



## Newsletter

of the  
INTERNATIONAL ASSOCIATION  
FOR IMPACT ASSESSMENT  
SOUTH AFRICAN AFFILIATE  
Autumn 2010

# Go home, I say, for what Big is there to go to.....?

## When we have condemned ourselves to being sous-chefs forever

Once again, I am awed by Sean O'Beirne's ability to articulate pertinent issues so precisely yet vividly (*Go big or go home* – IAIASA Newsletter, Winter 2009). It is the departure point for a basket of observations on Our Noble Calling.

Let me say right away: thank you, Sean, for encapsulating the core ailment of IAIASA so well, for outing the elephant in the room. I agree wholeheartedly, more so after seeing the response to your challenge from IAIASA at the national conference, and subsequently. To be fair: evidently the national committee merely reflects the ineffectual diversity of its membership, since the results of the survey of members failed so utterly to be conclusive on a future direction: business as usual (*everything to everyone*) rules, OK?

But this is not a context in which cooperative governance – which too has become a cover for no one taking a stand on anything or enforcing anything – is constructive. I can't see why anyone ever thought IAIASA *could* be an effective voice of or a vehicle for 'the profession', given the nature of its mandate and membership. Is it surprising, really, that IAIASA didn't lead a constitutional appeal

against the 2009 EIA regulation amendment that made consultants responsible for pronouncing on the environmental 'acceptability' of projects? (More on this subject later on.)

There IS no option but the creation of a totally new body to represent the 'profession' – if it exists – similar to the Institutes of engineering, architecture, etc.

But looking at the way the tertiary education base for the profession and the accreditation system have gone, I'm not sure there is a 'profession' to belong to; I'm far from convinced the exercise of – essentially – a single administrative procedure can claim the status of a profession. The proposed accreditation system sets criteria around a philosophy at best, an approach at least: 'holistic thinking' and 'balanced judgement'. Where is the body of knowledge in which all candidate professionals must demonstrate competence? In fact, what is the test of competence at all for this so-called profession? Demonstrated practice of filling in a set table of contents?

I cannot see how we can meld such disparate participants as graduates of the social sciences, the natural sciences, engineering,

landscape architecture, law, languages, mathematics, nay, *anything*, into a profession in any meaningful way, so long as we refuse to impose any restrictions on practice linked to the original field of the candidate.

WHY are there no special categories of registration? WHAT is the problem with sticking to the SACNASP categories of Natural Scientist, Social Scientist, etc? At present, appalling rubbish is being written by social scientists in the natural sciences components and by natural scientists in the social sciences components – ja ja, by no means all, but often enough that it's clear it's virtually impossible to get on top of all these disciplines; and the much-lauded supervision of senior 'practitioners' is not working to correct the mistakes. Practice, in other words, is not making perfect. It is unlikely that it ever will. Everyone rabbits on about 'integrating' social and environmental information and yes, there are cross-cutting issues, but it is impossible to meaningfully integrate such divergent systems and methods and outcomes of study. They necessarily end up running in parallel.

## Communications and the road ahead

Discussions at the meeting of the newly formed NEC Communications sub-committee with Rod Bulman serving as convenor led to the decision to add an extra vehicle to IAIASA's communications portfolio. This has taken the form of a lighter "more popular" quarterly newsletter edited by Rod Bulman called *At the Edge*, the first issue of which has already been sent out in pdf format. This newsletter will include national IAIASA business, notices and constitutional issues, announcements, updates from branches, light-hearted profiles and pictures – information that will foster community building.

As you can see, the IAIASA National Newsletter is also being sent out in pdf format – and is seen to serve as a "publication of record". This issue still includes pictures taken at conference and a couple of important announcements but in future it is to be the vehicle which will provide "serious content" and debate. **It probably needs a new title – please forward your suggestions to The Editor: carolk@global.co.za**

The '**Report back on the evaluation of IAIASA**', including the comments received electronically from members and the summary of the discussion at the IAIASA World Café Session '**Who are we and who do we want to be?**' at the 2009 Conference, was carried in the National ebrief dated 16 December 2009.

## Mean what you say, say what you mean (if you can)

What's the difference? If you were educated in a South African school between 1980 and now, you're probably not aware that there is a difference. Indeed, these days, with the global dominance of so-called English, the flagrant disregard for elementary grammar (that is, syntax and punctuation) and spelling conventions, and complacent ignorance of those time-honoured tediums, does it matter?

A resounding YES!!! I am getting increasingly dismayed at the sloppy writing and its consequences in sloppy, vague, inaccurate, imprecise meaning, to the extent of frequent meaninglessness, in professional reports these days.

Perhaps this is why the Powers That Be have imposed the draconian "YOU write the decision" on consultants: they can't understand what we're trying – or not trying – to say!

Unfortunately, their solution to this will deliver precisely the opposite, for different reasons. Ah, the South African EIA regulations are going to rescue us from our doldrums, because, by gad, the practice thereof is going to sharpen our wits, what with this requirement to pronounce on the *environmental acceptability* of the proposal and to write the conditions of approval, and all and all. [But don't look to the international arena to save you from the local dilemma, for the IFC's performance standards, which rule the roost of 'international best practice', will keep you tied up in knots for years trying to meet a standard that's not a standard.]

