



NOTICE TO SURVEYORS T2/2006

BRINGING FORWARD ANOMALOUS INTERESTS ON PLANS

This notice supersedes Notice to Surveyors T2/2002 and is to be contained within Section 14.20 of the forthcoming Survey and Plan Practice Manual Version 4.0 dated January 2006.

Where surveyors encounter anomalies when bringing forward interests of a spatial nature (primarily easements and covenants) onto new deposited plans and survey-strata plans, the following practices need to be followed.

The anomalous situations that can occur include those where there are discrepancies/omissions in dimensions in the;

- original document creating the interest,
- graphic(s) on the certificate(s) of title,
- original document with the same dimensional discrepancies/omissions in the title graphic(s),
- original document with different dimensional discrepancies /omissions in the title graphic(s).

A further situation that can occur is where a modern survey has determined more accurate dimensions for boundaries of parcels and these dimensions conflict with the dimensions for interests intersecting with or related to parcel boundaries depicted in sketches shown in original documents and/or paper title graphics.

For reference purposes we have described each of these situations as a "type" of anomaly.

Type A – Where a modern survey has determined **more accurate** dimensions for boundaries of parcels and those dimensions conflict with the original dimensions for interests intersecting with or related to the parcel boundaries. This is not considered a problem, but it is considered desirable that the parties to the interest are notified about the updated dimensions when the differences are significant.

Type B - The **title is consistent** (that is appears correct) within itself and **differs from the document**, which is **consistent** within itself. It will be necessary to determine which is correct, although some examples show that this occurs when a compensating error was made on the title sketch. If the title is found to be wrong, then it will be a **DLI** responsibility to match the title with the document. If the document is found to be wrong the matter will be referred back to the lodging parties.

Type C - The **title is consistent** within itself and **differs from the document**, which is **inconsistent** within itself. This could have occurred when an error in the document was corrected for the title sketch but not in the document. When the differences are significant it is considered appropriate to notify the parties who may wish to correct the anomaly.

Type D - The **title is inconsistent** within itself and **differs from the document**, which is **consistent** within itself. This could have occurred when an error was made on the title sketch. This is considered a DLI responsibility to match the title with the document.

Type E - The **title is inconsistent** within itself and **agrees with the document**, which is **inconsistent** within itself. This could have occurred when an error was made during the preparation of the document. The sketch in the document was faithfully replicated in the title. This is considered the responsibility of the parties to the interest.

Type F - The **title is inconsistent** within itself and **differs from the document**, which is **inconsistent** within itself. This could have occurred when an error was made during the preparation of the document and another error was made in the title sketch. This is considered the responsibility of the parties to the interest. Although a subsequent error may have been introduced by DLI, the source document contains discrepancies and this is considered to be where the primary responsibility lies.

Where the above situations occur surveyors must take into consideration the original intention and extent of the interest that was registered.

For example, if an interest was originally depicted as extending between two parcel boundaries and a later survey determines more accurate dimensions for those parcel boundaries, causing the interest dimensions to alter, the surveyor should reflect the improved accuracy in the dimensions of the interest being brought forward.

Surveyor's process

Surveyors are expected to use the following process when bringing forward relevant interests:

1. Search the certificate of title for a sketch ("postage stamp").
2. If the title sketch is **consistent and complete** and provides a **reliable definition**, there is no need to search further and the title sketch can be used for the spatial definition of the interest. If the dimensions of the interest are changed because of a **more accurate** survey (**Type A** anomaly), then **guidelines 1 and 2** (see below) apply.
3. The document may be searched if desired, and DLI is to be advised via the Surveyor's Report if any **Type B or C** anomalies are found.
4. If the title sketch is **inconsistent** (contains dimensional discrepancies) and/or **incomplete** (obvious omissions such as angles) then the document **must** be searched.
5. If the document is **consistent** then it can be used for the spatial definition of the interest. DLI is to be advised via the Surveyor's Report if any **Type B, C or D** anomalies are found. If necessary, surveyors may telephone the Supervisor Plan Lodgement on 9273 7170 to request DLI to take urgent action.
6. If the document is **inconsistent (types E and F anomalies)** then **guidelines 3 and 4** are applied as appropriate. Where the parties to the interest include government agencies or corporate utilities, surveyors are encouraged to liaise with them and their client, as early in the process as possible, to attempt to resolve the discrepancy. In all cases DLI is to be advised via the Surveyor's Report of the anomalies and the actions taken concerning resolution of the discrepancy. Where a resolution shown on the plan has been agreed to by the relevant parties, the surveyor must provide information about the parties involved in that resolution.

