



rural development
& land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

DRAFT MINUTES

CADASTRAL CONFERENCE HELD ON 10 MARCH 2020

1. OPENING AND INTRODUCTION

Mrs Mdubeki opened the meeting at 09:30, welcomed all delegates and requested that a moment of silence be observed. All delegates introduced themselves.

ATTENDANCE

See Attendance Register

2. APOLOGIES:

Mr R Matthys	Deputy Registrar of Deeds: OCRD
Mr N Mantanga	Registrar of Deeds: KWT/Mthamtha
Mr D Fatyela	Deputy Registrar of Deeds: KWT
Mr G Gabara	Deputy Registrar of Deeds: Mpumalanga
Mr A Parker	(A) Chief Director: NGI
Ms N Monyake	Surveyor-General: KZN (delayed)
Mr P Moshodi	Registrar of Deeds: Pietermaritzburg (delayed)
Mr Mereko	Deputy Registrar of Deeds: Pietermaritzburg (delayed)
Mr B Steenkamp	Deputy Surveyor-General: Bloemfontein
Ms Hoko	Deputy Registrar of Deeds: Cape Town
Mr J Hlatshwayo	Chief Director: OCRD
Mr Bester	Law Lecturer
Mr F Ndlovu	Deputy Registrar of Deeds: Pretoria

3. ADOPTION OF MINUTES OF CONFERENCE HELD ON 06 MARCH 2019

Mr Williams-Wynn motioned for the adoption of Minutes of the 2019 Conference with amendments and was seconded by Mr Constable.

4. DECISIONS REGISTER OF 2019

Ms Reynolds clarified that what has been circulated is not a decisions register but Conference Resolutions which members agreed at the previous meeting that it should be published with resolutions dating back from 2014. In response to Ms Reynolds enquiry on whether the Resolutions were published on the Deedsweb, Mr Shoko responded that they have not and undertook to expedite the process of publication.

- *Mr Shoko to expedite the publication process of the resolutions on the Deedsweb.*

Item 5.1- (Property Description) Updating of Deeds Practice Manual

Ms Reynolds reported that the matter is registered for discussion in today's meeting as item 6.4.

Item 5.5- Name changes effected by SAGNC (Meeting between relevant stakeholders)

Ms Reynolds reported that a meeting between OCRD, SG, Deeds, SAGNC, Tshwane Municipality, and that the meeting resolved that SAGNC was to lead the process of amending some legislation. Mr Tsotetsi added that he had made several follow ups and it seems that SAGNC is no longer interested in pursuing the matter. Elbe clarified that there is nothing outstanding from the Deeds and SG side on this matter, as it emanated from the change of names that the Johannesburg Municipality effected. From the meeting they were informed that they cannot effect such changes, they need to adhere to the general plans, and as such they reverted to the previous naming.

- *Ms Knoesen recommended that there be a decisions register for all Cadastral Conferences and encouraged that Secretariat makes follow up on the action items.*

Item 6.1- Diagram of a real right of extension

- *Registrars Conference Resolutions are to be circulated to Branch: NGMS.*

Item 6.15 - amendment to sectional scheme by addition of Common Property building

Mr Williams-Wynn stated that it was an oversight from him to not have registered the item for the 2019 Registrars Conference.

- *Mr Williams-Wynn to register the matter as an agenda item in the 2020 Registrars Conference.*

Item 6.21- Consent for leases and Servitudes (Refer to SPLUM for resolution)

- *Mrs Mdubeki apologised for the OCSG's oversight on this matter, and undertook to provide feedback to the Committee as soon as the matter has been dealt with.*

5. CONSTRUCTING THE AGENDA

Item 8 (Closure) was amended to 9, to accommodate the item on reporting back on the Land Administration study tours.

Ms Hurter moved for the adoption of the Agenda with additions and was seconded by Mr Williams-Wynn.

6. DEEDS REGISTRATION BRANCH ITEMS

6.1. Data cleansing: Project scope and support (OCRD)

Ms Knoesen introduced the item by stating that it is a subproject of the Electronic Deeds Registration Deeds project and that it requires specific data standards to be agreed upon between Deeds Registration and NGMS Branches. The purpose of the project is to improve the quality of all cadastral information.

The meeting noted the presentation by Ms Frazenburg.

