

DRAFT ENVIRONMENTAL IMPACT REPORT COMMENTS RECEIVED - Proposed housing development, Portion 1 of Farm Uitkoms No 463, Kathu

Date	Issue	Comment	I&AP	Response	Respondent
25/08/2017	Botanical	Our request that the development site be adjusted to exclude portions protruding into the Kathu Forest, a Nationally Protected Woodland, was not taken into consideration. The Department cannot support the proposed development; the portion of the site inside the Kathu Forest must be excluded from the Authorisation. A geo-referenced map showing the exclusion areas must form part of the Environmental Authorisation (if granted) - after the DAFF has verified that such GPS reference points are indeed outside Kathu Forest	Jacoline Mans: Department of Agriculture, Forestry and Fisheries. Directorate: Forestry Management	Noted. Please note that although part of the property is located within the Kathu Forest, no development will take part in this section. The location of the Kathu Forest with respect of the proposed development has been taken into consideration from the start of the project. According to the revised layout plan (Alternative 4 - Appendix 2D), the part of the development overlapping the Kathu Forest will be completely removed, and leave a buffer between the development and the Kathu Forest. Please also refer to Appendix 2D for the GPS waypoints	EnviroAfrica / MacroPlan
		As pointed out in 2015, the development site intrudes into a portion of the Kathu Forest, Class 1 Woodland which is the primary conservation area and a no-go area for development. Activities such as hiking and eco-tourism are allowed in Class 2 and Class 3, but not in Class 1. See figure 1 on page 2 of the map of Kathu Forest, showing the different Woodland Classes as was published in the Government Gazette. None of the mitigation measures in the Draft EIA Report mentioned that the Kathu Forest area must be demarcated as a no-go area.		Noted. Although the Kathu Forest has been excluded from the development site, it will be noted in the EMP and EIR that the Kathu Forest must be designated a no-go area. The part of the Kathu Forest is zoned as Open Space III has been removed from the development (see amended layout - Appendix 2D)	EnviroAfrica / MacroPlan
		The map attached as Appendix 2C - Preferred Alternative, shows the triangular area consisting of Class 1 Woodland as Open Space Zone III. The draft EIR describes Open Space Zone III as an "area used by Council, a person or an institution, exclusively for the conservation of the natural environment, land, historical buildings, fauna and/or flora and include tourist facilities that forms an integral part. Restrictions - No structure shall be erected or use practised else than those included in the definition of a "conservation area" or as specifically approved by Council. The land use restrictions and additional provisions relevant to this zone are applicable as for each site or use or type of building approved by the Council." The concern here is that although this portion of Kathu Forest under the current layout plan is zoned for conservation, the local Council may approve buildings or tourist facilities in Open Space Zone III. According to the Government Gazette publication of Kathu Forest as a Protected Woodland, Class 1 Woodland is no-go area for development. Tourist facilities can only be constructed in Classes 2 and 3 Woodland.		Noted. EnviroAfrica agrees with this statement. Although part of the Kathu Forest is included in the development property, no development will take place within the part that overlaps with the Kathu Forest. In terms of the Scheme Regulations of the Gamagara Municipality, governing all land use within the municipality, as is the mandate of the local authority, the zoning of Open Space Zone III has the primary right of Conservation Area, the definition of which is as follows: "A premise or area indicated in this scheme to be used by Council, a person or an institution, exclusively for the conservation of the natural environment, land, historical buildings, fauna and/or flora and include tourist facilities that forms an integral part." Furthermore, the following restriction applies: "No structure shall be erected or use practised else than those included in the definition of a "conservation area" or as specifically approved by Council. The land use restrictions and additional provisions relevant to this zone are applicable as for each site or use or type of building approved by the Council." This is why this zoning was chosen to cover the proclaimed forest areas (Alternative 3), rather than having it maintained as agricultural land, as this provides a protective zoning on top of the protective proclamation of the DAFF. If this is undesirable to DAFF, we can merely remove these areas from the layout, but this will consequently exclude the overlay of a protective zoning through this development application. Please see Appendix 2D - Preferred layout, which has excluded the Open Space III from the eastern side of the development	EnviroAfrica / MacroPlan
		Page 19 of the draft EIA report stated that "a portion of the proposed property forms part of the Kathu Forest. However, the development layout has taken this into consideration and no development will take place within the Kathu Forest." The DAFF is of the opinion the affected Class 1 Woodland with the proposed zonation of Open Space Zone III, does not sufficiently guarantee the conservation of this portion of Kathu Forest in the long-term, because it would give Council the power to authorise unwanted structures and activities in the primary conservation area of Kathu Forest.		As above, the Open Space Zone III and Residential Zone II has been removed from the development, to create a buffer between the development and the Kathu Forest (See Appendix 2D for the new preferred layout)	EnviroAfrica
		The Department is very concerned about the site boundary not being consistent in the different maps used in the reports. The north eastern site boundary in Figures 6 and 7 on page 26 of the draft EIR clearly differ. In figure 6, the eastern site boundary goes through Vlermuisleegte. In figure 7, the eastern boundary line was moved to the east of Vlermuisleegte and all the way inside the Kathu Forest. This is not acceptable. In our comments of May 2015, the DAFF also pointed out on a map that this north-eastern site boundary intrude into the Kathu Forest and we requested that the boundary be adjusted to exclude areas intruding into the demarcated Kathu Forest.		Noted. There appeared to be an issue in editing/when converting, with the polygon indicating the site shifting. This has been adjusted in the Final EIR. As stated above, although part of the property is located within the Kathu Forest, the development footprint is not located within the Kathu Forest. The Open Space Zone III and Residential Zone II has been removed from the development.	EnviroAfrica
