

30th October 2008

Schmidtsdrift CPA

Scoping and status quo report



INTRODUCTION	9
REPORT STRUCTURE	9
REFLECTIONS ON THE CONTEXT	10
CHAPTER 1: A HISTORY OF THE CLAIM AND ITS SETTLEMENT	11
THE CHAPTER AT A GLANCE	11
LOCATION	11
HISTORICAL BACKGROUND TO THE LAND CLAIM	12
RECLAIMING THE LAND	14
COMPETING CLAIMS LODGED	14
<i>Klein Fonteintjie</i>	14
<i>United Griquas of Griqualand West and the House of Griquas of Griqualand West</i>	15
FINDING A NEGOTIATED SOLUTION	15
KEY FEATURES OF THE SETTLEMENT AGREEMENT	16
<i>Signatories</i>	18
CONCLUSION	18
CHAPTER 2: SCHMIDTSDRIFT SOCIO ECONOMIC PROFILE	21
THE CHAPTER AT A GLANCE	21
HISTORY AND SOCIO-ECONOMIC PROFILE	21
THE BIGEN/ EMENDO SURVEY (MAY 2000)	22
<i>Settlement patterns and period of stay:</i>	22
<i>Demographic structure</i>	22
<i>Economic trends</i>	23
<i>Existing infrastructure</i>	23
<i>Living conditions and ownership</i>	23
<i>Settlement options</i>	23
<i>Agricultural aspirations:</i>	23
<i>Health</i>	24
<i>HIV/Aids</i>	24
REFLECTION ON SURVEY DATA ANALYSIS	24
SOCIO-ECONOMIC INDICATORS DRAWN FROM CENSUS 2001, INCLUDED IN THE SIYANCUMA MUNICIPALITY	
DRAFT IDP FOR 2006/7	24
EMPLOYMENT AND ACTIVITY RATES IN SIYANCUMA.....	25
PERCENTAGE OF EMPLOYMENT OF MEN AND WOMEN (CENSUS 2001)	26
EMPLOYMENT PER SECTOR AND TOWN (CENSUS 2001).....	26
ENERGY SOURCE FOR LIGHTING (CENSUS 2001)	27
TELEPHONE FACILITIES PER HOUSEHOLD (CENSUS 2001)	27

<i>Status of water connections in Siyancuma (Census 2001)</i>	28
STATUS OF SANITATION IN SIYANCUMA (CENSUS 2001).....	28
SKILLS AND CAPACITY PROFILE	29
LEVEL OF EDUCATION IN SIYANCUMA MUNICIPALITY (CENSUS 2001).....	29
CONCLUSION	29
CHAPTER 3: GOVERNANCE, MEMBERSHIP AND RIGHTS	31
THE CHAPTER AT A GLANCE	31
CPA ADMINISTRATION	31
INTERIM COMMITTEE	31
<i>Additional members: Batlhaping</i>	31
<i>Additional members: Fonteintjie</i>	31
ATTEMPTS TO SECURE 50/50 REPRESENTATION	32
FIRST COMMITTEE ELECTED MARCH 2002	32
<i>Appointing the first directors to Schmidtsdrift Mining Enterprises</i>	33
<i>Conflict in the community</i>	33
SECOND COMMITTEE ELECTED MAY 2004	33
<i>Additional members:</i>	33
<i>Proposed amendments to the Constitution – May 2004</i>	33
THIRD COMMITTEE ELECTED FEBRUARY 2007	34
<i>Additional members:</i>	34
<i>Subcommittees</i>	34
OTHER STRUCTURES	35
MEMBERSHIP, SUBSTANTIVE RIGHTS AND THE CPA CONSTITUTION	35
MEMBERSHIP RECORDS.....	35
REPRESENTATION	36
ACCESS TO INFORMATION/COMMUNICATION	36
TOWARDS A BUNDLE OF RIGHTS AND CORRESPONDING RESPONSIBILITIES	36
<i>Residential rights</i>	37
<i>Grazing rights</i>	37
<i>Access to mining dividends</i>	37
<i>Access to game farm dividends</i>	37
<i>Rights to use natural resources and irrigable land</i>	37
<i>Preferential employment and tender rights</i>	38
POLICY DEVELOPMENT	38
THE SCHMIDTSDRIFT INVESTMENT POLICY	38
LAND USE POLICY	39
A DRAFT BURSARY POLICY.....	40
POLICY ASSESSMENT.....	40
FINANCIAL AND ASSET MANAGEMENT	40

ASSET MANAGEMENT	41
CPA FINANCIAL STATEMENTS	41
2003/4	41
2004/5	42
2005/6	42
2006/7	42
KEY ISSUES IMPACTING ON EFFECTIVENESS OF CPA.....	42
LACK OF MANAGEMENT CONTINUITY	42
ABSENTEE MANAGEMENT.....	42
MANAGEMENT INEFFECTIVENESS FUELS CONFLICT	43
MEMBERSHIP AND RIGHTS UNCLEAR.....	43
LACK OF TRAINING AND SUPPORT BY DLA/RLCC	43
LACK OF SYSTEMS AND PROCEDURES.....	43
LOW SKILLS AND MANAGEMENT BASE	43
COMMUNICATION AND ACCOUNTABILITY.....	44
INADEQUATE FINANCIAL MANAGEMENT EXPERTISE	44
CONCLUSION	44
CHAPTER 4: DISPUTES AND CONTESTATION	46
THE CHAPTER AT A GLANCE.....	46
THE FONTEINTJIE DISPUTE.....	46
THE PRACTICAL INTERPRETATION OF THE 50% REPRESENTATION	46
MAY 2004: THE SECOND CPA	47
2005: CONFLICT OVER SELECTION OF PARTNER FOR COMMUNITY MINING VENTURE	47
THE RE-EMERGENCE OF FONTEINTJIE COMMUNITY TRUST	47
MARCH 2006: FCT APPROACHES MASTER OF HIGH COURT	48
MARCH 2006: FONTEINTJIE WITHDRAW REPRESENTATIVES FROM CPA	49
MARCH 2006: THE MASTER RESPONDS	49
MAY 2006: LETTER OF DEMAND TO CPA FROM UNITEAM 777.....	49
MAY 2006: OTHER LETTERS OF DEMAND.....	50
AUGUST 2007: THE COMMISSION’S RESPONSE	50
JULY 2007: FINAL LETTER OF DEMAND UNITEAM.....	51
MAY 2008: CPA SUMMONSED	51
REFLECTIONS ON THE FONTEINTJIE DISPUTE	51
GOVERNANCE AND DEVELOPMENT RELATED CONFLICTS.....	52
VINCENT SEHUNELO AND ATTEMPTS TO ESTABLISH A CHIEFTAINSHIP OF THE BATLHAPING	52
THE ROYAL BATLHAPING TRUST – TRADITIONAL GOVERNANCE V. THE CPA?	54
<i>December 2007: Preparing to establish a Trust.....</i>	<i>55</i>
<i>February 2008: Enter the Directorate of Traditional Leadership and Institutions, Office of the Premier.....</i>	<i>56</i>
<i>April 2008: Batlhaping Trust proposal to dissolve CPA.....</i>	<i>56</i>
<i>June 2008: Meeting with RLCC on status of CPA</i>	<i>56</i>
CONCLUSION	57

CHAPTER 5: MINING	58
THE CHAPTER AT A GLANCE	58
BACKGROUND	58
<i>The mining context</i>	58
MINING AT SCHMIDTSDRIFT – A CHRONOLOGY	60
1999 – 2000 <i>The confidential Heads of Agreement and Schmidtsdrift Mining Enterprises (Pty) Ltd (SME)</i>	60
June/July 2001: <i>NDC appoint Alan Smith as CEO</i>	61
December 2001: <i>DME issues 1 year prospecting permit to NDC</i>	61
December 2001: <i>“Dissenters” challenge NDC’s right to prospect</i>	62
May 2002: <i>Scorpions investigation</i>	62
October 2002: <i>DME issues a prospecting permit to NDC for the whole of Schmidtsdrift</i>	63
December 2002: <i>Contestation over Heads of Agreement</i>	63
March 2003: <i>NDC announces R40m partnership deal with Bell</i>	63
June 2003: <i>NDC in difficulty</i>	64
July 2003: <i>SME in decline</i>	64
August 2003: <i>NDC/CPA Shareholders Agreement signed</i>	65
October 2003: <i>DME temporarily suspends NDC mining activities</i>	66
November 2003: <i>Suspension order lifted</i>	66
November 2003: <i>NDC signs offtake agreement with Unitrade</i>	67
December 2003: <i>NDC issues 6 month review report</i>	67
2004: <i>Nare acquires an interest in NDC</i>	67
Jan – June 2004: <i>Engaging contractors</i>	67
June 2004: <i>NDC in arrears on royalty payments</i>	68
May 2004: <i>The Second CPA committee takes over</i>	68
December 2004: <i>Mining impacts on development planning</i>	69
January 2005: <i>Skeat Mining leaves</i>	69
February 2005: <i>Letter of demand to NDC</i>	69
April 2005: <i>Attempts to identify partner for community mining area, royalty negotiations</i>	70
July 2005: <i>Liquidation proceedings against NDC begin</i>	70
January 2006: <i>Mine closes</i>	70
February 2006: <i>NARE pays out NDC creditors and addresses royalty arrears</i>	71
April 2006: <i>Nare begins mining</i>	72
July 2006: <i>Royalty payment ceremony</i>	73
August 2006: <i>Lonrho acquires stake in Nare</i>	73
August 2006: <i>Nare completes 3rd diamond sale</i>	73
December 2006: <i>African Renaissance Holdings sells NDC share to Nare</i>	73
2007	74
February 2007: <i>The third CPA Committee attempts to review shareholders agreement</i>	74
March 2007: <i>Nare purchases Reho Mining</i>	74
May 2007: <i>Dispute over rights to community mining</i>	74
May 2007: <i>Nare cancels offtake agreement</i>	74
June 2007: <i>Nare challenges offtake agreement</i>	74
July 2007: <i>Offtake agreement upheld</i>	75
July 2007: <i>Nare seeks legal opinion on shareholders agreement in light of Fonteintjie challenge</i>	75

<i>July 2007: "07/07/07"</i>	75
<i>August 2007: Nare/Lonrho becomes involved in Angola</i>	76
<i>October 2007: Nare changes its name to Lonrho Mining</i>	76
<i>February 2008: Lonrho Annual report</i>	76
<i>February 2008: GSMA challenges CPA to act on 7/07/07 resolution.</i>	77
<i>March 2008: GSMA/CPA wrangling over legal costs and recognition</i>	77
<i>May 2008: GSMA follow up right to mine Zone 16</i>	77
<i>May 2008: Lonrho indicates SME unviable with offtake agreement in place</i>	78
<i>August 2008: Lonrho mining signs option to purchase agreement with New African Mining (NAM)</i>	78
<i>October 2008: Final sale to New African Mining concluded</i>	78
PRELIMINARY ASSESSMENT	79
REHABILITATION	79
FUTURE ISSUES RELATING TO MINING	80
<i>Future mining of 480 ha</i>	80
<i>Putting the 480 ha out to a transparent tender process</i>	80
CONCLUSION	81
CHAPTER 6: AGRICULTURE	82
THE CHAPTER AT A GLANCE	82
AGRICULTURAL RESOURCES AND ENVIRONMENTAL MANAGEMENT	82
IMPACT OF MINING ON AGRICULTURAL ACTIVITIES	83
LAND CARE AND FIRE RISK MANAGEMENT PLANS.....	83
IRRIGABLE LAND AND WATER RIGHTS	84
INFRASTRUCTURE	85
FENCES AND CAMPS, WATER POINTS, LIVESTOCK STATIONS.....	85
OTHER INFRASTRUCTURE.....	87
EXPRESSED INTERESTS IN AGRICULTURE	87
ASSESSING LEVELS OF FARMER ORGANISATION	88
PLAAS AGRICULTURAL ASSESSMENT	89
GRAZING AND LIVESTOCK MANAGEMENT	90
DEVELOPING A LIVESTOCK DATABASE	91
GENDER DIMENSIONS OF LIVESTOCK OWNERSHIP	91
CROPS	91
CPA POLICIES ON AGRICULTURAL LAND USE	92
DISREGARD OF RULES GOVERNING GRAZING USE	92
SUPPORT FROM GOVERNMENT AND THE NGO SECTOR	93
DEPARTMENT OF AGRICULTURE.....	93
<i>Tsalanang Co-operative - Goat farming initiative</i>	93
FARM AFRICA AND THE STOCK BANK	93

THE CURRENT SITUATION.....	94
IDENTIFYING POSSIBLE OPTIONS	94
THE CHALLENGES OF PLANNING IN A CONTESTED LANDSCAPE	95
PHYSICAL RESOURCE ASSESSMENT AND DATA	95
PRODUCTION OPTIONS – PRELIMINARY DESKTOP EXAMPLES	97
COMMERCIAL CROPPING OPTIONS (ASSUMING 55HA. IRRIGATION)	98
CROPS GROWN IN ROTATION/ 55 HA COMMERCIAL IRRIGATION.....	99
COMMERCIAL LIVESTOCK.....	100
LIVESTOCK UNDER A COMMUNAL PRODUCTION SYSTEM.....	100
TOWARDS FOOD SECURITY - BROILER CHICKENS.....	101
TOWARDS FOOD SECURITY - VEGETABLE PRODUCTION	101
CONCLUSION	101
CHAPTER 7: GAME FARMING	102
THE CHAPTER AT A GLANCE.....	102
HISTORY OF GAME FARMING INITIATIVES	102
DEAT / GTZ PLANS.....	103
CURRENT SITUATION	105
ASSESSMENT OF CURRENT FACILITIES AND RELATED OPTIONS	106
GAME AND MANAGEMENT OF GAME	106
INFRASTRUCTURE.....	107
ENVIRONMENTAL DIMENSIONS.....	107
POSSIBLE OPTIONS.....	108
TOURISM NOT A VIABLE OPTION	109
POSSIBLE GAME PRODUCTION ENTERPRISES.....	109
CONCLUSION	109
CHAPTER 8: HUMAN SETTLEMENT AND NON-FARM LIVELIHOODS.....	110
HUMAN SETTLEMENT PLANNING	110
THE LONG-TERM COMMUNITY VISION FOR SCHMIDTSDRIFT.....	110
1995 – 1999	110
2000 – 2003	111
<i>Overview</i>	111
<i>The Bigen report (October 2000)</i>	111
2004 - 5	112
<i>Zone 4</i>	113
<i>Zone 5</i>	114
<i>Applications for funding for community facilities</i>	114
ASSESSMENT OF SETTLEMENT SUSTAINABILITY	114
WATER POINTS	115

SERVICES AND SANITATION	115
TOWNSHIP ESTABLISHMENT AND FUTURE GROWTH.....	115
HOUSING SUBSIDIES	117
BUSINESS SITE ALLOCATION.....	117
LOCAL ECONOMIC ACTIVITY.....	118
CONCLUSION	118
CHAPTER 9: KEY ISSUES AND ASSOCIATED INTERVENTIONS.....	119
THE CHAPTER AT A GLANCE.....	119
SOCIAL AND INSTITUTIONAL ISSUES	119
SUSTAINABLE HUMAN SETTLEMENT	122
INTEGRATED NATURAL RESOURCE MANAGEMENT.....	123
ECONOMIC	124
CONCLUSION	125
APPENDIX 1: INVENTORY OF SCHMIDTSDRIFT DOCUMENTS CONSULTED.....	127
EVALUATIONS OF THE PROJECT.....	127
CRLR / PHUHLISANI DOCUMENTATION:.....	127
LAND CLAIMS, SETTLEMENT AGREEMENT AND RELATED DOCUMENTATION	127
HUMAN SETTLEMENT PLANNING AND IMPLEMENTATION	129
<i>Major planning reports and related documentation:</i>	129
<i>Other documents</i>	130
<i>2000 – 2001 (and documents that might be from this period)</i>	130
<i>2003</i>	130
<i>2004</i>	131
<i>2005</i>	131
<i>2006</i>	132
<i>2007</i>	133
THE CPA.....	134
CONSTITUTION	134
REPORTS ON THE CPA	134
CPA POLICIES AND DRAFT POLICIES:	134
FINANCIAL STATEMENTS.....	135
MINUTES AND INTERNAL REPORTS ON CPA MATTERS	135
<i>Reports on CPA matters</i>	135
<i>Chairperson’s Reports</i>	135
<i>Minutes of AGMs</i>	135
<i>Minutes of Quarterly meetings</i>	135
<i>Minutes of General meetings</i>	135
<i>Meetings of the CPA Committee / Executive:</i>	136
<i>Minutes of meetings of the agricultural committee:</i>	136

SME DIRECTORS REPORTS.....	136
<i>Minutes of meetings focused on mining activities:</i>	136
MINUTES OF MEETINGS OF / WITH OTHER CPA COMMITTEES:.....	137
<i>Minutes of meetings with the finance committee</i>	137
<i>Minutes of meetings with the unemployment committee.</i>	137
<i>Minutes of other meetings</i>	137
<i>Conflict</i>	137
<i>Conflict concerning the Garamatale Small Miners Association (GSMA)</i>	138
<i>Traditional leaders</i>	138
FONTEINTJIE AND MR STEENKAMP.....	139
MINING.....	140
<i>Agreements and other legal documentation</i>	140
GENERAL DOCUMENTS	142
2001.....	142
2002.....	142
2003.....	142
2004.....	142
2005.....	143
2006.....	144
2007.....	144
2008.....	145
NO DATES	145
FARMING / AGRICULTURE.....	145
PLANNING DOCUMENTS	145
GENERAL DOCUMENTS.....	146
GAME FARMING, CONSERVATION.....	146

Introduction

This report provides a comprehensive history of the Schmidtsdrift Land Claim and subsequent developments on the land, based on a review of grey literature, published research and extensive fieldwork undertaken by Phuhlisani in the first two phases of our engagement on the project in 2008. The document also provides a thorough analysis of the status quo at Schmidtsdrift and the ways which this impacts on Phuhlisani's task to:

- Identify and mediate disputes between beneficiaries.
- Clarify membership rights, obligations and benefits and how different groupings and interests can be represented in the CPA.
- Develop options and implementation plans to ensure that grazing, natural resources, irrigation land, game and mineral resources are used to the best advantage of the membership.
- Develop policies and procedures to ensure that the land and assets are managed effectively and transparently and that development takes place in Schmidtsdrift which realises meaningful benefits for the members.
- Provide training and support services to improve management of the land holding and business entities.

Report structure

The report is structured into nine chapters and an appendix:

- Chapter 1 provides a short history of dispossession and the subsequent claim settlement process
- Chapter 2 provides a socio-economic profile of the community and an assessment of human capital available to manage this large and complex project
- Chapter 3 reflects on governance, membership and rights. It examines the extent to which substantive rights of the members have been adequately addressed, assesses the management of the Schmidtsdrift Communal Property Association
- Chapter 4 profiles the different conflicts which have significantly immobilised development on the land
- Chapter 5 provides a review of diamond mining at Schmidtsdrift including the allocation of community mining rights on a section of the mining land. It also addresses the environmental impacts of diamond mining and the effectiveness of current rehabilitation initiatives.
- Chapter 6 reviews agricultural activity, natural resource management and irrigation potential on the land
- Chapter 7 provides an overview of the game farming initiative at Schmidtsdrift and a preliminary review of its potential
- Chapter 8 provides an overview of the different human settlement areas and an assessment of non farm livelihood opportunities
- Chapter 9 provides an analytic review of the key issues which must be addressed as part of the process of strengthening the CPA, clarifying rights and responsibilities, resolving conflicts developing management systems and capacity in order to secure development benefits for the membership on and off site.
- Appendix 1 provides an inventory on the extensive documentation that is available on Schmidtsdrift.

Reflections on the context

It is clear from our work to date that Schmidtsdrift is a many layered, large and complex land claim with a long history of contestation between different groupings amongst its members. The majority are Tswana speaking. A minority have Griqua roots. Some members are well educated and relatively well off. Others have little or no schooling and are desperately poor. Some members stay onsite in five different settlement areas, each with its particular history and circumstances. The majority continue to live offsite in the areas to which they were removed or have subsequently settled – Douglas, Campbell, Kimberley and Kuruman. The scattered and socially stratified nature of the claimant group on and offsite has contributed to low levels of social cohesion and trust. This has prevented the development of a shared and realistic development vision matched by implementable plans. Successive CPA administrations have been immobilised by disunity and conflict.

This has been exacerbated by a number of factors:

- fundamentally different readings of the settlement agreement by different parties
- critical silences in the Constitution with respect to individual rights and responsibilities,
- low levels of management skills amongst the membership
- lack of external support needed to manage what is a multimillion operation on a large area of land.
- widespread perceptions that money is being made from the diamond and other resources that is not finding its way to the beneficiaries
- allegations of financial mismanagement and misappropriation
- contestation over governance arrangements with some supporting the CPA and others wanting to promote a traditional leadership and governance system

In a context where information has not been freely shared among the members there is a risk that some of the content of this report may contribute to the recent cycle of conflict. However given the undertakings by the parties represented at the mediation held from the 24th – 25th October we trust that they will make use of this report as a resource for planning a better future.

Phuhlisani has made every effort to develop a detailed understanding of the history of the claim and analyse the current situation with a view to formulating practical development options and sustainable institutional arrangements. We have set out to produce the most comprehensive history and analysis of Schmidtsdrift to date to provide a baseline for future CPA administrations. However, it is inevitable that in a report of this scale there will be some aspects of our analysis that will need revision as new information arises. During the process of compiling this report new information and perspectives have constantly emerged which has demanded continuing assessment of our analysis, approach and recommendations.

Chapter 1: A history of the claim and its settlement

The chapter at a glance

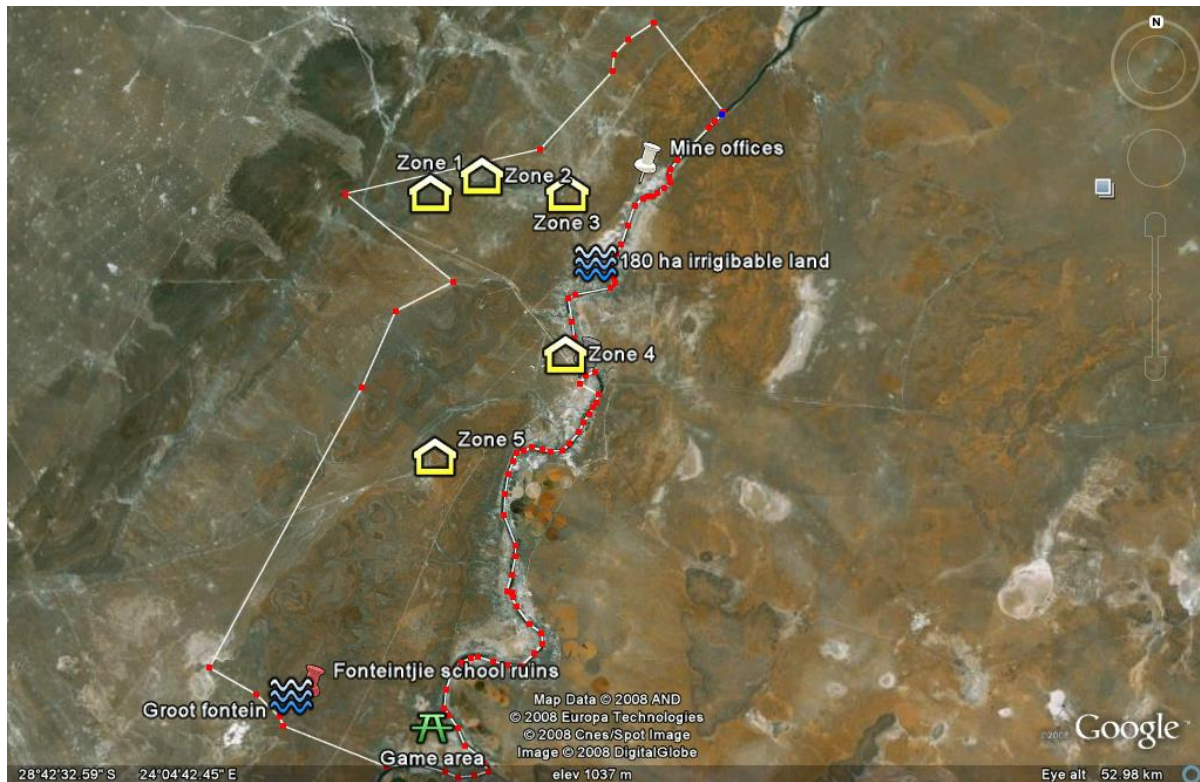
This chapter:

- introduces the land area;
- outlines the histories of different groupings with claims to the land;
- profiles the history of settlement, betterment planning and subsequent dispossession;
- highlights the long struggle people went through to secure the restoration of their land including:
 - an unsuccessful approach to ACLA,
 - a subsequent protest land occupation leading to informal recognition of their land rights,
 - the selection of Schmidtsdrift as a Restitution pilot project and Presidential lead project in the mid 1990's;
- chronicles the competing land claims lodged on the land and the process of negotiation leading up to a Section 42 D settlement agreement in terms of the Restitution of Land Rights Act;
- summarises key features of the settlement agreement;
- reflects on key features of the settlement agreement which have been subsequently contested.