Guideline 1 (used for **Type A** anomalies)

Where the discrepancy in dimensions between a new plan and an original graphic is the result of a **more accurate survey** of parcel boundaries and the discrepancy does not exceed the rate specified in Section 155 of the *Transfer of Land Act 1893* the notation should state:

“The dimensions and position of this <type of interest> are based on accurate surveyed alignments.”

Guideline 2 (used for **Type A** anomalies)

Where the discrepancy in dimensions between a new plan and an original graphic is the result of a **more accurate survey** of parcel boundaries and the discrepancy exceeds the rate specified in Section 155 of the *Transfer of Land Act 1893* the notation should state:

“The dimensions and position of this <type of interest> are based on accurate surveyed alignments as described in field book _____ and an interpretation of document _____.”

Guideline 3 (used for **Types E & F** anomalies)

Where an anomaly occurs as a result of **discrepancies and/or omissions** in the **original document** and/or **graphic(s) on certificate(s) of title** and the discrepancy does not exceed the rate specified in Section 155 of the *Transfer of Land Act 1893*, the surveyor can bring forward the interest using either:

- 3.1 the dimensions recorded in the original document and/or certificate of title (no plan notation is necessary in this instance), or,
- 3.2 dimensions based on an interpretation of the information recorded in the original document and/or certificate of title; the plan notation in this instance should state:

“Discrepancies/omissions in dimensions found in this <type of interest> within Section 155 parameters. Resolution of the anomaly shown in this plan is based on my interpretation of the evidence. See field book _____ and document _____.”

In situations where it is obvious what the correct dimensions in the original document or title graphic should be then surveyors must use option 3.2.

Guideline 4 (used for **Types E & F** anomalies)

Where an anomaly occurs as a result of **discrepancies and/or omissions** in the **original document** and/or **graphic(s) on certificate(s) of title** and the discrepancy exceeds the rate specified in Section 155 of the *Transfer of Land Act 1893*, the surveyor can bring forward the interest using either:

- 4.1 the dimensions recorded in the original document and/or certificate of title graphic. The plan notation in this instance should state:

“Discrepancies/omissions in dimensions found in this <type of interest> are included in this plan as it is impracticable/uneconomical to resolve the anomaly. Boundary intercepts have been interpreted. See field book _____ and document _____.” or,

4.2 dimensions based on an interpretation of the information recorded in the original document and/or certificate of title. The plan notation in this instance should state:

“Discrepancies/omissions in dimensions found in this <type of interest>. Resolution of the anomaly shown in this plan is based on my interpretation of the evidence. See field book _____ and document _____.”

In situations where it is obvious what the correct dimensions in the original document or title graphic should be then surveyors must use option 4.2.

