



National Parliament of Solomon Islands

Bills and Legislation Committee

# Committee Report

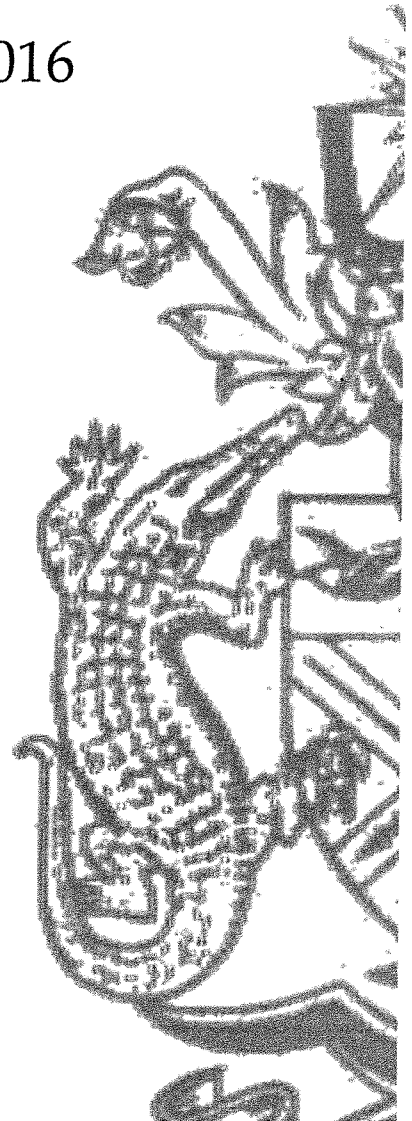
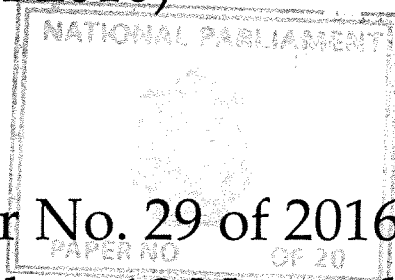
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Report on the Land Surveyors Bill 2016  
(No. 10 of 2016)

NP-Paper No. 29 of 2016

Presented on 18 November 2016

National Parliament Office



## COMMITTEE MEMBERS

The current members of the Bills and Legislation Committee (10<sup>th</sup> Parliament) are:

Hon. Connelly Sandakabatu, MP (Chairman)

Hon. Jeremiah Manele, MP

Hon. Dr Derek Sikua, MP

Hon. Rick Houenipwela, MP

Hon. Matthew C. Wale, MP

Hon. Dr Culwick Togamana, MP

Hon. Steve Abana, MP

Hon. Commins A. Mewa, MP

Hon. Peter Tom, MP

Hon. Namson Tran, MP

### Secretariat:

Mr Wilson Anii

Ms Vanessa Rodie

### Contacts

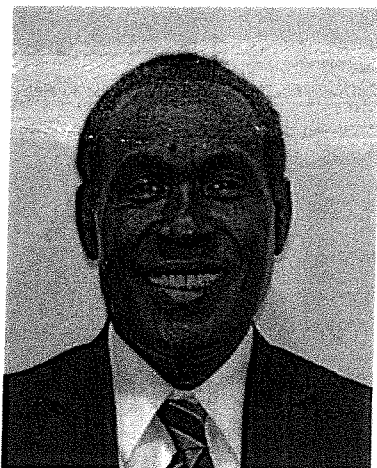
Bills and Legislation Committee  
National Parliament of Solomon Islands  
P O Box G19  
**HONIARA**

Website: [www.parliament.gov.sb](http://www.parliament.gov.sb)

Telephone: (677) 24323

Facsimile: (677) 23080

## CHAIR'S FOREWORD



Hon. Connelly Sandakabatu, MP  
Chairman  
Bills and Legislation Committee

## REPORT OF THE BILLS AND LEGISLATION COMMITTEE

Mr. Speaker,

Pursuant to Standing Orders No. 71 (g) of the National Parliament of Solomon Islands, it is an honour and pleasure for me Sir, to present the Report of the Bills and Legislation Committee on the Inquiry into the **Land Surveyors Bill 2016** for laying before Parliament.

A handwritten signature in dark ink, appearing to read 'Connelly', with a large, sweeping loop above the name.

