



rural development & land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

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NATIONAL GEOMATICS MANAGEMENT SERVICE TECHNICAL COMMITTEE RESOLUTIONS, Issue No. 1 of 2018

The National Geomatics Management Service “Technical Committee” (NGMS TCM) is established in terms of Section 3(1)(a) and 3(1)(f) of the Land Survey Act, 1997 and is therefore chaired by the Chief Surveyor-General or his/her delegate. The Committee meetings are attended by all Surveyors-General as well as a strong representation of senior professional and technical officials from the Branch: National Geomatics Management Service of the Department of Rural Development and Land Reform. The meetings produce resolutions.

A. LAND SURVEY ACT, 1997

TCR 1/2018 **Addition of extent of Servitude diagrams** (Item 9.3 of NGMS TCM of 15 February 2018)

The Registrars of Deeds have requested that the area of a servitude figure be added onto Servitude diagrams.

- 1) Should the area of a servitude figure be added onto Servitude diagrams?
- 2) If so, do we use the wording ‘200 square metres of land being...’?

Resolution:

- 1) Yes. It will be additional information that can assist the end user.
- 2) No. Simply add the extent in brackets, e.g.: (200 square metres).

TCR 2/2018 **D.G. Circular 3 of 1971: ESKOM Power Line Servitudes** (Item 3 of NGMS TCM of 16 February 2018)

Does D.G. Circular 3 of 1971 still apply in the survey of ESKOM Power Line Servitudes?

Resolution:

Yes, D.G. Circular 3 of 1971 is upheld, noting that the references to legislation therein are, *mutatis mutandis*, conferred onto the Land Survey Act, 1997 instead of Act 9 of 1927. However, it was agreed that the retention of D.G. Circular 3 of 1971 was only upheld, pending an updated circular.

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TCR 3/2018

Amending Farm Names without Owners' Request

(Item 6.9 of NGMS TCM of 22 June 2017)

Section 93 of the Deeds Registration Act, 1937, requires the owners to take the initiative to remove offensive names, and replace the offensive name with another name. However, very few did so. Some years ago the Surveyors-General took the initiative and offensive Farm names were deleted from the designation in most diagrams and the Registrar was duly notified in terms of Section 36 of the Land Survey Act, 1997. Was this initiative within the powers of the Surveyors-General?

Resolution:

Both Section 36 and Regulation 23(1) of the Land Survey Act, 1997, provide the Surveyors-General with a manner to amend a designation and to notify the Registrar of Deeds accordingly. Section 93(3) of the Deeds Registration Act, 1937 provides for outside parties, conveyancers and land owners to rename a land parcel. This regulation provides the owner with his/her only route to be used and requires the Ministers consent. It does not however limit the Surveyors-General, who can use Section 36 read with Regulation 23(1) as part of a new system of land parcel numbering. Prior to 1957, farms only had names and not numbers. The current numbering system is based on Farm numbers.

TCR 4/2018

Incorrect Areas in Deeds Records – Redline Diagrams

(Item 6.10 of NGMS TCM of 22 June 2017)

Prior to the Land Survey Act there was no way (other than a Court Order or Amended Title) for the Surveyors-General to correct an erroneous diagram or area as recorded in a Title Deed. Red Line diagrams became the order of the day from 1879 to 1927. These diagrams all have two areas given: the area as per the black lines or registered area, and the correct area as per beacons. The black line area was used in the Title Deeds as there was no legal mechanism to correct it. This problem still persists today and areas in Title Deeds are creating confusion amongst land owners. Can the SG cause the black line area to be replaced by the red line area as the correct area as per beacons in the Title Deeds?

Resolution:

Yes, Section 36 can be applied and the Registrar can be duly notified to amend the area. Where applicable, section 22 should also be invoked. All Red line diagrams should be identified by SG's and the Registrar duly notified to amend the areas and, where necessary, the title deed caveated until such time as a diagram of substitution has been approved. The Registrars should be advised prior to undertaking this project.

TCR 5/2018

Signing of diagrams by retired Land Surveyors

(Item 5.3 of NGMS TCM of 12 May 2014)

Noting the definition of "diagram" in the Deeds Registries Act, can the Surveyor-General approve a diagram or a general plan where it is signed by a retired Land Surveyor?

Resolution:

A diagram or a general plan can be approved wherever it is signed by a Registered Professional Land Surveyor who was registered at the time of completing his/her survey and signing of the diagram as provided for by the Land Survey Act and that the diagram/general plan can then be later registered in the Deeds Office even if that Land Surveyor has subsequently retired.

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TCR 6/2018 **Servitude diagram of Habitatio**
(Item 11 of NGMS TCM of 13 May 2014)

If the proposed habitation right spans the whole of the property situate on an erf in an urban area, is it still necessary to frame a separate Habitatio diagram.

