

NAMA NEWS

March 2018



NATIONAL ASSOCIATION
OF MANAGING AGENTS
SHAPING OUR PROFESSION

Trees and Neighbour Law in Sectional Title Schemes

CORPORATE MEMBERS



SECTIONAL
TITLE
SOLUTIONS



CONTENTS

Newsletter

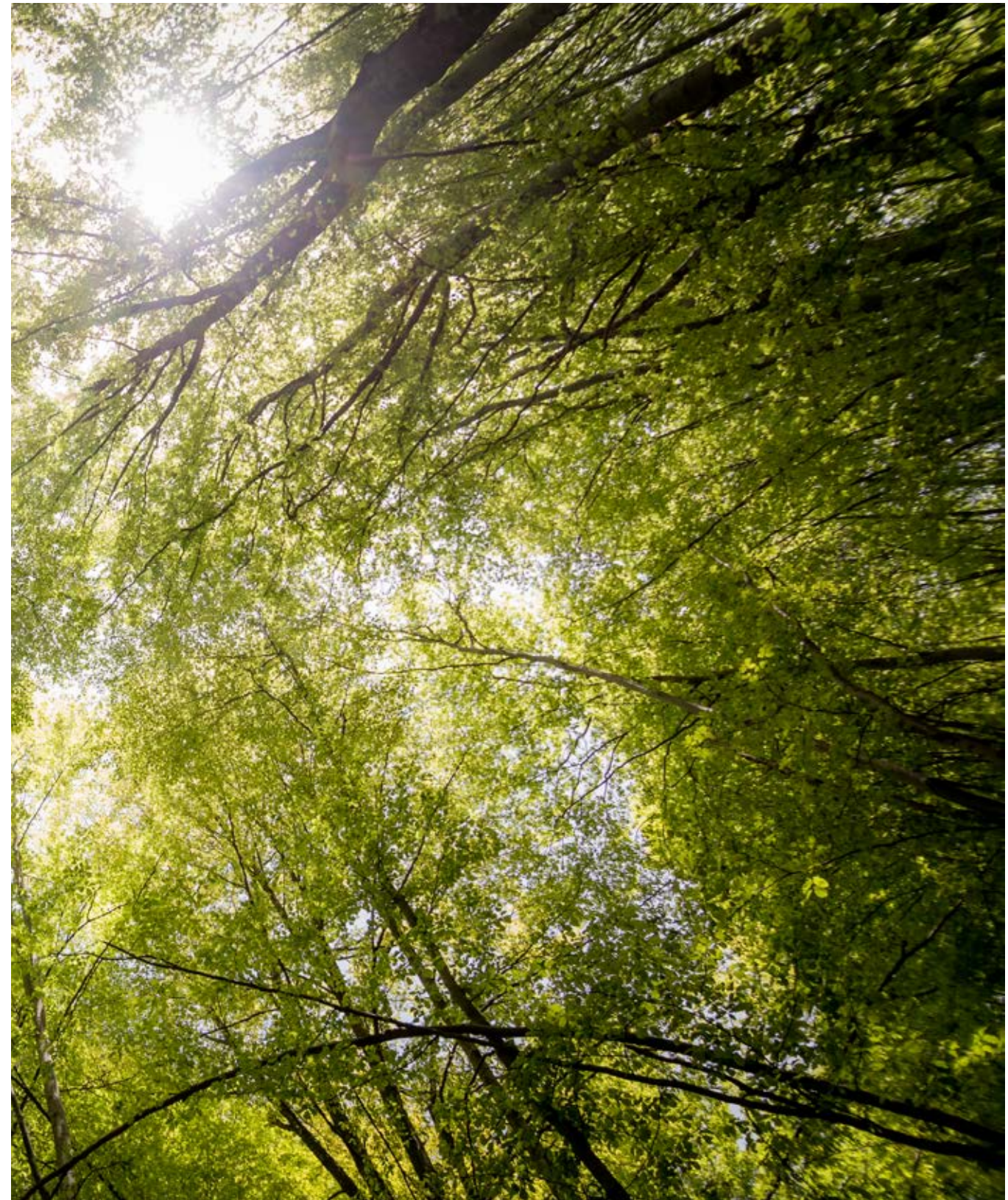
[\(Click here to go directly to Newsletter\)](#)