Location

Schmidtsdrift is located approximately 70 km west of Kimberley on the western bank of the Vaal River.

According to the settlement agreement restored land is some 28 732 hectares in extent. However, different documents provide a range of figures indicating the total land area. It has five settlement areas occupied by beneficiaries of the claim with Zones 4 and 5 in the process of township establishment. In Zones 1, 2 and 3 relatively small numbers of households have settled in areas from they were removed and where family graves are located. To the South is the area known as Fonteintjie originally associated with a predominantly Griqua settlement. Apart from one formal dwelling and other temporary structures at the cattle post, no permanent settlement has taken place here. This area is grazed today by members of the CPA living offsite in Douglas and Campbell associated with the original Fonteintjie community. There is also a Zone 6 which corresponds with the former San encampment established by the SADF where there is bulk water and other infrastructure. This also corresponds with a historical settlement area prior to forced removal in 1968.



Historical background to the land claim

Schmidtsdrift has a long history of settlement. According to the PLAAS report (2006), Schmidtsdrift was declared Crown Trust Land in 1827. Setswana-speaking Batlhaping and a number of Griqua clans lived in settlements scattered throughout in the area. After the 1913 Native Land Act became law, the area was scheduled as the Schmidtsdrift Native Reserve. There was a so-called White spot in the Reserve area which was designated as the Schmidtsdrift village. This consisted of a trading store, police station and post office. Other white owned trading stores were scattered through the Reserve.¹

According to Mr Segame, one of group of people who campaigned for restoration of the land after removal:

*We, who were born on the land, did not know the people from the other sections. Some of the Fonteintjie people also did not know us. We lived far apart from each other. The land we lived on was like a large 'state' with schools and everything. Schmidtsdrift was like a town."*²

In 1939 Schmidtsdrift was proclaimed a betterment area in terms Proclamation No 31 of 1930. Betterment planning was implemented in 1960. This involved a series of strictly enforced measures to control land use and grazing. These are said to have included a ban on ploughing in certain areas and the forced culling/auctioning of livestock as an integral part of betterment scheme implementation. The betterment scheme resulted in people being moved from a more dispersed settlement pattern into six designated residential areas. This was accompanied by the demarcation and fencing of grazing camps and the drilling

¹ (Desmond, 1969: 209)

² Isaac Segame: Mediation record. October 2008

of boreholes³. As in most betterment areas, many people in Schmidtsdrift resisted this process. The resistance prompted the government to depose headmen who were regarded as legitimate and accountable to the community and replace them with leaders who were more compliant.

After 1948 the National party embarked on a series of measures to separate Griquas and Tswanas who both lived in the area and who had developed ties through intermarriage and a long history of co-existence.

This initially involved forcible relocation of Griquas to other areas. In the 1950s, to avoid such relocation a group of around 17 Griqua families in the Fonteintjie area were issued with ID books, which classified them as Tswanas. This enabled them to continue to occupy land at Schmidtsdrift, primarily, though not exclusively, in what was known as the Kleinfonteintjie area.

However despite considerable state investment in the betterment planning just eight years later they decided to remove the whole Schmidtsdrift community. In early 1968 the apartheid regime launched a massive removal operation to relocate the community to trust farms which had been purchased north-east of Kuruman.

People were relocated in nine Wyke or villages several miles apart from each other. Approximately 100 trucks were used in the removal. According to Desmond, people received 'satisfactory compensation for their houses and improvements' and that the area to which they were removed was similar in size. However other sources indicate that while people were paid a total of R105, 959 (at 1968 prices) this was not sufficient to enable people to build houses of an equivalent standard in the new area.

Approximately 18,000 small stock and 400 large stock belonging to Tswana households were transported or driven on foot to the new area. Many people were said to have suffered severe stock losses because of the removal, in some instances as much as 50% of their livestock holding. The 'compensatory' land, which had been purchased from white farmers by the South African Development Trust (SADT), was never registered in the name of the community. In 1977 the area in Kuruman where the community had been moved to was incorporated into the Bophuthatswana homeland under Lucas Mangope.

At the same time the descendants of the original 17 Griqua families who were issued Tswana ID books (who had now grown to about 40 families) were also removed.⁴ However the Klein Fonteintjie families "received no compensation for their improvements and no alternative land. Community members were forced to vacate to neighbouring farms as farm workers".⁵

All former dwellings, schools and churches were bulldozed as part of the removal. The former Schmidtsdrift farms remained state land. In 1974 the SADF's Infantry Battalion established a military training base there, where they remained for the next 20 years.

In 1990 San (!Xhu and Khwe!) soldiers who had assisted the SADF in the Namibian War were relocated to a San 'Tent Dorp' (Tent Town) on one of the properties making up the Schmidtsdrift farms.⁶

³ (Desmond, 1969: 209)

⁴ Draft Negotiation Position. Restitution Package: Schmidtsdrift Restitution Claim. 06/03/2000. Compiler: Maxwell Jansen. (May be incomplete.)

⁵ General info on Schmidtsdrift – undated (2000?) and unattributed typed document which appears to be either from the Commission or the DLA

⁶ Schmidtsdrift Community Land Claim. Diagnostic Report. Programme for Land and Agrarian Studies (PLAAS) for the Sustainable Development Consortium (SDC). February 2007

Reclaiming the land

Forced removals everywhere served to disperse and divide people who had previously lived as neighbours. This meant that when space began to open up to reclaim lost land people with historical rights at Schmidtsdrift acted independently to lodge claims on the land.

Representatives of the Batlhaping community, the bulk of whom lived in Kuruman established the Schmidtsdrift Tswana Community Trust and lodged their claim with the Advisory Commission on Land Allocation in 1992. In this regard they were assisted by the National Land Committee (NLC). However ACLA rejected their claim in 1994 after hearing testimony by the SADF that it would cost the taxpayer 120 million rand if the SADF were to relocate elsewhere.

People were angered by the ACLA rejection and about 150 people attempted to occupy the land by force and were subsequently arrested. The NLC facilitated a meeting between the Premier of the Northern Cape, the SADF and the DLA in which it was agreed in principle that the land should be returned to the Batlhaping.

This coincided with the period where the Department of Land Affairs and the Commission were being built from scratch and when new legislation and government procedures were rapidly developed so that the new land reform programme began to take shape. Projects were selected to enable officials to learn from and pilot new procedures. As a result of the in-principle agreement between the parties in the Northern Cape the Schmidtsdrift claim was identified as a Pilot Project for Restitution and later upgraded to a Presidential Lead Project in 1995.

Given the transition and the demanding process associated with the creation of a new department, things moved very slowly. This was intensely frustrating for people on the ground who expected the new ANC government to move rapidly to restore their rights. In 1996, frustrated by the lack of movement on their claim, around 200 households moved back to Schmidtsdrift illegally. Amongst this number were also people who were not bona fide claimants.

Competing claims lodged

In 1996, the CRLR also received competing claims on the same land from the Kleinfonteintjie community, the Griqua community and the !Xhu and Khwe! San community who had been settled on the land by the SADF.

Klein Fonteintjie

The *Klein Fonteintjie Ontwikkelings Trust* representing displaced people of Griqua descent removed in 1968 claimed a portion of land approximately 16 557ha in extent including:

- Schmidtsdrift Location, Farm no. R27;
- Farm No 25 (former portion of Schmidtsdrift Location);
- Farm 31;
- Sinovel Location, Farm no R24;
- Platdrift Location, Farm No. R26 and R29;
- Fonteintjie No 4 (Sector 4);
- Fonteintjie No 6 (Sector 6).

One of the more confusing features of the documentation related to the various claims are contested estimations about the number of people living on the land at various points in Schmidtsdrift history. For example, the Fonteintjie claim contested Schmidtsdrift Tswana Community Trust's account of the number of Griqua families living on the land at the time of dispossession. The Batlhaping had estimated these at +/- eight families, while Fonteintjie argued that there had been 17. However, the draft negotiation position prepared by the Commission speaks of 40 Fonteintjie families who were removed in 1968.

Disputes over the number of households qualifying to benefit from the claim also varied widely. A representative of the Fonteintjie Trust Mr. J. Wellen claimed prior to settlement that there were as many as 300 families entitled to be joined in the Fonteintjie claim. Fonteintjie Trust also indicated that a number of these families would prefer financial compensation rather than restoration of their land. However the settlement agreement finally recognized **85 households** as legitimate Fonteintjie claimants qualifying to benefit from the claim.

United Griquas of Griqualand West and the House of Griquas of Griqualand West

The history of the other Griqua groupings is also complex. Internal divisions among the Griquas resulted in the formation of two groups above claiming to represent Griqua interests. These two groups represented by Martin Engelbrecht and by Barend van Staden⁷ respectively, lodged counter-claims on the basis that the Griquas had occupied the Schmidtsdrift area before it was declared a Native Reserve.

According to the RLCC negotiating position the different Griqua groups with claims in the area comprised about 400 families whose predecessors had occupied the Schmidtsdrift farms from the early 19th Century. The RLCC stated that some were forced to relocate when the area was set aside as a 'native reserve' after the passing of the 1913 Land Act. However it appears that some were able to retain their rights for many more years as the RLCC cites further removals from the area after the 1936 Land Act; the introduction of the Group Areas Act in 1950 and the 'race reclassification' episode in 1955. These Griqua groups also made representations to the Land Claims Court (Case No LCC 29/96) to which the Batlhaping responded.

Finding a negotiated solution

In order to avoid a long drawn-out court case based on counter-claims, the Commission motivated for negotiations between the parties. All three claiming groups accepted this recommendation and a framework agreement was concluded between them on 5 February 1999⁸.

The House of the Griquas and the United Griquas of Griqualand West subsequently signed an agreement on 14/01/2000, "stating their cooperation to settle the Schmidtsdrift restitution claim". Based on available information it appears that they accepted an offer to purchase alternative land.

This left the Schmidtsdrift Community Development Trust and Fonteintjie Community Trust as the two parties to the final settlement agreement. This agreement stipulated that both communities recognise that each has lost rights in the land and contained an agreement to settle their respective claims as one. In terms of the framework agreement both groups were required to have 50/50 representation in a single CPA.

"... (T)he two communities form one community constituted in terms of a CPA The parties confirm that this agreement...settles all disputes arising out of the restitution claims and the settlement thereof; they will have no further claims against each other.

⁷ Draft Negotiation Position etc.

⁸ Memorandum Ref: R6/2/2/B/15/1, Schmidtsdrift Tswana Development Trust and the Fonteintjie Community Development Trust framework agreement, 2000.

Following this agreement the Schmidtsdrift Tswana Community Trust and the Fonteintjie Development Trust merged into the Interim Committee of the Schmidtsdrift CPA.

Under the same framework agreement the !Xhu and Khwe! Community settled on Schmidtsdrift by the SADF decided to accept financial compensation to buy alternative land in the open market. They were awarded R14 million for this purpose and by 1998 most had moved to the farm Platfontein.

At the end of these negotiations, Schmidtsdrift was restored to claimants of the combined groups of Batlhaping and Klein Fonteintjie under the auspices of the interim CPA. The Batlhaping community was represented by Herbert Sebolai, Chair of the Schmidtsdrift Tswana Community Trust, representing about 675 verified households while the Kleinfonteintjie Community was represented by Cornelius Kok, chair of the Kleinfonteintjie Ontwikkelingstrust, representing about 85 verified households.⁹ The official total number of claimants in the Schmidtsdrift claim thus combined approximately 760 families.

As noted above during 1996 and 1997 a number of households moved onto Schmidtsdrift illegally. These included a number of displaced people who were not bona fide claimants. As far as can be ascertained the number of these non-members has never been accurately assessed. However the rights of these non-members were also recognised in the framework agreement:

“(T)he agreement shall not affect the rights of the present occupiers of the so-called compensatory land who are not members of the claimant communities and who may now or in future, in terms of the current or future State land tenure policy, negotiate the upgrading or registration of their tenure rights to the land.”

The Settlement Agreement signed on 8 April 2000 restored 28509.25ha to the Schmidtsdrift community. The land was transferred free of charge by the state. The Deed of Transfer was signed on 21/05/2003, and the community finally received the title deeds in September 2003. A Restitution Discretionary Grant of R2,301,000 was provided to the claimant community.

Key features of the settlement agreement

The Batlhaping and the Fonteintjie restitution claims were resolved administratively through Section 42D of the Restitution of Land Rights Act of 1994. The Settlement Agreement restored the following portions of land totalling 28,509.25 ha of land

- Baviaans Location No. 20 in extent 3,349.4627 ha;
- Boomplaats Location No. 21 in extent 6,364.0399 ha;
- Schmidtsdrift Location No. 22 in extent 3,241.5454 ha;
- Plaatdrift Location No. 41 in extent 2,911.3523 ha;
- Sivonel Location No. 42 in extent 9,270.2458 ha;
- Sivonel Location No. 43 in extent 3,372.6005 ha.

The five properties listed below were also claimed but were not awarded. The settlement agreement specifies claimants shall not have any rights to, or occupy these properties:

- the farm Jakkalsfontein No. 27 (3,442.9588 ha);
- Schmidtsdrift Uitspanning No. 23 (223.0143 ha);
- Farm No. 25 (24.3112 ha);

9 General Info on Schmidtsdrift; author and date unknown.

- Farm No. 26 (25.6960);
- Schmidtsdrift Annex No. 24 (24.3112 ha). (Clause 3.1)

However subsequently Schmidtsdrift Uitspanning No 23 was also restored to the community.

As with all settlement agreements, the signing of the agreement by the parties acknowledged that the claims were settled and extinguished. The parties agreed to withdraw their individual restitution claims from the Land Claims Court (Clause 1)

The agreement provided for the State to restore the claimed land in full ownership to the CPA or other legal entity representing all the verified beneficiaries as indicated on Annexure C entitled *Schmidtsdrift Claimants List (Batlhaping – Fonteintjie Claimants List)*. (Clause 2)

The parties agree that the mineral rights in the land to be restored shall remain the property of the State. (Clause 3.2)

Clause 4 recorded that the claimant communities agreed to form and register a CPA or other legal entity within 60 days of signing the agreement to take transfer of the land and hold it on behalf of the beneficiaries.

It further records that the legal entity formed must include provision for the inclusion of any person who proves to be an heir and/or direct descendant of a member of the original dispossessed communities on a basis which is fair and non-discriminatory towards any person, including a tenant.

Clause 7 reiterates that The Schmidtsdrift Tswana Community Trust and the Fonteintjie Community Development Trust agree to settle their respective claims through this agreement on the basis that the two communities form one entity governed by a single governance structure and that they each be entitled to equal representation on the governing body of the CPA or other legal entity.

As will be seen below this clause has turned out to be contentious as it gives the Fonteintjie group (who at the time of the settlement agreement represented 12.6% of the claimant community) a 50% representation in management of the CPA. According to Leonardo Steenkamp:

*We as the Fonteintjie Community Development Trust had many disputes before they could reach agreement at the settlement agreement. One of the major disputes was about numbers and representivity. We were fearful of one group dominating the other when it comes to ownership.*¹⁰

(Subsequently it appears that the concept of representation on the CPA Executive has been mistakenly conflated with a right to a 50% share in the property and mining revenue. This claim has no basis in law, as the land and assets are held by the CPA on behalf of its individual members. Should the CPA be wound assets would be distributed amongst the individual member households.)

Clauses 8 and 9 committed the SANDF to clear unexploded ordnance prior to resettlement of the claimants in liaison with the claimant communities; for training the claimant communities with regard to identifying and reporting such objects; and for the removal of such objects. The clauses indemnified the SANDF against any damages or injuries that might occur.

Clause 10 highlighted that the process of relocation will be a gradual phasing-in and phasing-out of the relocation of the various parties. All parties to the agreement must form an interim committee to oversee

¹⁰ Mediation record. October 2008

the management and control of the land and assets until such time as the land is transferred to the claimant communities.

Clause 13 distinguishes between land restored at Schmidtsdrift as a result of land claim and the 'so called compensatory land' north of Kuruman, which was settled by people when they were removed. It states that people living offsite can take up their restored rights at Schmidtsdrift at any time that they choose to return. Importantly however the settlement agreement does not define what it means to 'return'. This leaves open to confusion what the nature of the rights are that people can continue to exercise on the compensatory property should they choose not to return.

At the same time the agreement seeks to protect the rights of people living on the Kuruman land 'who are not members of the claimant community and who may now or in future, in terms of current and future State land tenure policy, negotiate the upgrading of their tenure rights to that land.' However, the agreement is silent about the rights of people in Kuruman who are valid claimants but who choose not to return to Schmidtsdrift. As will be discussed below this is currently the cause of perceived tenure insecurity of those remaining in Kuruman, where local chiefs are allegedly wanting to take control of the land currently occupied by claimants who want to continue living there.

Clause 15 deals with the process of dispute resolution stating that if a dispute arises from the terms of the agreement, the matter must be referred to mediation first, and if this fails to arbitration. The parties must agree on the mediator/arbitrator and share the costs equally.

Interestingly, despite the number of serious disputes which have emerged in the claim subsequently, this clause has never formally been invoked. Parties in dispute have preferred to litigate, of ten with expensive and unforeseen outcomes. The recent mediation process was initiated by Phuhlisani to try to get the various parties talking to one another in order to find a lasting solution.

Clause 16 potentially give parties to the settlement agreement the opportunity to revisit terms and conditions but notes that these will not be valid unless "reduced to writing and signed by parties hereto".

Signatories

The Settlement Agreement was signed on 8 April 2000 by the Chief Land Claims Commissioner, the Minister of Land Affairs, the Minister of Public Works, the Minister of Defence, the Premier of the Northern Cape, the chair of the Interim Committee of the Schmidtsdrift Claimant Community (Herbert Sebolai) and the deputy Chair of the !Xhu and Khwe Communal Property Association (Robert Derenge.) who were awaiting relocation.

Conclusion

The history of the claim settlement process highlights the complexities associated with attempts to reconstitute a 'community' of over a 1100 adults scattered across several locations, hundreds of kilometres apart. Of this community, only adults over 50 can have any personal recollection of a former life at Schmidtsdrift. People under 50 are only likely to have personal knowledge of other Schmidtsdrifters based on where people subsequently settled. Hence, current notions of 'community' are filtered on this basis. The term 'community' is currently used to mean very different things. It can refer to:

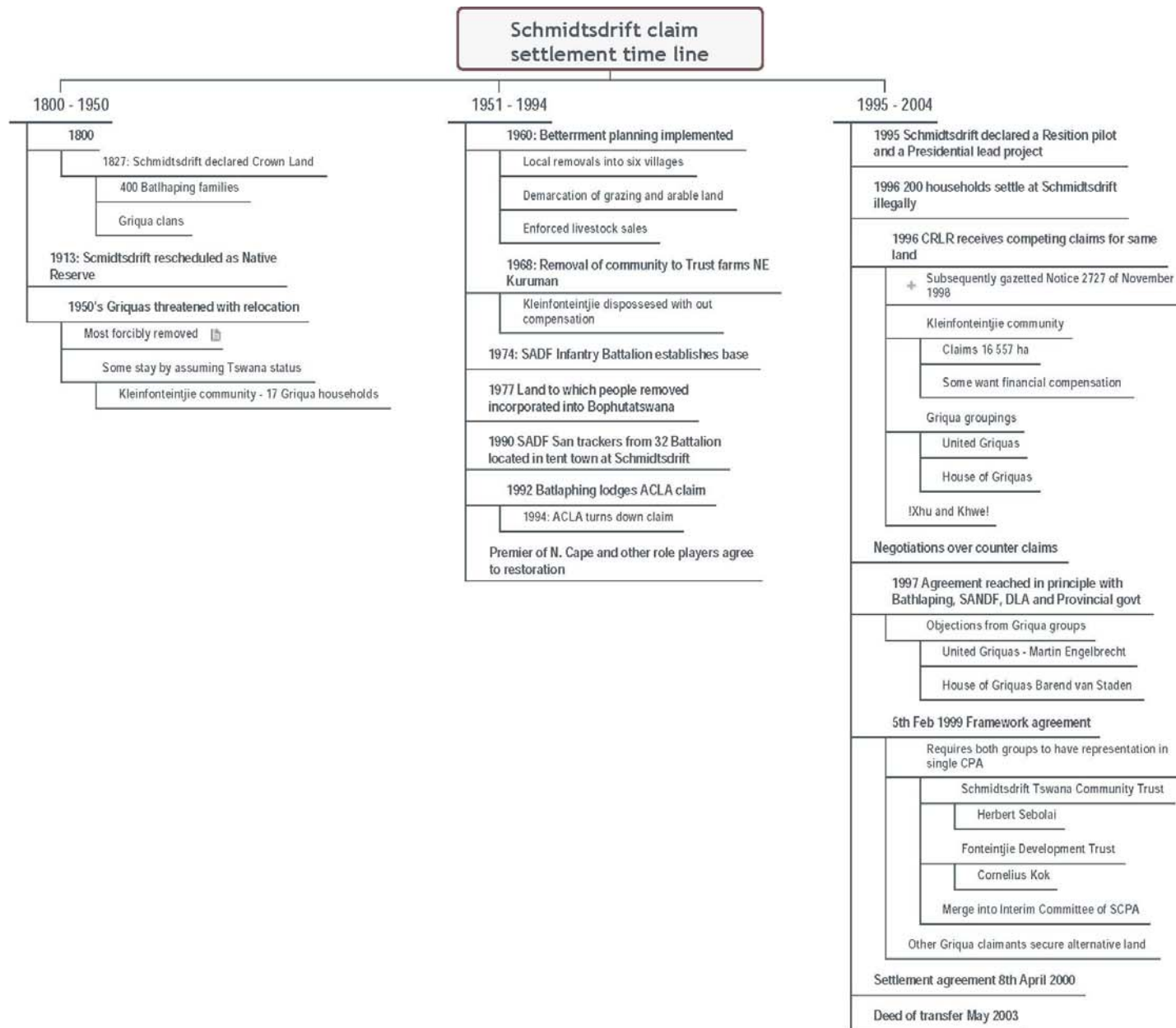
- People who were removed to Kuruman;
- People who returned to live at Schmidtsdrift;
- People in different residential areas on site.

Very seldom do people refer to 'community' in an inclusive sense which recognises the rights of all those who were dispossessed. The inclusive view of community which recognises the rights and coexistence of different groupings is mainly articulated by old people. Mr Segame stated this view in the recent mediation proceedings:

I am the oldest here. You are all like my children. Today, we must not hurt or say bad things about each other. I ask the Fonteintjie children, you are my children. You must not get excited. I am like your father; I know that you came from Fonteintjie. You were not even born there, but your parents were born there. You must not be cross with us. You must also tell your own people, that we are talking to find peace.