		The draft EIR stated the development site is 112 ha, the Botanical Evaluation stated on page 7, number 3.2 that the total area of the site is 97 ha. Which statement is correct?		The development area (including Open Spaces, roads, residential properties etc. will be approximately 83ha.	MacroPlan
		The DAFF has noted that the Botanical Evaluation stated the site is not 'forest-like', but it is totally irrelevant, because Kathu Forest is declared a Protected Woodland, not a Protected Forest.		This is a semantic issue and whether it is a protected forest or protected woodland makes no difference. The fact is that the area that would be affected is not part of the protected zone.	Dr Dave McDonald

		The DAFF is very concerned that the Botanical Evaluation did not assess the impact on the Kathu Forest nor did it recognize the importance of Kathu Forest or the need for its protection. Page 69, table 4 gave a summary of all botanical impacts assessed. There were only two, namely Loss of Kathu Bushveld and Loss of Ecological Processes. Loss of a portion of Kathu Forest was not considered, nor any impacts that construction activities may have on the affected portion of Kathu Forest and how this portion will be safeguarded during construction to avoid accidental intrusion into this no-go zone.		Noted. The Kathu Forest is excluded from the development site (Apart from Open Space III, although this section has been excluded from the revised Final layout Plan (see Appendix 2D of the Final EIR), and no construction will take place in the Kathu Forest, therefore there will be no direct impacts on the Kathu Forest. Dave McDonald - It was not necessary to evaluate and assess the impact on Kathu Forest because it will not be affected by the proposed development.	EnviroAfrica and Dr Dave McDonald
		Page 49 of the Botanical Evaluation refers to cumulative impacts. Again it focused only on the loss of a small portion of the Kathu Bushveld vegetation type. It does not mention the loss of a portion of the Kathu Forest, which is one of only two such almost closed-canopy Camel thorn woodlands in the world and of national conservation importance, therefore not considering it in the impact assessment is in DAFF opinion a gross oversight. Kathu Forest is threatened on all sides due to rapid urban expansion and other developments, the Bestwood residential development in the east, the Kathu Solar Park in the north-west. These cumulative impacts on Kathu Forest should have been addressed in the Impact Assessment.		Once again, the point is missed that the Kathu Forest (i.e. the closed canopy Camel thorn woodlands) WILL NOT be affected by the proposed development. Therefore there will be no cumulative loss of this vegetation as a result of the proposed development regardless of other developments elsewhere.	Dr Dave McDonald
		The suggested mitigation measures said nothing about the protection of the portion of Kathu Forest on site. It should be noted that it is nationally declared as a no-go zone for developments of this nature and as such must be clearly demarcated and conserved during construction and excluded from any development activities. The Botanical Evaluation stated on page 50 that there are no "major constraints or need for cumbersome mitigation measures. The only mitigation measures recommended is the planting of Acacia erioloba trees in 'green spaces'." The DAFF is of the opinion that a special effort must be made to conserve the affected portion of Kathu Forest on site.		Noted. The EMP has included the provision that the Kathu Forest be recognised as a "No-Go" Area, and will be adequately demarcated as such.	EnviroAfrica
		Page 11 of the Botanical Evaluation refers to the "Sims study site".		Noted and corrected	Dr Dave McDonald
		The DAFF is not supporting the rezoning from Agricultural Zone I and Special Zone (Mining Area) to residential, because it will contribute to the detriment of Kathu Forest. Our interpretation of the Kathu Forest declaration is that existing land-use activities (at the time of the publication) may continue, but re-zoning to residential cannot be tolerated in Kathu Forest.		The layout (Appendix 2D) does not propose any area of the Kathu Forest to be rezoned for residential purposes, the entire Kathu Forest area have been totally excluded from the layout.	MacroPlan
		Figure 2 below refers. The DAFF recommends that Kathu Forest (A, B, C, D, E and F) area be excluded from the Environmental Authorisation. We also recommend that the area consisting of block (F, G, H and D) be excluded from the development, due to the high density Camel thorn trees in this area immediately adjacent to the demarcated Kathu Forest.		As above, the Open Space Zone III and Residential Zone II has been removed from the development, to create a buffer between the development and the Kathu Forest (See Appendix 2D for the new preferred layout)	MacroPlan
		In conclusion, the Department is of the opinion that our comments on the Scoping Report have not been sufficiently addressed in the Draft EIA Report and that the proposed development may have undesirable negative impacts on a portion of the Kathu Forest Protected Woodland.		Noted. Please see responses above	EnviroAfrica
		The DAFF recommends that the portion of the study site intruding into the Kathu Forest be excluded from the Environmental Authorisation (if granted). The Environmental Authorisation must clearly stipulate the exclusion areas with GPS reference points and a map overlaid on the Kathu Forest Map. The north eastern and northern site boundary positions must also be looked at, because the maps are not consistent and on some maps it intrudes into Kathu Forest.		Please see Appendix 2D for the GPS points. The development footprint has been completely removed from any of the Kathu Forest	EnviroAfrica / MacroPlan
		The Department cannot allow intrusion into the demarcated Kathu Forest. We recommend that the project not be authorised; or that the authorised site boundaries be adjusted to exclude any intrusion into the Kathu Forest.		Noted.	