So an entirely new lexicon will spring up, with legal beagles behind it, real spinning stuff, to make sure that these statements say nothing while seeming to say everything. That's the only possible explanation for a recent commentator's interpretation that the Wild Coast Road EIA made a finding of acceptability in the face of an admitted over 7000 'outright' objections. What is it that the 'practitioners' know that enabled them to make a balanced judgement, to 'make balanced trade-offs' that 7000 other South Africans couldn't?

But, in any case, I'm not sure I can stand to belong to a profession where my professional title is 'practitioner'. Do you want to be referred to as a Professional EEP, a PEEP (the spelling is deliberately wrong)? Eek, an eep! Perhaps it is rooted in the suspicion that in this field practice will never make perfect. But it condemns us to being forever sous-chefs, never aspiring to be chef: we're content to evaluate, assess, assist, never to put our money where our mouth is and actually make something happen. Like the mealy-mouthed aspiration to 'alleviate' poverty: oh no, we don't want to eliminate poverty or create wealth, we just want to make it a little less bad. (One might say much the same about 'mitigating impacts'.)

I read somewhere (and can't at present trace the origin) that either the international body, IAIA, or one of its chapters, is going to offer you the noble title of Sustainer (or something similar), if you have demonstrated mastery of the 'field of sustainable development', or you've made a significant contribution to the Association. Who on the planet – given its continuing downward trajectory – can claim to be an expert in 'sustainable development'? If anyone has found that pot of gold, would you share it with the rest of us, please? What is the test, where are

the clear, adjudicable criteria, who are to be the judges of this fine designation? This is spin-talk of note.

But perhaps there's no need to worry, perhaps this 'profession' will be unable to sustain itself, since presently it seems to be only a way-station that real professionals make a stop at on their way to becoming the creative cook, the chef. I don't know about you, but I don't know anyone who, after about five years doing EIAs, does not start to try to find *anything* to do but EIAs – who makes sure they mentor some minions into the connecting-the-dots approach to process and reporting.

If you'll forgive the mixed metaphors, the god of the Table of Contents never changes his spots (we may as well dispense with *scoping*, if anyone remembers what that actually means). The EIA procedure is simply not enough to sustain an occupation, let alone a profession, over an entire working lifetime. So why does the entire profession have to be branded with a label referring to something that those practicing it try hard to get away from, not long after they've been accepted into its professional fold?

Cally Henderson

## EIA: Project omnibus or unwieldy monster

My recollection is that by the early 1980s American commentators were already decrying the great volumes of wood wasted in gigantic environmental assessment reports emanating from the 1973 legislation that gave EIRs life. And, despite all the current fuss over footprints, we seem to be firmly back in a 'best practice' era of unwieldy reports. Literally.

Why? Because EIA has become an omnibus for every bit of project development that no one is sure where to put. The IFC now requires that environmental assessments – which very clearly used to start *at the factory fence* – include not only a comprehensive legal, guidelines, standards, programmes, strategic plans, etc, etc review, but also a Labour and Workplace Compensation Plan (or some such – fancy name for a Human Resources Plan), A Workplace Health and Safety Plan, A Community H & S Plan, A Community Development Plan – oh, and let's not forget the Security Plan. These, in addition to an environmental and social mitigation plan, and an environmental and social action plan. [In the name of the gods of small things, what on earth do we need so many overlapping plans for?].

Since when did environmental and social scientists adopt entire professional fields – law, organisational development, human resources, security and occupational health and safety? We can't even manage the limbs we have, without adding another arm or twenty. Soon we'll be adding National Economic Development Plans too, while we're stopping the gaps that the WBG seem so anxious to put a finger into. Why don't lenders insist that the feasibility study engineers tick all these boxes; that should really be a part of project planning and development, not of environmental assessment?

Perhaps I was wrong about eeps having little ambition – perhaps we really think we're The Big Chef, holistic and multi-pronged enough to be *the* omniscient monster. Or are we merely greedy, happy to appropriate all these things onto our turf so that we can worship more generously at the feet of the god Mammon?

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# The Environmental Assessment Industry

## A bureaucratic system that does not service the environment

### *What is the status of the Environmental Industry?*

Last year, I had the pleasure of being with a group of 'Nature Conservation Diploma' students of mixed ages on a marine practical at the coast. Whether they had squelchy toes in the mangrove mud or were soaking wet and cold on a wave-washed rocky shore, their vitality, enthusiasm and commitment to nature and the environment was absolutely brilliant – and it left me with a feeling of hope for the conservation of our precious environment.

Contrasting this with the day-to-day life of an environmental consultant highlights the fact that the activities are not even on the same planet and what's really perturbing is that they are apparently not targeting the same result.

So what is missing? The environmentalist's office is a hustle and bustle of trying to meet the legislative requirements of an overburdened process, and to shape and contort environmental issues into a report structure with more regard to format than real ecological or social significance.

Perhaps the environmental ethic is being smothered.