Even then, there is a silence relating to the fact that, at the time removal, one group received some compensation while the other received nothing. In such a context major social problems associated with reintegration and resettlement could be expected. However, despite all the warning signs there was no systematic intervention to reduce conflict risk. This has contributed to the uncertain situation today.

The State's attempt to bring parties who had lodged counter claims together in a single claim and with expectations that they would co-operate within a single governance structure reflects government policy of the time. The conflict, which has subsequently dogged the claim in the period following the signing of the settlement agreement, is an indicator of the risks associated with this approach. These are likely to be exacerbated in the context of a large land claim, where the State lacks the capacity to provide adequate settlement and implementation support to the new land holding and business entities. The Schmidtsdrift experience raises questions about what must be put in place to mitigate these risks and enable some expectation of long-term social sustainability.



Chapter 2: Schmidtsdrift socio economic profile

The chapter at a glance

Chapter 2:

- Reviews the available socio economic data on the Schmidtsdrift community;
- Summarises the findings of the Emendo social survey undertaken in 2000;
- Assesses key socio economic indicators from the Census 2001 and the Siyancuma District Integrated Development Plan (IDP);
- Reflects on the implications of the socio economic data and capacity profiles in relation to the human capital requirements to effectively run and manage a project like Schmidtsdrift.

History and socio-economic profile

According to the PLAAS report (2006), the main economic activity of the Schmidtsdrift community prior to removal from their land was livestock farming (goats, sheep and cattle). The Vaal River provided sufficient water for small-scale agricultural and household use. Members supplemented their income by working in the Kimberley diamond mines.

The claimant community consists of approximately 760 households (identified and verified) of which approximately 300- 400 households were living in Schmidtsdrift in 2006/early 2007. The rest of the community members are scattered across Kuruman, Douglas, Campbell, Galeshewe and Kimberley.

Within Schmidtsdrift itself, according to the Bigen report (2000), the majority of the 200 – 300 families residing there were on the farm Schmidtsdrift Lokasie No 22, which is about 1km from the Kimberley / Campbell / Delportshoop intersection. This settlement, known as Zone 4, is directly adjacent to Schmidtsdrift Uitspanning No 23, which was eventually also returned to the community. The Africon 2005 report says around 300 families were settled in Zone 4.

The Bigen report notes that in other areas of Schmidtsdrift small numbers of people with large livestock were living in fragmented rural developments close to boreholes. These small settlements were mainly on the farms Boomplaatz and Plaatdrift.

By mid-2005, 416 respondents had indicated that they intended to live in Zone 4, and 178 in Zone 5. By 2007, according to the RLCC, “a few” of those who want to return to Schmidtsdrift were still in Kuruman in Ga-Sehunelo villages, and the Committee is liaising with them to determine how many want to return and how to assist them. A “good number” are in Kimberley townships, and a third group of claimants, described as being of mainly “Griqua / Coloured origin” are in Douglas and Campbell.¹¹

11 Terms of reference for the appointment of service provider to submit proposals for capacity building / institutional development of the Schmidtsdrift Communal Property Association. Reference: NC/6/5/NC/R0003. Peter Mokomele. Early 2007

The Bigen/ Emendo survey (May 2000)

Bigen Africa Consulting and Engineers and Project Planners were appointed by the Department of Land Affairs (DLA) to prepare a document which would guide the planning process for the resettlement of the claimants in Schmidtsdrift. In the first half of 2000, Emendo Inc Town and Regional Planners carried out a socio-economic survey of just over 770 members of the claimant community in Schmidtsdrift, Kuruman, Kimberley, Douglas, Griekwastad and Campbell 2000.¹²

The table below highlights the distribution of 772 surveys completed

Place	Number	Percentage
Kuruman	151	19%
Pampierstad	1	0.5%
Schmidtsdrift	299	39%
Douglas	64	8%
Kimberley	200	26%
Griekwastad	1	0.5%
Campbell	52	6%
Other areas	4	1%

A summary of the conclusions of Emendo / Bigen's survey follows:

Settlement patterns and period of stay:

- 92% of families living outside Schmidtsdrift had been in that area for longer than ten years;
- 94% of families living in Schmidtsdrift had been there for less than 5 years.

Demographic structure

- 43% of respondents were female;
- The average household consisted of 2,2 persons;
- 57% of people were under 35 years of age, and only 23% were over 50;
- 21% of respondents had matric or higher educational qualifications;
- 57% of adults had not completed secondary school;
- 10% of adults had not been to school;
- 17% of the respondents qualified for some form of pension;
- 02% of the claimants had some form of disability.

¹² *Schmidtsdrift Socio-Economic Survey - Draft*. Prepared by Emendo. May 2000. This includes a database of persons over 18 at the time.

According to the more recent CASP document¹³, the Schmidtsdrift community age breakdown is 24% teenagers, 23% youth and 53% adults including pensioners. It is estimated that there is 2% disability of one form or another in this community.

Economic trends

- Only 27% of economically active respondents had skills;
- Most skilled respondents were artisans (26%) or teachers (16%); 8% had secretarial skills, and 3% had skills related to the health sector. Not all skilled respondents were employed.
- 45% of respondents had what Bigen calls “abilities” such as driving, mining, domestic work, security guarding, machine operating, and dressmaking;
- The unemployment rate among economically active people was 78%;
- 84% of households earned less than R800 per month;
- 97% of households earned less than R3 500 per month;
- Of the households which indicated their source of income (77% of the total), the largest percentage was pensioners (36%), then wage earners (23%).

Existing infrastructure

- 44% of houses had walls made of metal sheeting. At this time, none of the residents of Schmidtsdrift had used permanent material for their dwellings. Claimants in Kuruman, Kimberley and Douglas all lived in houses made of permanent materials.
- Water supply: 82% of respondents had access to potable water; 78% had a tap in the yard and 40% had access to a communal tap;
- Sanitation: 60% of respondents had pit latrines and 32% water-borne sewerage;
- Energy sources: there was no electricity in Schmidtsdrift while most respondents outside Schmidtsdrift did have access to electricity;
- 79% of respondents did not have land line telephone connections;
- 66% did not own any form of transport.

Living conditions and ownership

- 77% of respondents lived in their own dwellings, while 21% were renting rooms;
- 67% owned their dwellings while 33% were renting.

Settlement options

- 97% of respondents said they intended to return to Schmidtsdrift, while 3% preferred financial compensation or alternative land;
- 88% indicated a preference to return as soon as possible while the rest preferred to wait until there was social infrastructure and/or job opportunities;
- 28% of respondents had not decided what to do with their current dwellings; 30% indicated that they would demolish their current homes and use the material to build new homes in Schmidtsdrift; 38% intended to keep their current residence for letting or as a second residence.

Agricultural aspirations:

- 82% of households expressed interest in farming, while 18% had no such interest. Only 21% of respondents interested in farming were interested in irrigation farming, while 79% were interested in stock farming. However only 33% of households were involved in any kind of farming at the time of

¹³ Schmidtsdrift CASP Business Plan, Department of Agriculture and Land Reform, Northern Cape Province. 2008/2009

the survey, while 60% had no experience whatsoever of farming, including small-scale livestock ownership.

- Ownership of livestock: 229 households (36% of the total beneficiaries) owned livestock - a total of about 4 000 goats and sheep, 542 cattle, 151 donkeys, 55 horses and 40 pigs.

Health

The Bigen report noted that a mobile clinic came to Schmidtsdrift once every two weeks. The nearest police station was in Campbell, about 40km away. A pension payout point had been established, but other welfare or poverty relief programmes had not been established.

HIV/Aids

South Africa bases HIV prevalence estimates primarily on the Antenatal Sero-prevalence Survey, an annual survey of women attending antenatal clinics. This survey shows that prevalence in the Northern Cape has almost doubled in the last seven years, rising from 8.60 in 1997 to 16.70 in 2003. The 2003 data emphasizes the heterogeneous spread of the epidemic in the Northern Cape – from the relatively low level of 2.86 in the Namaqua region to the high transmission corridor proceeding north from Frances Baard district, in which the prevalence rate is 21.17%.¹⁴

A community profile is included with Africon's last report in 2005 but the indicators are the same as those presented in the Emendo survey done for Bigen five years previously. Only the numbers of livestock differ.

Reflection on survey data analysis

Unfortunately, analysis of the survey data does not disaggregate the claimant community by residential area in order to enable more closely focused profiles of claimants living on and offsite.

Overall, the data indicates that the majority of the Schmidtsdrift claimants profiled live with low levels of service, are poor, experience high levels of unemployment and have low levels of formal education. A third has livestock while almost 2/3 has no experience of farming whatsoever.

What the survey does provide however is a database of people over 18 as of 2000, which can provide the basis for a membership register that the CPA can update annually.

Socio-economic indicators drawn from Census 2001, included in the Siyancuma Municipality draft IDP for 2006/7

Broader and more recent socio economic data for households in the Siyancuma municipal area highlights Schmidtsdrift's performance in relation to key socio economic indicators as compared to other settlements in the municipality. These confirm the high levels of poverty and unemployment amongst the

¹⁴ Siyancuma Municipality. Integrated Development Plan (Draft) 2006/2007, page 68. The concern with the data in this IDP is that it primarily uses the information from the Census of 2001 which is therefore dated.

residents although unemployment levels have come down in the community since 2000 presumably in response to local mining opportunities.

Income Level	% Griekwastad	%Campbell	%Douglas	%Schmidtsdrift	%Rural and farms	%Siyancuma
No income	24	31	14	42	7	16
R1 - R4 800	8	6	6	6	10	8
R4 801 - R 9 600	23	30	20	16	30	24
R9 601 - R 19 200	21	18	23	15	28	24
R19 201 - R 38 400	12	10	18	7	13	14
R38 401 - R 76 800	6	3	9	6	4	6
R76 801 - R153 600	3	2	5	1	5	5
R153 601 - R307 200	2	-	4	1	2	2
R307 201 - R614 400	0	-	1	4	1	1
R614 401 - R1 228 800	-	-	0	1	0	0
R1 228 801 - R2 457 600	-	-	0	-	0	0
R2 457 601 and more	-	-	-	-	0	0

According to the IDP, 48% of households in Siyancuma are indigent; Schmidtsdrift is extremely badly off with a full 64% of households classed as indigent (compare this with 40% in Douglas, 67% in Campbell and 55% in Griekwastad.)

Employment and activity rates in Siyancuma

Area	% Unemployed	%Employed	%Informal Employeed	Economic Active Pop
Griekwastad	29	18	1	3,074
Campbell	44	11	1	1,047
Douglas	25	38	2	9,734
Schmidtsdrift	34	13	1	1,761
Rural and Farms	10	58	3	6,577
Total	23	38	2	22,192

These figures indicate that around 68% of the economically active people in Schmidtsdrift are unemployed – somewhat lower than the Bigen 2000 figure of a 78% unemployment rate.

Percentage of employment of men and women (Census 2001)

Area	%Employed		Economic Active Pop	
	Male	Female	Male	Female
Griekwastad	19	17	1,413	1,662
Campbell	21	4	481	566
Douglas	46	29	4,899	4,835
Schmidtsdrift	23	4	806	955
Rural and Farms	77	35	3,567	3,009
Total	50	25	11,166	11,026

There are similar numbers of economically active men and women but in Schmidtsdrift there is a huge gender imbalance in employment rates: the unemployment rate of women is far higher than that of men.

Employment per sector and Town (Census 2001)

Sector	% Griekwastad	% Campbell	% Douglas	% Schmidtsdrift	% Farms
Agriculture, hunting; forestry and fishing	1	2	5	0	36
Mining and quarrying	0	-	1	-	4
Manufacturing	1	-	2	-	1
Electricity; gas and water supply	-	-	0	-	0
Construction	2	3	1	-	0
Wholesale and retail trade	3	1	4	-	1
Transport; storage and communication	0	1	1	0	1
Financial, insurance, real estate and business services	1	1	2	0	0
Community, social and personal services	6	3	6	5	1
Other and not adequately defined	-	-	-	-	0
Private Households	3	1	5	1	8
Undetermined	1	1	10	7	5

Not applicable	82	89	62	87	42
Total	100	100	100	100	100

Energy source for lighting (Census 2001)

Energy source	% Griekwastad	% Campbell	% Douglas	% Schmidtsdrift	% Rural	% Siyancuma
Electricity	89	82	84	1	57	68
Gas	-	1	-	-	0	0
Paraffin	-	-	0	-	6	2
Candles	10	17	16	97	32	28
Solar	-	-	0	-	3	1
Other	1	-	0	2	1	1
Households	100	100	100	100	100	100

Telephone facilities per household (Census 2001)

Telephone facilities	% Griekwastad	% Campbell	% Douglas	% Schmidtsdrift	% Rural	% Siyancuma
Telephone in dwelling and cell-phone	9	3	12	-	11	10
Telephone in dwelling only	18	16	16	-	4	10
Cell-phone only	6	8	13	11	8	10
At a neighbour nearby	12	54	12	1	37	22
At a public telephone nearby	50	15	37	79	13	33
At another location nearby	0	3	2	-	15	6
At another location; not nearby	0	-	2	-	4	2
No access to a telephone	5	-	6	9	9	7
Total	100	100	100	100	100	100

Status of water connections in Siyancuma (Census 2001)

Main water supply	% Griekwastad	% Campbell	% Douglas	% Schmidtsdrift	% Rural	% Siyancuma
Piped water inside dwelling	49	6	44	5	26	33
Piped water inside yard	43	86	45	3	39	41
Piped water on community stand: distance less than 200m. from dwelling	4	-	4	46	15	12
Piped water on community stand: distance greater than 200m. from dwelling	1	2	6	40	7	8
Borehole	1	2	-	-	2	1
Spring	-	-	-	-	0	0
Rain-water tank	-	-	-	-	-	-
Dam/pool/stagnant water	-	-	0	-	2	1
River/stream	0	-	1	-	5	2
Water vendor	0	-	-	-	0	0
Other	1	5	0	6	3	2
Total	100	100	100	100	100	100

Only 8% of households in Siyancuma have water supply less than RDP standards with 40% of households in Schmidtsdrift the highest.

Status of sanitation in Siyancuma (Census 2001)

Sanitation	% Griekwastad	% Campbell	% Douglas	% Schmidtsdrift	%Rural	%Siyancuma
Flush toilet (connected to sewerage system)	43	7	76	0	9	38
Flush toilet (with septic tank)	2	-	1	-	14	6
Chemical toilet	-	-	1	1	1	1

Sanitation	% Griekwastad	% Campbell	% Douglas	% Schmidtsdrift	% Rural	% Siyancuma
Pit latrine with ventilation (VIP)	-	2	0	2	21	8
Pit latrine without ventilation	1	2	0	64	21	14
Bucket latrine	49	80	19	1	6	19
None	4	9	3	31	28	15
Total	100	100	100	100	100	100

In the rural areas there is no solid waste removal service, so most households in Schmidtsdrift have their own refuse dumps, which were a health risk as well as a threat to the environment through pollution of groundwater resources (Bigen report, 2000.)

Skills and capacity profile

Level of education in Siyancuma municipality (Census 2001)

Level of education	% Griekwastad	% Campbell	% Douglas	% Schmidtsdrift	% Rural	% N Cape	% South Africa
No schooling	20	18	18	58	23	15	14
Some Primary	27	29	26	20	28	23	22
Some Secondary	34	37	35	9	28	38	36
Completed Secondary	6	5	9	1	6	12	14
Tertiary Qualification	1	0	2	-	3	3	4
Unspecified	11	10	10	11	11	10	10
Total	100	100	100	100	100	100	100

Conclusion

The socio-economic profile of the Schmidtsdrift community graphically highlights the human capital deficit and the need for structured support, if people are to be able to make effective use of their asset base.

Currently there appears to be no reliable contemporary data on the exact number of people currently residing in Schmidtsdrift and their distribution between the five settlement areas. The 2000 Emendo survey compiled a database of everyone over 18 years old. Of 1109 adult individuals with rights in Schmidtsdrift captured in the survey, 376 (34%) were reported to be living on the property.

The Executive Committee's current records show that there are 403 households with stands in Schmidtsdrift Zones 4 and 5 – although they indicate that this listing does not include all. Phuhlisani's own investigations are that there are, in addition, 20 households in Zone 1, 1 household in Zone 2 and 44 households in Zone 3. In total, therefore, the figures indicate that there are in the order of 468 households have been allocated or have occupied stands in Schmidtsdrift. How many of these stands are occupied on a permanent basis is not known at present.

At the time, the Bigen survey indicated that an overwhelming majority of people interviewed offsite planned to return to Schmidtsdrift in the near future. However while some have returned it is also clear there are also many still living offsite, even if they have been allocated a site on the property.

The key questions for future planning and development in Schmidtsdrift are:

- how many more people can be reasonably expected to return to live there;
- how many people will continue to live offsite but make use of grazing and other resources there;
- the extent to which the resource base at Schmidtsdrift can support the projected number of households who may settle there and who will make use of grazing and natural resources on the property.

Chapter 3: Governance, membership and rights

The chapter at a glance

Chapter 3:

- Reviews the history of successive CPA Executive Committees;
- Assesses the CPA Constitution and the extent to which it identifies individual land rights, entitlements and responsibilities;
- Examines attempts to develop and implement policies to guide the management of the CPA and provide a framework for land rights and natural resource management;
- Evaluates the extent to which CPA Executives have been able to transparently and effectively manage the Association's finances and communicate financial information to the membership.

CPA administration

The CPA constitution limits the term of office of an executive to two years. Since the registration of the CPA and the election of the first Committee in March 2002 there have been three committees in office. The tenure of the sitting committee ends in February 2009.

Interim Committee

At the time of land transfer Schmidtsdrift CPA was not yet officially registered and an interim committee, which had been established in 1996, represented the community.

This interim committee comprised:

- Herbert Sebolai: Chairperson;
- GN Melaketso: Vice Chairperson;
- Benjamin Letebele: Secretary;
- Bonita Nero: Vice Secretary (Fonteintjie);
- Emma Mnzana: Treasurer.

Additional members: Batlhaping

- Frank Balepile;
- Walter Mogapi;
- Mosimanegape Matsimo;
- Bella Mokesi.

Additional members: Fonteintjie

- Cornelius Kok;
- Arrie Steenkamp;
- Paulus Steenkamp;

- William Mario Wellen.

Herbert Sebolai, Chairperson of the Interim Committee also signed the April 2000 Settlement Agreement in this capacity.

The Interim Committee adopted a draft CPA constitution on the 6th November 1999, prior to the conclusion of the settlement agreement. This drew a simple distinction between the representation of people living on site and those living offsite.

Clauses 6.5.1 -6.5.4 stipulated that:

- At least 75% of the committee members serving at any given time must be members of the Association. (This allowed for the election/appointment of non-members to the Committee.)
- 50% of the members of the Committee should be drawn from all members not resident on the site;
- 50% should come from people permanently resident at Schmidtsdrift.

The Schmidtsdrift CPA was registered in 2002 in terms of the Communal Property Association Act (Act 28 of 1996). There are indications that from the outset the CPA has been beset with difficulties and conflict. A press report alleged that elections for the first CPA committee in 2001 were abandoned after “an outbreak of violence.” It seems likely that this was probably associated with contestation over the start up of mining activities at Schmidtsdrift, where a confidential heads of agreement between members of the Interim CPA and NDC had been signed a year earlier, but the agreement had not been communicated to the CPA members.

Attempts to secure 50/50 representation

According to the settlement agreement, the CPA Executive was to have to have 50/50 representation of the Batlhaping and Fonteintjie groupings. However as noted above, this was not recognized in the interim constitution registered earlier in 1999.

In practice and from the outset there was no recognition of the Fonteintjie group’s right to 50% representation, guaranteed by the settlement agreement. While there were Fonteintjie representatives on the Interim Committee and the first two CPA Executives the 50/50 representation was never achieved as the provisions of the settlement agreement were never written into the constitution.

Later conflict developed between the representatives of the two groupings represented in the CPA. The Fonteintjie representatives on the CPA withdrew or were forced out depending on how different actors narrate the events. Fonteintjie representatives subsequently declared a dispute with the CPA in March 2006 which remains unresolved at the time of writing this report. This dispute is discussed in the following Chapter. Fonteintjie members are not represented on the current CPA.

First Committee elected March 2002

A ten-member executive committee was elected to manage the affairs of the CPA.

- Chair: Mr. Tshenolo R. Sebolao.
- Deputy chair: Herbert Sebolai.
- Treasurer: Ms Lenah Senye¹⁵

¹⁵ Ms Senye is currently Chairperson of the 2007- 2009 CPA.

- Other members: Kingsley Jogom.

Appointing the first directors to Schmidtsdrift Mining Enterprises

With the commencement of mining at Schmidtsdrift it was decided at a CPA meeting held on 04/05/2003 that Mr GG Mokgoro, (an MPL and Deputy Speaker in the Northern Cape Provincial Assembly) and Mr V Olifant would be appointed to serve on the board of SME with effect from 01/07/2003. On 01/07/2003, Mr GG Makgoro and Mr V Olifant were officially appointed directors of SME.

Conflict in the community

By late 2003 the relationship between the CPA Committee and the community in general was very strained. The CRLR reported that the Committee “faced tremendous opposition from the community”. The CPA offices and vehicles had been broken into; two vehicles were stolen in April 2004. A motion was filed in the High Court by dissenting members of the community calling for the AGM, despite the fact that the date for the elections had been announced. This provides an indicator of a propensity for litigation amongst claimant groupings, which has repeated itself several times in recent years.

According to interviews carried out by PLAAS researchers, two splinter groups developed during this period - the Khuduthamaga (Council of Traditional Leaders) and the Lekgotla la BoRre (Council of Men). These groupings appear to represent people who felt their needs regarding development have not been met and who were hostile to the CPA as an institution – preferring traditional governance arrangements.

(Recent focus group meetings conducted by Phuhlisani (September 2009) indicate that support for traditional governance structures seems strongest in Zones other than Zone 4 – the main urban settlement. These groupings and the associated conflicts are discussed in more detail in Chapter 5.)

Second Committee elected May 2004

The second committee was elected in May 2004. The following people were elected to this committee:

- Chair: Victor Mokgoro (based in Schmidtsdrift)- a former mining trade unionist in the Kimberley area;
- Deputy Chair: Leonardo Steenkamp (Representing Fonteintjie based in Douglas / Campbell).
- Secretary: Susan Mxutu (Based in Schmidtsdrift);
- Vice secretary: Mr Ezekiel Molelekwa (based in Kimberley);
- Treasurer: Sarah Johane (Based in Schmidtsdrift).

Additional members:

- Mr Petrus Moss (Douglas / Campbell). (Representing Fonteintjie based in Douglas / Campbell).
- Mr Obokeng Sebolai (Schmidtsdrift);
- Mr Tatlhego Mpolokeng (Schmidtsdrift);
- Mr Monnawapula Monnawabokone (Schmidtsdrift);
- Mr Samuel Senye (Schmidtsdrift);
- Ms Pamela Lobeko (Schmidtsdrift);
- Ms Lucia Jack (Kuruman);
- Ms Naomi Molusi (Kuruman).

Proposed amendments to the Constitution - May 2004

At this same meeting a number of amendments were proposed to the Constitution – several of which were unimplementable. For example the clauses listed below are mutually irreconcilable.

- Clause 6.5.2 proposed that 50% of members on the committee shall be registered members of the association residing in Kuruman, Kimberley, Campbell and Douglas
- Clause 6.5.3 proposed that 75% of committee members shall be permanently resident at Schmidtsdrift
- An addition to clause 6.13 proposed that at least two members of the Executive Committee should be from the Douglas, Campbell group (aka Fonteintjie)

In March 2006 Fonteintjie Community Trust declared a dispute with the Schmidtsdrift CPA. They requested the intervention of the DLA to effect “a divorce” and secure what they regarded as their “50% share” of the land and a separate title deed.