Hon. Connelly Sandakabatu

Chairman

Bills and Legislation Committee

17<sup>th</sup> November, 2016

## COMMITTEE FUNCTIONS

The Committee is established under *Standing Order 71*; an Order made pursuant to the *Constitution*<sup>1</sup> and has the functions, together with the necessary powers to discharge such, to:

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and
- (g) Make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee's deliberations.

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<sup>1</sup> Section 62, Constitution of Solomon Islands 1978.

## EXECUTIVE SUMMARY

The Land Surveyors Bill 2016 ('The Bill') seeks to regulate the practice of land surveying. The Bill does this by repealing the *Land Survey Act [Cap 134]*.<sup>2</sup> It introduces new processes for the registration and licensing of surveyors. It establishes a Board of Surveyors and creates an Association of Surveyors (with its council). The Bill also contains processes for appealing against the decisions of the Board or the Council. The Minister can also provide regulations on procedures, fees and other matters.

The Committee recommends the establishment of an Appeals Tribunal to assist the Minister to consider appeals.

The Committee believes this Bill is a step forward in properly administering and ensuring consistency with modern-day land survey practices within the Surveying profession. The Committee commends this Bill to the House.

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<sup>2</sup>Land Surveyors Act [Cap. 134], 1915

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## 1.0 INTRODUCTION

This Report contains the findings and recommendations of the Bills and Legislation Committee ('the Committee') after having reviewed the Land Surveyors Bill 2016 ('the Bill') as required under the *Standing Orders of the National Parliament of Solomon Islands* ('the Standing Orders').

The Bill was submitted on 12 October, 2016 to the Speaker through the Clerk to Parliament as required under the *Standing Orders*<sup>3</sup>. The Committee deliberated and resolved to conduct an inquiry into the Bill whereby relevant stakeholders<sup>4</sup> were invited to appear before the Committee and make presentations on the contents, policy matters, and intentions of the Bill.

Hearings into the Bill were held on 26 October, 2016 at the National Parliament Building. The List of witnesses that appeared before the Committee and minutes of these proceedings are contained in Appendix 1 and 2 respectively.

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<sup>3</sup> *Standing Order* 44 (1)

<sup>4</sup> See Appendix 1

## 2.0 BACKGROUND INFORMATION

The Land Surveyors Bill 2016 ('the Bill') was proposed by the Ministry of Lands, Housing and Survey ('The Ministry'), and seeks to repeal the principal *Land Surveys Act (Cap. 134)*. The principal Act, an Act for the regulation of land surveyors and surveys, was first introduced to the Solomon Islands in 1915, making the current existing legislation out-dated and inconsistent with modern-day survey practices.

The main features of the Bill are highlighted in the following sub-sections.

### 2.1 Surveyors Board

The Bill proposes structural reforms by separately addressing the registration and licensing of Surveyors. It establishes a Surveyors Board ('the Board'), mandated to consider applications for the *registration*<sup>5</sup> of a surveyor.<sup>6</sup> The membership of the Board comprises of the Surveyor-General who is ex-officio Chairperson, and four appointed registered surveyors serving a term of three years.<sup>7</sup> There is also a disclosure of interest provision in the bill, and further avenues for the Board to request external assistance by engaging an appropriately qualified professional to assist the board in pursuit of its mandated functions.<sup>8</sup>

### 2.2 Association of Surveyors

The Bill also proposes the establishment of an Association of Surveyors ('the Association') with its own Council ('the Council'), responsible for issuing *practising licenses*<sup>9</sup> to registered-approved surveyors. Membership of the Association consists of licensed surveyors and other classes of non-licensed surveyors.<sup>10</sup> The Bill also provides for the Association to establish its own committees to perform specific functions. The Association is empowered to set its own rules and procedures.<sup>11</sup>

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<sup>5</sup> See definition of term "registration", Land Surveyors Bill 2016, p1

<sup>6</sup> Clause 6, Function of Board, Land Surveyors Bill 2016

<sup>7</sup> Clause 7, Membership of Board, Land Surveyors Bill 2016

<sup>8</sup> Clause 13, External assistance to Board, Land Surveyors Bill 2016

<sup>9</sup> See definition of term "practising licence", Land Surveyors Bill 2016, p1

<sup>10</sup> Clause 15 (3), Membership, Land Surveyors Bill 2016

<sup>11</sup> Claus 17-18, Association Committee & Association Rule, Land Surveyors Bill 2016



