



THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA
DEPARTMENT OF PLANNING, MONITORING AND EVALUATION



SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)
FINAL IMPACT ASSESSMENT TEMPLATE (PHASE 2)

Communal Property Associations Amendment Bill, 2015

Version: 12 December 2015

Final impact assessment: [Communal Property Associations Amendment Bill]

The final impact assessment provides a more detailed assessment of the ultimately legislative proposal. In addition, it identifies (a) mechanisms for monitoring, evaluation and modification as required; and (b) a system for managing appeals that could emerge around the implementation process.

1 Problem statement/Theory of change

1. Summarise the proposal, identifying the problem to be addressed and the roots (causes) of the problem that will be addressed by the new rule.

The Communal Property Association Amendment Bill (CPAAB) was introduced to address inherent risks identified during the implementation of the Communal Property Association Act No 28 of 1996. Communal Property Associations are established in terms of the Communal Property Associations Act, No. 28 of 1996. The objective of the Act is to create a new form of juristic person to allow disadvantaged communities to acquire, hold and manage property in common. The DRDLR has monitored the implementation of the Act since its enactment and has identified certain challenges including:

- The creation of Community Property Associations (CPAs) has resulted in families and communities with no relationship or joint history being bound together under this form of land holding structure;
- Some CPAs were created on the basis of interim establishment provisions that have resulted in challenges of improperly verified beneficiaries;
- There are no mechanisms to control who comes and settles in the community;
- Where CPAs have been established in areas administered by Traditional Authorities, tensions and conflicts have surfaced; and,
- There is increased tenure insecurity for more vulnerable individuals (i.e. youth, women, the elderly and other persons already residing on land acquired by CPAs).

Furthermore, some of the risks associated with the implementation and management of CPAs that have been identified include: increasing non-compliance with the CPA Act and associated monitoring, specifically in relation to registration of CPAs and maintenance of records; democratic governance, financial management and accountability, dispute resolution, and reporting by CPAs; unprocedural and unaccounted for alienation of immovable property in ownership of the CPA; a conflation of land administration and management responsibilities with investment, development and economic affairs; unclear roles and responsibilities of governance structures vis a vis community members/representatives; and, the absence of sufficient and coherent support from the DRDLR.

Given the aforementioned challenges, the Bill seeks “To amend the Communal Property Associations Act, 1996, so as to amend, insert and delete certain definitions; to extend the application of the Act to labour tenants who acquired land; to provide for the establishment of a Communal Property Associations Office and the appointment of a Registrar of Communal Property Associations; to provide for general plans for land administered by an association; to repeal the provisions relating to provisional associations; to provide improved protection of the rights of communities in respect of movable and immovable property administered by an association; to provide for name changes of associations; to improve the provisions relating to the management of an association that has been placed under administration; to provide clarity on the content of an annual report in respect of associations; to make provision for transitional arrangements; and to provide for matters connected therewith”.

The process leading to the Communal Property Association Amendment Bill (CPAAB) involved extensive consultations that DRDLR held between 2011 and 2015 as part of the 2011 Green Paper on Land Reform’s inclusive and participatory policy reformulation and legislative development process. These consultative engagements took the form of the National Reference Group meetings convened by the Legislation Workstream, Communal Tenure Workstream and CPA Workstream, provincial workshops, as well as several major national conferences including the 2012 National CPA Consultative Workshop, the 2014 National Land Summit, the 2015 Land Indaba and the 2015 Communal Land Indaba. More than 2 500 people from all corners of the country took part in these consultations, including representatives of CPAs, the DRDLR, NAFU, AgriSA, South African Canegrowers Association, National House of Traditional Leaders, the Griqua Royal House and other San-Khoi Communities, CONTRALESA, the Ingonyama Trust Board, TRANCRAA communities, the NAREG, Women on Farms, Women in Agriculture and Rural Development, Progressive Women’s Movement, National Movement for Rural Women, African Farmers Association South Africa, Agri-Sector Unity Forum, Agri Business Chamber, Surplus People Project of Western and Northern Cape, Land Access Movement of South Africa, Transkei Land Services Organisation, Nkuzi Development Association, Rural Legal Trust, Legal Resources Council, Lawyers for Human Rights, Banking Council of South Africa, National African Chamber of Commerce and Industry, National Khoi and San Council, BAWSI Agricultural Workers Union of South Africa, academics and legal experts, and other residents of Communal Areas.

The need to reform CPAs arose from mounting evidence that the majority of CPAs have not enhanced tenure security or improved economic prospects for communities. Various studies, including state reviews of CPAs conducted in 2005 and 2011, reported significant non-compliance with the CPA Act and CPA constitutions (on the part the DRDLR, CPAs and other relevant actors). In light of the DRDLR’s and other research study’s findings that the majority of CPAs were dysfunctional, a new CPA Policy and CPA Amendment Bill were drafted in consultation with stakeholders to define a new and improved course for CPAs. Evolving versions of the draft Policy and Amendment Bill were presented and discussed during the various consultative engagements convened by the DRDLR between 2011 and 2015. Stakeholders raised a number of important concerns and advanced many recommendations to ensure that the proposed reforms are appropriate and sufficient for addressing CPA-related problems. These recommendations are

incorporated into the current CPAAB, the subject of the current SEIA. A detailed analysis report on these consultations is available for reference purposes.

Problem	Root Causes
<ul style="list-style-type: none"> The CPA Executive Council (EXCO) is an ineffective land management tool with little or no accountability; 	<ul style="list-style-type: none"> Lack of accountability, and non-compliance to existing regulations. CPAs roles and responsibilities are not clear Illegitimacy of leadership, congestion, institutional CBAs State support to CPA EXCOs is insufficient Lack of capacity by the state to regulate and support Communal Property Associations (CPAs) Incoherent support of land owners by government. Provisional communal property association (registration) Limitations in the Principal Act
<ul style="list-style-type: none"> Tenure insecurity (Clarity and allocation) of rights and lack of regulatory framework to control landholding and ownership. 	<ul style="list-style-type: none"> Patriarchy, paternalism (dwarf and giant), and a syndrome of malice
<ul style="list-style-type: none"> Competing authority between CPAs, and Traditional leadership. 	<ul style="list-style-type: none"> CPAs derived from given/imposed Roma-Dutch law, TAs derived from customary law. Mixing structures also mixes different cultures and different belief systems.
<ul style="list-style-type: none"> Poor utilisation and underdevelopment of Communal Property Association (CPA) areas. 	<ul style="list-style-type: none"> Poor land use planning, conflict and institutional shortcomings, adversely impacting on optimal use of land

2. Describe the intended outcomes of the proposal.

To enable communities to acquire, hold and manage properties through effective statutorily established community resource and allocation management as well as administration entities (CPA EXCO) supported by government.

3. Describe the groups that will benefit from the proposal, and the groups that will face a cost. These groups could be described by their role in the economy or in society. As a minimum, consider if there will be specific benefits or costs for the poorest households (earning R7000 a month or less); for black people, youth or women; for small and emerging enterprise; and/or for rural development. Add more lines if necessary.

Groups that will benefit	How will they benefit?
Members of CPA	Improved land management and land use efficiency
Investors	Bankability of investments improved
Employees	Capacity improved
Women in rural areas	Representation in the CPAs
Labour Tenants	Access to power to establish CPA

Groups that will bear the cost	How will they bear the cost?
DRDLR	Vote, Treasury and tax payers investment in new land administration structures
Errant members of the CPAs	Lose from corruptive deals and fewer resources disposed at their discretionary use
Certain Traditional Authorities	Lose of patronage and forms of income

4. Describe the behaviour that must be changed, and the main mechanisms to achieve the necessary changes. These mechanisms may include modifications in decision-making systems; changes in procedures; educational work; sanctions; and/or incentives.

