



# NOTICE TO SURVEYORS T1/2011

Items 1 to 7 in this notice are to be considered as special directions concerning plans and surveys pursuant to Regulation 5 of the *Licensed Surveyors (Transfer of Land Act 1893) Regulations 1961*.

## MISCELLANEOUS PLAN AND SURVEY ISSUES

1. **Land to Vest in the Crown under section 152 of the Planning and Development Act.**
2. **The use of Restrictive Covenants/Covenants to Control Access to Roads under section 129BA of the Transfer of Land Act and under section 150 of the P & D Act.**
3. **Sections 195 & 196 of the Land Administration Act 1997 Easements in Gross**
4. **Energy Operators (Powers) Act 1979 Easements in Gross**
5. **Surveyors Report Form**
6. **Compiled Plans of Crown Land**
7. **Deposited Plans for Infrastructure Projects Using Data from the Spatial Cadastral Database (SCDB)**
8. **Emails to Plan Lodgement Team**
9. **In Order for Dealings Notifications**

### 1. **Land to Vest in the Crown under section 152 of the Planning and Development Act 2005**

Surveyors are advised that plans of subdivisions subject to a proposed reserve under section 152 of the *Planning and Development Act 2005* (P & D Act) must depict the purpose on the plan **exactly** as described in the Western Australian Planning Commission (WAPC) condition for subdivisional approval.

Any clarification or interpretation of a vesting purpose is to be referred to the WAPC.

Chapter 10.17 and Appendix 8 (Reference for Interests and Notifications) of the Survey and Plan Practice Manual and Chapter 10.19 of the Strata Titles Practice Manual will be updated at the July 2011 edition.

**2. The Use of Restrictive Covenants/Covenants to Control Access to Roads under section 129BA of the Transfer of Land Act 1893 and under section 150 of the P & D Act**

Surveyors are advised that:

- The WAPC may impose a condition under section 150 of the P & D Act that access to and from a portion of land shown on a plan of survey relating to the subdivision to a **road abutting** the portion of land is to be restricted. Section 150 of the P & D Act does not apply to a “future” road/road widening or a pedestrian access way. A restriction on access in these cases can be effected by a restrictive covenant under section 129 BA of the *Transfer of Land Act 1893* (TLA).
- The notation in the comments field of the Interests and Notification schedule must specify the following “to and from”. Eg. No vehicular access to and from Great Eastern Highway.
- **All new lots** created from the parent lot on a plan of subdivision are burdened by the restrictive use that was created by the covenant on the parent lot.

Chapter 14.27 and Appendix 8 of the Survey & Plan Practice Manual and Chapter 6.11 of the Strata Titles Practice Manual will be updated at the July 2011 edition.

**3. Sections 195 & 196 of the Land Administration Act 1997 Easements In Gross**

Section 195 of the *Land Administration Act 1997* (LAA) makes provision for easements in gross to the State of Western Australia, a State Instrumentality, Statutory Body Corporate or Local Government.

Section 196 of the LAA further allows the creation of a “public access easement” to the “Public at Large”. This is achieved in conjunction with section 195 of the LAA by the lodgement of a document at Landgate.

Surveyors are reminded that:

- Full details of the easement needs to be shown in the Interest and Notifications schedule whether the easement exists above the line or below the line (see example below).

INTERESTS AND NOTIFICATIONS						
SUBJECT	PURPOSE	STATUTORY REFERENCE	ORIGIN	LAND BURDENED	BENEFIT TO	COMMENTS
(A)	EASEMENT	SEC 195 & 196 OF THE LAA	DOC.....	Lot 123	CITY OF MANDURAH AND THE PUBLIC AT LARGE	

- Public Access Easements cannot be created under section 136C of the TLA. Sections 195 and 196 of the LAA must be used in all such cases.

- Public Access Easements can be created on Deposited Plans (including Interest Only plans) and Strata Plans in support of a document.

This direction will be included into Chapter 14.16 of the Survey and Plan Practice Manual and Chapter 6 of the Strata Titles Practice Manual.

#### 4. Energy Operators (Powers) Act 1979 Easements in Gross

The most important feature of an *Energy Operators (Powers) Act 1979* easement unlike other easements is that buildings **are a permitted encroachment** within the easement area.

