



Queensland

# Survey and Mapping Infrastructure Regulation 2004

## Subordinate Legislation 2004 No. 130

made under the

*Survey and Mapping Infrastructure Act 2003*

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## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Survey and Mapping Infrastructure Regulation 2004*.

### **2 Commencement**

This regulation commences on 1 August 2004.

### **3 Definitions**

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

## **Part 2 Principles to be applied in carrying out surveys**

### **Division 1 All surveys**

#### **4 Importance of State survey and mapping infrastructure**

The State survey and mapping infrastructure is of value to the community because it contributes to the State's economic, environmental and social development.

#### **5 How a survey contributes to the State survey and mapping infrastructure**

A survey contributes to the State survey and mapping infrastructure by, for example, ensuring each of the following—

- (a) survey observations for achieving an acceptable level of survey quality are made;

- (b) the survey marks placed, or the survey marks used as reference points for the survey, provide permanent physical evidence of the survey;
- (c) the physical integrity of the survey marks used is appropriate for the survey's intended purpose;
- (d) the survey observations made and survey marks placed comply with the relevant survey standards;
- (e) the survey records for the survey contain a clear description of the survey marks placed;
- (f) if a survey mark from another survey has been incorrectly placed or disturbed, details of the mark are recorded in an appropriate document;

*Examples of an appropriate document—*

- a State dataset
  - the land registry kept under a registration Act
- (g) relevant information about the survey and the survey marks placed are recorded in a State dataset;
  - (h) a surveyor accepts responsibility for the survey quality.

## **6 When a survey is of value for a survey and mapping infrastructure purpose**

- (1) A survey is of value for a survey and mapping infrastructure purpose if, for example, the survey—
  - (a) produces information in a form that can be recorded in a State dataset; or
  - (b) places permanent survey marks; or
  - (c) makes measurements between permanent survey marks; or
  - (d) makes measurements that establish the relationship between the geodetic reference framework and a subsidiary framework.

*Example of a subsidiary framework—*

cadastral boundary system

- (2) Subsection (1) does not limit the power of—

- (a) the chief executive in deciding, under section 34(1), 51(3)(b) or 56(1)<sup>1</sup> of the Act, whether a survey, or information about a survey, is of value for a survey and mapping infrastructure purpose; or
- (b) a surveyor in deciding, under section 55(1)<sup>2</sup> of the Act, whether a survey is of value for a survey and mapping infrastructure purpose.

## **7 Intended purpose of survey**

- (1) A survey must be carried out in a way that achieves the survey's intended purpose.
- (2) The survey's intended purpose may be achieved by, for example—
  - (a) depicting on the plan of survey the spatial location and extent of the features surveyed; and
  - (b) establishing appropriate survey marks for the survey by, for example—
    - (i) placing survey mark of a type complying with the relevant survey standard; or
    - (ii) using existing survey marks as reference points; and
  - (c) achieving an acceptable level of survey quality that is appropriate for the survey's intended purpose.

## **8 Integrating survey and mapping information**

- (1) A survey must be capable of being integrated with other surveys.
- (2) The integration may be achieved by, for example, ensuring appropriate connections are made to the following when carrying out the survey—

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1 Section 34 (Chief executive may obtain information about survey marks placed other than in carrying out a State survey), 51 (Survey control register) or 56 (Public authority's obligation) of the Act

2 Section 55 (Surveyor's obligation) of the Act

- (a) the geodetic reference framework;
- (b) a subsidiary framework;

*Example—*

cadastral boundary system

- (c) a natural feature forming a boundary of land;
- (d) a permanent improvement on the land.

## **Division 2                      Cadastral surveys**

### **9                      Application of div 2**

This division applies to a cadastral survey in addition to division 1.

### **10                      Boundary locations**

- (1) The plan of a cadastral survey must, for a parcel of land surveyed—
  - (a) describe and show the location of each existing boundary of the land; and
  - (b) if the survey is carried out for registering an interest in the land—describe and show each boundary of the land the subject of the interest.
- (2) A boundary of land is shown on the plan by recording—
  - (a) each of the following things used as reference points for the survey—
    - (i) permanent improvements on the land;
    - (ii) existing survey marks;
    - (iii) survey marks placed in carrying out the survey; and
  - (b) the length and direction of the boundary.
- (3) A boundary of land must be marked on the land in a way that a person on the land can identify the boundary.
- (4) However, subsection (3) does not apply if—

- (a) the client of the surveyor marking the boundary gives the surveyor written notice that the client does not require the boundary to be marked as required by subsection (3); and
- (b) the surveyor complies with the relevant survey standard for the marking; and
- (c) the reference points used for the survey include a recognised permanent survey mark placed in carrying out a State control survey.

## **11 Taking account of parties' rights and obligations**

- (1) A cadastral surveyor carrying out a cadastral survey must, in identifying or marking a boundary of land, take account of the rights and obligations of each party affected by the boundary.

