



30 April 2008

Peter Roux
Turgis Consulting
PO Box 1995
Northcliff
2115

Dear Peter

COMMENTS ON THE DRAFT EIR FOR THE PROPOSED NORTHGATE PROPERTY DEVELOPMENT

With regard to the draft EIR and EMP submitted for public review the following comments are offered.

1. Project Description

In order for a development to be comprehensively assessed a detailed project description is required to provide details on the planned activity. The project description provided in the EIR is wholly inadequate; a three page overview of the planned development for a project of this magnitude is not acceptable. A detailed site layout plan is not even provided.

The issue of the lack of an appropriately scaled map was raised in my comments on the scoping report, and it has not been addressed in the EIR, in fact no map or diagram is provided at all in the report.

The project description given does not provide details on a number of aspects such as:

- What is meant by local authority within the tables? What will this area be comprised of?
- The size of the erven for general residential units should be provided. In Section 4.1.3.1. general residential is listed as 5.1ha and number of units proposed is 2-7. Does this mean the size of each erf could be between 2.5ha – 07ha?
- What will the open space areas be comprised of? With regard to Open Space it is important to distinguish between planned natural open space and transformed open space and to provide a breakdown of the various components of the Open Space System. Landscape or parkland Open Space represents an artificial or transformed state. If these areas are to be grassed, what grass species will be used? Will

an alien invasive species such as *Pennisetum clandestinum* be used, or will indigenous grass species be used? The type of plant species used in the development could impact on Kamferdam and this needs to be addressed.

- Where will the filling station be located?
- Where will the 5M ℓ reservoir be located?

Again these issues were raised in my comments on the scoping report but have not been addressed.

2. Technical design

Electricity: The issue of capacity was raised in my comments on the scoping report, your response was; “ Refer to bulk services report” however no mention of capacity is made in the report *Report of Electrical Services* produced by Dihlase Consulting Engineers. They have merely dealt with the required system upgrades that are needed for the development. What needs to be addressed is, will this development put additional strain on the national grid resulting in Eskom load shedding Kimberley for hours each week? Eskom have stated that only in 2013 will our electricity crisis will be under control. However this development is scheduled to commence this year which means that by the end of the year, early next year phase 1 could be completed and be drawing additional power from Sol Plaatje Municipality, where is this additional power coming from? Building substations and power lines does not address the issue of power generation/capacity.

Sewage: The EIA states that the effluent produced by the development could impact negatively on Kamfersdam but that this can be mitigated by the upgrade of Homevale WTP, which we can all agree would be a positive for Kimberley, however what is not adequately addressed is that phase 1 “Triangle Mall & Estate” will be completed before the planned upgrade (scheduled only for phase 2) and that the already over capacity Homevale WTP will have to deal with additional sewerage from phase 1. Thus the impact of pollution from the effluent will be very high and will remain very high until the upgrade is completed (the impact of effluent pollution is stated to be high in the EIR but with mitigation in the form of the upgrade is lowered to medium). What happens if phase 2 and the upgrade of the sewerage plant is not undertaken or if the upgrade and phase 2 is postponed for a few years? Placing more strain on a system that is already over capacity will result in untreated/inadequately treated effluent entering the pan and polluting this system which will have detrimental effects on the pan ecosystem and the flamingos. The fact that additional sewage will be allowed to enter an already over capacity system and cause pollution is an **environmental fatal flaw** in this project.

The only adequate mitigation measure for this impact is to enforce the planned upgrade of the Homevale WTP prior to commencement of any phase of this development.

Roads: The EIR states that the access for the property will be via Midlands road and Albatross street. The traffic impact study states that access to the development will be as follows:

- The main, and initial access, to the development will be at the Roodepan Road / Eagle Street intersection, with a new eastern approach at this intersection.
- Access will also be provided from Roodepan Road to the higher density development (as well as the shopping centre) to the north of the mentioned intersection.
- An additional access on the Roodepan Road is being planned on the northern boundary of the layout. This access should be constructed as part of the construction of this part of the layout.
- As it would be difficult to accommodate all trips generated by the development through the Barkly Road corridor, an additional access to the N12 will have to be established. This access will have to be established once development of the residential erven and units exceeds 50%.