		We refer to the above matter and to our comprehensive comments submitted previously in response to the draft and final Scoping Reports. We confirm that we act on behalf of Kalahari Gholf en Jag (Pty) Ltd, the Khumani Housing Development Company (Pty) Ltd and the Kalahari Gholf en Jag Home Owners Association ("our clients"). As we have recorded previously, our clients are owners of various properties situated within close proximity to the property on which the proposed development is to take place and therefore have a direct interest in the application for environmental authorisation. Our clients are firmly of the view that the application is undesirable at this point in time and will have significant negative impacts on both the receiving environment and surrounding environment and will place unsustainable pressure on existing, scarce resources and bulk infrastructure. Our client act herein in their own interest as well as in the interest of the environment and in the public interest.	Justin Truter - Werksmans Attorneys - on behalf of of Kalahari Gholf en Jag (Pty) Ltd, the Khumani Housing Development Company (Pty) Ltd and the Kalahari Gholf en Jag Home Owners Association	Noted	

		At the outset we record that many of the concerns raised in our comments on the Draft and Final Scoping Reports ("DSR" and "FSR" respectively) have not been adequately addressed in the DEIR, with the EAP indicating that this information will be provided as part of the EIAR process or simply recording our comments as "noted". This does not constitute an adequate response and constitutes non-compliance with the NEMA EIA regulations (GNR 543 of June 2010), particularly regulation 28(h)(iv).		Noted. Information has been included in the Final EIR	EnviroAfrica
	Services				
		It is noted that the applicant intends constructing a housing development, internal roads, open spaces and associated infrastructure with an estimate of up to 172 individual property units on the property. The proposed development will further include approximately 163 interlinked rooms in a single building for accommodation purposes. The applicant also intends developing sectional title residential units that will be placed at random on the property. The proposed development will have significant impacts on scarce natural and municipal resources and infrastructure most pertinently the scarce water resources. This is compounded by the lack of adequate municipal infrastructure and capacity in respect of water resources.		Kathu's water sources are a combination of boreholes, Water from the mine and the Gamagara bulk scheme pipeline.	MVD Engineers
		We maintain that the applicant has not addressed these important aspects in the report. This is a glaring omission in the report and constitutes a significant flaw in the environmental impact assessment process. The Municipal services letter presented by the applicant in the DEIAR takes the matter no further as it does not confirm the availability of adequate services and resources and is in itself also outdated, dating back to May 2015.		Please refer to the updated Civil Engineering Services report (Appendix 4A)	EnviroAfrica
		The failure to provide sufficient information as part of the draft environmental impact assessment specifically in respect of the availability and capacity of services, resources and municipal infrastructure has the effect that interested and affected parties are unable to formulate and submit informed comments on the impacts of the proposed development on the scarce available services, resources and infrastructure. Furthermore, this affects the ability of the decision-maker to arrive at an informed decision on the impacts of the proposed activities and whether they are capable of adequate mitigation.		Noted. As above	
		We make reference to the NEMA section 2 principles provides for a risk-averse and cautious approach to be applied, which takes into account the limits of current knowledge about the consequences of decisions and actions			
		In our previous comments on the DSR and FSR, we noted the municipal SDF indicated that water resources located within the Kathu area are extremely limited and the area has become extremely dependant on underground water resources. The DEIAR relies on outdated services reports which date back to 2014 and fail to have regard to subsequent events and developments which have placed even more pressure on scarce water resources and limited services infrastructure. As we have stated, the services letter from the Municipality takes the matter no further and is in itself also outdated, dating back to May 2015.		Please refer to the updated Civil Engineering Services report (Appendix 4A)	EnviroAfrica
		As we noted in our comments on the DSR and FSR, we maintain that the infrastructure requirements for the proposed development have still not been adequately addressed in the DEIAR. The FSR states that due to the level of development that is occurring within Kathu, the availability of bulk services for the development will need to be investigated.		Please refer to the updated Civil Engineering Services report (Appendix 4A)	EnviroAfrica
