



LANDS surveying alert

Land and Other Legislation Amendment Act 2023, Modernising Survey Auditing - Consultation and Updates

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Land and Other Legislation Amendment Act 2023

The *Land and Other Legislation Amendment Act 2023* received assent on 28 February 2023.

It amends the *Survey and Mapping Infrastructure Act 2003* to:

- Streamline the process to commence new versions of the Cadastral Survey Requirements, to assist ongoing revision of the standards and ensure they remain responsive to user needs.
- Clarify the policy intent and streamline processes associated with certain water boundary provisions to:
 - remove the requirement for certification of a reserved plan of survey,
 - improve consistency of the chief executive powers to declare the location of tidal water boundaries for either single or multiple consecutive lots,
 - expand evidence gathering powers of the chief executive in making a water boundary declaration,
 - provide for moving the rules for compilation of water boundaries from the Act to the Cadastral Survey Requirements. This change will take effect by proclamation, so will not occur until the next update of the Cadastral Survey Requirements later in the year.

Change to the Process for Reserved Plans of Survey

Prior to amendment by the *Land and Other Legislation Amendment Act 2023*, section 65 of the *Survey and Mapping Infrastructure Act 2003* (SMI Act) required a reserved plan of survey to be certified by the chief executive or the Registrar of Titles. This is no longer required, and a reserved plan of survey may be lodged for registration without a letter of certification.

It is the surveyor's responsibility to ensure correct application of the relevant provisions. It is recommended that survey advice is sought from the department about the preparation of a reserved plan of survey. Where the department provides a survey advice file reference in relation to such a request, the file reference must be noted on the plan in the Surveyor file reference item on the plan administration sheet (sheet 2).

Additional Guidance for the Preparation of a Reserved Plan of Survey

A reserved plan of survey cannot be prepared after a first new plan of survey is registered for the relevant land. Subject to section 65 of the SMI Act, a reserved plan of survey may be used in the following circumstances:

- Section 65(4)(a) - prepared and registered only for the purpose of a disposal of, or other dealing with, part of the land under the *Land Act 1994* for a public purpose under that Act. The definition of 'public purpose' under the *Land Act 1994* includes a community purpose under

that Act or a purpose for which land may be taken under the *Acquisition of Land Act 1967*. For example:

- reconfiguration of state land parcels for a community purpose under the Land Act (e.g., community purpose reserves),
 - survey of land to be acquired by a constructing authority under the *Acquisition of Land Act 1967* - the notice of Intention to Resume (NIR) may require notation or allocation on a plan of survey that affects the subject land,
 - the dedication of road, or the simultaneous opening and closure of road (if prepared only for that purpose). An action to close road does not qualify as a reserved plan of survey, as there is no public purpose consideration for such a dealing,
 - plans of survey prepared only for a dealing under the *Land Act 1994* and only for a public purpose under that Act i.e., a reserved plan of survey cannot be used to dedicate new road as well as subdivide land without any public purpose consideration,
 - plans of survey which affect a dealing under *Land Title Act 1994*, without public purpose consideration, do not qualify as a reserved plan of survey,
 - survey of a parcel of state land for conversion to freehold must not be dealt with as a reserved plan of survey.
- Section 65(4)(b) - prepared and registered for the purposes of a development approval under the repealed *Sustainable Planning Act 2009* as in force at the commencement of this part, other than for the purposes of an amendment of the development approval made after the commencement of this part.
 - Generally, subsection 4(b) no longer applies to new surveys. The plan must be for the purpose of development approval that was given prior to 26 March 2010 and not subject to subsequent amendment.
 - Section 65(4)(c) - prepared for a survey performed before the commencement of this part for the purposes of work directed or authorised under a regulation under *the State Development and Public Works Organisation Act 1971* to be undertaken or completed by an entity.
 - Subsection 4(c) does not apply to new surveys. It is not anticipated there are outstanding surveys authorised under *the State Development and Public Works Organisation Act 1971* that were carried out prior to 26 March 2010.

The relevant provision of the SMI Act must be stated in the survey report. The report should briefly address the reason the survey is suitable to be prepared as a reserved plan of survey.

Since amendment by the *Land and Other Legislation Amendment Act 2023*, standard 4.7 *Certification of a reserved plan of survey* in the Cadastral Survey Requirements (v8.0) is inconsistent with the Act and ceases to have effect. The next version of the survey standards will be updated to reflect the new process for reserved plans of survey.