TREES AND NEIGHBOUR LAW IN SECTIONAL TITLE SCHEMES by 03
Alan Levy, Alan Levy Attorneys, Notaries and Conveyancers

Bulletin

[\(Click here to go directly to Bulletin\)](#)

Advertorials	<u>05</u>
4 Major Challenges Faced By All Managing Agents	<u>08</u>
The Future Of Decision Making In Residential Communities	<u>10</u>
Newsletter Cost For Non-Nama Members	<u>12</u>
NAMA Corporate Membership 2018 For Affiliate Members	<u>13</u>
NAMA Update	<u>14</u>
NAMA Events	<u>19</u>





TREES AND NEIGHBOUR LAW

in Sectional Title Schemes

by Alan Levy, Alan Levy Attorneys, Notaries and Conveyancers

Neighbour Law is a complicated, convoluted area of the law in South Africa based almost solely on the common law and the unravelling and determination thereof by the Courts of the Republic over our history.

The Sectional Titles Act (STA), with its enactment in 1986 in regards to neighbour law but applying only to sectional title schemes, sets out three areas of ownership

being a section, exclusive use area and common property and does a fair job of legislating hand-picked aspects of neighbour law as it would apply in a scheme.

However even with the thoroughness of the STA and the amendments now contained in the Sectional Titles Schemes Management Act (STSMA), understanding who in the scheme is responsible for a particular area of the scheme and the consequences of happenings in that area on other parties in the scheme, often becomes fairly complicated and requires expertise and

examination to determine the parties rights and responsibilities.

Take for example the following scenario:

Johan is the owner of a unit in a scheme, which he purchased five years ago, with three existing trees just outside his unit, situated on the common property.

These trees have large opening branches and shed their leaves blocking the gutters of his unit and resulting in the drainage system of the scheme being blocked.

The plumber is regularly called out by the scheme to unblock the gutters and the drainage. The Trustees on behalf of the Body Corporate are happy to pick up the bill of the plumber.

The Trustees have cut and trimmed the branches and have indicated that they are not going to remove the trees.

The first question is, can Johan force the Trustees to remove the trees to avoid further damage and costs to the Body Corporate.

Section 3 (1) (t) of the STSMA charges the Trustees with the control, management and administration of the common property for the benefit of all owners.

Section 4 (d) of the STSMA charges the Trustees to where practicable to establish and maintain on the common property suitable lawns and gardens.

The answer is therefore that it is the Trustees who decide whether to remove the trees. Johan cannot force the Trustees to remove the trees.

However, in terms of the Community Schemes Ombud Services Act (CSOSA) and particularly Section 39, CSOS is enabled to entertain an application requiring the Body Corporate to carry out within a specified time, specified works on the common property for the use, convenience or safety of owners. Johan therefore could apply to CSOS for an order that the trees be removed.

The second question is: Can the Trustees enter into an agreement with Johan for the removal of the trees on specified terms i.e. that Johan pay for the cost of the removal of the trees?

In terms of Section 4 (i) of the STSMA, the Trustees may do all things reasonably necessary for

the management and administration of the common property.

Therefore the answer is "yes", the Trustees may come to such an agreement with Johan.

The last question to consider is: Can other owners object to the removal of the trees?

Yes, they can object. We saw above that in terms of Section 3 (1) (t) of the STSMA, the Trustees have to manage the common property for the benefit of all owners. The owners can therefore voice their views to the Trustees and may form party to and participate in the CSOS hearing.

Alan Levy is an attorney at Alan Levy Attorneys, Notaries and Conveyancers in Sandton, Johannesburg. Alan can be contacted on alan@alattorneys.co.za or 083 968 5045.

Nedbank innovation can boost efficiency and savings for business



Jonathan Ridley
National Head: Investment Products
Sales and Retention

‘While the year began on an optimistic economic note, South Africa is not yet out of the woods, making it crucial for businesses to mitigate the negative impact of a challenging economy by adopting innovative solutions,’ says Jonathan Ridley, Nedbank Head: Sales and Retention Investment Products.

While 2018 kicked off on a positive note with a stronger rand amid optimism about the country’s political prospects, challenges do remain, making it necessary for entrepreneurs to find innovative ways to manage cashflow effectively and optimise savings.

As a supporter of the goal of the National Association of Managing Agents to be recognised as an industry authority, Nedbank offers financial advice and tools, such as its **innovative web-based Corporate Saver solution** to help industry

partners reach their targets.