- Change in juristic personality
- Change in legitimacy and performance of community leadership including land administration
- Change in the way land governance rules are made and enforced
- Change in the way community leaders are identified and replaced
- Change in the way community decisions on land are made, recorded and communicated

5. Identify the groups inside and outside of government whose behaviour will have to change to implement the proposal (add more lines if required).

This table below covers Number 4 and 5

Groups inside government whose behaviour will have to change	behaviour that must be changed	Main mechanisms to achieve the necessary changes.
DRDLR (respective branches)	Ineffective monitoring and intervention system, inadequate support and inadequate data sources	<ul style="list-style-type: none"> • Enactment of the CPA Amendment Bill and its implementation • Widen and deepen the indicators for M&E to address social and economic performance by Performance Monitoring Chief Directorate • Establish the Registrar Office to manage the work portfolio of the CPAs and inform the performance management process • Develop and implement a strategy towards building the capacity of CPAs (mentoring, training, coordination of support etc.)
DAFF	<ul style="list-style-type: none"> • Ineffective research and extension services • Absence of effective PPPs 	Strengthen framework for IGR (SLAs, MOUs and IGR protocols) to ensure effective sectoral support.
Department of Corporate Governance	<ul style="list-style-type: none"> • The Key role of Local Government and Services Support; 	

Groups inside government whose behaviour will have to change	behaviour that must be changed	Main mechanisms to achieve the necessary changes.
	<ul style="list-style-type: none"> • Improvement of cooperative organisational development • CPAs and the lands they hold (± 5million hectares amongst them) ought to be viewed as a basis for local economic development of many municipalities 	
Department Traditional Affairs	<ul style="list-style-type: none"> • Key role of Traditional Councils in Accepting TAs where chosen as the Land Governance Structures, and • Improving collaboration with CPAs and focus on development 	
Department of Small Business Development	<ul style="list-style-type: none"> • Land as key to rural enterprise development and sustenance • CPAs and the lands they hold (± 5million hectares amongst them) ought to be viewed as a basis for local economic development 	
Department of Trade and Industry	<ul style="list-style-type: none"> • Land as key to rural enterprise development and sustenance; • CPAs and the lands they hold (± 5million hectares amongst them) ought to be viewed as a basis for local economic development • Land as key to rural enterprise development and sustenance of industry development 	
Department of Water and Sanitation	<ul style="list-style-type: none"> • Expedite the implementation of the reviewed water policy that prioritizes equity in water access licencing and water management institution reforms • Water as key to the successful delivery of agro-enterprises. 	
Department of Mineral Resources	CPAs, particularly those holding restitution of rights have a preferential approach to licencing and partnerships for development are essential for the equitable access to natural resources by all	

Groups inside government whose behaviour will have to change	behaviour that must be changed	Main mechanisms to achieve the necessary changes.
	citizens	
Department Environmental Affairs	Rural agricultural settlements and area wide agro-enterprise and support industries that are based on productive CPAs as key to development and a and sustainable rural settlements	
Municipalities	Limited support services for CPAs; rural settlements are key to local social and economic development	

Groups outside government whose behaviour will have to change	behaviour that must be changed	Main mechanisms to achieve the necessary changes.
CPAs	Inappropriate CPA constitutions; Fight over CPA resources; Disregard for allocated individual rights; fight between CPAs and tribal authorities, lack of management skills; land invasions; delayed transfer of land to CPAs; litigations amongst members; lack of institutional support, lack of operating capital	Enactment of the CPA Amendment Bill and its implementation
Agricultural Service Providers	Lack of confidence and insufficient arrangements and collaboration with small producers	Contract farming, shared facilities, and other cooperative activities
Neighbouring Commercial Farmers		
Non-Governmental Organisations	Lack of support for CPAs in respect of capacity building and social cohesion.	Training and mentoring
Traditional leaders and councils	Mistrust and lack of cooperation and collaboration	Deep dialogue and engagement that focusses on long term benefits and solutions
External investor	Ignoring investment potential in CPAs	Promote indigenous commerce
Financial institution	Ignoring CPAs as potential clients	Review mortgage regulations and finance on business performance

6. Report on consultations on the proposal with the affected government agencies, business and other groupings. What do they see as the main benefits, costs and risks? Do they support or oppose the proposal? What amendments do they propose, and have these amendments been incorporated in your proposal?

7. TABLE 1: Consultations on CPA Amendment Bill

Affected Stakeholders	What do they see as main benefits, costs and risks?	Do they support or oppose the proposal?	What amendments do they propose?	Amendments incorporated in proposal?
<p>Community Stakeholders:</p> <ul style="list-style-type: none"> a. CPA Executives b. Other CPA members c. Trust Communities d. Communities living on or near CPA land e. TRANCRAA communities f. San-Khoi communities g. Certain labour tenants h. Certain communities awarded restituted land i. Residents of Communal Areas j. Other land reform beneficiaries. <p>Other groups:</p> <ul style="list-style-type: none"> a. NGOs b. TCS c. Griqua Royal House d. Trusts e. Commercial Farmers 	<p><u>Benefits</u></p> <ol style="list-style-type: none"> 1. Communities given ultimate control over their land; 2. Widespread awareness and comprehension of CPA Act/Constitutions; 3. Increased compliance and fulfilment of roles and responsibilities; 4. Significantly enhanced state support to CPAs; 5. Improved service provision on CPA land; 6. Improved overall functioning of CPAs; 7. Consistent intergovernmental coordination and collaboration all stakeholders; 8. Improved CPA Constitutions; 9. Enhanced democratic governance and accountability; 10. Capacitated CPAs that are well-equipped to advance development; 	<ul style="list-style-type: none"> • General consensus among all stakeholders on need to amend CPA Act and Policy to ensure improved functioning of CPAs. • Complete support for separation of land management and business establishment; and CPA Registration Office, and appointment of CPA Registrar. • Certain issues were debated however: <ul style="list-style-type: none"> Appropriateness of CPAs as a land tenure institution and landholding body, with some arguing that CPAs are not the correct vehicle to use to manage communal land VERSUS others who felt that CPAs are the best option available for 	<ul style="list-style-type: none"> • Clearly define "communal land"; • Increased offences/penalties for violation of Act/Constitutions; • Improve M&E of CPAs; • Provide clear definition of 'household'; • Clarify roles and responsibilities of CPAs, TCS, etc.; • Devise detailed regulations to accompany amendments; • Constitutions to clarify membership/rules of succession; • New requirements for amending Constitutions; • Verify CPA membership before land is transferred; • Provide details on rights and duties of CPA members; • Establish entrance/exit procedures and compensation; • Ensure accountability of all structures; 	<p>Yes in the CLTP Yes – Bill: 14(f).</p> <p>Yes – Bill: 11.</p> <p>Yes- Bill: 8(e). Yes- Bill: 18.</p> <p>Yes- Bill: 8(h)(10).</p> <p>Yes- Policy: 2.3.</p> <p>Yes- Bill:</p> <p>Yes- Policy: 4.2</p> <p>Yes- Bill: 11(7), 20(13) Yes- Bill: 11(1)</p> <p>Yes- 2C, 2E.</p> <p>Yes- Policy: 4.3.</p> <p>Yes- Bill: 12(1)(a).</p>

