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YOUR REFERENCE: **DE&NC REF: NC/EIA/09/JTG/GAM/KAT1/2014**

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22 August 2017

Dear Sir

**COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT ASSESSMENT REPORT ("DEIR") FOR
THE PROPOSED HOUSING DEVELOPMENT ON FARM UITKOMS NO. 463, PORTION 1,
KURUMAN ROAD, KATHU, NORTHERN CAPE**

D:E&NC REF: NC/EIA/09/JTG/GAM/KAT1/2014

- 1 We refer to the above matter and to our comprehensive comments submitted previously in response to the draft and final Scoping Reports.



- 2 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**").
- 3 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.
- 4 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.
 - 4.1 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).
 - 4.2 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.¹ The proposed development will further include approximately 163 interlinked rooms in a single building for accommodation purposes.² The applicant also intends developing sectional title residential units that will be placed at random on the

¹Page 7.

² Page 18.



property.³ 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.

- 4.3 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.

5 THE GROUNDS OF OBJECTION

- 5.1 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.

- 5.2 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.⁴

³ Page 7.

⁴ Section 2(4).



- 5.3 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.
- 5.4 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.
- 5.5 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.



- 5.6 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.
- 5.7 A Preliminary Bulk Services and Infrastructure Status Report ("**the BSISQR**"),⁵ was provided with the report; however the BSISQR states that it should be read in conjunction with previous reports prepared by Aurecon / WorleyParsons.⁶ We note that these previous reports were not made available with the DSR, FSR or DEIAR, making it impossible for interested and affected parties to submit informed comments thereon.
- 5.8 In our previous comments, we noted that the DSR stated that the existing electrical substation in Kathu is able to accommodate the proposed development.⁷ We pointed out that this statement conflicted with the recommendations made in this specialist Electrical Service Report,⁸ which specifically states that the existing capacity on the current 11Kv cable is insufficient to accommodate additional development and recommends that the applicant make further upgrades to this infrastructure. The FSR and DEIAR state that the proposed development can be accommodated on the existing Main Sub. However, a new 11kV will need to be installed from the Main Sub to the development.⁹ We note that no approval or confirmation from Eskom in regard to this upgrade is provided.
- 5.9 It is apparent that the proposed Postmasburg Waste Water Treatment Works and sewer line does not form part of the current application process. We submit that the lack of information regarding this activity presents a flaw in the report. Waste water and

⁵ Appendix 5.

⁶ Page 1 of Appendix 5.

⁷ Page 24.

⁸ Appendix 6.

⁹ Page 26.



sewerage treatment are of significant concern to our clients, whose use and enjoyment of their properties will be negatively impacted upon as a result of inadequate waste water and sewage management. In our previous comments on the DSR and FSR, we noted that the lack of information presents a significant flaw in the reports and must be amended and recirculated for comment. We note that the EAP has not addressed this comment in the FSR or addressed the concern in the DEIAR and, as noted above; the failure to address this comment is contrary to the NEMA Regulations.

- 5.10 As it stands, interested and affected parties are not provided with sufficient information on the proposed measures to be employed to mitigate and manage negative impacts which may occur, specifically in respect of the additional pressure which the proposed development will place on bulk infrastructure and services and whether this is sustainable. We maintain that it is not and the manner in which these impacts have been assessed does not accord with the NEMA requirements.
- 5.11 Subsection 2(4)(a)(vii) sets out that a risk averse and cautious approach should be followed.
- 5.12 We maintain further, for reasons expressed in our comments on the DSR and FSR that the assessment of the *need and desirability* of proposed development in the DEIAR does not meet the requirements of the Department's guidelines for the assessment of need and desirability in environmental impact assessment.¹⁰
- 5.13 The consideration of need and desirability in decision-making requires the consideration of the strategic context of the development proposal along with the broader societal needs and the public interest.

¹⁰Published in government Notice 891 in *Government Gazette* 38108 of 20 October 2014.



- 5.14 Simply put, the statutory imperative to assess need and desirability is to determine whether this is the right time and the right place for the proposed activities, and whether the proposed activity is the best practicable environmental option, specifically at this point in time and considering the lack of adequate municipal bulk infrastructure. We submit that the information presented in the report does not place the decision-maker in a position to make an informed determination in respect of availability of bulk infrastructure.
- 5.15 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.
- 5.16 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,¹¹ 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.

6 **CONCLUSION:**

- 6.1 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

¹¹Page 11 of the GMRSDf.



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.

Yours faithfully

SIGNED

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WERKSMANS ATTORNEYS