

NOTICE TO SURVEYORS T4/2003

RURAL ROAD DEDICATIONS AND THE NON-EXTINGUISHMENT OF NATIVE TITLE

Subdivision K of the *Native Title Act 1993* (NTA) deals with the provision of facilities to the public and allows for the non-extinguishment of native title. In the past, DOLA has not used this particular Subdivision of the NTA because it deals with the construction of public facilities and not the granting of title. Road dedications have been processed under the public works provisions of the NTA as a compulsory acquisition.

About eighteen months ago, the Government convened a Technical Taskforce to consider native title procedures for processing mining tenements and land titles. The Taskforce comprised of mining interest groups, native title representative bodies and government agencies such as DMPR, Premier and Cabinet, and DOLA. The Technical Taskforce has completed its report and its recommendations are being considered by the Government. The recommendations on land titles generally call for greater use of Indigenous Land Use Agreements (ILUAs) and of the non-extinguishment principle. More specifically, it calls for greater use of the non-extinguishment principle under Subdivision K.

In support of the Technical Taskforce recommendations DOLA is commencing to use Subdivision K of the NTA and the non-extinguishment principle for rural road dedications.

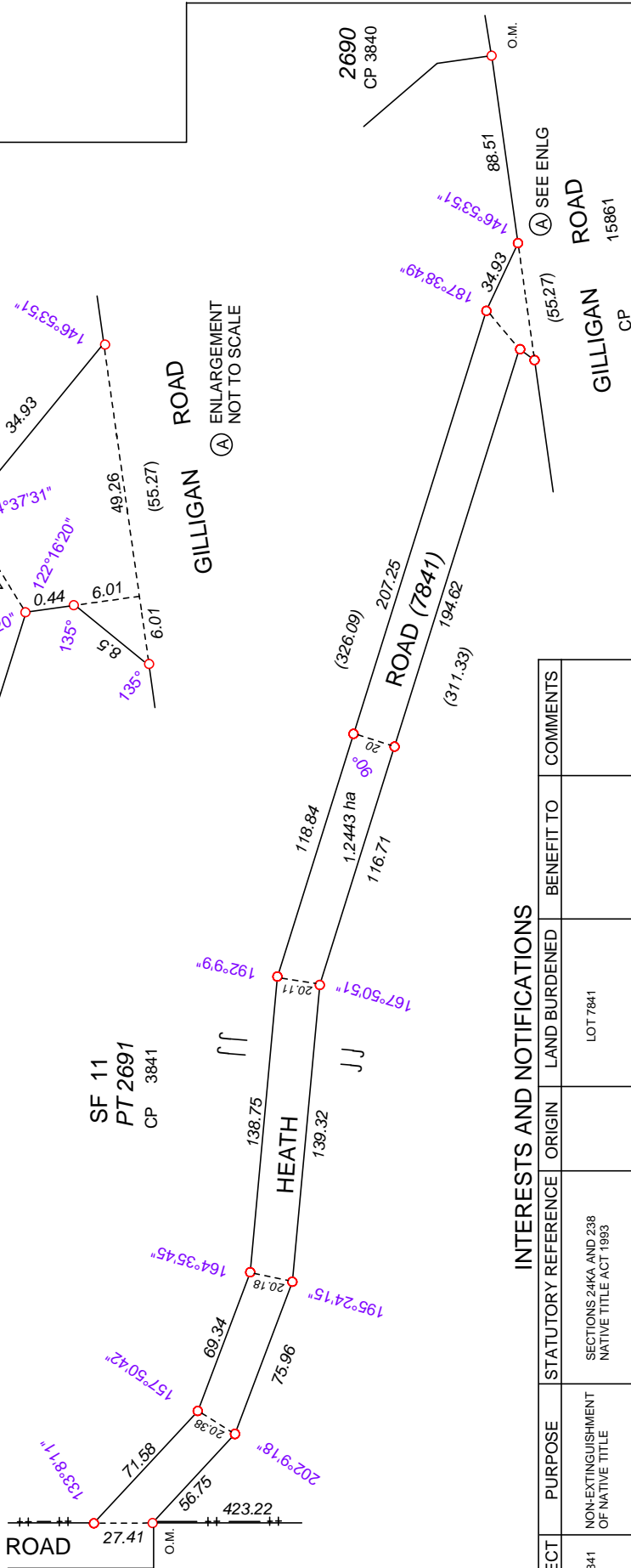
The non-extinguishment principle has been part of the NTA since the Act came into operation on 1/1/1994. Its main application lies within the mining industry where prospecting and exploration permits over Crown land are subject to the non-extinguishment principle. This means that during the currency of a permit, native title exists but is suppressed, and the rights held (the permit) take precedence. Once the permit expires, native title re-asserts itself and takes precedence. The same would now apply to road dedications. While the road is dedicated, native title would exist but the public's right to use the road and the ability for authorities to maintain the road would take precedence. Once the road, or portion of it, is closed it reverts to unallocated Crown land, native title re-asserts itself and takes precedence.

The attached plan example indicates how the non-extinguishment principle is to be depicted on deposited plans, within the Interests and Notifications schedule. Where a specific native title holder exists they should be shown in the "Benefit To" column.

IAN HYDE
REGISTRAR OF TITLES

28 February 2003

ED/VER.	AMENDMENT	BY	SIGNATURE	DATE



INTERESTS AND NOTIFICATIONS

SUBJECT	PURPOSE	STATUTORY REFERENCE	ORIGIN	LAND BURDENED	BENEFIT TO	COMMENTS
LOT 7841	NON-EXTINGUISHMENT OF NATIVE TITLE	SECTIONS 241KA AND 238 NATIVE TITLE ACT 1993		LOT 7841		

TYPE CROWN	DISTRICT WELLINGTON	TOWN SITE
PURPOSE ACQUISITION (ROAD)	DOLA FILE 01614-1992-01RO	LOCALITY
PLAN OF	LOCAL AUTHORITY SHIRE OF WAGIN	
FORMER TENURE PT LOT 2691 ON CP 3841 CLT 3317-778	ON INDEX WILGA (25) N.E. PUBLIC	FIELD BOOK 63256

SCALE: 1:3000 ALL DISTANCES ARE IN METRES	APPROVED	INSPECTOR OF PLANS & SURVEYS DATE
		AUTHORISED LAND OFFICER

WESTERN AUSTRALIAN PLANNING COMMISSION	IN ORDER FOR DEALINGS
FILE	SUBJECT TO
FOR CHAIRMAN	
DATE	

TYPE OF VALIDATION	DATE
FULL AUDIT	
LEGAL COMPONENT	
DOCKET PLAN/DIAGRAM	
CERTIFIED CORRECT	
F.S.C.	



DEPOSITED PLAN
EXAMPLE 60

SHEET 1	OF 1
EDITION 1	VERSION 1

INSPECTOR OF PLANS & SURVEYS	DATE
AUTHORISED LAND OFFICER	

INSPECTOR OF PLANS & SURVEYS	DATE
AUTHORISED LAND OFFICER	

SURVEYOR'S CERTIFICATE - Reg 54

EARLY ISSUE YES / NO

Completed

hereby certify that this plan is a correct representation of the survey and/or calculations in accordance with the provisions of the Survey Act 1985 and that it complies with the relevant written law(s) in relation to which it is lodged.

Date

hereby certify that this plan is a correct representation of the survey and/or calculations in accordance with the provisions of the Survey Act 1985 and that it complies with the relevant written law(s) in relation to which it is lodged.

Date

Licensed Surveyor