

D130430perufel

SCHEDULED REPORT OF RESPONSES TO STAKEHOLDER'S SUBMISSIONS MADE AT THE PUBLIC HEARINGS

GEOMATICS PROFESSION BILL [B4---2013]

**ANNEXURE "A"**

COMMENTS	SPONSORED BY	DATE RECEIVED	CHIEF SURVEYOR-GENERAL'S ANALYSIS
<p><b>GENERAL COMMENTS</b></p> <p><b>1. Unreasonable Time Allowed for Comment:</b> Firstly I would like to record my concern at the limited time allowed for comment following the publication of the above Bill. Fourteen days over a period including two public holidays is unreasonable. When the 'Notice of Intention to Introduce the Geomatics Bill, 2012 In Parliament' [Government Gazette No 35801 of 22 October 2012] the draft Bill available at that time was the version published in May 2011. There are however now minor differences between this version [B 4 - 2013] and the 2011 version. These changes are not obvious and the Bills need to be compared in depth before meaningful comments can be made. This short period of time available for studying the Bill is specifically alarming, considering that approximately eight years have passed since the publication of the first draft of the Bill (then referred to as the Surveying Profession Bill) was published in 2005, and nearly two full years since the last version of</p>	<p><b>Paul Marshall, President South African Council for Professional and Technical Surveyor</b></p>	<p><b>27 March 2013</b></p>	<p>It is incorrect that unreasonable time was allowed for comments, since the total time from date of publication was 14 days plus an additional 15 days to the date of verbal presentation.</p> <p>However, is also noted that no comments were submitted for consideration after the publication of the Bill for public comments on 30 May 2011.</p>

<p>the Bill was published for comment. Characteristic of each publication of a draft bill has been that very limited and often restrictive time was allowed for comment after which would generally follow an inordinate time lapse of apparent inactivity.</p> <p><b>2. Consultation was not as Transparent or as Comprehensive as is Alluded to:</b></p> <p>Referring to Paragraph 4 of the 'Memorandum on the Objects of the Geomatics Bill, 2013', the contents of this paragraph are inaccurate and misleading. It is correct that the Bill was first published as the 'Surveying Profession Bill' in November 2005, although it had been in the drafting phase (in the total ignorance of the existing Council) for a full eighteen months. It allowed 60 calendar days for comment, ironically over the Christmas and New Year break. This Bill was during this time, "Road Showed" at the major centres, Pretoria, Durban and Cape Town. These road shows were pure lip service, no minutes or discussions were recorded and no suggestions put forward by those present were taken up by any members of the steering committee. This Bill, as published in 2005, was nothing more than a "cut and paste" of the Planning Profession Act No. 32 of 2002 with the word 'planner' substituted by 'surveyor'. This Bill is still essentially the same.</p> <p><b>SOUTH AFRICAN COUNCIL FOR PROFESSIONAL AND TECHNICAL SURVEYORS</b> ESTABLISHED IN TERMS OF ACT 40 OF 1984 Only after bringing considerable pressure to bear on</p>			<p>A full consultation process was conducted and a portfolio of evidence is available.</p> <p>It is incorrect that the Geomatics Profession Bill ("GPB") is a "cut and paste of the Planning Profession Act", which was merely used as a guide to the drafting of the Bill. The similarity in the two documents should therefore not compromise the authenticity and contextual integrity of the Bill. It should be noted that most professional legislations from 2000 are based on the same working model, but each has its unique application and legislative relevance.</p> <p>It must be borne in mind that Act 40 of 1984</p>
--	--	--	---

<p>the Deputy Director General (DDG) and the then Chief Surveyor General (CSG) did the steering committee agree to meet with this Council. Again the steering committee refused to agree to make any commitment regarding discussions held at that meeting.</p> <p>This was the only consultation that was ever had specifically with this Council.</p> <p>Notwithstanding many requests for participation by myself, as President of the Council, and requests for some representation from the private sector, the steering committee remained limited to members of the Department with no consultation (or transparency) as and when amendments were made to the various draft Bills. The various drafts were published as <i>fait accompli</i>.</p> <p>After the change in CSG the Bill was republished in 2010 (an October 2009 version) and was renamed the Geomatics Profession Bill, a change that was generally seen as positive. Written comments were made on this version in February 2010. The Bill then went dormant again until after the World Cup and reappeared in May 2011. This Bill was workshopped in June 2011. While it is true to say that many stakeholders were represented at this workshop none of the comments made, other than a few errata or subtleties, appear to have been included in this latest draft.</p> <p>To single this Council out as a body that was consulted is not correct. It has been treated no differently to any other stake holder and was specifically excluded from any steering committee participation.</p> <p><b>3. Act 40 of 1984:</b></p> <p>The question of why the current Professional and Technical Surveyors Act of 1984 (Act No.40 of 1984) needs to be replaced has never been properly addressed. This Act commonly referred to as the PLATO Act is currently functioning well and in no way impedes the Government's transformation aspirations and</p>			<p>is a law that pertains specifically to surveyors. The transformation and modernisation to Geomatics embraced other geomatics disciplines, which then necessitated substantive legislative review, which could not be effectively accommodated by a mere amendment to Act 40 of 1984. The argument that, there is no need to replace Act 40 of 1984 is therefore incorrect. It is clear that the vast array of issues addressed in the GPB makes Act 40 of 1984 outdated and irrelevant to the registration of practitioners, governance and transformation of the Geomatics profession. The alleged deficiencies in the functioning of the Planning Profession Act bears no relevance to the GPB, which does not have anything to do with the Planning Profession.</p>
--	--	--	---

<p>entrenches the Minister's over riding control of the Council.</p> <p>Act 40 of 1984 was also confirmed, in January 2010, by the South African Law Commission to contain no discriminatory provisions.</p> <p>The preamble to the bill [B 4 - 2013] makes transformation a major objective and the memorandum (1.4) claims that it will "provide a mechanism to accelerate transformation of the surveying profession in a meaningful manner". At no point has it been explained how this new legislation will achieve this transformation and, as yet, it has not been shown how the current legislation is restricting or impeding transformation.</p> <p>The costs associated with the drafting and publishing of a new Act, where a perfectly good and functional Act is already in place makes little sense, and even less sense if the driving criteria is little more than that that it is pre 1994 legislation.</p> <p>As indicated above this Bill is essentially a copy of the Planning Profession Act of 2002. The Planning profession covers a single discipline; the Geomatics profession covers several very different disciplines with different requirements. The result of "panel beating" the Planning Profession Act to accommodate the different needs of the Geomatics profession has now produced a rather unsatisfactory piece of legislation. A much better, more workable, far less disruptive and certainly cheaper result could have been achieved had the same amount of "panel beating" gone into amending or even redrafting the existing PLATO Act, using the existing legislation as a basis.</p> <p>Now, in its eleventh year since promulgation, notwithstanding the appointment of outside consultants and a full time Chief Executive Officer, the Planning Profession Council is still functioning without appropriate Rules or Regulations. As the bill [B 4 - 2013] is largely subject to the same criteria as Act 32 of 2002</p> <p>It</p>			
--	--	--	--

