



NOTICE TO SURVEYORS T2/2014

Item 1 hereunder is to be considered as a special direction pursuant to Regulation 5 of the *Strata Titles General Regulations 1996* (STGR). Items 2, 3 and 4 hereunder are to be considered as special directions in relation to plans and surveys pursuant to Regulation 5 of the *Licensed Surveyors (Transfer of Land Act 1893) Regulations 1961*.

MISCELLANEOUS PLAN MATTERS

1. **Discontinuance of Mergers By Owners (DIY Mergers)**
2. **Discontinuance of “Easements For Sketch Purposes Only” on Strata/Survey-Strata Plans of Re-subdivision**
3. **Water Corporation Memorials for the Deferral of Headworks**
4. **ePlan Lodgement**

1. Discontinuance of Mergers By Owners (DIY Mergers)

The option to merge land that is common property into strata lots in “single tier strata schemes” became available to owners of those schemes registered before 1 January 1998. This included the ability for owners, in some cases, to achieve this without employing the services of a Licensed Surveyor, colloquially known as “Do It Yourself” (DIY) mergers.

Section 21T(2) of the *Strata Titles Act 1985* (STA) provides the Registrar of Titles with the power to accept or decline the registration of DIY mergers. Section 21T(2) states:

“The Registrar of Titles may dispense with the sketch plan to the extent that he considers that the detail shown on the strata plan or contained in the notice of resolution is sufficient.”

Landgate notes various issues with DIY mergers, based on case history, including:

- Boundaries on DIY mergers generally do not coincide with the actual fence boundaries or areas of occupation.
- The lot areas may not be equal as a result of the merger.
- Buildings may not be in the position as drawn on the original strata plan.
- Further re-subdivision or conversion to Survey-Strata becomes complicated for the Surveyor and may not deliver the required outcome for the clients.
- No lot areas or distances are shown on the resulting merger sketch plan.
- Conveyancers and prospective purchasers cannot determine areas without engaging a Licensed Surveyor.
- The resulting merger sketch plan is not supported by a Field Book.

These repeated issues strongly indicate that the information provided by the owner in a DIY merger is insufficient. Therefore, as of 1 April 2014, the Registrar of Titles will no longer accept DIY mergers lodged for registration.

Chapter 15 of the Strata Titles Practice Manual will be amended to remove references to DIY mergers.

2. Discontinuance of “Easements for Sketch Purposes Only” on Strata/Survey-Strata Plans of Re-subdivision

Notice to Surveyors T7/2004 (Creating Easements on STA Plans of Re-subdivision and Consolidation) advised that:

The location of easements proposed to be created by a transfer document after a plan is registered may be depicted on a strata/survey-strata plan of re-subdivision or consolidation provided it is clear on the plan that the area delineated relates to some future or intended registration action. This will avoid the need for the lodgement of a separate ‘easement only’ plan. Areas depicted in this manner must conform to the drafting requirements set out in the *Strata Titles General Regulations 1996*, in particular regulation 4(d). Note that it is not possible to create an easement at the time the plan is registered, as there have to be different owners of the benefited and burdened lots before an easement can be created by a transfer document.

There have been several cases where easements proposed to be created by transfer or easement documentation after the plan of re-subdivision is registered, have been depicted on the plan but the relevant documentation never lodged at Landgate. This causes confusion as people believe the easements shown on the plan exist, when they are not registered.

As of 1 April 2014, an easement created by documentation between lots created on plans of re-subdivision is not to be depicted on the plan itself. Easements will need to be supported by a separate Interest Only Deposited Plan lodged at Landgate. Surveyors should advise their clients of this procedure.

Chapters 6.1 and 17.13 of the Strata Titles Practice Manual will be amended accordingly.

3. Water Corporation Memorials for the Deferral of Headworks

Section 67B of the *Water Agencies (Powers) Act 1984* (WAPA), which required a memorial to be created on plans of subdivision, has been replaced by section 128(2) of the *Water Services Act 2012* (WSA), which requires a memorial document to be registered on the certificate of title of the land being subdivided.

The new memorial should be lodged at Landgate on the approved form (available at www.landgate.wa.gov.au) with the prescribed fee, prior to the lodgement of the application for new certificates of title for the lots on the plan of subdivision. As the memorial fee is paid separately on the lodgement of the memorial document, a memorial fee will no longer be included with the deposited plan lodgement fees.

N.B. Section 128(3) WSA:

“Until the memorial is withdrawn, the Registrar must not register, without the written consent of the licensee, an instrument affecting the land that is lodged for registration after the memorial is lodged.”

This includes any document listed under 'instrument' in section 4 of the *Transfer of Land Act 1893* (TLA).

The new section 128(2) WSA memorial will be required to be denoted on the plan of subdivision above the line in the Interests and Notifications schedule, as this memorial will be registered on the parent certificate of title prior to the application for new certificates of title for the lots on the plan (please refer to the Interests and Notifications schedule example below).

