REPORT FOR THE PROPOSED DE-PROCLAMATION OF THE SOUTHERN SECTION OF THE DIEPSLOOT NATURE RESERVE

October 2010
Internal Ref: 10208/DEPROC/DR/V1

NEMAI CONSULTING

ENVIRONMENTAL AND SOCIAL CONSULTANTS

P.O. BOX 1673
SUNNINGHILL
2157

147 Bram Fischer Drive
FERNDALE
2194

Tel: 011 781 1730
Fax: 011 781 1731
Website: www.nemai.co.za

Copyright Nemai Consulting 2010

TITLE PAGE

TITLE : Report for the Proposed De-Proclamation of the Southern Section of the Diepsloot Nature Reserve

CLIENT : City of Joburg Property Company (JPC)

P.O. Box 31565
Braamfontein
2017

PREPARED BY Nemai Consulting C.C.

P.O. Box 1673
Sunninghill
2157

Telephone : (011) 781 1730
Facsimile : (011) 781 1731

AUTHOR Sonja van Eden, Nicky Naidoo

TABLE OF CONTENTS

TITLE PAGE i
TABLE OF CONTENTS ii
1. DE-PROCLAMATION BACKGROUND 1
2. Background and Motivation 2
3. Detailed Project Description 3
4. FULFILLMENT OF REQUIREMENTS 6
4.1 C-Plan Sensitivity Maps 6
4.2 Public Participation 14
4.3 Public Review of the draft de-proclamation application 15
4.4 Offset Proposal 15
5. LEGISLATION TO BE CONSIDERED 15
5.3 National Heritage Resources Act 15
5.4 National Water Act 16
5.5 National Environmental Management: Protected Areas Act 17
5.6 Gauteng Ridges Guideline Policy 17
6. WAY FORWARD 17
7. CONCLUDING COMMENTS 18

LIST OF FIGURES

Figure 1: Diepsloot Nature Reserve
Figure 2: Proposed De-Proclamation Area
Figure 3: C-Plan Odour Buffer Zone
Figure 4: C-Plan River Buffer Zones
Figure 5: C-Plan Agricultural Potential
Figure 6: Ecological Importance
Figure 7: C-Plan Ridges
Figure 8: Riparian and Wetland Areas

LIST OF APPENDICES

Appendix A : Site Layout Plan
Appendix B : De-Proclamation Application Submitted by Square Town Planning to GDARD
Appendix C : GDARD Response to the De-Proclamation Application
Appendix D : Public Participation Information
Appendix E : Issues and Response Report

1. DE-PROCLAMATION BACKGROUND

Square Town Planning was appointed, through the project management company; Urban Genesis, formerly known as Kagiso Urban Management, as the consulting town planning firm to assist the Johannesburg Property Company (JPC) with the De-Proclamation of the Southern Section of the Diepsloot Nature Reserve. The De-Proclamation of the Southern Section of the Diepsloot Nature Reserve is required as it is the intention of the Johannesburg Property Company to develop a mixed use development in this section of the Nature Reserve. The proposed development will be known as Diepsloot Ext 8 (Ga-Nako). A proposed site layout plan has been attached to Appendix A. Please not that this site layout plan are currently still being amended, and that a final Draft Plan will be attached to the Scoping Report which will be made available for Public Review. The details of the proposed development and background and motivation for the proposed development are addressed in Sections 2 and 3 below.

Locality maps (aerial photographs) showing the location of the Diepsloot Nature Reserve as well as the Southern Section of the Diepsloot Nature Reserve (area earmarked for De-Proclamation) are provided in Figure 1 and 2.

On the 3rd of December 2007, Square Town Planning submitted a request to the then Gauteng Department of Agriculture, Conservation and Environment (GDACE), now known as the Gauteng Department of Agriculture and Rural Development (GDARD), to de-proclaim the Southern Section of the Diepsloot Nature Reserve. A copy of this letter has been attached to Appendix B.