		In our comments on the DSR and FSR, we noted that no confirmation from the relevant authorities as to the availability of capacity to supply the necessary services has been provided. Considering the nature and size of the proposed development, it is imperative that a reliable water supply be secured for both the construction and operational phases in order to prevent any detrimental impacts on the natural water resources in the area and on existing developments including those of our clients'. In response to our comments, the EAP has indicated that letters from the service providers were to be provided with the EIAR. The letter from the Gamagara Municipality referred to in the DEIAR as the "confirmation of municipal services letter" certainly does not confirm the availability of adequate services and infrastructure and dates back to May 2015. This is patently inadequate and no reliance can be placed on it.		The Updated Civil Engineering Services report has identified no major constraints	EnviroAfrica
		This statement confirms our contention that the statements in both the DSR and FSR and subsequently in the DEIAR as to the availability of services are unconfirmed, unsupported and cannot be relied upon.		As above	

		Furthermore, the EAP has confirmed that lowering the water table could result in the death of protected Camelthorn trees, but that no information is provided on this aspect. We submit that it is the EAPs obligation to provide such information in accordance with the NEMA section 2 principles.		The EAP has not confirmed that the lowering of the water table could result in the death of Camelthorn trees. The botanical specialist responded to this with the following: "It is true that a lowering of the water table COULD lead to the death of protected camelthorn trees but no information is available on this matter and it remains purely speculative". Also, according to the Geo-technical Assessment, the Uitkoms site is located in the area not impacted by large scale groundwater abstraction.	EnviroAfrica
		In response to our comment on the Gamagara SDF which states that water resources located within the Kathu area are extremely limited and the area has become extremely dependant on underground water resources, the EAP has indicated that a water impact assessment is not necessary. We submit that this conclusion cannot be supported. Based on the concerns in respect of water scarcity highlighted in the Gamagara SDF and the potential for negative impacts on the water table (and possible impacts on the protected camelthorn trees), we submit that a water impact assessment is essential.		See response above. Also note that the EAP indicated that there was no need for a freshwater assessment as there are no above ground freshwater resources were found or identified on the site.	EnviroAfrica
		For the reasons motivated above we submit that the report, in its current form, is incomplete as certain material information, relied upon in the report, has not been provided; impacts associated with the proposed development have not been properly assessed; and adequate management and mitigation measures in respect of impacts likely to be associated with the proposed development, specifically in respect of the pressure on municipal bulk infrastructure and services, have not been provided.			
	Heritage				
		Although not directly impacting any known archaeological localities the proposed development will significantly impact the context within which the sites of the Kathu Complex are situated. As representatives of the archaeological research team actively engaged in research on the sites of the Kathu Complex we make two urgent recommendations	Michael Chazan - Department of Anthropology, University of Toronto, 19 Russell St, Ontario, Canada	Noted	
		- Planning for protection of the Townlands site must be detailed and sustainable. This is among the richest early human archaeological sites in South Africa. The area to be preserved is a remnant of a larger landscape and its preservation is of the up most importance. We recommend engaging an architect with experience with heritage landscapes to develop a plan to achieve a resolution of the significant challenge of the encroachment of development to the boundaries of this major archaeological localitiy. Planning must assure that there will be no encroachment during construction and that the preservation of this area will be integrated within the context of high density housing. There is also an aesthetic dimension to developing an integrated plan that is essential to allow for the use of this unique resource for education and tourism.		I support this proposal - it is important to work closely with specialists here.	Jonathan Kaplan
		The planned development will significantly limit the potential for future research into the paleotopography of the Kathu Complex. We recommend a program of coring across the entire proposed construction areas to provide a database for reconstruction of paleolandscape with the data and samples from coring to be curated by the McGregor Museum. This program could be supervised by the research team working on the Kathu complex if the developer can cover the cost of drilling. Coring would only be to a depth relevant to the archaeological deposits of the Kathu Complex (normally under four meters).		I support this proposal - it is important to work closely with specialists here.	Jonathan Kaplan
		Neither of these proposals represents a significant obstacle to the planned development. We are ready to provide support for implementing both recommendations and any other heritage related issues that emerge in the process of the development of this sensitive area.		Noted	