Modernising Survey Auditing – Consultation and Updates

This alert will outline progress of the proposed modernisation of the survey audit process. The draft process was originally outlined in a discussion paper published in the *Lands Surveying Alert, Issue 51*. The detail of this proposal is yet to be finalised and further comments are sought by 17 March 2023.

Comments or additional questions may be forwarded to surveying@resources.qld.gov.au

Feedback Received

Approximately 22 individual submissions were received, including those from Consulting Surveyors National (CSN) and the Geoscience Council of Australia (GCA – formerly the Surveying and Spatial Sciences Institute). The CSN and GCA submissions contained individual responses collected from their members. Overall, there were over 80 responses. The main points raised by consultation are:

- Varying levels of support – Different aspects of the original proposal attracted a range of supportive and opposing feedback.

- Integrity of the cadastre – The consultation indicated a need to develop understanding that maintaining the integrity of the cadastre is a responsibility shared between all cadastral surveyors, the Department of Resources (Resources) and Titles Queensland (TQ).
- Increased involvement of the Surveyors Board of Queensland (SBQ)- Resources will continue to provide the SBQ with a summary of the result of all audits for their information. The departments referral of specific matters to the SBQ requires the endorsement of the Director of Surveys, as per current policy.
- Responsibility for plans of survey – The audit process does not confer any responsibility for a survey to other parties. It remains that it is the surveyor who signs the certificate on the plan who is ultimately responsible for the survey and plan.
- Extent of current audit processes – Mixed understanding exists about the current auditing and registration processes used by Resources and TQ. Currently only certain elements of survey plans received from accredited surveyors are checked, while plans from non-accredited surveyors are checked using the Form 10 list.
- The reasons for change – Some respondents commented the main reason for the changes proposed to auditing processes is a lack of capacity within Resources. While survey auditing remains a priority of the department, it is not the only priority. Change is necessary to adopt a targeted, risk-based approach. A detailed survey audit process including field checks will be undertaken for a smaller sample of surveys, rather than relying on limited checking of all surveys - exclusive of Identification Surveys (IS) and Red Cats. The new audit process will extend to field checking IS and Red Cats. Survey audit modernisation is part of a range of initiatives being undertaken across the Lands Division of Resources to improve business processes.
- Selection of surveys for audit – Concern was raised about the manner of selecting surveys for audit. An automated tool is being developed to select plans for audit based on data extracted from Resources systems.
- Sample size of audits – There was concern that too few surveys may be audited. The proposed methodology allows for a targeted, or risk-based approach to selecting plans for audit based on specific criteria.
- Identification Surveys and Red Cats – The importance of including IS and Red Cats within the audit process was recognised. It was inferred this would remove the occurrence of 'deed box' surveys and improve the overall quality of surveys.
- Field audits – The majority favoured an increase to the number of field audits undertaken. Some thought adequate assessment of a survey may be gained from examining the plan alone. There was concern about the timeframe in which audits will be undertaken. Field audits will be undertaken within six months of registration, but many will be undertaken sooner. Auditors will be conscious of matters such as the time elapsed since registration and the possibility of interference with marks and occupation since the survey occurred.
- Post Registration Corrections (PRCs) – There was feedback about the potential for an increased number of PRCs. A current requirement is that the survey is certified as correct when the plan is signed by the surveyor. This remains true and the timing of when audits occur should not directly infer an overall increase to the amount of PRCs required.
- Accreditation – Feedback was divided about whether accreditation should continue. The changes proposed to modernise survey auditing processes replace the need for the current system of accreditation administered by Resources.

A summary of all feedback received during consultation, and the response of Resources and TQ, has been prepared. A copy of the document may be requested from surveying@resources.qld.gov.au.

Titles Queensland

The proposal originally indicated the process of survey plan examination would be modified so that there would be a limited examination of a survey plan, to perform a set of basic but fundamental checks performed after lodgement of the survey plan in TQ but prior to registration. Such checks are essential to confirm that the plan could be registered and are necessary for TQ to register the plan. The nature of these checks is to focus on the suitability of the plan for registration and the maintenance of the integrity of the register.

Additional audit and field checks would be undertaken post registration that would relate to any additional requirements set out in the *Survey and Mapping Infrastructure Act 2003* (the SMI Act) and Cadastral Survey Requirements (CSR).

