

NOTICE TO SURVEYORS T3/2001

DEPICTION OF MINERAL RESERVATIONS

The introduction of the SmartRegister digital titles system has caused changes in the ways that mineral reservations are dealt with on titles and plans. The following outlines DOLA's requirements for surveyors to depict any mineral reservations affecting land on deposited plans and strata/survey-strata plans.

Reservations in Crown Grants

Mineral reservations contained in the original Crown Grants need not be depicted or recorded on deposited plans. A SmartRegister title contains a prefatory statement that indicates that the land in the title is "subject to the reservations, conditions and depth limits contained in the original grant". The current practice of recording mineral reservations on Strata Plans and Survey-Strata Plans is to continue until further notice.

Lands Affected by Section 15 of the Public Works Act 1902

Prior to 1953, Section 15 of the *Public Works Act 1902* excluded from resumptions all minerals except those necessary for the construction, support and maintenance of public works. Where minerals had been alienated and the land resumed, an undefined portion of the minerals remained unresumed causing problems for the then Titles Office determining what had and what had not been resumed.

Crown Grants issued after the introduction of the *Land Act* in 1898 had all minerals reserved to the Crown. The position was (is) quite clear from then on. The earlier grants of land (including grants under the Deeds Office system), prior to 1898, where portion of the minerals were alienated remained a problem until in 1953 section 15 of the *Public Works Act* was amended to retrospectively provide that all minerals were included in any resumptions. Section 15 was repealed in 1997 and replaced by Section 164 of the *Land Administration Act 1997*.

Titles to land affected by this provision will show different endorsements depending on the circumstances involved. If the whole of the land is affected the endorsement may state; "*save and except the rights to mines of coal or other minerals*", or "*the right to mines of coal or other minerals being excluded from the said land*". If portion of the land in a title is affected the endorsement will usually state; "*the right to mines of coal or other minerals being excluded from portion of the said land*".

In the past DOLA has indicated areas affected by Section 15 of the Public Works Act on the "working copy" plans (ie. mini plans and duplicate diagrams). DOLA's imaging system provides copies of the working plans. These plans are no longer produced by DOLA and it has now become necessary to show the affected areas on the original deposited plans.

Working copy plans indicate affected areas in one of two ways. The affected areas are hachured and the plan annotated "*Portion hachured subject to Section 15 of the Public Works Act*". In some cases the unaffected areas are hachured and the plan annotated "*save and except the portion hachured subject to Section 15 of the Public Works Act*".

Some roads closed and amalgamated under the former *Road Districts Act 1919* were also subject to mineral reservations and are shown on "working copy" plans as affected by Section 15 of the Public Works Act.

Roads closed and amalgamated under the *Land Act 1933* or the *Land Administration Act 1997* are not affected by the provisions of Section 15 of the *Public Works Act*.

Where land affected by Section 15 of the *Public Works Act* has been revested in the Crown the provision no longer applies to the land revested. Lots that are revested are identifiable on the existing "working copy" plans by a "Revested" notation or a change in the parcel identifier (lot number) to a Crown allotment number.

If all the land in a new deposited plan is affected by Section 15 of the *Public Works Act* there is no need to show on the plan that the lots are subject to mineral reservations as this will be carried forward onto any new titles created. Where a portion of the land in a new deposited plan is affected by the former Section 15 of the *Public Works Act* the plan must show the subject portion and the Schedule of Interests and Notifications must indicate the new lots affected.

In general, surveyors must bring forward onto new deposited plans the mineral reservations depicted on the "working copy" plans. Portions of land affected by Section 15 of the *Public Works Act* are usually not dimensioned on titles or working plans. Surveyors are only required to plot affected portions on new plans by scaling distances from existing documents and using labels, line-work and where necessary hachuring to clearly show the relevant portions. There is no need to include the information in CSD files.

Mineral Reservations in Transfers

Crown Grants that were registered in the name of the Commonwealth of Australia did not contain any mineral reservations. Where the Commonwealth disposed of land, the transfer effecting the sale normally contained the same mineral reservations as contained in a normal Crown Grant. Following registration of the transfer the Commonwealth would then transfer to the Crown in right of the State the reserved mineral rights.