DLI processes

- Surveyor lodges DP that includes a notation pursuant to **guideline 1 (Type A anomaly)**. Plan placed In Order For Dealings with no DLI investigation.
- Surveyor lodges DP that includes a notation pursuant to **guideline 2 (Type A anomaly)**. Manager Cadastral Plans to notify burden and benefit holders of anomalous situation in appropriate cases.
- Surveyor advises DLI of a **Type B, C or D anomaly**, or uses **guideline 3 (Type E or F anomaly)** where **error <1:500**.
Plan placed In Order For Dealings with no DLI investigation.
- Surveyor advises DLI of a **Type B, C or D anomaly** where error **>1:500**.
 - Plan Auditors verify surveyors report as soon as possible after lodgement
 - While plan being audited and awaiting release to WAPC, DLI carry out actions to place subsidiary endorsements on affected certificates of title and notify the registered proprietors of the burdened and benefited land. The outcome is that the titles will refer to the new deposited plan as being the sketch that defines the spatial extent of the registered interest.
- Surveyor uses **guideline 4** (where **error >1:500**) for a **Type E or F anomaly**.
 - Where **notation 4.1** is used:
 - Create Registrar’s Packet as soon as possible after plan is lodged to hold affected certificates of title;
 - Notify registered proprietors of benefited and burdened land about the situation and advise on options for rectification such as:
 - Correction of original documents, or
 - Surrender of the interest, and
 - Re-creation of the interests with a new document and deposited plan.
 - Plan can be made in order for dealings within a specified timeframe (usually 21 days from receipt of the Registrar’s letter) depending on the response from the interested parties.
 - If the surveyor provides evidence at the time of lodgement that the interested parties have consented to the use of Notation 4.1, with information about the proposed actions (if any) they are going to take, DLI will be able to make the plan in order for dealings without creating a Registrar’s Packet and without notifying the parties.
 - Where **notation 4.2** is used:
 - Create Registrar’s Packet as soon as possible after plan is lodged to hold affected certificates of title;

- DLI to seek confirmation from the registered proprietors of the benefited and burdened land that they have agreed to the resolution shown on the deposited plan.
- Plan can be made in order for dealings within a specified timeframe (usually 21 days from receipt of the Registrar's letter) depending on the response from the interested parties.
- If all consents have been lodged with the plan, the plan can be made IOFD in the normal process (without the need for a Registrar's Packet or contact with the land owners).

Note that the DLI actions concerning notification to the interested parties are concurrent with auditing of the plan and processing by WAPC. Unless there is a satisfactory reason for delaying the plan, it will be made in order for dealings after a specified date subject to it satisfying all other relevant conditions.

Notation(s) are to be included in the "comment" column of the Interests and Notifications Schedule if there is sufficient space available. Where there is insufficient space available in the Schedule of Interests then a reference (eg. "See note Z") in the "comment" column to the notation included in the graphical area of the plan may be used.

Surveyors **must** disclose the anomalous situation by recording the following information in a field book lodged at DLI;

- A sketch indicating where the error(s), omission(s) or discrepancies are situated;
- Details of any miscloses;
- A reference to the document(s) and/or certificate(s) of title where incorrect or discrepant information is recorded;
- Where the surveyor makes an assessment of the information and is able to resolve the problem, the field book must include a report on how the matter has been resolved;
- Where the surveyor makes an assessment of the information and is unable to resolve the problem, the field book must include a statement as applicable that it was impracticable or uneconomical to resolve the anomaly. The field book must also record how all boundary intercepts were determined.

There is a table at the Appendix that can be used as a ready reference for the types of anomalies that can occur and the various actions that need to be taken.

Contacts

The following details are provided to assist surveyors in making contact with the government agencies and corporate utilities that are parties to anomalous interests.

Alinta Gas

Ian Gill
Contracts & Resource Management
Alinta Network Services Pty Ltd
T 9486-3706
E ian.gill@alinta.net.au

Western Power

Peter Bloxsome
Engineering Officer
Environment and Land Management
T 9326 4686 F 9225 2078
E peter.bloxsome@westernpower.com.au

Kelly Young
Settlement and Conveyancing Officer
Environment and Land Management
T 9326 6730 F 9225 2057
E kelly.young@westernpower.com.au

Department of Agriculture

Veronica Newell
A/Project Officer
Office of the Commissioner
Soil and Land Conservation
T 9368 3282 F 9368 3654
E vnewell@agric.wa.gov.au