Third Committee elected February 2007

According to the PLAAS report (2006), the term of the second committee was due to expire in February 2006 after the third AGM. However apparently this AGM did not take place “due to an incomplete financial auditing process and an investigation into the business affairs of Schmidtsdrift”. According to the RLCC, there were fundamental problems in the management of Schmidtsdrift CPA, which became clearer during the auditing process; apparently there was subsequently a ten-month delay in completing the audit for reasons which we have not yet established.

The third and current CPA committee comprises:

- Chair: Tshotlego Lenah Senye. She was the Treasurer of the first CPA Committee but was not a member of the second CPA Committee.
- Deputy Chairperson: Ezekiel Molelekwa, vice secretary in the previous committee;
- Secretary: Keorapetse Jeminah Mokgoro;
- Treasurer: Anemang Fredah Semanego.

Additional members:

- Mr Gakeitsi Elias Mananzana;
- Mr Moikothai Samuel Lewene;
- Mr Mosimanegape August Segami;
- Mr Kagisho Peter Thage - a director of SME;
- Mrs Nkagisang Sannah Modisa;¹⁶
- Mrs Gaarediwe Mavis Moroole.

Councillor: Mr Seitisho Andrew Marekva (Advisor)

The CPA has also appointed Ezekiel Molelekwa and Anna Jack as diamond observers. Diamond observers represent the CPA at the diamond sorting plant alongside NARE representatives to ensure that all stones are properly recorded.

Subcommittees

¹⁶ In January 2008, Mrs. Sanah Modise agreed to serve as a CPA committee member, replacing Mr. Kabelo Balepile who resigned for reasons that are not mentioned in the minutes.

The current CPA has established the following sub-committees. However the role and function of these appears poorly defined.

Agriculture

- Mr Viljoen Johane – in May 2008 he was chairing this sub-committee;
- Mr August Segami;
- Mr Moikothlhai Samuel Lekwene;
- Mrs Keseabetswe Mirriam Alamu (secretary to this sub-committee in July 2008);
- Mr George Mokgoro;
- Mr Joseph Mompoti;
- Mr Samuel Senye.

Conservation

- Mr Emmanuel Motlhanke;
- Mr Gaolatiwe Richard Duiker;
- Mrs Idah Balepile;
- Miss Pulane Jakkals;
- Miss Senmelo Dineo Susun Gert;
- Mr Adolphus Alamu.

Other structures

Meeting minutes indicate the existence of other structures including:

- A resettlement committee;
- A trust committee;
- A community unemployment committee .

Membership, substantive rights and the CPA constitution

Like many CPA Constitutions the Schmidtsdrift CPA Constitution is silent on the substantive rights of the members. The PLAAS (2006) report comments:

“Membership of the CPA vests in households, with each household being considered as a single member. The specific rights of households, or their members, are not clearly defined in terms of what people are entitled to and for how long, their responsibility in terms of the right and under which circumstances the right would be terminated or reconsidered”.

What is often omitted from the rights discourse in land reform are the members' responsibilities. These shadow their rights and ensure that these rights do not erode over time. Currently there is no clear statement of member's responsibilities and obligations. There is a perception that the CPA is responsible for managing the members' assets, but there is no contribution made by members towards the upkeep of the property. It is assumed that this will be covered from continued government intervention or mining revenue which raises serious questions about future sustainability at Schmidtsdrift.

Membership records

Currently there is no up to date or maintained membership register. The Settlement Agreement in 2000 provided an annexure which listed verified households from the Batlhaping and Fonteintjie Communities. In the same year Emendo undertook a socio-economic survey which generated a list of 1100+ individuals in different areas who were *bona fide* members of the CPA. While these provide an important baseline, there is currently no system of keeping these records current, recording deaths of individuals; children who attain the age of 18, applications for membership etc. Likewise there is no membership register which includes residential information at Schmidtsdrift itself. Ideally this should be linked to the township registers in Zones 4 and 5 and to stands demarcated in the other residential areas.

Representation

Currently the CPA Constitution is dominated by procedural rights. A number of amendments were made to the CPA Constitution in 2004. These largely relate to representation on the Executive and in part could represent an attempt to revisit the 50% representation of the FCT, as set out in the settlement agreement.

It is not clear from available documentation how these amendments were made and whether they followed the procedures set out in the CPA Act and the Constitution. However enquiries at the CPA register office in the DLA offices in Pretoria indicate that these were not registered with the DLA as required in terms of the Act.

Access to information/communication

The CPA Constitution Section 16.5 entrenches members' rights to access to information. Evidence indicates that successive CPA administrations have failed to communicate effectively with the membership.

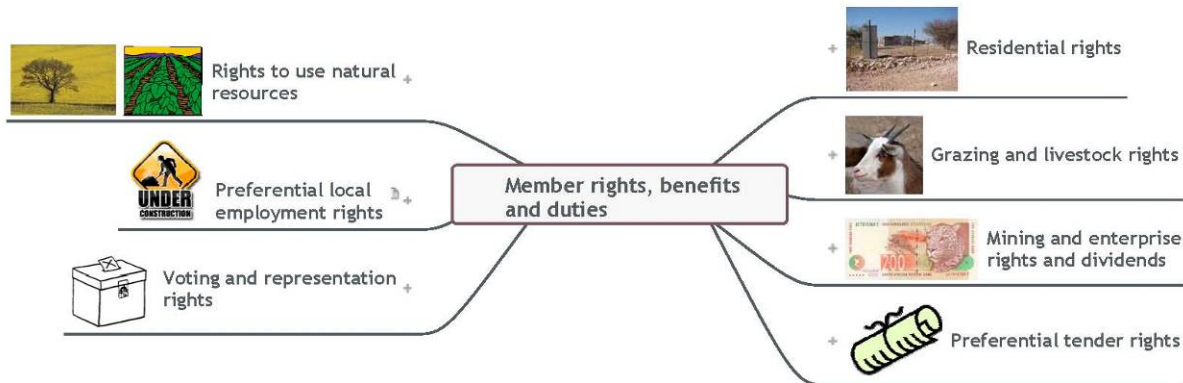
According to the CSIR report (2004) CPA members reported that they did not have access to the minutes of meetings. However according to the CSIR analysis this was rather because members were not informed about their rights, as opposed to an actual refusal on the side of the committee to give provide access to documentation. However, at the same time, there have been instances where key information has been deliberately withheld, including the details of the original deal with NDC which got mining activities in Schmidtsdrift off to such a bad start. This created a climate of suspicion which has been difficult to dispel since.

With regard to outside institutions, it appears that DME has consistently failed to supply the CPA with appropriate information on where and to whom prospecting and/or mining permits were granted, making planning difficult and undermining trust.

Successive mining companies who operated on the property have also not been transparent. According to mine management the Schmidtsdrift mining operations have been characterized by high levels of sabotage by disgruntled members of the community. This in part is a reflection of the secretive start up of the original mining operations, combined with the failure by NDC to honour its obligations to the community, which has tainted mining operations ever since.

Towards a bundle of rights and corresponding responsibilities

As indicated above members' rights remain unspecified and unenforceable. This will require agreement on a basic bundle of rights and duties to which all the members of the CPA are entitled to, or which they are eligible to apply for in terms of agreed CPA policies on rights allocation and management.



Residential rights

These rights must specify members entitlement to a residential site. They must specify the process by which people living offsite must apply should they wish to return. They must clarify how people already living at Schmidtsdrift can apply for sites to allow for population growth and new family formation.

Currently rights, service expectations and responsibilities differ according to the residential area. A process of township establishment is underway in Zones 4 and 5. The CPA's role in future site allocation, township administration and service delivery needs to be made clear.

People living in Zones 1 – 3 currently are not entitled to expect services, other than access to a windpump for water and a latrine. However people in these areas appear disgruntled and expect their current service levels to be upgraded. The CPA will need to decide what constitutes a basic level of services for these areas and determine how services in these areas are maintained in future

Grazing rights

The focus groups that Phuhlisani engaged with indicated that there are currently no written or unwritten rules determining livestock and grazing rights at Schmidtsdrift. There is also no agreement on the grazing ranges associated with different settlement areas and how these are to be managed. Responsibilities of livestock owners and their obligation to pay fees towards the upkeep of fencing and waterpoints have also not been established. However there does seem to be agreement that non members cannot graze their stock on the property.

Access to mining dividends

Currently there is no formal agreement regulating how mining revenues should be disbursed and reinvested, or whether individual members should be entitled to a share of revenue.

Access to game farm dividends

Currently with respect to game, the same situation applies as to the mining income above, although at present there is no revenue being received from this activity.

Rights to use natural resources and irrigable land

The Constitution is also silent on these issues. A wide range of natural resources exist on the property including irrigable land, game, timber, building sand and medicinal plants - use of which remains unregulated. Currently there is evidence of outsiders, possibly with local partners illegally chopping trees

for firewood on the property and selling this in Delportshoop. This highlights dangers of an 'open access regime' developing where there are no controls, which could result in destruction of natural resources on the property.

Preferential employment and tender rights

While there is an employment committee, all the evidence currently points to an inequitable division of employment opportunities between different residential areas onsite and members living offsite.

Policy development

According to an undated document titled *Schmidtsdrift Land Use Policy*,¹⁷ at some time in or after 2001 the Schmidtsdrift CPA "identified a need for a land use policy in order for the management Committee to implement their decisions, policies and allocate resources in an accountable, transparent, ... equitable (and) consistent manner".

The Regional Land Claims Commission held a workshop on 27th August 2004 on policy making at which four areas were identified as requiring policy development: land use; transport; mining; and communication systems between the CPA and the community.

This appears to have resulted in the production of two documents:

- A discussion document on Schmidtsdrift Investment Policy
- Land Use Policy 01 – Assistance to be given to Schmidtsdrift CPA to enable them to hold and manage their land in a sustainable manner.

The Schmidtsdrift Investment Policy

This undated document prepared by the Schmidtsdrift CPA addresses the need for investment in the following areas:

- Land use;
- Agriculture;
- Mining;
- Transport;
- Human Resources Development;
- Nature Conservation.

The policy states that a business plan should be developed by the CPA Executive to source funding and develop businesses. The investment options highlighted in the policy included the following elements:

- The use of land should be contractual and charged for, whether it is used by the members or by private investors.
- Labour-intensive farming should be encouraged to create jobs.
 - The cultivation of lucerne is specifically mentioned as one of the main crops.
- It gives guidelines on the holding and control of livestock to prevent overgrazing.
- The mining policy spells out the relationship between mining operations and community participation. It states that 'agreements (with external partners) should be on a fifty/fifty basis ... and

¹⁷ There is no indication of who prepared this document.

must clearly display in writing the benefits to the community'. *(In other words, 50% to the community and 50% to any external investor.)*

Land use policy

The document notes that this draft policy “shall apply to all registered claimants of Schmidtsdrift CPA and people from outside of Schmidtsdrift who will be participating in all land use activities within Schmidtsdrift”. The stated aim of the land use policy is to provide “broad guidelines to the Schmidtsdrift CPA with respect to the responsibilities of each structure within the association” within the legal framework of the country.

The Schmidtsdrift CPA Committee responsibilities are listed as:

- setting criteria for the use of land by its members on the farm and for outside members of Schmidtsdrift;
- monitoring of sub-committees responsible for :
 - the implementation and popularising of the land policy,
 - receiving and processing land use applications,
 - ensuring the safekeeping of records and equipment related to land use,
 - reporting on a regular basis to the Schmidtsdrift CPA Committee.

Section 5.1 of the document deals with residential land use. A Resettlement Committee, one of the sub-committees envisaged in terms of this policy, is “responsible for all issues related to sites allocation.” The document states that a register of site owners, site numbers and other details must be kept by the Secretary of the CPA Committee, and that sites “will be demarcated for different uses to prevent conflicts in land uses”.

Section 5.2 deals with agricultural land use for crop and livestock farming, and also nature conservation. It is proposed that no land should be leased to people who are not members of the CPA, “but for the first two years from the operation of this policy at least 60% of land can be leased for the benefit of the Community of Schmidtsdrift.”

Point 5.1.2.8 states that there will be subdivision of agricultural land “to control farm size with respect to carrying capacity” and that there should be water rights allocated to anyone undertaking crop farming.

Under the section dealing with livestock, it is envisaged that a Sub-committee will be established “to monitor and manage the daily activities on the farm”. “There will be subdivision of the farms into camps to control overgrazing and soil degradation”. Any fees to be paid by households owning livestock must be paid to the head of the sub-committee “for better management and improvement of the camps”. There must be control over the number of livestock by various means, including a register of all animals owned by members of the CPA.

With regard to nature conservation, it is envisaged that the Nature Conservation sub-committee will determine entry fees to the game camp. Any funds raised through hunting in the game camp “will need to be registered and transferred to the registered bank account of the Schmidtsdrift CPA”. The collection of firewood would be prohibited and areas for braais would be demarcated. The protection of indigenous plants and animals will be promoted.

The second section of the document sets out a very detailed transport policy to govern the use of CPA vehicles, including the establishment of a Sub-Committee chaired by a member of the CPA Committee

with the responsibility of granting authorisation for any use of CPA vehicles. Detailed administrative procedures are described (e.g. the keeping of log books, the preparation of monthly expenditure reports on vehicles, the use of vehicles for private purposes in emergencies, travelling allowances, etc.)

The section on mining policy notes that the objective of this policy is “to ensure that there is local economic development and empowerment to local members of Schmidtsdrift irrespective of gender, colour or creed” while also ensuring the safety of the community and protection of the land.

A mining sub-committee is envisaged with a range of responsibilities including assessing the social and labour plans of prospective mining companies, and ensuring that all mining agreements are signed only after being presented to the community for a mandate. The general meeting is envisaged as the supreme decision-making structure which provides mandates to the CPA Committee and its mining sub-committee.

A draft bursary policy

At some time in 2003, a draft SME/CPA bursary policy was tabled. The purpose was to provide assistance to parents of deserving students to further their education full time at tertiary institutions, and would be available to students who were dependents of Schmidtsdrift residents.¹⁸

Policy assessment

Although different CPA committees attempted to develop policies there is little evidence to suggest that any of these are in force, or have had an impact on land use management and investment at Schmidtsdrift. This is partly a reflection of the loss of institutional memory that seems to accompany every CPA election. Incoming CPA committees tend to attempt to start with a clean slate rather than taking on policies and programmes developed by their predecessors. This is also a reflection of a lack of a handover, training and orientation procedure for incoming committee members.

Presently, there are still no policies or procedures to guide the establishment of businesses in Schmidtsdrift, including small businesses such as funeral parlours. Minutes in June 2008 of an executive committee meeting indicate that it is expected that Phuhlisani and the AGM will give the CPA advice in this regard.

Financial and asset management

It is not possible to comment in any detail on the financial management practices of previous CPA Executives. However it appears from the above that each administration has had to deal with some allegations of financial mismanagement or misappropriation.

For a CPA to effectively manage the Association’s finances it needs to have the capacity to develop a budget and keep monthly books of accounts which will allow for budget to expenditure analysis. The current CPA executive does not have this capacity. It relies on a Treasurer who controls and monitors and expenditure to the best of her ability, and who liaises with Price Waterhouse Coopers, the CPA’s auditors who produce an annual set of financial statements.

Most members of the Executive have low levels of financial literacy. This is problematic given that the CPA is responsible for the management of assets amounting to several million rand.

¹⁸ Bursary Scheme for dependents of Schmidtsdrift residents. Commencement: 1 February 2003.

CPA minutes from different periods reveal some problems relating to financial management. These include:

- Money that had allegedly gone missing from a payment for game which had been shot on the property (date uncertain)
- Misappropriation by the CPA Chairperson and Secretary of R20,000 each in December 2007. They had apparently argued that they had taken the money as a loan. The Deputy Chairperson Mr Mololekwa is on record as stating that is “impossible to borrow money from the CPA”. The CPA Executive ensured that the money was subsequently repaid. A considerable delay of seven months elapsed before this matter was eventually reported to the CPA general meeting. This meeting ended in uproar with demands for the suspension of the Chairperson and Secretary¹⁹ These demands resurfaced during the mediation and almost brought the process to a halt.

Phuhlisani has strongly advised the CPA Executive to appoint a book-keeper to get the finances in order. We advised that this function should be outsourced to a registered professional to prevent further allegations of abuse. To date the current CPA has not contracted a book-keeper, although accounting firms have been approached for quotes to supply this function. It is anticipated that a book-keeper will shortly be appointed.

According to minutes of a CPA executive meeting on 18/06/2008, PriceWaterHouse & Coopers had given the CPA a document to sign to give them permission to investigate the CPA’s finances. The committee was engaged in analysing the document before signing it. The CPA executive discussed ways of reducing the cost of evaluating their financial affairs. Mr Thage volunteered to assist Mrs Semanego and Mr Emmanuel Mothibi with financial matters (cheque requisitions and slips.)

Currently Phuhlisani is not in a position to comment further on the financial management of the current CPA Executive except to state that the current systems and skills are inadequate, given the value of the asset base which the Executive must manage on behalf of the members.

Asset management

It seems there is no asset register. A range of equipment, tools etc are stored in a large shed. However the person responsible for this acknowledged that he could not account for what was stored there.

In 2008 the Department of Education gave the CPA permission to use the prefab buildings on the site; they will become responsible for maintenance.²⁰

CPA financial statements

The CPA financial year ends in August each year.

2003/4

The financial statement prepared for the CPA by PWC for the 2004 financial year ending on 31/08/04 shows that the CPA’s total income was R1 885 454. SME paid just over R1,8m in royalties to the CPA, and game farming brought in just under R21 000. Besides this, there was almost no other income besides

¹⁹ Executive Meeting Held On The 26 March 2008

²⁰ Executive Meeting Held On The 14 May 2008

bank interest. Expenditure amounted to R571 265, with the biggest items being salaries and wages to the value of just under R152 000, and a loss of just under R101 500 on a stolen vehicle.

The balance sheet shows the total value of the CPA's assets (property, plant and equipment, financial assets, cash and cash equivalents) was just over R11m.

The land and buildings were valued at just over R9,5m, with this figure remaining constant in all subsequent financial statements.

2004/5

The financial statement for the 2005 financial year indicates that the CPA's income was R90 000 in royalties, R8 600 for game farming, and a little over R71 000 in bank interests. Expenditure had dropped to just over R291 500. The biggest item of expenditure, salaries and wages, accounted for just over R88 000. The balance sheet shows the total value of the CPA's assets was just under R11m.

2005/6

The financial statement for the 2006 financial year indicates that SME paid R5m in royalties, and just over R71 000 in income is attributed to "financial income NARE (Adamas) (Pty) Ltd"; bank interest brought in over R112 000, and game farming brought in just over R10 000. Just under R3 000 was received from rental income. Expenditure amounted to just over R426 500. Just over R111 000 was paid in salaries and wages. The total value of the CPA's assets was just over R15,7m.

2006/7

The draft financial statement for the 2007 financial year indicates that no royalties had been received, although these were to be paid shortly after the end of the expiry of the financial year. Income of just over R1m is attributed to "fair value gain". There was no income either from NARE (Adamas) (Pty) Ltd. Dividend and investment income amounted to just over R133 000. Bank interest brought in just over R94 000. Just over R14 000 had been received from game farming and rental received for the hall and from MTN. Expenditure had risen to just over R905 000. The two biggest items of expenditure were just under R206 000 on salaries and wages, and just under R180 000 for investment management fees.

Key issues impacting on effectiveness of CPA

A number of issues persistently undermine institutional effectiveness. Several of the issues identified in the PLAAS 2006 report persist two years later. These and others are briefly summarised below.

Lack of management continuity

The term of committee members is too short. The Committee is often replaced in its entirety, or with one person remaining from the previous Committee to provide some continuity. In some cases the incoming CPA team has had to put pressure on its predecessors to hand over documents and transfer signing powers. Each administration assumes office in circumstances which are the equivalent of a 'hostile takeover' in the business world. Key documents which are CPA property appear to end up in the hands of individuals.

Absentee management

The majority of the CPA Executive have tended to live offsite. This has contributed a weak, disengaged and hands off management approach and delays in decision making. The growing divide between onsite and offsite members contributes to the undermining of trust and good working relations.

Management ineffectiveness fuels conflict

PLAAS observed that “various factions developed over time as a result of the community’s disillusion about the CPA executive committee. The community members felt that the CPA did not manage the needs of the community and failed to execute their tasks. As a result, there is a resentment among community members, especially over the lack of progress with housing and services, the lack of local economic development, the ambiguous mining agreement, the ongoing conflict over the lack of management of the grazing land, the lack of assistance with outdated and broken farming equipment and the lack of farming infrastructure.”

These frustrations have been much in evidence in focus groups run by Phuhlisani in different residential areas at Schmidtsdrift and in other locations. The overwhelming sentiment was that people could expect ‘bogger all’ from the CPA.

Membership and rights unclear

As noted above individual rights, benefits and responsibilities have never been clearly determined and the policies, systems and capacity to support a system of land rights and land use management have not been put in place.

Lack of training and support by DLA/RLCC

The situation at Schmidtsdrift is testimony to the national inadequacy of settlement and implementation support for land reform projects. While the RLCC has been able to assist in crisis management, where this has been necessary, the lack of sufficient skilled staff in the Northern Cape office has meant that there has been inadequate ongoing support for the community. This has made them weak in crucially important negotiations over legally binding mining agreements, in building institutional capacity, in managing the resources and resolving conflict.

Lack of systems and procedures

In August 2007, the RLCC stated that there are still no clear policies, systems, or procedures to guide decision-making and daily running of the affairs of the Committee. This is also evident to Phuhlisani as part of our status quo assessment. However the key challenges are

- how to secure active member recognition and acknowledgement of the legitimacy of policies and procedures once they are developed;
- securing the necessary management capacity for effective implementation.

Low skills and management base

In 2006 the previous CPA chairperson acknowledged the lack of leadership especially with regard to the management of assets, the abuse of grazing land and the inability of the committee to create economic opportunities, all of which are negatively affecting the relationship between the CPA committee and the members of the community:

“As the chairperson I try to take the lead but I can’t make decisions. The biggest problem we encounter as a community and CPA is that we as the leadership do not feel we have all the skills to run a town and its community. We are not skilled in terms of our roles and responsibilities and we haven’t received any training in terms of office and legal matters and we don’t know the provisions of the law. It has created

*problems with the community because there were certain expectations for things to happen and they didn't happen*²¹

Mr. Mokgoro suggested that some of the long-standing problems in the CPA could have been avoided if there had been proper training for committee members when they took office. The 2004 AGM resolutions called on the RLCC to carry out a number of urgent tasks, including

- Capacity building of the new committee on management and meeting Procedures, and
- Introducing them to key stake holders and strategic partners

The Commission responded to this by organizing a policy development workshop in August 2004 discussed above. With respect to broader capacity development support, a TOR was issued in 2007 calling for service providers to support the capacity development of the CPA.

Communication and accountability

According to the CSIR report (2004):

The committee makes decisions on behalf of the community and this is done through consensus. Decisions are then shared with the community at regular CPA meetings. The committee sends letters to churches in the area and they put up notices of upcoming meetings. News of an upcoming meeting also spreads through word-of-mouth. Members in the more rural areas of Schmidtsdrift do not always have ready access to this information – they often hear what was said at the meeting when they visit Section 4. From the statements of community members above, it is clear that members do not agree with the decision-making process. They feel that the committee disregards them in this.

The fact that Schmidtsdrift is a large area and people live all over this area makes communication even more difficult, particularly with people who live in the more remote parts of the farm.

Comments arising from interviews carried out by the CSIR indicated that CPA members view the lack of accountability and communication as their main sources of unhappiness with the committee. This continues to be the case. This however is also an indicator of an inappropriate management system which centralises decision making marginalising those who live in areas other than Zone 4. A more inclusive and decentralised approach to management combined with local area budget allocations could go some way to address this.