<p>does not auger well for the immediate future.</p> <p><b>SPECIFIC COMMENTS ON THE BILL [B 4 - 2013]</b></p> <p><b>Section 4.</b> The composition of the Council, with the possible exception of category 4.(1)(a)(ii), should specifically preclude candidates, technicians and "in-training" persons.</p> <p>A statutory council is not a voluntary association established to look after the interests of its members nor is it a "union" established to protect the needs of a labour force. A statutory council is specifically established to maintain a high level of technical, professional and ethical standards in order to protect the public; the spinoff is credibility for its registered members. This can only be achieved if the controlling council is made up of members, who have, through experience and academic achievement, reached those standards that the council intends maintaining.</p> <p><b>Section 4.(1)(b)</b> The composition of the Council does not adequately address the various disciplines that are currently registered in terms of the existing Act, nor does it allow for the inclusion of new disciplines that may in the future fall under its control.</p> <p>While all falling within the broad definition of "Geomatics", the existing disciplines, currently being registered by PLATO, are individually very different from each other. In some cases they operate under and are responsible to entirely different legislation, an example being the Professional Land Surveyors who function largely in terms of the Land Survey Act while the Professional Mine Surveyors operate under various acts pertaining to health and safety on a mine as well as the registration of mineral resources.</p> <p>The PLATO Act recognises Hydrography and Photogrammetry as Geomatics disciplines, however neither of these have voluntary associations that would qualify in terms of Chapter 4.</p> <p>Representation by each discipline registered under the broad Geomatics definition is essential for the functioning of the Council. The broad term</p>			<p>It is obvious that unqualified persons cannot be co-opted to a Council, except as contemplated in Section 4 (1) (d) of the Bill.</p> <p>The definition of Geomatics Practitioner accommodates all disciplines of Geomatics and therefore avoids constant amendments to the Act in future, to accommodate new disciplines.</p>
--	--	--	--

<p>"Geomatics Practitioner" does not adequately cover the representation necessary on the Council. Currently registered disciplines include:</p> <ul style="list-style-type: none"> <li>a) Professional Land Surveyors</li> <li>b) Engineering Surveyors</li> <li>c) Hydrographic Surveyors</li> <li>d) Photogrammetric Surveyors</li> <li>e) Mine surveyors</li> <li>f) Geo-information Science Practitioners</li> </ul> <p>Section 4.(4)(a)"...in terms of subsection (1)(b), (c) or (d) ....." this should be amended to read, ".....in terms of subsection (b) and (d)...". The member appointed in terms of 4.(1)(c) is the nomination from the Council on Higher Education. There is no reason why this appointment should be advertised.</p> <p>Section 4.(8) This section should be reworded to read: "(8)(a) The Council shall nominate from its members, for appointment by the Minister, a Chairperson and a Deputy Chairperson who shall not be Council members appointed in terms of sections 4.(1)(a)(i), 4.(1)(a)(iii), 4.(1)(c) and 4.(1)(d). The Chief Surveyor General shall hold the position of Alternate Chairperson of the Council."</p> <p>It should be stipulated that the chairperson cannot be a person outside of the industry or appointed in an <i>ex officio</i> capacity. The work required of the chairperson is such that the Chief Surveyor General could not conceivably take on this task while still fulfilling the responsibilities of his position. The appointees from the Department of Mineral Resources and the Council on Higher Education and those representing the interests of the public cannot logically hold the position of chairperson of a Council representing Geomatics professions.</p> <p>With an additional clause: (8)(b) The position left vacant by the appointment of the Chairperson shall be filled by his or her alternate member who shall be appointed as a full member of the Council and the minister shall appoint a new</p>			<p>This does not warrant comment.</p> <p>The Minister is responsible for ensuring the proper implementation of the Bill and good governance of the Geomatics Profession. It should therefore be his or her prerogative underpin his or her accountability by appointing the appropriate chairperson. The members of the Council cannot assume this accountability.</p> <p>The current president of the Council is a principal in private practice, but still manages to run the Council in his capacity as president, it is therefore possible for a Geomatics professional in the employ of the state to do likewise, owing to the fact that the day to day affairs the Council are administered by the Registrar of the Council. Note: Section 8 (1) (a) (i)</p>
---	--	--	--

<p>alternate member in terms of subsection (7)(a).  <b>Section 5.(2)</b> A fifth subsection should be added to read as follows:  <b>5.(2)(e)</b> has, with the exception of members appointed in terms of section 4(1)(c) and 4(1)(d), allowed his or her registration with the council to lapse or whose name is removed or suspended from the register.  <b>Section 6.(2)</b> The Education and Training Committee;  This paragraph is totally inadequate considering the work required from this committee.  The composition of this committee should be elaborated on and stipulated in the Bill and must include a balance of suitably qualified academics as well as members from the Council, the Chief Surveyor General's office, the Council on Higher Education and the geomatics industry. In order to give this committee the authority that it will require to do its work, notwithstanding that it will be responsible to the Council, its members should also be Ministerial appointees and its funding should be separate for that of the council.</p> <p>One of the functions of this committee is the requirement (Section 8(1)(d)(ii)) to accredit all institutions offering geomatics qualifications at least once every four years. Considering number of institutions offering qualifications in the various disciplines of geomatics this is a significantly arduous and costly task.</p> <p>This committee is also required to evaluate 'geomatics' qualifications gained at foreign and unaccredited institutions as being equivalent to the council's academic requirements necessary for registration.  Also under the mandate of this committee is the time to time reviewing of the practical training components of the various levels of registration.  A simple <i>"The Council must, in the prescribed manner, appoint an Education and Training Committee"</i> is</p>			<p>This suggestion is accepted.</p> <p>Any suggestions in the comment that fall outside the ambit of the prescribed manner could be accommodated in the rules of the Council.</p>
---	--	--	---