The new memorial is required to be shown above the line in the Interests and Notifications schedule for all deposited plans lodged with Landgate from 1 April 2014. An exception applies when the deferral was approved under section 67B WAPA, in which case the section 67B memorial should be shown.

INTERESTS & NOTIFICATIONS						
SUBJECT	PURPOSE	STATUTORY REFERENCE	ORIGIN	LAND BURDENED	BENEFIT TO	COMMENTS
⑦	EASEMENT (Aboveground Electric) MEMORIAL	SEC 27A OF THE T.P. & D. ACT REGULATION 7 SEC 128(2) OF THE WATER SERVICES ACT 2012	DP 47185 DOC	LOTS 491 & 9506 ALL LOTS EXCEPT LOT 9506	Western Power Corporation Water Corporation	SEE NOTE 'Z'
③③c ① ②	EASEMENT (ELECTRICITY SUPPLY) EASEMENT EASEMENT	SEC 167 OF THE P & D ACT REG 33(c) ENERGY OPERATORS (POWERS) ACT 1979 ENERGY OPERATORS (POWERS) ACT 1979	This Plan DOC DOC	LOT 9506 LOTS 301,302 & 9506 LOT 491	Electricity Networks Corporation Electricity Networks Corporation Electricity Networks Corporation	
LOTS 485,486 & 491	RESERVE FOR RECREATION NOTIFICATION	VESTS IN THE CROWN UNDER SEC 152 OF THE P & D ACT SEC 70A OF THE TLA	This Plan DOC	LOTS 303 - 312, 314 - 324 & 331 - 338		No reticulated sewerage

Chapter 5.9 of the Strata Titles Practice Manual and chapter 14.25 of the Survey and Plan Practice Manual will be amended accordingly.

4. ePlan Lodgement

Surveyors are advised that as of 1 April 2014, all lodgements of new, amended and replacement Deposited and Strata Plans, and additional information relating to a particular plan must be submitted via the ePlan Lodgement application on the MyLandgate Survey Channel: <https://www.landgate.wa.gov.au/ePlanLodgement/?0> Email lodgement to "Plan Reg" will no longer be accepted.

Since its implementation on 31 January 2014 and subsequent launch at the Land Surveying Commission CPD Seminar on 13 February 2014, the ePlan Lodgement application has been operating well. Currently, 70% of plans are submitted using this application.

The transition of plan lodgement from an email (Plan Reg) to a web form (ePlan Lodgement) environment streamlines and improves efficiency in the plan lodgement and audit processes through the secure capture and storage of plan information and the automatic distribution of information to relevant teams or individuals.

To access ePlan Lodgement, a subscription to MyLandgate Survey Channel is required via: <http://www.landgate.wa.gov.au/corporate.nsf/web/How+to+Subscribe+to+My+Landgate>

Recommended internet browsers for ePlan Lodgement are Internet Explorer 9, Mozilla Firefox or Google Chrome.

Plan types and information to be submitted via ePlan Lodgement are:

Deposited Plans	Strata Plans
<ul style="list-style-type: none"> • New Deposited Plan; • New Statutory Deposited Plan, where a CSD file is not mandatory; • Amendment of Deposited Plan as requested by an auditor; • Replacement of Deposited Plan as instigated by the surveyor and • Additional information for a particular Deposited Plan, including a release letter or a road name approval document. 	<ul style="list-style-type: none"> • New Strata Plan where the Strata type is Normal: For a conventional Strata / Survey-Strata Plan or Vacant: For a Vacant Strata Plan, ie, a Strata scheme with a mixture of buildings and vacant lots • Re-Subdivision of Strata / Survey-Strata Plan; • Conversion to Survey-Strata Plan; • Merger Strata Plan; • Amendment of Strata / Survey-Strata Plan as requested by an auditor; • Replacement of Strata / Survey-Strata Plan as instigated by the surveyor and • Additional information for a particular Strata / Survey-Strata Plan, such as a release letter or a STGR form.
<p>Note: It is imperative that additional information is only submitted after or with the plan. Submission of additional information before the plan may result in an incorrect prioritisation, causing delay in the audit of the plan.</p>	

Communications that are not related to a particular plan, such as requests for pre-allocated plan or field book numbers, or general survey and plan enquiries, may continue to be emailed to plan.reg@landgate.wa.gov.au

The lodging procedure for field records remains unchanged, that is, they are to be emailed to lodge.fb@landgate.wa.gov.au

Chapters 4.1, 4.2, 4.3, 4.8, 5.7, 10.4, 13.2, Fig 6 and 22.4 of the Strata Titles Practice Manual, and also chapters 17.3 and 20.2 of the Survey and Plan Practice Manual, will be amended accordingly.



JEAN VILLANI
REGISTRAR OF TITLES

14 March 2014