Inadequate financial management expertise

The low level of financial skills limits the extent to which CPA Executive can develop and manage budgets and plans. It also makes them very cautious about spending the community's money. At the same time it makes them the vulnerable to fraud and suspicious that members or business associates who do have such skills will rip them off. This can create a situation where the Executive perceives that it is safer to do nothing than actively pursue development objectives where there is a risk that things will go wrong.

Conclusion

The CPA still can be regarded as a functioning entity in that:

²¹ PLAAS report, (2006).

- AGMs have been held in most years;
- annual financial statements have been produced;
- a basic policy framework was developed;
- members have managed to elect three CPA Executive Committees;

However the CPA remains very weak and unable to make a management impact. This is aggravated by the range of factors outlined above and by the fact that the Constitution which is the core document guiding the CPA has been fatally flawed by inconsistent and contradictory amendments. This and other factors have contributed to the persistence of unresolved disputes. These are examined in more detail in the next chapter.

Chapter 4: Disputes and contestation

The chapter at a glance

Chapter 4 profiles current disputes and contestations in Schmidtsdrift including:

- The dispute between the CPA and members of the Fonteintjie Community Trust currently represented by Petrus Moss (Chairperson) and Leonardo Steenkamp (Secretary). This revolves around the representation of Fonteintjie members in the CPA and their rights and entitlements in relation to Schmidtsdrift land and economic assets.
- The contestation between the CPA and elements of its membership who are advocating the disbanding of the CPA and its replacement with traditional governance structures under the auspices of the Royal Batlhaping Trust and aspirant Chief V.K Seunelo.
- Contestation over how to allocate rights in Mining Zone 16 which has been set aside for 'community mining'.

The Fonteintjie Dispute

As highlighted in Chapter 1 Fonteintjie Ontwikkelings Trust, the Batlhaping and other Griqua groupings all lodged counter claims on Schmidtsdrift. The RLCC persuaded the parties to negotiate and the land claim was eventually settled through a section 42D settlement agreement.

Prior to the conclusion of a settlement agreement a draft Constitution for an interim CPA was prepared and signed on 6th November 1999. Of a total of 5 interim committee members one person, Bonita Nero the Vice Secretary, was from Fonteintjie. There were 10 additional members – five of whom were from Fonteintjie.

This constitution stated that once elected 50% of the CPA committee should come from people resident in Schmidtsdrift and 50% from members living in other areas – i.e. offsite residents from different areas.

The settlement agreement signed on 8th April 2000 stipulated that the two communities should form one entity on which they were entitled to equal 50/50 representation on the governing body.

The practical interpretation of the 50% representation

Clause 7 of the settlement agreement specifies that the Schmidtsdrift Tswana Community Trust and the Fonteintjie Community Development Trust agree to settle their respective claims through this agreement on the basis that:

7.1 the two communities shall form one entity, governed by a single governance structure constituted on the basis of a Communal Property Association

7.2 the two communities shall each be entitled to equal representation on the governing body of the Communal Property Association or other legal entity

It seems that for the duration of the first two CPA administrations that clause 7.2 was not interpreted strictly as Fonteintjie members never pressed for 50% of the positions on the CPA executive. They never occupied close to 50% of the positions on the Executive.

There is also no documentary evidence we have found of disputes arising between Fonteintjie beneficiaries and other members of the CPA over the issue of representation during the term of office of the first CPA committee under chair of Tshenolo R. Sebolao.

May 2004: The second CPA

Leonardo Steenkamp from Fonteintjie was elected Deputy Chair of the second CPA Committee in May 2004. Mr Moss also of Fonteintjie was also elected to the CPA executive as an additional member.

When the newly elected CPA came into office mining issues were at the top of its agenda. The community had just been awarded rights to mine on its own account on a 480 ha portion of land. As could be expected the prospect of community mining ignited all sorts of debates about how such a venture might be managed and generated expectations about the scale of benefits which could be derived. The community mining venture had the potential to create personal opportunities for individuals who were in a position to broker deals between the CPA and private sector partners who were needed to provide both capital and mining expertise.

Available documentary evidence locates the conflict which developed in the CPA as having its roots in the process for the selection of private sector partners for the community mining venture in which Mr Steenkamp was closely involved.

2005: Conflict over selection of partner for community mining venture

The Commission asserts that Mr Steenkamp, acting on behalf of the CPA, placed advertisements calling for proposals from potential mining partners to partner the CPA and community miners on the 480 ha mining allotment.²² They allege that Mr Steenkamp used his personal contact details as the address to which the proposal should be sent rather than the CPA offices. Similar concerns were minuted at a CPA Quarterly meeting about the role of Mr Steenkamp, in this process. It was alleged that he was dealing with the mining companies at his home rather than at the CPA offices.²³

However despite these concerns the CPA subsequently appointed Mr. Steenkamp to the Board of Directors of Schmidtsdrift Mining Enterprises as a CPA representative in February 2006.

Apparently eight companies responded to the proposal call and four of these were invited to make presentations to a full CPA committee. It is alleged that one of these companies UNITEAM 777 represented by a Mr Snyders was favoured by Mr Steenkamp, despite the fact that a different company from Durban was apparently favoured by other members of the committee.

A second round of presentations was called, to which, apparently only UNITEAM was invited. However the CPA executive would not endorse their appointment. Their decision appeared to be the tipping point for the subsequent dispute. A struggle developed between the CPA executive and Mr Steenkamp over the appointment of Uniteam 777 which eventually resulted in Mr Steenkamp being relieved of his position on the board of Schmidtsdrift Mining Enterprises.²⁴

The re-emergence of Fonteintjie Community Trust

²² Memorandum: NC/6/5/NC/R003 Ministerial Task No 200601453 unresolved dispute between Fonteintjie claimants of Schmidtsdrift and the Schmidtsdrift CPA. Undated.

²³ Minutes of Quarterly Meeting held on 06/08/2005.

²⁴ Memorandum: NC/6/5/NC/R003 Ministerial Task No 200601453 unresolved dispute between Fonteintjie claimants of Schmidtsdrift and the Schmidtsdrift CPA. Undated.

The disputes at Schmidtsdrift which have been framed as being between the CPA and representatives of the Fonteintjie Community Trust originate during this period. (It was the understanding of the Commission that once the settlement agreement was signed the community groups would deregister their respective trusts as they have now formed a common legal entity. Apparently the Schmidtsdrift Tswana Community Trust was subsequently deregistered, while the Fonteintjie Community Trust was not.

Correspondence on file relating to these disputes are drafted by Leonardo Steenkamp and signed by Moss and are always presented on the Fonteintjie Community Development Trust letterhead. Mr Moss is designated as the Chairperson of the trust, while Mr Steenkamp is identified as the Secretary.

In response to a Ministerial Enquiry the RLCC obtained a copy of the Fonteintjie Development Trust Deed from the Master of the High Court which it stated indicates that W.J Wellen is the Chairperson (Voorsitter) and H Jansen is the Secretary (Secretaris). At that time that the trust deed was obtained by the RLCC in 2006 Messrs Steenkamp and Moss were not registered as office bearers with the Master of the High Court.

(Overall however it is doubtful that the failure to register the two with the Master of the High Court is particularly significant. Many Trusts established in the context of land reform are in a similar position where changes in Trustees have gone unregistered. It should be noted that both men were selected as part of the Fonteintjie groups mediation delegation following a pre-meeting attended by over 150 people in Campbell.)

March 2006: FCT approaches Master of High Court

A letter was then drafted by Mr Steenkamp on 13/03/2006, to the Master of the Kimberley High Court and signed by Mr. P. Moss as interim chairperson of the FCT.²⁵ In this letter FCT made a series of demands which they said had become necessary because their Trust was not “proportionately represented in the Schmidtsdrift CPA,” and were not signatories to any CPA accounts; they were also not benefiting from any of the developments on Schmidtsdrift including housing, job opportunities at the mine, and training. Another factor motivating their appeal was “intimidation and wrongful accusations against our members.”

They argued that the FCT is a “fifty percent shareholder in the CPA” and this should be reflected in the Constitution of the Schmidtsdrift CPA which is in conflict with the Settlement Agreement in this regard.

The demands, which they wanted to have included in a redrafted Settlement Agreement, include the following:

- Fifty percent of all revenue generated by the Schmidtsdrift CPA, some of which would be repaid to the Schmidtsdrift CPA by the FCT as a management fee for administering the land.
- Fifty percent of the CPA’s twenty percent of shares in the mining company and in the Game Camp Trust, and fifty percent ownership in of any other businesses the CPA might embark upon.
- The right to be signatories on all CPA accounts.

²⁵ Letter from the Fonteintjie Community Trust of Kimberley to Mr Craig Davids, Master of the High Court in Kimberley. 13/03/2006. RE: Exercising our right as fifty percent owners of Schmidtsdrift in terms of Section 42D in the Settlement Agreement of 8th April 2000

- To be “afforded the opportunity, in good time, to submit to the Annual General Meeting the names of the Fonteintjie Community Trustees that would be representing them in the Schmidtsdrift CPA.”

They also list these statements:

- That Mr Leonardo Steenkamp’s election by the FCT as Director of SME remains in force until the FCT decides otherwise.
- The FCT gives its “unwavering support” to Nare Diamonds to continue prospecting and mining.

March 2006: Fonteintjie withdraw representatives from CPA

The minutes of the CPA General Meeting held on 19/03/2006 indicate that a message from Mr Steenkamp was read to the community, informing them that the Fonteintjie Community Trust had withdrawn their representative until they had a resolution – the minutes give no indication of the nature of the dispute but presumably it centered on the FCT demands.

March 2006: The Master responds

On 22/03/2006, the Office of the Master of the High Court sent the FCT’s letter to the Schmidtsdrift CPA and requested it to lodge its comments within ten days. By 03/05/2006 the CPA had not responded, and the Office of the Master of the High Court sent a letter to the CPA asking them to advise him within ten days “why I should not appoint an additional trustee of my choice in terms of section 7(2) of the Trust Property Control Act no. 57/1988 to investigate this matter for me.”

There were no records of any responses to these letters by the CPA in available files. However, there is a letter from the Chair and the Secretary on CPA letterheads to Mr Steenkamp, dated 18/05/2006, in which they state that “the community has mandated us...to request you to stop your participation on all community issues and also as a (director of the board.)”

May 2006: Letter of demand to CPA from UNITEAM 777

A lawyer's letter dated the 16th of May 2006 from Van De Wall and Partners, attorneys acting on behalf of the Uniteam 777 CC appears to confirm that Mr Steenkamp had promoted UNITEAM 777 as the preferred partner for the community mining deal. The letter, quoted at some length below threatens the CPA with legal action for failure to sign a contract with Uniteam.

"Subsequent to the tender our client was informed that it had been shortlisted to make a follow up presentation to your association. After this presentation it was communicated to our client that it should present a draft agreement, scoping report and environmental management plan. Our client at great expens, (sic) duly and diligently complied.

Our client was informed that it was successful in the tender and that a few minor adjustments to the contract needed to be effected before the final draft would be signed. Your Mr Steenkamp then convened a meeting to discuss the required amendment to the contact (sic). Present at this meeting was Mr Nekosie (the attorney) Mr Snyders and Mr Steenkamp. During this meeting your addisional (sic) requirements was imported into the contract in the final contract was handed to Mr Steenkamp to present to you for signing. This was approximately 3 months ago. Our client has in the interim and in preparation for the commencement of the operation acquired the necessary equipment and machinery (sic) for the project. These acquisitions (sic) amounted to millions of rands as only the best equipment and machinery would be used.

Despite having complied with all your requirements and having been informed that it is successful (sic) in the tender you have failed to present the signed contract and consequently the operation could not commence. No reason for your failure to present the signed agreement has been forthcoming.

We have been further instructed to inform you, and hereby do so that should you fail to comply by signing the contract by 29 May 2006 legal action will be instituted to recover the expenditure incurred by our client, pursuant of the agreement”²⁶

May 2006: Other letters of demand

An exchange of letters between the legal representatives of Mr Steenkamp and the CPA followed. On 24/05/2006, there had been a meeting between Mr Steenkamp and unnamed representatives from the CPA at the offices of Kimberley attorneys Robertson Du Toit, at which Mr Steenkamp apparently threatened to take legal action against the CPA unless they withdrew their notification of termination of his services as a director on the SME Board. The CPA refused to do so, and made it clear that any legal action would be “most strenuously” defended.

A final letter of demand, dated almost exactly one year later, drafted by C. Karamanolis and Associates on behalf of the FCT.²⁷ This stated that unless the claims listed were settled by the CPA by 08/06/2007, further legal action would be taken. The claims are as listed in the March 2006 letter, with a possible slight difference in the grounds on which they demand that the CPA constitution be altered to reflect their status as a “fifty percent shareholder in the SCPA,” “contrary to the status quo wherein you constituted the SCPA *without consulting our client* and thereby breaching the provisions of the Settlement Agreement in terms of Section 42D of the Restitution of Land Rights Act of 1994”.

In October 2006 letters signed by P Moss as chairperson of the Fonteintjie Community Trust but which cite Mr Steenkamp as the contact person were sent to the Director-General of Land Affairs, the Chief Land Claims Commissioner and the President. This correspondence repeats similar demands to those made to the Master of the High Court outlined above. In addition they request “a divorce on the grounds of irreconcilable differences between the Fonteintjie and the CPA.” The letter proposes that Fonteintjie be entitled to 50% of the land and that this ownership should be recorded in a title deed separate to that of the Schmidtsdrift CPA.

August 2007: The Commission’s response

The Chief Land Claims Commissioner responded to this correspondence on 24/08/07 as follows:

“Your correspondence to the Regional Land Claims Commissioner, the Chief Land Claims Commissioner, to the Director-General of the Department of Land Affairs and to the President of South Africa on the above matter has reference.

The Regional Land Claims Commission has gone over both the Section 42D Memorandum and the Settlement Agreement of Schmidtsdrift and it is clear that the Fonteintjie Community Trust reading and interpretation of these documents is incorrect. At the time of the settlement of the claim both the Fonteintjie Development Trust and Schmidtsdrift Tswana Trust agreed to collapse their trusts and form one legal entity called the Schmidtsdrift Communal Property Association. The Fonteintjie Trust’s

²⁶ Van de Wall and Partners 16 May 2006 Uniteam 777: Consolidated Farm Schmidtsdrift No 248

²⁷ Letter from C. Karamanolis & Associates addressed to the Chair, Sdft CPA. Date: 25/05/2007. RE: Letter of Demand. Our Client: Fonteintjie Community Development Trust.

request was to have equal representation in the CPA committee. This was agreed to and made part of the conditions of settling the claims and that is how it reflected on the settlement agreement and section 42D. The agreement does not talk of shares or shareholders should be in terms of assets and property.

The Fonteintjie claimants are already owners of Schmidtsdrift through the Schmidtsdrift Communal Property Association and in terms of settlement agreement. As it is, the Fonteintjie claimants are benefiting from the Schmidtsdrift with some of them residing there, working and grazing their livestock there. Nothing prevents any member who has been verified and accepted by the Communal Property Association from benefiting from Schmidtsdrift.

On the issue of cutting up Schmidtsdrift so that the Fonteintjie claimants can be allocate (sic) a piece of land separately, we would like to state that it is not the policy and intention of the Commission or Government for that matter to support divisions and creation of the enclaves for specific groups as restitution is about reconciling the nation”.

The letter added that, "The regional land claims commission will be ready and willing to facilitate any meeting between the Schmidtsdrift Communal Property Association and the Fonteintjie claimants within Schmidtsdrift to resolve any issues of dispute". The letter also noted that, "It would be in the Fonteintjie claimants interest to work with the Regional Land Claims Commission to find a solution to the representation issue in the Committee and any other matters. The sooner this is done the better as it will enable you to participate in Schmidtsdrift developments."

July 2007: Final Letter of demand UNITEAM

With regard to the Uniteam 777 dispute, in July 2007 a final letter of demand for R38 000.00 was received by the CPA Committee from Mr Steenkamp for services related to the finding of a strategic partner for mining Zone 16 in Schmidtsdrift between April 2005 – October 2005. According to this letter, Uniteam "777" Mining was recommended by the then Schmidtsdrift CPA Committee as the strategic partner. ²⁸

May 2008: CPA summonsed

Lawyers acting on behalf of Mr Steenkamp served a summons on the CPA to appear in court on the 23rd of May 2008. Lawyers representing the CPA presented the exceptions to the summons but in a letter dated 30/05/2008 the CPA's attorneys record that "the court heard arguments regarding the notices of objection to the plaintiff's summons on the 23rd of May 2008. The court found in favour of the plaintiff and both exceptions were accordingly dismissed. We are in the process of appealing the decision of the magistrate and have requested written reasons to be delivered."

Reflections on the Fonteintjie dispute

This dispute is complex because it involves the legitimate demands of the Fonteintjie group to honour the terms of the settlement agreement. However the dispute has been confused by the conflation of 50% representation on a management structure by 12.6% of the members which was entrenched through the settlement agreement with a 50% share in the land and mining revenues which has no basis in law and which is clearly unreasonable.

The dispute has been further confused by allegations which relate to individuals. This includes Mr Steenkamp's alleged promotion of Uniteam 777 as the preferred tenderer for the community mining

²⁸ Letter of final demand addressed to the Schmidtsdrift CPA from Leonardo Steenkamp. Date: 06/07/2007

project. This alleged lack of transparency surrounding this matter appears to have aroused suspicion which contributed to the decision by the CPA Executive to remove him from his position as a Schmidtsdrift Mining Enterprises Director. This prompted demands for compensation by Mr. Steenkamp apparently in his personal capacity. Overall the conflict over this matter contributed to the withdrawal of Fonteintjie representatives from of the CPA and subsequent petitioning and legal action premised on demands for “divorce” and independent land rights.

Some have been tempted to dismiss the Fonteintjie dispute as a personal matter between Mr Steenkamp and the CPA. However this is too simplistic a reading of the situation. It seems clear that both historically, and from the outset of the claim settlement process Fonteintjie representatives have been a minority. With the exception of a few larger livestock owners based in Douglas, and some people that have returned to Schmidtsdrift No.4, it seems that very few of the former Fonteintjie grouping can be said to have benefited in any material way from the claim to date.

The clause in the settlement agreement which gives a minority 50% representation in the governance and management of the claim through the CPA committee is the legal foundation for the dispute. Even though the clause is worded to say that Fonteintjie members are *entitled to equal representation* - which could be taken to imply that they will need to actively seek to achieve this rather than automatically being accorded 50% of the executive positions - the dispute has placed this matter of firmly on the agenda for the future.

At no stage after the registration of the CPA did Fonteintjie claimants ever have 50% representation on the management body. One is tempted to speculate that this was a reflection of the reasonableness of the Fonteintjie representatives who negotiated the settlement agreement and the terms of the interim CPA constitution. It may be assumed that they were cognisant of the fact that they were a minority and that while their representation was important on the CPA they were not comfortable with pushing for their full 50% entitlement. However subsequent events have pushed this entitlement into the foreground.

There is also a dimension to the Fonteintjie conflict which has not surfaced above. This relates to the relocation of the game farm to the area which it now occupies. This is on a portion of land which was originally claimed by the Fonteintjie Community Trust and is an area where members of the Fonteintjie community appear to have had usufruct grazing rights historically, and since the settlement of the claim.

It is alleged that the relocation of the game farm went ahead without sufficient consultation with the Fonteintjie members. This may have been as a consequence of the above dispute. Whatever the reason this has meant that an ongoing struggle has developed over grazing access to this land. Central to this is Mr Kok from Douglas who has been grazing a substantial number of livestock in this area for several years. However with the advent of the game farm he alleges that he found his stock had been driven out of the game area leaving him no access to the grazing land to which he claimed grazing rights. Mr Kok has since found ways to re-enter the fenced area and to continue grazing there. This matter will need to be addressed, with respect to the land rights determination of individual members and the future management of the game area.

Governance and development related conflicts

Vincent Sehunelo and attempts to establish a chieftainship of the Batlhaping

Vincent Sehunelo's father was a traditional leader appointed under the homeland system in Bophuthatswana. According to Peter Mokomele of the RLCC it was very clear that this position was not

hereditary and that Sehunelo snr. had not been born a recognised traditional leader. His letter of appointment had apparently specifically stated that should he retire or die the whole issue of traditional leadership would need to be reinvestigated. When Sehunelo snr. retired the people in Kuruman had a referendum and decided that they did not want a chief. They opted for a traditional council instead. Following this decision two people were paid by government to act as traditional councillors in Kuruman.

After his retirement Sehunelo snr apparently stayed in Kuruman for a couple of years. However in 2003 he approached the community in Schmidtsdrift and asked for recognition as their chief. The community decided to accept him and allowed him to come to Schmidtsdrift. For about two years he reassumed his position as chief before saying that he wanted to be paid by the CPA as a traditional leader. The community was unwilling to accommodate this. As a result he left the position and returned to Kimberley, where he died.

During this period two groups of Schmidtsdrift residents sent formal objection letters to the regional manager of the Department of Minerals and Energy in Kimberley. Lazarus Dibako²⁹, the secretary of Lekgotla la BoRre a community based grouping aligned with traditional authority lobby, stated that their organisation strongly opposed the issuing of mining rights to NDC because the community's "right to exist (had) been grossly violated." The mining operations were detrimental to livestock, the environment in general and potential crop farming because "rehabilitation of the land is treated with contempt".

Similar complaints were recorded by the group calling itself Schmidtsdrift Youth in an objection letter signed by Masego Selebogo and Boitumelo Letebele. Their complaints included a lack of job creation for the youth, no funding for youth programmes, damage to graves, and the appointment of "white contractors".³⁰

In the troubled run-up to the 2004 CPA elections representatives of Khuduthamaga and Legotla le BoRre both supportive of traditional leadership filed a motion in the Kimberley High Court against the CPA and the RLCC, calling for an AGM which was reportedly overdue. However since a date had already been set the Kimberley High Court dismissed their motion with costs.

After their unsuccessful court action, the two groupings faced the problem of how to pay their legal fees. The sheriff was subsequently instructed by the Court to attach cattle and property belonging to Balepile and 14 others who had been closely associated with the court action. In a household interview recently conducted by Phuhlisani in Zone 1, a woman whose cattle had been attached blamed this on the CPA. Her rationale was when the sheriff arrived to attach the stock he was guided to the place by a member of the CPA executive. It appears that as each of the actors suffer setbacks these feed their sense of grievance and injustice and lay the group for a new counter-offensive. As the PLAAS report (2006) notes, this incident "highlighted the strained relationship of the CPA with its members" which persists today.

The Chairperson's report at the 2004 AGM which was eventually held without disruption noted that the issue of traditional leadership would have to be discussed with the whole community. In the discussion that followed a speaker at the AGM was minuted as stating that it was necessary to "break" the Khuduthamaga (Council of traditional leaders) and the Lekgotla le BoRre (Council of Men.)³¹ It appears

²⁹ reportedly a mechanic employed at the mine

³⁰ Objection letters. From LEKGOTLA LA BORRE and Schmidtsdrift Youth. No date, probably 2003. Addressed to the Regional Manager, Department of Mineral and Energy. RE: Objection to issuing of a mining right

³¹ Report on the Schmidtsdrift CPA

that the issue of how to accommodate those with aspirations for traditional governance structure was never properly dealt with.

About two years after the death of his father, his son Vincent Sehunelo approached the CPA requesting that he be recognised as their traditional leader. Peter Mokomele of the Commission chaired this meeting on behalf of the community. Apparently Sehunelo was asked lots of questions but principally these focused on how he had not made the correct approach in terms of Tswana custom. The recognised process in cases where leadership is hereditary is for the brothers of the deceased chief to decide who should be put forward from the family house. Once this has been decided within the family, the brothers then make approaches to the traditional council to accept this person as the bona fide chief. Members of the CPA also stated that they did not have jurisdiction in this matter and referred Sehunelo to the traditional council.

Apparently should anyone want to propose the reestablishment or the appointment of a chief for the Batlhaping then the referendum, which was held in Kuruman and which resulted in the appointment of a traditional council, would have to be revisited. Currently it is only possible to have one traditional institution for the Batlhaping, so that if a chief was appointed the traditional council would have to be dissolved.