Comments after the presentation:

- The project is welcomed and supported by most members.
- The definition of double registration in the context of clean-up must be explained and there was a further proposal to amend “double registration” to “multiple registration” as there may be more than two registrations. Ms Frazenburg noted the comment and stated that they will consult with the various stakeholders in order get the correct definition of double registration.
- It is critical to create new ways of avoiding errors rather than correcting them only.

6.2. Alignment: Change of municipal boundaries before every local government election. (OCRD)

Ms Knoesen stated that this matter requires the Committee to make a decision, as changes to municipal boundaries takes place which at times create an error on the data. It is not feasible for Deeds Registration to undertake a realignment process every time there is changes in Municipal boundaries and further that she is not aware of any available channel that may be utilized by NGMS to inform DR of changes effected by the Municipal Demarcation Board (MDB).

Comments:

- Mr Dlamini informed the meeting of a Technical Structure developed by the MDB and he is currently part of the said forum, and perhaps DR must be represented at the said structure. He further stated that OCSG’s implementation of changes on boundaries is informed by gazettes found on the MDB website and as far as he knows SG offices do inform Registrars of such changes, and that there is a need for a formal standard procedure to be followed by the two Branches.
- Mr Williams-Wynn referred the meeting to Regulation 19 (1) (n) of the Land Survey Act requires a diagram to contain the description of the province, Local authority etc. in the designation, which then places an obligation on the SGs to maintain their records whenever there is changes.

Resolution:

- *Decisions taken at the Municipal Demarcation Board around municipal boundaries are to be communicated to Deeds Registration.*
- *The data standards rules of the data cleansing project should consider having a standard rule relating to this matter.*

- *Deeds Registration to be represented at the Municipal Demarcation Board's Technical Committee.*
- *NGMS will continue to engage with MDB regarding representation in the Board, while an attempt to engage with COGTA/SALGA on the process to be followed in obtaining the information, as they are responsible for changes in provincial boundaries.*

6.3. EDSRS interfacing requirements to Cadastral Information System and visa versa (Information Exchange) (OCRD)

The meeting noted the presentation by Mr Shoko.

Resolution:

- *Mr Dlamini is to circulate to SGs the information on registrations received from Deeds, in order for them verify and to add any other detail that is not include. It was further agreed that the process of Registrars sending registration notification letters continues until such time that the proposed electronic mechanism has been fine-tuned and well documented.*

6.4. FROM REGISTRARS CONFERENCE 2019:

Re Item 3 of Cadastral Conference, 2019:

- *Registrars Conference does not agree with the resolution taken at the Cadastral Conference. The said resolution must be referred back to the Cadastral Conference for withdrawal.*

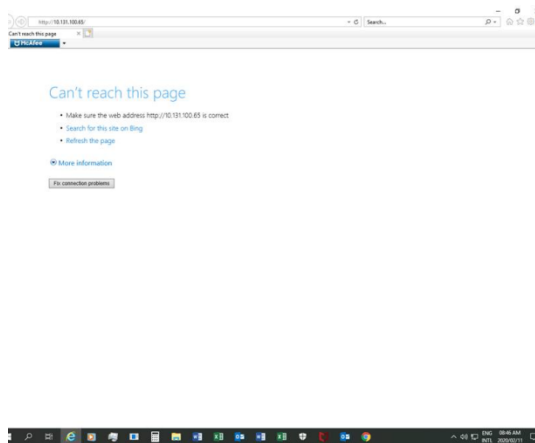
3	<p>17. Property Description in Title Deed: (Cape Town Deeds Registry)</p> <p>The whole of Erf 86 Jagtershof has been subdivided into erven 87 and 88 Jagtershof with duly approved diagrams for the aforesaid erven. Instead of transferring "Erf 88 Jagtershof" representing the Remainder of Erf 86 Jagtershof, the description cited in the title was cited as "Remainder Erf 86 Jagtershof" and registered as such. <u>How should property description be cited in the subsequent transfer? Is a section 4(1) (b) application be required or would a factual endorsement suffice?</u></p> <p>Resolution:</p> <p>Item is hereby withdrawn.</p> <p>➤ The matter must be referred to the cadastral conference.</p>	Legal Support	6/3/2019	<p>Done.</p> <p>See item 5.1 of Agenda / Minutes to Cadastral Conference 2019 that took place on 6 March 2019.</p> <p>➤ (Resolution: A Section 4(1)(b) application may be lodged for amendment of the incorrect erf number and the extending clause.</p> <p>➤ The Deeds Practice Manual must be updated stipulating</p>
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Resolution:

The Cadastral Conference Resolution of 2019 remains, until such time that the matter can be argued otherwise.