Affected Stakeholders	What do they see as main benefits, costs and risks?	Do they support or oppose the proposal?	What amendments do they propose?	Amendments incorporated in proposal?
<p>f. Agri Business</p> <p>g. Banks</p>	<ol style="list-style-type: none"> 11. Expedited registration and transfer of CPA land; 12. Improved dispute resolution and less conflicts; and, 13. Enhanced tenure security of CPA members; 14. Equal participation of youth, women, etc. <p>Risks</p> <ol style="list-style-type: none"> 1. Lack of enforcement and continued non-compliance; 2. Unfunded mandates; 3. Continued dysfunction of CPAs; 4. Poorly derived rights of family members; 5. Alienation of communal land due to individual titling; 6. Counter claims of CPA land by Traditional Authorities; 7. Poor utilisation of communal land; 8. Limited participation of members; 9. Lack of profitability and repayment ability of CPAs; 10. Refusal of banks to accept communal land rights as collateral; 11. Undermining of women's 	<p>communal land ownership thus CPAs should be formed where communities choose;</p> <p>Whether CPAs should be established in areas under traditional leadership;</p> <p>How to deal with the co-existence of CPAs and TCs in the same space: Some said to dismantle existing/prevent establishment of new CPAs in Traditional Areas, or that accountability of CPAs must be directed back to the TC, while others argued for choice of communities and TCs to be bound by the rules of the CPA;</p> <p>whether only one title deed should be issued to the group VERSUS the issuing of title deeds to individual CPA members;</p>	<ul style="list-style-type: none"> • Require the convening of quarterly meetings; • Substantive quorum to be limited to certain decisions; • Multi-stakeholder forum to oversee CPA elections; • Set conditions for CPA Executives; • Regular reporting of CPA Executive Committees; • Code of Good Practice to be signed by Executives; • Establish autonomous board to oversee CPA Executives; • Address lack of attendance of CPA members to meetings; • CPAs to establish autonomous institutions for business; • Introduce a shareholder formula to be complied with; • Joint ventures must be endorsed by majority of members; • Fees or levies must be agreed upon by all members; • Promote formation of cooperatives by CPA 	<p>Yes- Policy: 2.2. Yes- Policy: 2.2, 4.4 Yes- Policy: 2.3.</p> <p>Yes- Policy: 2.3,2.4.2 Yes- Policy: 2.4.5</p> <p>Yes- Bill: 12.</p> <p>Yes- Policy: 2.1, 2.3 Yes- Policy: 2.3,2.4.2 Yes- Policy: 2.1, 2.3 Yes- Policy: 2.1, 2.3 Yes- Bill: 11. Yes- Policy: 2.1. Yes- Bill: 12.</p> <p>Yes- Bill: 9(b), 22.</p> <p>Yes- Policy: 2.1,2.4, 3.1, 4.2.</p> <p>Yes- Policy: 4.4,4.5. See CLTP. Yes- Policy: 2.5.2.</p>

Affected Stakeholders	What do they see as main <u>benefits, costs and risks?</u>	Do they <u>support or oppose</u> the proposal?	What <u>amendments do they propose?</u>	Amendments <u>incorporated</u> in proposal?
	<p>land rights, and,</p> <p>12. Lack of sustainability of funding under RADP.</p>	<p>Whether land rights held under CPAs should be issued with conditions/ limitations;</p>	<p>members;</p> <ul style="list-style-type: none"> • Require equal beneficiation for all members; • Limit investor leases to 10 years duration; • Introduce procedures for land allocation; • Title deeds should be issued with conditions; • CPA land should be inalienable; • Prohibit sale of land without consultation/ consent of rights holders; • Limitations on CPA land rights to last only for determinable time period (i.e. 5 yrs after registration). • Formalise land rights through "bottom up" approach; • Surveying of communal land must be undertaken; • Recognise both vertical and horizontal ownership; • Each CPA household to be given equal share of the land; • Mechanisms to monitor land rights infringements; • Rights should be 	<p>Yes- Policy: 2.5.2. Yes- Bill: 2C, 2D. Yes- Bill: 10.</p> <p>Yes- Bill: 2(3).</p> <p>Yes- Bill: 17(2)(h). Yes- Bill: 2B, 2D.</p> <p>Yes- Bill: 2E(d),(f). Yes- Bill: 10. Yes- Bill: 11.</p>

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			<p>transferable to children/grandchildren;</p> <ul style="list-style-type: none"> • Provide clarity surrounding the transfer of CPA property; • Equal representation of women on elected CPA committees (consisting of 51% of women); • Protect land rights of women, children, orphans, etc.; • Organise CPA coordinating structures at the district level; • Dissolve Trusts in Communal Areas; • State assistance resolving problems of CPAs and TCs; • Train, Capacitate and Fund CPAs; • Establish unit at DRDLR that specifically services CPAs; • Establish legal support system for CPAs; • Expedite release of title deeds, land, funding to CPAs; • Legal measures for CPAs who do not get state 	

Affected Stakeholders	What do they see as main <u>benefits, costs and risks?</u>	Do they support or oppose the proposal?	What <u>amendments</u> do they propose?	Amendments incorporated in proposal?
DTA	<p>Collaboration in improving relations between traditional Leaders and CPAs;</p> <p>Need rules for both Land Governance Structures as well as for the wider area (amongst CPAs of the Area)</p> <p>Customary Rules are practiced and not usually documented;</p> <p>Main costs (for DTA or DRDLR – needs to clarified for which):</p>	They note recent Con-Court Judgement and aim to support the process	<p>support;</p> <ul style="list-style-type: none"> • Allow for other legal entities to convert to CPAs; • Funding provisions for CPA Office; • Decentralisation of Registrar's services; • Timeframe for judicial administration over CPAs; • More accurate and accessible CPA register; • Develop effective conflict resolution mechanisms; and, • Thorough investigation of all complaints concerning CPAs. <ul style="list-style-type: none"> • That this be cast in an agreement in terms of provisions of the TLGFA • clarity needed in policy, budgeting on approach to addressing main costs, risks identified 	It is a working arrangement rather than a legal amendment matter; an MOU is currently being explored with DTA

Affected Stakeholders	What do they see as main <u>benefits, costs and risks?</u>	Do they support or oppose the proposal?	What <u>amendments</u> do they propose?	Amendments incorporated in proposal?
	<p>implementation of support for TAs equivalent to that provided for CPAs by Registrar of CPAs</p> <p>Main risks: conflicts between TAs CPAs continue (although incorporation in CLTB, CPAAB of principles following from recent Constitutional Court judgements helps); lack of clarity on roles and role relationships among many different structures, actors leads to conflicts, poor implementation</p>			
<p>NHTL (Senior Officials Interviewed)</p>	<p>Welcome Rights Enquiry (proposed in CLTB) that will clear differences on rights between CPAs and Traditional Leaders where they exist;</p> <p>The risk of loss of unintended consequences of land planning and allotting:</p> <ol style="list-style-type: none"> 1. There are known and exist notionally but never formalize; 2. The risk of loss of land if used as collateral for bank 	<p>They note recent Con-Court Judgement and aim to support the process;</p> <p>Chair is supporting a process to find an amicable solution in the case of Bakgatla Ba Kgafela;</p> <p>DTA, NHTL and DRDLR should find a way of working in</p>	<p>None</p>	<p>The Amendment Bill speaks of support;</p> <p>The Amendment Bill and Policy are aligned to the ConCourt Judgement</p>

