

OUTCOMES FROM STAKEHOLDER WORKSHOP 2

Held Thursday 8th March 2012, 0930 – 1200
Ministry of Housing and Lands, Level 6, Ebene Tower, Ebene

1. CONTEXT FOR OUTCOMES FROM STAKEHOLDER WORKSHOP 2

Forty-two people attended Workshop 2, specifically invited, partly because of the limitation on numbers being restricted by the size of the available Meeting Room, and primarily due to the need for focused discussion on issues arising from the subject matters of:

- 1 Proposed draft survey regulations;
- 2 Proposed changes to survey practices;
- 3 LAVIMS and the newly Gazetted procedures and fees for the PIN.

Based on Workshop 1, the only new information put before Workshop 2 was the recent Gazetted Notice dated 3rd March 2012 that formalized procedures and fees for the PIN.

The main focus of Workshop 2 was (i) to provide further opportunity to raise any additional issues related to the consultation, being the subject matters identified above, and (ii) to allow continuation of the debate on issues identified at Workshop 1. It is noted that no written submissions were made to MHL directly using the consultation contact system publicised at Workshop 2. The MHL contact system was publicised again at Workshop 2 and is:

By Email: Iscadaastre@mail.gov.mu
By Fax: (230) 454 6389
By Mail: Cadastral Implementation Unit
 Ministry of Housing and Lands
 3rd Floor, Ebene Tower, Plot 52
 Ebene

The overall consultation strategy being used is to undertake Industry-wide Consultation, focused through two, and possibly three Stakeholder Workshops, by:

- i) basing each Stakeholder Workshop on the subject matter for the MHL Consultation Process, namely (i) Proposed Survey Regulations; (ii) Cadastral Survey Practices, and (iii) Procedures for the use of PIN;
- ii) inviting input and exploring the subject detail over a reasonable timeframe (at least 6 weeks) to give time for considered opinion;
- iii) working towards identifying options for achieving workable solutions and compromises to all matters raised; **and**
- iv) facilitating the highest level of consensus possible for ALL the issues.

Implementation of the Strategy is being achieved by providing the outcomes from each Workshop immediately after each event to the widest Stakeholder group possible. This then gives those relevant Stakeholders at least three distinct opportunities to raise issues (i) by

attendance and participation at the Workshops¹; (ii) by meetings and submissions directed through the professional bodies, or (iii) directly in writing - mail, Fax or Email - submitted to MHL.

2. Overall Perspective of the Outcomes from Workshop 2

Similar to Workshop 1, the outcomes from Stakeholder Workshop 2, based on input from the attendees, at was primarily consensual on the three topics. The issues discussed at the Workshop directly are summarised below.

3. Summary of Comments from Workshop 2

3.1. Proposed Survey Regulations

3.1.1. Legal land survey and the physical cadastre

Concern was raised that the consultation process on Survey Regulation and Survey Practice was about the physical aspect of land survey, eg use of coordinates or equipment use but cadastral surveying was more importantly about delivering the legal rights and entitlements of the owners as stated in the deeds AND examining the existing land marks and taking the most appropriate decision on what to adopt as starting point for boundary determination. This should be recorded and justification given on what the surveyor adopts in the course of his investigations.

The answer provided is that the whilst the surveyor must undertake his full duties in cadastral surveying, the component of that under discussion is the processes, documents (LS Plans, Memoranda of Surveys etc), and certifications that will be lodged at MHL and, after verification, entered into LAVIMS. These records, and those lodged at the Register Generals Department will represent the full duties undertaken by the land surveyor AND leave a cadastral fabric for future verification of that competent work for other land surveyors to use in the future.

3.1.2. Land Marks

Question – Will there be any standard landmarks to use for land surveys?

Answer - The regulations would cater for the types and specifications of land marks to be used for boundary points but some points that could be marked, such as traverse points, will be at the discretion of the surveyor, taking into account the local situation, eg fence lines and roads.

There will also be requirements on how existing land marks will be described in field notes and on plans, eg “gone”, or “not found”, or “not searched for” depending on the thoroughness of the searching for existing boundary marks.

3.1.3. Section 11 of Cadastral Survey Act 2011

¹Recognising that Workshop 2 was by direct invitation only, not open invitation, partly because of the restricted size of the venue.

Strong representation was made at Workshop 1 not to enact Section 11, Survey Reports. There was no dissenting view expressed at that time supporting the retention of Section 11.

After discussion at Workshop 2 on a number of points, such as

- The establishment of the landmarks (boundary marks) under Section 11 of CSA would go against Section 9 of CSA which states that boundary marks should be established in the presence of adjoining owners, according to survey regulations survey should be to a certain accuracy (dimensions and area) then the word approximate extent does not apply.
- Regardless, some uses for surveys under Section 11 were suggested, such as preliminary surveys done prior to full land surveys.
- The Notary takes approximate survey as genuine in the boundary determination and for drawing up of deeds for land transactions and does not inform his clients about the issues involved when using such a plan.
- It was proposed that notaries would not use survey done under Section 11 to prepare deeds and that memorandum should be used as binding.
- The survey does not affect the updating of the cadastre.

In view of the issues raised about Section 11, *Survey Reports*. A Working Group consisting of Messrs Topsy, Nahaboo and Ramlakhan has been set up to examine the matter, to propose options to resolve the matter and to make a recommendation as for the preferred option. A report back to MHL from the Working Group is expected in two weeks.