<p>not satisfactory.</p> <p><b>Section 13.(1)</b> The term <b>Candidate Geomatics Practitioners</b> should pertain only to academically qualified Professionals and Technologists while they are undergoing practical training/mentorships. All academically unqualified persons, still studying towards a recognised qualification should simply be registered as 'Students'.</p> <p>Taking cognizance of the intentions of Bill as set out in the preamble, <i>"The Bill also seeks to provide for measures to protect the public from unethical geomatics practices and to provide for measures in order to maintain a high standard of professional conduct and integrity."</i></p> <p>By insisting on using registered persons the public is afforded some level quality assurance. This assurance cannot be given in respect unqualified and inexperienced registered persons. Registering as yet unqualified persons as "Students" avoids any confusion to the public at large.</p> <p>The Council should simply maintain a register of 'Students'. This will not adversely affect the goal, also set out in the preamble, <i>"to provide for the facilitation of accessibility to the Geomatics profession."</i></p> <p>As the incumbent President of PLATO, having held this office since October 2001, I would like to make a verbal presentation on these and possibly other matters contained in and pertaining to this Bill.</p>			<p>This comment is sufficiently addressed in Sub-section 13 (4)</p>
---	--	--	---





same section;  
 (b) The reservation of "any survey for the purpose of **preparing a diagram or general plan to be filed or registered in terms of any law governing the registration of any land or rights in land** or mentioned in any manner whatsoever in any other document to be so filed or registered" [Chapter 3 Section 13(2)(b)] is written exclusively in favour of professional land surveyors; Page 2 of 2

(c) The lack of recognition of the Department of Mineral Resources (DMR) and the Mining Laws administered by the DMR in the Definitions section. Currently only a mine surveyor may prepare and sign mine plans under the Mine Health and Safety Act and either a land or mine surveyor, or both, may prepare plans required in terms of the Mining Titles Registration Act.

We believe that the exclusive **reference to the professional land surveyor must either be withdrawn or professional mine surveyor must be included** in the Bill so that there is a clear definition in the boundary of responsibility between the two branches;

3. There is a disproportionate representation in favour of professional land surveyors on Council. Better representation will be achieved by incorporating one geomatics professional from each of the

The section does not pertain to work performed by mine surveyors as it provides for registration of (surface) land or rights in land, which is the domain of land surveyors.

Notwithstanding that duties performed by mine surveyors are outlined in the Mining Titles Registration Act, these comments are addressed in Section 2 (b)

Not all disciplines need to be represented at every single tenure of the Council.

<p>recognised voluntary associations [Chapter 2 Section 4(1)(b)(ii)]; and for this purpose 4(1)(b)(i) should be amended to exclude the reference to professional land surveyors;</p> <p>4. In addition to the abovementioned fundamental concerns the Council of IMSSA have listed a multitude of specific comments, which are contained in an edited pdf version of the Bill, which document will be e-mailed to you today, along with the electronic version of this letter.</p> <p>Further we wish to express our concerns with the consultation process followed by the Department:</p> <p>5. The members of Council of IMSSA received Mr Riba's communique sent to the South African Council for Professional and Technical Surveyors (PLATO) on 20 March 2013, effectively giving us nine calendar or six working days to comment in writing;</p> <p>6. Notwithstanding this short notice, which is an exact repetition of the process followed during the Christmas period in 2005-2006, we take exception to the fact that despite our submissions made on 16 January and 6 February 2006, as well as on 17 June 2011, none of our contributions appear to have been considered in any revisions of the draft Bills.</p> <p>Considering the above-mentioned</p>			<p>The notice was advertised for public comments in the print on 17 March 2013 and the communique received from the Chief Surveyor-General was a kind gesture to ensure transparency.</p> <p>All previous submissions were sufficiently considered.</p>
---	--	--	---

<p>concerns, IMSSA object to the Geomatics Profession Bill as it stands. Further, we hereby wish to inform you that IMSSA would like to make a verbal presentation.</p> <p><b><u>Comments on the Geomatics Profession Bill [B4-2013]</u></b></p> <p>The South African Geomatics Institute (SAGI) is a voluntary organization for <u>registered persons</u> working in Land Surveying, Engineering Surveying, Photogrammetry, Remote Sensing, Town Planning, Geographical Information Systems (GIS) &amp; Land Management. The Bill currently before the committee will thus have a direct bearing on our members. We comment firstly on a general nature and secondly specifically to various sections;</p> <p><b><u>1. General Comment - Transformation</u></b></p> <p>The memorandum attached to the bill, stipulates that despite efforts by PLATO, the profession is still far from representative of the South African demographics and that areas where the profession still needs to be transformed are, amongst others, the composition of the Council, the entry requirements into the profession, the</p>	<p><b><u>PETER NEWMARCH</u></b> National SAGI President</p>	<p>29 March 2013</p>	<p>Defining transformation Geomatics profession as a process of changing form one state to another will be a limitation to the capacity of the Council to develop a transformation programme which will ensure that the Geomatics Profession moves from what it is today to a profession that is more inclusive in terms of demographics, representivity, skills transfer, scarce skills development, economic empowerment as</p>
---	---	----------------------	---

<p>funding of the Council, rationalisation of the categories of surveyors, work reservation and disciplinary procedures.</p> <p>Clearly the drafters of this bill have little understanding of who PLATO is. The bill uses the acronym SACPTS to refer to the current council, any person who undertook a study of the profession and its needs before drafting this bill would have realized that the council is known as PLATO and not SACPTS. In addition, this Bill is basically a cut and past exercise of the Planning Profession Act 2002 in fact is basically 90% the same.</p> <p>In the departments response in February this year to this very portfolio committees concern about bursary students and their performance, the department submitted a report on the scarce skills training program they are running – it is stated that the <i>“The Geomatics Profession is still not representative of the demographics and requires transformation”</i>. The following questions must be asked;</p> <ol style="list-style-type: none"> <li>1) Who's role is it to bring people into the profession? And who finances them?</li> <li>2) What is the purpose of a profession – what are its core functions and responsibilities?</li> </ol> <p>The reality is that no profession can change its demographics by changing the profession or the rules of the profession – it</p>			<p>well as adopting a bottom-up approach to continuous improvement and ensuring external monitoring which is sensitive to internal procedures and values without compromising evolving standards.</p> <p>Substantial portion of the comments under this subject are superficial and derisive, therefore irrelevant to the objects of the Bill.</p>
---	--	--	--