In February 2008, GDARD provided a response with regards to the application for De-Proclamation which was submitted to the Department. The response letter from the Department is attached as Appendix C. In this letter the Department provided the following guidelines and conditions with regards to the proposed De-Proclamation:

- GDARD will not support a full de-proclamation of the Nature Reserve as it is important from both a biodiversity and social perspective;
- The Nature Reserve forms a crucial part of the conservation targets of the Province;
- Before de-proclamation is considered by the Department a full public participation process must be undertaken;
- Before de-proclamation is considered a sensitivity map must be produced, this map must show all the Conservation-Plan (C-Plan) information for the area; and

- Low sensitivity areas may be considered for de-proclamation, however this can only be done once an offset proposal has been presented to the Department.

In October 2009, Urban Genesis requested Nemai Consulting the undertaken the Public Participation Process for the proposed De-Proclamation as requested by GDARD and to compile a Report (this Report) for submission to GDARD. Nemai Consulting was appointed by Johannesburg Property Company (JPC) in early 2008 to undertake Scoping and Environmental Impact Assessment for the proposed Diepsloot Ext 8 development.

2. Background and Motivation

The Diepsloot Township falls under the jurisdiction of the City of Johannesburg Metropolitan Municipality within Region A (Wards 95 and 96), and is located on the far north-east boundary of the city. Diepsloot is located approximately 30km north of the Johannesburg Central Business District (CBD), and 20km north of the Sandton CBD. The Ben Schoeman (N1) freeway which is the main north-south link between the Tshwane and Johannesburg metropolitan areas is located to the west of Diepsloot. The area in which Diepsloot is situated is known as a “transitional zone” between the urban areas of Johannesburg and Tshwane. The Diepsloot Township is bordered to the north by the Mogale/Tshwane Highway (N14), to the east by William Nicol Drive (R511) and the Northern Waste Water Treatment Works to the south.

The explosion of development in the northern region, specifically within the Johannesburg/Midrand/Tshwane corridor has led to very high land costs in areas in close proximity to Diepsloot such as Dainfern, Fourways and Midrand. Two key objectives for the northern regions have been identified in the City of Johannesburg Regional Spatial Development Framework (RSDF), 2007-2008. These two objectives include the following:

- Ensuring the “socio-economic integration, consolidation and long-term sustainability of Diepsloot and Extensions” while “recognising it as a marginalised community”; and
- Provision of housing and security of tenure.

There is a critical shortage of land within Diepsloot and surrounding areas, and suitable land is required to accommodate the existing housing backlog in the Diepsloot area and the growing needs of individuals and households that are not in the subsidy categories but are also not catered for by the private housing developers.

3. Detailed Project Description

In light if the above, the City of Joburg Property Company (JPC), the project proponent, is proposing to establish a township on the Remaining Extent of Portions 1, 5 and 6 of the Farm Diepsloot, 388 JR, and on the Remaining Extent of the Farm Rietfontein, 532 JQ.
These three properties are located in Dieplsoot, Johannesburg, and also form the southern section of the Diepsloot Nature Reserve.

It is the intention of the JPC to prepare the land for development and to then release it to external developers to develop the land. The preparation of the land will be based on a development framework which will ensure:

- Integration of the region;
- The creation of a mixed use, mixed income development; and
- A well managed and organised development

The proposed development will promote the progressive realisation of principles relating to:

- Social justice;
- Environmental justice; and
- Spatial justice.

The proposed Dieplsoot Ext 8 development is intended to create a well structured urban node that is able to accommodate a market currently excluded, ensure access to all public and private facilities and amenities and show case the concept of integrated `neighbourhoods' that are well managed and balanced. The proposed development will consist of a diversity of land use activities including:

- Mixed use within development of which a nodes will be located on the northern portion of the site, within a high street on the southern section of the site, and along a commercial activity spine, also located on the southern section of the site;
- Commercial / Business & Retail;
- Residential at varying densities & income;
- Public facilities; and
- Open spaces system incl. public parks, recreation areas, river systems & nature areas.

Figure 1: Diepsloot Nature Reserve

Figure 2: Proposed De-Proclamation Area

4. FULFILLMENT OF REQUIREMENTS

4.1 C-Plan Sensitivity Maps

Before De-Droclamation of the Southern Section of the Nature Reserve can be considered, GDARD requires a sensitivity map that shows the Conservation-Plan (C-Plan) information for the area. Using the Conservation Plan (C-Plan) information from GDARD, several maps were produced. Maps were only produced for those environmental features and other factors which would be impacted on as a result of the proposed Dieploot Ext 8 development. The maps produced include the following:

- Figure 3: C-Plan Odour Buffer Zone;
- Figure 4: C-Plan River Buffer Zones;
- Figure 5: C-Plan Agricultural Potential;
- Figure 6: Ecological Importance;
- Figure 7: C-Plan Ridges, and
- Figure 8: Wetland Areas.

