



NOTICE TO SURVEYORS T2/2009

Items 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*.

PLANNING AND DEVELOPMENT ACT 2005 SECTION 150 AND 167 AND PLANNING AND DEVELOPMENT REGULATIONS 30, 32 AND 33

MATTERS AFFECTING SURVEYS AND PLANS

The Western Australian Planning Commission's Planning Bulletin 98 advises that Section 150 (Condition on Road Access) of the P&D Act 2005 comes into effect on 1 July 2009. The bulletin introduces new Regulations including factors affecting Easements created under Section 167 of the P&D Act 2005.

This Notice deals with how Section 150 of the P&D Act, Regulations in support of Section 150 and matters affecting Section 167 of the P&D Act will be depicted on surveys and plans.

This Notice should be read in conjunction with Notice to Surveyors T4/2006 and relevant Landgate Manuals. See schedule below:

1. Section 150 of the P&D Act
2. Planning and Development Regulations 2009 (Road Access Conditions) - Regulations 30 and 32
3. Section 167 of the P&D Act - new provisions
4. Planning and Development Regulations 2009 (Easements) – Regulation 33
5. Depiction of Easements on Plans and Interest and Notification schedules

1. Section 150 of the P&D Act

Surveyors are advised that all Deposited Plans and Strata/Survey-Strata Plans lodged with Landgate from 1 July 2009 can have endorsed on them “Conditions of Road Access”. Conditions imposed as a restriction or prohibition on land abutting a road is to be shown in an Interests and Notifications schedule as a “Covenant”.

Landgate would expect however, that should a planning condition relate to “control of access”, then the automatic tools under P&D Regulation 30 would be used rather than the continued use of Section 129BA of the TLA.

See example at Item 5. Note: Section 150 does not replace Restrictive Covenants created under Section 129BA of the TLA but should be depicted on the plan in the same manner.

2. P&D Regulations 30 and 32

Regulation 30 – Imposing Road Access Conditions. A road access condition must be identified and labelled with such a notation as “A – B”. Details of the restriction or prohibition and to whom or what it applies and when and in what circumstances is to be noted in the “Comments” field of the Interest and Notification schedule of the plan.

The covenantee can only be one of the following:

- West Australian Planning Commission (WAPC)
- Commissioner of Main Roads
- Minister administering Public Works
- Local Government

Regulation 32 - Modifying and Discharging Covenants. A road access condition may be modified or discharged by:

- Application to the Western Australian Planning Commission
- Followed by an Application to the Registrar of Titles
- Any modification of a spatial nature would require an Interest Only DP to accompany the application.

Chapters 13 and 14 of the Survey and Plan Practice Manual and Chapter 6 of the Strata Titles Manual will be amended to include Section 150 of the P&D Act.

3. Section 167 of the P&D Act – New Provisions

Surveyors are advised that as from 1 July 2009 all newly created Easements under Section 167 P&D Act on Deposited Plans and Strata/Survey-Strata Plans will be subject to new provisions.

The key changes are as follows:

- No easement colour to be shown on the sketches on plans.
- “Irrigation” has been included as a benefit to Water Corporation.
- “Utility Services” has been included and means;
 - Drainage
 - Sewerage
 - Gas Supply Services
 - Electricity
 - Water Supply Services
 - Telecommunications Supply Services
- No longer a provision to distinguish between above ground and below ground power.

Chapters 13 and 14 of the Survey and Plan Practice Manual and Chapter 6 of the Strata Titles Manual will be amended to include the new provisions of Section 167 P&D Act.

4. P&D Regulation 33

All Deposited Plans and Strata/Survey-Strata Plans not Approved or Registered in Landgate from 1 July 2009 will be subject to the new Regulations under Section 167 of the P&D Act. Easements created below the line on an Interest and Notification schedule are to show the new Regulation number 33(a), 33(b), 33(c), 33(d) or 33(e).

Note: All existing easement endorsements above the line created under Section 27A TP&D Act and Section 167 P&D Act remain unchanged. See table below for comparison of easements.

Section 167 P&D Act Easements

New P&D Act Labelling	Old P&D Act Labelling
Sec 167 P&D Act, Reg 33(a)	Sec 167 P&D Act, Reg 5
Sec 167 P&D Act, Reg 33(b)	Sec 167 P&D Act, Reg 6
Sec 167 P&D Act, Reg 33(c)	Sec 167 P&D Act, Reg 7
	Sec 167 P&D Act, Reg 8
Sec 167 P&D Act, Reg 33(d)	Sec 167 P&D Act, Reg 9
Sec 167 P&D Act, Reg 33(e)	

5. Depiction of Easements on Plans and Interest and Notification schedules

Where existing Section 167 P&D Act Regulations were shown 5, 6, 7, 8 and 9 as the Subject; the new Regulations are to be shown as 33a, 33b, 33c, 33d or 33e.

Note: The brackets have been removed to simplify the label. See examples below.

INTERESTS AND NOTIFICATIONS

Subject	Purpose	Statutory Reference	Origin	Land Burdened	Benefit To	Comments
33a	EASEMENT (DRAINAGE)	SEC 167 OF THE P & D ACT, REG 33(a)	This Plan	LOT / S	Local Government	
33b	EASEMENT (SEWERAGE)	SEC 167 OF THE P & D ACT, REG 33(b)	This Plan	LOT / S	Water Corporation	
33c	EASEMENT (ELECTRICITY SUPPLY)	SEC 167 OF THE P & D ACT, REG 33(c)	This Plan	LOT / S	Electricity Generation Corporation	
33d	EASEMENT (GAS SUPPLY)	SEC 167 OF THE P & D ACT, REG 33(d)	This Plan	LOT / S	Alintagas Networks PTY LTD	
33e	EASEMENT (GAS SUPPLY SERVICE)	SEC 167 OF THE P & D ACT, REG 33(e)	This Plan	LOT / S	(show Utility Service Authority)	
(A) to (B)	COVENANT	SEC 150 OF THE P & D ACT	This Plan	LOT / S	Western Australian Planning Commission	No road vehicle access to Garret Rd



BARRY CRABB
MANAGER NEW SUBDIVISIONS
INSPECTOR OF PLANS AND SURVEYS
ASSISTANT REGISTRAR OF TITLES
LANDGATE

2 July 2009