 54 of the *Statutory Instruments Act 1992* provides that subordinate legislation expires on 1 September first occurring after the 10th anniversary of the day of its making unless it is sooner repealed or expires. The *Survey and Mapping Infrastructure*

Regulation 2014 came into effect in 2014 and is due to expire on 1 September 2024. The provisions carried forward by the SMI Regulation remain necessary for the continued and effective operation of the survey and mapping infrastructure regulatory framework.

Achievement of policy objectives

The SMI Regulation achieves the policy objectives by replacing the expiring regulation and continuing the existence of its provisions without significant policy change. The SMI Regulation will provide for the principles that surveyors must observe when carrying out surveys under the SMI Act. The principles also guide the preparation of surveying standards under the SMI Act.

The principles are set out in a general form in that they apply to all surveys carried out under the SMI Act. The SMI Regulation expands these to a set of specific principles that have application to carrying out cadastral or land boundary surveys. The SMI Regulation also deals with several specific matters, with Part 3 specific to defining the official reference system used to describe location for survey or mapping purposes (e.g. using specific geographic coordinates); Part 4 further develops principles in relation to cadastral surveying and standards; and Part 5 is specific to principles relating to the identification of watercourse features for establishing the location at law of non-tidal watercourse boundaries. Any other approach will leave certain administrative requirements of the principal legislation only partly described, thereby limiting the effective implementation of the SMI Act.

The SMI Regulation will repeal and replace the *Survey and Mapping Infrastructure Regulation 2014* while taking the opportunity to streamline and update existing provisions, in line with contemporary legislative practice, to ensure the framework continues to operate efficiently.

The updates include:

1. *Streamlining provisions to better reflect the SMI Act.*
How a cadastral survey contributes to the State's cadastral boundary system has been redrafted to be more concise and to avoid restating concepts established through definition and by the SMI Act. Part 4 of the SMI Regulation, which gives provisions about survey standards and survey guidelines matters, has been redrafted to reflect corresponding requirements of the SMI Act more accurately.
2. *Update or removal of terms necessary for Schedule 2 Dictionary.*
Definitions have been updated to account for the effect of other frameworks. For example, the definition of *survey records* need not be specific about an electronically produced measurement, analysis, or plan, as *document* is defined by the *Acts Interpretation Act 1954* to include any electronic copy of a document. Similarly, the definition of *encroachment* is linked to the property law framework.

Consistency with policy objectives of authorising law

The SMI Regulation is consistent with the main objectives of the SMI Act, which are to provide for the development, maintenance and improvement of the State's survey and mapping infrastructure, including the cadastral or land boundary system. The SMI Regulation supports the SMI Act to achieve these objectives by stating the principles which are to be applied in carrying out surveys and by providing for several key spatial definitions.

Inconsistency with policy objectives of other legislation

The SMI Regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

If the *Survey and Mapping Infrastructure Regulation 2014* was to expire without replacement, the principles applied in carrying out surveys and some key spatial definitions would be lost, opening the SMI Act to variable and uncertain levels of interpretation. The provisions of the SMI Regulation under the SMI Act have worked effectively since establishment of the current regulatory framework. Amendments have been made over time where appropriate and necessary to improve the effectiveness of the regulatory framework and ensure that it remained fit for purpose.

In 2010, the scope of regulation was expanded to include information to describe the location of watercourse boundaries. The SMI Act was also amended at that time to provide a system of feature-based definition for water boundaries (see the *Environment and Resource Management Legislation Amendment Regulation (No.1) 2010*). In 2020, the expiring *Survey and Mapping Infrastructure Regulation 2014* was updated to prescribe the Geocentric Datum of Australia 2020 (GDA2020) as the official datum for survey and mapping purposes in the State. This coincided with the Department of Resources leading a significant technical implementation process for adoption of the new datum across government and the private sector.

The most feasible option is to remake the *Survey and Mapping Infrastructure Regulation 2014* with minor amendments. The provisions of the *Survey and Mapping Infrastructure Regulation 2014* have operated successfully for the past ten years and have been updated over time. No drivers for substantial change to the SMI Act framework have been identified by the Department of Resources or key stakeholders.