Resolution:
Yes

TCR 7/2018 **Description of Servitudes**
(Item 8.2 of NGMS TCM of 3 March 2015)

A Deeds Office approached a Surveyor-General with the request to add the nature of the servitude to servitude notes and servitude diagrams to assist in identification. They also requested that each servitude on a General Plan be dealt with in a separate servitude note.

Resolution:
It is implicit from Sections 65 – 69bis and 75 – 76 of the Deeds Registries' Act, 1937, Regulation 35(3) of the Registration of Deeds Regulations, Section 6(1)(c) of the Land Survey Act, 1997 and Regulations 12 and 21 of the Land Survey Regulation that the purpose of every servitude must be given in the servitude note, and further that each servitude type be must be described in a separate note.

TCR 8/2018 **Caveat restricting registration because the Land Surveyor was not paid by his client for his services**
(Item 3 of NGMS TCM of 7 October 2015)

Can the Surveyors-General caveat the Deeds Office restricting registration because the Land Surveyor was not paid by his client for his services and thereby assist the Land Surveyor to collect any debt?

Resolution:
No. There is nothing in any legislation that empowers the Surveyor-General to perform this service.

TCR 9/2018 **Production of general plans on “white film”**
(Item 6.7 of NGMS TCM of 22 June 2017)

Can Land Surveyors submit to the Surveyors-General their general plans on “white film” instead of transparent film?

Resolution:
No. The so-called “white film” material is not suitable for the production of general plans.

TCR 10/2018 **Proclamation diagrams of partially affected land parcels**
(Item 6.8 of NGMS TCM of 22 June 2017)

A Deeds Registry is required to endorse title deeds where the relevant properties are subject to a proclamation (for example, of protected areas for the purpose of the National Environment Management: Protected Areas Act, 2003). It would not be possible for a Deeds Registry to

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meaningfully endorse the title deed in instances where only a part of a property is included in a proclamation area. The relevant authority requires a diagram to be able to gazette the relevant area. Is such a proclamation diagram necessary in a case where the whole of the property is covered by the protected area?

Resolution:

Surveyors-General may approve a proclamation diagram wherever the proclaimed area includes at least one property that is only partially affected by the proclamation area. It is not necessary to approve a proclamation diagram where the proclamation area extends over the whole of all properties affected by the proclamation area, i.e., reference can be made in the gazette to the existing diagrams of the properties.

TCR 11/2018 Re-naming a certain portion of an allotment area into a new allotment area
(Item 9.2 of NGMS TCM of 28 June 2018)

Can a set of allotment units (erven, settlement holdings or lots) be renamed into a new allotment area? For example, can Lots 280 – 525 Vaalkoppies Settlement, situate on Lot 279 Vaalkoppies Settlement, be changed to become erven in a new township to be called Tsikelelo?

Resolution:

Yes, the Surveyor-General can, upon request and after consultation with the local municipality concerned, make representations to the Registrar of Deeds, who shall effect the required changes in accordance with the Registration of Deeds Regulation 8.

B. SECTIONAL TITLES ACT, 1986 and SECTIONAL TITLES MANAGEMENT ACT, 2011

TCR 12/2018 Amendment to sectional scheme by the addition of Common Property buildings
(Item 9.1 of NGMS TCM of 15 February 2018)

Insurance companies are refusing to insure Common Property buildings that are not shown on approved Sectional Plans. Practitioners have therefore requested to be permitted to frame and lodge Amending Sectional Plans for the addition of only Common Property Buildings to existing schemes.

- 1) Is this acceptable to Surveyors-General?
- 2) If yes, under what section of the Sectional Titles Act would the Amending Sectional Plans be approved?

Resolution:

- 1) No. The purpose of the sectional titles plan is not to address insurance issues.
- 2) N/A

TCR 13/2018 Extension to sectional scheme by the addition of Exclusive Use Areas only
(Item 9.4 of NGMS TCM of 15 February 2018)

Is it correct that EUAs created after the opening of the Sectional Titles Register can be framed on a sheet or sheets that only show the EUAs and that no Sheet 1 is required?

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Resolution:

1. **Using Section 25:** Sheet 1 is required if the creation of the EUAs is as a result of the (recently amended) Section 25 reservation by the Developer, i.e., the scheme is being extended by the addition of EUAs, which is now allowed as a result of the amendment. In this instance the Deeds Office will register the plan under a new SS number.
2. **Using Section 27:** Plans submitted/ prepared in terms of Section 27 do not require a sheet 1 and will be 'added' by the Deeds Office to the initial opening phase of the scheme.