As one young provincial junior environmental officer put it to me at the IAIA Bela Bela conference, "...we have become too busy *doing it for bureaucracy and not for the environment*". I believe that in the process we have lost focus and the first question that needs to be asked is, do we have any mechanism for showing that our top quality legislation is in actual fact improving the environment? And not just creating an 'over-bureaucratic' system justifying political expediency without doing any real good to sustain the very foundation of our existence? What is the yardstick?

During the preparation of this article, I spoke to a number of people involved in our environmental assessment industry. What struck me most forcibly was how many of them, top quality people, have or are deciding to drift away from the environmental assessment process. Reasons are varied – ranging from it being too stressful to be the meat in the sandwich between the developer and the

bureaucratic rock; being discredited no matter which way you turn, because you are seen either as a "neurotic greenie" or some form of self-enriching consultant that promotes yet **another** development; lack of professional determination by the government institutions that manage the process; lack of professional peer support from associations; and at the end of it not a particularly financially successful profession. The loss to the industry of these experienced and insightful people is extremely regrettable.

### *So what are some of the key issues that have given rise to this status?*

To begin with, there are far too many EIAs – largely because we have a system that has become over-reliant on the letter of the law and which has no flexibility to conceptualise true environmental risk. No matter how simple the project, if it falls into one of the activity categories, it must still grind through months of process and then be caught up in the inflexible approval delays. The result of which is to throttle developments with low environmental impact but which may have the potential to be of social or commercial value. On the other hand, some activities only require that 'one size hides all' document, the basic assessment, which is neither fish nor fowl and takes as much input as a full EIA.

It is recognised that exposing a project's issues may not be simple. What is needed is an intelligent and experienced preliminary scanning that can separate the bland and unimportant from the real issues.

This leads to the question of inconsistency of standards. Corruption aside, there are serious inconsistencies between similar EIAs even from the same department. How do you retain confidence and credibility with developers, when you have conscientiously argued for a specialist study which subsequently identified Red Data species on your client's site, when the neighbours weren't required to do any studies and were 'RODED' six months earlier?

Surely there needs to be a professional balance at authority level. The current process results in each and every consultant *de facto*

usurping the benchmark setting role of governance. This deficiency of environmental assessment values means that, for a consultant, good environmental assessment is not cost effective.

Part of the streamlining of the whole environmental approval process could be to introduce an audited process of standards and protocols for certain categories of activities – fuel stations and cell phone masts could be classic examples. Separating this type of parochial issue out of mainstream environmental procedures could be beneficial, in order that they do not overburden the authorities with already limited and under-capacitated resources. On this point, why after so many years of EIA legislation are the departments still critically capacity constrained?

### *Why has it come off the rails?*

#### **Bureaucracy**

The legislation we have, although well meant, has become a millstone around the neck of good environmental governance, and now discredits the intent and the practice of environmental control.

There needs to be a visible process of monitoring and evaluating the effect of the legislation and its modifications to evaluate their real value, and to ensure that it is not just an over-bureaucratic system justifying expediency without achieving its core purpose.

#### **Greed**

Perhaps we have lost the focus on the environment. It's not about the \$-buck but about the living buck.

I recently attended a workshop on the ramifications of Copenhagen where the panel consisted of the Minister, a Prof, the CEO of a major supermarket chain and the CEO of a prominent insurance company. The Minister needs to be afforded respect as she is being open-minded albeit constrained by overarching government policy. Credit also needs to go to an astute Prof – but really! the CEO's don't appear to understand the primary problem and their focus is on trivial issues without becoming committed to the desperate need for change.

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How, at a time when Climate Change is the buzz of the day – which is, after all, only consumerism impacting on sustainability, do we bring entrepreneurs and industrialists to the awareness of the real environmental issues and impacts of their enrichment. They will only become aware when there is credibility in the process.

### The money

It's correct that a development must carry the cost of the process but, classically, with the current system this is an overbearing cost – more particularly due to economic opportunity lost because of time delays. Consequences are that the system is frequently by-passed, manipulatively or illegally. By rationalising what needs full process and what is merely an issue of compliance, this entrenched resistance to the process can regain credibility.

### The way forward?

There are many good brains working on this – but in order to improve the situation some aspects on which we need to focus are as follows:

### Rethink the legislation

- Focus on the objective and the result not the procedure.
- Look at a system of preliminary assessments to separate the real and synthetic issues.
- Focus on those assessments that provide a basis for others, such as strategic environmental assessments/basic environmental frameworks. These will reduce the need for extensive reworking of every EIA and will provide a base line on which good environmental assessment can be founded.
- Minimise the number of EIAs by focusing on issues that need assessment and not just alignment with good practice.
- Include a review structure to facilitate consistency of assessments and approvals.

### Setting performance

- Develop Key Performance Indices that will show whether the legislation is actually achieving its purpose both in the short term and in the long term.

### Professional support organisation

- An umbrella body (for us) that will instil professional credibility at an ethical level not just through procedures and qualifications.
- The support of a professional society that defends its members' professionalism.
- Through the Biodiversity Act and other mechanisms, develop “no go” environments (and I don't mean another tourism game reserve) and “no go” activities which regardless of development pressures must be there for the sake of the environment. These must be clearly defined and the boundaries kept sacrosanct.