Vincent Sehunelo is currently not a recognised chief and it is understood that he is currently in the process of consulting with the Provincial committee which deals with leadership disputes to try to establish his bona fides. However, according to the RLCC, the outcome is predetermined given that his father was not a hereditary leader.

As dissatisfaction has grown amongst members because of perceived non delivery by successive CPAs people favouring the installation of a Chief began to regroup for a renewed institutional challenge against the CPA.

In this current phase they have chosen a new vehicle to mount the challenge – the recently formed Royal Batlhaping Trust. It appears that while Trust supporters believe that this could help facilitate restoration of traditional governance, they also regard the Trust as an alternative centre of power given that it is a registered legal entity. Supporters of the Trust envisage that if they can secure a vote of no confidence in the CPA the Trust which they have established would be well positioned to take over from it.

The Royal Batlhaping Trust - Traditional governance v. the CPA?

In June 2007, the legal representatives of a group of beneficiaries identifying themselves as belonging to the “Batlhaping Boo Moduane tribe” wrote a letter to the DG Land Affairs in Pretoria, stating that their clients had declared a dispute with the CPA Committee, and requesting the DG to intervene.

They alleged that in May 2007, “the tribal council” had applied to the CPA for a venue to hold a meeting but were refused. They argued that this violates specified clauses in the CPA constitution as well as a clause in the Schmidtsdrift title deed which reads:

“That the Sivonel alias Sohunel and his then following shall continue in the full use and enjoyment of their village, church building, huts and cultivated lands, and shall also continue in the enjoyment of grazing for their stock.”³²

³² Note that this endorsement on the title deed originally only applied to Sivonel Location No 43.

Other grievances cited in the letter included a refusal to give the group financial statements at the AGM held earlier in the year, and the CPA committee's intention to spend money "that is interest on an amount invested." ³³

December 2007: Preparing to establish a Trust

On 01/12/2007 a gathering referred by the organisers as the "Batlhaping Boo Moduane" meeting was held.³⁴ The attendance register was signed by 155 people, quite a few of them from Schmidtsdrift.

Reference is made to the "inauguration of the Batlhaping Boo Moduane Chief V.K. Sehunelo" at the top of the minutes. It appeared that supporters of Vincent Sehunelo, also referred to as the "King" in the minutes, were rallying support for an inauguration. However it appears that the main objective of the meeting was to obtain popular support for moves to replace the elected CPA Committee with an authority based on traditional leadership, exercised through the legal establishment of a Trust. It is evident that the organisers expected these moves to be bolstered by the imminent establishment of a House of Traditional Leaders in the Northern Cape.

The meeting was chaired by Mr. Letsatsi Senye, and the main guest was Advocate Raymond Parks or Parkers who had assisted the Baphalane community in the Phokeng area "with their legal land rights," which are described as being similar to the situation in Schmidtsdrift.

The minutes record that there was "general support for the immediate inauguration of Mr. VK Sehunelo due to the misuse of the community's land, property, and theft of their monies by the CPA committee members", who were apparently criticised as incompetent by "most of the community members."

The minutes say that the key concern of those present was the impact of mining operations, described as "random diggings on the land which (are) negatively affecting our ancestral graves, livestock (and) environment." Mr. H. Sebolai, the chair of the interim CPA committee (which was in place before the first elected CPA Committee), reportedly said that he had been mistaken to sign agreements for mining to take place without a community mandate.

The advocate apparently advised the meeting to form a trust "on behalf of the whole community." The minutes state that the meeting was told that a trust is a legal entity recognised by national government and which also "recognises the traditional leadership's customs and culture of the community in its constitution". He advised the community to elect a trust committee "so the elected must be trained as soon as possible." The minutes say that fifteen members were elected to a Trust Committee which the advocate would register.

The resolutions taken at this meeting were:

- To form a trust "to be the legal entity to control the community affairs";
- To write and register a constitution by the trustees;
- To appoint a consultant to advise on management;
- That the trustees should appoint contractors for all projects.

33 Letter from Mr. SL Cengcani of Cengcani and Associates (Kimberley) to the DG, Department of Land Affairs in Pretoria. 12/06/2007.

³⁴ Minutes of the "Batlhaping Boo Moduane" meeting. Inauguration of the Batlhaping Boo Moduane Chief V.K.L. Sehunelo. Date: 1 Dec 2007. *These minutes were one of the attachments to a letter sent from the Schmidtsdrift Batlhaping Trust to the Schmidtsdrift CPA Secretary on 16/05/2008.*

February 2008: Enter the Directorate of Traditional Leadership and Institutions, Office of the Premier

By the beginning of February 2008, Vincent Sehunelo had been in contact with the Directorate of Traditional Leadership and Institutions in the Office of the Premier of the Northern Cape. Mr. CP Pholoholo, who heads this Directorate, contacted Mrs. Senye, Chairperson of the CPA and then sent a written confirmation of a meeting to be held on 21/02/2008 in Schmidtsdrift between the Directorate, the Committee and a delegation of Mr. Vincent Sehunelo to discuss complaints he had raised about the use of the community hall “and other issues in general”.

April 2008: Batlhaping Trust proposal to dissolve CPA

On 22/04/2008 the CPA Committee received a letter from the Schmidtsdrift Batlhaping Trust inviting them to a meeting, to which Land Affairs had also been invited, to discuss the dissolution of the CPA Committee, and an urgent general meeting of the “residents and beneficiaries of Schmidtsdrift”. The Chair of the Trust at this time was Kagiso Jogom and the secretary Agisanyang Mabilo.

In response, the CPA Committee demanded a list of documentation to prove the legal status and credibility of the Schmidtsdrift Batlhaping (Community) Trust before any meeting could be held, including proof of registration of the trust as a legal entity, evidence of being mandated by registered members of the community of Schmidtsdrift, as well as their reasons for demanding the dissolution of the CPA.

The CPA received a response dated 16/05/2008 from the Schmidtsdrift Batlhaping Trust to its demands for documentation. The letter lists the reasons for the demand for the dissolution of the CPA Committee:

- All CPA Committees since 06/11/1999 had failed to make any improvements to the lives of the community of Schmidtsdrift;
- Natural resources owned by the community have not been used to the benefit of the community;
- The constitution of the CPA Committee was imposed on the people of Schmidtsdrift, not drafted by them, and was signed by only one person – the first chair of “the so-called CPAs.”

The letter asserts that the Trust refuses to recognise the Constitution of the CPA Committee, and that “Schmidtsdrift is a land which was led by Traditional leaders with peace, love and dignity amongst the people”. It further claims that irrigation and other forms of farming should be prioritised “because traditionally we people of (Schmidtsdrift) are farmers”.

Documents attached to this letter indicate that the Trust is legally registered, but the date of registration is not indicated on the documentation provided. A Letter of Authority has been obtained from the Department of Justice and Constitutional Development in terms of the section 6(1) of the Trust Property Control Act, 1988 (Act 57 of 1988) certifying that a list of 15 people are authorised to act as trustees of the Schmidtsdrift Batlhaping Community Trust. A document titled “Minutes of the ‘Batlhaping Boo Moduane’ meeting” on 01/12/2007 was also attached, along with the attendance register of this meeting.

June 2008: Meeting with RLCC on status of CPA

Late in June 2008, a meeting was held with Peter Mokomele of the RLCC to discuss issues around Sehunelo and the Batlhaping Trust. The minutes indicate that there was some discussion of the origins of the “Batlhaping Trust.” Miss T.T. Mdali told the meeting that they had previously raised issues as community residents, and that Mr. Molelekwa had been one of the people who advised them to register as an organisation so that they could be recognised, and “now they call them Batlhaping Trust.” (sic)

Mr Mokomele had received a letter from the Batlhaping Trust which he read to the meeting. It appears the following allegations were made:

- None of the CPA Committees to date have done anything to improve the quality of life of the people who moved to Schmidtsdrift;
- The Constitution of the CPA “was not drafted by the people of Schmidtsdrift”;
- The CPA committee should be dissolved;
- Agriculture should be facilitated.

The minutes indicate that Mr.K. Jogom commented that there was “no need to talk about the CPA’s leadership, as anyone can see for the past 11 years there is no improvement”; the CPA committees have only been focusing on the residential projects of number 4 and number 5. He proposed that the CPA committee should be dismantled and that another structure should be formed to replace the CPA committee.

Mrs. Alamu apparently questioned whether simply replacing the CPA with another structure would make any difference. Mr. Jogom outlined his concept of an alternative structure: there would be “sub-structures for different departments” with one person overseeing all these sub-structures.

Other complaints, presumably made by the Trust, were then discussed but there is no detail in the minutes. The issues are listed as follows:

- Financial statements have never been approved by the community;
- The CPA committee’s “lack of capacity”;
- On mining issues there is no proper management “and there is an in and out of the white people coming to (mine) in Schmidtsdrift.”

Conclusion

It is clear from the account of the conflicts above that Phuhlisani’s task of developing policies and procedures, aligning plans and building the capacity of the CPA will be unable to proceed smoothly without a properly mediated resolution of the various disputes and contestations.

This may also need to extend to a negotiated solution to resolving rights to small mining which is discussed further in the next Chapter. However we have consulted with Garamatale Small Miners Association who have informed us that they do not regard themselves as being in dispute with the CPA.

As a first step in this regard Phuhlisani engaged Roger Chennells to undertake an initial mediation process in the week of the 20th – 24th October 2008. This set the scene for the reworking of the CPA Constitution and the clarification of rights, benefits and representation.

Chapter 5: Mining

The chapter at a glance

This chapter provides:

- A chronology of mining activities at Schmidtsdrift
- An assessment of mining revenues received to date
- A review of rehabilitation and environmental impacts
- A history of community mining proposals and options in this regard

Background

Mining is a key factor in much of the conflict and contestation at Schmidtsdrift. One locus of struggle revolves around the capture of mining benefits. This is characterised by the formation of shifting social and political alliances to:

- Secure positions on the CPA Executive and directorships on Schmidtsdrift Mining Enterprises to gain proximity to opportunities associated with mining revenue
- Obtain privileged rights to community mining
- Obtain direct employment on the mine and improve wages and working conditions.

The other source of mining related conflict is a consequence of the exclusion from mining benefits of the overwhelming majority of claimants. Those who are excluded emphasise the negative impacts of mining on the environment; the desecration of graves, the loss of grazing and livestock. They perceive that it is principally (white) outsiders and their cohorts who benefit from the diamonds extracted from the claimant's land. For this marginalised majority mining is associated with continuing narratives of external control and dispossession. From this perspective the combined experience of the negative impacts of mining and exclusion from its benefits makes mining activity a focal point of resistance to the CPA which is the institution perceived to be legitimating and benefiting from mining activity.

A general lack of communication and information about mining activity and the revenues which have been accrued, combined with significant social mistrust, further fuels the conflicts in this respect.

The mining context

Mining operations at Schmidtsdrift involve the extraction of Alluvial Diamonds from the Vaal River Gravels, which are very unpredictable and difficult to mine. Diamond mining in the Vaal Gravels is capital intensive (due to depth of overburden and hardness of material, specifically overlying calcretes) and high risk. Some sections of gravel may yield poorly but there is no way one can predict yields without first digging up the ground and processing it.

A massive amount of material has to be dug up using heavy equipment and processed. Between 200 000-250 000 tonnes of material are processed per month. Just 0.5 carats diamonds are extracted for every 100 tons of material mined and processed. Profitability hinges on finding large stones.



Alluvial diamond mining is an expensive undertaking. Monthly operating costs are between R 12-13 million per month under normal conditions, but can increase to R18-20 million when breakdowns and repairs occur.

Since Nare took over they have invested between between R 200 and 250 million over last 2 years and spent about 22 million on exploration.

Mining operations as of July 2008 employed 220 staff, 118 of which come from Schmidtsdrift and the remaining 102 from the surrounding area. Workers from Schmidtsdrift are transported to and from site at the cost to NARE/Lonhro. Outside workers stay in hostels and transport is provided to enable them to return home every second weekend.

The mine runs 24/6 in two twelve hours shifts, Monday-Saturday.



Mining at Schmidtsdrift - A chronology

Mining at Schmidtsdrift started off under the auspices of a narrow definition of 'black economic empowerment' with the formation of the New Diamond Corporation (NDC) which acquired Schmidtsdrift alluvial diamond mine through one of De Beer's first BEE deals. NDC directors included Tiego Moseneke, Vincent Msibi, a Mmabatho-based doctor, and Ronald Suresh Roberts, lawyer and writer. Other NDC directors included Kennedy Memani, Murray Coutts-Trotter, Gavin H Pieterse and Alan Smith, the CEO.³⁵

NDC comprised New Diamond Holdings, Letlotlo Investment Holdings, African Renaissance Holdings, and Transcontinental Diamond Corporation.

1999 - 2000 The confidential Heads of Agreement and Schmidtsdrift Mining Enterprises (Pty) Ltd (SME)

On 12/10/1999, prior to the settlement of the land claim, NDC concluded a confidential Heads of Agreement with representatives of the Schmidtsdrift Interim CPA. The agreement was signed by the

chair of the interim committee Herbert Sebolai and general secretary Benjamin Letebele “for and behalf of the Schmidtsdrift Community... who warrant that they are fully authorised.” However the evidence shows that members of the CPA were not informed of this agreement until more than a year after its signing.

In terms of this agreement, the parties agreed to “develop, on an exclusive basis, a diamond mining business in Schmidtsdrift.” They established the Schmidtsdrift Mining Company to undertake exploration and mining in Schmidtsdrift. It was agreed that the NDC would hold 80% of shares and the Schmidtsdrift community 20%. The Schmidtsdrift Mining Company was subsequently renamed Schmidtsdrift Mining Enterprises (Pty) Ltd (registration number 1999/0243344/07) by special resolution in June 2002.

The agreement also committed NDC and the CPA to establish the Schmidtsdrift Development Company (SDC), which would be wholly owned by the Schmidtsdrift community. SDC’s role was to “investigate and subsequently develop non-mining business activities in the area which may include agriculture, quarrying and related activities.” It does not appear that this development company was ever formally constituted.

With regard to royalties, it was agreed that the Schmidtsdrift Mining Company would pay 5% of diamond sales to the Development Company. Both parties agreed to strict conditions of confidentiality. In terms of clause 9, it was agreed that neither of the parties would issue any press release or other public announcement regarding the agreement “without the prior written approval of the Company.”

On 10/02/01 a meeting to discuss this agreement was held between Tiego Moseneke and an “ad hoc committee” of twenty people, chosen at an earlier meeting held on 17/12/2000. Mr Moseneke read out the Heads of Agreement clause by clause, translating into Setswana. The minutes state that the committee resolved to accept this agreement, which was then referred to the community after the meeting. Minutes of this meeting attributed to SH Sebolai and BO Letebele state that “the community was overwhelmed by the discussions and unanimously welcomed (the start of the operation.)”

Despite this belated attempt to gain community support for the agreement, the lack of transparency from the inception of the CPA’s relationship with NDC has fundamentally undermined trust between mining companies, successive CPA committees, and the community at large ever since.

June/July 2001: NDC appoint Alan Smith as CEO

In June 2001, NDC appointed Alan Smith as the company's chief executive officer with effect from July 1. He was formerly general manager for De Beers at the Finsch mine in 1996, and then joined AngloGold where he rose to the position of executive officer in charge of global exploration and operations technology.

In July 2001, NDC tabled the Environmental Management Plan report for the prospecting phase at Schmidtsdrift, Northern Cape (prepared by SRK Consulting.)³⁶

December 2001: DME issues 1 year prospecting permit to NDC

The DME and NDC (Pty) Ltd concluded a Notarial Prospecting Contract in Kimberley on 06/11/2001.³⁷

³⁶ . New Diamond Corporation. Environmental management plan report for the prospecting phase at Schmidtsdrift, Northern Cape. SRK Consulting. July 2001.

³⁷ Extracts from an agreement between DME and NDC (Pty) Ltd. Incomplete (only pp 2,6,7). No date, but some time after 2001. The prospecting area is described in detail on pp 6-7. The section describing the prospecting rights granted to NDC is not complete. According to PLAAS, a prospecting permit for the whole of Schmidtsdrift was issued to NDC on 22 October 2002 on the basis of the Heads of Agreements document; it seems likely that these pages are from that permit.

On 20/12/2001 the DME issued a year-long prospecting permit (No. PP 85/2001) to NDC to prospect for diamonds at Schmidtsdrift.

December 2001: "Dissenters" challenge NDC's right to prospect

Schmidtsdrift highlights how, with regard to alluvial diamond mining, there is little other than a legal distinction between prospecting and mining. Prospecting activities are essentially mining activities at a fairly significant scale.

A contractor recruited by the NDC to open a new prospecting area moved on site towards the end of 2001. This work immediately met with strong local resistance. "Dissenters" physically prevented him from starting work and took some of his equipment. The contractor subsequently resigned. It was alleged that "the dissenters" also ransacked the NDC's site office and burned furniture before assaulting an NDC staff member.³⁸

In December 2001, lawyers claiming to represent about 1 200 people from the Schmidtsdrift community asked Minister of Mineral and Energy Affairs Phumzile Mlambo-Ngcuka to intervene in the dispute between the community and the NDC. In the letter to Mlambo-Ngcuka, the community's legal representatives advised the Minister that some Schmidtsdrift residents had resorted to "violent behaviour" against the NDC's operations because of "frustration". They stated their opinion that there were strong grounds for the minister to suspend and cancel the NDC's operations in Schmidtsdrift pending an investigation into the matter. They also charged that the awarding of the NDC's permit was premature because the process of land restitution in Schmidtsdrift had not been completed.

It seems a leading figure in these protests was then Schmidtsdrift ANC councillor Oabile Gift Mokgoro. The fact that the first Committee of the registered CPA was due to be elected in March 2002 may also have influenced this struggle.

Tiego Moseneke rejected these claims and said that both the NDC and "the dissenting group" had sought legal counsel on this matter, and both counsels had advised that the NDC's legal position was watertight. He added that "the dichotomy between ownership of surface rights and mineral rights is one that takes time to understand and accept."

May 2002: Scorpions investigation

In May 2002, the Scorpions seized documents relating to Schmidtsdrift Mining Enterprises during a raid on DME offices in Kimberley as part of a probe into allegations that mining permits were being irregularly issued. A representative of DME said that government had been "inundated with correspondence claiming corruption and bribery involving mining and prospecting permits in Kimberley and Klerksdorp" and that his department handed over all the documents required by the investigators.

Schmidtsdrift representatives were reported to have submitted letters to the Scorpions and the DME's national department in Pretoria in which they allegedly claimed that "certain members of the [minerals department] in the Northern Cape provincial government are collaborating with NDC and that they have financial interests in NDC", and that the NDC was given a permit to prospect and remove diamonds from three farms in the area "illegally". They further repeated the allegation that the original agreement with the NDC was signed by interim CPA members who had no community mandate to do so.

38 *ANC cronies in diamond rights row*. Wisani wa ka Ngobeni. Mail and Guardian. 31 March 2002

Media reports record a statement by Scorpions spokesperson Siphon Ngwema that the unit was investigating "various allegations involving irregular mining permits in Kimberley and Klerksdorp", but could not release information on specific allegations.³⁹ We have no further information on these investigations, but they do not appear to have resulted in prosecution.

October 2002: DME issues a prospecting permit to NDC for the whole of Schmidtsdrift

A prospecting permit was issued to NDC on 22 October 2002 on the basis of the Heads of Agreements document, and prospecting and mining commenced immediately. The prospecting area includes all the farms owned by the Schmidtsdrift CPA plus four of the five they originally claimed but which were not returned to them (Jakkalsfontein is the only one of these farms which was not covered in the prospecting agreement.)

December 2002: Contestation over Heads of Agreement

At a meeting between NDC and CPA representatives in December 2002 detailed information on the progress of mining in various areas was tabled. Schmidtsdrift Mining Enterprises project 1 (SME1) was reported to be running at a loss of between R3-5m. A contractor was due to begin work in the south area (Sivonel C2) in January 2003, which was expected to increase royalties received by the community.

The drafting of a Shareholders Agreement was discussed. The CPA requested that the community shareholding be increased from 20% to 25%, but were told that "this could not happen now unless the royalty is cancelled."

With regard to non-mining projects, the CPA representatives expressed great dissatisfaction with NDC's lack of progress in this area as such projects were seen as essential to sustaining the community in the post-mining period. The CPA representatives argued that NDC's social responsibility commitments, as set out in the Heads of Agreement, were not being addressed. In response NDC stated that Ebony Consulting had not tabled relevant proposals on time. They promised to follow up with the CPA on projects including an irrigation scheme. It was agreed that a project manager should be employed to deal with non-mining projects. A brick making project was apparently planned at the time, but no further details have been established.

March 2003: NDC announces R40m partnership deal with Bell

In March 2003 NDC chief executive Alan Smith announced that the company had finalised a R40 million partnership deal with Bell Equipment. He said NDC would benefit from the deal, as Bell had provided seed capital for the exploratory venture by waiving the deposit and arranging the deal on a full lease basis. Howard Buttery, chair of Bell, was quoted as saying that Bell would also supply operator and technical training as its contribution to the development of the Schmidtsdrift community. He expected further orders from NDC as the company moved from its exploratory to production phase.

Smith said this was expected to increase jobs from 200 to about 700 once the company reaches its full capacity of processing 20 million tons of diamond-bearing material a year in 2006. He described the Schmidtsdrift project as "one of the most exciting greenfields diamond mining projects in South Africa for more than a decade, as there were very few un-mined diamond properties of this size in the world." He was further quoted as saying that NDC had spent R98 million on exploration but the cost to the company had been limited to R5 million as the rest was offset by the diamonds produced.

Smith said NDC expected to start production during the last quarter of the year and to treble turnover to R180 million during the current financial year. He indicated that Schmidtsdrift had the potential to

39 Scorpions probe black mining group? M&G 14 May 2002

produce 6.1 million carats valued at R6.4 billion over the next 20 years. The company was planning to list in 2005.⁴⁰

An NDC / CPA meeting held on 13/03/2003 discussed the possible employment of a member of the community as a project manager, the need for youth development projects, and twenty requests for small-scale mining that had been received by the NDC. The meeting also discussed the possibility of non-mining pilot projects including an irrigation scheme, brick making and livestock farming. It was agreed to engage Ebony Consulting, a consultancy with links in the USA, which had apparently tabled a community development proposal with a budget of R600 000.

June 2003: NDC in difficulty

During an NDC/CPA meeting on 12/06/2003, CPA representatives complained that prospecting activities were causing damage to grazing land and resulting in livestock losses as stock fell into slimes dams. This was reported to be creating divisions in the community.

At the same meeting, representatives of NDC told CPA representatives that the company was in “deep crisis” for a range of reasons, and was running an overdraft of around R22m. It had been decided to reduce the Johannesburg office and run all projects from Kimberley. CPA representatives were told that the costs for running the SME operation were too high and would have to be reduced, and that this would have to be “proved to the potential investor in the name of AIG”. In order to restructure operations, NDC contracted Chris Potgieter Management (CPM) to manage operations for the next three years, and to bring costs down from R35 per ton to R12 per ton. Equipment, fleet and plant would still belong to the NDC and there would be no threat to the NDC and the community as joint venture partners.

Other contractors operating at the time included Botala Choeu Mining at Sivonel which was due to convert to a 50/50 joint venture after six months, and KDM which was operating at its own risk with its own equipment, with NDC taking 20% of recovered diamonds.

The CPA representatives indicated that the CPA wanted to take part in the management of SME, and it was agreed that this should be referred to the SME Board of Directors.

July 2003: SME in decline

On 03/07/2003, a special NDC/CPA meeting was told that management of SME had not been going well. Brett Thompson, operations executive of SME, had been relieved of his duties because targets had not been met, and had been replaced by the executive director, Gopolang Makokwe and the operations manager Okyere Ntrama. SME 2 operations, which had been due to begin in April, had only just begun.