Affected Stakeholders	What do they see as main <u>benefits, costs and risks?</u>	Do they <u>support or oppose</u> the proposal?	What <u>amendments</u> do they propose?	Amendments <u>incorporated</u> in proposal?
	<p>loans;</p> <p>3. Risk to management of the Bill where traditional leaders are chosen as the preferred structure.</p> <p>Choice of the people and the risk of loss of loyalty, allegiance of communities by traditional leaders.</p>	<p>support to traditional leaders:</p> <ol style="list-style-type: none"> 1. Where challenged on land matters; 2. In terms of the TLGFA <p>DTA, NHTL and DRDLR need to clarify their roles.</p>		
<p>Provinces (Eastern Cape: Department of Rural Development and Agrarian Reform.)</p>	<p><u>Benefits</u></p> <ol style="list-style-type: none"> 1. Land ownership is an asset 2. Contributes to equity; 3. Certainty can attract investments; 4. There are nodes already targeted for development 5. Economic growth stimulated; 6. Tax base growth direct or through businesses whose returns they will increase through increased income and demand for goods; 7. Will contain fighting and friction over rights; 8. Legally secure tenure will restore the dignity of 	<p>13. Supported, with key considerations for Citizens have a basis to develop themselves and plan for services to follow in time (according to roll-out plan) implementation</p>	<p>These are operational policy and strategy matters:</p> <ol style="list-style-type: none"> i. SPLUMA, SDFs and land Use Plans need to inform the spatial development process that CPAs are found in. ii. Make the link to Agri-Parks and Small Town Rejuvenation; iii. Dedicated capacity will be needed and this capacity also will also need initial orientation, preparation and development iv. Preparatory engagements coordinate via Premiers office and MEC Office as 	<p><u>Operations Focus:</u></p> <ol style="list-style-type: none"> i. Consider and work to attain the benefits and desired outcomes ii. Incorporate into preparation and roll-out planning; iii. Build on Provincial IGR consultations imbizo in districts; iv. Consider innovation in delivery;

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	<p>people;</p> <p>9. Municipal Services will be enabled;</p> <p>10. enabled;</p> <p>11. CPAs can be capacitated and supported to coordinate delivery or for agency agreement to deliver services;</p> <p>12. It will contribute to containing rural urban migration.</p> <p><u>Risks</u></p> <p>Assumptions of stable family/households. Outward migration high:</p> <ul style="list-style-type: none"> i. Some return only when they old; ii. Only children and the elderly found in the year. <p>We ought to note and manage various interests at play. Some civic organizations coordinating land invasions and allocation of sites – claim chiefs do it and also claim money.</p>		<p>Champions of Development and outcome 7 coordinator:</p> <ul style="list-style-type: none"> a. Amongst key provincial departments (including COGTA); <p>Between traditional leaders and,</p> <p>Alignment with multi-departments planned district needs</p> <p>assessment Imbizos;</p> <p>Involve civil society in the District Imbizo</p>	

Affected Stakeholders	What do they see as main <u>benefits, costs and risks?</u>	Do they <u>support or oppose</u> the proposal?	What <u>amendments</u> do they propose?	Amendments <u>incorporated</u> in proposal?
	<p>Responsibility of CPAs is critical for community building;</p> <p>Land must not be sold based on 60%, its disposal must be managed through rules of:</p> <ol style="list-style-type: none"> i. How you sell; ii. what you sell; 			
SALGA	<ol style="list-style-type: none"> 1. Land is an important matter efforts to acquire land legally and in furtherance of the constitution ought to be supported; 2. However, Bills ought to be at the end of a facilitated process of dialogue on these sensitive matters. 3. Given the various policies, we have to have a big picture to which we mobilize stakeholders. 	<p>it's supported in principle, however effective planning for is critical for success and realizing intended outcomes.</p> <p>This dialogue needs to be guided by a grand vision stemming from a clear statement of what the problem actually is.</p> <p>Emphasis ought to be on dialogue, appreciation and finding solutions, based on the approach to getting back legally what was taken by force and wars.</p>	<p>They acknowledge that Bill is going to Cabinet for Public Publication for public comment:</p> <ol style="list-style-type: none"> i. Will structure the engagements; ii. Engage on the CPA (and other Bills) in terms of grand vision; iii. Work through provincial structures of SALGA and SALGA Reps in the NCOPs. 	<p>It's a process recommendation.</p>

Affected Stakeholders	What do they see as main benefits, costs and risks?	Do they support or oppose the proposal?	What amendments do they propose?	Amendments incorporated in proposal?
<p>Government Departments and Agencies</p> <ul style="list-style-type: none"> ▫ DRDLR (national and provinces) <ul style="list-style-type: none"> • (Acting DD-G) Land Tenure and Administration (LTA) 	<p>Act should help improve support for, but not necessarily performance of CPAs</p> <p>Main costs, risks: securing funds, human resources for support by DRDLR (including general planning); capacitating CPAs; effective monitoring of, on-going compliance by CPAs</p>	<p>Support</p>	<p>None</p> <p>Policy should include close collaboration between Registrar and DTA to ensure elected TAs receive same support as CPAs</p>	<p>NB: Annexure B (Consolidated 2012-15 Consultation Report) details amendments:</p> <ul style="list-style-type: none"> ▫ Incorporated ▫ Not incorporated (unconstitutional) ▫ To be considered under regulations
<p>Chief Land Claims Commissioner</p>	<p>Establishment of Registrar's Office should help: relieve pressure on LCCs to support CPAs, improve benefits of recapitalization programme, reduce inappropriate award of contracts</p> <p>Risk: best practice examples show CPAs need ethical, community-minded leadership to function effectively; Bill cannot ensure this</p>	<p>Support</p>	<p>None</p>	
<p>Chief Surveyor-General (CS-G)</p>	<p>Main costs: surveying, general planning (both outsourced); additional staff needed to cope with huge increase (7m -> 22m) in approvals by CS-G needed to</p>	<p>Support</p>	<p>None</p>	

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	<p>enable CDR to register communal and individual deeds</p> <p>Main risks: availability of financial resources for surveying, planning; CS-G office capacity constraints; need for communities to approve general plans to minimize risk of non-observance</p>			
Chief Deeds Registrar (CDR)	<p>Main costs: huge increase in volume of deeds to be registered (electronic system will help); traditional cadastral surveying; general planning</p> <p>Main risks: slowness of cadastral mapping; smooth functioning of electronic system; informal transfers not recorded, undermine system; physical dangers of surveying if communities/individuals feel de facto occupancy rights threatened</p>	Support	<p>Bill needs to clarify explicitly:</p> <ul style="list-style-type: none"> • meaning of 'communal land' • nature of rights conferred by title deeds <p>Section 13(2): land cannot be registered in name of community and individuals simultaneously – need for Bill to address</p> <ul style="list-style-type: none"> • Need for deeds to be understandable to all parties, hence for them to be available in all 11 official languages 	
Provincial Governments	W. Cape Dept of Agric; main costs: support for agric. projects for possible new CPAs, e.g. from	Support	Amendment to legislation needed to respond to risk identified re water use (unclear)	

Affected Stakeholders	What do they see as main benefits, costs and risks?	Do they support or oppose the proposal?	What amendments do they propose?	Amendments incorporated in proposal?
	<p>successful land claims by Khoi-San communities; <i>main risks</i>: sub-optimal use of water by households in CPAs because water rights still vested in individual properties, not in CPAs; <i>important potential benefit</i>: CPAAB will lay foundations for active land rental market to develop on communal land – seen as beneficial for development of small scale commercial farming by residents (either individually or cooperatively)</p> <p>W. Cape DRDLR: still need to study most recent versions of CPAAB and accompanying policy; <i>important risk</i>: possible shortcomings in Bill if implementing field staff not adequately consulted</p>		<p>if this should involve CPAAB); also need to clarify how CPAAB applies to land owned by municipalities on which CPAs are established (widespread in W. Cape) (may suggest amendments after consultation with implementing field staff)</p>	

8. Describe possible disputes arising out of the proposal, and the system for settling and appealing them. How onerous will it likely be for members of the public to lodge a complaint and how burdensome and expeditious is the proposed dispute-settlement procedure?

