

NOTICE TO SURVEYORS T3/98

ENCUMBRANCES OVER LAND VESTING IN THE CROWN UNDER SEC 20A OF THE TOWN PLANNING & DEVELOPMENT ACT (TP & D ACT) AND LAND BEING TRANSFERRED TO THE CROWN AND REVESTED

1. Before the introduction of the Land Administration Act of 1997 (LAA), land vesting in the Crown under Sec 20A of the T P & D Act and land being transferred to the Crown and revested, had to be clear of all encumbrances. However, now under Sec 82(1) of the LAA the Crown may revest land with or without encumbrances.

Where encumbrances, in particular easements exist or are proposed to exist on revested land and are considered by the Crown to be an acceptable interest in the revested land then they will now be allowed to be carried forward. The consent for these encumbrances to remain may be obtained on an individual basis by referral to the Land Administration Services Branch in DOLA for their consent as part of the planning process.

2. There has also been doubt as to whether notifications under Sec 12A of the T P & D Act and Sec 70A of the Transfer of Land Act (TLA) are deemed to be an encumbrance on certificates of titles. This has been of concern where land subject to such notifications is to vest in the Crown under Sec 20A of the T P & D Act.

The matter was referred to the Commissioner of Titles Mr John Gladstone who stated that in his legal opinion, notifications under Sec 12A of the T P & D Act and Sec 70A of the TLA are not encumbrances within the meaning of section 4 of the TLA. Therefore if such a notification exists on a certificate of title for land under subdivision, then this will be automatically carried forward by DOLA onto the new certificates of title.

**BARRY CRIBB
MANAGER
NEW TITLE SERVICES**

30 June 1998

ME31-98