3.2. Land Survey Practice

3.2.1. Geodetic Control

Question – what is the time frame for the availability of the tertiary controls and the availability of that information online.

Answer - This would be made available in about two years and online facility would be provided. The traverse adjustment facility available in survey equipment would be acceptable to MHL however Quality checks would be carried out on the data before it is included in the list of control points. The data format for submission of the traverse data would also have to be finalised.

3.2.2. Equipment Calibration

EDM/Total Station - One proposal was to establish a system of baseline pillars at a secure site that was likely to remain undisturbed. MHL could provide the calibration of the baseline itself and software that analysed measurements taken on the baseline to

verify the instrument under test, met prescribed accuracy for use on cadastral surveys. The software would be updated by MHL after every calibration of the baseline.

A land surveyor could use the baseline to calibrate her/his EDM/Total Station using prescribed methods issued by the Chief Surveyor. This would involve measuring all inter-pillar distances from every pillar. The surveyor would also undertake the analysis of her/his instrument measurements. The measurement data would be uploaded into the baseline software, adjusted, checked for precision and checked for accuracy against the known MHL baseline calibration distances. If the instrument met all the required standards imposed in the software, then certifying certificate could be generated by the surveyor.

For calibrating survey quality tapes a tape-testing facility would have to be established and calibrated by the appropriate authority. The organization having the facility would have to carry out the calibration on behalf of the surveyor, presumably on a fee-for-service basis.

The validity of the calibration would be from 1 or 2 years depending on the requirements established under existing legal metrology Acts.

An instrument that is damaged and/or is sent for repairs must be re-calibrated immediately after either of those events.

Up to this point in time there is no known case where calibration of equipment has been considered in the settlement of land disputes.

3.2.3. Coordinated Survey

Question - Why are only some surveys need to be coordinated and others not? The unavailability of control points is the major constraint in that, we moving towards coordinated cadastre.

Answer - Survey practices cannot be changed in just a short time, surveyors need to be given time to invest in equipment.

Proposals were made to remove value added tax (VAT) on survey equipment plus levy of any other taxes that are imposed on survey equipment. The onus lies on the Ministry of Finance.

LAVIMS orthophoto are too expensive- Rs 50 000 for the whole island, proposal were put forward to obtain better rates for private surveyors. The LAVIMS system would be made available at the CIU for use by private surveyors.

3.3. Board of Surveyors

3.3.1. The Term Board vs Council

It was recommended at Workshop 1 that the proposed “Board of Surveyors” be a “Council of Surveyors”. Subsequent research showed that internationally a “Council” was an advisory body with no legal responsibilities for advice given, whilst a “Board” was established to implement its role. A check with State Law indicated that this is also the situation in Mauritius in respect of the definition of the two terms. The matter will in all likelihood be decided by the legislative experts in the process.

3.3.2. Composition of the Board

This remains an issue. It was decided that a copy of the Board of Surveyors Bill would be made available to the surveyors either on a website or by email so that comments can be received.

Discussion was around the inclusion of the SLO, or magistrate, representative of educational institution and representatives of notaries as members of the board.

3.3.3. Competency Requirements for Admission as a Land Surveyor

Admission is currently allowed after a candidate undertakes a cadastral survey of about 150 Arpents. It was proposed that this could be changed to involvement of the surveyor in survey works and annual review of her/his competency before being admitted as a land surveyor. It was unanimously agreed that some sort of competency test should be carried out before being admitted as practicing land surveyor as an academic qualification/s only is not sufficient.

3.3.4. Upgrade Existing UoM Diploma to a BSc

It was proposed to upgrade the existing University of Mauritius Diploma to a BSc course. However the cost of that to the university is high, MUR 8M or more and student numbers don't support that level of investment. Legal implications have to be investigated. The matter needs consideration by the profession, in consultation with all relevant stakeholders. A Working Group of land surveyors could be formed to do this. There was no resolution to this matter coming from the deliberations of Workshop 2.

3.3.5. Standardised Land Survey Fees

Should the fees of surveyors be standardised? There are different types of surveys and the steps involved in each needs to be rationalized before a consensus can be reached about surveyors fees.

3.4. Proclamation of Procedures and Fees for the PIN

3.4.1. Public Awareness Campaign

The use of PIN has been proclaimed as a GN of 3rd March 2012. It was strongly suggested that MHL should now formally notify members of the public of the requirements on land surveyors for the use of PIN and that a fee for PIN is applicable and that survey fees would eventually increase.

4. Actions Arising

Actions arising from Workshop 2 were noted in the Summing Up as being:

- i) Formulation of a Working Group to make a recommendation, within 2 weeks (ie by 22 March 2012), on the issues identified in respect of Section 11 of the Cadastral Survey Act 2011.
- ii) First Order geodetic control point list to be posted on the MHL website.
- iii) A draft copy of the proposed Survey Regulations to be posted on the MHL website.
- iv) A group email to be sent by MHL with a copy of the following information:
 - Gazettal of the PIN
 - Draft of the establishment of a Board of Surveyors
 - Application for PIN Form
- v) Education and Qualifications for Land Surveyors – some input might be expected but noting that no formal decision was taken for this to be undertaken.

5. Other Matters – LAVIMS OPEN DAY

There was an announcement by MHL that a LAVIMS OPEN DAY will be organized for 17th and 19th March 2012 from between 0900 hours and 1700 hours. It will be held on the Ground Floor of the MHL Building and will showcase the Geodetic Network and LAVIMS.