



# Klipriviersberg Nature Reserve Association

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**BY HAND**

30 June 2007

Attention: Mr Khabisi Mosunkutu

The MEC  
Department of Agriculture,  
Conservation and Environment  
16<sup>th</sup> Floor  
Diamond Corner Building  
68 Eloff Street  
Johannesburg

Dear Sir

## **APPEAL AGAINST GRANTING OF EXEMPTION FOR THE PROPOSED ERECTION OF A 30M SAPS LATTICE MAST ON PORTION 17 OF THE FARM RIETVLEI 14 IR - PROJECT REFERENCE GAUT 002/06-07/0400**

The Klipriviersberg Nature Reserve Association (Association), a registered Non-Profit and Public Benefit Organisation, has no alternative but to appeal against this highly intrusive development in the Klipriviersberg Nature Reserve which was proclaimed as a reserve in 1984.

At the outset, it must however be made clear that the Association realises that public security should be placed high on the priority list and, in fact, supports the establishment of the SAPS communications network in Gauteng. The siting of the particular mast in question cannot, however, be condoned.

The grounds of our appeal are set out below:

### **1. Authorisation of the project**

The Association is concerned about the validity of the authorisation supposedly given by JCP for the project to proceed. The letter of authorisation from JCP was signed by an unknown party for and on behalf of i.e. pp Mr Howard Nel in his capacity as company secretary - not as a director. It is unlikely that the position of company secretary carries the authority to issue a letter that has consequences of such magnitude. The questions that must be asked and answered are:

- a. Who signed on behalf of Mr Nel and was he (or she) duly authorised thereto? This should be clarified by Mr Nel in writing. It would be appreciated if a copy of his reply be made available to the Association.

- b. Has the position of company secretary of JCP been delegated the necessary authority to issue letters of this nature? If so, it would be appreciated if a copy of a letter of delegations of authority to the company secretary be made available to the Association for inspection.
- c. If the position of company secretary does not carry the necessary authority, was Mr Nel duly authorised by the board of directors of JCP to sign on their behalf? If this was the case, the Association requests that a certified extract from the minutes of a meeting of the directors of JCP, authorising Mr Nel to sign on their behalf, be made available for inspection by the Association.

## **2. Ownership**

The Association contests the fact that Johannesburg City Parks (JCP) is the owner of the Klipriviersberg Nature Reserve as indicated in the application by the South African Police Services to your department. The Association has been advised that JCP has been tasked by the City of Johannesburg to manage the reserve and to serve as its custodian and that it is not the owner of the property. The property on which the mast is sought to be erected, is required to be, and probably is, registered in the name of Johannesburg Property Company (Propcom), a separate legal entity from JCP. Written permission for the erection of the mast must therefore be obtained from Propcom.

In law, however, registration does not necessarily denote ownership. The beneficial owners of the land are the citizens of Johannesburg. They are, in fact, the true owners. Their consent should be sought despite the fact that this is not a requirement of the Environmental Conservation Act, 1989 under which this application has been made. In support of this contention, the National Environmental Management Act of 1998, a considerably more enlightened piece of legislation, does require public participation.

In view of the above, the Association believes that consultations should be held with the citizens of Johannesburg in their capacity, not as interested and affected parties, but as owners of the reserve.

## **3. Interested and affected parties**

It should be brought to your attention that significant and important stakeholders have been ignored.

The University of the Witwatersrand is the owner of portion 17/101-IR of the farm Rietvlei which forms part of the proclaimed reserve. Many years ago, an agreement was entered into between the university and the then Johannesburg City Council whereby the University agreed to allow its property to be incorporated into the reserve subject to certain conditions and requirements, one of which was that students be allowed to conduct research in the reserve. The other terms are not known to the Association. The Association, however, believes that approval for the construction of the mast should be obtained from the University. Failure to do so could conceivably result in the University canceling its arrangement with the city of Johannesburg.

Gauteng Province is the owner of stand 1458 Mondeor which also forms part of the proclaimed reserve. The Association is not aware of the arrangements between the Province and the City of Johannesburg but it would be prudent to clear the issue with the province.