But in keeping with our brand promise to enable clients to ‘see money differently’, Nedbank has introduced a range of innovations, such as the **Nedbank Money™ app**, a fully digitised branch at the Sandton Gautrain station, and other solutions aimed at client convenience.

In challenging economic times, business owners must manage cashflow and liquidity requirements better to remain sustainable and save on the bottomline. The use of technological solutions can help in this objective.

As a bank we advise businesses to manage cashflow through more effective debtor and creditor management, enabling them to receive funds swiftly or extending creditor payment terms, where necessary. But it is not only about managing payments and receipts.

It is key that businesses optimise liquidity associated with payments and receipts by reducing the amount of interest paid when borrowing funds, and increasing the amount of interest earned from excess funds in their accounts. This can only be achieved by better managing the flow of money through their accounts, as well as the prevailing market conditions, both in an increasing and decreasing interest rate environment. By combining these two elements businesses will be able to make the most appropriate investment and borrowing decisions on a sustainable basis.

‘Business owners must adopt the latest technology to become more efficient to navigate the challenges,’ concludes Jonathan.

For more information please send an email to **business@nedbank.co.za**.

see money differently

NEDBANK

Whether you live in a Homeowner Association or a Body Corporate we have a solution for you.

Sectional Title Solutions is a solutions driven consultancy business, focusing on delivering value-added products and services to Sectional Title Bodies Corporate and Homeowner Associations.

We aim to provide sustainable solutions that will be beneficial to unit owners and stakeholders, while reducing inefficient costs and generating much needed revenue for Bodies Corporate and Homeowner Associations. Ultimately, we aim to ensure financial sustainability and protection of the unit's investment value for its owner.

Our value-added solutions include:

- state-of-the-art Fibre To The Home and wireless internet solutions
- innovative arrear levy and project funding solutions
- cost-saving energy efficiency and solar solutions
- revenue generating outdoor media and advertising solutions
- legal and levy advisory services

Our solution-based approach, combined with our emphasis on a symbiotic working relationship with managing agents and their estates, is what adds real value to our clients.

Guided by this “win, win, win” philosophy, STS has partnered with several industry leaders as well as smaller niche specialist service providers, to provide our clients with the most effective value-added solutions, regardless of the size of their unique project requirements.

Contact us on +27 11 977 1977 or info@stsolutions.co.za for more info.

www.stsolutions.co.za



SECTIONAL
TITLE
SOLUTIONS

Intelligent property management **software**

Designed by the industry
for the industry



4 major challenges

With a rapidly growing sectional title and HOA industry, it's critical that you as a managing agent adapt and transform yourself from a basic secretarial service to being professional accounting and legal specialists.

It is most likely that you are or will be facing these four major challenges:

Compliance, Manageability, Scalability and Profitability.

For starters, let's talk about compliancy:

With the new legislation in place, there is an additional burden on you as a managing agent to ensure that each community that you manage as well as your business are compliant at all times. This adds an even bigger workload on your staff

faced by all managing agents

and comes with great responsibility for which most managing agents do not get recognition or additional compensation. It is therefore becoming more and more challenging to run a profitable business, let alone trying to stay on top of the evolving legal requirements.

MANAGEABILITY

Considering all the essential responsibilities of a property manager, it is quite easy to lose control of your team's responsibilities when trying to manage a decent size portfolio. To combat this, it is common practice with most property managers; to introduce more specialised divisions in order to have some form of quality control and create efficiencies. This unfortunately creates silos within a company due to the lack of transparent and efficient systems. Inevitably this will result in poor performance, poor service delivery and eventually a poor return on time and investment.



Four major challenges faced by all managing agents (Cont . . .)



Unless you have a transparent system, which allows different users or divisions to work from one platform, it is very difficult to stay on top of all the responsibilities of a property manager.

Being able to review and report on all the key responsibilities has to become a necessity instead of a luxury.

SCALABILITY

Scalability is an attribute that describes the ability of an organization to grow and manage increased demand. A scalable business has an advantage due to its nature being more adaptable to the changing needs or demands of its users or clients. As with most businesses, efficiency and manageability promotes scalability.

Property managers that can transform their businesses with the implementation of processes and new generation systems will be able to scale and capitalise on the rapidly growing sectional title and HOA market.

PROFITABILITY

When you combine the above three factors: compliancy, manageability and scalability, turning your established or new business into a more profitable enterprise becomes more easily attainable.