6.5. FROM BLOEMFONTEIN:

Seemingly we cannot access the Surveyor General's website any longer. I forwarded the problem to Sita, they have not come back to me yet. If I go to the csg icon on my desktop, this is what I see.



As you can see, checking of plans and diagrams has become yet another challenge for us in the daily execution of our duties. This is really stressful for the examiners, because we cannot check diagrams or plans.

Resolution:

Item withdrawn as it was not meant for discussion at this Cadastral Conference.

7. NGMS BRANCH ITEMS

7.1 Clarity regarding amending Sectional plans required by the SGO for; (SG: KZN)

Problem Statement:

- A. Cancellation of Section/s (or part thereof) for the purpose of alienating/letting of Common Property: Done in terms of Section 17(4) of the STA.
- B. Destruction of Building/s: Done in terms of Section 17 of the STSMA.
- C. Destruction of part of Building: Done in terms of Section 17(8) of the STSMA.
- D. Cancellation of Section for reversion of Building back to Common Property:

Refer to;

**Section 17 of the Sectional Titles Act No. 95 of 1986 (STA),
Section 17 of the Sectional Titles Schemes Management Act No. 8 of 2011 (STSMA),
Regulation 31 of the STA.**

Questions:

- A. Is an approved Amending Sectional plan for the Destruction of Buildings required as a result of the cancellation of sections in the Deeds Office? Section 17(4)(c) & (d) of the STA makes reference to adjusted PQs and the amendment of the original sectional plan in our offices. How is this achieved?
- B. Is an Amending Sectional plan of Destruction of Building required? If so in terms of which Section is it framed?
- C. Is an Amending Sectional plan for the Partial destruction of a Building, and hence partial destruction of the section, required? If so in terms of which section is it framed.
- D. In terms of which Section is this done?
Are amending Sectional plans required?
There appear to be no provisions in either the STA or STSMA for the cancellation of a section/s for reversion to (C.P.).

Proposed Resolutions:

- A. Yes. The Amending sectional plan will then reflect the current status of the scheme. This plan will also cover the requirement for an adjusted PQ sheet.
- B. Yes. Plan framed in terms of Section 17(3)(b)(iii) of the STSMA read with Regulation 31 of the STA.
- C. Yes. Plan framed in terms of Section 17(8) of the STSMA read with Regulation 31 of the STA.
- D. Amendment of STA is required.

Resolution

- A. The Cadastral Conference agreed to the proposed resolution, and that the manner in which it has to be done shall be as per Resolution 13 of the Branch NGMS's Technical Committee of 2015.
- B. Withdrawn
- C. Withdrawn
- D. Proposed resolution not accepted, refer to Regulation 31 and Section 20 of the Sectional Titles Schemes Management Act, 8 of 2011.

7.2 How can SG confirm the validity of the Expropriation Notices?**Problem Statement:**

1. At what stage of the expropriation process is land deemed to have been expropriated?
2. Is it acceptable if the proposed subdivision diagram refers to a property description different to the description on the expropriation notice and plan?
3. Is the endorsement on the title deed of the property in terms of section 31(6) (a) of the Deeds Registries Act 47 of 1937 confirmation that land has been successfully expropriated, in a case where the matter was not decided by the court?

Background:

Our office is anticipating an increase in the number of subdivision surveys emanating from expropriations. We have received some expropriation notices dating back to the 1970's, the property descriptions for some of them have even changed. The contents of the expropriation notices submitted together with these subdivisions are seen to be only an intention to expropriate. In terms of section 31(6)(a) of the Deeds Registries Act 47 of 1937, the title deeds of the expropriated land parcels should be endorsed to that effect. However, the title deeds of these land parcels have not been endorsed to indicate that the properties are subject to an expropriation.

Discussion and Motivation:

In terms section 7(4) of the Expropriation Act 63 of 1975, the local authority should have been notified during the process of expropriation by the expropriating authority. Therefore, the approval of the subdivision as per the local authority consent can be used as confirmation of the expropriation, in a case where the matter was not decided by the court

In terms of section 31(6) (a) of the Deeds Registries Act 47 of 1937, the Registrar of Deeds should have noted the expropriation notice in his register. Therefore, the endorsement on the title deed can be used as confirmation of the expropriation, in a case where the matter was not decided by the court.