In conclusion, we have the potential to protect our environment effectively but currently our systems and legislation are not focusing on the core environmental needs – and we do need to reshape the environmental industry.

*Chris Williams*

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## A matter of trust

### Gaining the confidence of the public and the client

In the last Newsletter, I addressed the issue of credibility and the negative perception created when the project proponent pays for the impact assessment. In this issue, my intention is to move this debate to another level and examine the matter of trust within the public/client/consultant triad. Apart from ensuring neutrality in the funding of impact assessments, there are other matters that need to be addressed to increase levels of public/client/consultant trust. In order to understand what can be done to enhance trust, we first need to consider the constructs of trust.

Trust is a dynamic social phenomenon that changes over time and develops through an evaluative process. This evaluative process is based on a number of facilitators through which the trustworthiness of the focus of trust is assessed, and which include openness, integrity, benevolence, competency, a history of interactions and personality characteristics (*Bews & Rossouw, 2002*)<sup>1</sup>. Most of these facilitators are common in the literature and have been well tested over time (*Mayer, Davis & Schoorman, 1995; Bews, 2000; Bews & Uys, 2002; Sellén, & Wellergård, 2003;*

*Lawson, 2004; Binikos, 2006*)<sup>2</sup>. Consequently, it is suggested that at least openness, integrity, benevolence, competency and a history of interactions form a good base on which to tackle the question of trust within social impact assessments and, on this basis, to enhance the credibility of the practice of social impact assessment.

Competency is probably the most appropriate starting point as, without establishing a pool of competent practitioners, the chances of putting the rest of what is necessary in place, to ensure credibility and build trust,

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<sup>1</sup> Bews, N.F., and Rossouw, G.J. “A Role for Business Ethics in Facilitating Trustworthiness,” *Journal of Business Ethics*, (39:4), 2002, pp. 377-390.

<sup>2</sup> Mayer, R. C., Davis, J. H., and Schoorman, F. D. 1995. An Integrated Model of Organisational Trust. *Academy of Management Review*, 2(3):709-734.

Bews, N. F. 2000. An Investigation into the Facilitators of Trustworthiness of Managers. Unpublished Doctoral Thesis, Rand Afrikaans University: Johannesburg.

Bews, N. and Uys, T. 2002. The Impact of Organisational Restructuring on Perceptions of Trustworthiness. *SA Journal of Industrial Psychology* 28(4):21-28

Sellén, J and Wellergård, A. 2003. Trust As A Tool For Collaboration – In an inter-organisational context. Master of International Management, Masters Thesis No 2003:23. Graduate Business School, School of Economics and Commercial Law. Göteborg University. ISSN 1403-851X. Printed by Elanders Novum.

Lawson, W. D. 2004. Trust and Trustworthiness in Professional-Client Relationships: Procurement of Architect/Engineer Services by Texas Municipalities. A Dissertation in Civil Engineering Submitted to the Graduate Faculty of Texas Tech University in Partial Fulfilment of the Requirements for the Degree of Doctor of Philosophy.

Binikos, E. 2006. A Sociological Case Study of the Relationship Between Organisational Trust and Whistleblowing in the Workplace. Unpublished Masters Dissertation: University of Johannesburg.

becomes somewhat questionable. Competency, as referred to here, is domain specific and refers to the technical and, to some degree, the personal proficiency to perform a required task at an acceptable level. Currently, those practicing social impact assessment tend to draw their expertise from a wide range of backgrounds. Few, if any, of these disciplines adequately equip the practitioner to practice SIAs competently – and some to a much lesser degree than others. I would argue that to enhance competency within the practice would require a concerted effort on the part of a number of role players, amongst which would be academic institutions, professional bodies such as IAIA and government institutions.

Turning to integrity, it is indicated that *Mayer et al* relates integrity to consistency, fairness and reliability. In this vein one could point to the application of a set of principles which are acceptable, predictable and reliable, and to the importance of establishing such principles within the SIA field. The principles referred to here are of a moral or ethical nature and, within an organisational setting, are likely to be embedded in organisational culture and values. In this sense, it would be incumbent on a professional body to generate an appropriate set of principles reflecting the culture and value of the organisation in much the same manner as is done in the medical, accounting and engineering fields. These

principles would be reflected in the organisation's constitution, code of ethics and guidelines for practitioners.

The third facilitator of trustworthiness to be addressed is openness. Openness is related to honesty, requiring sensitivity and a balanced approach reflecting a professional attitude, particularly with regard to communication. *Harari (1995)*<sup>3</sup> argues that, at least in management, a lack of openness in communication leads to powerlessness and alienation, and that dishonesty in communication results in scepticism. Openness is a value that should be written into the principles referred to above and made apparent through the action of all practitioners affiliated to such an association.

Next we turn to benevolence, which it seems could be the strongest agent of trustworthiness (*Bews, 2000*). Benevolence refers to the degree to which the trustee is prepared to act in the interests of the trustor and, in the event of this happening, intensify the trust. In this regard, the importance of having a community of competent practitioners, able to balance the interests of all parties and adhere to a strong set of principles, becomes paramount.