The future of property management

Based on a fast-evolving market, managing agents need to revise their business model and ensure that they achieve optimum efficiencies. If they want to capitalise on this fast-growing industry, they have to implement the most advanced systems.

With the introduction of the new software solutions all managing agents, irrespective of their size, are now able to overcome these challenges and transform their business to a scalable business.

Contact James at **weconnectu** today to find out how IPMS (Intelligent Property Management Software) can transform your business.

james@weconnectu.co.za

Tel: 086 999 0756

Cell: 084 500 0172

The Future Of Decision Making

in Residential Communities

By Adriaan Odendaal, GLOVent Solutions - www.glovent.net



Residential Communities are managed according to basic democratic principles, where rules, regulations and decisions are based on the preference of the majority. Therefore, once a year, these communities have an AGM (Annual General Meeting) where motions are tabled and then voted on by the members of the community. In extreme cases where urgent decisions need to be made, a SGM (Special General Meeting) is called to debate and decide on the special matter at hand.

Many of us have attended one of these AGM's or SGM's at residential communities,

and we will probably agree, the voting process is far from efficient. In many instances, the supporting documents are printed and hand delivered or posted to owners. Then the process of proxies start, where owners need to nominate other owners to vote on their behalf on the day of the meeting, should they be physically unable to attend. Apart from the administration in managing these proxies, many owners just don't bother and therefore do not participate in the voting process. At the meeting, each owner needs to register to confirm their attendance (and to ensure that the necessary number of eligible owners are present in order to legally continue with

the meeting), usually resulting in the meeting starting hours later than planned. Then the actual voting starts. This takes place mostly by either show of hands or closed ballots. In the case of a show of hands, the meeting officials have the almost impossible task of accurately counting the hands, while taking the number of voting cards into consideration. In the case of a closed ballot, usually the auditors are asked to count the votes while members take a break and wait for the outcome. This is usually a long process.

The good news is that the way AGM's and SGM's are run can now change forever. Imagine a world where motions and supporting documents are shared electronically to members in sufficient time to allow adequate interrogation and consultation in the comfort of their own space. A fully inclusive decision-making process where all members have the opportunity to cast their vote, regardless of whether they can physically attend the

meeting. Arriving at the meeting without the need to register and when it is time to vote, simply casting your vote on your mobile phone. Not only are results available in real-time, but they are also 100% accurate, reliable, auditable and un-corruptible. Imagine not actually having to physically attend meetings during the year to make decisions in the community. Imagine being able to make decisions throughout the year from the comfort of wherever an owner is at that point in time. And the community owning an incorruptible and auditable time-stamped record of every such motion, voting process and result?

GLOVent is excited to announce their exclusive and unique electronic voting module now available in the GLOPortal CMS (Community Management System). The GLOPortal Voting Module provides an electronic interface for community-appointed administrators to create and share the details of a motion with members, while members then have the

opportunity to cast their vote either through their smartphone or web interface. Supporting document uploads and a discussion forum unique to each vote allow members to voice their option and discuss the matter just as they would in a traditional member meeting, but without the peer pressures normally involved.

The Companies Act of 2008 recognises that corporate entities operate in a digital age and has, to a limited extent, to make provision for technological changes, including for information to be stored digitally, notices for shareholder meetings to be sent electronically and meetings to take place on an electronic platform.

A unique feature of the GLOPortal Voting Module is the technology used to store the voting data. The GLOPortal Voting Module uses blockchain technology to store all voting data, which by design makes it un-editable, incorruptible and fully auditable.



NEWSLETTER COST

FOR NON-NAMA MEMBERS

Dear NAMA Newsletter and Bulletin Subscriber,

For the past three years NAMA provided the NAMA newsletter to the industry, sharing valued information and providing an effective platform for NAMA Affiliate Members to promote their services.

In order to ensure that we continue to provide a value-add, not only to our members but also to all our subscribers, NAMA must endeavour to improve content, layout and distribution.

To achieve this, we must inform you that as from 1 March 2018 the NAMA Newsletter will be available to NAMA members at no cost and to our valued and regular Subscribers at an annual fee of R80.00.

All Non-NAMA Members are requested to first register on our website and then register for the Newsletter.

[\[www.nama.org.za\]](http://www.nama.org.za)

NAMA CORPORATE MEMBERSHIP

FOR AFFILIATES

Apply Now!