## 2.3 Appeals Process

Decisions of the Board and Council may be appealed to the Minister. The Bill makes it an offence for an unlicensed surveyor to practice as a surveyor, and sets out commensurate penalties.<sup>12</sup> The Bill restricts appeals to the Court only to questions of law.<sup>13</sup>

## 2.4 Regulations

The Bill empowers the Minister to make regulations governing the procedures, fees and qualification requirements of surveyors.<sup>14</sup>

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<sup>12</sup> Part 7, Clause 33-34, Land Surveyors Bill 2016

<sup>13</sup> Ibid

<sup>14</sup> Clause 38, Land Surveyors Bill 2016

## 3.0 ISSUES DISCUSSED

The Committee made the following observations:

### 3.1 Surveyors Board

Part 2 of the Bill proposes the establishment of a Surveyors Board mandated to consider applications for registration. The composition of the Surveyors Board comprises of the Surveyor General as Chairman, with four registered Surveyors as members of the Board.<sup>15</sup>

#### Disclosure of Interest

Clause 12 of the Bill outlines the process for the disclosure of interest by Board Members.<sup>16</sup>

The Committee appreciates the requirement outlined in the Bill, that a Member recuse him/herself from proceedings of the Board when dealing with a matter he/she has an interest in.

The Committee is concerned that '*the disclosure of interest*' provision in clause 12 of the Bill on its own does not address the impartiality of the Board in dealing with matters in which a member may have a conflict of interest in.

### 3.2 Review and Appeals Process

Clause 33 of the Bill provides for applicants to appeal reviewed decisions made by the Board or Council. Similarly, Clause 34 allows applicants to seek appeal decisions made by the Minister to the High Court on a point of law.

#### Review by Minister

Clause 33 of the Bill provides an avenue for applicants' to request the Minister<sup>17</sup> to *review* decisions made by the Board and the Council. Under this provision, the Minister has the discretion to confirm, vary or make a new decision.<sup>18</sup>

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<sup>15</sup> Clause 7, Membership of the Board, Land Surveyors Bill 2016

<sup>16</sup> Clause 12, Disclosure of Interest, Land Surveyors 2016

<sup>17</sup> Minister of Lands, Housing and Survey

<sup>18</sup> Clause 33 (3), Land Surveyors Bill 2016

The Committee is concerned that the Ministerial discretion provided in Clause 33 may not be the most transparent mechanism for review. Furthermore, there is need for a technical body to assist and advice the Minister in making decisions.

In their evidence, the practising surveyors expressed strong concerns on the potential for abuse of *review powers* by the Minister.

### **Recommendation 1**

The Committee recommends as follows;

a) That a technical advisory committee be established as an advisory to the Minister in the exercise of his review power if the Minister's role in reviewing decisions is retained.

Or

b) That an Appeals Tribunal replaces the Minister in dealing with reviews.

## **3.3 Regulations**

Clause 38 of the Bill has provisions for the Minister<sup>19</sup> to make regulations pertaining to fees for Government-related surveys, qualifications for registering as a surveyor, and the procedures for disciplinary actions.<sup>20</sup>

### **Accompanying Regulations**

The Ministry informed the Committee during the hearing that draft regulations are in place. The draft is derived from previous consultations the Ministry held with registered surveyors on the three mentioned features of the regulations.<sup>21</sup>

The Committee commends the Ministry for promptly organizing consultations with registered surveyors to gather feedback on their perceptions regarding the regulations. However, the Committee raised concerns on the Ministry's progress in producing regulations to accompany the Act. The Committee also stresses that it is vital for regulations to accompany the proposed Bill to ensure the effective implementation of the proposed legislation.

<sup>19</sup> Minister of Lands, Housing and Survey

<sup>20</sup> Clause 38, Land Surveyors Bill 2016

<sup>21</sup> Mr Alan McNeil, Ministry of Lands, Housing and Survey, Evidence, 26 October 2016

### **Recommendation 2**

The Committee recommends that the Ministry of Lands, Housing and Survey conduct consultations with stakeholders from both the public and private sector in preparing the regulations to ensure the effective implementation of the proposed Bill.

### **Code of Conduct for Public Officers who are Surveyors**

The Committee is concerned on the following practices by Government surveyors working in the Ministry;

- Cases of Public Officers who use Government-owned equipment for private work;
- Cases of Public Officers who do private survey work during office hours;
- Whether Public Officers should be allowed to do private survey work.