Possible disputes:

- Contestation of the new approach by existing CPAs EXCO members (including elections);
- Disputes around the unresolved matters created by the Provisional CPAs (e.g. the members erroneously incorporated)
- The allocation of household sites
- Tension arising from choice of preferred land governance structures
- Undue land use contracts/arrangements that may need to be cancelled/nullified/invalidated or modified
- Third party affected by the above transactions may be aggrieved

System for settling disputes:

- Existing Departmental dispute resolution and appeal procedure;
- Provisions provided for in the CPAAB-Clause 18 for appeals to the Minister against decisions by the Registrar or the Director General
- Use credible election management institutions such as IEC
- Build capacity for communities to find social solutions to their problems
- Provide transitional arrangements for those who were unduly contacted to use the land (legal wording)
- Transitional arrangements provided for alignment of the existing CPAs to the new approach
- Reviewing and adjust accordingly the CPAs constitutions to incorporate rights, principles and objectives of the CPAAB
- Continued support monitoring and intervention to achieve the desired behaviours by the Registrar
- Consider area-wide rules amongst various land-governing structures (CPAs, TAs, Trusts, Municipalities, etc.)
- Strengthening of IGR framework
- Ensure efficiency in lodgement and resolution of disputes

2 Impact assessment

- Describe the costs and benefits of implementing the proposal to the groups identified in point 6 above, using the following chart. Add more lines if required.

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
1. DRDLR and its 9 Provincial Offices	<ul style="list-style-type: none"> ▫ Appoint Registrar of CPAs; establish, equip, staff office of Registrar ▫ Registrar provides support required in terms of Bill ▫ Ensure CPAs have adequate facilities, training, staff ▫ Based upon an estimated 45 000 Labour Tenants and 169 120 CPA members. <p>The projected cost of implementation for the CPAAB will be R198 475 500¹ over 10 years or an estimated R19 847 550 per annum</p>	<ul style="list-style-type: none"> ▫ Training of new staff in the Office of the Registrar to implement the CPAAB ▫ Capex, opex for Registrar, CPA offices ▫ Communication and awareness programme for the communities and CPAs 	<ul style="list-style-type: none"> ▫ Effective regulation, management, M & E and interventions of CPAs ▫ Provision of support to the CPAs 	

¹ This projected cost of implementation excludes costs that fall within the ambit of another national department's or national office's operational mandate. Therefore costs such as registration of land, validation of rights and cost of general plans are excluded to avoid double counting. This implementation cost therefore only highlights the costs of the Bill to the DRDLR and not the overall cost.

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
2. Chief Land Claims Commissioner	<ul style="list-style-type: none"> ▫ Costs of investigation, adjudication, settlement of conflicting land claims in new CPA areas (claims within and between communities estimated by CLCC to comprise about 10% of claims addressed by LCCs) ▫ Post-settlement support for communities with CPAs awarded land (if support from DRDLR and/or other government bodies perceived to be inadequate by communities) 	<ul style="list-style-type: none"> ▫ Salaries, training, equipment, operational costs for additional DRDLR staff to take over post-settlement support currently being provided by LCCs 	<ul style="list-style-type: none"> ▫ More effective support for communities concerned, leading to increased agricultural output, social cohesion, etc. ▫ Relief for LCCs enables them to address outstanding land claims nationally more rapidly and efficiently 	
3. Office of the Surveyor General	<ul style="list-style-type: none"> ▫ Surveying, cadastral marking/mapping costs; ▫ Fulfilment of all prerequisites for registration; ▫ Costs of developing General Plans on 1 hectare - 1 household basis; ▫ Transfer costs: assumed to be zero for erf below value of R750k; ▫ Registration costs (Admin fees): ▫ Validation of Rights costs (erroneously included members during provisional CPAs ▫ Dispute Resolution 	<ul style="list-style-type: none"> ▫ Development of the layout plan, socio-economic, sustainable development assessment -Section 18 (1) (a-d)- sites will be allotted for the various households and uses that will guide institutionalised behaviour ▫ Salaries, training, equipment, operational costs for additional CS-G staff for surveying ▫ Consultants' fees for development of general plan 	<ul style="list-style-type: none"> ▫ Institutionalisation of use rights by households (legally secured tenure) ▫ Efficient and effective management use of the land and the natural resources ▫ More complete record of property parcels/boundaries in SA 	
4. Chief Registrar of Deeds	<ul style="list-style-type: none"> ▫ Costs not borne by communities, individuals; ▫ Registration costs estimate; ▫ Transfer costs for any additional land 	<ul style="list-style-type: none"> ▫ Salaries, training, equipment, operational costs for additional Deeds Registry staff 	<ul style="list-style-type: none"> ▫ More complete record of property ownership, tenure/land rights in SA 	

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
5. DAFF	<p>acquired</p> <ul style="list-style-type: none"> • Increased research and extension support (through provinces), in collaboration with private sector, for smallholder agriculture in CPA areas • Increased on- and off-farm investment in/CASP grants for agricultural infrastructure, equipment (disbursed by DAFF to provinces) • Strengthening of agricultural research, extension services • Hiring costs, salaries, training costs, operational costs for additional staff required to fulfil expanded support role for DAFF and provincial departments of agriculture • Funds for capex on public infrastructure and CASP grants 	<ul style="list-style-type: none"> • Training Costs 	<ul style="list-style-type: none"> • Increased food security • Increased commercial output by farmers in communal areas • Stronger ties between, investment by large scale agriculture and agribusinesses in smallholder agriculture 	<p>Private sector funding to be leveraged to maximum through direct investment, CSI grants and/or public-private partnerships</p>

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
<p>6. DCoG, municipalities, SALGA</p>	<ul style="list-style-type: none"> Costs of improvements in public non-agricultural infrastructure Costs of expanded, improved service delivery, infrastructure maintenance Hiring costs, salaries, training costs, operational costs for additional staff required to fulfil Costs of strengthening collaboration, planning with elected communal land governance institutions Training and orientation costs for DCoG, municipalities and SALGA MIG – and, possibly private sector – funds for capex on expanded municipal infrastructure 	<ul style="list-style-type: none"> Costs of strengthening collaboration, planning with elected communal land governance institutions Training costs 	<ul style="list-style-type: none"> Improved service delivery facilitates socio-economic development and incomes in communal areas, reduces non-payment of municipal services 	<p>Private sector funding to be leveraged to maximum, possibly through public-private partnerships</p>
<p>7. DSBD</p>	<ul style="list-style-type: none"> Training and orientation costs for DSBD towards establishment and support for various coops and SMEs in CPA areas. Possible additional requirement but also planned at 20% of the Agri-Park Budget for capacity development. 	<ul style="list-style-type: none"> Training costs 	<ul style="list-style-type: none"> Greater, more viable SME activity generates additional income in rural communities; adds to GDP, tax base; reduces need for social grants Greater, more viable IDFF-driven business activity generates additional income in rural communities; adds to GDP, tax base; reduces need for social grants 	<p>About 50% of rural households known to be involved in SME activity (FinScope survey of SMEs in SA)</p>