2018

Please contact Lizbe (namanorth@nama.org.za) or
Coenie (coenie@nama.org.za) for further information.

NAMA STATISTICS & UPDATES

CSOS

Since the end of 2017 NAMA engaged with the office of the Community Scheme Ombud on various issues raised by our members.

These include, but are not limited to:

- a. appointment of the Advisory Council;
- b. changes to, and challenges with legislation;
- c. update of statistical data;
- d. publication of Adjudication Orders; and
- e. scheme registration processes and problems.

We have been advised that due to changes in Government and the appointment of a new Minister to the Department of Human Settlements, delays were unavoidable to expedite the required meeting with the CSOS.

Once we have secured feedback we will provide feedback to our members.

PORTFOLIO MANAGERS AND THE EAAB

[FFC AND NQF 4 REQUIREMENTS]

Prior to and during the public participation sessions, NAMA voiced its concerns regarding the broad definition of a Property Practitioner.

We alluded the EAAB that there is a vast difference in both the service and the contractual responsibilities between an “Estate Agent” and a “Managing Agent”

Communication and deliberation with the EAAB ensued where NAMA requested a formal opinion from the EAAB on the requirement of a Portfolio Manager to hold a

Fidelity Fund Certificate and the NQF 4 qualification.

We have been advised by the EAAB that this matter will receive attention at the upcoming EXCO and that NAMA will receive feedback.

Any feedback will be considered and deliberated on behalf of our members.

MEMBERSHIP

With the implementation of the new membership fee payment structures, NAMA wishes to thank our valued members for their support and understanding in the changes effected from 1 March 2018.

Most of our members have elected to settle their fees annually and a large portion of members have also elected to make payment by means of the debit order system.

NAMA membership continues to grow, and this positive response affirms the value-added service NAMA offers to the industry.



NAMA TRAINING

The NAMA training manual has been updated to include all new legislation.

Training will commence soon. We are proud to have trained more than 2000 NAMA Members, Trustees and Owners during 2017.

The planned University training programme has been discussed and approved by the NAMA executive and planning is to roll out this programme in 2019.

Welcomes

NAMA welcomes Glen Smit (KwaZulu-Natal) and Franz Holm (Western Cape) as new NAMA Directors.



Glen Smit



Franz Holm

Farewells

NAMA wishes to thank Dave James (KwaZulu-Natal) and Leigh Maingard (Western Cape) for their contribution to NAMA and all the best with their new endeavours.