Finally, a history of interactions could be considered. The formation of trust can unfold via three different routes, dependent on the stage of the relationship. These routes are the peripheral, central or habitual routes (*Hung, Dennis & Robert, 2004*)<sup>4</sup>. *Hung et*

*al* continue to indicate that, in the initial stages, when knowledge of the trustor is scarce, the peripheral route is followed and reputation is significant. During the central stage, knowledge is gathered based on a positive history of interactions founded on ability, integrity and benevolence. Over a long period of a continued positive history, habitual trust patterns and emotional bonds are formed as perceptions of risk are reduced. Accordingly, it is essential that social impact assessment practitioners establish a positive reputation based on high levels of competency, integrity and openness. That they ensure that habitual trust patterns and emotional bonds are formed between the practitioners, the public in general and the clients, and that this experience is passed on via third party interactions.

Considering the above discussion, questions posed and left for debate are: Who should take responsibility for driving an initiative to increase trust and credibility? Is there capacity amongst the appropriate institutions to address these issues? Is there the will to do so? In the next *Newsletter*, with this in mind, I intend to address the issue of enhancing the competence of SIA practitioners.

*Continuing the series of short articles by Neville Bews  
Social Impact Assessor*

<sup>3</sup> Harari, O. 1995. Open the doors, tell the truth (open communications in business). *Management Review*. January. 84:33-35.

<sup>4</sup> Hung, Y. T., Dennis, A. R., Robert, L. 2004. Trust in Virtual Teams: Towards an Integrative Model of Trust Formation. *Proceedings of the 37th Hawaii International Conference on System Sciences*.

## Call for Nominations – IAIAAsa Premium Award

IAIA's mission is to advance innovation, development and dissemination of best practice in environmental impact assessment, management and policy throughout the world. The South African Chapter, IAIAAsa, presents the Premium Award annually as a means of recognising excellence in environmental management through the application of the principles of Integrated Environmental Management. The Award is presented for a policy, programme, process, project or operation that has been developed, planned and managed for social and environmental sustainability.

Previous Award winners include the Hillside Aluminum Smelter Expansion Project, the Richards Bay Skorpion Zinc Mine and Refinery, the Namibia Sasol Gas Pipeline, the Resettlement Relocation Action Plan for Nandoni Dam, Pezula Private Estate and the Berg River Water Project.

This year our objective is to broaden the scope of the Awards and **entries will be judged in two categories**, namely large projects and smaller scale projects.

We invite you to nominate entries for the IAIAAsa Premium Award 2010, if you have been involved in, or know of, a project that meets the requirement of excellence in environmental management. The closing date for applications is 31 May 2010.

*Information on the awards can be found at [www.iaia.co.za](http://www.iaia.co.za).*

# IAIASa 2010 REGIONAL CONFERENCE

23 – 25 August 2010

CSIR CONVENTION CENTRE, PRETORIA, GAUTENG

## INTEGRATING ENVIRONMENTAL MANAGEMENT

*“Bridging the gap between environmental planning and development planning”*

The application of Integrated Environmental Management (IEM) in South Africa requires that impacts and aspects at all stages of all activities are **assessed** and **managed**. It involves the integration of many role-players – environmental practitioners, the government and society at large. It also highlights the ‘narrow’ role of impact assessment in IEM. This has implications for our discipline and the development of best practice and we need to ask some critical questions:

- What is our role in IEM as assessment practitioners and what should we be integrating?
- Who is responsible for securing environmental protection and who facilitates trade-offs?
- What is the relationship between environmental planners and development planners? And who are the sustainable development planners?

The 2010 IAIAAsa Conference would like to introduce a debate that explores the critical questions outlined above. We would like to unpack the notion of environment vs development, as well as the disciplines, responsibilities, approaches and methods associated with assessment and environmental management. Considering that we wish to move from project-level EIA to

strategic approaches and that we want to promote the organisation’s “new vision” (professionalism, best practice in strategic assessment, as well as use of other assessment tools), the theme should also promote strong debate about IEM and desired outcomes of assessment (environmental protection vs sustainability).

Sub-themes that would be reviewed under this topic:

- **Strategic tools for securing environmental protection:** Biodiversity, Air Quality, Waste Management and other ‘environmental’ Sector Plans; State of Environment reporting; Environmental Management Frameworks, etc.
- **Planning to support a green economy:** green accounting; cleaner production, waste minimisation; climate change planning, environmental management systems, etc.
- **Linking sustainability considerations:** integrating environmental objectives into policies, plans and programmes; health impact assessment; overlap with other legislation, etc.
- **Sector capacity:** best practice standards, knowledge management, training, accreditation and registration, ethics, governance, public participation, specialist input, etc.

The Environmental Law Association will, once again, join IAIAAsa at the Conference.

*Call for Papers. Contact the Conference Secretariat. Tel: (028) 316 4658. Email: kruger@kruger-associates.com*



(Above) Danie Smit

(Left) Lyn Archer, Asha Ramjatan and Phumi Ndlovu.



Coert Welman receiving the Student Award from outgoing President Diane Erasmus.



Lize McCourt is awarded for the 'Phrase of the Conference'. She described the EIA process as one that goes "bump, bump, bump, down the stairs".