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
8. DMR and Department of Tourism.	<ul style="list-style-type: none"> • More effective support for mining, tourism and other non-agricultural initiatives in communal areas on partnership facilitation basis. 	<ul style="list-style-type: none"> • Prioritizing CPAs as land beneficiaries with natural endowments in issuing licensing: <ul style="list-style-type: none"> ○ Training and orientation of beneficiaries; ○ Facilitating partnerships in support to inclusive development; 	<ul style="list-style-type: none"> • Additional staff, infrastructure costs (see above) 	<p>Private sector funding to be leveraged to maximum, possibly through public-private partnerships</p>
9. CPAs	<ul style="list-style-type: none"> • Compliance costs such as keeping records of regular meetings and elections and etc. • Administrative and operational costs (Check Ben's list of costs) • Purchase of office equipment • Reporting 	<ul style="list-style-type: none"> • Training, mediation, elections • Monitoring, oversight, reporting, auditing, interventions and remedial steps 	<ul style="list-style-type: none"> • Effective and accountable CPAs • Improved and better distribution of resources • Improved cohesion of land holding communities 	

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
<p>10. Private sector, including:</p> <ul style="list-style-type: none"> • Major potential corporate investors in agriculture, mining, tourism, ... • Major potential providers of loan capital: banks and other financial institutions • Major potential intermediaries for on-lending: organized agriculture <p>Major potential providers of support services (technical assistance, etc.): organized/corporate agriculture, mining, tourism.</p>	<ul style="list-style-type: none"> • Costs of raising any additional capital required/diverting capital from other uses. • Costs of tapping into opportunities: <ul style="list-style-type: none"> ○ Investment into Business partnerships in natural resources endowments; and ○ Corporate Social Investment opportunities 	<ul style="list-style-type: none"> • Internal awareness-raising and knowledge-/ capacity-building 	<ul style="list-style-type: none"> • New streams of and additions to corporate income/profit • BBEEE credits • New CSI foci • Possible shareholder resistance 	

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
<p>Other groupings:</p> <ul style="list-style-type: none"> • Bilateral/multilateral international institutions/donors • Domestic non-profit foundations <p>NGO service providers</p>	<p>Costs of raising any additional funds required/diverting funds from other uses.</p>	<p>Internal awareness-raising and knowledge / capacity-building</p>	<ul style="list-style-type: none"> • New engagement foci • Increased fulfilment of respective mandates, e.g. through greater/new breadth/type of outreach, number of beneficiaries, sustainable impact, ... • Increased recognition from international/domestic community 	

2. Describe the changes required in budgets and staffing in government in order to implement the proposal. Identify where additional resources would be required for implementation. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks. Describe whether the state will have the capacity to implement this CPAAB, increase in budget allocations over the MTSF horizon.

The quantified figures on the costing exclude the costs to infrastructure development for socio-economic amenities such as housing, schools, clinics which will be addressed by programmes of other departments. It is proposed the Minister establishes an Implementation Committee (IMC) supported by technical committee to ensure integrated socio-economic development of the CPA areas.

Also excluded are costs covered by other Branches of the Department and functions such as:

1. Costs of validating Rights (internally procured staff supported by the current Land Rights Management Facility);
2. Costs of surveying and developing General Plans on the land to institutionalise use rights of households;
3. Costs of deeds registration

3. Describe how the proposal minimises implementation and compliance costs.

- Use of established facilities already existing in the department,
- Use of existing capacities: NARYSEC, Trainee Conveyances and capacity being recruited by the Land Tenure Administration Branch;
- Use of surveying capacity already existing in the department
- Use of existing dispute resolution facilities (Land Reform Management Facility/Land Rights Management Board)
- Use existing national facilities, e.g. Independent Electoral Commission for CPA elections and key decision quorums
- Use existing extension officers of the Department of Agriculture;
- Use capacity being planned and provided for through the Agri-Parks Programme
- Enlist support of bilateral/multilateral donor institutions;
- Resources for collaborative partnerships with the private sector;
- Soft and people skills and local networks of NGOs with minimum resources for orientation, operations support and skills enhancement based on in-principle agreements and SLAs.

4. Describe the main risks to the achievement of the desired ends of the legislation and/or to national aims that could arise from adoption of the proposal. Add more lines if required.
- a. Limited resources (fiscal constraints)
 - b. Contestation of the new approach by existing CPAs EXCO members (including elections);
 - c. Tension arising from choice of preferred land governance structures
 - d. Strain on capacity as a result of success of land reform programme
 - e. Quality of support to historically resource poor beneficiaries
 - f. Quality of intergovernmental relations amongst key departments and the three spheres of government
 - g. Inadequacy of land management and settlement planning (top-down planning)
 - h. Assumptions for cost estimates could be significantly lower than actual, inter alia, because:
 - Number of households in communal areas could be greater than estimated, leading to increased costs for each of the activities required of government to implement the proposed legislation
 - The number and cost of rights enquiries and dispute settlement to allow valid registration of individual and communal land parcels could be greater than estimated
 - The costs per household for general planning, including surveying and sub-division, could be greater than estimated; it should be noted that the costs to municipalities of providing the necessary infrastructure and services are not included in the overall cost estimates
 - The percentage of households requiring comparable redress and the average cost per household to meet this requirement could be greater than assumed
 - The area and cost per hectare to acquire additional land for communities could exceed the assumptions
 - The costs to establish and adequately support CPAs could be greater than estimated.

3 Managing risk

1. Describe the measures taken to manage the identified risks. Add more rows if necessary.

Identified Risks	Mitigation Measures
a. Limited resources (fiscal constraints)	<ul style="list-style-type: none"> • Rationalise available resources • Use of established facilities already existing in the department,
b. Contestation of the new approach by existing CPAs EXCO members (including elections);	<ul style="list-style-type: none"> • Communication of rights and responsibilities, and • Dispute management.
c. Tension arising from choice of preferred land governance structures	<ul style="list-style-type: none"> • Communication of rights and responsibilities, and • Dispute management.
d. Strain on capacity as a result of success of land reform programme	<ul style="list-style-type: none"> • The success of the sub-programme will attract the external investors • An economic case for the sub-programme to justify further allocation from the Fiscus.
e. Quality of support to historically resource poor beneficiaries	<ul style="list-style-type: none"> • Acknowledge differentiation amongst farmers (established and new) and design appropriate social and technical support interventions
f. Quality of intergovernmental relations amongst key departments and the three spheres of government	<ul style="list-style-type: none"> • Establish an Inter -Ministerial Committee to lead and coordinate the joint action of govt. • Dedicated capacity to facilitate alignment of various programme intervention and resources at Districts level
g. Inadequacy of land management and settlement planning (top-down planning)	<ul style="list-style-type: none"> • Use of the SPLUMA and Chapter 8 of the NDP to develop coherent vision for land uses in our spaces
h. Assumptions for cost estimates could be significantly lower than actual	<ul style="list-style-type: none"> • Conduct further research with assistance of DRDLR, StatsSA, municipalities, etc. • Conduct further sensitivity analyses to assess impact of different sets of assumptions on total costs