Furthermore the comments from the Traffic Services Department (Sol Plaatje Municipality) stated that they would like the developer “to consider the development of an alternate route as the Midlands and Barkley Road is oversaturated. Why is no mention made of this in the EIR? Again this issue was raised in my comments on the scoping report and the response was “*these impacts will assessed in EIA phase of the project*”. Although the impacts of road construction were assessed no consideration has been given to alternative access points in the assessment of alternatives or in the project description. Why has a recommendation given by a specialist been ignored?

Has an alternative access road been considered? If so where? If an alternative access road has not been considered why has it not been considered?

3. Safety and security

The issue of safety and security that was raised at scoping has not been fully investigated in the EIR. Although the impacts of noise associated with hunting rifles has been addressed the issue of safety of the prospective residents of the development from rifle bullets has not been mentioned in the EIR nor in the Social Impact Assessment even though it is stated in the comments report that “*This will be attended to in the social specialist report*”.

4. Spatial Planning

In terms of section 35 of the Municipal Systems Act, Act 32 of 2000, the Integrated Development Plan, of which the SDF forms part, is the principal planning instrument which guides and informs all planning and development.

As the SDF is a legally required document, all planning decisions on development applications must be based on the extent the application conforms and gives effect to the SDF/IDP.

The issue of the lack of reference to the local spatial planning documents (IDP & SDF) was raised at scoping phase, your response to this issue was *“The SPD and IDP are currently being revised to include the northern areas. The new SDF will only be available in draft format for comment from March 2008. No diagrams are yet available, even in draft format.”* However no further mention of spatial planning is made in the EIR.

In order to protect against urban sprawl and inappropriate development in sensitive areas the concept of an urban edge has been introduced. The urban edge indicates the desired physical extent of urban development.

In terms of the Municipal Town Planning application it has been stated that the current SDF (2004) has been used to guide this application. However the current SDF shows that the intended development site is outside the urban edge.

No development should be approved beyond the Urban Edge delineation unless the Urban Edge has been amended through a SDF review process as stipulated by the Municipal Systems Act

If this review process has yet to be completed, why is this development being considered?

The draft SDF shows part of the proposed development site to be a conservation area (Figure 1), and states that it must be conserved. Therefore development in this area would be inappropriate, and in direct contravention of local planning documentation.

The current SDF (2004) even proposes a buffer zone be maintained between the developed areas and environmentally sensitive dam area (Figure 2). Should development occur in other areas around the dam then surely this buffer zone should be implemented right around the dam? If a buffer zone is required to protect the pan from development to the south then surely a buffer zone would be needed to protect the pan from development to the west and north?

This buffer zone must be included in the development layout and should extend all along the southern western and northern border of the proposed development. Spatial planning forms an important component of an EIA for this kind of development, as development in inappropriate areas constitutes a fatal flaw in the process, and this needs to be highlighted as part of the EIA.

