Part 3-Land Surveying Law and Administration

THE SURVEYORS BOARD, VICTORIA 1994
PREFACE

by

J.R. Parker, L.S., M.LS.Aust., Grad.Dip.Bus.(Admin.) Chairman,
Surveyors Board.

Land and the law relating to it/ is fundamental to the orderly conduct of our society. Land title and the use of land has
been controlled in varying degrees over the centuries by legislation and precedent. English land law was brought to
Australia in the earliest days of European settlement, and statute law commenced in the Colony of Victoria after
separation from the Colony of New South Wales in 1851.

With the escalation of population in Victoria, particularly over the last four decades, so has the variety and
complexities of land use escalated. This has brought about many changes to statute law, regulations (statutory rules)
and by-laws which flow from the legislative programme of Parliament.

The literature available to the practising land surveyor has long been confined to published monographs, professional
journals, bulletins and transcripts of lectures. While these references are ever present in continuing professional
development, the Board has recognized the need for an encapsulation of much of this knowledge into a reference
loose-leaf text.

Much of this text stands the test of time, but some of it will be of a transitory nature, e.g., the flow-on effects from the
Subdivision Act 1988, which came into operation while arrangements for the printing of this Part 3 are in train. Some
other Acts of interest to the profession are presently under review, and more changes are to be expected.

This Handbook, unique in Australia in its coverage, will be valuable not only to the surveying profession, but to
members of allied professions and the community at large who have interests in land. Periodical amendments will be
issued as the occasion demands. However, without the efforts of many people this Handbook would not have been
published. The compilers, the Survey Practice Handbook Committee and in particular the Editor are to be
congratulated in putting together this most useful Handbook.

Further acceptance of the Handbook is evidenced by an amendment to section 32 of the Surveyors Act 1978 arising

(J.R. Parker)
December 1989

PREFACE TO 1994 UPDATE

by

J.R. Parker L.S., M.I.S.Aust., Grad.Dip.Bus.(Admin.) Chairman,
Surveyors Board.

It is now more than four years since the First Edition of this Part 3 was prepared. Over this period, the most significant
legislation affecting the currency of that edition has been the wide ranging impact of the Subdivision Act 1988 and its
accompanying Statutory Rules.

A range of other legislation has also come into being during this time, and the implications of appropriate sections of
these Acts, the repealing of some wholly superseded Acts and portions of other Acts, have also been considered in this
update. While in many ways the more recent legislation has better clarified the law relating to land, this has been
offset to some extent by the need to keep abreast of the increasing rate of change in practice which contemporary
society demands.

This update takes account of the significant changes in land use related legislation up to early 1994, with the exception
of the more recent Transfer of Land (General) Regulations 1994 which came into effect on 1 July 1994.

(J.R. Parker)
1 July 1994
The Surveyors Board, Victoria, recognizes and acknowledges with gratitude the special services rendered by those named hereunder in the production of Part 3 of the Survey Practice Handbook -

**LAND SURVEYING LAW AND ADMINISTRATION**

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**ACKNOWLEDGEMENTS**

By reference to the Record of Special Service, it will be seen that the Surveyors Board has enjoyed contributions from
thirty-two compilers to complete the twelve sections of Part 3 of this Handbook. These compilations in part reflect material from some published sources, which has been appropriately acknowledged in each Section.

Among the compilers, the surveying profession has been ably augmented by members of the allied professions of the law, geography, geology and business administration, all of whom have contributed so willingly to provide a suitably wide coverage. The many hours contributed by Mr. G.H.V. Thomson in preparing the disks for automatic type-setting is particularly acknowledged.

As with the previous Parts 1 and 2, the Board again extends its thanks to the many people who have assisted in the preparation of Part 3, and in particular the members of the Survey Practice Handbook Committee, who for this part were:

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ACKNOWLEDGEMENTS 1994 UPDATE

This very extensive update has entailed some quite large and some lesser contributions from many involved with dealings in land and administration of the law relating to land.

These valuable contributions have been individually acknowledged on the replacement face sheet accompanying the updated sections, and to the compilers the Surveyors Board records its thanks for the valuable time and skills made available for the betterment of the practice of land surveying law and administration in Victoria.

This update has been arranged, edited and produced for the Surveyors Board by J.D. Lines.
### EVOLUTION OF NAMES OF ADMINISTERING AUTHORITIES

Year denotes introduction - Public usage in brackets

#### Forests
- **Forests Branch** 1880
- **Department of State Forests** 1907
- **Forests Commission of Victoria** 1918
- **Department of Conservation, Forests and Lands** 1983
- **Department of Conservation & Environment** 1990
- **Department of Conservation & Natural Resources** 1992

#### Lands
- **Crown**
  - Surveyor-General/Commissioner of Crown Lands and Survey 1857
  - Board of Land and Works 1857
  - Department of Public Lands 1858
  - Department of Lands and Survey 1860
  - Department of Crown Lands and Survey 1951
  - Department of Conservation, Forests and Lands 1983
  - Department of Conservation & Environment 1990
  - Department of Conservation & Natural Resources 1992

- **Freehold**
  - Registrar-General 1854
  - Office of Titles 1866
  - Land Titles Office (LTO) 1987

#### Mines
- **Department of Mines** 1867
- **Department of Minerals and Energy** 1977
- **Department of Industry, Technology & Resources** 1985
- **Department of Manufacturing and Industry Development** 1990
- **Department of Energy & Minerals** 1992

#### Planning
- **Town and Country Planning Board** 1944
- **Ministry for Planning and Environment** 1983
- **Department of Planning and Housing** 1990
- **Department of Planning & Development** 1992

#### Railways
- **Board of Lands and Works** 1857
- **Victorian Railways Commissioners** 1884
- **Victorian Railways Board** 1972
- **State Transport Authority** 1983
- **State Transport Authority (V/Line)** 1984
- **Metropolitan Transit Authority (The Met)** 1984
- **Public Transport Corporation** 1989

#### Roads
- **Central Roads Board** 1857
- **Board of Land and Works** 1913
- **Country Roads Board** 1983
- **Road Construction Authority** 1989
- **Roads Corporation (VicRoads)** 1989
Survey & Mapping

Survey and Mapping Victoria (SMV)
formerly the Survey Branch of the Department of
Lands and Survey became a Division of:
Department of Conservation, Forests and Lands 1983
Department of Property and Services 1985
Ministry of Finance 1991
Department of Finance 1992

Water

Metropolitan
Board of Lands and Works 1857
Melbourne and Metropolitan Board of Works (Melbourne Water 1906
Melbourne Water Corporation 1993

Rural
Water Supply Department
State Rivers and Water Supply Commission 1906
Rural Water Commission of Victoria 1984
Rural Water Corporation 1992
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For further reference see Section 11, *Survey Practice Handbook - Part 2.*

### USERS NOTE

The material presented in this Part 3 has been provided in good faith. It is possible there may be some errors in fact or interpretation due to changing circumstances and the dynamic state of the law, and regulations and practices emanating from legislation from time to time.

The Surveyors Board, Victoria/ emphasizes the reservations given in Section 1.1.14, Caveat Surveyor, and extends these reservations to all users of all Sections of the Handbook.
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