By virtue of the *Midland Railway Company Acquisition Act 1963* the Minister for Western Australian Government Railways acquired all the property of the Midland Railway Company. The mineral rights granted or alienated to the Midland Railway Company become the property of the Crown on production of a vesting application by the Minister to the Registrar of Titles. Titles are usually endorsed "*except and reserving metals minerals gems and mineral oil specified in Transfer No*" or "*save and except minerals vested in the Crown pursuant to the provisions of Section 4(5) of the Government Railways Act*". A title may or may not make reference to the relevant transfer document.

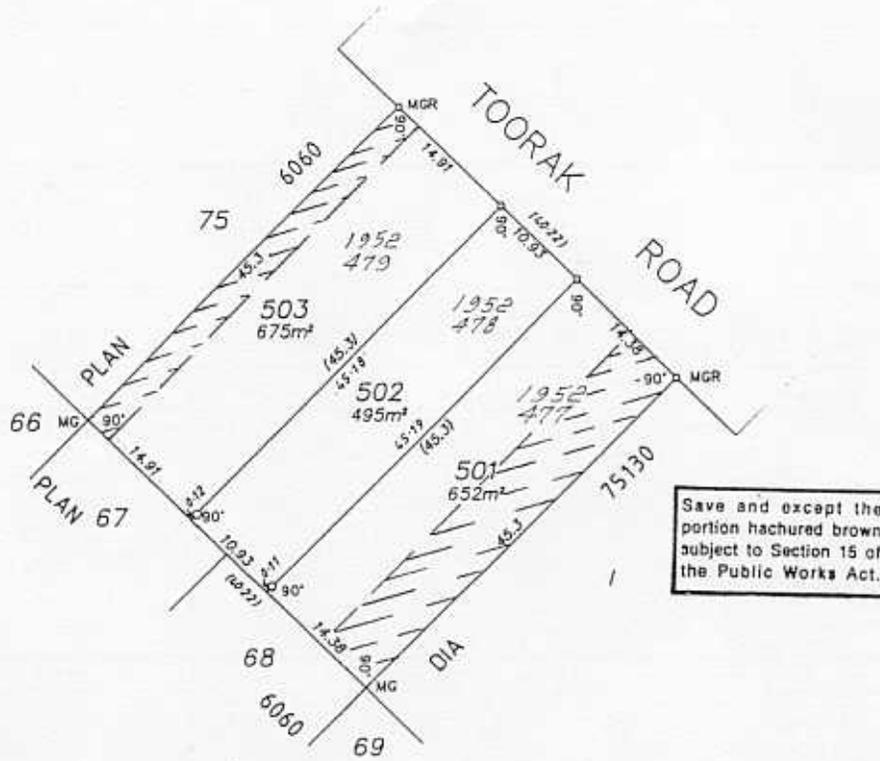
Where portion of the land in a new deposited plan is affected by a mineral reservation contained in a transfer, or vesting under Section 4(5) of the *Government Railways Act*, the portion so affected must be depicted on the plan in the same manner as outlined above for land affected by Section 15 of the *Public Works Act*.

The attached copies of titles and working plans provide [examples](#) of the situations likely to be encountered. The accompanying [plan example \(DP27057\)](#) indicates the requirements for depicting mineral reservations on deposited plans.

IAN HYDE
REGISTRAR OF TITLES

12 June, 2001
Att.

LAND DESCRIPTION	ON	CERTIFICATE OF TITLE	FIELD BOOK	DIA 83181
LOTS 73 & 74 OF Pt SWAN LOC 34	PLAN 6060	VOLUME	FOLIO	 TOTAL AREA 1822m ²
	DIAGRAM	1662	321	
	INDEX BG 34 (2), 1624, 1724	1662	322	
	PUBLIC BG 34 (2), 1624, 1724	NDW 1952	476	
			62907	



