



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING AND URBAN RENEWAL

CAROLINE LE COUTEUR MLA (CHAIR), SUZANNE ORR MLA (DEPUTY CHAIR), MARK PARTON MLA

Inquiry into referred 2017–18 Annual and Financial Reports
QUESTION ON NOTICE



Mark Parton: To ask the Minister for Planning and Land Management

Ref: Annual Report, EPSDD Page 34, Planning Delivery

In relation to: planning delivery and Development Applications (DA) generally, when a DA for a construction proposal is received:

- a. How are boundary coordinates and boundary lines established;
- b. What documents record survey markers and boundary coordinates;
- c. How does the government ensure the accuracy of boundary data and coordinates;
- d. Does the government validate the boundaries of a property that is the subject of a DA;
- e. Who keeps the data on boundary coordinates and boundary lines;
- f. Can the public obtain access to this data;
- g. What is the cost of gaining access to this data;
- h. In general, how would a property owner go about having their property boundaries reconfirmed;
- i. What does this cost the property owner;
- j. If a property owner commissions a structure or works that breach or violate their neighbour's boundary or encroach onto their neighbour's property;
 1. What action does the government take on receipt of a complaint or allegation of such breaches; and
 2. What does the government advise the complainant to do;
- k. What safeguards or controls does the government exercise to ensure property boundaries are not violated, breached or encroached;
- l. If an encroachment issue is discovered after the encroaching work is completed, what action does the government take to resolve the breach of the boundary;
- m. How many boundary disputes were received in 2017-18;
- n. How many went through some form of judicial process; and
- o. How many disputes were settled in favour of the individual whose boundary was breached?

MICK GENTLEMAN: The answer to the Member's question is as follows:

- a. Block boundaries are established through an initial site survey, undertaken by a registered surveyor. This forms the basis of a Deposited Plan, which is prepared under the *Districts Act 2002*. The Deposited Plan is considered the legal definition of the boundaries of a block.
- b. The Deposited Plan records the survey markers and bearings of a block.

- c. The Government ensures the accuracy of the data by maintaining Deposited Plans for each block.
 - d. Block Surveys are often provided as part of a development applications to inform the assessment. These block surveys are undertaken and signed off by a Registered Surveyor. These surveys differ from a Deposited Plan in that they provide additional information such as the location of existing buildings, trees and driveways. Block surveys are not required to be strictly accurate.
 - e. The Office of the Surveyor General and Land Information maintains Deposited Plans for all blocks in the Territory. The Office is also responsible for maintaining and coordinating the information on the ACTMAPi website.
 - f. The public is able to have access to the Deposited Plans and any associated data. For general information, the public is encouraged to visit the ACTMAPi website (www.actmapi.act.gov.au), which provides a large range of information including approximate boundaries, aerial photography, easements, land use zones and custodian maps.
 - g. The cost of this data is generally free. Some information may require a small charge.
 - h. A property owner would have their property boundaries reconfirmed by having a block survey undertaken by a registered surveyor.
 - i. The cost of a survey would depend on the rate charged by the surveyor, as well as the size and complexity of the site.
- J 1. Encroachments across a boundary are uncommon and generally involve a fence or retaining wall. While lessees have a right to get the structure removed, this issue is generally resolved through negotiation between the neighbours. If this fails, the affected party may approach the ACT Civil and Administrative Tribunal (ACAT) for a determination under the provisions of the *Common Boundaries Act 1981*. As this type of dispute is typically a civil matter, it is unlikely that the government will be involved unless the breach impacts government land or a government asset.
- J 2. The Government will encourage parties to negotiate an agreed outcome, in accordance with the *Common Boundaries Act 1981*, in the first instance. If agreement is not achieved, the parties are usually advised to approach the ACAT. If this is unsuccessful, the Government will consider whether the breach warrants legal intervention.
- k. The Government ensures property boundaries are not violated by providing clear controls on how development on land occurs. To this end, development applications for new building or extensions on previously developed land are required to provide a site survey undertaken by a registered surveyor. The Government relies on the site survey to inform its assessment of a development application about the cadastral boundaries. The plans for proposed buildings are also required to indicate setback distances from boundaries and information such as reduced level (RL) heights and survey points relative to the proposed buildings(s). This information is used in the assessment process of a development application. The Building Certifier then ensures the construction of the building is in accordance with approved plans.
 - l. If an encroachment issue is discovered after the work is completed, the Government will usually encourage the parties to resolve the issue through the sequence previously outlined in my answer to question J2.
 - m. The Office of the Surveyor General has indicated that most encroachment issues are managed between adjoining lessees, however it is aware of approximately six disputes regarding encroachment issues during 2017-18.

- n. It is understood that only two ACAT appeals over the past year specifically involved boundary fences and neither involved encroachments.
- o. No boundary encroachments were resolved through a judicial process.

Approved for circulation to the Standing Committee on Planning and Urban Renewal

Signature:



Date:

11/12/18

By the Minister for Planning and Land Management, Mick Gentleman MLA