Benefits and costs of implementation

Many benefits result from effective implementation of the survey and mapping infrastructure regulatory framework. Surveying businesses, as both producers and consumers of spatial information derive benefits from the existence of standards. The costs of complying with a particular form of standards are only a small component of the overall cost of the surveying process. Business would carry additional cost if required to develop and maintain its own standards, or work from inconsistent information provided by others.

The value of surveying and mapping to the community depends on the extent to which surveys and maps can be relied upon. Increasing the integrity of information processes and avoiding fraudulent practice is important for many situations, such as the security of title to land. The existence of surveying principles and standards provides a benefit to the community and maintains community confidence in the work of surveyors.

Having no SMI Regulation may lead to inconsistencies with the work and information provided by surveyors. The work of surveyors underpins several fundamental government datasets such as the titles register and related cadastral datasets. A benefit from providing for the quality and consistency of surveying is maintaining the integrity of these important government systems. This strengthens the capacity for certainty about the location of land boundaries and sustains a secure land market.

There are no additional resource or implementation implications beyond current budget allocations, as the SMI Regulation continues the existing implementation of the survey and mapping infrastructure regulatory framework.

The regulatory impact of the making of the SMI Regulation is considered to be excluded from further assessment. A summary Impact Analysis Statement was prepared, and it was determined that the proposal does not require further impact analysis under *The Queensland Government Better Regulation Policy* as it is unlikely to have significant adverse impacts. Making the new Regulation maintains the survey and mapping infrastructure regulatory framework. The current system is achieving government objectives at minimal cost.

Consistency with fundamental legislative principles

The SMI Regulation is consistent with fundamental legislative principles. It complies with relevant requirements of section 4(5) of the *Legislative Standards Act 1992*.

The method for the State's adoption of the national standard for position under the *National Measurement Act 1960* (Cth) shows sufficient respect to the institution of Parliament in Queensland. Section 14 of the SMI Regulation is limited to adoption of the GDA2020 determination that stood at commencement. Should there be change to the national GDA2020 determination, this would not automatically affect Queensland legislation. Queensland would need to amend the SMI Regulation to adopt future changes to datum under the *National Measurement Act 1960* (Cth).

The delegation of offences and penalties under the SMI Regulation is appropriate. Section 136 of the SMI Act provides a general regulation making power. The SMI Regulation may create an offence, but the authorising law limits offences to 20 penalty units. The rights and liberties of the broader community are not limited by delegation of this power. The principles and obligations prescribed by the SMI Regulation are limited to cadastral surveys performed by registered surveyors and support the objectives of the SMI Act, which include upholding suitable survey accuracy, the consideration of the rights of all landholders, and the collection of survey information in State datasets to maintain the system of land boundaries across the State.

Consultation

The relevant professional bodies representing surveyors in Queensland have been consulted about the continued effectiveness and efficiency of the SMI Regulation, including the Surveyors Board of Queensland, Surveyors Australia, and the Geospatial Council of Australia. The Department of Resources has engaged directly with the surveying industry via presentations at the Queensland (Brisbane) and North Queensland (Cairns) Spatial Conferences and via a 'Surveying Alert', a subscribed email list reaching approximately 750 practicing surveyors.

Surveyors were given the opportunity to comment about the effectiveness and efficiency of the regulatory model. The Surveyors Board of Queensland and all other relevant industry bodies supported remake of the SMI Regulation.

The provision of feedback regarding the SMI Regulation was limited due to general satisfaction with the current provisions. The Department of Resources regularly interacts with stakeholders through hosting 'surveying reference' (comprised of industry participants and representatives) and 'strategic' (leaders of government and professional associations) working groups, through presentations at industry workshops and conferences, and through its representative on the Surveyors Board of Queensland.

While stakeholders raised some issues related to the Cadastral Survey Requirements (standards and guidelines made for surveying under the SMI Act), few concerns were raised about the effectiveness of the SMI Regulation, and there were no calls to change or remove specific regulatory requirements. The Department of Resources conducts regular review of the Cadastral Survey Requirements, and the feedback relevant to these standards will be considered for future revisions.