JOHN A. HIGHAM & ASSOC PTY LTD
CONSULTING LICENSED SURVEYORS
P.O. BOX 317 WILLETTON 6155
PHONE 3131110 FAX 4502281

SURVEYOR'S CERTIFICATE REG 54: I, <u>PAUL LEE BEAVER</u> hereby certify that: (a) this plan of survey is a correct and accurate representation of the survey carried out by me personally/under my own personal supervision, inspection and field check, and recorded in field books lodged for the purposes of this plan of survey; (b) the measurements are in strict accordance with the Licensed Surveyors (Guidance of Surveyors) Regulations 1961 and in particular regulations 23 and 34 of those regulations; and (c) this survey and this plan of survey are in strict accordance with the requirements of the Licensed Surveyors (Guidance of Surveyors) Regulations 1961 and the relevant law in relation to which it is lodged.		REG 55D I, <u>Paul Lee Beaver</u> hereby certify that: (a) this plan is correct and was prepared under my supervision and is the result of calculations from measurements made by me personally/under my own personal supervision, inspection and field check as recorded in the field books lodged for the purposes of this plan; (b) the measurements are in strict accordance with the requirements of the Licensed Surveyors (Guidance of Surveyors) Regulations 1961 and in particular regulations 23 and 34 of those regulations; and (c) this plan of survey conforms with the relevant law in relation to which it is lodged.		APPROVED BY STATE PLANNING COMMISSION FILE: 86033 <u>R. N. Stokes</u> FOR CHAIRMAN DATE: 10-11-92 PLANNING AND URBAN DEVELOPMENT 15 NOV 1992 FILE 86033		LODGED DATE: 24.8.92 FEE PAID: \$281 ASSESSMENT NO. 4329 EXAMINED: <u>A. Sullivan</u> 14/5/92 DOCKET PLAN/DIAGRAM: 18280 CERTIFIED CORRECT: <u>[Signature]</u> 23/5/92 F.S.C. No.		SCALE 1:500 ALL DISTANCES ARE IN METRES IN ORDER FOR DEALINGS SUBJECT TO <u>[Signature]</u> 11/4/92 FOR INSPECTOR OF PLANS & SURVEYS APPROVED DATE APPROVED 15.2.93 INSPECTOR OF PLANS & SURVEYS OFFICE OF TITLES DIAGRAM 83181	
<u>Paul Lee Beaver</u> 20.7.92 Licensed Surveyor Date		Licensed Surveyor Date		 DOLA Department of LAND ADMINISTRATION					

Application F110717
Volume 1952 Folio 476

WESTERN



AUSTRALIA

REGISTER BOOK
VOL. FOL.

CT 1952 479

CERTIFICATE OF TITLE

UNDER THE "TRANSFER OF LAND ACT, 1893" AS AMENDED

I certify that the person described in the First Schedule hereto is the registered proprietor of the undermentioned estate in the undermentioned land subject to the easements and encumbrances shown in the Second Schedule hereto.

Dated 15th February, 1993

REGISTRAR OF TITLES



PERSONS ARE CAUTIONED AGAINST ALTERING OR ADDING TO THIS CERTIFICATE OR ANY NOTIFICATION HEREON

ESTATE AND LAND REFERRED TO

Estate in fee simple in portion of Swan Location 34 and being Lot 503 on Diagram 83181, delineated on the map in the Third Schedule hereto, the right to mines of coal or other minerals being excluded from portion of the said land.