Figure 3 shows the C-Plan odour buffer zone around the Waste Water Treatment Works. A specialist Odour Zone Assessment was undertaken by Margot Saner and Associates, this report mapped odour zones for the Waste Water Treatment Works. This report will be made available within the Environmental Impact Assessment (EIA) Report.

Figure 4 shows the C-Plan buffer zones for the rivers and wetlands within the southern section of the Diepsloot Nature Reserve. The buffer zones for wetlands are usually 30m, for the Diepsloot Nature Reserve, the City of Johannesburg (CoJ) however requested that buffer zones of 50m be created the wetland areas. The wetland buffer zones have been determined by Wetland Consulting Services and is attached as Appendix F.

The Agricultural Potential of the southern section of the Nature Reserve is predominantly Very Low with a section to the south considered to have a Low agricultural potential (Figure 5).

The section of the Nature Reserve, to the south of the N14, in which the Northern Waste Water Treatment Works falls, is not considered ecologically important. Much of the remainder of the southern section has a high ecological importance (Figure 6).

Figure 7 shows a Class II Ridge to the south east of the Nature Reserve. This ridge has been transformed by several developments in the area.

According to the C-Plan data there are no Wetland areas on site. However, a Wetland Delineation study was conducted by Wetland Consulting Services during which all the riparian areas were demarcated as Wetland Areas. A map which was compiled by Wetland Consulting Services which shows the riparian/wetland areas as well as the 30m buffer zone are shown in Figure 8.