LEGAL ASSESSMENT: RISKS/GAPS AND MITIGATION MEASURES/RECOMMENDATIONS

KEY:

1. TBA: To be amended
2. TBD: To be drafted
3. TBI: To be implemented

Nr.	RISK/ISSUE/GAP/SHORTCOMING	CPA AB CLAUSE	MITIGATION MEASURE/RECOMMENDATION
TO BE AMENDED (TBA)			
1.	References in the CPA AB to the five principles mentioned in the <i>Bakgatla</i> Constitutional Court case	TBA	<p><u>GUIDING PRINCIPLES</u></p> <p>Insert clause that determines that CPA Executive Committees are bound to the five principles mentioned in the <i>Bakgatla</i> Constitutional Court case and mention same explicitly in the clause</p>
2.	References to the compulsory establishment and implementation of an information campaign for current EPA Executive Committees, CPA communities, Traditional Councils, traditional communities without a CPA, municipalities, the financial sector and other stakeholders	TBA	<p><u>TRAINING</u></p> <p>Insert clause that provides for to the compulsory establishment and implementation of an information campaign for current EPA Executive Committees, CPA communities, Traditional Councils, traditional communities without a CPA, municipalities, the financial sector and other stakeholders</p>
3.	Draft a detailed plan and implement same for the training of CPA Executive Committees (current and future)	TBA TBD TBI	<p><u>TRAINING</u></p> <p>Insert clause that provides that the Minister must draft a detailed plan and implement same for the training of CPA Executive Committees (current and future)</p>
4.	References in the CPA AB to the five principles mentioned in the <i>Bakgatla</i> Constitutional Court case	TBA	<p><u>GUIDING PRINCIPLES</u></p> <p>Insert clause that determines that CPA Executive Committees are bound to the five principles mentioned in the <i>Bakgatla</i> Constitutional Court case and mention same explicitly in the clause</p>
5.	References to the inclusion of ESTA AB beneficiaries to be empowered to establish a CPA	TBA	<p><u>BENEFICIARIES</u></p> <p>Insert clause providing for the inclusion of ESTA AB beneficiaries to be empowered to establish a CPA</p>
6.	Instances where the two Bills have not been aligned and/or fully aligned to each other, and in addition the	TBA	<p><u>OTHER LEGISLATION: ALIGNMENT WITH CLB</u></p> <p>Align two Bills to one another, and include cross-</p>

Nr.	RISK/ISSUE/GAP/SHORTCOMING	CPA AB CLAUSE	MITIGATION MEASURE/RECOMMENDATION
	cross-referencing to the other Bill is insufficient.		referencing to the other Bill
7.	References in the CPA AB of the relationship between the aim and content of the CPA AB and that of other existing legislation relating to land reform, management and administration, as well as to traditional leadership	TBA	<p><u>OTHER LEGISLATION: RELATIONSHIP WITH OTHER LEGISLATION</u></p> <p>Insert clause providing for the relationship between the aim and content of the CPA AB and that of other existing legislation relating to land reform, management and administration, as well as to traditional leadership</p>
8.	References to the situation where a community refuses to agree to the reregistration of the land concerned. (e.g. where the land is already registered in the name of a Trust of company, etc.)	TBA	<p><u>TRANSFER OF REGISTRATION DETAILS</u></p> <p>Policy decision on the part of DRDLR and insert clause providing for the situation where a community refuses to agree to the reregistration of the land concerned. (e.g. where the land is already registered in the name of a Trust of company, etc.)</p>
9.	References to the possibility that a CPA may be established by traditional communities who already have traditional councils (in the case where the HF were to decide that a CPA is the LAI of choice)	TBA	<p><u>INSTITUTIONS: OPTIONS FOR LAND ADMINISTRATION INSTITUTION</u></p> <p>Insert clause providing that CPA may be established those communities that already have traditional councils (in the case where the HF were to decide that a CPA is the LAI of choice)</p>
10.	References to Manual (detailed) for the implementation of the CPA AB	TBA	<p><u>INSTITUTIONS: SYSTEMS</u></p> <p>Insert clause that provides that the Minister must, by notice in the Government, publish guidelines (in the form of a Manual) for the implementation of the CPA AB</p>
11.	References to the compulsory establishment of IGR structures at local level, consisting of organs of state at local level, such as CPAs, Municipalities, Traditional Councils, Traditional Leaders, as well as all relevant national and provincial government departments etc.	TBA	<p><u>INSTITUTIONS: INTERGOVERNMENTAL RELATIONS</u></p> <p>Insert clause that provides for the compulsory establishment of IGR structures at local level, consisting of organs of state at local level, such as CPAs, Municipalities, Traditional Councils, Traditional Leaders, as well as all relevant national and provincial government departments, etc.</p>
12.	References to the relationship between a CPA and other governance structures within the community	TBA	<p><u>INSTITUTIONS: INTERGOVERNMENTAL RELATIONS</u></p>

Nr.	RISK/ISSUE/GAP/SHORTCOMING	CPA AB CLAUSE	MITIGATION MEASURE/RECOMMENDATION
	(e.g. Senior Traditional Leader, headmen, headwomen and Traditional Council)		<p>Insert clause providing for the relationship between a CPA and other governance structures with in the community</p> <p>e.g Senior Traditional Leader, headmen, headwomen and Traditional Council)</p>
13.	References to the continued existence of Trusts and other entities (in whose name the land concerned is registered),	TBA	<p><u>INSTITUTIONS: CONTINUED EXISTENCE OF TRUSTS</u></p> <p>Policy decision by DRDLR and insertion of a clause dealing with the continued existence of Trusts and other entities (in whose name the land concerned is registered</p>
14.	References in the CPA AB that Trusts and other legal entities in whose name land reform land (acquired through the Restitution Programme or Redistribution Programme) is registered should, with the necessary changes, also be subject to the provisions of the CPA AB, and especially to the regulatory, support, monitoring, intervention and termination powers of the CPA Registrar	TBA	<p><u>INSTITUTIONS: TRUSTS</u></p> <p>Insert clause in CPA AB that Trusts and other legal entities in whose name land reform land (acquired through the Restitution Programme or Redistribution Programme) is registered are, with the necessary changes, also subject to the provisions of the CPA AB, and especially to the regulatory, support, monitoring, intervention and termination powers of the CPA Registrar, notwithstanding the provisions of any other legislation or checklist</p>
15.	Absence of clause on monitoring and evaluation, reporting and intervention structures and systems	TBA	<p><u>MONITORING & EVALUATION</u></p> <p>Insert clause that provides for the compulsory establishment of monitoring and evaluation, reporting and intervention structures and systems</p>
16.	References in respect of mechanisms that would ensure that all existing CPAs must comply with the provisions of the proposed legislation by a certain date (which should be stated explicitly in the Bill), failing which the proposed CPA Registrar would be empowered to disestablish the CPA concerned and to administer the affairs of the community concerned	TBA	<p><u>TRANSITIONAL ARRANGEMENTS</u></p> <p>insert clause providing for mechanisms that would ensure that all existing CPAs must comply with the provisions of the proposed legislation by a certain date (which should be stated explicitly in the Bill), failing which the proposed CPA Registrar would be empowered to disestablish the CPA concerned and to administer the affairs of the community concerned</p>