"Here is Edward Bear, coming downstairs now, bump, bump, bump, on the back of his head behind Christopher Robin. It is, as far as he knows, the only way of coming downstairs, but sometimes he feels there really is another way, if only he could stop bumping for a moment and think of it."  
A.A. Milne, Winnie the Pooh



The new IAIAasa President Gerrie van Schalkwyk giving his address.



Sunel Esbach receives the second prize for her poster from Rod Bulman.

## The IAIAasa 2009 Conference

Photographs by Pat Jennings



Diane Erasmus awards Susie Brownlie for the most contributions to the conference programme.



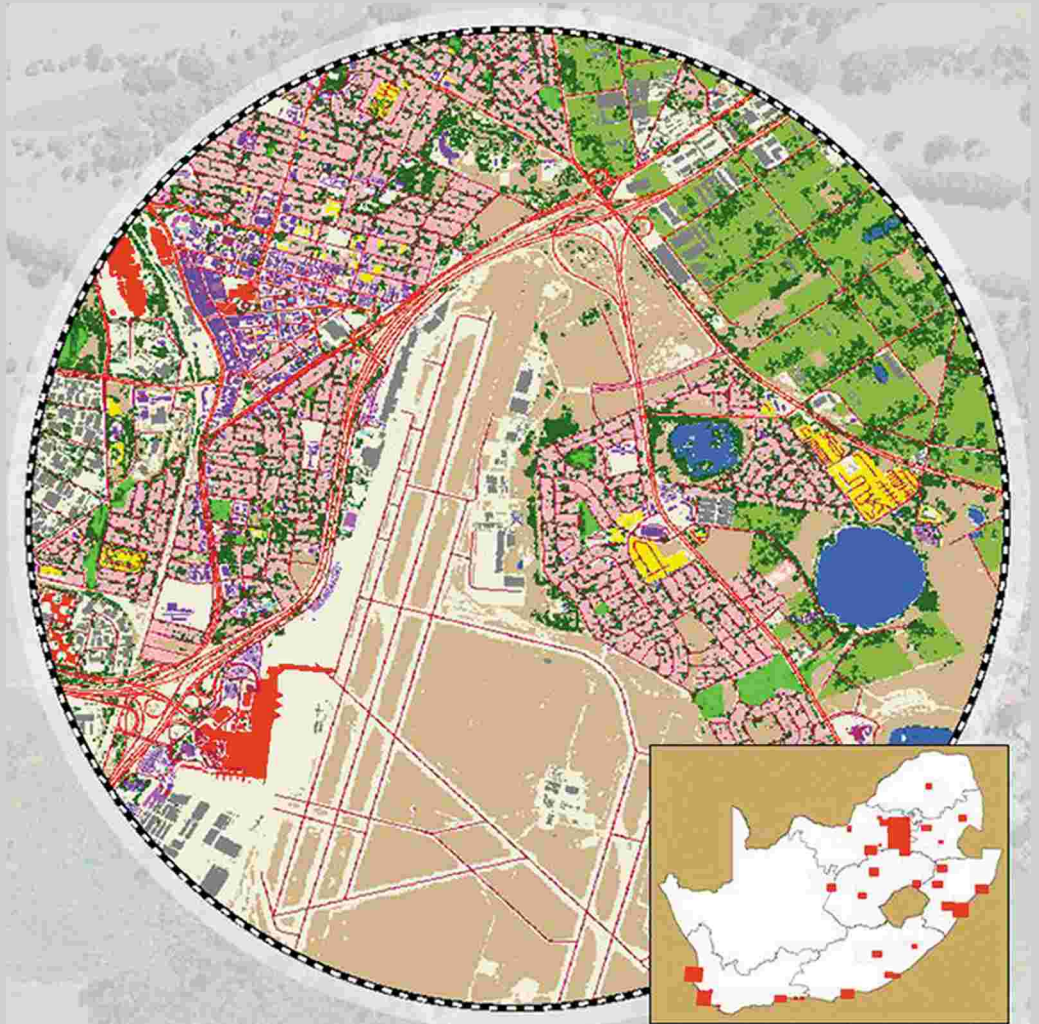
Harold and Marita Thornhill and Wynand Fourie.



Glenton Moses



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## High Detail Urban Land Cover and Land Use for Major Cities across South Africa (OR Tambo International)

**Stuart Martin**  
Tel: +27 (12) 349 0055  
[www.geoterraimage.com](http://www.geoterraimage.com)



GeoTerraImage (Pty) Ltd (GTI) is a Pretoria based company focused on the extraction of information from satellite imagery and aerial photography. This includes using a variety of automated and manual techniques which are optimised based on the data requirements and the imagery source being used.

GTI's professional staff will complement projects through their industry training and experience. This includes: agriculture, town planning, natural resource management, forestry, remote sensing and geographic information systems (GIS) implementation. All technical staff are affiliated with PLATO (South African Council for Professional and Technical Surveyors)

GTI has developed a range of "off-the-shelf" products to complement the existing projects where we provide bespoke data to clients. These data products are focused on the

major towns and metropolitan areas of South Africa. These digital datasets have been packaged to form an "urban landscape characterisation" product which can be ingested into GIS.