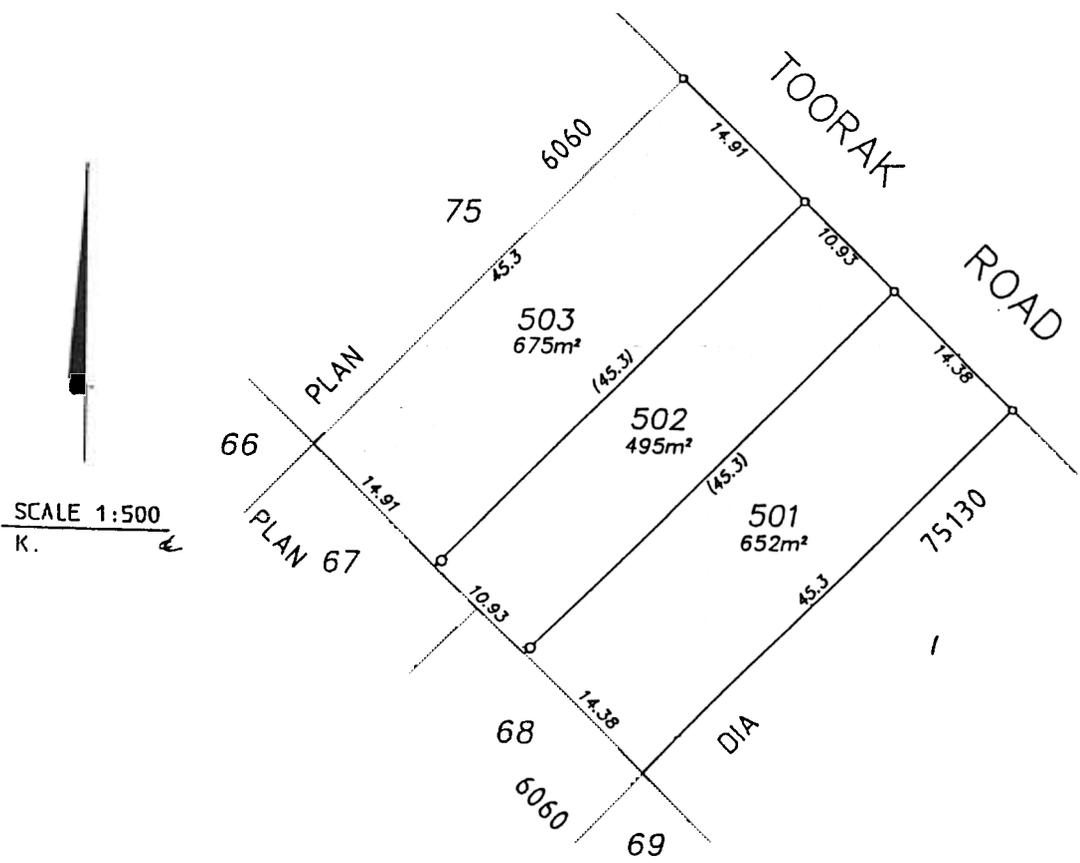
FIRST SCHEDULE (continued overleaf)

The State Housing Commission of 99 Plain Street, East Perth.

SECOND SCHEDULE (continued overleaf)

NIL

THIRD SCHEDULE



NOTE: ENTRIES MAY BE AFFECTED BY SUBSEQUENT ENDORSEMENTS.

E67590/3/89-206-L/4664

1952 479

FOL. VOL.

Page 1 (of 2 pages)

Application F229340 WESTERN
Volume 406 Folio 110



AUSTRALIA

REGISTER BOOK
VOL. FOL.

CERTIFICATE OF TITLE

UNDER THE "TRANSFER OF LAND ACT, 1893" AS AMENDED

CT 1965 223

I certify that the person described in the First Schedule hereto is the registered proprietor of the undermentioned estate in the undermentioned land subject to the easements and encumbrances shown in the Second Schedule hereto.

Dated 25th June, 1993

C. J. Sack

REGISTRAR OF TITLES



ESTATE AND LAND REFERRED TO

Estate in fee simple in portion of Geraldton Suburban Lot 46 and being Lot 3 on Diagram 83741, delineated on the map in the Third Schedule hereto, save and except minerals vested in the Crown pursuant to the provisions of Section 4(5) of the Government Railways Act.