When depicting these easements on Deposited Plans (including Interest Only plans) or Strata/Survey-Strata Plans, the following should be noted:

- Where the parent lot has no building or structure encroaching into the easement area, the Subject in the Interest and Notifications Schedule should be labelled with an Alpha character eg: "A". No comments are required in the Comments field.
- Where a building or structure does exist within part of the easement area or where a building is proposed to be built within the easement area, Surveyors should separately define those areas. With reference to the Appendix attached, "A" and "B" have been adopted for the encroaching buildings and "C" has been adopted for the balance of the easement area. The Surveyor may choose to make a comment in the "Comments" field such as "Building envelope denoted "A" and "B" included in easement area". The deed will specify details of "A", "B" and "C".

The intention of this type of easement by Electricity Networks Corporation is to control the entire easement area and all structures within that area. Where structures do exist Surveyors should include Cross Sections/Elevation Drawings on the plan displaying RLs defining the vertical extent of the encroaching structure(s).

This direction becomes part of Chapter 14.8 of the Survey and Plan Practice Manual and Chapters 8.8 and 9.6 of the Strata Titles Practice Manual. A more complex example will be included into the Table of Plan Examples at the July 2011 edition.

#### 5. Surveyors Report Form

- **Advice on plan matters received from a Landgate officer – Item 2.7**

Surveyors are advised that if advice has been provided by a Landgate officer, then the specific nature of that advice must be detailed with that officer's name and date of that advice.

- **Freehold Plan Involving Crown Land – Item 3.3**

Surveyors are reminded that all interests or encumbrances over vesting land, other than easements created under section 167 of the P & D Act, must have **approval** from the relevant Regional Manager of the Department of Regional Development and Land (RDL) **prior to submission to the WAPC.**

Refer to Chapters 14.23 and 17.10 of the Survey and Plan Practice Manual and Chapters 10.19 and 13.2 of the Strata Titles Practice Manual.

Surveyors are reminded that a Surveyors Report with incorrect, misleading or irrelevant information will incur a level 2 breach in accordance with the Land Surveyors' Licensing Board published document.

## **6. Compiled Plans of Crown Land**

Surveyors are reminded of the strict procedural guidelines associated with the usage of Operational Directives such as: Executive Minutes 10/92, 17/90 and Survey Registration Minute 1/98, when creating Crown compiled plans.

Survey Coordination of RDL issue survey drafting instructions to utilise these Operational Directives, however, any enquiries regarding these guidelines are to be referred to the Inspector of Plans and Surveys.

Refer to Chapter 9.43 and Appendix 2 of the Survey and Plan Practice Manual.

## **7. Deposited Plans for Infrastructure Projects Using Data from the Spatial Cadastral Database (SCDB)**

The Manager Plan Lodgement should be contacted on 9273 7170 if data extracts from Landgate's SCDB are to be used to model infrastructure projects and produce Deposited Plans.

By giving sufficient lead time the accuracy of the SCDB in the area of interest can be checked for suitability.

If extra cadastral connections have been undertaken by the surveyor, then these should be lodged as soon as possible so the new connections can be used to upgrade the area which is to be used for the project.

This direction will be Chapter 11.12 in the Survey and Plan Practice Manual.

## **8. Emails to Plan Lodgement Team**

Surveyors are advised that:

- **Automatic Replies**

Every time an email is sent to [plan.reg@landgate.wa.gov.au](mailto:plan.reg@landgate.wa.gov.au), the sender should receive an automatic reply, acknowledging the receipt of the email.

If you do not receive an automatic reply within a reasonable timeframe, please contact the Plan Lodgement team on 9273 7387 to ensure that your email has been received.

- **Receipt for Plan and pFB Lodgements**

Landgate endeavours to lodge all Deposited Plans, Strata Plans and Portable Field Books sent to [plan.reg@landgate.wa.gov.au](mailto:plan.reg@landgate.wa.gov.au) and [lodge.fb@landgate.wa.gov.au](mailto:lodge.fb@landgate.wa.gov.au) by the following working day.

Once a Plan or FB has been lodged, a receipted Survey Lodgement Self Assessment form is sent to the lodging party.

If you do not receive a receipted form within three working days, please contact the Plan Lodgement team on 9273 7387.

The above excludes lodgements of Conversion to Survey-Strata Plans and Merger of Common Properties. These types of Strata Plans are document driven. Therefore, they are only lodged when the relevant documents have been submitted at Landgate.

- **Lodging Release Letters**

All Release Letters are to be emailed to Landgate at [plan.reg@landgate.wa.gov.au](mailto:plan.reg@landgate.wa.gov.au) with the subject heading being:

“Release letter for DP..... “(or SP.....)