The data includes the following thematic layers which are derived from imagery:

- Land Cover
- Land Use
- Human Settlement quantification (Growth Indicator ©™)

Land Cover can be defined as the physical landscape features on the land and land use as the human activity which influenced the landscape. The Growth Indicator ©™ dataset is used to classify and quantify dwelling types and can be used to study urban growth and densification.



Significant developments during the period under review include the coming into force of both the National Environmental Management: Waste Act, 59 of 2008 and the National Environmental Management: Integrated Coastal Management Act, 24 of 2008. There have also been important amendments to the National Environmental Management Act 107 of 1998 (NEMA).

## **Environment**

### **General**

The Integrated Coastal Management Act came into effect on 1 December 2009. The Act which is dedicated to managing South Africa's coastline in an integrated manner and ensuring the sustainable use of the coast's natural resources will be implemented in a phased approach, with certain sections only coming into force at a later stage.

There have been several amendments to NEMA through the National Environmental Laws Amendment Act, 14 of 2009 (GN 65 in *GG* 32580 of 18 September 2009). The amendments to Sections 31A, F, H, K, N and Q of NEMA, which deal with the application and enforcement of NEMA and other environmental management Acts, have significantly improved the powers available for the enforcement of environmental legislation. The powers of Environmental Management Inspectors to inspect, search and seize have been augmented and the applicable fines for environmental crimes have been increased.

Section 28 of NEMA (the NEMA "duty of care") has been amended by the insertion of section 28(1A) This section makes it clear that NEMA now has retrospective application, in that section 28(1) also applies to significant pollution or degradation that occurred before the commencement of the Act. Also that which arises or is likely to arise at a different time from the actual activity that caused the

contamination, or that arises through an act or activity of a person that results in a change to pre-existing contamination.

The inclusion of subsections 28(15) and 30(11) now provide for further criminal offences and it is a criminal offence to refuse to comply with a directive issued under sections 28 and 30 of NEMA. A maximum penalty of a fine not exceeding R 1 million or imprisonment for a period not exceeding 1 year or both such a fine and imprisonment may be imposed.

### **Air**

A draft list of activities which result in atmospheric emissions that have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, was published in terms of section 21 of the National Environmental Management: Air Quality Act, 39 of 2004 (GN 1001 in *GG* 32434 of 24 July 2009).

The Vaal Triangle Air-Shed Priority Area Air Quality Management Plan was published in terms of section 19(5)(a) of the National Environmental Management: Air Quality Act (GN.R 613 in *GG* 32263 of 28 May 2009). The objective of the plan is to ensure that, once implemented, the air quality of the area will effectively and efficiently be brought into sustainable compliance with National Air Quality Standards within agreed timeframes.

Regulations for implementing and enforcing the plan were also published (GN.R 614 in *GG* 32254 of 29 May 2009). Identified stakeholders must review and submit their revised emission reduction strategies to the National Air Quality Officer by no later than the end of June 2014.

National ambient air quality standards have been established in terms of section 19(1) of the National Environmental Management: Air Quality Act (GN 1210 in *GG* 32816 of 24 December 2009).

### **Biodiversity**

Draft regulations relating to alien species and listed invasive species under the National Environmental Management: Biodiversity Act, 10 of 2004 were published for public comment (GN 347 in *GG* 32090 of 3 April 2009). The regulations deal with, amongst other matters, the designation of issuing and competent authorities, integrated permits and national framework documents.

The draft national list of ecosystems that are threatened and in need of protection was gazetted for public comment (GN 1477 in *GG* 32689 of 6 November 2009).

### **Forestry**

30 April 2009 was proclaimed as the date on which section 18 of the National Forest Act, 84 of 1998 came into operation (GN. R33 in *GG* 32185 of 29 April 2009). Section 18(1) provides for any person or organ of state to apply for the protection of a forest, species of tree, tree or group of trees in terms of Chapter 3 of the Act.

### **Environmental Impact Assessment (EIA)**

The listed activities under the EIA regulations have been amended by the omission of certain activities and the amendment of others (GN 719 in *GG* 32369 of 3 July 2009).

### **Waste**

The National Environmental Management: Waste Act came into operation on 1 July 2009 with the exception of certain sections of the Act (proclamation 34 in *GG* 32189 of 30 April 2009). The Act replaces the provisions of the Environment Conservation Act, 73 of 1989 (ECA) that dealt with waste disposal. A list of waste management activities that have, or are likely to have, a detrimental effect on the environment and in respect of which a waste management licence is required in terms of the Act has also been published (GN 718 in *GG* 32368 of 3 July 2009).

The Waste Tyre Regulations, 2009 published on 13 February 2009 under section 24(B) of the ECA came into effect on 30 June 2009 (GN. R520 in *GG* 32219 of 8 May 2009). These regulations deal with, among other matters, the storage of waste tyres, integrated industry waste tyre management plans and the duties of tyre producers, tyre dealers and waste tyre stockpile owners.