The Ministry informed the Committee that there are ethical and professional regulations and standards of conduct in place that Surveyors are expected to comply with to maintain a standard of professionalism in their work. The Ministry further expressed that the misuse of Government equipment for private work is greatly discouraged and should be reported to the Ministry to take disciplinary action on.<sup>22</sup>

### **Recommendation 3**

The Committee recommends the following:

- a) Proposed regulations to the Bill clarify the expected conduct for Public Officers who are registered and licensed Surveyors;
- b) Public Officers maintain ethical and professional standards during the course of their work and not engage in private survey work.

### **Re-registration of De-registered Surveyors**

The Bill has provisions for the Council to take disciplinary action against a licensed surveyor, including the amending, suspending or cancelling of a license.<sup>23</sup> Furthermore, Clauses 31 and 32 of

<sup>22</sup> Mr Stanley Wale, Ministry of Lands, Housing and Survey, Evidence, 26 October 2016

<sup>23</sup> Clause 26, Disciplinary License, Land Surveyors Bill 2016

the Bill creates offences for unlicensed persons practising as a surveyor, and also set penalties for any breach of this law.<sup>24</sup>

The Committee is concerned that the Bill contains no provisions to regulate the re-registration of a previously de-registered surveyor.

The Ministry clarified that there are no provisions in the Bill that would prevent any individual from reapplying, even if they were serving imprisonment, or paying a hefty fine. However, the Ministry assured the Committee that these grounds are left open and it would be the discretion of the Board and the Council to consider the grounds if they were to re-register an applicant who had previously been de-registered.

#### **Recommendation 4**

**The Committee recommends that the Ministry of Lands, Housing and Survey includes an amendment to the Bill to regulate the re-registration of a previously de-registered surveyor.**

### **3.4 Other Issues Discussed**

#### **Skills-Gap in Surveying**

Concerns were raised on the training opportunities made available to train potential surveyors. The Ministry was asked to inform the Committee on the country's current status in the training of surveyors and the institutions.

The Ministry informed the Committee that there are currently approximately 28 registered surveyors in the country. The Ministry also stated that Certificates in Surveying are offered by the Solomon Islands National University. Furthermore, Degrees in Surveying are obtained from other regional institutions in Papua New Guinea, Fiji, Australia and New Zealand.<sup>25</sup>

<sup>24</sup> Clause 31-32, Offences, Land Surveyors Bill 2016

<sup>25</sup> Mr Stanley Wale, Permanent Secretary, Ministry of Lands, Housing and Survey, Evidence, 26 October 2016

The Committee is concerned on the limited training opportunities available in the field of surveying. The Committee also understands that there is a skills-gap in the surveying profession that needs to be identified and addressed to create more training opportunities in the surveying profession.

#### **Recommendation 5**

**The Committee recommends that the Ministry of Lands, Housing and Survey identify the skills-gap in the land surveying profession; and liaise with the Board of Surveyors and the Association of Surveyors (*with its Council*), in addressing the required training capacity.**

#### **Consultations with Relevant Stakeholders**

The Ministry informed the Committee that the proposed Bill is the result of extensive consultations with registered surveyors both in the public and private sector in the attempt to review and improve the standard of the surveying profession. The Ministry further elaborated that the structural changes and processes introduced would allow for more certainty and consistency.<sup>26</sup>

However, the Committee was disappointed to note that the Honiara City Council had not been consulted on the Bill and were not able to thoroughly discuss their views on the proposed Bill.<sup>27</sup>

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<sup>26</sup> Mr Stanley Wale, Permanent Secretary- Ministry of Housing, Land and Suvery, *Evidence*, 26 October 2016

<sup>27</sup> Mr Paul Inifiri, Honaira City Council, *Evidence*, 26 October 2016

## 4.0 RECOMMENDATIONS

At the Conclusion of the hearing and based on the evidences collected during the hearing, the Committee makes the following recommendations;

### Recommendation 1

The Committee recommends as follows;

a) That a technical advisory committee be established as an advisory to the Minister in the exercise of his review power if the Minister's role in reviewing decisions is retained.

Or

b) That an Appeals Tribunal replaces the Minister in dealing with reviews.

### Recommendation 2

The Committee recommends that the Ministry of Lands, Housing and Survey conduct consultations with stakeholders from both the public and private sector in preparing the regulations to ensure the effective implementation of the proposed Bill.

