

SOUTH AFRICAN COUNCIL FOR PLANNERS

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The South African
Council *for* Planners
S A C P L A N

Our Reference : 8/2/2
Your Reference :

03 April 2013

e-mail to: pnyamza@parliament.gov.za

Attention: Ms P Nyamza

Portfolio Committee
Rural Development and Land Reform
3rd Floor
90 Plein Street
Cape Town
8001

Dear Madam

GEOMATICS PROFESSION BILL [B4-2013]

We refer to the above and the recent press invitations to submit written comments for consideration by the Portfolio Committee in the above matter. We note that the expiry date for comments was determined to be 29 March 2013, close to long weekends and associated public holidays over Easter. The closure of schools resulted in the general absence of functionaries responsible for responding to this invitation.

In the above regard, the South African Council for Planners (SACPLAN), appointed by the Minister of Rural Development of Land Reform, and acting in terms of the provisions of the

Council Members:

Chairperson: Ms Nontsundu Ndonga* **Deputy Chairperson:** Mr Tshisamphiri Madima* **Alternate Chairperson:** Prof Mfaniseni Sihlongonyane*
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Mr Rajesh Makan*; Ms Lekgolo Mayatula*; Ms Mosa Molapo*; Ms Wangeci Karuri-Sebina; Mr Sifiso Zondo*.

Chief Executive Officer: Mr Martin Lewis*

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Planning Professions Act, 2002 (Act 36 of 2002) (the "Act") has a direct and very specific interest in the processing of the Geomatics Profession Bill (the "Bill"), as a result we kindly request that these comments (although belatedly) be considered on the part of the Portfolio Committee given the very specific items listed below:

1. The structure of the Bill and its content are similar to that of the Planning Professions Act, 2002 (Act 36 of 2002). This is understandable, given that the two sets of legislation aim to regulate two allied professions (generally described as town and regional planning and land surveying). To such extent, SACPLAN welcomes the initiative to regulate the Geomatics Profession (land surveying in particular) for reasons similar to those based on the principles enshrined in the Planning Professions Act, 2002 (Act 36 of 2002).
2. One of the foremost concerns on the part of SACPLAN is the potential conflict of overlapping areas of interest and professional responsibility which may be defined and identified in these two sets of legislation (the Act and the Bill). If not attended to a circumspect manner, it may lead to much confusion and, in turn, reflect negatively on the interests of both professions and of those who are to be served by these professions. The general public and its interests must be protected as one of the important premises on which the aforesaid legislation will be enacted.
3. In the above regard the chosen wording of Section 2 of the Geomatics Profession Bill is cause for concern. The principles which have been identified in Section 2 of the Bill include a description of "Geomatics" and "Geomatics Profession". The chosen wording of Subsection 2(a)(iii) is particularly problematic. This describes certain activities which are deemed to fall within the area of expertise of the Geomatics profession and are directly in conflict with what is typically associated with the regulated planning profession, as contemplated in the Planning Professions Act. As quoted from the aforesaid sections of the Geomatics Profession Bill, the following is brought to your kind attention:

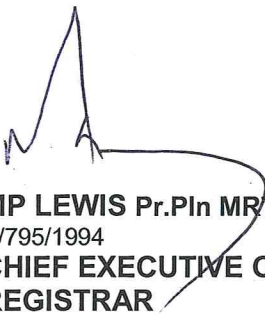
 “(iii) the planning and determination of the position of the boundaries of land and of rights in land, for the purposes of registration of such land and rights in terms of applicable legislation”