Heritage Council of Western Australia

George Poppas
Land Information Officer
T 9220 4114
E gpoppas@hc.wa.gov.au

Main Roads

Colin Nicholls
Land Project Coordinator
Property Management Branch
Main Roads Western Australia
T 9323 4333
E colin.nicholls1@mainroads.wa.gov.au

Water Corporation

Kim Rogerson
Manager Acquisitions
Corporate Real Estate Branch
T 9420 2963 F 9420 3730
E kim.rogerson@watercorporation.com.au

Department of Conservation and Land Management

Sophie Moller
Nature Conservation Covenant Coordinator
Locked Bag 104
BENTLEY DELIVERY CENTRE WA 6983
T 9334 0477 F 9334 0199
e-mail: sophiem@calm.wa.gov.au

Also, surveyors may contact Murray Dolling, Manager Survey Inspection, T 9273 7422 F 9273 7669 E murray.dolling@dli.wa.gov.au if they have any concerns or queries either about this matter in general or specific cases with which they are dealing.

BRUCE ROBERTS
REGISTRAR OF TITLES
13 January 2006

APPENDIX

The following table summarises the types of anomalies and the various actions that could occur.

Anomaly	Description	Surveyor	DLI	Interested parties
Type A	More accurate survey	Difference <1:500: Use guideline 1	Plan IOFD with no investigation or other actions	N/A
		Difference >1:500: use guideline 2	Manager Cadastral Plans to notify parties in appropriate cases	Response not sought or expected
Type B	Title right; Document right; Title not equal to document	Adopts document. Notifies DLI via Surveyor's Report of Type B anomaly	Difference <1:500: Plan IOFD with no investigation or other actions.	N/A
			Title wrong-Difference >1:500: Auditors check; Plan IOFD; notify parties; endorsement on title to refer to plan	Response not sought or expected
			Document wrong-Difference >1:500: Auditors check; notify parties; Plan IOFD; endorsement on title to refer to plan	Respond appropriately to advice from DLI
Type C	Title right; Document wrong; Title not equal to document	Adopts title. Notifies DLI via Surveyor's report of Type C anomaly	Difference <1:500: Plan IOFD with no investigation or other actions.	N/A
			Difference >1:500: Auditors check; Notify parties; Plan IOFD unless objection; endorsement on title to refer to plan	Respond appropriately to advice from DLI
Type D	Title wrong; Document right; Title not equal to document	Adopts document; Notifies DLI via Surveyor's report of Type D anomaly	Difference <1:500: Plan IOFD with no investigation or other actions.	N/A
			Difference >1:500: Auditors check; Plan IOFD; notify parties; endorsement on title to refer to plan	Response not sought or expected
Types E	Title wrong; Document wrong; Title equal to document	Difference <1:500: Use guideline 3	Difference <1:500: Plan IOFD with no investigation or other actions.	N/A
		Difference >1:500: Use guideline 4	If Notation 4.1: RP, Notify parties; Plan IOFD unless objection	Respond appropriately to advice from DLI
			If Notation 4.2: RP, Confirm resolution with parties, unless all consents with plan; Plan IOFD unless objection; endorsement on title to refer to plan	Respond appropriately to advice from DL

Type F	Title wrong; Document wrong; Title not equal to document	Difference <1:500: Use guideline 3	Difference <1:500: Plan IOFD with no investigation or other actions	N/A
		Difference >1:500: Use guideline 4	If Notation 4.1: RP, Notify parties; Plan IOFD unless objection	Respond appropriately to advice from DLI
			If Notation 4.2: RP, Confirm resolution with parties unless all consents with plan; Plan IOFD unless objection; endorsement on title to refer to plan	Respond appropriately to advice from DL
Definitions				
Right =	consistent within itself, closes, agrees with boundaries			
Wrong =	Inconsistent within itself; doesn't close; doesn't fit with boundaries; bearings, angles, distances, closes have errors/omissions			
Equal =	In agreement in every respect			
Not equal =	Differs in at least one respect			
RP =	Registrar's Packet			