This will provide a more secure system and enable timely processing of plans.

This direction becomes part of Section 4 of Appendix 6 of the Survey and Plan Practice Manual and Section 4 of Appendix D of the Strata Titles Practice Manual.

## **9. In Order for Dealings Notifications**

As part of the service provided to the surveying industry, Landgate notifies the surveyors by fax when their Deposited Plans or Strata Plans have been endorsed “In Order for Dealings”.

There have been many instances where the facsimile numbers have been omitted from or incorrect numbers being shown on the Plans, or the facsimile machines being out of order, which have caused inconveniences and delays to both Landgate and Industry.

To avoid these delays which may impinge on the dealings of the Plans, surveyors are reminded that current and correct facsimile numbers must be shown on the Plans and that your facsimile service is in working order.

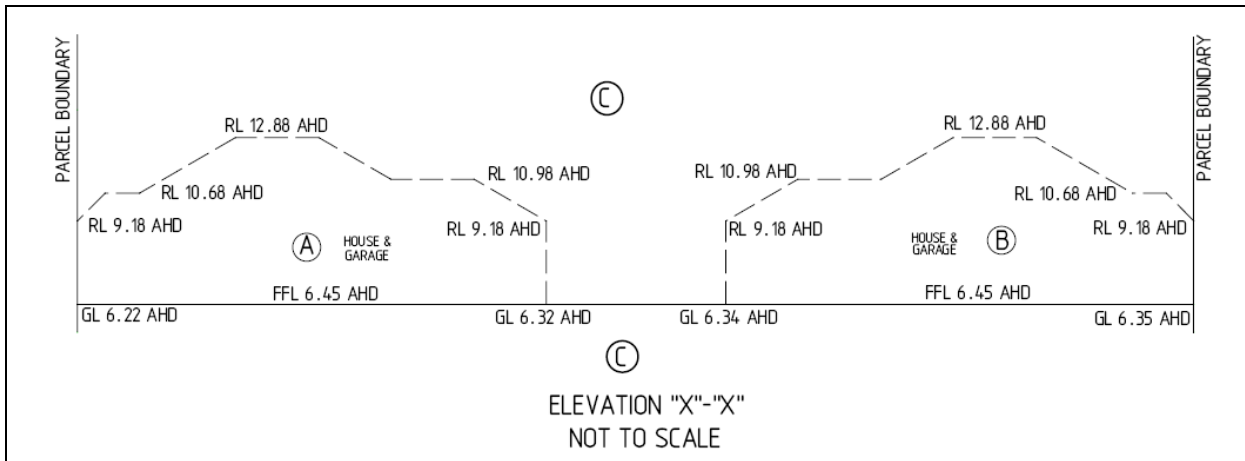
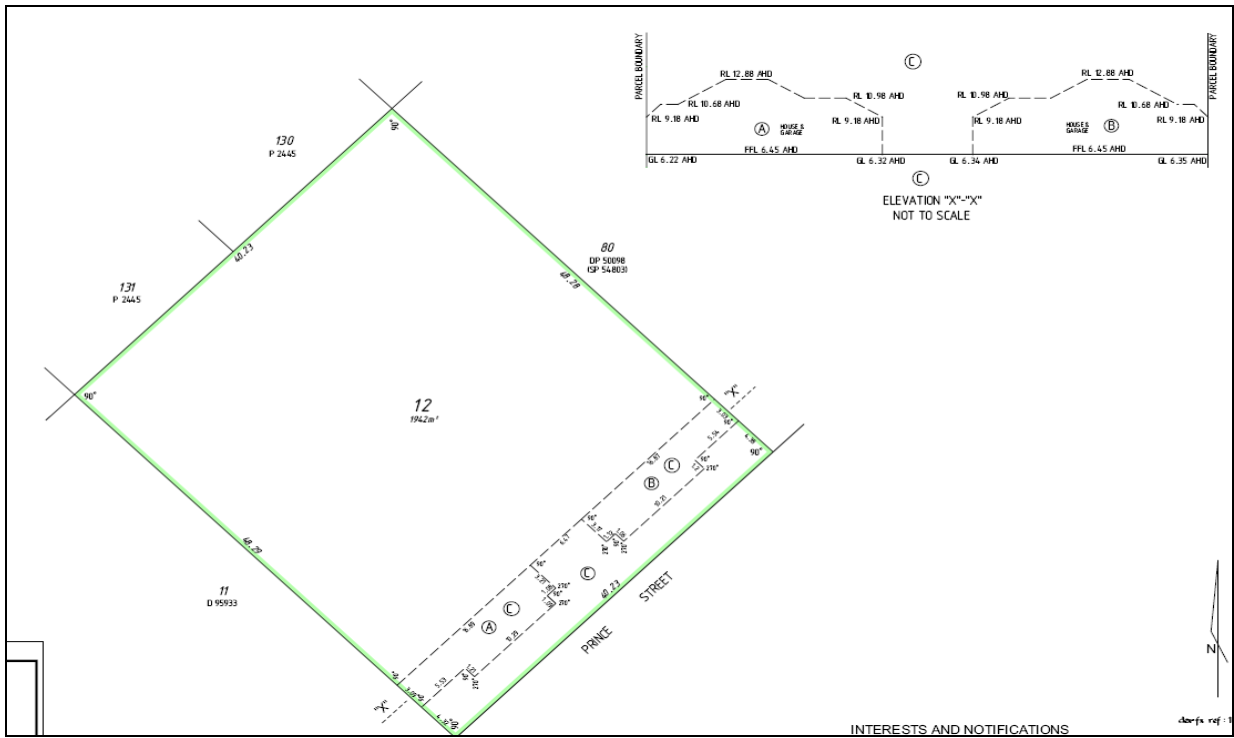
As we now operate in a fully electronic Plan environment, surveyors are strongly encouraged to subscribe to the “Notify Me” service, which is available from Landgate’s Survey Channel.