TCR 14/2018 **Survey for the extension of a section, consolidation of sections and subdivision of a section**
(Item 10.5 of NGMS TCM of 15 February 2018)

At the NGMS Technical Committee meeting of the 3rd March 2015, it was resolved that Consolidation of Sections must be prepared from actual measurements, in accordance with Sectional Title Regulation 5(2)(a)(vi). Should the same principle also be applied to the extension of a section and the subdivision of a section?

Resolution:

Yes. If the measurements of those parts of the original section that remain unchanged were measured by the same practitioner as measuring the current extension, subdivision or consolidation of sections, the certificate in terms of Regulation 5(2)(a)(vi) is still valid if the practitioner adopts his earlier work, because the practitioner will have fully measured all the sections shown on the amending sectional plan..

TCR 15/2018 **Description of Buildings on Sheet 1 of subsequent phases of a Sectional Titles Scheme**
(Item 6.15 of NGMS TCM of 22 June 2017)

Where the scheme or sections are amended or extended in terms of Sections 21, 24, 25 or 26, Sheet 1 on the prescribed amending sectional plan also contains the heading "Description of Buildings". The total number of buildings in the previous phases plus any additional buildings which appear in the amending sectional plan is given. Below the number of buildings, Item "a" then refers to the total number of buildings prior to this amending draft sectional plan with reference to the original "SG No D...and SS No..." If there are more than two previous phases, what should this reference be amplified to read?

Resolution:

The use of "SG No D...and SS... and subsequent phases" is to be discontinued. On subsequent plans of extensions, the SG No. D... of all previous phases must be listed on sheet 1, not only the first phase. However, the Registrars of Deeds only require the SS No... of the first phase.

TCR 16/2018 **Amending Sectional Plans of Extension of Scheme: Deviation from the Right Reserved in terms of Section 25(13).**
(Item 6.16 of NGMS TCM of 22 June 2017)

Can the Surveyors-General approve plans for the extension of a scheme by the developer in terms of Section 25(13) where the developer has encroached on areas of common property not specifically reserved?

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Resolution:

Yes. The Surveyors-General can approve plans for the extension of a scheme by a developer where a developer has encroached insignificantly on areas of common property not specifically reserved. However, where the encroachment is a significant deviation of the approved layout of the scheme, Registrars Conference Resolution No. 67 of 2011, as amended by RCR 11 of 2012, has reference. Further, the Surveyor-General does have powers of verification on documents submitted to him/her in terms of Section 25(4)(b).

TCR 17/2018 Alienation of Common property where a whole section is affected (Item 13 of NGMS TCM of 6 October 2015)

A body corporate wishes to alienate a portion of the land on which the scheme is situated. However, in the instance where a Section in its entirety is constructed on that portion of the common property, the route that is normally followed is that the affected buildings are deemed to be destroyed in terms of Section 17(1)(b) of the Sectional Titles Management Act, 2011. Can Section 17(4)(a) of the Sectional Titles Act, 1986, also be used?

Resolution:

Yes the Surveyors-General can approve plans framed in terms of Section 17(4)(a) of the Sectional Titles Act, 1986, as an alternative to Section 17(1)(b) of the Sectional Titles Management Act, 2011. The Surveyor-General will process the documents submitted by the Land Surveyor and replace the PQ sheet and endorse the Block Plan accordingly when cancellation and transfer occur.

TCR 18/2018 Sectional Titles Regulation 6(g) (Item 7.1.1 of NGMS TCM of 22 June 2017)

There was a mis-publication by the Sectional Title Regulations Board that was published in the Government Gazette number 40842, dated 17 May 2017. Outcome of discussions between members of the Sectional Titles Regulations Board was that Regulation 6 (g) as appeared in the publication of 17 May 2017 should be treated as *pro non scripto* (as if it has never been written). Can this be done?

Resolution:

Yes. Regulation 6 (g) as appeared in the publication of 17 May 2017 will be treated as *pro non scripto* (as if it has never been written).

C. PLANNING CONSENTS (as required in terms of Section 6(1)(b) of the Land Survey Act, 1997).

TCR 19/2018 Cadastral processes not explicit in a consent in terms of a municipality's by-laws (Item 10.1 of NGMS TCM of 15 February 2018)

Applications under municipal Spatial Planning and Land Use by-laws no longer require circulation to the Surveyor-General for comments prior to consent being issued by the Municipal Planning Tribunal. As a result, the consent may not include all processes (for example, street closures, subdivision, rezoning, consolidation, amending general plans, etc.) necessary to effect such

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consent. Should the Surveyor General assume that the consent includes all the necessary processes, even if they are not explicit in the consent?

Resolution:

Yes. However, the Land Surveyor in his submission letter/report must indicate any necessary steps or processes applicable to the approval of the diagram and or general plan.