<p>is simply not possible (unless one is compromising standards). The reason for this is that a profession relies on people studying that course and in turn those students generally need bursaries. <u>It is funding of students that leads to transformation.</u> The state is thus the largest player in changing the demographics of a profession – not the legislation governing a profession, which legislation should have as its sole purpose to regulate the profession and to protect the public.</p> <p>The department's bursary scheme and the Government's Student Grant scheme have altered the demographics of the profession. This raises serious questions about the motivation behind this bill and what is transformation in the context of a profession.</p> <p>Academic qualifications, funding of the council, rationalisation of the categories of surveyors, work reservation and disciplinary procedures have absolutely nothing whatsoever to do with transformation in the context of transformation that is used in every day language in South Africa (ie demographics). At worst they could be described as simple modernising measures.</p> <p>If the Government maintains that "transformation" is indeed necessary in these categories, then they should explain what they mean, it surely cannot mean a lowering of standards and thus placing the</p>			<p>The assertion that a certain institution of higher learning is producing graduates of a low standards draws one to enquire, whether the current Council is addressing the apparent deficiency since it sees fit register these very graduates to practice in a profession that considers its standards to be high. This gives impetus to the necessity for the new legislation to establish a transformed Council and not to compromise standards.</p>
---	--	--	---

<p>public in danger.</p> <p>Standards of best practice, standards of knowledge, standards of conduct are non negotiable and relevant irrespective of if one is Black, White or Indian. To mention transformation in this way is to say that standards are too high and somehow need changes – if anything, it's our view that standards are far too low.</p> <p>This leaves only the Composition of council as a "transformation" matter. We would dispute this matter entirely – the PLATO council is entirely transformed to the extent that people are prepared to take up a position on council. There are numerous excellent Black, Colored and Indian surveyors in our profession and even as an institute, when we ask people of colour to stand for positions within our organisation – the result is always the same "we are too busy making money, you do it and if there is a problem call us and we will assist" - We reject entirely the notion that somehow people must be forced to serve time on a council – if people do not stand of their own free will then this is not transformation.</p> <p>The Law Commission investigation into apartheid era legislation (Discussion Paper 118, Statutory law revision Project, 25 August 2010 - ISBN: 978-0-621-39657-7) found no problems with the current Act and we feel as a matter of principle that we must</p>			<p>It is not correct to state that the Law Commission found no problems with the current Act. The Commission findings were consistent with context of its mandate: to</p>
--	--	--	---

<p>place on record that we do not believe any motivations for this Bill based on transformation (demographics) to be valid. This does not mean however that there are no problems with the current Act. Geomatics developments over the years and issues in Industry require legislative amendments from time to time – as evidenced by previous amendments to the PLATO Act. The Law commission did however find that their where two sections of transitional measures which where obsolete and no longer needed. On the 29<sup>th</sup> January 2013 this portfolio committee had a preliminary briefing by the office of the Surveyor General in which it was stated to the committee that</p> <p><i>"... the Geomatics Profession Bill (the GPB)) was needed, as the old legislation, the Professional and Technical Surveyors Act of 1984, had to be modernised and aligned with the Constitution. That current legislation excluded other categories of geomatics professionals, such as geospatial information sciences. It also had not catered for work reservation. The Bill had originally been titled as the "Surveying Professions Bill", but, after consultation with other stakeholders, the title and content were changed to the current GPB. The Planning Profession Act of 2003 was used as a model for the GPB, but other legislation for professions such as architects, engineers, valuers, and quantity surveyors was considered also. The initial</i></p>			<p>investigate if the Act was racially discriminatory, which it found was not the case. Its interrogation of the Act did not cover transformation issues as is the the case with the Bill.</p>
--	--	--	--



draft was approved by the Deputy Minister in 2005, and there were public comments and public workshops in 2005/06. As already set out, the intention was to include related fields within the geomatics fraternity, including mine and land and engineering surveying and geo-spatial information sciences. The Council was being expanded in scope, and the current position, where only the institutes could nominate members to the Council, was now being changed, so that the appointments would be made by the Minister after a more transparent process of calling for nominations. Four members would represent the State, of whom three should be from DRDLR and one from Department of Mineral Resources. Five members of the Council would be non-state representatives, and there would be one member of the public and one from the Council of Higher Education.

There were four registration categories set out in the Bill, namely candidate geomatics practitioners, encompassing all those in training, including those training for technicians, technologists or geomatics professionals. Each category had different branches. The State would fund the Council, as distinct from the current position where the Council was funded solely by membership fees. (source – PMG website). The current Act currently covers all the spheres of Geomatics (although perhaps

<p>the profession than any other professions in South Africa, what's more, when one factors in the age of surveyors, their retirement (60 years) and the rate of new graduates, this non white male percentage will dramatically increase, so much so that 1026 people will be aged between 60 and 90 in the next 10 years – if academic institutions maintain their current student graduate numbers of a total of about 158 students per year (combined totals), the overall situation in 10 years from now will be a profession that has about 2850 registered persons of which about 318 will be white males – a transformed percentage of 89 % non white males.</p> <p>These transformation numbers will in reality be higher due to the fact that it's customary for retired persons and people who have emigrated to maintain their registrations – thus inflating the number of white males although not practicing.</p> <p>It must be stated that these transformation figures would not be possible without the massive bursary scheme the department instituted some years back as well as the Governments General Bursary scheme. The PLATO council offers bursaries as does the SAGI Trust, but these are small in comparison to the Departments Bursary budget.</p> <p>We recognize of course that transformation</p>			
---	--	--	--