Dave James



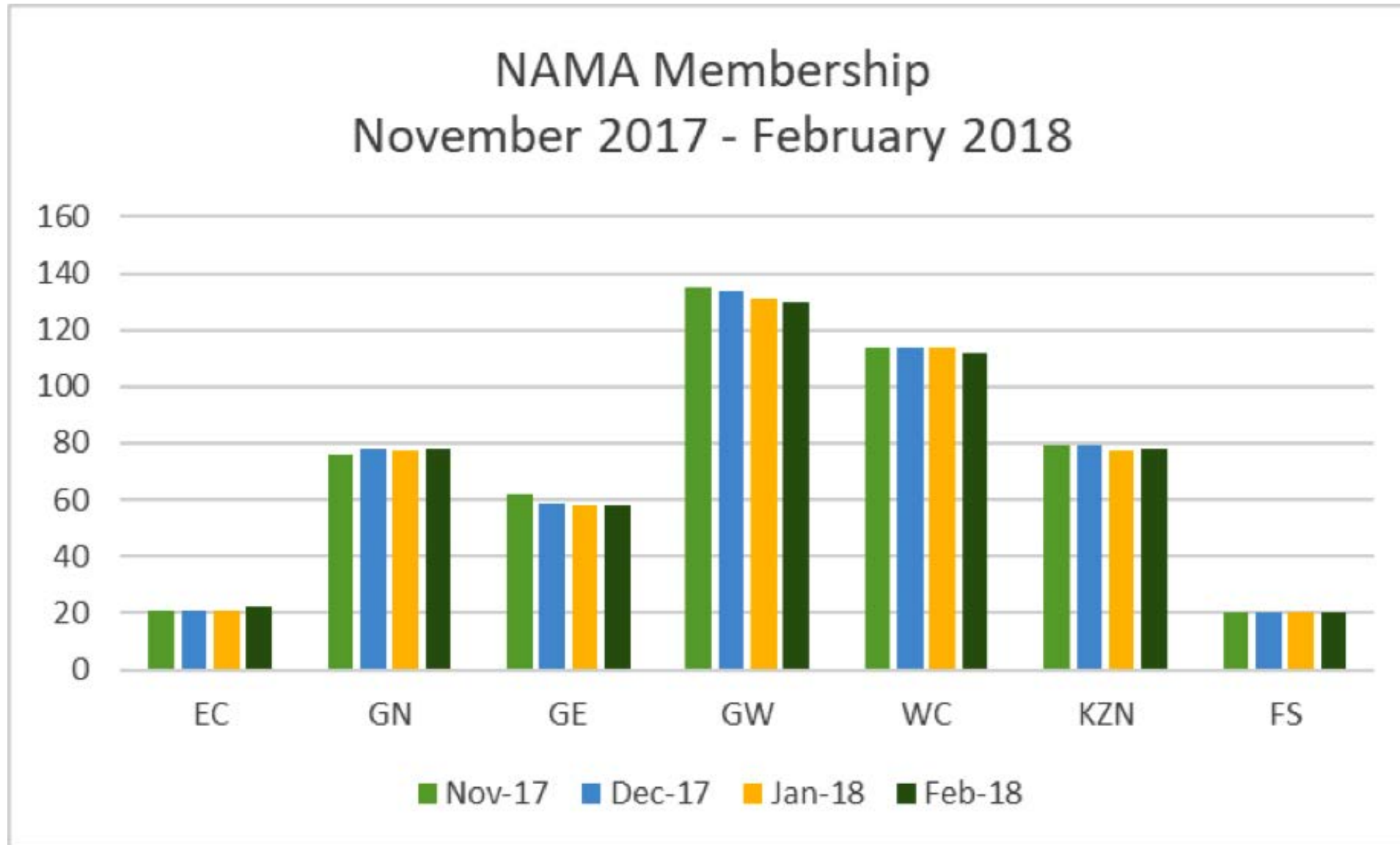
Leigh Maingard



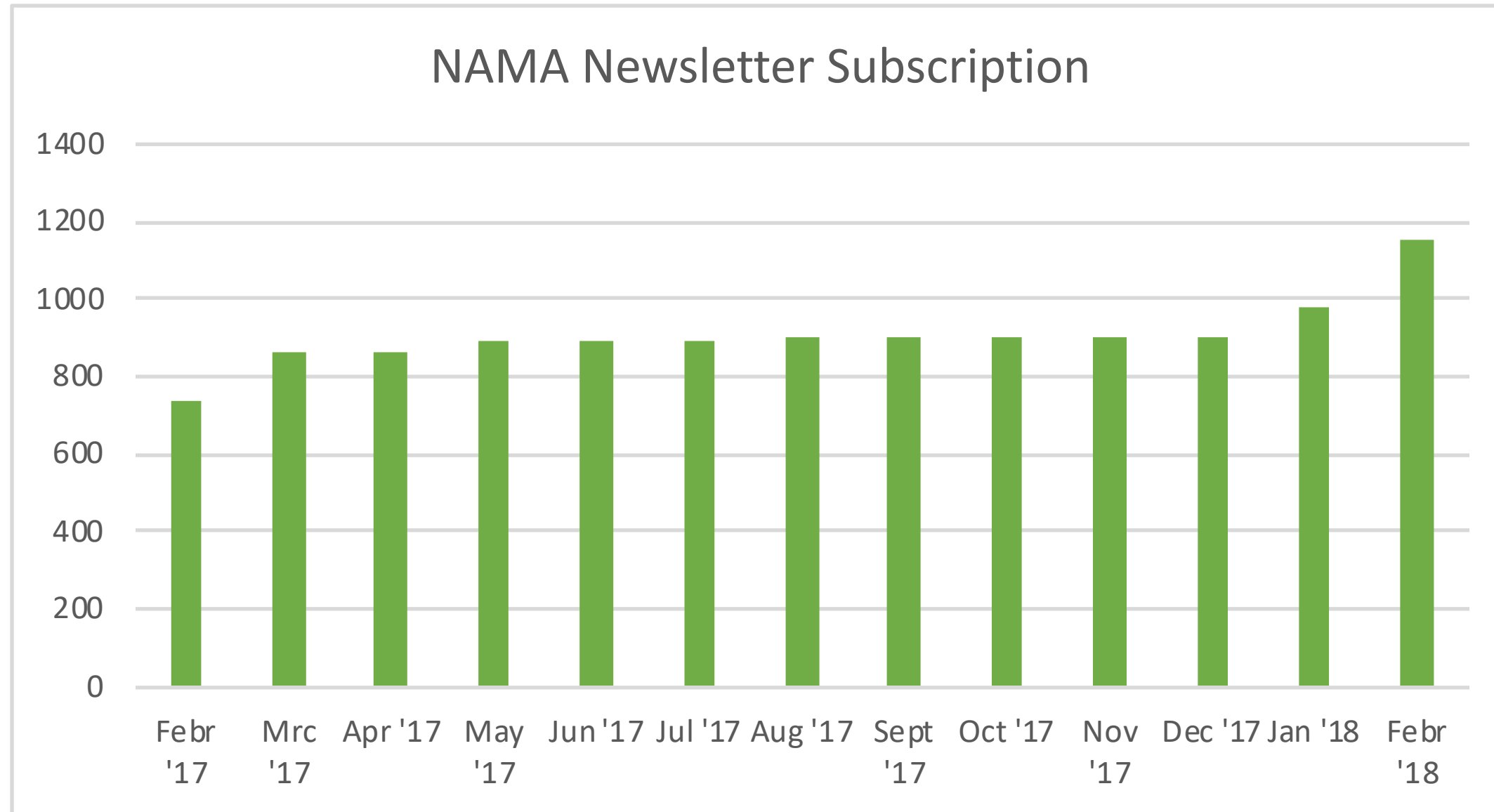
Be prepared to be crowned as the 2018 NAMA National Team! Participate in your region's golf day and win big prizes! More information to follow.