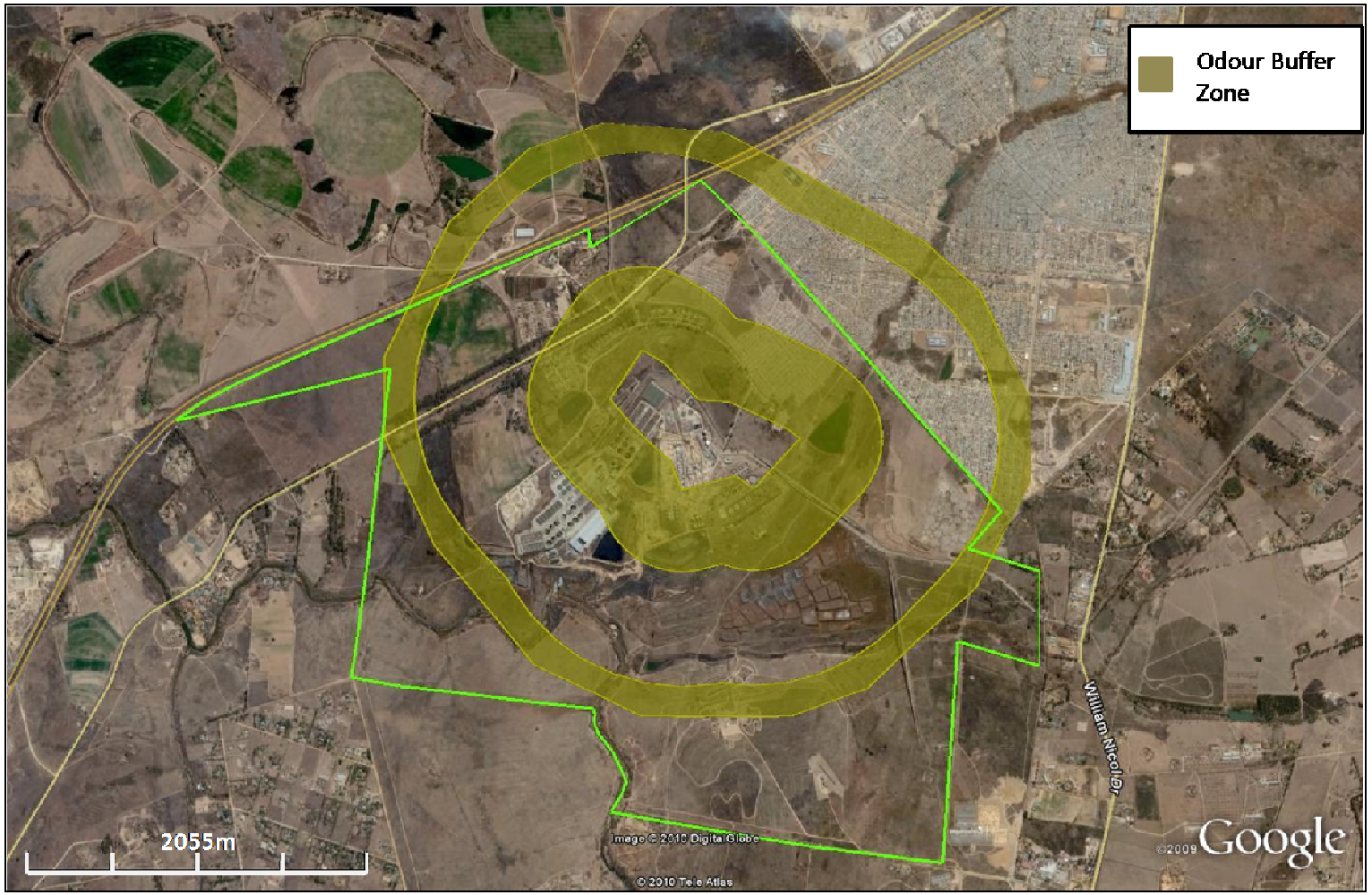

Figure 3: C-Plan Odour Buffer Zone

Figure 4: C-Plan River Buffer Zones

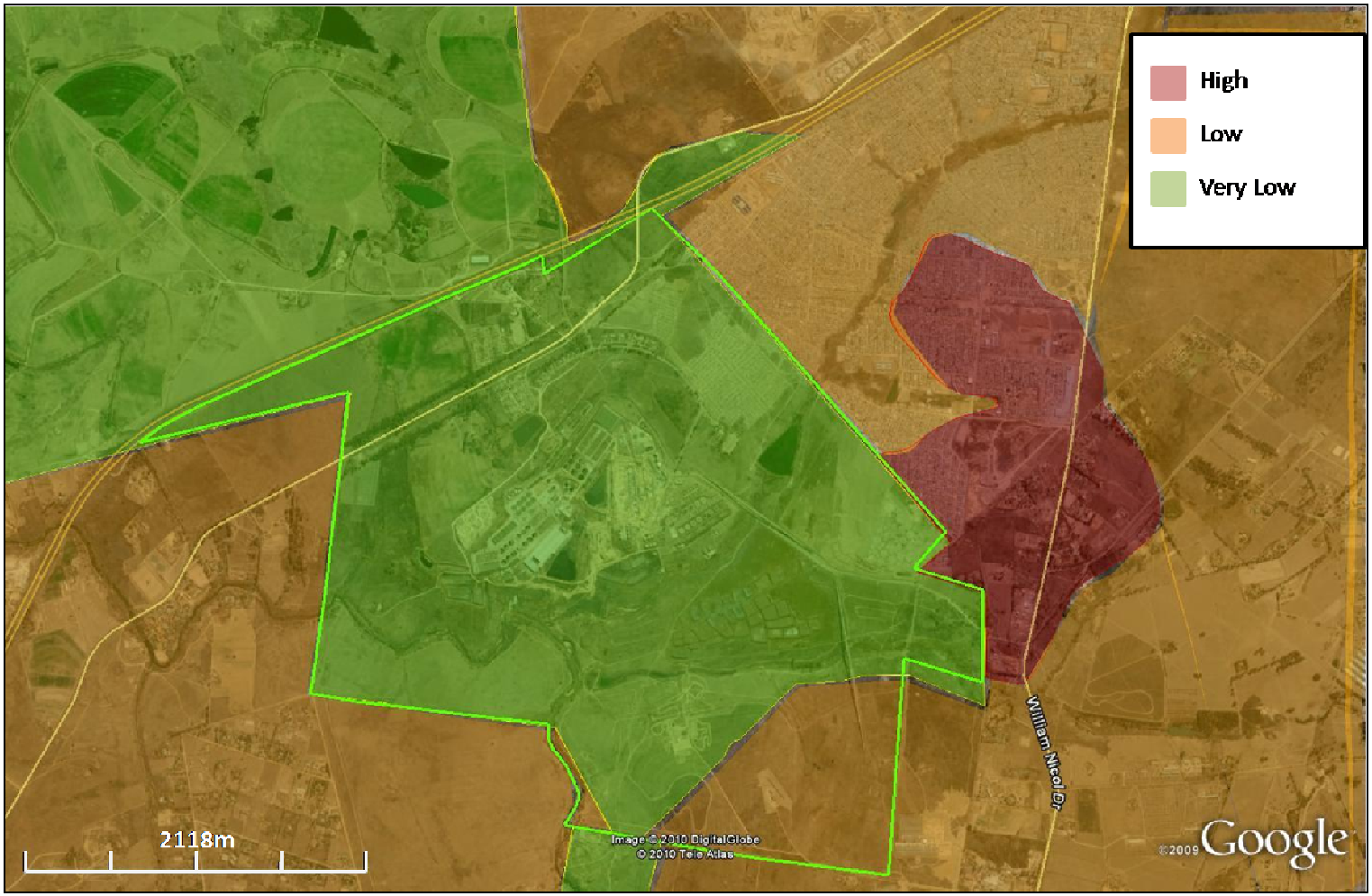

Figure 5: C-Plan Agricultural Potential

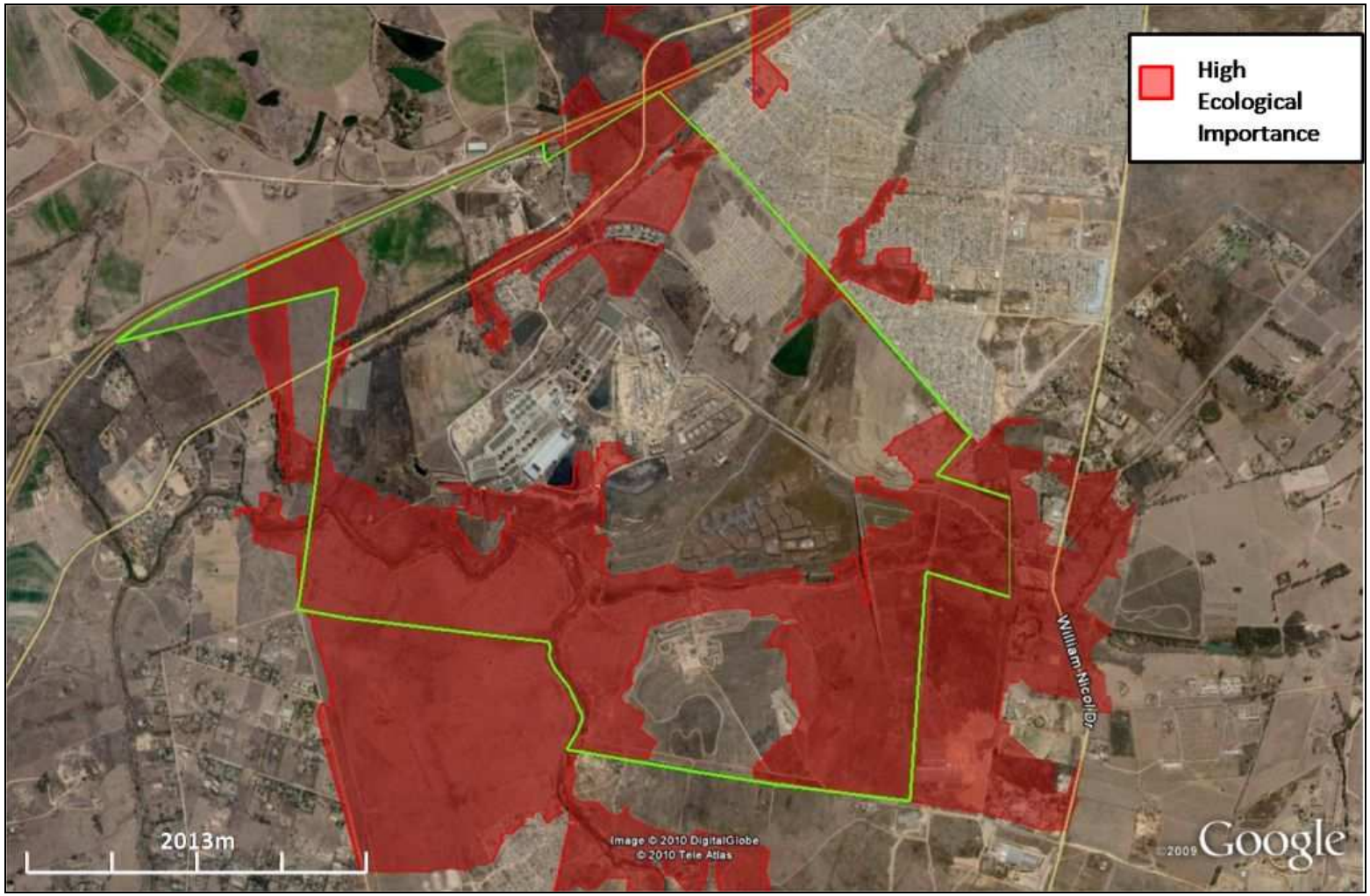

Figure 6: Ecological Importance

Figure 7: C-Plan Ridges

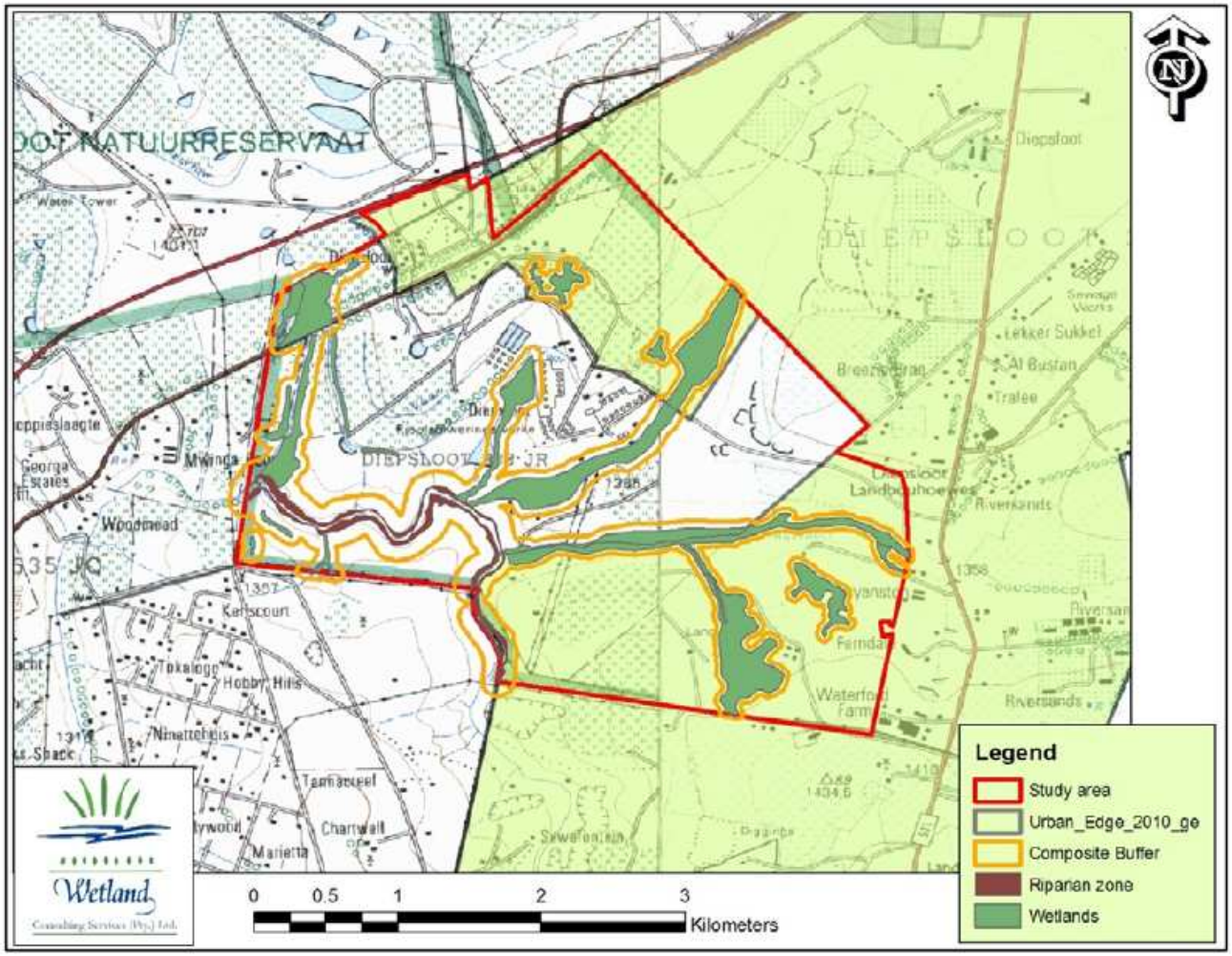

Figure 8: River and Wetland Areas and Buffer Zones

4.2 Public Participation

The response from GDARD on the request to de-proclaim the Nature Reserve did not include methodology for the required public participation process to be undertaken. A proposed methodology was submitted to GDARD in November 2009 and was approved in February 2010. The public participation process proposed followed the same format as that of the Scoping/EIA process (as per the Environmental Impact Assessment Regulations, 2006) and was undertaken during the same time as the initial Scoping Public Participation Process for the proposed Diepsloot Ext 8 development.

Background Information Documents (BIDs) (refer to Appendix D) and Reply Forms were distributed electronically and by fax to the identified I&AP's in the database and by hand when the onsite notices were put up (Appendix D). The