



NOTICE TO SURVEYORS T2/2008

PLANNING AND DEVELOPMENT ACT 2005

Section 146(1)

This notice is to be considered as a special direction concerning plans and surveys pursuant to Regulation 5 of the *Licensed Surveyors (Transfer of Land Act 1893) Regulations 1961*.

Section 146 of the *Planning and Development Act 2005* (P&D Act) places time limits on the Registrar of Titles for the issue of new certificates of title, following approval of a Deposited Plan by the Western Australian Planning Commission (WAPC).

Owners of land the subject of plans that were endorsed with the approval of the WAPC before the commencement day (9 April 2006) will have 5 years after that day in which to lodge an application for new titles. Owners of land the subject of plans that are endorsed with the approval of WAPC on or after 9 April 2006 will have 2 years from the endorsed date in which to lodge an application for new titles.

Previous Notice to Surveyors T4/2006 covered matters affecting surveys and plans in relation to the P&D Act. This notice explains the application process for Deposited Plans with a status of "EXPIRED", and will be included in the Survey and Plan Practice Manual as section 19.5.4.

This notice does not apply to strata/survey-strata plans as these are currently excluded from the provisions of section 146.

LANDGATE'S SMARTPLAN SYSTEM STATUS CHANGE

For deposited plans that have been endorsed by the WAPC (i.e. status of "WAPC Approved") that have not been dealt on within the required time frames as stated above, SmartPlan will automatically update their status to "EXPIRED".

STATUS OF EXPIRED DEPOSITED PLAN (DP)

If a plan has the "expired" status and the registered proprietor still wishes to proceed with the subdivision, then the owner will need to seek a new subdivisional approval from the Western Australian Planning Commission.

For DPs endorsed on or after 9 April 2006 one of two procedures will apply:

Following consultation with officers from WAPC, a procedure has been agreed as to the potential to reuse the existing "expired" DP as part of that new WAPC application.

1. If no changes to DP are necessary for the subdivision to proceed

Application instigated by the owner(s) or surveyor:

- Form 1A Application is made together with a copy of the previously approved DP (WAPC will apply standard Form 1A fees);
- WAPC preliminary approval is granted (new WAPC reference number);
- No new conditions imposed by WAPC;
- Owner(s)/surveyor requests Landgate to forward original DP to WAPC for its new approval inclusive of the new WAPC reference number (Landgate will apply plan lodgement and WAPC deposition fee only);
- Landgate amends DP by adding section 146 notation, new WAPC reference number and version control, then forwards DP to WAPC;

- WAPC will apply standard Form 1C fees
- DP remains the same as a result of WAPC approval, but with the new WAPC date and signature;
- On return of DP from WAPC, Landgate will re-date the “In Order for dealings” status and reset SmartPlan with the same status.

2. If changes to DP are necessary for the subdivision to proceed

Surveyor initiates action on behalf of owner:

- Form 1A Application to WAPC with appropriate fees and sketch (based on previously approved DP);
- WAPC grants preliminary approval (new WAPC reference number) with new conditions. One of two options may apply:
 - i. If the WAPC conditions, or the owner(s)/surveyor, make only **minor changes** to the previously approved DP then Landgate can request the Surveyor to submit a replacement plan using the same DP number but referring to a different version of that DP (Landgate will apply plan lodgement and WAPC deposition fee only).
In this case, minor changes are defined as:
 - interest changes on the Parent Title to be brought forward; or
 - any detail changes to non-subject land (abuttals).
 - ii. If the WAPC conditions, or the owner(s)/surveyor, make **major changes** to the previously approved DP then Landgate will require a new DP which will be subject to full Landgate fees. That DP will be allocated a new DP number and the previously approved DP will be cancelled on request (cancellation fee applies). Essentially, the same process applies to this plan as if it was a new plan.
In this case, **major changes** are defined as changes to:
 - number of lots;
 - size of lots;
 - shape of lots; or
 - spatial interest being depicted such as statutory easements, memorials, restrictive covenants or other private easements
 - different survey company

For surveys endorsed before 9 April 2006.

The owner still has until 8 April 2011 to apply for the issuing of new titles. After that date the survey’s status will be “expired” and if the owner still wishes to proceed with the subdivision, a new application approval must be sought from the Western Australian Planning Commission. The normal subdivisional process will apply and the previously approved DP will be cancelled (cancellation fee applies).

Enquiries.

Landgate has been proactive by, prior to the expiration date, sending letters to the registered proprietors of the land to inform them of the provisions of section 146 P&D Act.

Enquiries regarding this matter should be directed to the Survey Advice Officer Peter Joyce on 9273 7317.

Surveyors should ensure that on completion of their subdivisional contract, formal advice is given to their client on the implications of section 146 of the P&D Act.

**BARRY CRIBB
MANAGER NEW SUBDIVISIONS
INSPECTOR OF PLANS AND SURVEYS
ASSISTANT REGISTRAR OF TITLES
21 AUGUST 2008**