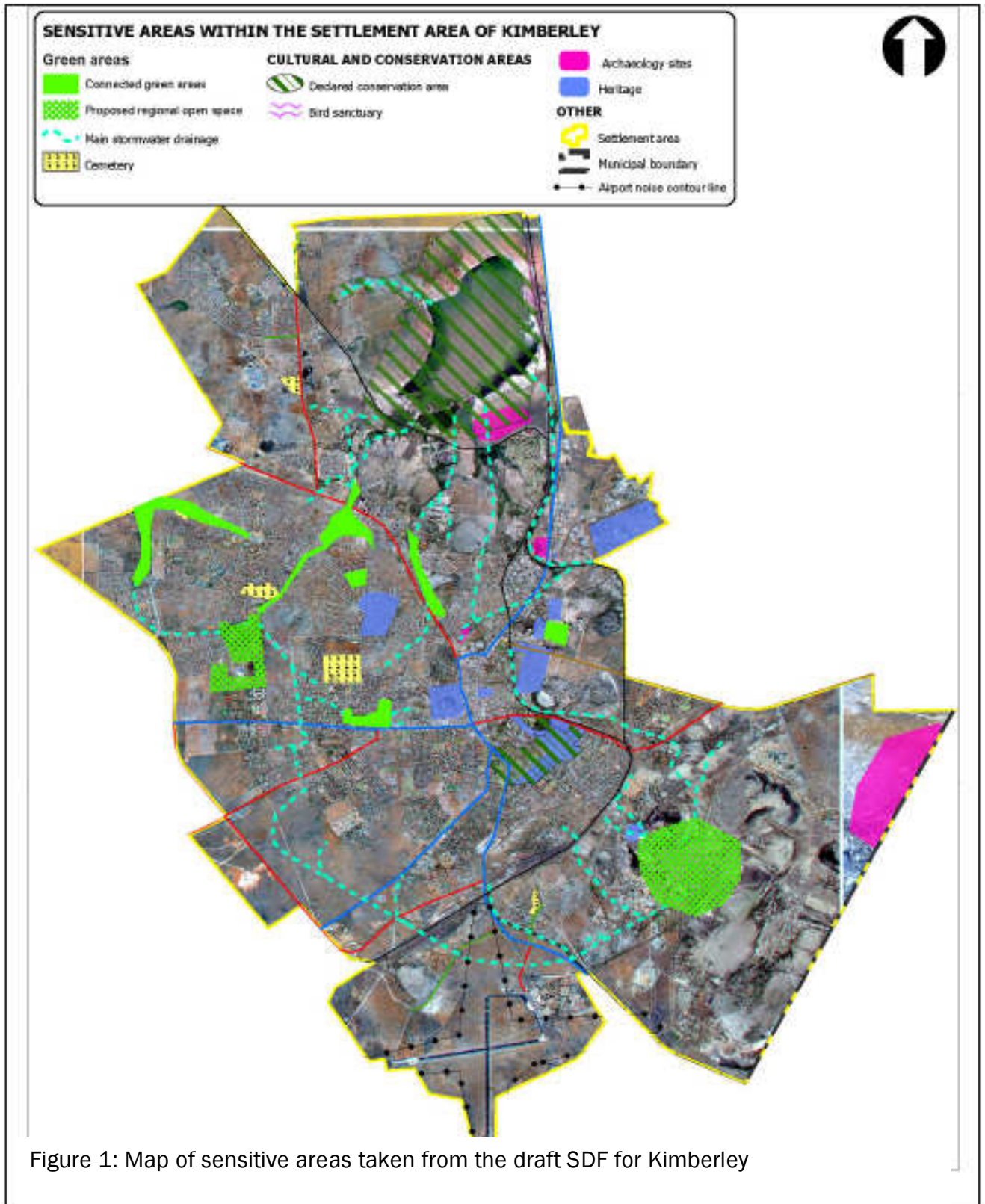


Figure 1: Map of sensitive areas taken from the draft SDF