<p>However, what good is providing comment if much of it is simply glossed over? Even this process of submitting these comments to the Portfolio Committee will get glossed over as it is the department that compiles the comments together and summarises them in a more glossy version. They can then be dismissed very easily. We have seen this from other legislation and indeed comments are not even considered. We are not very pleased at having 14 Days to comment on this Bill, we have substantive and substantial issues and 14 days is hardly enough to appropriately comment on all this. But then it will simply be dismissed anyway. Commenting on Bills in South African nowadays is becoming a fruitless exercise when there is no corresponding engagement on those comments – they are simply dismissed. The only true way of having our comments heard by the committee directly is to make a verbal presentation – which we intend doing.</p> <p>We have no doubt that all other Geomatics Institutes will also ask for an opportunity for a verbal presentation in addition to submitting comments – This is indicative that there are major problems with this Bill. A profession, its structure and format are best ascertained by the profession itself, but we certainly get the impression that this is simply the Departments Bill and that's it – Public Comment has simply been a sham exercise to date.</p>			<p>The derogatory nature of these comments are a serious indictment of the integrity of the parliamentary process and places serious doubt on the sincerity of the institutes exercise in lodging comment at all.</p>
---	--	--	---

<p>3. <u>Specific Comments:</u></p> <p><u>Geomatics Principles</u>  <u>Section 2(a)</u> does not adequately cover what Geomaticians do. For one, Mine surveying is not suitably covered by this description and secondly engineering surveyors are not fully accounted for in this definition.</p> <p>Additionally there is not a single mention of land management for example. The department should sit down with the profession and suitably reword this entire section to ensure that it covers what the profession does.</p> <p><u>Section 2(aliii)</u> does not correctly cover what the land surveyor does with respect to real rights. The problem is the wording as it implies that we only deal with "applicable legislation" for <u>registration purposes</u> – this is not true, there are a myriad of pieces of legislation that we have to deal with that are not related to registration – such as the fencing act to name but one. The principle should be amended to read as follows,  <i>"the planning and determination of, the position of the boundaries of land and of rights in land, for the purpose of registration of such land, as well as rights therein with respect to relevant legislation,"</i></p>			<p>This comment is sufficiently addressed in the definition of a Geomatics Practitioner and its reference to Section 2 (a).</p> <p>Land management is not a specific Geomatics discipline, but rather an overarching multi-disciplinary vocation covering general management of land matters.</p> <p>Applicable and relevant are redundant, therefore the comment does not warrant amendment of this sub-section.</p>
--	--	--	---

<p><b>Section 2(c)i</b> – this should be removed. See my comments on transformation. The effect of this is that in 10 years or so time, council may sit with the situation of having over transformed, will council then bring in measures to promote and protect white people ?</p> <p>We believe this is self defeating; council is already on the right path, with the help of the department and its bursary schemes. The government BBBEE policies will bring everything into equilibrium.</p> <p>The profession is already completely transparent and this clause only serves to cast doubt over standards, ethics and integrity – will transformation play a role in discipline matters for example, or for that matter high standards. The use of this word implies that it is acceptable to drop discipline and standards to meet a certain target – notwithstanding section 2(c)ii</p> <p>Words to the effect of legitimacy and effectiveness imply that the current Act is not legitimate or effective. The Law commission investigation would disagree with this aspect as do we!</p> <p>This Item should be removed.</p> <p><u>Establishment of South African Geomatics Council</u></p> <p><b>Section 3(3)</b> – there is no need for this clause, it is already a requirement in the SAQA legislation for all professional bodies to register. We are very surprised that this bill even passed the State Law Advisor, as</p>			<p>Comments are speculative.</p> <p>Comments are speculative.</p> <p>SAQA is a statutory body and its framework requirements are mandatory to professional bodies. The Bill therefore, refers to SAQA for recognition purposes. The sub-section</p>
---	--	--	---

<p>it is common practice not to double legislate.</p> <p>In addition to this, the repeated referral to SAQA in this Bill undermines the constitutional rights that surveyors have in the constitution, namely the inequality provisions enshrined in Chapter 2 (9) of the Constitution, especially sub-section (1): "right to equal protection and benefit from the law" while noting that (2) "Equality includes ... all rights and freedoms". This is surely intended to include the right to continue to perform work for which an established professional body of people is recognized by society at large.</p> <p>By expressly double legislating one is strictly linking the competency of Geomatics persons to academic models. In the case of Geomatics, while academic models might <u>lay the foundation</u> to a Geomaticians background – it should in no way serve to limit, restrict or hamper a professions past, existing and future areas of expertise and competence.</p> <p>Any and all reference to SAQA in this Bill should be removed; it is unnecessary and will lead to this bill being challenged in the courts.</p> <p><u>Composition of Council</u>  <u>Section 4(1)</u>  The composition of the council is problematic. <u>Subsection 2(ii)</u> stipulates that at least four but no more than five people must represent voluntary</p>			<p>should be retained.</p> <p>SAQA is a statutory body and its framework requirements are mandatory to professional bodies. The Bill therefore, refers to SAQA for recognition purposes. The sub-section should be retained.</p> <p>The Bill caters for the Geomatics Profession</p>
--	--	--	--

<p>associations. The problem is that there are six professional categories. To be fair, representation from each sub domain of Geomatics should have a say in council – these sub domains are covered by various institutes or voluntary bodies.</p> <p>In addition to this, the bill ignores the interests of the youth. The interests and issues of the older generation are sometimes very different to those of the younger generation. An organisation already exists in South Africa called the Young Surveyors Network and designed to better network between young and old – this organisation is being formalised with PLATO, SAGI, GISSA, IMSSA and the departments assistance.</p> <p>We are of the view that in addition to the six sub domains which the institutes represent, the youth should also have an input. (Please note that not all institutes have been mentioned).</p> <p>Thus <b>Section 4(b)ii</b> should change to reflect that the voluntary organisations should account for at least seven members of council.</p> <p><b>Section 4(1)a(iii)</b> The Department of Mineral Resources can nominate any Geomatics Practitioner, this should change to reflect that such a Geomatics practitioner should be registered in the mining category – else what would be the purpose of referring to the Dept of Mineral Resources.</p>			<p>which is gender and age inclusive.</p> <p>Not all disciplines should during every tenure of the Council. The Council in its day to day operations caters for all Geomatics disciplines.</p> <p>The sub-section specifies a Geomatics Professional in the full time employ of DME, it therefore does not warrant amendment.</p>
--	--	--	---