Sonop (Chris Potgieter Management) was expected to manage operations and “save the situation” by meeting targets and bringing down costs. Sonop would be managing only SME1 and 2 for two years, and payment would be in the form of shares to the value of 03%. This 03% would be on the NDC stake, and would not affect the CPA stake. The NDC chair introduced Alistair Holmes of CPM, who was to be in charge of SME operations.

The community representatives were not happy with these developments and wanted the Sonop operation to remain on hold until they were satisfied with the agreement.

⁴⁰ New Diamond Corporation forges R40m deal with Bell. By Margie Inggs. Published on the web by Business Report on March 20, 2003.

The meeting was told that NDC management had also been shaken up and various managers fired, apparently in an attempt to cut costs. The declining value of the Rand was cited as a major cause of the financial difficulties affecting NDC.

With regard to royalties, the CPA representatives indicated that they wanted an increased share of royalties. They also wanted to know what they would receive for 2002 and 2003. Moseneke apparently told the meeting that they already had an extremely favourable deal, and that even government had told NDC that they should not have agreed to pay the community such generous royalties.

On 01/07/2003, Mr GG Makgoro and Mr V Olifant were officially appointed directors of SME.

August 2003: NDC/CPA Shareholders Agreement signed

On 06/08/2003, the NDC entered into a Shareholders' Agreement with the Schmidtsdrift CPA for an indefinite period⁴¹. GG Makgoro and the treasurer, Mrs. L. Senye, were the signatories on behalf of the CPA. The PLAAS report (2006) highlights the following aspects of the Shareholders Agreement :

The company is managed by ten directors, eight of whom are appointed by the mining company and two nominated by the CPA, with all decisions made by majority vote.

The joint venture granted the community 200 ordinary shares of R1 each (20% of shares) in Schmidtsdrift Mining Enterprises (Proprietary) Limited, while the remaining 80% (or 800 ordinary shares of R1 each) are owned by NDC.

The equity stake in Schmidtsdrift Mining Enterprises also granted the CPA a 5% royalty payment of the sale of the diamonds. The CPA's proceeds were to be directed into local development activities.

Finance for the new company was to be provided from its own revenue, but also, as necessary, from the shareholders (including the CPA), as set out in the Agreement:

Additional capital

• If the company requires capital in order to finance its capital expenditure and working capital requirements, then the company shall endeavour to finance these from its own resources and outside sources, based on its own creditworthiness, but only to the extent and upon terms which are commercially acceptable in the opinion of the board, failing which the shareholders shall provide such funding pro rata to their shareholding in the company for the time being ('additional capital loan').

• Should either shareholder fail to lend its required pro-rata portion of the additional capital loan ('recalcitrant shareholder'), then the other shareholders ('contributing shareholders') shall be entitled to lend such amount in the place and stead of the recalcitrant shareholder.

Terms relating to loan accounts

• Unless otherwise provided in this agreement or agreed in writing by all of the shareholders and the company, like terms and conditions shall apply to the loan accounts of each of the shareholders against the company from time to time, whether as to the rate of interest, payment of such interest, repayment of the capital amount or otherwise.

⁴¹ Shareholders' Agreement between New Diamond Corporation (Proprietary) Limited and Schmidtsdrift Communal Property Association in relation to Schmidtsdrift Mining Enterprises (Proprietary) Limited. Signed on 06/08/2003

- *It is agreed that loan accounts shall bear interest at the prime rate. Amounts lent and advanced by the contributing shareholders to the company on behalf of the recalcitrant shareholder pursuant to 5.1.2 shall bear interest at the prime rate plus 2%. Interest shall be payable bi-annually in arrears on 30 June and 31 December of each year that the loan account in question is outstanding*

The payment of dividends remains the prerogative of the board and will be determined subject to the policy that no dividends will be declared and/or paid by the company for so long as any shareholders' loans (and any interest earned thereon) remain outstanding.

The NDC undertakes to prepare a strategic and business plan for the company in which it undertakes to:

- *Observe the principles underlying the Minerals and Petroleum Resources Development Act 2002 and the accompanying Broad-based Socio-economic Empowerment Charter and the Scorecard and specifically the following broad-based equity ownership;*
- *Promotion of procurement of goods and services from enterprises owned and controlled by the historically disadvantaged South Africans.*
- *Human resources development; broad-based equity ownership, promotion of procurement of goods and services by historically disadvantaged South Africans and human resource development for the Schmidtsdrift beneficiaries.*

The Shareholders' Agreement further stipulates a number of development goals and promotes broad-based equity ownership, the hiring of community members to fill positions, human resource development and training of community members.

An SME Board meeting was held on 02/09/2003. The chair of SME, Mr. Makokwe, had been mandated by the board to approach financial institutions to raise funding for the operation of SME. Representatives of the community wanted to be reassured that this would not in any way affect the R3,9m in royalties which the financial report indicated were due to the community.

October 2003: DME temporarily suspends NDC mining activities

On 25 October 2003 the DME issued a press release announcing that it had suspended NDC mining operations at Schmidtsdrift after a departmental inspection which found that there was "a serious lack of management on the prospecting area when it comes to general environmental management and rehabilitation", and that prospecting activities were in contravention with the approved Environmental Management Programme (EMP). Pollution control facilities were "non-existent."⁴²

The CSIR report (2004), which was based mainly on interviews with community members, says graves were damaged during mining operations and the DME suspended all activities for some time after inspectors discovered that hazardous effluent had destroyed 20 graves. The community water supply was also in danger of being polluted.

November 2003: Suspension order lifted

On 11/11/2003, the order suspending NDC's operations at Schmidtsdrift was set aside under certain stringent conditions, including the payment of substantial amounts to DME to increase the existing rehabilitation fund; the revision of the existing Environmental Management Programme; the fencing of all grave sites; monthly payments of R200 000 towards royalties until the arrears were settled; and submission of a list of all contractors to the Director: Mineral Development. No contractors would be allowed onto the prospecting area unless the Director had approved.

42 <http://www.info.gov.za/speeches/2003/03102709461002.htm>

November 2003: NDC signs offtake agreement with Unitrade

Unitrade and NDC signed a five-year off-take agreement covering the sale of all NDC's diamonds to Unitrade, except for a clause excluding certain 'special stones', defined as those exceeding 30 carats, which NDC could offer for sale on a tender basis.⁴³

December 2003: NDC issues 6 month review report

In December, Mr. Makgoro and Mr. Olifant tabled their first Six Months Review report. There was strong criticism of the NDC's communications and management, and the report comments that "the financial position of NDC as a whole including SME was in dire straits, as it is even today." There was no schedule to pay royalties to the community, apparently due to cash flow problems. It was agreed that the NDC would pay instalments of R500 000 per month, and by December they had paid two such instalments. Moves were underway to set up the community plant and only a written agreement between the NDC and the CPA was outstanding. The minutes state that the CPA "confirmed Patrick Mason to be the preferred contractor", presumably of the community's mining operation.

According to the review, problems that had cropped up during the review period included a two-week strike, desecration of graves (identified as the reason for DME's decision to suspend mining operations and NDC's permit), the suspension of mining operations, lack of proper rehabilitation, and the resumption of mining after the suspension had been set aside without consulting the community.

The review notes that there had been "very strong disagreement" between the CPA and NDC over the 20% share allocation to the community stipulated in the draft agreement. The NDC contended that this was "the original agreement when they obtained the permit to mine in Schmidtsdrift". The CPA representatives concluded that the previous CPA, chaired by Mr. Sebolai, "entered into mining agreements with the NDC on terms and conditions that we do not know." In an attempt to resolve this matter, it was proposed by the CPA representatives that the NDC should "open up their mining permit and allow the community to have a treatment plant", which the NDC agreed to. The Shareholders Agreement was amended to state that the 5% royalties must be paid after the sales of the total recovery of the diamonds in Schmidtsdrift", after which the CPA representatives signed the agreement. (ref)

2004: Nare acquires an interest in NDC

Nare Diamonds was established as an Australian registered company in 2004, and acquired an interest in the NDC and through it interests in various diamond production and exploration operations including the Schmidtsdrift Mining Enterprises (80% interest), the Klipspringer Joint Venture (20% interest), the Groen River Project (100% interest) and the Kamfersdam Kimberlite Pipe and Tailings operation (100% interest). On 25/10/2004, Moseneke and Makokwe were appointed to the Nare board.

Jan - June 2004: Engaging contractors

In the first half of 2004, there were several developments. Sonop (owned and managed by Chris Potgieter) withdrew completely from Schmidtsdrift. According to a report by the CPA's SME directors⁴⁴, this withdrawal "left the SME in a strained financial position": production dropped and the NDC was not able to pay royalties.

⁴³ Retrieved from

http://www.legalbrief.co.za/publication/archives.php?mode=archive&p_id=Legalbrief_Today&issueno=1813&format=html

⁴⁴ Schmidtsdrift CPA. CPA Report December 2003 to May 2004. Directors: GG Mokgoro and V Oliphant.. Date: 31 May 2004

Between February and March 2004, the NDC searched for another contractor and identified **Skeat Mining** to replace Sonop. Skeat's presentation included promises to sponsor a number of community development projects including a fish dam, sand collection, a wood project, rehabilitation of Mokgoro Dam for the use of the community, and an irrigation scheme. They also promised to set up a training centre for the work force on the mine, and to employ about 20% of the community.

In June 2004 (according to the Chairperson's report presented at the CPA's AGM of 07/05/2005) an agreement was signed between Skeat Mining, the NDC and the SME Board of Directors. There are no details on the terms of this agreement in the files, and the Chairperson reported that the CPA's representative on the Board had no mandate to enter into this agreement.

Emmanuel Diamonds CC, managed by Patrick John Mason, was also appointed at some time in 2004 to carry out prospecting and mining for and on behalf of SME for five years. Section 14.2.3 of the Joint Venture Agreement⁴⁵ states that Gauta George Mokgoro of Kimberley and Victor Olifant of Delpportshoop, whose "efforts and negotiations" brought about the agreement, would be appointed as the representatives of the CPA and paid R5 000 per month each "as compensation for their aforesaid initiatives, negotiations and services to be provided as the CPA's representatives." These appointments may only be cancelled by the CPA in the event of their committing a breach of faith against the CPA or the Contractor.

Section 13 (Administration and interaction) of the proposed agreement says that "insofar as it is reasonably possible at least 80% of all employees, with the exception of the general manger, will be appointed from the residents of the Schmidtsdrift community and the Contractor will be obliged to embark upon a training project for such employees subject to the approval of the CPA", and also binds the Contractor to supplying the CPA with a written budget and monthly reports.

June 2004: NDC in arrears on royalty payments

With regard to royalties, the Chairperson's report of May 2004 says that it had been agreed earlier that NDC would pay R500 000 per month towards royalties, but because of the difficulties with Sonop the NDC was in arrears with all its instalments, including government royalties. During a board meeting on 20/05/2004, it was agreed that NDC would pay R1m into the CPA's account at the end of that month, a further two instalments of R500 000 in June and July, and the balance at the end of August 2004.

It was also suggested by the NDC that the community should consider buying shares in the NDC; the community already has shares in SME, a subsidiary of NDC, so this would mean the community would broaden its shareholding in NDC. It was resolved to discuss this with the CPA Committee.

A draft contract relevant to the community plant was presented to the community at a meeting on 29/04/2004 but was apparently not signed because members of the community felt it should be postponed until the election of a new CPA Committee, which was due to take place the next month.

May 2004: The Second CPA committee takes over

The Second CPA committee was elected in May 2004. According to minutes of a meeting between the CPA committee and NDC on 12/08/2004, the new committee came to the meeting in a fighting mood, aggrieved at "the poor treatment of the community" by NDC which they threatened to report to the

⁴⁵ Joint Venture Agreement made and entered into by and between new Diamond Corporation (Pty) Ltd and Schmidtsdrift Communal Property Association and Emmanuel Diamonds CC. 2004. The copy in the CPA's files is not signed.

national Minister, and with the position that “all agreements that do not have direct and fresh mandate from the new CPA will be regarded as null and void”.

In addition, their agenda indicated that they wanted answers to a wide range of questions related to NDC’s affairs and its promises to the community. They wanted the NDC to hand over “all financial statements”, all minutes of the SME Board since its inception, and copies of all agreements signed by the Board since its inception. They also wanted explanations of why NDC was talking to DME without going through the CPA, and why they had accepted Mr Mokgoro’s decision regarding Skeat Mining “without a valid mandate from the new CPA.”

The NDC outlined the legal situation regarding agreements with the CPA, which is regarded as a going concern, and the mandates of SME directors. All SME Board meetings were suspended until a directive was received from the CPA.

The meeting was told that the agreements signed by Board members since its inception included the Skeat contract, the Shareholders Agreement, and an agreement regarding the disposal of damaged equipment.

The community wanted clarity of rumours that Mr. Moseneke was leaving NDC with a “golden handshake.” They were told that while he and Mr Makokwe were negotiating exit terms from their current positions in NDC it was not anticipated that they would receive “golden handshakes.” Both would remain shareholders and non-executive directors of NDC.

Also in May 2004, NDC allocated 480ha for mining by the CPA on behalf of its members.

December 2004: Mining impacts on development planning

During a Task Team meeting of 09/12/2004, members were stunned to hear from Africon that DME had finally indicated that 11 000 ha of their land was designated for mining; that the planned urban residential area at Zone 4 was included in the area put aside for mining; that there was “no more land available for irrigation” (fortunately this was untrue); and that the game farm would have to be relocated.

January 2005: Skeat Mining leaves

In January 2005 the Chair of the CPA wrote to NDC and Skeat Mining to instruct them to halt operations because their permits had expired. The DME informed the Committee that NDC had the right to mine with their old permit, but the chair said the view of the community was that mining operations should stop.⁴⁶

According to minutes of an SME Board meeting in February 2005⁴⁷, mining had been disrupted by the “sudden departure” of Skeat Mining. Discussions had been held with eight other contractors: Graven Family Trust, Igloo Plant Hire, Lance Potgieter, Pieter Bekker, Aubrey Somana, JD Plant Hire, Precious Prospect Trading 52, and Slater Coal to select a replacement.

February 2005: Letter of demand to NDC

Attorneys representing the Schmidtsdrift CPA sent a letter of demand to NDC in order to obtain royalty payments, but NDC claimed to be cash strapped. On 09/02/2005 the NDC deposited R90 000.00 into the CPA account (this is confirmed in the Financial Statement for 2005 prepared by PWC, and it was the only royalty payment made during this financial year.)

⁴⁶ Minutes of the CPA Committee meeting held on 22/01/2005.

⁴⁷ Minutes of SME Board meeting held by conference call on Friday 25 February 2005 at 16h00

The SME Board meeting of 25/02/2005 discussed an NDC-SME Management Contract (no details), and the NDC made a proposal “on the payment of royalties and the linking of this payment with various conditions”, which the CPA representatives asked NDC to put in writing. It was arranged that the NDC would show the 400ha allocated to community mining to the CPA.

April 2005: Attempts to identify partner for community mining area, royalty negotiations

According to Mr Steenkamp, between April – October 2005 he was engaged in assisting the CPA Committee to identify a strategic partner for mining on the community mining (Zone 16) in Schmidtsdrift.

In April 2005 the NDC offered the CPA a payment of R1m within a month of the employment of a new contractor and another R1m could possibly be paid six months later depending on production. (Chairperson's report presented to the CPA AGM of 07/05/2005)

According to the minutes of an SME Board meeting held in April 2005,⁴⁸ agreement was reached on the final text of the royalty payment proposal. It was also agreed that no contractor would come onto the site before a payment of R1m was made to the CPA. The NDC-SME Management Contract was accepted and required signatures from “Shareholders representatives”. An SME Asset Register was not tabled because of computer problems.

July 2005: Liquidation proceedings against NDC begin

In July 2005, Mr. Mokgoro received formal notification from lawyers that liquidation proceedings had begun against NDC.⁴⁹

NDC in turn embarked on a restructuring process to avert liquidation. A letter agreement from NDC addressed to Leonardo Steenkamp (deputy chair of the CPA) in August set out the terms that had earlier been agreed upon according to which the NDC would pay outstanding royalties to the Schmidtsdrift CPA.

These were as follows: the community was owed R5m “arising out of inter alia, royalty payments owing to the community by NDC”; within five business days of the signing of the agreement, R1m would be paid to the CPA and the rest by no later than the end of February 2005. In exchange, the community would agree to co-operate with the NDC in restructuring its business and “actively support NDC in relation to dealings with the DME and in particular to proactively assist in securing the issue of prospecting rights and mining rights at Schmidtsdrift”, and keep the terms of the agreement confidential.⁵⁰ It is not known whether the CPA Committee accepted this agreement.

But by August 2005 they had not made the promised R1m payment, and it appears the relations between the NDC and the community were worse than ever. At the AGM of 08/08/2005 it was resolved to revisit the original Heads of Agreement with NDC and to exert further pressure on the company further to pay out workers and hand over royalties.

January 2006: Mine closes

⁴⁸ Minutes of SME Board meeting held at NDC offices in Parkmore on Tuesday 5 April 2005 at 10h00

⁴⁹ Letter from Marius de Villiers of De Villiers Attorneys to Mr Mokgoro, Chair of the Schmidtsdrift CPA. Dated 19/07/2005

⁵⁰ Letter Agreement – Royalty Payment Terms – Schmidtsdrift. Letter from NDC to the CPA, for the attention of Leonardo Steenkamp. 23/08/2005. The stated purpose of the letter is to record terms that had been agreed to earlier for the payment of R5m in royalties owed to the community. Signed by Tiego Moseneke only. (Given to PS by Mr. Molelekwa.)

According to the CPA Chairperson's report of 2007, mining operations were halted on 10/01/2006 because "there was no proof that any operation after the 23/12/2005 (would) be legal". The CPA Committee was informed by DME that the NDC had applied to convert its old order right to a new order right on 23/12/2005.

In January 2006, Mr Steenkamp and S. Johane met with Nare Diamonds who requested the full support of the CPA Committee and the community in getting the mine up and running. It would be at least eight months before they would be able to employ members of the community. The Mining Rights Application had been accepted by DME, the Scoping Report had been submitted, and by mid-February the EMP would be handed in.⁵¹

Operations only recommenced after the community held a meeting on 31/02/2006 and agreed to this, and a written commitment to pay royalties by February 2006 had been secured by the CPA Committee. Royalty payments (the amount is not specified) were made on the day the Chairperson's report was tabled; this payment was seen as a victory for more forceful tactics adopted by the CPA Committee in its dealings with NDC.

February 2006: NARE pays out NDC creditors and addresses royalty arrears

A confidential letter agreement dated 15/02/2006 was signed between the MD of Nare, Charles Mostert, and Victor Mokgoro, chair of the CPA Committee, on 17/02/2006. The letter notes that Nare had dealt with most of NDC's creditors and was repositioning itself to recommence mining.

Nare would contribute a maximum of R2m towards establishing a game farm on mining zones 21,22,23 and 24 under certain conditions.

These included that the original letter agreement between the NDC and the CPA (dated 23/08/ 2005) be amended to state that the sum of R4m is payable by the end of February 2006, and that if R4m had not been paid by this date "then interest will accrue on this amount at the rate of 6% per annum until the principal owing is paid"; that the "funding commitment is conditional on the successful listing of Nare on the Alternative Investment Market of the LSE by the end of June 2006; and that a trust, named the CPA Schmidtsdrift Game Farm Trust, co-managed by the Community and Nare, would be established to manage the game farm.⁵²

Another confidential letter of agreement dated 17/02/2006 was drawn up between Nare, the CPA and NDC.⁵³ This letter states that Nare on behalf of NDC had paid R1m to the CPA in accordance with the letter agreement dated 23/08/2005, and was about to recommence mining. Steps were being taken to take "Board and shareholder control of NDC which will underpin its listing on the Alternative Investment Market of the London Stock Exchange".

This letter agreement sets out the terms agreed by Nare and the Community under which they would work together, including the following: the terms of the August 2005 Letter Agreement would be allowed to continue beyond the end of February 2006 on certain terms and conditions, including that it is acknowledged that R4m is owed to the Community by NDC; that the payment of this sum is "deferred on

⁵¹ Mining Report. Date: 26 January 2006. Kimberley Diamond Exchange. (Directors' report on mining in Schmidtsdrift.)

⁵² Letter agreement marked "confidential" between Nare Diamonds Ltd and the Schmidtsdrift CPA. RE: Establishment of a game park at Schmidtsdrift. Date: 15/02/2006..

⁵³ Letter Agreement – New Diamond Corporation (Pty) Ltd. From Nare Diamonds to the Schmidtsdrift CPA and NDC. Dated 17/02/2006

the condition that interest accrue on R4 million from 1 March 2006 at the rate of 6% per annum until the R4 million is paid to the Community. Interest will be paid monthly in arrears"; and that this letter "may be relied upon by Nare and NDC to enforce their rights in relation to the Letter Agreement and the payment of the balance of the outstanding royalties".

In terms of this agreement, Nare undertook to guarantee the payment of R4 million plus interest by NDC to the Community under certain conditions, including "Nare moving to majority control of NDC at Board and Shareholder level by 30 June 2006, and Nare completing its listing on AIM by 30 June 2006". This agreement was signed by Victor Mokgoro for the CPA and Charles Mostert for Nare Diamonds.

According to minutes of CPA meetings, the company also made several other promises of benefits for the community, notably considerable financial and managerial support for the game farm project. According to the minutes of the CPA's Quarterly Meeting in March, two representatives of Reho Mining, who had been appointed by Nare Diamonds in an unspecified capacity, met with the community and promised around R120m (sic) in support for community projects.⁵⁴

By this time Nare had also allocated Zones 22, 23 and 24 to the community for the game farm, and agreed to donate R2m to this project, together with management support and training to community members to ensure its success. A mining contractor (not named) had been appointed by Nare, and had made a commitment to train community members to take up jobs within six months. It appears that a further commitment was made to pay the CPA royalties after six months of operation along with interest owing on this amount, but the minutes are not clear on this issue.⁵⁵

April 2006: Nare begins mining

Nare lodged rehabilitation deposits and bank guarantees with DME in April 2006, and mining was to take place on 24 zones on lower terrace of deposition.

In an email to Peter Mokomele on 07/07/2006, Dr du Plessis says that prospecting rights were approved for the whole of Schmidtsdrift (about 31 000 Ha), and that Nare intended to apply shortly for "the Mining Right over the whole of Schmidtsdrift." He refers to maps he sent to Peter Mokomele, and says that geological evidence shows that there are three "geological time frames of deposition, namely Upper, Middle and lower Terrace of gravels."

Nare Diamonds had decided to target the Lower (younger) Terrace first for exploration. This Terrace, which is "next to the present-day flow of the Vaal River," had been divided into 24 zones to facilitate planning and exploration. By that time, ten of the 4 zones had been explored. Dr du Plessis states that mining will "definitely take place on the 24 mining zones on the Lower Terrace," and that it is possible that some mining will also take place on selected areas in the Middle and Upper Terraces, but that Nare Diamonds was not able to state exactly which areas would be targeted yet.

At the end of April 2006 Lonrho Africa which had acquired an interest in Nare Diamonds announced that it had discovered a very rare 235-carat diamond at Schmidtsdrift.⁵⁶

⁵⁴ Minutes of the Quarterly Meeting of 04/03/2006; Minutes of the General Meeting held on 19/03/2006.)

⁵⁵ (Minutes of the Quarterly meeting held on 04/03/2006).

⁵⁶ http://www.mg.co.za/articlePage.aspx?articleid=269827&area=/breaking_news/breaking_news_business/

July 2006: Royalty payment ceremony

A royalty payment ceremony was held at Schmidtsdrift on 15/07/2006. The Financial Statement for the 2006 financial year indicates that SME received R5m in royalties, and just over R71 000 in income is attributed to “financial income NARE (Adamas) (Pty) Ltd”.