for Kimberley

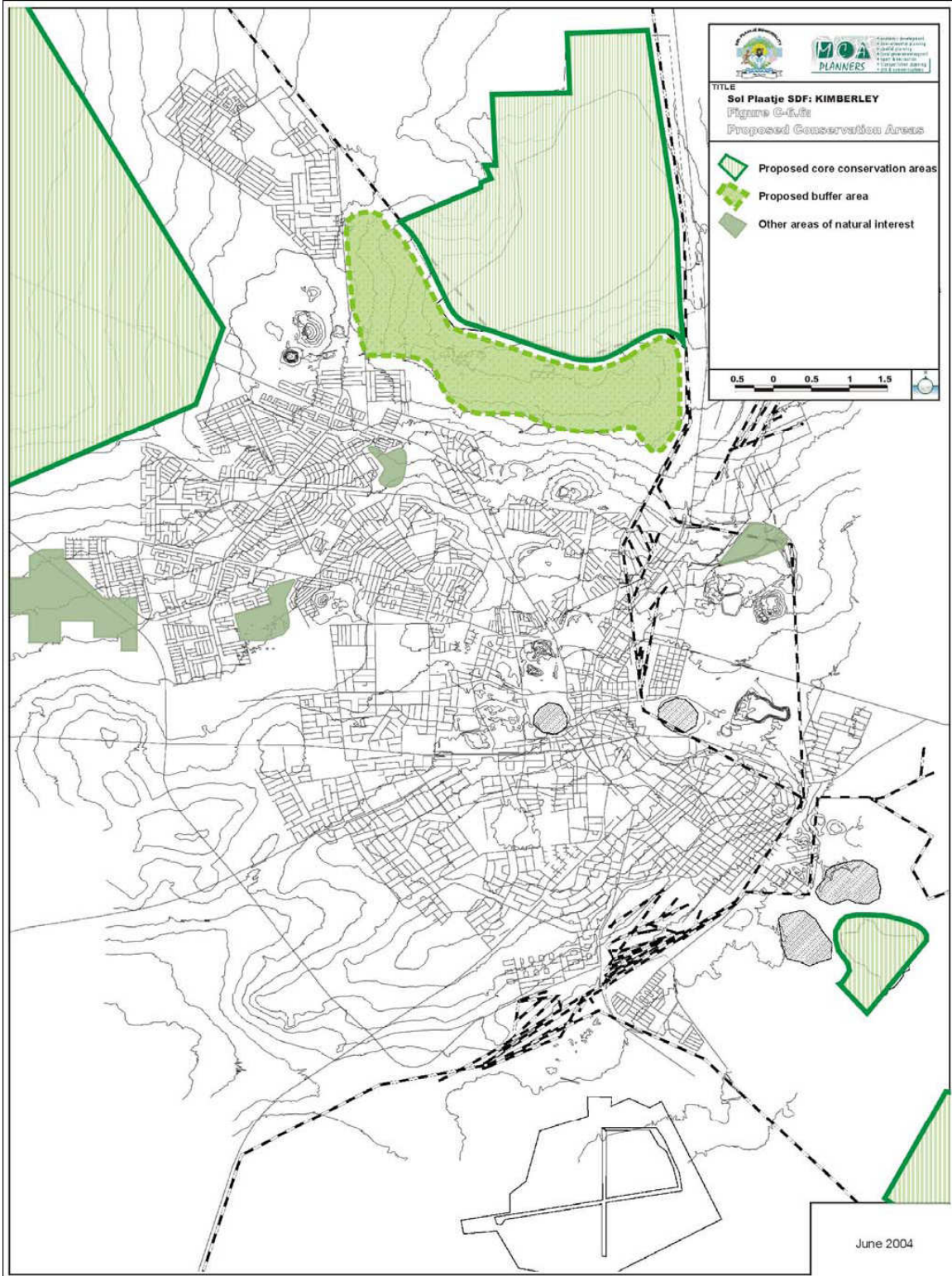
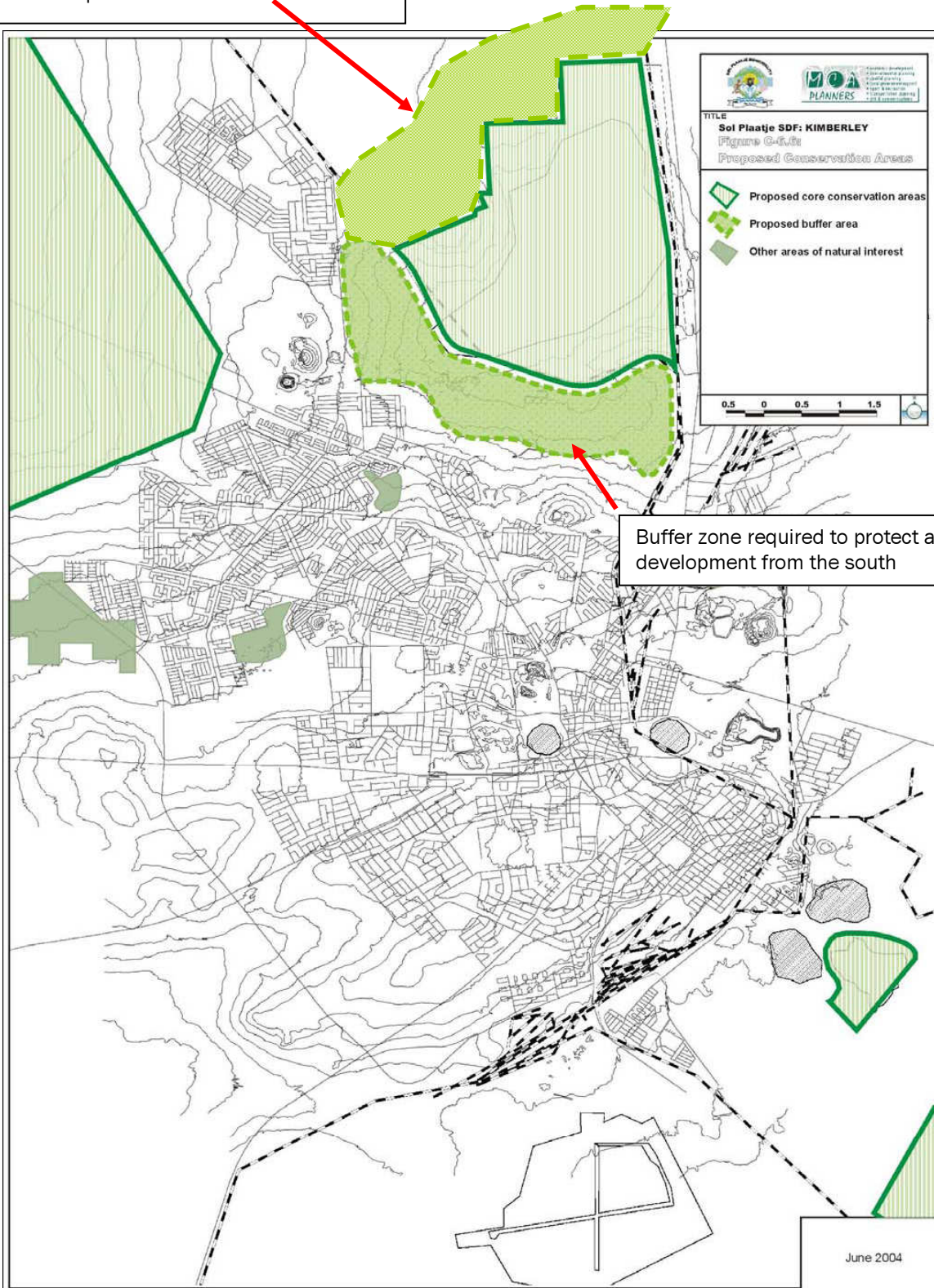


