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OFFICE CIRCULAR No. 5/2019

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CIRCULAR MEMORANDUM: 5/2019

DISTRIBUTION: GENERAL

SUBJECT: SURVEY EXAMINATION AND REQUISITION

Commencing from 30 September 2019, following consultation with the Surveyor General, revised policies and procedures will be implemented by the Plan Services Section of the Land Titles Office in regard to the recording of requisitions on Plans of Survey that are lodged in this Office.

It is Office practice that requisitions are graded in severity and accordingly recorded against each lodged Plan of Survey or Strata Plan. The record of requisition is retained in TASFOL and regular reports of these requisitions are extracted from TASFOL to be forwarded to the Surveyor General for analysis and integration into OSG systems in accordance with the requirements of the *Surveyors Act 2002*.

Examination Process

Plans will continue to be systematically examined as to their adequacy for the purposes of the *Land Titles Act 1980* (the Act). Where checks of aspects of survey compliance are made to support this process, the examination cannot be assumed by the surveyor to be authoritative nor comprehensive in relation to statutory survey compliance. The endorsed Survey Certificate remains the authoritative confirmation that the survey information content of the plans and survey notes is correct, and the surveyor retains responsibility under the *Surveyors Act 2002* for the survey in accordance with that certification.

Plans are examined to ensure that legal estates and interests created under the *Land Titles Act 1980* are accurately reflected.

Plan examinations are undertaken following lodgment and are limited to elements of the plan and information that are critical to the integrity of the Register and are subject to guarantee under the Act.

Responsibilities of the Surveyor

It is essential that Registered Land Surveyors fully understand the implications of Plan Services examination policy, and the potential consequences of any future survey deficiency.

A Registered Land Surveyor must ensure that every Plan of Survey and the associated Survey Notes lodged in this office are fully compliant with the *Survey Directions* as

certified by the surveyor. Surveys are to be mathematically correct in every regard. Additionally the Survey Notes must include a clear and concise explanation of the basis for all boundary re-instatements, including direct comparisons between all re-established and original boundary dimensions, in order that examining staff may confirm by simple inspection that all relevant title interests have been satisfied. It is the responsibility of the surveyor to document for consideration all available evidence that may potentially contribute to the determination of current estates and interests in land.

Basis for Requisitions

Plan Services currently allocate a requisition class as follows:

Class of Requisition	Requisition Classification Criteria
1	No errors or omissions (the default classification for all Plans of Survey)
2	Inadequate presentation; textual errors; or omission of administrative detail
3	Errors in dimensions or lot areas; omission of access or easements; statutory non-compliance other than in 4. below
4	Inadequate basis for boundary redefinition (inclusive of inadequate reporting); inadequate documentation of occupation; incorrect re-establishment; overlapping titles; failure to mark in accordance with <i>Survey Directions</i>

Examinations resulting in requisitions that relate to simple or patent errors in accordance with Class 1 & 2 from the above table, which examiners can confidently correct on the folio plan without reference to the surveyor, will not attract a fee and written notice of any correction will be provided to the lodging party.

Defects in plans that satisfy Class 3 or Class 4 have the potential to create uncertainty about the extent of estates and interests created under the Act if they are not corrected. Examination that creates a requisition in accordance with Class 3 or Class 4 will be referred to the lodging party in writing for correction and will attract a fee.

Requisition Process and Fees

The revised processes as above apply to all Plans of Survey and supporting notes dated after 30 September 2019. To ensure accuracy and a consistent requisitions process all requisitions will be in writing. Please note that all requisitions will be recorded and reported to the OSG for regulation and audit processes and from 14 October 2019 Class 3 and Class 4 requisitions will automatically attract the prescribed requisition fee of \$48.60.

Finally the Recorder does have the power to reject plans that fail to meet published drafting standards and refer surveys to the Surveyor General for investigation where there appears to be errors relating to boundary definition. These can be used throughout the examination process

Potential Legal Consequences of Survey Deficiencies

Surveyors are reminded that the Act provides for the recall of relevant titles and the rectification of any erroneous boundary description which may be identified and reported to the Recorder. Surveyors are also reminded that any person deprived of land

or any estate or interests in land as a consequence of any error, omission or misdescription, may bring an action for the recovery of damages against the responsible party.

If you have any questions in relation to this circular please email:
titles.enquiries@dpiwwe.tas.gov.au attn.: Stuart James, Senior Business Analyst.

A handwritten signature in black ink, appearing to read 'CRAIG PURSELL', with several overlapping loops and a long horizontal stroke at the end.

CRAIG PURSELL
Deputy Recorder of Titles