



GOVERNMENT OF SAMOA

**SAMOA SECOND INFRASTRUCTURE AND ASSET
MANAGEMENT PROJECT (SIAM II)**

COMPONENT 5.01: LAND ADMINISTRATION AND SURVEY

*TRAINING PLAN & INDUSTRY AWARENESS
PROGRAM
LAND REGISTRATION SYSTEM*

TECHNICAL ASSISTANCE REPORT NO. 27

SUBMITTED TO

**MINISTRY OF NATURAL RESOURCES, ENVIRONMENT and
METEOROLOGY**

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TRAINING PLAN & INDUSTRY AWARENESS PROGRAM

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1 Training - Land Registration Section

The Land Registration System (LRS) training programme was undertaken by the staff in the Land Registration Section, MNREM at the Molesi Building at Savalalo. The training was delivered in two phases - October 19 to November 17, 2005 and January 16 and February 2, 2006.

Initially, the Senior Registry Officer and two Registration Officers were trained in the operation of the LRS as it was implemented in the first phase. The Principal Land Registry Officer (PLRO) was not trained during the first phase. This officer was unavailable for training but the occupant had a full awareness of the system responsibilities and the role to be filled in managing the Land Registration System through strong participation during the LRS design. The position of a third Registry Officer was vacant during this period.

The second phase of the training was focussed on:

- refreshing staff skills in folio conversion, lodgment and registration of deeds in the LRS,
- training an officer in the scanning of newly registered deeds and new-form folios of the Register and
- training the PLRO in the essential operational functions and the special role of the position in folio conversion, folio creation and system administration.

The Assistant Chief Executive Officer is familiar with the LRS and has access to the system functions.

1.1 Programme outline

The training programme was based on the User Manual and addressed:

- Conversion of the bound Register to the LRS;
- Lodgment of instruments affecting either the bound Register or the new-form folios created from conversion and updating the references;
- Registration of instruments;
- Folio creation following approval to new plans of subdivision and
- Searching the information contained in the LRS.

In addition to the operational aspects, the PLRO and Deputy were trained in LRS administrative functions such as assigning user roles, passwords, etc.

1.2 Programme summary

1.2.1 System overview

This stage involved familiarising the staff in the LRS functions and the toolbar and icons used to navigate through those functions.

1. Entry into the Land Registration System
2. The Workspace Toolbar
3. The Workspace Icons
 - Summary of current dealings

- Lodging an instrument
- Lodging a Registry Dealing
- Lodging a plan
- Lodging other documents
- Searching a computer folio
- Searching a dealing
- Changing a password
- Registering an instrument
- Converting a bound Register folio
- Statistical information
- Accessing information in this User Manual

1.2.2 The Land Register

This described the limitations of the existing legislation in upgrading the operations of the Registry and temporary role of the proposed new-form folio.

With the enactment of the proposed new title registration legislation the Registrar may hold the Register in any form deemed appropriate. This will then enable the Register to be held solely in the computer and there will no longer be any need to issue a paper folio of the Register for signature.

1.2.3 Folio conversion

This stage addressed all those variations expected to be found during the conversion of the bound Register.

1. Parcel and locality information
 - Folio reference and type
 - Location
 - Land parcel descriptions

2. Proprietorship - ownership details
 - Single owner
 - Single owner 'also known as'
 - More than one owner as joint tenants
 - More than one owner as tenants in common
 - Life estate and an estate in remainder
 - Complex tenancy

3. Encumbrance details
 - System composed encumbrance
 - The 'Recital' field
 - Encumbrance affecting part of the land in a bound Register

1.2.4 Lodgment

This function covers not only the lodgment of deeds as they are now but also the lodgment of specialty instruments such as Powers of Attorney and plans which are numbered in a different series to those deeds to be registered in the LRS.

1. Registerable Instruments
 - Single instrument and single folio
 - Single instrument affecting multiple folios
 - Multiple instruments affecting a single folio

2. Registry Dealing
No change can be made to the computer Register unless that change is evidenced by a registered instrument. The Registry Dealing enables senior staff (ACEO or PLRO) to make a 'note' on the Register.
3. Plans – survey, compiled, lease, license and Registry plans
4. Powers of Attorney and Revocations

1.2.5 Registration

1. Updating the computer system.
Prior to approval of the new Title Registration legislation the Registry Officer will issue the new-form folio for signature by the Registrar or delegate.

