



New South Wales

## Surveying Amendment Bill 2009

### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The object of this Bill is to amend the *Surveying Act 2002* (the **Principal Act**):

- (a) to change the name of that Act to the *Surveying and Spatial Information Act 2002*, and
- (b) to set out the objects of that Act, and
- (c) to clarify the matters to be covered by the definition of **land survey** in that Act, and
- (d) to provide a specific exclusion from the provisions of that Act that require land surveys and mining surveys to be carried out by registered land surveyors and mining surveyors for firms that engage such surveyors to do work on their behalf, and
- (e) to enable the Board of Surveying and Spatial Information (**the Board**) to provide information to the public on a range of matters in connection with the discipline of surveying and related disciplines.

The Bill also makes consequential amendments to other Acts and regulations.

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## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent.

## **Schedule 1      Amendment of Surveying Act 2002 No 83**

### **Change of name of Act**

**Schedule 1 [1]** amends section 1 of the Principal Act to change the name of that Act to the *Surveying and Spatial Information Act 2002*.

### **Objects of Act**

**Schedule 1 [2]** inserts proposed section 2A into the Principal Act which sets out the objects of the Act. Those objects include providing for the co-ordination of surveys carried out by public authorities, the registration of land surveyors and mining surveyors and the investigation of and provision of advice relating to the collection, collation and dissemination of spatial information and other surveys and maintaining and ensuring the integrity of the State cadastre.

### **Amendments relating to the State cadastre**

**Schedule 1 [3]** amends section 3 of the Principal Act to insert a definition of *State cadastre*.

**Schedule 1 [11]** amends section 28 of the Principal Act to include in the list of specified functions of the Board the function of providing advice to the Minister on the maintenance of the integrity of the State cadastre.

**Schedule 1 [6]** makes a consequential amendment.

### **Exclusions from certain offences for firms**

**Schedule 1 [3]** amends section 3 of the Principal Act to include a definition of *firm*, which means a corporation or a partnership or other unincorporated association of persons.

Existing section 21 of the Principal Act makes it an offence for a person to carry out a land survey for fee or reward, or to advertise that the person is willing to carry out a land survey for fee or reward, unless the person is a registered land surveyor or is acting under the supervision of a registered land surveyor. Existing section 22 of the Principal Act contains a similar offence in relation to mining surveys carried out by a person who is not a registered mining surveyor or acting under the supervision of a registered mining surveyor.

**Schedule 1 [7] and [8]** amend sections 21 and 22 of the Principal Act to provide that a firm, or a member or partner of a firm, does not commit an offence against those sections in the circumstances referred to in section 22A of the Principal Act.

**Schedule 1 [9]** inserts proposed section 22A into the Principal Act to specifically provide that a firm, or a member or partner of a firm, does not commit an offence against section 21 of the Principal Act so long as any land survey carried out in the name of or on behalf of the firm is carried out by a registered land surveyor or by another person who is acting under the supervision of a registered land surveyor. The proposed section also provides that a firm, or a member or partner of a firm, does not commit an offence against section 22 of the Principal Act so long as any mining survey carried out in the name of or on behalf of the firm is carried out by a registered mining surveyor or by another person under the supervision of a registered mining surveyor.

**Schedule 1 [13]** amends section 36 of the Principal Act to enable regulations to prescribe what constitutes relevant supervision for the purposes of the provisions of that Act.

#### **Provision of information by the Board**

**Schedule 1 [12]** inserts proposed section 29 into the Principal Act to enable the Board, as it considers appropriate, to provide information to the public in respect of the discipline of surveying and other disciplines related to the discipline of surveying. Such information might include information in respect of firms undertaking surveying services, retired or non-practising surveyors and practitioners in other related disciplines.

#### **Other amendments**

**Schedule 1 [5]** amends the definition of *land survey* in section 3 of the Principal Act to make it clear that the definition includes the carrying out of a survey in connection with the preparation of documents required to be prepared under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986* by a registered land surveyor.

**Schedule 1 [4]** makes a statute law revision amendment.

**Schedule 1 [10]** amends section 27 of the Principal Act to make it clear that the persons to be nominated for membership of the Board by the spatial information industry are to be nominated by professional associations of persons or associations of bodies of persons involved in that industry.

**Schedule 1 [14]** amends Schedule 3 to the Principal Act to enable regulations of a savings and transitional nature to be made consequent on the enactment of the proposed Act.

## **Schedule 2      Consequential amendment of other Acts and instruments**

**Schedule 2** makes amendments to other Acts and instruments consequential on the change of name of the Principal Act by Schedule 1 [1].