Both examination and audit processes were originally proposed to be completed by Resources.

Recently TQ, in conjunction with the Department of Resources, has agreed that the limited examination of the survey plan would be undertaken by its Registration Officers (RO) prior to registration. Procedures, processes, and documentation are being prepared and training of the ROs will occur prior to implementation of new processes.

Resources will now only perform the audits after registration for matters relating to the SMI Act and CSR. A review is also underway to ensure that the relevant documentation is contained within the CSR and RTDPP respectively.

Selecting Surveys for Audit by Resources

An automated tool is being developed by Resources to transparently select surveys for auditing. The tool accesses data captured and stored in the Computer Inventory of Survey Plans (CISP) database when plans are deposited or lodged. A numerical value is given to specific elements and a weighting applied to each, depending on their relative importance at a given time. The scores of the individual elements are then added to produce an overall score. The higher the score, the more likely the plan would be selected for audit. The elements currently being considered include:

- Time since last audit,
- Time since last unsatisfactory audit,
- Time since cadastral endorsement was obtained (only if less than three years),
- Time elapsed between completion of the survey and deposit or lodgement of plan,
- Whether a natural feature boundary forms part of the survey,
- Whether the survey was over State land,
- Plan type (i.e. survey plan, identification survey etc.),
- Whether the survey contained a volumetric parcel,
- Whether the survey contained scheme land,
- The number of lots in the survey,
- The location of the survey, and
- A purely random component.

The criteria and the selection tool are still in development, so comments are welcome about the proposed methodology and criteria. Please forward all comments to surveying@resources.qld.gov.au.

While this tool will provide for the majority of surveys selected for audit, there is also the need for Resources to audit specific surveys resulting from referral by an authority such as SBQ or TQ, or from other surveyors where errors are detected during survey. Ad-hoc selection of surveys for audit will require justification and the approval of a Principal Surveyor or Director of Surveys.

Next Steps

Further feedback is sought from stakeholders by 17 March 2023, particularly about the criteria proposed for selecting surveys for audit. All comments will be considered in developing the new audit processes. Resources and TQ are working together to finalise the proposed procedures and related documentation, modify business tools and to train staff.

The surveying profession will be kept informed of any new processes. Further advice, new forms, and relevant policy and procedure documentation will be provided closer to the proposed implementation date of 3 July 2023.

Changes to Survey Control Layers in the Queensland Globe

The survey control layers within the Queensland Globe have been simplified to better reflect the accuracy of available survey control and the move to the GDA2020 datum. Displayed coordinates and heights are updated nightly from the Queensland Survey Control Register and given in the two official Australian datums, the Geocentric Datum of Australia (GDA2020) and the Australian Height Datum (AHD71).

The GDA layers contain all current marks within the Register. These marks are classified into 'Datum', 'Derived' and 'Scaled' layers to reflect the lineage and quality of the GDA2020 coordinate value. The AHD layers contain all marks within the Register with an AHD height. Similarly, the marks are classified into 'Datum', 'Derived by Levelling' and 'Derived by Other' layers based on the lineage and quality of their AHD height value.

The 'CORS Sites' layer contains marks within the Register that are identified as current Continuously Operating Reference Stations and are considered as Datum through the issue of a current Regulation 13 Certificate by Geoscience Australia.

Please note in Queensland Globe any saved maps with these layers included may need to be updated. It is recommended that you subscribe to Queensland Globe newsletter to receive notification of enhancements like these to the system.

Version Control of Survey Plans for eLodgement

With the expansion of the eLodgement capacity in Titles Queensland to incorporate survey plans, version control has arisen as a particular issue.

Many surveyors are preparing and presenting to their clients or their client's eLodging solicitor a correctly formatted TIFF of the survey plan, that is to be uploaded into ATS via the eLodgement portal. What sometimes appears to occur, is that through a miscommunication with their client or eLodger, the incorrect version of the TIFF of the survey plan is being uploaded into ATS via the eLodgement portal. It is the surveyor's responsibility to ensure that, through clear communication with the client or eLodger, the correct and final version of the plan is the version that is uploaded.

It is noted that within the land development cycle there are many versions of a survey plan which are prepared and sent for comment or confirmation. It is suggested that if it is not the final version, watermarking of earlier versions could serve to alleviate this problem.