With the new legislation in force the new-form folio will be discontinued as the Register will be deemed to be in the computer and folio information contained within the computer will be evidenced by a new document entitled the 'Computer Folio Certificate'. This Certificate will be issued to the Lodging Firm for delivery to the owner or mortgagor following any update of the computer Register.

2. Requisitioned Instrument
This information will be collected to provide statistics for management. This data will assist the Registry in developing quality improvement programmes with industry stakeholders in the future.
3. Withdrawn, Lapsed or Rejected Instruments
These instruments do not proceed to registration and will be disregarded by the LRS. If the document is available to the Registry it will be appropriately marked as 'lapsed', 'withdrawn' or 'rejected' and then imaged as an historical record.

1.2.6 Searching the LRS

The information in the LRS may be accessed by means of a number of keys including the folio reference number (lot/plan) and names. The Registry Officers are familiar with the use of the inquiry forms and the outputs.

1.2.7 Senior Staff Functions

These officers enjoy special system privileges that enable them to perform specialised functions in addition to those functions available to other staff.

1. Converting bound Register folios
The role is to check the information collected by the Registry Officers and ensure that the conversion has been performed accurately.

Following this check,

- the bound Register folio reference is cancelled in the LRS;
- new computer folios are created for each lot and plan reference contained in the bound Register; and
- the physical bound Register folio is cancelled.

Thereafter no registrations will be permitted on the bound Register.

2. Encumbrance affecting part of the land in a bound Register
These encumbrances brought forward by the conversion process need to be manipulated so that each new-form folio only contains details of encumbrances that affect a specific folio. This action is taken as necessary by senior staff after the folio is released but before the output is printed.

3. The 'Registration Stop'
On (probably) rare occasions the PLRO may have the need to prevent access by the public to a computer folio because of a potential risk with that folio.

The 'registration stop' prevents any instrument from being registered on a folio and also restricts access to that folio to the staff only.

4. The Registry Dealing
The Registry Dealing enables senior staff (ACEO or PLRO) to make a 'note' on the Register. These notes might refer to any matter that the PLRO deems necessary in much the same way as a written note is placed on the bound Register now. The note will be removed by the lodgment of another Registry Dealing. The 'note' will be shown on all search outputs as a memorial.

The Registry Dealing form will specify the affected folios of the Register, the reason for the note being added and the actual words of the note memorial.

5. System Administration
This includes the enrolment of users and the allocation of passwords to those allowed access to the LRS and the roles or functions authorised to those users.

1.2.8 Scanning of instruments

The Registry has access to both an A4 and an A3 scanner. This equipment will be used for the imaging (initially) of registered instruments and new-form folios. In time it is envisaged that a long-term instrument imaging programme will be implemented.

A Registry Officer has been trained in the operation of the equipment and the storage of the images to the MNREM network.

1.3 Risks and management options

As with any new computerised system there are risks associated with the introduction of the new LRS. However, recovery options are relatively straight forward given the low transaction volumes involved. These low risk operational issues are summarised below.

(a) Land Registration system - availability:

Lodgment

- If the LRS is temporarily unavailable
Accept documents, file them in order of presentation and wait for the system to become available.

Registration

- If the LRS is temporarily unavailable and time not critical:
Delay registration.
- If registration urgent:

Register the instrument on the new-form paper folio, re-image the folio and issue a copy of the updated Register folio to the client as evidence of registration. When the system becomes available update the computer record as normal, place a memorial on the folio to describe the manual registration action and issue the updated new-form folio.

- If system unavailable for a significant period:
Register on the new-form paper folio as described above.

Conversion

If the LRS is unavailable:
Cease conversion.

(b) Land Registration System – internal checks

Conversion

All data must be checked and approved by senior staff prior to the new-form folio being released for search. Only after this check is the bound Register folio cancelled. If an error is subsequently found the correction must be made using the PLRO authorised Registry Dealing.

Registration

Staff must be trained and approved to register instruments in the Register as per current practice. If an error is subsequently found the correction must be made using the PLRO authorised Registry Dealing.

(c) Other

Lost folio –

Replacement is possible from print file. Such replacements must be endorsed with a memorial (entered via a Registry Dealing) stating that the folio is (e.g.) 'a replacement following the loss/destruction of the version dated nn/nn/nnnn'.

1.4 Training evaluation

The LRS implementation provides for the conversion of the bound Register, lodgment of deeds (using the new numbering sequence), registration and computer folio update, creation of folios for new land parcels following plan approval together with certain business statistics.

The folio creation function facilitates the generation of new folio records within the computer following approval of plans of subdivision and is dependent on the 'parent' title having been converted to a computer record.