NATIONAL GOLF CHALLENGE

NAMA STATISTICS



NAMA STATISTICS





Events

WESTERN CAPE REGION

13 APRIL 2018 – Flagship Seminar, The River Club

8 JUNE 2018 – Breakfast Seminar

Please contact Kate at namawc@nama.org.za for more information.

EASTERN CAPE REGION

17 MARCH 2018 – Trustee Training Seminar

18 APRIL 2018 – Regional Meeting

8 JUNE 2018 – Golf Day, Port Elizabeth

Please contact Lizbé at namanorth@nama.org.za for more information.

GAUTENG EAST REGION

19 APRIL 2018 – Breakfast Seminar

Please contact Isabella at namaeast@nama.org.za for more information.

GAUTENG NORTH REGION

5 MAY 2018 – Trustee Training Seminar

1 JUNE 2018 – Golf Day, Centurion Golf Estate, Pretoria

Please contact Lizbé at namanorth@nama.org.za for more information.

GAUTENG WEST REGION

18 APRIL 2018 – Breakfast Seminar

Please contact Meriechen at namawest@nama.org.za for more information.

FREE STATE REGION

6 APRIL 2018 – Regional AGM

7 APRIL 2018 – Trustee Training Seminar

Please contact Meriechen at namawest@nama.org.za for more information.

KWAZULU-NATAL REGION

21 APRIL 2018 – Trustee Training Seminar, Durban

12 MAY 2018 – Trustee Training Seminar, Richards Bay

25 MAY 2018 – Breakfast Seminar, Durban

2 JUNE 2018 – Trustee Training Seminar, Pietermaritzburg

22 JUNE 2018 – Breakfast Seminar, Port Shepstone

23 JUNE 2018 – Golf Day, Port Shepstone Country Club

Please contact Vanida at namakzn@nama.org.za for more information.