By subscribing to the “Notify Me” service, the subscriber will receive an email at every status change, ie. Certified Correct and sent to WAPC; WAPC Approved; IOFD, Approved. At a cost of \$2.50, “Notify Me” provides continuous updates on the progress of a Plan.

**PAUL BEAVER  
INSPECTOR OF PLANS AND SURVEYS**

8 April 2011

# APPENDIX



## INTERESTS AND NOTIFICATIONS

SUBJECT	PURPOSE	STATUTORY REFERENCE	ORIGIN	LAND BURDENED	BENEFIT TO	COMMENTS
(A)(B)(C)	EASEMENT	ENERGY OPERATORS (POWERS) ACT 1979	DOC	LOT 12	ELECTRICITY NETWORKS CORPORATION	LEVELS TAKEN FROM SSM CAN 77A

## Extract from Energy Operators (Powers) Act 1979 document

AGREE THAT IN CONSIDERATION of the sum of **ONE DOLLAR (\$1.00)** paid to me/us on the execution of this GRANT by Electricity Networks Corporation, a body corporate pursuant to the Electricity Corporations Act 2005 ("the Act") of 363-365 Wellington Street, Perth in the State of Western Australia ("the Grantee", which expression includes the successors and assigns of Electricity Networks Corporation) I/WE TRANSFER AND GRANT to Electricity Networks Corporation full right and liberty for Electricity Networks Corporation from time to time and at all times hereafter, to enter in, upon, under, over and across ALL THAT portion of Land denoted 'A', 'B' & 'C' as shown on Deposited Plan \_\_\_\_\_ Version 1 ("the Easement") and to remain on and occupy the Easement at all times for so long as is necessary for Electricity Networks Corporation to:

- (a) clear and keep the Easement clear of trees, shrubs, vegetation and other growth;
- (b) break, excavate (to the depth necessary), remove timber, vegetation, soil, earth, gravel and stone upon the Easement; and
- (c) set up, lay down, establish, maintain, utilise and operate and at any time, inspect, service, maintain, repair, replace, alter or remove the system of electricity Transmission Works named and described in the Schedule and all of the Works and Undertakings which now or in the future form any part of those Transmission Works.

(g) the improvements denoted with the letter 'A' & 'B' on sheet 1 of **Deposited Plan 6** having the dimensions in sheet 1 of **Deposited Plan \_\_\_\_\_** are permitted encroachments within the easement and the easement does not extend to permit entry to or use of any part of the interior of the improvements, by Electricity Networks Corporation.

(k) Improve, enlarge or alter any of the pre-existing buildings, structures and Improvements denoted A and B on Deposited Plan ..... Version 1 without the prior written consent of Western Power Corporation, which Western Power Corporation shall be under no obligation to grant and then upon those terms and conditions, if any, which Western Power Corporation may determine.

Please note that the document refers to Deposited Plan ..... Version 1. If for whatever reason, there is the need for a version change to the Deposited Plan, Electricity Networks Corporation will need to be notified so they can update the document to refer to the correct version.