The training of Registry staff was impacted by the need to maintain essential business operations. It was not possible to remove staff from the Registry to concentrate on learning the new system. The training therefore, was conducted on a one-on-one basis often interrupted by customer service needs. Despite this, the team was most co-operative in balancing the demands and demonstrated a commitment to learning the new system operations and principles.

Unfortunately during the period of initial training the Principal Land Registry Officer (PLRO) was initially caught up with other duties and then indisposed for the last two weeks. Despite this, the PLRO has a good awareness of the system operations, the

position's system responsibilities and the role to be filled in managing the Land Registration System.

The Senior Registry Officer and two Registry Officers have been trained in the operation of the LRS and are reasonably confident of performing the range of LRS functions. They have access to the User Manual in hardcopy form and via the HELP key in the LRS. They are familiar with the contents of the manual. The PLRO is aware of the role that this position plays in checking and releasing folios and in the administrative functions.

2 Industry awareness

Technical Assistance Report No. 2 (Samoan Land Registration System – Review, Analysis and Future Strategy) proposed that the Government of Samoa consider implementing an evolutionary Registry upgrade program to:

- enable the implementation of a computerised Registry and,
- convert the system into Torrens Title.

Consultations were had with a range of real estate professionals in preparing the system upgrade program and the report lists the people and organisations involved in the process.

2.1 Law Society Workshop

A workshop was held in the Supreme Court Building for representatives of the Law Society in March 2005 prior to finalising the above report. The proposed initiatives were fully outlined during a presentation and handouts were distributed.

The feedback by the meeting was positive regarding the Registry upgrade concepts. The concepts addressed at the workshop included:

- conversion of the bound Register to computer,
- a new-form Register with current information only and a new form of title reference - the lot/plan,
- system workflows and outputs,
- simplified forms of 'deed,
- document imaging and
- a guaranteed title registration system.

A copy of the PowerPoint presentation is attached to this report.

Simplified forms of deed together with user instructions were prepared in July 2005 in conjunction with senior staff of the Registry following a decision by government to proceed with the system upgrade proposals. When fully implemented these forms are expected to cover some 95% of the Registry 'deed' lodgments and their use is expected to have a significant effect on operations in and outside the Registry.

An information pack of forms was prepared and meetings were had to explain the proposed new forms and the instructions with representatives of two major banks, the Public Trustee and the President of the Law Society. All expressed strong interest and undertook to follow-up with their respective organisations. One bank representative undertook to table the proposals with the Bankers' Association.

The proposed forms were subsequently discussed at a meeting of the Law Society in September 2005. The President reported that the Law Society fully supported the proposals.

A meeting was also held with a representative of the Ministry of Finance in July 2005 to discuss the proposed Registry upgrade generally, the proposed new forms and the payment of Stamp Duty.

2.2 Current position

The government has prepared a Title Registration Bill that is with the Parliamentary Counsel. This legislation will enable the conversion of Registry operations to a computer and introduce a guaranteed title registration system.

The industry is generally aware that the upgrade to Registry operations will:

- Provide searchers with a direct link from the plan to the Register folio via a **lot and plan folio identifier**.
- Improve client services by providing the public with copies of the Register and with information regarding deeds and plans lodged but not yet registered.
- Provide a mechanism to close off the paper Register – the Register is deteriorating and there is real risk of losing information and even folios.
- Simplify the content of the Register folio and the check of deeds lodged for registration.
- Provide for the scanning of deeds and plans into a digital imaging system and provide an essential backup of Registry records.
- Provide business reports and statistics for management

With new legislation a computer Register will be created and all information will be available digitally. At this stage the system upgrade can be completed with the introduction of simplified transaction forms to replace the free-form deeds.

2.3 New legislation – new practices

The real estate industry and the Land Registry will be impacted by three new Acts:

- Title Registration Act and Regulation
- Survey Act and Regulation and
- Valuation Act.

2.3.1 Title Registration Act and Regulation

This legislation will introduce change at two levels – the first to enable the implementation of a computerised Registry and, the second, to convert the system into Torrens Title.

1. The first level entails upgrading the operational system by introducing a computer system and new Registry procedures. This is to be supported by legislation to enable:
 - the Register to be held on computer rather than paper;
 - all other information to be available digitally;
 - simplified transaction forms to replace the current deeds; and
2. The second level will convert the title system from the current hybrid state to full Torrens title on the following conditions:
 - (i) The conversion to title registration would be on a provisional basis by creating limited titles which would mature into full titles after 12 years (the period for limitation of actions against land under the Limitation Act 1975),

with any new land coming into the system such as leases of customary land or Government land going directly to full title.

