

Circular Memorandum No. 3 / 2022

TOPIC: **Title Boundaries Depicted on Detail Survey Plans
Sections 16, 23 and 23A Surveyors Act 2002**

DATE: 26 October 2022

All Registered Land Surveyors

Further to the issue of Circular Memorandum No. 2 /2022, I advise that I have sought legal clarification of elements of the Surveyors Act 2002 in relation to the depiction of title boundaries on detail survey plans prepared by non-registered land surveyors.

For some time the OSG has received reports from registered land surveyors about detail survey plans depicting title boundaries that have not been prepared by registered land surveyors, and the OSG has considered a number of investigations in this regard.

The legal advice I have received leads me to conclude that it is an offence to depict title boundaries on a detail survey plan if that plan has been prepared by a non-registered land surveyor and that person has not been acting under the direct supervision of a registered land surveyor. It is also my opinion that disclaimers that indicate the 'compiled' or 'approximate' nature of title boundaries depicted on those plans in any way derogate from the conclusions stated above.

It is pertinent here to refer practitioners to Circular Memorandum No. 2 / 2022 in relation to the meaning of direct supervision.

Further, Sections 23 and 23A of the Act, reproduced below, provide for the Surveyor-General to investigate compliance of any survey that describes the location of a legal interest in real property – which may include simply showing a line representing a boundary without dimensions or offsets– with the relevant requirements, and require any person to provide information relevant to that investigation.

23. Survey investigation

(1) If two or more registered surveyors, or a registered surveyor and a registering authority, are unable to agree as to–

- (a) the adequacy or accuracy of a survey; or*
- (b) the compliance of a survey with the relevant requirements–*

all parties to the disagreement must submit a report on the matter of the disagreement to the Surveyor-General.

(2) The Surveyor-General must investigate a reported error or anomaly or may instruct an appropriately qualified and registered surveyor, as an inspecting surveyor, to conduct the investigation.

(2A) The Surveyor-General may initiate an investigation, or instruct an appropriately qualified registered surveyor, as an inspecting surveyor, to conduct an investigation, based on any information that the Surveyor-General receives through any means.

(3) On completion of the investigation, the Surveyor-General must inform the parties to the disagreement, and those responsible for the surveys under investigation, of—

(a) the results of that investigation; and

(b) the action required to ensure that the survey to which the investigation relates is correct and complies with all requirements.

23A. Surveyor-General may require information

(1) The Surveyor-General may require a person who is in a position to provide information relevant to an investigation under section 23 to answer questions or provide any record or other information relevant to that investigation.

(2) A person must not fail to answer questions or provide any information or record when required to do so.

Penalty: Fine not exceeding 40 penalty units.

(3) A person must not, in answering a question or providing any information or record under this section—

(a) make a statement knowing it to be false or misleading; or

(b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

Penalty: Fine not exceeding 40 penalty units.

I advise that I will shortly be writing to survey firms where owners and staff are known not to be registered land surveyors to provide clear direction on this matter. I will also be writing to local government and allied industry bodies to inform them it is a legal requirement that any survey which depicts the location of a title boundary or real property interest in relation to other site features may only be executed by a registered land surveyor or someone under their supervision.



Michael Giudici
SURVEYOR-GENERAL