



NOTICE TO SURVEYORS T1/2012

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*.

STRATA PLAN ISSUES

The *Building Act 2011* (BA) and the *Building Regulations 2012* came into operation on 2 April 2012. The BA introduces significant changes on how Strata Plans and Strata Plans of re-subdivision are dealt with in the *Strata Titles Act 1985* (STA) and the *Strata Titles General Regulations 1996* (STGR).

1. Amendment to the Strata Titles Act

Section 174 of the BA sets out the consequential amendments to the STA. Part VIII of the BA also sets out the transitional provisions included in the STA as sections 133 to 136 inclusive. The key factors that surveyors must recognise as changes in the STA are as follows:

- Section 5B(2) is amended by deleting “by a certificate given by the local government in accordance with section 23” and inserting an **occupancy permit** or a **building approval certificate** mentioned in sections 50(1)(a) and 50(1)(b) respectively of the BA.
- Section 8A(f) is largely amended by deleting “by a certificate given by the local government etc” and inserting an **occupancy permit** or a **building approval certificate** mentioned in sections 50(1)(a) and 50(1)(b) respectively of the BA.
- In the case of merger of common property sections 21R and 21U are amended to include “a building permit under the *Building Act 2011*”.

Most significantly section 23 Certificate of Local Government is entirely deleted and therefore parts of sections 24 and 26 are either deleted or amended. The immediate impact for Surveyors is the deletion of the Form 7 from the STGR.

The BA introduces a range of new forms available at www.buildingcommission.wa.gov.au of which the following apply to strata subdivisions:

- Application Form BA11 – Application for **Occupancy Permit Strata**
- Application Form BA15 – Application for **Building Approval Certificate Strata**
- Permit Form BA12 – **Occupancy Permit Strata**
- Permit Form BA16 – **Building Approval Certificate Strata**

For all new applications to Local Government after 2 April 2012, either a BA12 or a BA16 will be required to accompany the Strata Plan depending on the Class of Building.

The BA inserts Part VIII into the STA as transitional provisions relating specifically to the lodgement of a Form 7 with Strata Plans and Strata Plans of re-subdivision. All existing

plans lodged for registration prior to 2 April 2012 will continue to require a Form 7, including plans with the status of:

- Subject to Examination;
- Certified Correct;
- Certified Correct and sent to WAPC; and
- In Order for Dealings pending Form 7.

Where an application for a certificate from Local Government precedes 2 April 2012 the requirement will be for the Local Government to sign a Form 7.

Landgate will require all **Occupancy Permits Strata** and **Building Approval Certificates Strata** to be delivered electronically in the same manner that Form 7 Certificates are currently received (as a pdf file either with the plan or with the application to register the plan).

The BA also deletes sections of the *Local Government (Miscellaneous Provisions) Act 1960*, in particular section 400 dealing with encroachments into Crown land. Section 76 of the BA deals with encroachments by consent or court order.

For encroachments into Crown land, surveyors must consult with the Department of Regional Development and Lands.

2. Amendment to the Strata Titles General Regulations

The *Strata Titles General Amendment Regulations 2012* were gazetted on Friday 13 April 2012.

The amended regulations may be accessed from the State Law Publisher website at <http://www.slp.wa.gov.au/gazette/gazette.nsf> after the date of gazettal.

Numerous chapters of the Strata Titles Practice Manual as well as flow charts and plan examples contained within the appendices of the manual will be amended to reflect the consequential changes required due to the BA.

Item 3.5 of the Surveyor's Report has been amended to include the BA12 **Occupancy Permit Strata** & BA16 **Building Approval Certificate Strata**. A quick link to "Surveyor's Report V2.16" has been added to the Survey Channel on MyLandgate. Please direct any queries to Cary Spann, Survey and Plan Consultant on 92737317.



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DELEGATE OF REGISTRAR OF TITLES

16 April 2012