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Date: 6 September 2013

Mr. JD Thibedi, MP  
The Chairperson  
Portfolio Committee on Rural Development and Land Reform  
Parliament of the Republic of South Africa  
CAPE TOWN  
8000

Dear Mr. Thibedi

#### RE: SECTIONAL TITLES AMENDMENT BILL, 2013

1. The Portfolio Committee on Rural Development and Land Reform ("the Portfolio Committee") requested the State Law Advisers, the Parliamentary Law Adviser and the Department of Rural Development and Land Reform to reconsider the definition of "land surveyor" in light of the proposed repeal of the Professional and Technical surveyors Act, 1984 (Act No. 40 of 1954) as provided for in the Geomatics Profession Bill, 2013 ("the Geomatics Bill").
2. We have scrutinised the proposed amendment to the definition of "land surveyor" as provided for in the Sectional Titles Amendment Bill, 2013 ("the Bill").
3. The definition of "land surveyor" reads as follows:  
*"'land surveyor' means a person registered as a professional land surveyor in the register prescribed in section 7(4)(a) of the Professional [Land Surveyors] and Technical Surveyors' Act, 1984 (Act No. 40 of 1984), and who has met the requirements set out in section 5(2) of this Act."*

4. In Schedule 1, the Geomatics Bill seeks to repeal the Professional Land Surveyors' and Technical Surveyors' Act, 1984 (Act No. 40 of 1984), to which this definition refers. Furthermore, the Geomatics Bill provides for a new definition of a "professional land surveyor" which reads as follows:

**"professional land surveyor" means a person—**

- (a) who is registered as a geomatics professional in terms of section 13(4)(d) in the branch of land surveying;
- (b) who is authorised to perform work reserved for a professional land surveyor in terms of the Land Survey Act, 1997 (Act No. 8 of 1997); and
- (c) whose name is entered in the register for professional land surveyors contemplated in section 8(1)(b)(ii)(bb);".

5. We have considered the proposed amendment in light of the above background and the following:

- That the Geomatics Bill is still within the parliamentary process and must still be considered by the NCOP. There is no certainty relating to the coming into operation of the Geomatics Bill; and
- section 12 of the Interpretation Act, 1957 (Act No. 33 of 1957) deals with the effect of repeal of a law and provides as follows:

**"Effect of repeal of a law**

**12. (1)** Where a law repeals and re-enacts with or without modifications, any provision of a former law, references in any other law to the provision so repealed shall, unless the contrary intention appears, be construed as references to the provision so re-enacted.

**(2)** Where a law repeals any other law, then unless the contrary intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any law so repealed or anything duly done or suffered under the law so repealed; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as is in this subsection mentioned,

*and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing law had not been passed."* (our emphasis)

6. The application of section 12 of the Interpretation Act in effect mean that references in the Sectional Titles Amendment Bill, 2013 to the Professional Land Surveyors' and Technical Surveyors' Act, 1984 (Act No. 40 of 1984) are, unless the contrary intention appears, construed as references to the Geomatics Profession Bill, 2013 as soon as the

latter comes into operation.

7. Having regard to the aforesaid, we hold the view that it is not necessary to align the definition of "land surveyor" with the Geomatics Bill at this stage.

Do not hesitate to contact us for any queries relating to this matter.

Yours sincerely



CHIEF STATE LAW ADVISER