Nr.	RISK/ISSUE/GAP/SHORTCOMING	CPA AB CLAUSE	MITIGATION MEASURE/RECOMMENDATION
TO BE DRAFTED (TBD)			
17.	A brief memorandum setting out the background to, and linkages between, the the CPA AB and the CLB, with reference to, amongst others, similarities, principles, institutions created by the two Bills, etc.	TBD	<u>BACKGROUND CONTEXT DOCUMENT</u> Draft a brief focused memorandum setting out the background to, and linkages between, the the CPA AB and the CLB, with reference to, amongst others, similarities, principles, institutions created by the two Bills, etc.
18.	Absence of Explanatory Memorandum on the Objects of the Bill	TBD	<u>MEMO ON OBJECTS</u> Draft comprehensive Explanatory Memorandum on the Objects of the Bil
19.	Draft and publish regulations and notices in respect of the CPA AB whilst CPA AB is being processed internally in the Department and in government, before going to Parliament – in order to ensure that the CPA AB can be implemented immediately after enactment and sent by the President	TBD	<u>REGULATIONS AND NOTICES</u> Draft and publish regulations and notices in respect of the CPA AB whilst CPA AB is being processed internally in the Department and in government, before going to Parliament – in order to ensure that the CPA AB can be implemented immediately after enactment and sent by the President
TO BE IMPLEMENTED (TBI)			
20.	References to a comprehensive consultation programme of CPA AB with all stakeholders, including the national and provincial Houses of Traditional Leaders	TBD TBI	<u>CONSULTATION</u> Draft and implement a comprehensive consultation programme of CPA AB with all stakeholders, including the national and provincial Houses of Traditional Leaders
21.	Discussions with DTA as regards the implications of the <i>Bakgatla</i> Constitutional Court case as regards the further democratisation of Traditional Councils (in order to prevent a possible declaration of constitutional invalidity as regards the CLB on account of the alleged undemocratic/not fully democratic nature of Traditional Councils)	TBI	<u>CONSULTATION</u> Conduct discussions with DTA as regards the implications of the <i>Bakgatla</i> Constitutional Court case as regards the further democratisation of Traditional Councils (in order to prevent a possible declaration of constitutional invalidity as regards the CLB on account of the alleged undemocratic/not fully democratic nature of Traditional Councils)
22.	Ensure that section 76 Constitution Parliamentary process is followed (submission to both National	TBI	<u>PARLIAMENT</u> Ensure that section 76 Constitution Parliamentary

Nr.	RISK/ISSUE/GAP/SHORTCOMING	CPA AB CLAUSE	MITIGATION MEASURE/RECOMMENDATION
	Assembly and National Council of Provinces)		process is followed (submission to both National Assembly and National Council of Provinces)

2. Describe the mechanisms included in the proposal for monitoring implementation, evaluating the outcomes, and modifying the implementation process if required. Estimate the minimum amount of time it would take from the start of the implementation process to identify a major problem and remedy it.

- a. Develop a detailed roll out plan with timeframes, indicating the responsible implementing agents (logical sequencing of actions and outcomes)
- b. Establish the Registrar Office to manage the work portfolio of the CPAs and inform the performance management process
- c. Widen and deepen the indicators for M&E to address social and economic performance by Performance Monitoring Chief Directorate
- d. Establish and position the necessary capacity for performance management
- e. Establish an action learning agenda which feeds directly to improving the implementation modalities and processes
- f. Conduct mid-term and end of term comprehensive evaluations, annual representative sampled evaluations e.g. design, implementation and impact evaluations

4 Summary

1. Summarise the impact of the proposal on the main national priorities.

Based on the costing implications of the Amendment Bill, it was estimated that the implementation of the Bill will contribute significantly to the economy. This is in terms of production, GDP, employment and income.

Priority	Impact
Social cohesion	<ul style="list-style-type: none"> • Redressing the imbalances of the past-race, gender, inequality and etc. • Over and above the economic contribution of the Amendment Bill, it is anticipated that it will also contribute rectifying the past apartheid legacy and increase rural absorption.

Priority	Impact
	<ul style="list-style-type: none"> • This is line with the goal set out by the NDP to increase rural absorption from 29% to 40% by 2030.
Security (Safety, Food, Financial and etc.)	<ul style="list-style-type: none"> • 80% of households in Communal Areas use agriculture to increase incomes and access food. • Own food production is also a major reduction in food costs. • Organised and fenced out farm allotments that promote security • Dispute resolution and support • Enhanced and supported economic activity • Household food security • Stimulation of off-farm work and livelihoods
Economic growth and investment²	<p>Expected economic impacts emanating from expenditure on the implementation of the Bill of R4.1 billion, include an increase in intermediate production of nearly R18.9 billion, while national Gross Domestic Product (GDP) is estimated to increase by a further R5.84 billion over the 10-year period. The size of the South African economy is thus expected to expand due to implementation of the Bill, ceteris paribus.</p>
Economic inclusion (employment creation and equity)	<p>Likely to create rural livelihoods and reduce rural-urban migration given lack of manufacturing jobs and decent work in urban areas. The value-addition in the economy measured by regional GDP is estimated to increase by a total of R2, 31 billion), while a total of 15 090 employment opportunities are expected to be created. In terms of salaries and wages accrued by labour, it is expected that the total income earned by labour will equal to R5, 024 billion.</p>
Environmental sustainability	<p>Improved land governance will lead to improved land use planning and resource management along with improved ecosystem management.</p>

² Gross Domestic Product is calculated by adding compensation of employees to gross operating surplus, and then subtracting all subsidies on production and products and adding all taxes on production and products to determine GDP at market prices – an aggregate measure of economic activity.

2. Identify the social and economic groups that would benefit most and that would bear the most cost. Add more rows if required. (Ranking)

Main beneficiaries	Main cost bearers
1 CPAs members	1 DRDLR-Land Tenure Administration Branch
2 CPAs Executives	2 Office of the Chief Surveyor General
3 The Republic	3 The Land Claims Commission and the Land Redistribution and Development Branch

3. In conclusion, summarise what should be done to reduce the costs, maximise the benefits, and mitigate the risks associated with the legislation. Note supplementary measures (such as educational campaigns or provision of financing) as well as amendments to the draft itself, if appropriate. Add more lines if required.
- a. Joint ventures and PPPs for rural infrastructure development
 - b. Phase the programme in order to learn before major roll out;
 - c. Develop appropriate monitoring and support instruments;
 - d. Promote high value and labour intensive commodities as recommended by NDP;
 - e. Promote cost effective and labour absorbing technologies for small holdings;
 - f. Promote participatory planning and avoid top-down mega plans;
4. Please identify areas where additional research would improve understanding of the costs, benefits and/or risks of the legislation.
- a. Hire competent negotiation experts to research then craft a conflict resolution methodology and tool to address CPA/TA conflicts
 - b. Rural structural transformation analysis to understand better relationship between farm and non-farm job creation
 - c. An indepth 'structure-conduct-performance' analysis in the evolution of CPAs with respect to land governance functions with recommendation for administration of the CPAAB.
 - d. An analysis of catalytic effect of public investment on private sector investment in the CPA areas and prospects for PPPs especially for infrastructure provision.
 - e. CPA demographics and identify typologies of CPA formations;
 - f. Research to affirm and position CPAs as a key component part of the Rural Transformation model
 - g. Consider long term impacts towards viable and sustainable rural communities and rural settlement type impacts.
 - h. Appropriate and labour intensive technology support;
5. For the purpose of building a SEIAS body of knowledge please complete the following:

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