TCR 20/2018

Inconsistency between letter of consent and layout plan

(Item 10.2 of NGMS TCM of 15 February 2018 and Item 12.1 of NGMS TCM of 28 June 2018)

In some instances, the wording of a municipal consent is unclear or the wording conflicts with the attached layout plan. When such inconsistencies become evident, under what circumstances can the Surveyor-General approve the diagrams when:

1. The wording of the letter of consent differs from the attached layout plan, or
2. The wording of the consent is not clear or is silent on some of the issues that are detailed on the attached layout plan

Resolution:

1. The wording of the consent letter takes precedence over the layout plan; however, the Surveyor-General must use his/her discretion.
2. The Surveyor-General is obligated to interrogate the wording of the conditions in the consent, only in so far as the layout is concerned, to ensure that the resultant diagrams can be registered in a Deeds Registry.

TCR 21/2018

Extension of a lapsed consent

(Item 10.3 of NGMS TCM of 15 February 2018)

Can the Surveyor-General accept a consent granted for subdivision where the municipality has approved an extension of a lapsed consent in terms of Old Order Legislation?

Resolution:

The application for extension of a lapsed consent must be dealt with in terms of the legislation that was applicable at the time when the consent was originally granted.

TCR 22/2018

Consent for Leases and Servitudes in terms of applicable municipal by-laws

(Item 8 of NGMS TCM of 17 February 2017)

How must a lease or servitude right, to be registered by the Registrar of Deeds, be dealt with in terms of SPLUMA / the applicable municipal by-law?

Resolution:

The definition of "land" in SPLUMA includes "any real right in land". Therefore, reading Section 6(1)(b) of Act 8 of 1997 together with Section 33(1) of SPLUMA and the standard provision in the applicable municipal by-law which states that "No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted under section ...", a Surveyor-General shall require a consent from the municipality for the creation of any real right in land for which a diagram is required for registration in a Deeds Registry, which includes a leasehold diagram or servitude diagram, unless there is a specific exemption or clarification in the applicable municipal by-law.

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TCR 23/2018 **Municipal consents for Court Orders and Expropriations** (Item 6.17 of NGMS TCM of 22 June 2017)

Where a court orders a subdivision and or consolidation and does not specifically mention the Surveyor General, or an expropriation has been granted, can the Surveyor General approve the diagrams without a plan endorsed by the municipality?

Resolution:

- In the event of an Order of Court, the Surveyor General must process the documents without the requirement of a plan endorsed by the municipality because the Order of Court is a deemed consent.
- In the event of an expropriation, there should be consent as the expropriating authority is not exempt from SPLUMA.

TCR 24/2018 **Municipal consents for land acquired by prescription** (Item 12 of NGMS TCM of 6 October 2015)

Does a Court Order relating to the subdivision and transfer of land acquired by prescription require any further planning consent?

Resolution:

No, a Court Order is final. The Surveyor-General does not require any planning consent from the municipality in order to approve a diagram in accordance with an Order of Court.

TCR 25/2018 **Municipal consents for land designated by the Minister in terms of Act 126 of 1993** (Item 12.2.1 of NGMS TCM of 28 June 2018)

Does certain land designated by the Minister for the purposes of settlement in terms of Section 2(1) of Act 126 of 1993 require any further planning consent?

Resolution:

Yes, because the Constitution and SPLUMA supersede the exemption stipulated in Section 2(4) of Act 126 of 1993 and therefore consent for the establishment of the township is required from the municipality.

D. SOUTH AFRICAN SPATIAL DATA INFRASTRUCTURE ACT, 2003.

TCR 26/2018 **Reasonable approximation of the High Water Mark and the Low Water Mark** (Item 7 of NGMS TCM of 15 February 2018)

The High Water Mark and the Low Water Mark lines can often be defined using GIS and Bathymetric LiDAR technologies without the involvement of a Professional Land Surveyor. Any standardised legitimate line determined thereby will be very useful in providing a reasonable approximation of the lawful position of such lines. Can they be accepted as the lawful position?

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services of a Professional Land Surveyor who will, in consultation with the relevant Surveyor-General, determine the current lawful position of any of the required lines.

TCR 27/2018 **Custodianship of the High Water Mark and Low Water Mark**
(Item 7 of NGMS TCM of 15 February 2018)

Will the Surveyors-General accept custodianship of the High Water Mark (a Cadastral boundary) and the Low Water Mark (the limit of their areas of jurisdiction) in accordance with the requirements of the South African Spatial Data Infrastructure Act?

Resolution:


Yes.

TCR 28/2018 **Custodianship of LiDAR metadata and minimum specifications**
(Item 7 of NGMS TCM of 15 February 2018)

Will the Chief Directorate: National Geospatial Information (NGI) accept custodianship of the standards for LiDAR metadata and minimum specifications?

Resolution:

Yes.


MRS R MDUBEKI
(ACTING) CHIEF SURVEYOR-GENERAL
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