*Examples of a party affected by the boundary—*

- an owner of land sharing the boundary
  - an owner of land near the boundary if the owner's understanding of the position of the boundaries of the owner's land may change as a result of reinstating the boundary
  - an owner of land benefited by an easement if the owner's understanding of the position of the boundaries of the easement may change as a result of reinstating the boundary
- (2) This may be achieved by, for example, ensuring each of the following—
  - (a) cadastral boundaries are reinstated in accordance with the hierarchy of reinstatement evidence;
  - (b) cadastral boundaries are defined by abutments with no gaps between, or overlaps of, the boundaries;
  - (c) how to decide the position of a natural feature forming a boundary is recorded on the plan;
  - (d) if there is an apparent irregularity in information recorded for an existing survey mark, the irregularity is recorded in—
    - (i) a State dataset; or
    - (ii) the land registry kept under a registration Act;

*Example of an apparent irregularity—*

observations made by the surveyor relating to the survey mark differ from the information recorded for the mark in a State dataset

- (e) any encroachment is identified and, if the encroachment is substantial, each owner of land affected by the encroachment is notified.
- (3) In this section—
- hierarchy of reinstatement evidence*** means a set of rules recognised in the surveying profession—
- (a) for giving weight to evidence of cadastral boundaries; and
  - (b) used in the reinstatement of cadastral boundaries.

## **12 Importance of cadastral surveys for cadastral boundary system**

- (1) A cadastral survey contributes to—
  - (a) the maintenance and improvement of cadastral boundaries throughout the State; and
  - (b) the information held in—
    - (i) a State dataset; or
    - (ii) the land register kept under a registration Act.
- (2) This may be achieved by, for example, ensuring each of the following, for the survey—
  - (a) survey observations for achieving an acceptable level of survey quality are made;
  - (b) survey marks placed, or the survey marks used as reference points for the survey, provide permanent physical evidence of the survey;
  - (c) the physical integrity of the survey marks used is appropriate for the survey's intended purpose;
  - (d) the way survey observations are made and survey marks are placed complies with the relevant survey standards;



- (e) the survey records for the survey contain a clear description of the survey marks placed;
- (f) permanent survey marks are placed to assist future reinstatement;
- (g) the survey records for the survey are kept in—
  - (i) a State dataset; or
  - (ii) the land registry kept under a registration Act;
- (h) the cadastral surveyor for the survey—
  - (i) accepts responsibility for the survey quality; and
  - (ii) keeps survey records for the survey in a form suitable as a record of the survey.

## Part 3 Geodetic reference framework

### 13 Geodetic reference framework

- (1) The geodetic reference framework prescribed for section 6(4)<sup>3</sup> of the Act is—
  - (a) for latitude and longitude—GDA 94; and
  - (b) for mapping projection—MGA 94.
- (2) In this section—

**GDA 94** means the ‘Geocentric Datum of Australia 1994’ (commonly called ‘GDA 94’) notified in the Commonwealth Government Gazette No. GN 35 on 6 September 1995, at page 3369.

**MGA 94** means the ‘Map Grid Australia 1994’ (commonly called ‘MGA 94’) mentioned in the Geocentric Datum of

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3 Section 6 (Survey standards) of the Act

Australia Technical Manual, published by the Intergovernmental Committee of Surveying and Mapping.<sup>4</sup>

## **Part 4                      Provisions about survey standard and survey guideline matters**

### **14            Matter for which a survey standard may be made**

A survey standard may be made about the supervision of persons carrying out cadastral surveys.

### **15            Placing and reinstating survey marks**

- (1) A person must not place or reinstate a survey mark for a cadastral survey unless the person is—

- (a) a cadastral surveyor; or
- (b) a registered person supervised by a cadastral surveyor.

Maximum penalty—20 penalty units.

- (2) A person must not place or reinstate a permanent survey mark for a survey unless the person is—

- (a) a surveyor; or
- (b) a person supervised by a surveyor.

Maximum penalty—20 penalty units.

### **16            New boundaries**

- (1) Information derived from an existing survey, whether or not made for cadastral purposes, may be used by a cadastral surveyor in defining a boundary.

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<sup>4</sup> Geocentric Datum of Australia Technical Manual, version 2.2, may be accessed on the Internet at the website of the Intergovernmental Committee of Surveying and Mapping at <[www.icsm.gov.au/icsm/gda/gdatm/index.html](http://www.icsm.gov.au/icsm/gda/gdatm/index.html)>.

- (2) However, the cadastral surveyor is responsible for—
  - (a) the accuracy of the information used; and
  - (b) the adequacy of the survey marks used for the survey.

## **17 Preparing plans without carrying out a cadastral survey**

- (1) A cadastral surveyor may prepare a plan of survey for a cadastral survey without carrying out the survey if—
  - (a) the plan is prepared from information from an existing survey, whether or not made for cadastral purposes; and
  - (b) the area and dimensions of the land are sufficiently accurate for the plan's intended purpose.

*Example of intended purpose—*

to register an interest in land

- (2) If a cadastral surveyor prepares a plan under subsection (1)—
  - (a) the plan must be in the approved form and signed by the surveyor; and
  - (b) the surveyor must endorse the plan to the effect that it was prepared under this section.
- (3) The cadastral surveyor is responsible for the accuracy of the information used for preparing the plan.