Figure 2: Map taken from SPF document 2004 indicating the buffer zone around the Kamfersdam conservation area.

Required buffer zone to protect the dam from the proposed development?



Buffer zone required to protect against development from the south

Figure 3: Logic dictates that should development occur to the north and west then a buffer zone as stipulated in the current SDF would need to be extended to the north and west as indicated above.

The issue for the EIA is that this development constitutes an inappropriate development in a sensitive area.

The issue of spatial planning must be addressed as part of the environmental impact assessment process. The fact that spatial planning has not even been mentioned in the EIR is irregular and does not conform to standard EIA assessment principles for developments of this nature.

5. Impact on CBD

The municipality has requested that a detailed market research and feasibility study be undertaken to justify the erection of a shopping centre which should be included in the EIA.

The SDF (2004) specifically states that along with sprawl a linked challenge is to discourage inappropriate decentralisation.

The sporadic development of decentralised retail centres is likely to harm the potential of the CBD to become a more vibrant and viable centre for Kimberley. Declining land values in the CBD as a result of inappropriate decentralisation are also likely to result in lower rates and returns for the municipality.

The impact of erecting commercial centres within the proposed development on the CBD has not been addressed within the EIA. Although this issue was raised during scoping it has been completely ignored, no mention is made of this potential impact to the CBD in the Social and Economic Impact report nor in the EIR.