Resolution

- If the process as prescribed by the relevant Sections of the Expropriation Act has been followed, the SG may accept a diagram of subdivision in accordance with the expropriation plan.
- Where there has been a change in designation, the SG must satisfy him/herself that the land referred to in the diagram is the same piece of land as described by an old designation on the expropriation plan.

7.3 Clarity regarding application of section 37 of the Land Survey Act, (Act 8 of 1997)**Problem statement**

The Land Surveying Profession is guided by the Land Survey Act and Regulations framed thereunder. The Land Survey Act has to be in line with other planning legislations. Section 37(2) of the Land Survey Act state that *“Any general plan referred to in subsection (1) which represents the subdivision of land in accordance with or under any other law, or which represents a township **established prior to the existence of any laws relating to the establishment of townships**, may, with the **consent of the Premier concerned, or by an order of the court**, and subject to such conditions as the Premier or the court may deem necessary, be altered, amended or partially or totally cancelled by the Surveyor-General: **Provided that where the alteration, amendment or partial or total cancellation affects a public place, the Surveyor-General, prior to such alteration, amendment or partial or total cancellation, shall be advised by the Premier that the provisions of the laws relating to the permanent closing of any public place or part thereof have been complied with.**”*

Questions:

(i).....established prior to the existence of any laws relating to the establishment of townships – does this mean that general plans approved in terms of any planning legislative act (e.g. PDA, SPLUMA, ect) does not have to comply with this section in terms of getting the consent from the Premier to amend General Plans?

(ii) Provided that where the alteration, amendment or partial or total cancellation affects a public place, the Surveyor-General, prior to such alteration, amendment or partial or total cancellation, shall be advised by the Premier that the provisions of the laws relating to the permanent closing of any public place or part thereof have been complied with. - Prior to SPLUMA Public place closures were done in terms of the Local Authority's Ordinance No. 25 of 1974, However SPLUMA by-laws now cover the closures of public places, now who advise the Surveyor General that the provisions of the laws relating to permanent closing of public place have been complied with?

Section 37 (3) state that *"The Premier may, in respect of any alteration, amendment or partial or total cancellation of a general plan, contemplated in subsection (2), delegate his or her powers to an officer in the service of the provincial administration or to a local authority, and the local authority may, with the concurrence of the Premier, further delegate the delegated powers to an officer in the service of that local authority."*

(iii)..... delegate his or her powers to an officer in the service of the provincial administration or to a local authority, and the local authority may, with the concurrence of the Premier, further delegate the delegated powers to an officer in the service of that local authority." The municipalities now deals with amendments of general plans and public place closures and carted for in their by-laws but there have not been any formal delegation of powers from the Premier to municipalities, do we accept this since SPLUMA gives planning powers to municipalities?

Solution

- (i) The General plans Approved in terms of any laws relating to the establishment of townships will not require the premiers consent to amend.
- (ii) Since there has not been formal delegation of powers from the Premier to municipalities, the Premier still need to advise the Surveyor General's Office that the laws relating to permanent closing of public places have been complied with, Except for General Plans mentioned in (i).
- (iii) Except for General Plans in (i), NO until the Premier has delegated powers to municipalities.

Proposed Resolution

- (i) Yes
- (ii) Yes
- (iii) Yes

Resolution

- Item withdrawn, will be deliberated at the NGMS' Technical Committee Meeting and perhaps be brought back to the next Cadastral Conference.

8. Land Administration study tour reports

- The Uganda Study Tour report is withdrawn, with the proposal that the report by Mr Ramasala be shared with the Cadastral Committee.
- CRD reiterated the need for the two Branches to convene and come up with proposals around the recordal of rights.
- *It was agreed that the first joint discussion will be between DR and NGMS, thereafter with the other two components (Land Tenure, SPLUM) before the Land Summit.*

9. CLOSURE

The Chairperson, Mrs Mdubeki thanked all members for their valuable inputs, and adjourned the meeting at 13:15.

- Next Cadastral Conference must be arranged by OCRD.

I hereby certify that these Minutes constitute a true reflection of the proceedings of the meeting.

SIGNED

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(CHAIRPERSON)