More recently, Rand Water donated portions 87/101-IR and 72/101-IR of the farm Rietvlei to the City of Johannesburg for incorporation into the reserve. As a matter of good practice, the title deeds should be examined to ensure that they do not contain any requirement for Rand Water's consent to be obtained for any particular developments in the reserve or for the cancellation of the donation in the event of untoward development in or perceived mismanagement of the reserve.

ABSA Bank sold portion 180/327-IQ of the farm Olifantsvlei to the City of Johannesburg at a price that was substantially less than the market value on the understanding that it should be incorporated into the reserve. The comments that apply to Rand Water, apply in this instance as well.

#### 4. Visual impact assessment

The Association believes that the visual impact assessment is fundamentally flawed. The terms of reference, set out on page 2 of the report, require that the consultants

“spatially assess the **broader** area of influence by means of digital modeling”.

The effect of using the word “broader” is that the report is geared to the impact that the mast would have on the surrounding residents and motorists commuting on roads in the vicinity. The effect that the mast would have on the integrity of the reserve is not dealt with in the report. The Association therefore contends that the terms of reference for the visual impact assessment detract from the real issue at stake viz. **the impact that the mast would have on the integrity of the nature reserve.**

The final paragraph on page 21 of the report under the heading “Sensitivity of viewers” reads

“The overall sensitivity of the viewers for the site is rated as **moderate high** for the residents living in close proximity to the site and whose houses face the mast, **low-moderate** to motorists and **high** for potential tourists staying in chalets at the south of the site. The overall viewer sensitivity was rated as **moderate to high.**”

It should be noted that the view to users of the reserve has not been taken into account in arriving at the overall conclusion. In effect, the integrity of the reserve has been totally ignored.

In “Determining the magnitude of the impact” the consultants state on page 22 that

“The associated infrastructure such as the container and fence have been omitted from calculations as it was found that they were sufficiently screened and will, hence, not have a detrimental impact.”

Whilst this may be true for residents and motorists, the same can most decidedly not be said for users of the reserve.

The consultants have made no mention of 2 km. of potential overhead power lines which, because of its length, will have a visual impact to users of the reserve that will be as negative than that of the mast itself.

The Association believes that, if all the infrastructure associated with the mast is taken into account, the visual impact on users of the reserve would be **critically high** and that that is the only criteria that should be taken into account.

Were it not for the fact that the integrity of the nature reserve was at stake, the Association would agree with the findings of the report and with the record of decision issued by GDACE especially in view of the current crime situation in the country. The visual impact of a mast to residents and motorists would be a small price to pay for improved security. What is, however, at stake is a magnificent urban conservation, cultural, historical, educational and leisure facility, which should be protected and preserved and passed on as such to future generations. The only way to ensure that this happens is for the reserve to be kept as attractive as possible for current users of the facility. If it is not adequately utilised, the risk of losing it to other uses increases significantly.

#### 5. Integrity of the reserve

The Association believes that a “holistic” approach should be taken in deciding what developments should be permitted in the reserve. All the existing infrastructural developments as well as all potential developments should be considered when deciding on an application. The reserve is already fragmented by infrastructure at various strategic points in the reserve that detract from the

unspoilt nature experience that is expected by the public when using a trail. These developments impact on the integrity of the reserve. The various items of infrastructure include:

- An underground sewage pipeline running north/south which has unsightly manholes along its length and which, at time, exudes unpleasant odours.
- A sewage pipeline running east/west, a large portion of which spans across an otherwise unspoilt valley and ruins the ambience of the natural surroundings.
- Many kilometers of overhead power lines and unsightly pylons which spoil the eastern and north/eastern parts of the reserve.
- A water reservoir at the western end of the reserve.
- A water reservoir at the northern end of Peggy Vera Road
- A television booster station at the western end of the reserve
- An underground water pipe line running north/south from Mondeor to Kibler Park.
- An electrical sub-station at the north/eastern end.
- A badly positioned entrance precinct at present under construction.