<p><u>Section 4(a)</u> is problematic as in the case of a recognised voluntary organisations, the minister is not required to consult or indeed necessarily ask for their nominations – the legal effects of this is that somebody may represent a voluntary organisation other than that organisations appointed person!</p> <p><u>Section 4(8)</u> – for the council to function properly on a day to day basis, the chairperson <b>should not</b> be a member in the employ of the state.</p> <p><u>Section 4(9)</u> is problematic as it is a very subjective matter as to when a person can or cannot perform their duties. It is vague and arbitrary. Specific timeframes should be stated. We are deeply concerned about having a council that cannot perform its</p>			<p>The section as quoted, does not exist in the Bill.</p> <p>The Minister is responsible for ensuring the proper implementation of the Bill and good governance of the Geomatics Profession. It should therefore be his or her prerogative underpin his or her accountability by appointing the appropriate chairperson. The members of the Council cannot assume this accountability.</p> <p>The current president of the Council is a principal in private practice, but still manages to run the Council in his capacity as president, it is therefore possible for a Geomatics professional in the employ of the state to do likewise, owing to the fact that the day to day affairs the Council are administered by the Registrar of the Council. Note: Section 8 (1) (a) (i)</p> <p>The comment is speculative. However, it is noted that the Section deals with the tenure of member or office bearers and not what is contained in the comment.</p>
--	--	--	---



<p>bringing the profession into disrepute. A persons conduct can be such that he or she does harm to the good name of the profession as a whole.</p> <p>This item should be reworded to - <i>not deliberately do anything calculated to unjustly or unfairly injure the reputation of another registered person or the Geomatics Profession.</i></p> <p><u>Offences and Penalties</u>  <u>Section 35(8)</u> This is very confusing. The ability to do Geomatics work is through the individual, this Bill does not licence companies or partnerships. Secondly this section implies that the directors need not be registered persons.</p> <p>There is therefore the possibility of persons outside of the Geomatics profession owning a company and employing a Geomatician to perform certain Geomatics functions. The directors (who don't do any Geomatics work) can then place undue pressure on the registered person to perform certain functions with no liability whatsoever on the company – or if they run into difficulties, they can liquidate the company but the “employed” registered person will still have the legal obligation to finish such work. In the case of reserved work, a company cannot be appointed, only the individual for that company can be appointed.</p> <p>We propose that section 27A of the</p>			<p>This is a regulatory issue.</p> <p>It is concurred that Section 35 (8) be amended to incorporate the suitably amended provisions of Section 27A of the Professional and Technical Surveyors Act, 1984 (Act 40, 1984)</p>
--	--	--	---

<p>Professional and Technical Surveyors Act No. 40 of 1984 be suitably amended and incorporated into this Bill to cover all professional aspects around companies so as to protect the public against unprofessional business practices. This Bill does in no way address issues of who can operate a Geomatics company and how the company interacts with the public – this must be addressed. SAGI would like to make a verbal presentation on these comments as well as other matters within this Bill.</p>			
<p>1(1) Bill /Act must be cognisant of "recognition of prior learning "</p> <p>1 (1) The term Geomatics Information Science (GISc) needs to be defined as there is a lack of clear "definition"</p> <p>1 (1) The SDI Act No 54 of 2003 needs to be reference in lieu of the definition of Geomatics Information Science (GISc). This may require highlighting or articulating the Committee on Spatial information (CSI) as a body which can carry out the role of defining GISc activities. i.e. GISc activities need to be accountable to the SDI Act through the CSI.</p>	<p><b>Dr Herman Booysen: GISSA</b></p>	<p>28 March 2013</p>	<p>This comment as well its gravity is noted to be addressed by the Education and Training Committee to be established in terms Section 6 (2) of the Bill.</p> <p>This comment is sufficiently addressed in the Section referred to.</p> <p>This comment falls within the administrative imperative of the Council to be established.</p>

<p>The first part of the definition of "geomatics practitioner" is biased towards surveying. Although GISc practitioner use information collected by "a person who exercises skills and competencies. In the science of measurement" (i.e. surveyor), they need not necessarily have these skills (if they do, then they all need to be surveyors). The term "administration" is also biased towards land surveying and "management of land, sea and structures" would be a better description of what GISc practitioners do with geospatial information. We consequently suggest that the definition be amended to:</p> <p>"geomatics practitioner" means a person who exercises skills and competencies in the science of measurement and /or the collection, assessment and application of geographic information for the efficient management of land, the sea and structures thereon or therein, as contemplated in section 2(a) , and who is registered in one or more of the braches of geomatics and in one or more of the categories contemplated in section 13(4)(b),(c) and (d)</p> <p>Definition for professional GISc practitioner</p> <p>1(1)There is currently no definition for professional GISc practitioner. There is, however, one for professional land surveyor. This is indicative of the current</p>			<p>This comment is sufficiently addressed in Section 1 (1) as these categories fall within the definition of Geomatics Practitioners as defined in the Bill and encompasses ALL sciences of measurement.</p> <p>The branch encompasses ALL categories of geomatics fraternity.</p>
--	--	--	--

<p>for section 8(d)i. In addition <b>Section 8(d)vi</b> recognises that council may recognise any qualification or examination irrespective of SAQA processes. – Contradictions and uncertainty in the Bill.</p> <p>This section should be removed.</p> <p><u>Registration of Persons</u>  <b>Section 13(2)a</b> states that “a person may not practice in or perform any work, whether for reward or otherwise which is reserved for any of the categories or branches referred to in subsection (1) unless he or she is registered in that category or branch or he or she performs such work under the supervision of a registered person and such registered person assumes responsibility for any work so performed.”</p> <p>This is a very dangerous section and the implications of which depend on the definition of supervision – which is not defined in this Bill. <u>This must be defined.</u></p> <p>The Land Survey Act defines supervision but only in relation to certain categories of surveyors (Geomaticians). It would be critical that this Bill adopt the same definition of supervision <u>but suitably worded to incorporate all disciplines of Geomatics and functions, it may require a slightly different definition for different branch's of Geomatics.</u></p> <p>The Land Survey Acts definition of</p>			<p>The comment in respect of the provisions of Section 8 (d) vi, is misleading and out of context in that it does not reflect what is provided for in this sub-section.</p> <p>The issue of supervision is sufficiently addressed in this sub-section of the Bill. However, we propose that an insertion of the following words <b><u>of the same discipline</u></b> be made to the sub-section to read as follows:</p> <p>13(1).....</p> <p>(2)(a) a person may not practice in or perform any work, whether for reward or otherwise which is reserved for any of the categories or branches referred to in subsection (1) unless he or she is registered in that category or branch or he or she performs such work under the supervision of a registered person <b><u>of the same discipline</u></b> and such registered person assumes responsibility for any work so performed.</p> <p>It should be also noted that cadastral land survey work is subject to examination in terms of the Land Survey Act, hence the need for proper definition of supervision. Work performed in other Geomatics disciplines is not subject to examination.</p>
--	--	--	--