## **18 Reinstating existing boundaries**

- (1) This section applies if a cadastral surveyor carries out, or is responsible for carrying out, a cadastral survey, including a survey commonly called in the surveying profession an identification survey, to find out the position of an existing boundary on land.
- (2) The cadastral surveyor must do each of the following—
  - (a) look for evidence of the boundary by finding out the positions and descriptions of existing survey marks and permanent improvements on the land that have been used to define the boundary;

- (b) give primary consideration to the existing survey marks, unless other evidence suggests that the existing marks were incorrectly placed or have been disturbed;

*Examples of other evidence—*

- the original measurements
  - the position of a permanent improvement on the land
  - a statement by an occupier of the land
- (c) if the surveyor decides that a survey mark has not been placed as originally intended—
- (i) record the position of the mark being reinstated; and
  - (ii) reinstate the mark according to the original intentions;
- (d) if a doubt or discrepancy arises in relation to the placing of a survey mark, include in the survey records—
- (i) a clear description of the survey mark; and
  - (ii) sufficient information to show the doubt or discrepancy; and
  - (iii) if the plan of survey is to be registered under a registration Act—sufficient information to enable the registering entity to register the plan;
- (e) decide whether or not the position of a natural feature forming a boundary of the land is significantly different from the position marked on the registered plan for the land;
- (f) record any encroachments on the land;
- (g) find out and record the position of any permanent improvements on the land that affect, or are affected by, a reinstated boundary.

Maximum penalty—10 penalty units.

- (3) In this section—

**registered plan** means a plan registered under a registration Act.

## **19 Procedure after reinstating existing boundaries**

- (1) This section applies if a cadastral surveyor—
  - (a) reinstates a boundary in carrying out a cadastral survey mentioned in section 18(1); and
  - (b) considers an owner of land may be adversely affected by the reinstatement.
- (2) The surveyor must—
  - (a) without delay, take all reasonable steps to give the owner written notice of the intention to register the plan with the reinstated boundary; and
  - (b) advise the registering entity of the steps taken to notify the owner.

Maximum penalty—10 penalty units

## **20 Requirements for cadastral plans**

- (1) A cadastral surveyor who carries out, or is responsible for carrying out, a cadastral survey must give the relevant person—
  - (a) the plan of survey; and
  - (b) a certificate in the approved form signed by the cadastral surveyor; and
  - (c) any other document reasonably required by the relevant person.

Maximum penalty—20 penalty units.

- (2) In this section—

***relevant person*** means—

- (a) for a plan of survey registered, lodged for registration, or deposited under a registration Act—the registering entity; or
- (b) for a plan not mentioned in paragraph (a) and given to the chief executive under section 16<sup>5</sup> of the Act—the chief executive.

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5 Section 16 (Obligation on cadastral surveyor) of the Act

**21 Survey accuracy**

A cadastral surveyor who carries out, or is responsible for carrying out, a cadastral survey must ensure any survey equipment used for the survey is—

- (a) calibrated and standardised; and
- (b) capable of achieving the accuracy stated in the relevant survey standard for cadastral surveys.

Maximum penalty—6 penalty units.

**22 Survey records**

- (1) Survey records for a cadastral survey that are registered, lodged for registration, or deposited, under a registration Act or given to the chief executive under section 16<sup>6</sup> of the Act must be accompanied by a certificate in the approved form signed by the cadastral surveyor for the survey.
- (2) The cadastral surveyor must, unless the surveyor has a reasonable excuse, keep for 6 years any survey records not mentioned in subsection (1), whether or not all the information from the survey records is shown on the plan of survey.

Maximum penalty—6 penalty units.

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6 Section 16 (Obligation on cadastral surveyor) of the Act

# Schedule Dictionary

## section 3

***cadastral boundary system*** means the following—

- (a) information held by the department about cadastral boundaries throughout the State;
- (b) survey marks placed, or survey marks used as reference points for cadastral surveys, that provide permanent physical evidence of the surveys.

***encroachment*** means an encroachment under the *Property Law Act 1974*, section 182.<sup>7</sup>

***permanent improvement***, on land, includes the following—

- (a) a building;
- (b) a fence;
- (c) a wall.

***registered person*** means a person registered under the *Surveyors Act 2003*.

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

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

***survey records***, for a survey, means the documents necessary to adequately record every aspect of the survey including the following—

- (a) a measurement or an analysis made for, or in relation to, the survey;
- (b) information about—

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<sup>7</sup> *Property Law Act 1974*, section 182 (Definitions for div 1)

***encroachment*** means encroachment by a building, including encroachment by overhang of any part as well as encroachment by intrusion of any part in or upon the soil.

**Schedule (continued)**

- (i) survey marks placed in carrying out the survey; or
  - (ii) survey marks used as reference points in carrying out the survey;
  - (c) the plan of survey;
  - (d) any electronically produced measurement, analysis or plan of survey.
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**ENDNOTES**

- 1 Made by the Governor in Council on 15 July 2004.
- 2 Notified in the gazette on 16 July 2004.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Natural Resources, Mines and Energy.