- (ii) During the provisional period the limited titles would be conclusive as regards any registration entries made after the date of conversion but they would be subject to interests, if any, created before conversion and not shown on the titles
- (iii) A State indemnity would be available for persons suffering loss through mistakes within the Land Registry; or through the registration of another person's interest.

2.3.2 Survey Act and Regulation

This legislation requires surveyors to define the residue of subdivided land parcels in all new plans. It also empowers the Registrar to compile a Registry Plan to define the residue land in subdivided folios of the bound Register. The combined effect of the change is that the Registrar is enabled to cancel folios of the bound Register.

Currently the residue parcel remains in the bound Register forever - no mechanism is available to cancel a folio and the Register is deteriorating with many damaged folios and a real risk of loss of records.

2.3.3 Valuation Act

A significant outcome of this legislation (from the perspective of the Registry and the real estate industry) is the requirement that all conveyances and like instruments must be supported by a private valuation. This valuation will be assessed by the MNREM Valuation Section and Stamp Duty will be payable on the assessment – not the consideration disclosed in the deed.

This MNREM assessment must be made before the deed can be lodged with the Registry. A further outcome of this legislation is that the function of collecting Stamp Duty on these transactions will be moved from the Ministry of Finance to MNREM.

2.4 Future 'awareness' workshops

MNREM will need to conduct further awareness or education workshops for members of the public all sectors of the real estate industry to explain the requirements imposed by the above legislation, the implications on each sector and on Registry operations and requirements.

The information presented at these workshops should be complemented by handouts and brochures describing these implications and operational requirements. The coordinated series of workshops and handouts should detail aspects such as:

- In-depth exposition of the new legislation package covering title registration, surveying and valuation.
- Detailed explanation of the new Registry upgrade - the Land Registration System.
- Detailed explanation of the new practices to be adopted by users as a result of the legislation and the changes in Registry policy and practice arising from the new land registration system.
- Workflows describing
 - the registration process from lodgement to scanning and filing of documents; and

- how to access the system to obtain information.
- Adoption of A4 paper standard for documents and their lodgment without folds or creases to facilitate imaging.
- The new outputs available from the system and how to obtain them – the details to be provided, the forms to be used, expected time to satisfy requests for information, costs, etc.
- The new transaction forms – the purpose of each, the format, content and the role of the user instructions.
- The outcomes and timetable for the records conversion programme – bound Register conversion and deed and plan imaging projects.

3 Annex - Presentation to Law Society

SIAM 2 - LAND ADMINISTRATION REFORM

- Registration system upgrade
- Title system review
- Extension to Land & Titles Court
- Customary land administration review



TITLE SYSTEM REVIEW

- Hybrid system – many Torrens title features
- But effect of registration not clear
- Conveyancing practice and Court decisions inconsistent



OTHER LEGAL ASPECTS

- No provision for Register on computer
- Mortgage by way of conveyance
- No provision for simple forms
- No provision for automatic creation of easements and vesting of roads in subdivisions



CONVERSION TO TORRENS TITLE - Benefits

- Certainty of title
- Simplicity and certainty of searching
- Clarity of the law
- Simplicity of forms and procedures
- Protection by insurance
- Conformity with region
- Evolutionary development



CONVERSION TO TORRENS TITLE - Disadvantages

- Government funding of compensation
- Higher standard for registration



CONVERSION TO TORRENS TITLE - Issues

- Extent of indefeasibility of title
- Extent of guarantee
- Manner of conversion



EXTENT OF INDEFEASIBILITY

Exceptions:

- Fraud
- Easements
- Adverse possession
- Measurements and areas
- Volunteers
- Overriding interests

EXTENT OF GUARANTEE

Issues:

- Should State guarantee title?
- How compensation funded?
- Any limits to compensation?

METHOD OF CONVERSION

Options:

1. Investigate chain of title
2. "Limited" or "qualified" title
3. Automatic conversion

FUTURE STRATEGY - OPTIONS

Upgrade system, and

1. Leave laws unchanged
2. Amend law for new technology
3. Amend law for new technology, and
 - confirm as deeds system; or
 - transition to full Torrens system; or
 - immediate move to full Torrens title

Thank You

- Comments?
- Questions?