### **Protected Areas**

23 October 2009 was proclaimed as the date on which the National Environmental Management: Protected Areas Amendment Act 15 of 2009 would come into operation, with the exception of sections 1 and 8 respectively (GN 69 in *GG* 32660 of 23 October 2009). Among other matters, it amends the Act so as to provide for a comprehensive list in the schedule of all national parks. It further provides for the assignment of national parks, special nature reserves and heritage sites to South African National Parks.

## Minerals and Energy

The President assented to the Mineral and Petroleum Resources Development Amendment Act, 49 of 2008 (GN 437 in GG 32151 of 21 April 2009) on 19 April 2009. The Amendment Act aligns the Mineral and Petroleum Resources Development Act (MPRDA) with NEMA in order to provide for one environmental management system; removes ambiguities in certain definitions; and adds functions to the Regional Mining Development and Environmental Committee. It also amends the transitional arrangements so as to further afford statutory protection to certain existing old order rights.

## Miscellaneous

The Minister of Health has in terms of section 2(1) of the Hazardous Substances Act, 15 of 1973 declared leaded paint as a Group I Hazardous Substance (GN 801 in GG 32455 of 31 July 2009). Leaded paint is defined as paint containing lead or lead compound used for decorating with a total content 0.06% (600 ppm) and above, based on total non-volatile content. Certain categories of paint containing lead are excluded from inclusion in this group.

Notice of intention to designate Ntsikeni Nature Reserve located in the KwaZulu-Natal Province as a Ramsar site in accordance with the Convention on Wetlands of International Importance (Ramsar Convention) was published (GN 1311 in GG 32600 of 2 October 2009).

## Case law

In *City of Johannesburg Metropolitan Municipality vs Gauteng Development Tribunal*, the Supreme Court of Appeal declared Chapter V and VI of the Development Facilitation Act, 67 of 1995 (the DFA) constitutionally invalid. Various provincial Ordinances confer authority on municipalities to control and regulate land use within their particular municipal areas. The offending chapters of the DFA purport to confer parallel authority on provincial development tribunals established under the Act, resulting in the possibility of two bodies making different and conflicting decisions on the same subject.

The court held that all the functions currently exercised by municipalities relating to the control and regulation of land use in their particular area, do not fall within the definition of “urban development”, which is a provincial competence, but fall only within exclusive municipal competence of “municipal planning”, and as

such may only be exercised by municipalities. At present, appeals on municipal decisions taken in the Western Cape in terms of the Land Use Planning Ordinance, 15 of 1985 (LUPO) are heard by the province. Following the reasoning in this case, it appears that this too is unconstitutional. Thus, if this decision is confirmed by the Constitutional Court it may have serious implications for land use planning throughout the country.

In *Hangklip/KleinMond Federation of Ratepayers Associations vs the Minister for Environmental Planning and Economic Development: Western Cape*, a decision by the then Provincial Minister for Environmental Planning and Economic Development: Western Cape, Ms Tasneem Essop, to grant Arabella South Africa Holding (Pty) Ltd an environmental authorisation to develop a golf course and housing estate was reviewed. The court set aside this decision on two bases.

Firstly, that the Minister had acted beyond the scope of her powers in that she imposed a condition in her Record of Decision which required Arabella to give effect to a Broad Based Black Economic Empowerment (BBBEE) Agreement to provide social and subsidy housing in an area that was not on the site of the development. The court emphasised that, when making a decision under the ECA and NEMA, the benefits and disadvantages of the socio-economic and environmental impacts of the authorised activities must be considered, not “extraneous benefits divorced from the impacts of the authorised activities”.

Secondly, there was a reasonable apprehension of bias on the part of the Minister since an ‘action group’ in favour of the appeal approached the Premier of the Western Cape, who then advised them on how to go about concluding the BBBEE agreement with Arabella. This information was then conveyed to the Minister. Thus the judgment serves as a reminder to administrators and developers that the exercise of political pressure may compromise the decision making process.

In *Swartland Municipality vs Hugo Wiehahn Louw N.O and others*, the Swartland Municipality sought an interdict to prevent the holder of a mining right, in terms of the MPRDA, from commencing mining activities on a farm which had not properly been rezoned to a use which permits mining in terms of LUPO. The Court pointed out that in terms of section 23(6)

and 25(2)(d) of the MPRDA, the holder of a mining right must comply with, and the mining right is granted subject to “any [other] relevant law”. The question was thus whether LUPO is a “relevant law” for the purposes of the MPRDA or whether it, by implication, is repealed by the MPRDA. It was noted that the MPRDA is silent on the issue of rezoning. The court held that in terms of schedule 4 of the Constitution, “municipal planning”, which includes land use zoning, is reserved for regulation by municipal authorities only, and the regulation of regional planning and development may be extended to municipal authorities.

Thus the court held that zoning is not connected with the issuing of mineral rights to the extent that it should be regulated by the MPRDA. The court also considered that if the MPRDA, by implication, repealed parts of the provincial and municipal planning legislation, it would undermine the obligation on municipalities to achieve integrated sustainable and equitable social and economic development. Consequently, the court held that LUPO is “relevant law” for the purposes of the MPRDA and, as such, the holder of a mining right must ensure that his or her land is appropriately zoned before commencing any mining activities.

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