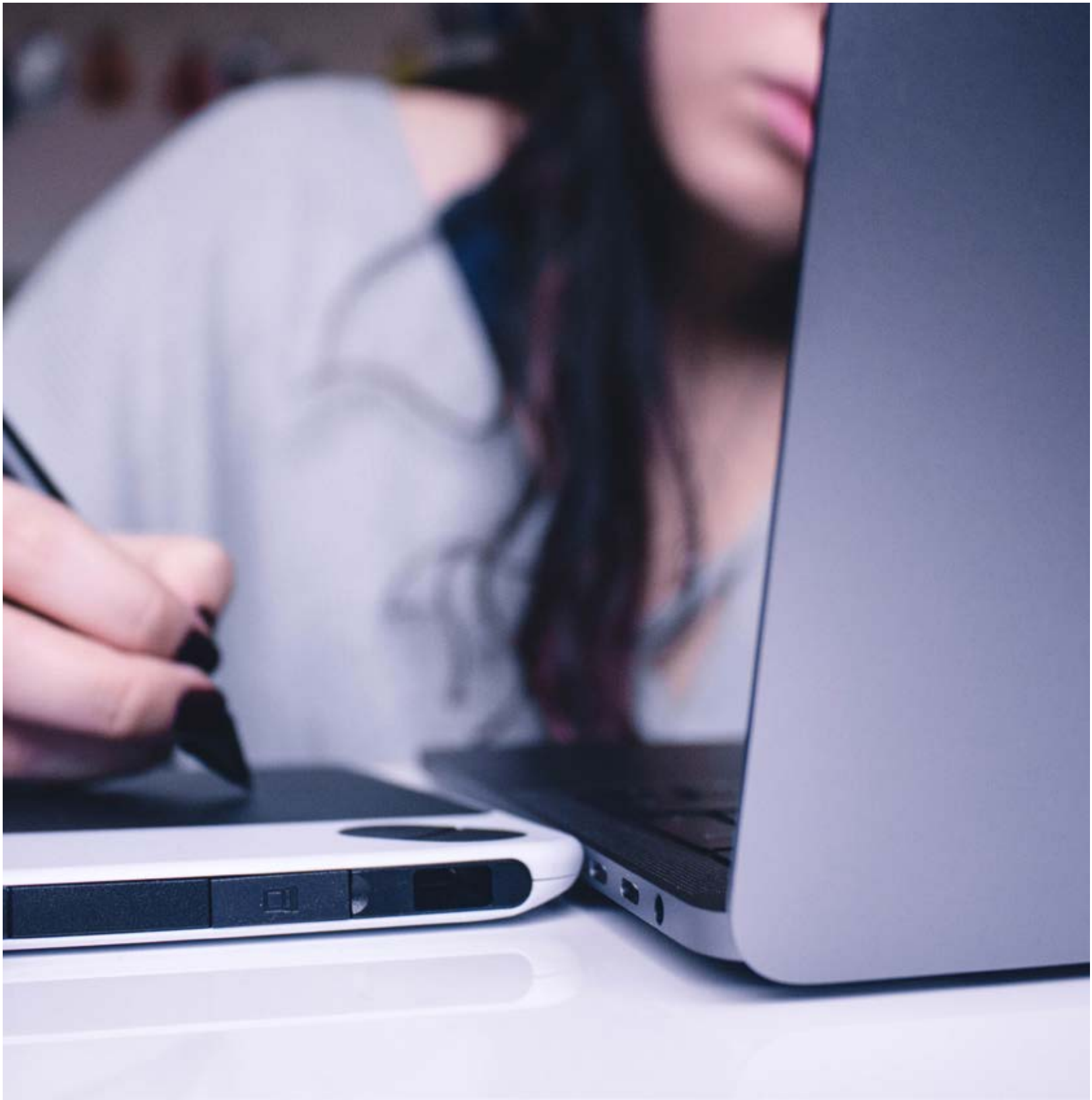
Disclaimer : The opinion expressed in this Newsletter is not necessarily that of NAMA. The article pertaining to content is based on that of the writer and should only be used as such. The editor may elect to make amendments to the initial content but this should not be seen as an official opinion or correction of the content . The use of such information or advice is at the user's own risk and should not be considered as a formal opinion or be considered as legal advice or legal opinion of any kind. NAMA will not be held liable for any damages, losses or causes of actions of any nature whatsoever arising from the information or advice given.

Publisher : NAMA

**Contact person : Lizbé Venter
(namanews@nama.org.za)**

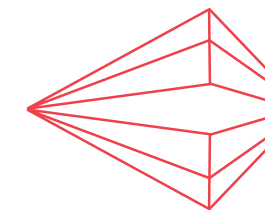
Copyright : NAMA – Nothing in this newsletter may be reproduced in whole or part without the written permission of the publishers.

NEXT ISSUE: APRIL 2018



THIS MAGAZINE IS DESIGNED &
PUBLISHED IN PARTNERSHIP BY :

GLOVENT
S O L U T I O N S



THAT Touch
MEDIA

FOR DESIGN ENQUIRIES:
076 041 8933
INFO@THATTTOUCH.CO.ZA