Samoan Land Registration System

Upgrading Registry Operations

Some concerns

- Delays in registration and difficulty in searching titles - Register cannot be photocopied
- Register folio does not disclose the identity of the land which may remain in a title after subdivision.
- Detailed technical descriptions
- Deed format not simple - checking and data entry more difficult and time-consuming
- High incidence of requisitions



A System Upgrade will

- Provide a mechanism to close off the paper Register – the Register is deteriorating and there is real risk of losing information and even folios.
- Provide for the scanning of deeds and plans into a digital imaging system.
- Provide business reports and statistics to management and users



A System Upgrade will

- Improve client services by issuing copies of the Register including information of deeds and plans lodged but not yet registered.
- Simplify the content of the Register folio and the check of deeds lodged for registration.
- Provide a registration system capable of delivering same day or, if warranted, 'while you wait' deed registration services and on-line access to information.



With new legislation

1. the computer Register will be created and all information will be available digitally
2. System upgrade can be completed with:
 - introduction of simplified transaction forms to replace the free-form deeds and, if deemed appropriate,
 - Introduction of a 'Certificate of Title' to evidence land ownership



The Upgrade Strategy




Strategy Outline

1. Convert the existing bound Register folios into a computer and using the computer to print a 'new-form' folio.
2. This folio will be signed by the Registrar (or a delegate) as is evidenced now.
3. The folio will be scanned into an imaging system and filed (unbound). Non-certified copies will be available from the imaging system for staff and the public.
4. Following conversion of an old-form folio, that folio will be cancelled - thereafter all registrations affecting that land parcel will be made in the new-form Register.



The Strategy continued

- Each new-form folio will have a unique number.
- Searcher will be able to move directly to the Register from the plan or the owner's name. The Legal Description will be discontinued.
- New-form folios will be created for all new 'saleable' parcels in approved plans and the parent folio will be cancelled.



Converting the Register

Phase 1


- Convert those folios that have not been subdivided whenever an affecting deed is lodged AND the folio is classified as simple; and
- Create new-form folios for residential parcels in newly approved plans.

Conversion of 1100 to 1200 folios from deeds during 2004.

Phase 2

- Convert those folios that have been subdivided whenever an affecting deed is lodged.

Conversion of an additional 400 folios.




Phase 3

- Convert those folios not affected by lodged deeds during phases #1 and #2.

Phase 4

Implementation of the computer Register.

- The paper new-form folios will be removed from use and thereafter all registration and searching activity will be made of the computer Register.
- Maybe a 'Certificate of Title'.
- free-form deed documents be replaced with simple structured A4 forms



The Register – Proposed Content

A new-form folio will be created for each land parcel identified by a lot and plan in the superseded paper folio. The folio will only contain information current at the date of conversion. Previous owners or cancelled memorials will be ignored. The folio will include:

- Land classification – Government, Customary of Freehold
- Volume/Folio reference of the title being converted
- Lot and Plan number and locality/district
- Owner names
- Tenancy if more than one owner and shares if tenants in common
- Current memorials
- Notations (authorised) on the Register

Information that is not proposed to be brought forward:

- Legal description other than the lot/plan and locality/district
- Details in memorials other than information critical to users.



Some issues

MNRE


- Delegations
- Names – standard format for the Register and for document checking rules.
- Single numerical series for all deeds
- Possible issue of a Certificate of Title

Surveyors

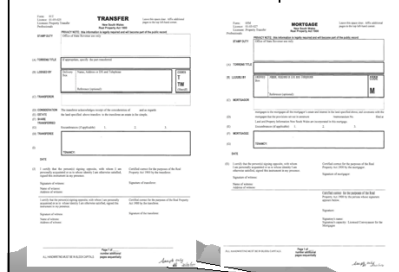
- Define land parcel residue after subdivision
- Sequentially number all lots in a subdivision plan

Lawyers

- Requisitions
- Move to A4 paper size for all deeds now and later
- Adopt panel forms (legislation needs to change)



Panel Form Examples



The image shows a screenshot of a form titled "OF MORTGAGE". The form is divided into several sections with checkboxes and input fields. On the left side, there are sections for "1. MORTGAGE", "2. MORTGAGE", "3. MORTGAGE", "4. MORTGAGE", and "5. MORTGAGE". On the right side, there are sections for "6. MORTGAGE", "7. MORTGAGE", "8. MORTGAGE", "9. MORTGAGE", and "10. MORTGAGE". There are also checkboxes for "11. MORTGAGE" and "12. MORTGAGE". The form includes various fields for text entry and checkboxes for selection. At the bottom of the form, there is a signature line and a date field.

Thank You

- Comments?
- Questions?

A decorative graphic of a mountain range with snow-capped peaks is located at the bottom of the slide.