BIDs provided a brief background and description of the project. The Reply Forms granted the public an opportunity to register as an I&AP and to raise queries or concerns regarding the project. All comments received during the Public Participation Phase have been captured in an Issues and Response Report which has been attached to Appendix E.

Eight site notices were placed around the earmarked for which De-Proclamation. Refer to Appendix D for photographs of the site notices.

Advertisement were placed in The Star and the Fourways Review (Appendix D), these advertisements appeared on the 18th of February 2010. An additional advertisements was placed in the Star (18 May 2010) and the Fourways Review (21 May 2010), in which the Public Meeting was advertised. Refer to Appendix D. The Public Meeting was held at the Heronbridge College in Nietgedacht on the 31st of May 2010. The minutes of the meeting, the attendance register, as well as a copy of the presentation are attached to Appendix D. During this meeting the proposed Diepsloot Ext 8 development was presented to the Public and details on the Environmental Authorisation process to be undertaken was presented to the Public. Furthermore, details on the proposed De-Proclamation of the Southern Section of the Diepsloot Nature Reserve and the proposed process to be followed was presented to the Public.

Concerns raised by I&APs during the public participation process and the public meeting, relevant to the proposed activities, and the response thereto are summarized in the minutes and the Issues and Response Report respectively.

4.3 Public Review of the draft de-proclamation application

The De-Proclamation Report will be made available for Public Review along with the Draft Scoping Report and comment received on the De-Proclamation Report will be incorporated into the Issues and Response Register which will be attached to the Final Scoping Report.

4.4 Offset Proposal

The offset proposal submitted for consideration is the exclusion of wetland and riparian areas with the compulsory buffers from the development with allowance of the accommodation of these areas as open spaces in the overall project layout. Please refer to the attached wetland delineation report with layouts thereof.

5. LEGISLATION TO BE CONSIDERED

The De-Proclamation of the Southern Section of the Nature Reserve is not a listed activity in terms of the Environmental Impact Assessment Regulations, 2006, and therefore Environmental Authorisation for the proposed De-Proclamation not required. However, relevant legislation will be considered during the Scoping and EIA Phase for the proposed Diepsloot Ext 8 development in order to make an informed decision with regards to the De-Proclamation of the Nature Reserve and the proposed offset. Legislation which will be considered during the Scoping and EIA Phases will include:

5.3 National Heritage Resources Act

In terms of Section 38 of the Heritage Resources Act (Act No 25 of 1999), a Heritage Impact Assessment has to be undertaken for the following developments:

- Any development or other activity which will change the character of a site
  - Exceeding 5 000 m^2 in extent; or
  - Involving three or more existing erven or subdivisions thereof; or
  - Involving three or more erven or divisions thereof which have been consolidated within the past five years; or
  - The costs of which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;

- The re-zoning of a site exceeding 10 000 m^2 in extent; or
- Any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority, must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.