6. Description of the affected environment

- 1) No site sensitivity map is provided. This issue must be addressed and a site sensitivity map provided.
- 2) Although the vegetation specialist report mentions that a vegetation map (vegetation units) is provided in Appendix D of the specialist report, this appendix was not part of the report in electronic format (this was not indicated when the availability of electronic copies of the EIR was advertised).
- 3) The extended faunal specialist study was not attached to the EIR, and it is not clear from the EIR if additional red data species were encountered. The distributional range of the giant bullfrog for instance occurs within this area and the giant bullfrog has been listed by the World Conservation Union (IUCN) as "Near-Threatened". As this information was not provided within the EIR I reserve the right to comment on the faunal study once I have obtained the missing documentation.
- 4) The specialist study on the flamingos recommends that the most important mitigation measure to protect the threatened flamingos is the construction of

a boundary wall, this statement is also included in the EIR. The specialist report furthermore states that this needs to be sound proof, must form a visual barrier (can't see through it) and must be impenetrable. However no details of this boundary wall is given in the EIA or EMP, even though this point was raised at scoping. Furthermore if this boundary wall is to be a solid brick construction (which it will need to be in order to fulfil its functions as per the specialist recommendations) what will the impact be of a solid barrier crossing a major drainage line into the pan? The construction of a wall to protect the flamingos may have detrimental effects on the drainage ecosystem into the pan. This aspect will have to be addressed in the design of the boundary wall and should have been reported on in the EIR. Furthermore solid walls inhibit the movement of small faunal species and therefore specialised animal tunnels will need to be incorporated into the design.

- 5) The EIR and EMP mention that security cameras will be set up to monitor the wall the Booth residence and the flamingo breeding island on a 24 hour basis. How will this be funded? Will a home owners association be set up and the home owners subject to a security levy? The intention is to develop affordable housing, thus if a levy will be part of this ownership in this area, how much will it be? Will it still be affordable to the potential residents? What will the response plan be if someone is detected on the breeding island? Will the police be called? Will security guards from the development detain the person until the police arrive? It is all very well to have cameras on the area but will there be a comprehensive action plan? Otherwise it does not serve a purpose.
- 6) Will this development put additional strain on the national grid resulting in Eskom load shedding Kimberley for hours each week? If this will be the case then the issue of loss of revenue to business in Kimberley as a result of the load shedding will need to be assessed in the social and economic impact study. The SIA only addresses the issue in terms of the construction phase *namely Increased Demand on Municipal Services during construction*, but does not even mention the economic implications of load shedding on local business owing to SPM having to provide electricity to an additional township development and commercial centres.

7. Consideration of alternatives

As part of an EIA, alternatives must be assessed. The issue of the lack of correct assessment of the alternatives was raised in the scoping report. *“the extent to which these alternatives have been investigated within the scoping report falls short of a true investigation of any of these alternatives”* Your response in the issues trail was, *“The scoping report has assessed the broader site alternatives. The impact assessment phase as mentioned in the PoS will undertake a detailed assessment. A full assessment of alternatives will be undertaken in the EIA phase”*

However this is not the case as the locality alternatives listed in the scoping report (which were not adequately assessed) are not even mentioned in the EIR. The fact that the proposed development site is situated so close to a sensitive area should prompt a detailed investigation into at least one alternative site.

According to the guidelines produced by DEAT (*DEAT (2006) Guideline 5: Assessment of Alternatives and Impacts in support of the Environmental Impact Assessment Regulations, 2006. Integrated Environmental Management Guideline Series, Department of Environmental Affairs and Tourism (DEAT), Pretoria*) where alternative locations or sites are identified as alternatives, the features of each location or site should be investigated to the same level of detail for the purposes of the comparative assessment of the alternatives. The comparative assessment should at least include the following aspects :

- o capital and operating costs;
- o direct, indirect and cumulative impacts;
- o mitigation measures;
- o physical, legal or institutional constraints; and
- o compliance with policy and legal requirements.

This has not been considered in terms of the consideration of a site alternative in the report.

The fact that Private property can only be considered in an alternative if the owner is willing to sell or be part of the development, is valid and is acknowledge, however it seems as though the Northgate property has not yet been purchased as stated in the issues trail "*The property in question is private property and has been purchased by the developer*" and that the sale will only be finalised once the RoD from DTEC has been finalised which is often the case in developments such as these. Thus an alternative site can be easily be assessed as it does not have to be purchased before assessment but merely identified for purchase.

8. Public participation

- 1) Again no clear time frames are provided as to when documentation was released for review and when comments need to be received by.

This issue was highlighted in the scoping phase and your response was "*This was clearly stated at the public meeting. Refer to DVD*" This is inadequate as not all the I&APs were at the public meeting.