### Recommendation 3

The Committee recommends the following:

a) Proposed regulations to the Bill clarify the expected conduct for Public Officers who are registered and licensed Surveyors;

b) Public Officers maintain ethical and professional standards during the course of their work and not engage in private survey work.

### Recommendation 4

The Committee recommends that the Ministry of Lands, Housing and Survey includes an amendment to the Bill to regulate the re-registration of a previously de-registered surveyor.

### Recommendation 5

The Committee recommends that the Ministry of Lands, Housing and Survey identify the skills-gap in the land surveying profession and liaise with the Board of Surveyors and the Association of Surveyors (*with its Council*), in addressing the required training capacity.



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END OF REPORT



## 5.0 APPENDICES

### Appendix 1: Witnesses

Date	Name	Position & Organisation
Wed 26 October 2016	Mr Stanley Waleanesia,	Permanent Secretary, Ministry of Lands, Housing and Survey
	Mr Allan McNeil,	Chief Technical Advisor, Ministry of Lands, Housing and Survey/ SPC
	Ms Catriona Steele,	Legal Draftslady, Attorney General's Chambers
	Mrs Mary Tegavota	Chief Legal Officer, Ministry of Lands, Housing and Survey
	Mr Jimmy Ikina	Surveyor General, Ministry of Lands, Housing and Survey
	Mr Nelson Naoapu	Commissioner of Lands, Ministry of Lands, Housing and Survey
	Mr Alphonsus W. Osifo'oa	Assistant Director- Physical Planning, Ministry of Lands, Housing and Survey
	Mr Leslie Volalia	Assistant Surveyor General, Ministry of Lands, Housing and Survey
11:30am	Mr Paul Inifiri	Honiara City Council
	Mr Japhet Tuhanku	Honaira City Council
1:00pm	Mr Alfred Soaki	Principal Officer, AZIMUTH Survey
	Mr Domic Voese	Surveyor, AZIMUTH Survey
	Mr Douglas Buga	Principal Surveyor, Solomon Islands Survey and Land Consultant Services
	Mr Peter Livuna	Surveyor Manager, LBS Engineers
	Mr Anderson Konole	Registered Surveyors, LBS Engineers

## Appendix 2: Minutes of Proceedings



NATIONAL PARLIAMENT OF SOLOMON ISLANDS

BILLS AND LEGISLATION COMMITTEE

P.O. Box G19,  
Honiara.  
Tel: 28520/23424.  
Fax: 24272

### Minutes of Proceedings Committee Hearing into the Land Surveyors Bill 2016

Day 1/Wednesday 26 October 2016, CR II, Parliament House 9:00am.

#### 1. Members Present

Hon Connelley Sandakabatu, Chairman  
Hon Jeremiah Manele, MP  
Hon Dr Derek Sikua, MP  
Hon Matthew Wale, MP  
Hon Dr Culwick Togamana, MP  
Hon Commins Aston Mewa, MP

#### Committee Secretariat

Mr Wilson Anii  
Ms Vanessa Rodie

#### 2. Welcome and Opening Remarks

The Chairman made opening remarks and welcomes the Permanent Secretary (PS) and other officials from the Ministry of Lands, Housing and Survey (MLHS), and the Attorney Generals Chamber. He then invited the PS to introduce his group and make his presentation.

#### 3. Committee hearing into the Valuers (Amendment) Bill 2016

The Hearing proper commenced and the following witnesses were admitted:

##### Hearing 1 Witnesses

Mr Stanley Waleanesia,	Permanent Secretary, Ministry of Lands, Housing and Survey
Mr Allan McNeil,	Chief Technical Advisor, Ministry of Lands, Housing and Survey/ SPC
Ms Catriona Steele,	Legal DraftsLady, Attorney General's Chambers
Mrs Mary Tegavota	Chief Legal Officer, Ministry of Lands, Housing and Survey
Mr Jimmy Ikina	Surveyor General, Ministry of Lands, Housing and Survey
Mr Nelson Naoapu	Commissioner of Lands, Ministry of Lands, Housing and Survey
Mr Alphonsus W. Osifo'oa	Assistant Director- Physical Planning, Ministry of Lands, Housing and Survey
Mr Leslie Volalia	Assistant Surveyor General, Ministry of Lands, Housing and Survey

The PS with assistance from the AG Chambers made their presentation before the committee. The Committee questioned the PS, other MLHS officials and the Legal Draftsman on the content of the Bill.

The PS and his officials answered, made clarifications and commented on the Bill.