<p>supervision is as follows;  <i>"supervise" or "supervision", when used in relation to a survey and the field operations by any person registered as a professional surveyor, professional surveyor in training or technical surveyor in terms of the Professional and Technical Surveyors' Act, 1984 (Act No. 40 of 1984), (in this definition referred to as "an assistant"), means—</i>  <i>(a) the personal presence of the land surveyor when existing beacons, corner points or other objects which must be surveyed are inspected and pointed out to an assistant, with such participation by the land surveyor during the reconnaissance as to ensure the sound determination of the beacons, corner points or other objects: Provided that the land surveyor shall not be compelled to be present or to participate when any such beacons, corner points or other objects which were previously connected to or based upon reference marks or trigonometrical stations are inspected by an assistant; and</i>  <i>(b) adequate control by the land surveyor when beacons are placed and surveyed by an assistant;</i></p> <p><u>Professional Conduct</u>  <b>Section 18(6)a</b> – no provision is made for</p>			
---	--	--	--

<p>Bill's bias towards surveying.</p> <p>1(1) "branch" means a specific specialisation field of geomatics including, but not limited to, land surveying, topographical surveying, engineering surveying, mine surveying and geo-spatial information science of any other specialisation field which may from time to time be determined by the Minister by notice in the Gazette;</p> <p>Will this "branch" also include educators such as teachers/ lecturers of geo-spatial information science?</p> <p>2(a)(iv) The section concerned with GISc in the description of the geomatics profession should be amended to:</p> <p>the design, development, establishment and administration of geospatial technologies (e.g. geographic information systems and remote sensing) and the collection, storage, analysis, visualisation and management of geo-spatial information;</p> <p>4(1) (a) &amp; 1 (1) (b) Composition of Council – Representation from the GIS industry must be included.</p> <ul style="list-style-type: none"> <li>• 1 from government</li> <li>• 1 from private sector</li> </ul> <p>4(1) (a) Someone from the Committee on</p>			<p>This comment is sufficiently addressed in the Section referred to and further elaboration of description contained in the Section referred.</p> <p>These comments are sufficiently addressed in the Sections referred to.</p>
---	--	--	--

<p>Spatial information (CSI) must be represented on the Committee.</p> <p>4 (1) (b) We request that Geospatial information Science be provided with more representation or are guaranteed of a certain level of representation as their numbers will grow significantly when this Bill / Act is promulgated and will need to be "equal" to the surveyors if not represented more.</p> <p>4 (1) (b) (i) Minimum of 1 from GISSA</p> <p>4 (1) (d) Can this be anyone or is it mandatory for this public rep to have geomatics interest and / or experience.</p> <p>What are the constraints on choosing such a person? This is very open-ended and needs to be expressed i.t. o a member of the public with a specific interest in the Goematics profession (e.g. professional town planner, conveyance, ect)</p> <p>4 (7) it should also be Law that the chairman and deputy chairman of the council cannot be both Surveyor by trade one must come from a GIS back ground.</p> <p>5 (1) (b) the word "non rehabilitated" rather than unrehabilitated.</p> <p>8 (1) (b) (ii) (aa) What branch will the current Professional GISc practitioners be</p>			<p>These comments are sufficiently addressed in the Sections referred to.</p> <p>This comment falls within the administrative imperative of the Council to be established in terms of Section 4 of the Bill.</p> <p>This comment fall within the administrative imperative of the Council to be established in terms of Section 4 of the Bill.</p> <p>The comment is irrelevant to the objects of the Bill.</p> <p>This comment fall within the administrative</p>
--	--	--	--

<p>entitled to practise in : geo- Information Science?</p> <p>8 (1) (e) Must be moved to the Finance Section (12)</p> <p>9 (6) &amp; 9 (10) (1) What is a majority of the members which will then constitute a quorum? More than two thirds or ....?</p> <p>11 We presume the idea of the remuneration is to reimburse an individual for expenses he/she might have incurred to attend the meeting. The idea is not to earn a salary. If money comes into play, people might not represent their category without bias.</p> <p>12 (5) will the 14 days be after the closure of the financial year? How will registered members know when the statement and balance sheet is available for public inspection?</p> <p>13 Will there be subsection under the categories, for example:</p> <p><u>Professional Geomatics Practitioner</u></p> <ul style="list-style-type: none"> <li>• Professional GISc Practitioner</li> </ul> <p>What will be the Title of Geomatics Professional? Will it be Geomatics Professional under the branch (category) Geospatial Information Science (GISc)</p>			<p>imperative of the Council to be established in terms of Section 4 of the Bill.</p> <p>This comment fall within the administrative imperative of the Council as it will formulate its rules.</p> <p>This is a regulatory issue which will be addressed by regulations to be promulgated in terms of Section 30 subsequent to the amendment of the Bill.</p> <p>This comment is sufficiently addressed in Section 1 (1) as these categories fall within the definition of Geomatics Practitioners as defined in the Bill.</p>
--	--	--	--



<p>13 In fact the Bill/Act is a bit thin on what the requirements are for the different levels and 'branches' will be. Will these be covered in the Rules and Regulations?</p> <p>13 (1) We think it would be advisable that a category for "educators" be established?</p> <p>13 (1) Where will the GIS person fit in? Will there be a different section for GIS professional person register presently with PLATO?</p> <p>13 (1) Should registration categories (land surveyor, photogrammetric surveyor, ect.) not be explicitly mentioned?</p> <p>13 (2) If effectively Surveyors and GIS practitioners will be registered under the same categories, as seemingly is what this Bill hopes to achieve, how would the public know who has the right specification for the job they need?</p> <p>Where and how will the categories and the reserved work per 'branch' be compiled and agree upon and then published? I am concerned that some work will be reserved under a branch but there might be cross cutting functions. I am assuming this actually refers to non-surveyors doing surveys work for which they are not qualified.</p>			<p>This is a regulatory issue which will be addressed by regulations to be promulgated in terms of Section 30 subsequent to the amendment of the Bill.</p> <p>These comments are sufficiently addressed in Section 36(7)</p> <p>The Bill does not seek to mingle registration of ALL categories that fall within the definition of a Geomatics Practitioner as separate registers are going to be maintained.</p> <p>This comment falls within the administrative imperative of the Council and the question of who must do survey work is sufficiently addressed in the Land Survey Act.</p>
---	--	--	---