According to the guidelines produced by DEAT time periods should commence on the date that I&APs are likely to receive the documents, not from the date on which they are dispatched. However some I&AP may have received the documents later than others and a clearly defined comments period is helpful both for the I&APs wishing to comment as well as the EAP who has to respond to the comments. It is standard practise on a project of this size and type to provide a date.

- 2) Public participation is one of the most important aspects of the environmental authorisation process. This stems from the requirement that people have a right to be informed about potential decisions that may affect them and that they must be afforded an opportunity to influence those decisions. Effective public participation also improves the ability of the competent authority to make informed decisions and result in improved decision-making as the views of all parties are considered.

Yet many of the issues raised during the scoping process have not been addressed in the EIR. Although the guidelines for public participation state that all comments need to be recorded, there is no clear indication as to how issues raised by I&APs must be addressed. However failure to adequately address the issues raised by I&APs is seen as a fatal flaw in the EIA process and provides adequate grounds to appeal a RoD.

- 3) Where are the comments from DWAF and the Department of Agriculture? Has the application been approved by the Department of Agriculture in terms of Act 70 of 1970? If so why is the letter of approval not in the EIR it is directly relevant in terms of comments received by other organs of state?
- 4) Although stated in the EIR and the final scoping report that the report (EIR) will be on the Turgis website www.turgis.co.za I was unable to access the report on the site

9. EMP

- 1) The location of the construction camp should be provided on a site map, as the positioning of such a camp could influence the severity of its associated impacts.
- 2) Details need to be provided on the storm water control dams. Where will these be located, how will they be designed? What will be their size? Will they be designed to incorporate natural wetland type plants such as *Phragmites* and *Typha* spp?
- 3) The EMP indicates that the protected trees be marked and that buffer zones be fenced off. Where will these buffer zones be, how big will the buffer zones be, standard practice for a buffer zone around protected species is a minimum of 500m what is proposed for the development?
- 4) Page 18 references a map, what map is being referred to as no map is provided in the document.
- 5) Page 21 of the EMP states that corridors of open space should be provided. Where will these corridors be, this should be indicated on a map. What will the open space consist of? Natural vegetation or landscaped areas? It is

important to distinguish between planned natural open space and transformed open space and to provide a breakdown of the various components of the Open Space System. Landscape or parkland Open Space represents an artificial or transformed state. Page 18 states that vegetation corridors need to be created. Where will these be located, how much space will they occupy what will they link to and will they be natural vegetation or will they be planted kikuyu?

- 6) Regular monitoring is advocated, what type of monitoring will be set up, will this include permanent enclosure plots, fixed transect? The type and regularity of the monitoring needs to be specified.
- 7) What type of plant species will be used for landscaping on the estate and in the gardens of the houses?
- 8) What is the contingency plan if the storage tanks at the filling station leak? What is the proposed monitoring system to safe guard and check for leaking storage tanks?
- 9) Point 8.7 states; *The following Key Performance Indicators must be reported on a regular basis.* What will the regular basis be? Every week, every month once a year? Who will the report be given to?

10 General

- 1) An EIR document should be read as a stand alone document. Regulation 32 (2) states that *an environmental impact assessment report must contain all information that is necessary for the competent authority to consider the application and to reach a decision.* Any reviewer or I&APs who have not been involved in the process from the very beginning should be able to read through the EIR document provided and obtain comprehensive knowledge of the project. The EIR document provided for this project falls far short of this criteria.

Certain information such as the full Flamingo specialist report, the faunal report, TIS, and bulk services reports etc are not appended to the EIR although they are referred to in the document. Although the Flamingo report and the TIS are appended to the final scoping report if the information they provide is relevant to the EIR then at least the final scoping report should be appended to the EIR.

It is recognised that once all these reports are included, the EIA document can be very bulky. In such a case it is standard practise to compile a separate specialist report document, where all the specialist reports are placed together and can be easily referenced from the EIR document.

At this point the recommendation made that the development should go ahead is flawed as critical issues have not been adequately addressed in the EIR.

Yours sincerely

Dr Natalie Birch *Pr Sci Nat.*