5.4 National Water Act

The National Water Act ([NWA] Act 36, 1998) identifies 11 consumptive and non-consumptive water uses which must be authorised under a tiered authorisation system. Section 27 of the NWA specifies that the following factors regarding water use authorisation must be taken into consideration:

- The efficient and beneficial use of water in the public interest;
- The socio-economic impact of the decision whether or not to issue a licence;
- Alignment with the catchment management strategy;
- The impact of the water use, resource directed measures; and
- Investments made by the applicant in respect of the water use in question.

Section 21 of the National Water Act identifies listed activities for which a Water use License should be obtained. The Section 21 listed activities include:

(a) Taking water from a water resource;
(b) Storing water;
(c) Impeding or diverting the flow of water in a water course;
(d) Engaging in a stream flow reduction activity contemplated in Section 36;
(e) Engaging in a controlled activity identified as such in section 37(1) or declared under Section 38(1);
(f) Discharging waste or water containing waste into a water resource through a pipe, canal, sewer, sea outfall or other conduit;
(g) Disposing of waste in a manner which may detrimentally impact on a water resource;
(h) Disposing in any manner which contains waste from, or which has been heated in any industrial or power generation process;
(i) Altering the bed, banks, course or characteristics of a watercourse;
(j) Removing, discharging, or disposing of waste found underground if it is necessary for the efficient continuation of an activity or for the safety of people; and
(k) Using waste for recreational purposes.

There is a watercourse with several small tributaries located on site. The riparian areas of the stream and tributaries have been demarcated as Wetland Areas. A few of the proposed internal roads will cross the watercourse and some of the small tributaries. The construction of roads across the watercourse will trigger activities 21(c) and (i), and therefore a Water Use License will be required for this proposed development.

5.5 National Environmental Management: Protected Areas Act

The purpose of the National Environmental Management: Protected Areas Act (Act 57 of 2003) is to provide for the protection and conservation of ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes; for the establishment of a national register of all national, provincial and local protected areas; for the management of those areas in accordance with national norms and standards; for intergovernmental co-operation and public consultation in matters concerning protected areas; for the continued existence, governance and functions of South African National Parks; and for matters in connection therewith.

This Act will be considered in order to ensure that the correct management measures are implemented to protect and manage all areas of the reserve which may not be De-Proclaimed, and also to provide guidance on the development of management measures for open space areas and wetland areas within the proposed Diepsloot Ext 8 development.

5.6 Gauteng Ridges Guideline Policy

The Ridges Guideline document provides details on development restrictions for the various Ridge classes found in Gauteng. In terms of the Ridges Guideline Policy a 200m buffer zone of low impact development is required around class 2 ridges, and an EIA is required for undertaking development within this buffer zone.

6. WAY FORWARD

Several issues were raised by the Public during the Pubic Participation phase with regards to the De-Proclamation of the Nature Reserve which will only be assessed and addressed in the Draft and Final Scoping and EIA Reports. The De-Proclamation Report will be made available for Public Review along with the Draft Scoping Report and all comments raised by the Public will be incorporated into the Final Scoping Report which will be submitted to GDARD for review and decision making.

The offset proposal as discussed in Section 4.4 above will only be considered during the Scoping and EIA Phases and details of the proposed offset will be incorporated into the Draft and Final Scoping and EIA Reports.

7. CONCLUDING COMMENTS

Nemai Consulting is aware that the Department may not yet be able to make a decision with regards to the De-Proclamation of the Southern Section of the Nature Reserve, as the Department may wish to review the Scoping and EIA Reports for the Diepsloot Ext 8 development in order to make a decision. However, in order to finalise the Site Layout Plan for the proposed Diepsloot Ext 8 project which is a requirement for the Environmental Impact Assessment Phase a formal notification would be required from the Department which should provide details on the areas to be retained as a Nature Reserve and the areas for which De-Proclamation will be allowed.

Appendix A
Site Layout Plan for the Proposed Diepsloot Ext 8 Development

Appendix B
De-Proclamation Application Submitted By Square Town Planning to GDARD

APPENDIX C
GDARD RESPONSE TO DE-PROCLAMATION APPLICATION

Appendix D
Public Participation Information

Appendix E
Issues and Response Report