



Submission to ALRC Inquiry

From:

Association of Consulting Surveyors Victoria

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Association of Consulting Surveyors Victoria

Introduction

The Association of Consulting Surveyors Victoria represents the private sector of the land surveying profession in Victoria. Our member firms are leaders in an industry that is broad-based, multi disciplinary and technologically advanced.

ACSV currently has over one hundred & ten member surveying firms spread across Victoria and these firms stay at the forefront of industry, planning and legislative updates primarily thanks to their membership, monthly newsletter, seminars and training courses run by ACSV.

The Association takes pride in its ongoing working relationships with industry, government departments such as Land Registry and infrastructure bodies dealing with the provision of land services. It sees its role to advise member firms to develop, maintain and provide an efficient service for the benefit of the community.

ALRC Issues Paper

ACSV wishes to address Question 34 of the Issues Paper on the inquiry into *Copyright and the Digital Economy*.

ACSV supports the current regime in s.183 of the Act and strongly opposes any free exception that would allow government agencies to make copyright material, registered in accordance with statutory obligations under Commonwealth or State law, outside the terms of s.183 of the Copyright Act 1968.

Surveyors Plans

Australians have always had a strong desire for property ownership and this dream has been fulfilled for so many generations through the banking sectors confidence to support loan transactions on the basis of the security inherent in our land titling system. The confidence in land ownership allows the financial sector to accept property as security for an extraordinary range of development and infrastructure projects. It is this security that underpins the economy.

Association of Consulting Surveyors Victoria

The Land Titling system is supported by a highly regulated process that ensures all property boundaries are well considered and accurately defined.

Registered Surveyors are responsible for producing every single title in the country and their plans provide the description, dimensions and area for each parcel. It is the skill and integrity of surveyors that supports our land tenure system which underpins economic and investment confidence nationally.

To achieve registration in Victoria, candidates must complete a bachelor degree followed by a minimum two year period in a training agreement under a Registered Surveyor. During their training agreement, candidates must satisfactorily complete a number of projects and ultimately demonstrate to the Surveyors Board their skill, ability and competency to contribute to the evolution of the cadastre and to maintain its integrity.

To maintain registration in Victoria, surveyors must continually engage in further education and professional training and constantly demonstrate their competency through the audit program.

The ultimate generation of survey plans is the product of detailed historical research, interpretation of evidence, complex title re-establishment, mathematical computation and the skilled presentation of this work in planimetric form. Highly professional work, by extensively trained people, with an understanding of the importance their role plays in the economic stability of the nation.

Copyright and the Digital Economy

Whilst survey plans have always provided the underlying data that supports the cadastre, it is really only with the advent of digital technology that government bodies commenced commercialising survey plans. This now includes using third party information brokers to sell plans to the public for a profit which provides returns to Land Registry and the information broker but not the creator of the content – the surveyor.

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Surveyors do not expect remuneration for internal use of their survey plans by government for registration purposes, but they do expect respect for their content and a return when government commercialises their works. To legislate to remove the rights of surveyors to receive royalties for their plans seems highly inequitable when government agencies and other third parties derive considerable income from selling that information.

This demonstrates a complete lack of respect for the reliance the community places on the information and of the capabilities and responsibilities of surveyors.

ACSV welcomed the courts' findings that surveyors do have copyright in their plans and that the State does not have an implied licence. We have supported Copyright Agency in the proceedings against the NSW Government and await the outcome with interest and a confidence that the result will set precedence for negotiations in Victoria and other States.

It seems completely unjust and unfair that a free exception would be considered for surveyors copyright material alone and on the cusp of the Tribunals decision on royalties.

Conclusion

The Association of Consulting Surveyors, Victoria strongly believes in the equity inherent within s.183 of the Copyright Act 1968. We consider it to be highly relevant in the digital economy that has an even greater potential to exploit the rights of copyright creators through the ease of distribution and increased commercial use made of registered material.

To implement free exception for surveyors plans, in an environment where only the creators themselves are denied a benefit, while many others profit from their skill and professionalism, is simply unjust.