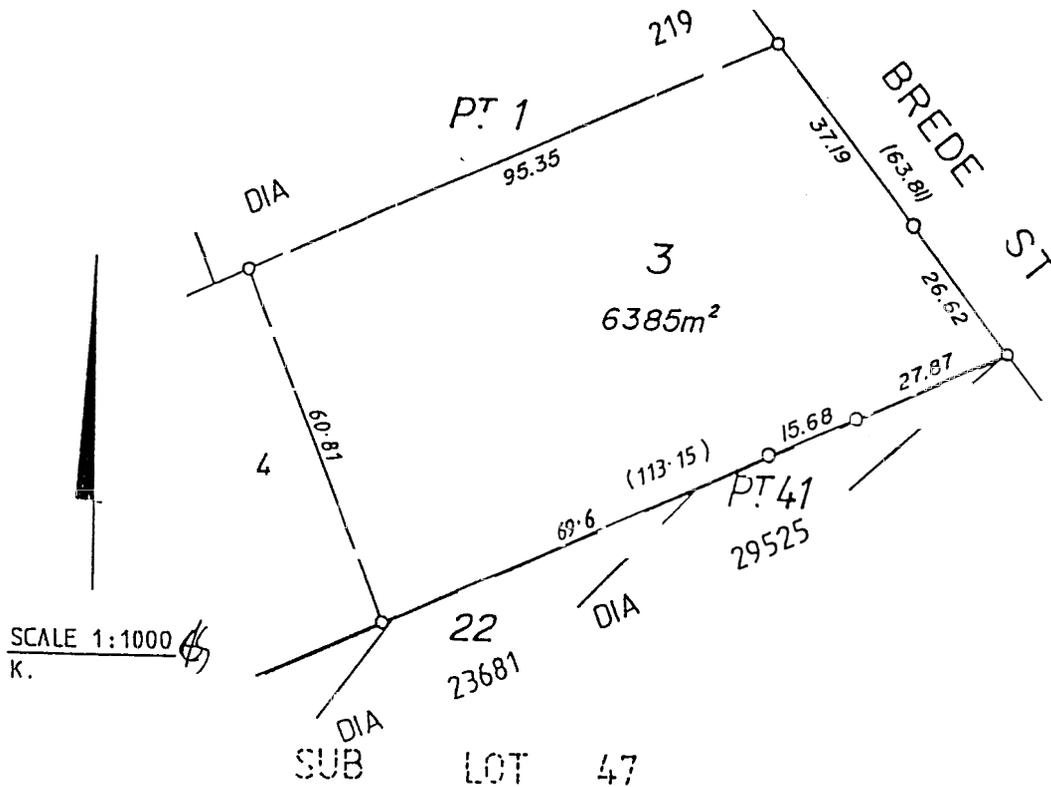
FIRST SCHEDULE (continued overleaf)

Minister for Western Australian Government Railways of West Parade, East Perth.

SECOND SCHEDULE (continued overleaf)

NIL

THIRD SCHEDULE



SCALE 1:1000
K.

IS ARE CAUTIONED AGAINST ALTERING OR ADDING TO THIS CERTIFICATE OR ANY NOTIFICATION HEREON

Page 1 (of 2 pages) 1965 223 VOL. FOL.

72 23
25310/47
25493/47
571-91.

Certificate of Title

under "The Transfer of Land Act, 1893."
Sch. 5, 56 V., 14.

CT 0406 0110 F



Daniel Marsh of Geraldton Wheelwright

is now the sole proprietor

of an estate in fee simple in possession subject to the easements and encumbrances notified hereunder, in ALL that piece of land delineated and coloured green on the map hereon, containing two acres two rods and fourteen perches or thereabouts, being portion of Geraldton Suburban Lot 46 and being Lot 2 on deposited diagram 219

transfer 1904/1912. totally transferred by endorsement to Frank Green of Geraldton, Merchant. Registered 22nd March 1912 at p. 15 of p. 4 - Arthur Deemell

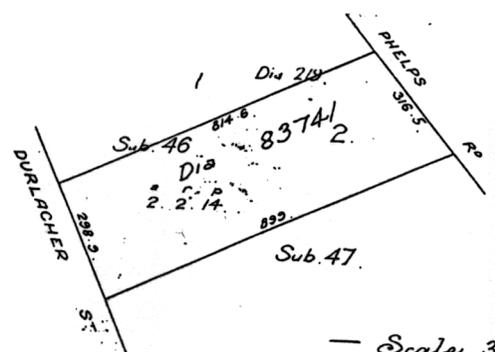
Transfer 14959/1907. Transferred to the Geraldton Railway Company of Western Australia Limited of 81 St George's Terrace Perth. Registered 20th October 1907 at 1000

Application F221206. The within land is vested in the Minister for Western Australian Government Railways, pursuant to section 4 (3) of the Government Railways Act 1904.

18TH JUNE 1993



All rights to minerals herein are vested in the Crown pursuant to the Government Railways Act No 54 of 1965



Scale. 3 chains to an inch.
83741

Dated the eleventh day of October One thousand nine hundred and seven

at test