<p>Is it correctly to say that if you want to do GIS work in South African you must be registered under the Geomatics Bill to earn an income? If this is the case, what will the committee do if people don't register? What due course do they have over non members to discipline and pursue them under the law.</p> <p>13 (4) Provision need to be made for the recognition of "old" practitioners who do not have formal qualification, but is experience based i.e. grandfather clause incorporated?</p> <p>13 (4) The Draft Geomatics Profession Bill describes geomatics technicians, technologists and professionals. These roles in a similar way to that of the GIS technicians, technologist and professionals roles. Therefore if i register with PLATO/ Under the new bill as a GIS Technologist for instance do i become recognized under this new draft bill in the equivalent geomatics Technologist?</p> <p>13 (4) It would seem that this Act assumes that only Surveyors are registered under the PLATO Act, and thus the old Act's definition of registered professionals is only extended to the include assessment of geographic information, the problem is GISc professionals registered under the same Act cannot be imposed to the same candidature assessment methods as</p>			<p>This comment falls within the administrative imperative of the Council and it is sufficiently addressed in Section 35 (6) of the Bill.</p> <p>This issue falls within the administrative imperative of the Council as well as the Education and Training Committee to be established.</p> <p>The Bill does not seek to mingle registration of ALL categories that fall within the definition of a Geomatics Practitioner as separate registers are going to be maintained and this comment is sufficiently addressed in Section 36 (7).</p> <p>This issue falls within the administrative imperative of the Council to be established.</p>
---	--	--	---

<p>which will be published in the rules and regulations to put people at rest that this will be covered, but not necessarily by the Bill Act per se.</p> <p>36 (3) What happens to someone who is already a Registered GISc Practitioner with PLATO at the commencement of this Bill</p> <ul style="list-style-type: none"> <li>• There seems to be mention of the transitions of surveyors but silent about registered GISc Practitioners. Do we simply apply and get a new certificate or do we have to go through the same competency assessments.</li> <li>• Will only surveying professionals have to re-register? What about the Professional GISc practitioner? Won't we have to reregister as professional geomatics practitioners in the branch of GIS?</li> </ul> <p>36 (3) In general ; How will the existing registration with PLATO converted to this classification?</p> <p>36.(3) Would the registration as a geomatics professional be significantly different to the OLD registration under the PLATO Act?</p> <p>36 (3) In terms of GISc professional who were in the process of registering under the PLATO Act what happens to their fees paid for this registration since the new Bill does</p>			<p>These issues are sufficiently addressed in the Section referred to and more particularly in Section 36 (7)</p>
--	--	--	---

<p>Surveyor's because this would disadvantage them as their qualification are not the same. How is this distinction made in the Bill?</p> <p>17 Shouldn't SAGI , GISSA and the other established bodies be defined in the Bill/Act to try and ensure that we do not have multiple associations diluting the roles of the voluntary associations?</p> <p>18 It seems to talk more about registered professional what about unregistered professionals performing the same functions as registered ones? What can the council do about such individuals?</p> <p>18 In protection of the public from unethical geomatics practise, whos is allowed to lodge a complaint about geomatics professionals whether registered or unregistered and t which structure? Following what process?</p> <p>22 What rights would an accused registered person have to access to all reports by investigation officer or witness's statement in order to appeal any judgement against them?</p> <p>30 When will the geomatics (and specifically GIS profession) regulations be published?</p> <p>30 Maybe define the types of information</p>			<p>This comment is irrelevant to the objects and the purpose of the Bill.</p> <p>This is a regulatory issue which will be addressed by regulations to be promulgated in terms of Section 30 subsequent to the amendment of the Bill and it falls within the administrative imperative of the Council.</p> <p>This is a regulatory issue which will be addressed by regulations to be promulgated in terms of Section 30 subsequent to the amendment of the Bill and it falls within the administrative imperative of the Council.</p> <p>All rights that is available in terms of Section 35 of the Republic of South Africa as well as at common law.</p> <p>This issue will be addressed following the enactment of the Bill.</p>
--	--	--	---

<p>not allude that they would automatically be registered if it becomes Law?</p> <p>General          "The main purpose of the Bill is to provide for the transformation of the geomatics profession...."          Yet item 13.(2)(a) potentially excludes previously disadvantaged individuals from access to work opportunities in the geomatics field and favours job reservation for professionals who qualified through grandfathers clause. Even if someone started studying or working as a geomatics professional immediately after 1994 they still would not qualify as a geomatics professional through the grandfathers clause and they wouldn't have had enough years to gain the necessary experience. They may have completed a PhD during that time but as many relevant courses have not yet been assessed against SAQA Unit Standards they cannot be accredited. There needs to be a timeframe for persons to gain necessary accreditation before being implicitly excluded from work opportunities until such time as a normal registration route mechanism is in place and working. There ideally needs to be an equivalency exam in the interim that is administered by the council over an appropriate time of the act coming in to law for the purpose of assessing applicable experience and suitability to be registered and practise as a technician, technologist</p>			
--	--	--	--

<p>and professional. After this time a CPD program kicks in.</p> <p><b>General</b> Transformation must be defined more clearly.</p> <p><b>General</b> Will the bill/act influence the registration of people that is currently busy with the registration process?</p> <p><b>General</b> Nowhere in the current bill has there been any reference to the Consumer protection Act (Act No68 of 2008). This act has had severe impact on various other (relate) professional industries in the way they interact with clients, their guarantees and deliverables and time frames. Would the</p>			<p>Defining transformation Geomatics profession as a process of changing form one state to another will be a limitation to the capacity of the Council to develop a transformation programme which will ensure that the Geomatics Profession moves from what it is today to a profession that is more inclusive in terms of demographics, representivity, skills transfer, scarce skills development, economic empowerment as well as adopting a bottom-up approach to continuous improvement and ensuring external monitoring which is sensitive to internal procedures and values without compromising evolving standards.</p> <p>These issues are sufficiently addressed in the Section referred to and more particularly in Section 36 (7)</p> <p>There is no need to make specific reference, as it is ordinary that the Consumer Protection Act will be applicable to services rendered by Geomatics Practitioners.</p>
---	--	--	---

impact of the Consumer Protection Act have on our industry be something that will be dealt with in amendments in the future?			
--	--	--	--