In addition to the above, JCP wish to develop a permanent “upmarket” tented camp and a camping site for youth within the borders of the proclaimed reserve and Petronet is at present in the process of applying for permission to construct a multi-purpose pipeline through the western extremity of the reserve. The latter will effectively “write off” the western end of the reserve as a conserved area.

Other threats include electricity and, at this stage, other possible but unknown, servitudes that traverse the reserve.

The trail designated as the “Beacon trail” is virtually the only trail in the reserve that is, at present, not marred by infrastructural developments along the course of the trail. That status will end once the mast is constructed.

A holistic overview of the infrastructural developments would undoubtedly dictate the necessity of putting a halt to infrastructural development before the situation is reached where “the last straw “ will in fact “break the camel’s back”.

If the relevant authorities were truly committed to urban conservation, they would, at this point in time, be working towards removing infrastructure from the reserve, not increasing it.

## **6. Mitigation measures**

It is the considered opinion of the Association, that despite the requirement that 4x4 light delivery vehicles be used at all times and that no heavy vehicle movement is permitted, the state of the track from the border of the reserve to the beacon, is such that a considerable sum of money will need to be expended on:

- a. Upgrading of the road
- b. Prevention of soil erosion
- c. Rehabilitation

If this sum of money were to be quantified, it could well add weight to the argument in favour of the alternative of two masts.

Material and plants (grasses) that may need to be used for upgrading, erosion control and rehabilitation is a further matter of concern. “Foreign” materials and plants, i.e. brought in from other areas should not be allowed neither should the collection in the Reserve of stones or rocks be permitted.

## 7. Alternatives

The reasons given on page 2 of the SRK report for opting for two stand alone masts “**which will then also give the required coverage**” is

“this does however increase the visual impact from one mast to two, as well as increasing the cost of the project by approximately R3.5 million.”

As previously alluded to, the visual impact of these masts on residents, motorists and other members of the public is a small price to pay for improved security. It should be noted that the two mast alternative would result in the masts being erected in areas that are not nearly as sensitive as the nature reserve. The areas would, moreover, to some extent, already be visually degraded, with the masts making no significant impact. The Association believes that were the views of the public to be tested, there would be no objection, from a visual impact perspective, to the two mast alternative.

The Association believes that cost savings is an important, but not a critical factor. The South African economy is at present clearly in a healthy situation as is demonstrated by the fact that

- a. tax rates have been constantly reduced over an extended period of years, and
- b. tax collections have exceeded budget over the same period of years.

The SAPS budget has been in the spotlight and has been substantially increased. R3.5 million may be a significant sum of money. It is, however, minor in the greater scheme of things and is a small price to pay for the protection of an irreplaceable national asset.

The Association would therefore urge you to support the alternative.

Crime is at present in the spotlight and has become a political issue. Political pressure may well be playing a role in the process of bringing the SAPS communications network to fruition. The fruits of political expediency are, however, short lived. Destruction of the environment endures.

Our Association is dedicated towards stemming the tide of untoward and unnecessary development in the few remaining natural areas that are available to the citizens of Johannesburg, both now, and in the future. The Klipriviersberg Nature Reserve is by far the largest of these areas and is considered by JCP as their flagship nature reserve. The existing and prospective infrastructural developments in the reserve are a blot on the integrity of the reserve and have ruinous consequences for both its purpose, as well as its functionality as a natural area.

In the light thereof, the association hereby appeals to:

- a. SAPS, to withdraw its application,
- b. JCP, to cancel its authorisation of the project, and
- c. GDACE, to reconsider its favourable record of decision for the project

The Association trusts that this appeal will be given due and favourable consideration and that the record of decision will be reversed.

Yours faithfully

**Klipriviersberg Nature Reserve Association**

Clem Kourie  
Honorary Chairman

C/c

1. Richard Irish, SAPS – By fax
2. Shoni Munzhedzi, Johannesburg City Parks –By e-mail
3. Sidney Nkosi, Johannesburg City Parks – By e-mail
4. Kenneth Mabila, Johannesburg City Parks – By e-mail
5. Vivienne Pio, SRK Consulting – By e-mail
6. Garth Barnes, WESSA – By e-mail
7. Anique Greyling, EWT – By e-mail