4. The planning of land parcels, as part of layout design of a settlement or suburb or township or similar is, in any language or description, inherently a core competency and responsibility of a Registered Professional Planner, as contemplated in the Planning Professions Act. This is reflected in the academic qualifications of planners which are acknowledged as minimum requirements to qualify for registration in terms of the Planning Professions Act. Considering the typical curricula (available subject matter) which forms part of an under-graduate degree in Town and Regional Planning (or similar), when compared to that of an undergraduate degree in Land Surveying or similar, it is evident that Town and Regional Planners are specifically trained for such purpose, whereas land surveyors are more specifically trained to attend to the technical aspects of spatial positioning of the beacons and boundaries following the planning actions undertaken by planners. To this extent the definition as quoted above requires to be revisited and corrected accordingly. Failure to rectify the quoted wording will inevitably result in confusion and duplication which may, in turn, be detrimental to the interests of the general public.
5. In addition to the above, the open-ended description attaching to Section 2(a)(vi) of the Bill is equally of concern as it allows other activities to be “prescribed”, without further qualification. The term “prescribed” makes reference to regulations which may be made by the Minister in terms of Section 30 of the aforesaid Bill. Also in this regard, the prospect of additional activities being allocated to the Geomatics Profession (in particularly land surveying) by way of regulation, to possibly result in overlapping and confusing duplications of areas of professional responsibility, may indeed not be in the interests of those who are to be served by the aforesaid professions.
6. With regard to the provisions of Section 13, read with Section 8 of the Bill, there is some confusion with regard to the definition of a “Geomatics Professional” and a person registered as a “Professional Land Surveyor”. It appears that the Geomatics Profession Bill, once enacted, will exist in parallel to the Land Survey Act, 1997. Whilst we hold no specific reservations with regard to this seemingly duplicated regulatory system, there is some cause for concern regarding the possible confusion which may arise with regard to the work that is reserved for a Professional Land Surveyor in terms of Act 8 of 1997, versus what is described in the Geomatics Profession Bill for seemingly similar reasons.

7. In the above regard it must be considered that the organised profession acting for the land surveyors, has been specifically vocal in its opposition to SACPLAN giving effect to its mandate as contemplated the Planning Professions Act, 2002 (Act 36 of 2002), to identify and reserve work for, inter alia, Professional Planners registered in terms of the latter legislation. We consider that the framing of the Geomatics Profession Bill is partly aimed at drawing a specific and valid distinction between the areas of professional responsibility which shall attach to the two professions (although allied). Any failure in this regard is bound to result in much confusion and later legal disputes with regard to attempts at regulating either profession.
8. With regard to Section 16 of the Bill, the possibility of identifying areas of Geomatics work to be reserved for registered persons in terms of the Geomatics Profession Bill is described. Similar provisions are contained in the Planning Professions Act, 2002 (Act 36 of 2002) and in this regard it is confirmed that the identification of work to be reserved for registered persons in terms of the Planning Professions Act, 2002 (Act 36 of 2002) specifically contemplates accommodating certain Professional Land Surveyors who have been actively engaging in work which may properly be described as falling within the province of Registered Planners, such that the affected Land Surveyors may continue to conduct such activities under the auspices of SACPLAN and that such persons may not be negatively affected as a result of the enactment of the anticipated Regulations under the SACPLAN legislation. In particular, this proposed accommodation on the part of SACPLAN is similar to what is contemplated in Section 16(4) of the Geomatics Profession Bill where the same the Minister is authorised to prescribe areas of work which may be carried out by professions regulated in terms of other legislation. We hold no reservations in this regard, save to draw attention to the fact that SACPLAN, in identifying work to be reserved for planners, has proposed to accommodate affected land surveyors.
9. We respectfully submit that, under the circumstances, it will be prudent for both professions to reciprocally acknowledge these differences of professional responsibility and, where relevant, accommodate professionals from other professions in a reasonable manner, without necessarily duplicating these matters.

10. Other than the above, SACPLAN generally supports the Geomatics Profession Bill for what it purports to achieve. The attention of the Minister is respectfully directed to the fact that the soon to be presented Draft Regulations to the Planning Professions Act (aimed at, inter alia, reserving work for registered persons as contemplated in the Planning Professions Act, 2002 (Act 36 of 2002) may be expected to be challenged by the organised Geomatics Profession (and in particular Registered Professional Land Surveyors) for the reasons alluded to above. It is respectfully submitted that any such potential dispute may have to be resolved by the Minister (or delegate), given that both professions fall under the auspices of the National Department of Rural Development and Land Reform and that both professions are required to be regulated in such a manner as to most effectively serve the interests of the public, as correctly acknowledged in both sets of legislation (i.e. the Geomatics Profession Bill and the Planning Professions Act, 2002 (Act 36 of 2002)). Should the Portfolio Committee require of SACPLAN to further address these matters, we shall be most willing to oblige and await to be directed accordingly.

Yours faithfully



MP LEWIS Pr.Pl in MRTPI
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CHIEF EXECUTIVE OFFICER
REGISTRAR
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