According to the 2006 Nare Annual Report, DME approved prospecting rights for the whole of Schmidtsdrift, and issued a New Order Prospecting Right NC 5/2/2/1112 (conv) valid for 320sq km. The permit expires on 11/04/2008.

August 2006: Lonrho acquires stake in Nare

Sometime before August 2006, Lonrho acquired a 21.94 percent stake in Nare Diamonds Ltd.

August 2006: Nare completes 3rd diamond sale

At the end of August 2006, it was reported that Nare Diamonds Limited had completed its third diamond sale:

“A parcel of 998.63 carats of diamonds was sold for an average price of US\$593 per carat for a total value of US\$592,427. These diamonds were produced at Schmidtsdrift which has been in operation since April 2006 and recently produced an extremely rare 235 carat gem quality diamond. This diamond was sold for US\$10,205.91 per carat totalling US\$2,398,695. Nare has now sold a total of 2,671 carats of diamonds at an average price of US\$1,397 per carat raising a total of US\$3,731,931.

“The recent diamond sales and the appointment of the second contractor at Schmidtsdrift represents an important milestone in the company’s development. The board believes that Schmidtsdrift is a world class alluvial diamond deposit and the significant value delivered in the short time since trial mining underlines the Company’s potential. We look forward to updating the market on further developments,” says Charles Mostert, Chief Executive Officer of Nare, which has also appointed a second mining contractor at Schmidtsdrift that will enable the company to further increase production.”⁵⁷

December 2006: African Renaissance Holdings sells NDC share to Nare

In December 2006, African Renaissance Holdings (ARH) agreed to sell its NDC shareholding to Nare Diamonds Limited, which expected to list on the Australian Stock Exchange (ASX) on 05/12/2006. ARH would retain a direct shareholding in NARE subject to the finalisation of certain regulatory conditions, including a secondary listing by NARE on the JSE in 2007. According to an ARH press release, NARE was offering 15,000,000 shares, at an issue price of A\$0.50 per share, to raise A\$7,500,000. The funds, according to their prospectus, “will be used to complete the purchase of the shares in NDC, to pay down existing NDC debt, to complete an intensive exploration program at Schmidtsdrift, Kamfersdam and Groen River, and for working capital purposes”. Following the successful completion of the ASX listing, NARE “intends to seek admission to the Alternative Investment Market of the London Stock Exchange and the Johannesburg Stock Exchange”.⁵⁸

⁵⁷ Schmidtsdrift Diamonds Raise US\$593 Per Carat During Nare’s 3rd Sale
http://www.diamondintelligence.com/magazine/magazine.asp?id=4132&search_text=
31 August 2006

⁵⁸ Nare Diamonds Limited lists on ASX. 13 December 2006
http://www.africanrenaissanceholdings.co.za/content/pressroom/13_12_2006.asp

2007

February 2007: The third CPA Committee attempts to review shareholders agreement

The third CPA Committee was elected in February and a meeting was held on 25/04/2007 to discuss community dissatisfaction with their relationship with NDC / Nare. There are no records of the discussions in available CPA files.

A meeting was arranged for 18/06/2007 to discuss these matters further. The Schmidtsdrift CPA proposed the following agenda points:

- review of the Shareholders' Agreement between NDC and the Schmidtsdrift CPA;
- increase of royalties to 15%;
- increase of the shares in the Joint Venture to more than 20%;
- the possibility of payment of royalties after every sale of diamonds;
- information on whether Nare has applied for mining rights in Schmidtsdrift.

Nare Diamonds wanted the following items added to the agenda: employment of the local community, training, a visit to Royal Bafokeng, appointment of a community representative, payment for stock losses, development of the game farm, social labour plan, and future claims by the Griqua people.

There were no minutes of this meeting – if it took place – in available files.

March 2007: Nare purchases Reho Mining

Lonrho reached an agreement to purchase the mining assets of Reho Mining (Pty) Ltd (“Reho”), a company which had been operating in Schmidtsdrift

May 2007: Dispute over rights to community mining

According to the RLCC early in 2007 the CPA had applied successfully for mining rights over the 480ha in Zone 16 that Nare had allocated to it in 2005, and were at the contracting stage.

An apparently acrimonious meeting was held on 14/05/2007 between the CPA Committee and the Garamatale Small Miners Association over the issue of appointing a contractor to work Zone 16. The GSMA had been established by community members who had registered eight closed corporations. The GSMA Executive consists of Mr Mpolokeng, (Chairperson) Miriam Alamu, Richard Duiker, (Secretary) Adelaide Mabilo, (Deputy Chairperson) Victor Oliphant (Treasurer)

The files contain an unsigned contractor's agreement drawn up in 2007 between the Schmidtsdrift CPA and the Garamatale Small Miners Association (the contractor).

May 2007: Nare cancels offtake agreement

Nare announced that it has cancelled its historical off-take agreement between its subsidiary New Diamond Corporation (NDC) and Unitrade. The agreement for the sale of the Schmidtsdrift Mine production to Unitrade was signed prior to Nare's acquisition of NDC.

June 2007: Nare challenges offtake agreement

In June 2007, according to the Lonrho 2008 Annual Report, “pending the outcome of the Unitrade 1266 CC (“Unitrade”) Off-Take agreement arbitration hearing, New Diamond Corporation (Pty) Ltd was able to sell its diamonds by public tender. The sale by public tender was for 2,394 carats at an average price of US\$1,209 (before tender costs) yielding a total of US\$2,893,656. NDC was able to conclude one sale outside the Off-Take Agreement.

July 2007: Offtake agreement upheld

An arbitration hearing held in Johannesburg determined that the Off-Take Agreement between NDC and Unitrade was to continue on its original terms.

July 2007: Nare seeks legal opinion on shareholders agreement in light of Fonteintjie challenge

In July, Nare Diamonds sought legal opinion regarding the Shareholders Agreement with Schmidtsdrift Mining Enterprises (Pty) Ltd, possibly in the context of these demands by Steenkamp following his removal from the SME Board by the CPA ⁵⁹ Legal opinion confirmed that the CPA had the right to appoint 2 Directors and remove them at will. Nare was bound to accept Directors appointed by the CPA.

July 2007: “07/07/07”

A General Meeting of the CPA was held on 07/07/2007, tasked with choosing a contractor for the community plant on Zone 16. According to the CPA minutes⁶⁰, a draft Social and Labour Plan had been drawn up, and the meeting considered options put forward by Mr Mokomele of the RLCC. The meeting considered whether to opt for:

- an independent contractor;
- an independent contractor plus “community (Association)”;
- GSMA .

These minutes state that the meeting resolved to choose the second option (“independent + community (Association)”).

A couple of weeks after the general meeting a handwritten memorandum was delivered by “Schmidtsdrift Residents” to the CPA Committee on 25/07/2007. The handwritten memo had five statements / demands:

- An urgent meeting to discuss the mining permit and Social and Labour Plan, and the way forward for the community plant;
- The co-option of some community members – not members of the “GSS Mining Association” - to the CPA mining committee dealing with community plant issues;
- Reassertion of a community resolution of 04/12/2004 that a certain percentage of jobs on the community plant would be reserved for youths, women, and “the residents at large”;
- Rejection of “GSS Mining Association’s self-recognition agreement with the CPA Committee” and a demand for clarity in this regard from the CPA committee;

⁵⁹ Letter from attorneys to Nare Diamonds Limited. 24/07/2007. Subject: Shareholders agreement: Schmidtsdrift Mining Enterprises (Pty) Ltd.

⁶⁰ Minutes Of The General Meeting That Was Held On The 07th July 2007 In The Community Hall

- That the CPA Committee should take “severe disciplinary action” against certain members of the Mining Association, particularly Victor Oliphant, for undermining the CPA Committee and a government official during the 07/07/07 community plant meeting. ⁶¹

The CPA Executive responded to this memorandum⁶², addressing each point as follows:

- The permit is with DME and will only be issued after the CPA has identified the contractor to start the mining
- The CPA Committee does have a Social and Labour Plan although some issues still have to be included in the plan, namely grave sites, land management, recreation and sports, arts and culture, and infrastructure
- The CPA Committee is handling the community plant issue and the GSMA is not involved
- The CPA Committee confirmed that records of the resolution taken on 04/12/2004 were in their offices; there is reference to minutes referring to a community decision to form a company but “the portion of those minutes have been (torn) off and are missing”
- The CPA Committee has never discussed a recognition agreement with the GSMA
- The CPA Committee noticed that members of the GSMA had shouted at Peter Mokomele; Mr. Olifant apologised, but “he said that he can only pull his finger back, he will not withdraw his words.”

August 2007: Nare/Lonrho becomes involved in Angola

In August, Lonrho signed an agreement of intent to conclude a Joint Venture Agreement for the Primary (Kimberlite) and Secondary (Alluvial) diamond deposits in the Lulo Diamond Concession in Angola. The same month saw the completion and commissioning of a new Flow Sort Diamond Recovery Plant at Schmidtsdrift, for the treatment of diamondiferous concentrates.

October 2007: Nare changes its name to Lonrho Mining

In October 2007, Lonrho announced that Nare Diamonds would change its name to Lonrho Mining. Lonrho Mining would be headed by Nare chief executive officer Charles Mostert, former Chief Financial Officer of Durban Roodepoort Deep.

According to Lonrho, the proposed change of name to Lonrho Mining “reflects the recent increase in ties with Lonrho and should enable Nare to benefit further from Lonrho’s experience and presence in Africa.” The companies also announced plans to develop the Lulo Diamond Concession with Endiama, the national diamond company of Angola. According to Mostert, the “closer ties” with Lonrho were already providing Nare with “unique access to resources and deal flow throughout Africa while the dual listing on AIM and the ASX should help Nare to continue to grow rapidly and to develop into a significant African resource company.” ⁶³

February 2008: Lonrho Annual report

According to the Lonrho 2008 Annual Report, since re-commencing prospecting and trial mining operations in April 2006 up to 29 February 2008 the mine has produced 15,953 carats of diamonds from

⁶¹ Memorandum from Schmidtsdrift residents to Schmidtsdrift CPA Committee 25/07/2008 08h00

⁶² Reports from Memorandum. No author or date. 2 pages. (Given to PS by Mr. Molelekwa.)

⁶³ Nare to re-emerge as Lonrho Mining. By Sherilee Bridge. Published on the web by Business Report on August 29, 2007.

3,038,841 tonnes at an average grade of 0.53 carats per hundred tonnes. During May 2008, a 61 carat “fancy yellow diamond” was discovered.

February 2008: GSMA challenges CPA to act on 7/07/07 resolution.

Attorneys representing the GSMA contacted the CPA’s attorneys in February 2008 regarding the special General Meeting of 07/07/2007. In a letter written by attorneys representing the GSMA, it is claimed the community had decided that GSMA should proceed with the mining activities, with an independent contractor appointed to serve as a mentor to the Association, and the GSMA demanded that the CPA should implement this decision.⁶⁴

The GSMA’s legal representatives were told by the CPA’s representatives that the CPA Committee could not negotiate with the GSMA as they had appointed a consultant to “investigate and advise the Committee as to how the Resolution adopted at the meeting held on the 7th July 2007 should be implemented.”⁶⁵

March 2008: GSMA/CPA wrangling over legal costs and recognition

It was alleged that the GSMA had developed a draft recognition agreement using the CPA’s lawyer at the CPA’s expense. It appears that there was confusion over the past role of the CPA’s own legal representatives with regard to the CPA’s relations with the GSMA. A letter addressed to the Schmidtsdrift CPA chair from EMW&H reads as follows: “With regard to the drafting of a Contractors Agreement between the CPA and the GSMA as well as the Notice of a Special General meeting of the members of the Schmidtsdrift CPA to be held at some date during January 2007, we wish to advise that we had consultation with amongst others, Mr Willem Mpolokeng, Mr Victor Mokgoro and Mr Stephan Le Roux since the beginning of November 2006. When we prepared the Contractor’s Agreement and Notice of a Special General Meeting we regarded our instructions as coming from the CPA”. These services had been reflected on a past account rendered to, and paid by, the CPA.⁶⁶

The Committee apparently told the meeting that they had met with the GSMA, and who insisted that no money was owed to the CPA, which the committee had accepted. However concerns remained. The minutes read as follows: “it was not clear who used the community’s money, because the name Recognition Agreement Contract which is the document of the association appeared on our lawyer’s account, including the person(s) who were drafting it.”

May 2008: GSMA follow up right to mine Zone 16

In May 2008, the legal representatives of the GSMA again contacted the CPA’s legal representatives, asking whether the CPA Committee was ready to begin negotiations with their clients. The CPA Committee responded that they had never agreed to negotiate with the GSMA, and referred to minutes dated 07/07/2007 which they believe clearly state “that the mandate given to the Committee was to study the proposed Resolution report and look into the advantages and disadvantages and thereafter to come back and report to the community”. Further, the letter stated that the CPA committee would only

⁶⁴ Letter from Towell and Groenewaldt to Messers Elliot, Maris, Wilmans and Hay, Kimberley. 04/02/2008. RE: Garamtale Small Miners Association / Schmidtsdrift Communal Property Association

⁶⁵ Letter from EMW&H to Messers Towell & Groenewaldt, Kimberley. 14/03/2008. RE: Garamatale Small Miners Association / Schmidtsdrift Communal Property Association

⁶⁶ Letter from EMW&H to the Chairperson of the Schmidtsdrift CPA. 14/03/2008. RE: RE: Garamatale Small Miners Association / Schmidtsdrift Communal Property Association

negotiate with the GSMA if the community gave them the mandate to do so; if the GSMA wanted to call a community meeting for this purpose they should do so. ⁶⁷

On 05/06/2008 EMW&H advised against this course of action as this would mean abdicating the Committee's responsibilities to "rule and administer the affairs of the CPA of Schmidtsdrift" and advised further discussions on the matter. After further discussions, on 08/07/2008 EMW&H informed the legal representatives of the GSMA of the CPA Committee's position on the minutes, and that it did not feel "obliged to communicate with the GSMA" under these circumstances.

May 2008: Lonrho indicates SME unviable with offtake agreement in place

On 16/05/2008, the CPA committee had met with Lonrho. Lonrho representatives warned that they would not be in a position to release money for the SME and that the project could be closed within three months unless there had been "an improvement of carats".⁶⁸

On 11/07/2008 a meeting was held between the CPA Committee and Nare; the only item on the agenda was "selling of diamonds to the Juta". According to Nare, they could "no longer carry on with the situation" and were still running at a loss because of arrangements around sales of diamonds. ⁶⁹

August 2008: Lonrho mining signs option to purchase agreement with New African Mining (NAM)

On 15/08/2008 Lonrho Mining announced that it was selling its 80% in Schmidtsdrift for about \$13,35-million in order to focus on its Lulo diamond project in Angola.

According to a press report, Lonrho "had entered into an option agreement to sell its portion of the prospecting right and associated mining equipment to South African diamond miner New African Mining (NAM). In terms of the agreement, NAM would have an exclusive option for 14 days to conclude all the necessary documentation and formal agreements for the sale of Lonrho Mining's interests in the Schmidtsdrift operation. The NAM had agreed to pay a non refundable option fee of \$500 000, which would be deducted from the purchase price. Lonrho Mining would retain about \$6-million after payment of debt and other associated costs, which it would apply towards the exploration and development of the Lulo project." ⁷⁰

October 2008: Final sale to New African Mining concluded

On 7/10/2008 Lonrho Mining signed an \$US11.3 million sale agreement over its prospecting rights and associated mining equipment at the Schmidtsdrift diamond mine in South Africa with New African Mining.

⁶⁷ Letter dated 03/06/2008 to Mr. Wilmans on CPA letterhead, signed by the Secretary KJ Mokgoro. Also see letter dated 08/07/2008 from EMW&H to Messers Toweel and Groenewaldt: GSMA / Schmidtsdrift CPA.

⁶⁸ Executive meeting and LONRHO and NARE AND CPA on the 16 may 2008. Written on Schmidtsdrift CPA letterhead. Dated 16/05/2008

⁶⁹ Meeting Held At The Boardroom With CPA & Nare 11 July 2008

⁷⁰ Lonrho Mining sells stake in Schmidtsdrift to focus on Angola project

<http://www.miningweekly.com/article.php?id=140889>. By: Chanel Pringle 15th August 2008

Preliminary assessment

Upon an initial investigation artisanal, small-scale mining does not appear to be technically and economically viable in this context due to the geological conditions (which include large volumes of overburden and calcrete). Different options will need to be investigated further by mining experts to assess the most feasible and the most likely to secure maximum benefits for members of the CPA.

Mining is likely to offer the most significant and reliable source of capital and income for the CPA and the community in the short to medium term (5-15 years). The capital for the CPA is linked to royalty payments (5% of the sale value of diamonds in the SME mine). Based on the figure for 2007-2008 the income from this source is in the region of 2-2.5 million per annum. This figure is probably conservative as it is based on a poor production year. Production values have also been depressed due to the offtake agreement which forced Lonrho to sell its holdings in SME. This has impacted on the potential royalty earnings of the CPA. Ben van Heerden of Lonrho estimated a loss at between 35 and 40 % of the value of the stones mined due to the punitive conditions of the offtake take agreement. Under NAM the value of sales can be expected to rise and with it the value of the CPA's royalty share.

The benefit of the royalty option over the share option is that it generates immediate capital for the CPA. Given the high capital and operating costs the mine can run at a loss of many years before making a profit and paying dividends to shareholders. The royalty option is therefore the preferred option in terms of generating income for the CPA.

Mining also generates income for the community in the form of wages. In this regard 118 people from the local community are employed on the SME mine, making the mine the single largest employer in the area.

In terms of the legislation New African Mining, Lonrho's successor also have to support local economic development in the area. The commitment to local economic development must be spelt out in the Social and Labour Plan that must be submitted in order to convert from a prospecting to a mining license. It would appear that a SLP was in the process of being finalised by Lonrho and that this will need to be negotiated and put in place by its successor.

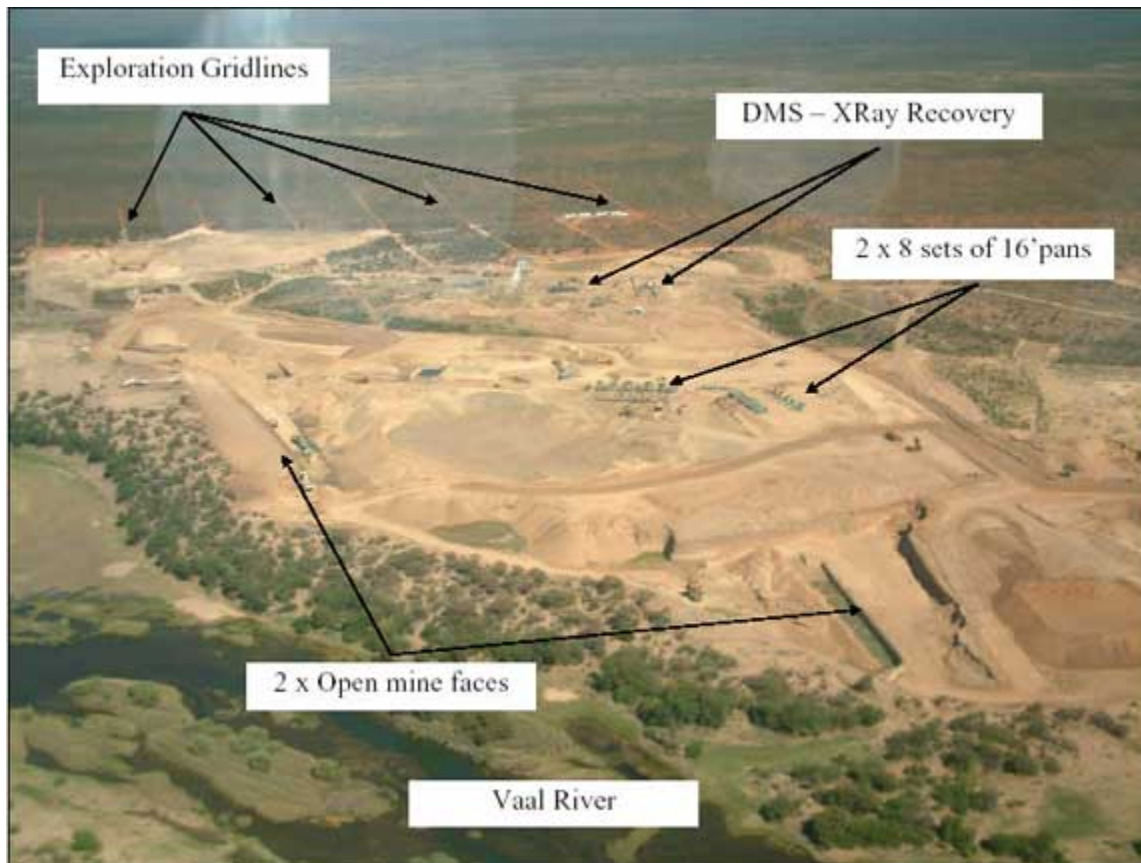
In terms of the legislation the local community and municipality need to be consulted in the drafting of the SLP which will enable local priorities to be identified. Local economic opportunities could include upgrading the bakery to enable it provide the current mining activities with bread (the hostels etc), and investment in agricultural initiatives that could also produce agricultural produce that could be sold to the mine/s.

The 480 ha portion of the mine also offers similar opportunities to the CPA if it is mined along the same lines, i.e. a mining company enters into an agreement with the CPA to mine the area. The exploration and capital expenses associated with mining would be borne by the mining company while the CPA and community would benefit from the royalties and employment opportunities.

Rehabilitation

The photograph below gives some idea of the scale of landscape disturbance associated with mining activities. Our initial assessment indicates that rehabilitation appears to be ad-hoc and essentially limited to covering up and flattening areas that have been mined.

It would appear that NDC undertook limited rehabilitation and that the disturbances that they created have been taken over by NARE/Lonrho who are now filling in and levelling areas that were mined. We have yet to determine if adequate stockpiles of topsoil were set aside and are being used to cover the arrears that have been levelled. Rehabilitation requirements are currently the focus of further study.



Future issues relating to mining

In terms of royalty payments, the Shareholders agreement stipulates that it involves a single payment once a year. It is recommended that the community directors negotiate with the new shareholders in SME (New African Mining) that this be changed to quarterly payments. The advantage of this is that it would enable the CPA to take better advantage of investment options in the open market and also improve their cash flow.

Future mining of 480 ha

Based on a letter from Elliott, Maris, Wilmanns and Hay (CPA attorneys based in Kimberly) dated 20 October 2006 it would appear that the DME support granting of a mining license for the 480 ha section of land. However, the issuing of a license is contingent upon the submission of an EMPR and a SLP by the community, plus the depositing of R 464 500.15 into a rehabilitation fund to provide security for rehabilitation. This is a standard legal requirement for all mining licenses. The community has already paid the money into the fund and has a draft SLP for submission.

Putting the 480 ha out to a transparent tender process

It seems from the above that small-scale artisanal mining is neither technically or economically viable given the geological conditions at Schmidtsdrift. The high capital and operating costs together with the associated risk mean that the CPA or a local mining association cannot feasibly undertake the mining on its own.

While Phuhlisani is engaged in exploring feasible mining options preliminary indications are that the CPA will need to consider a Joint Venture with a mining company / contractor who will be responsible for mining operations. Given the conflict and confusion that has emerged from previous attempts to appoint a contractor it is essential that this contractor be selected through a transparent tender process where bidders are evaluated against an agreed set of criteria which will ensure maximum benefits and opportunities to members of the CPA. Given the sensitivities concerning conflicts of interest, it is proposed that the tender bids will need to be independently adjudicated by persons with no interests in the outcome and who are approved by members of the CPA. The benefits of this approach include:

- Risks associated with mining are borne by the mining contractor;
- Exploration, capital and operating costs borne by the mining contractor;
- A royalty agreement which ensures that income is generated for the CPA as soon as diamonds are found and sold. As indicated above, it is recommended that royalty payments be made on a quarterly basis;
- Binding undertakings to create local employment with the stipulation that an agreed % of employees have to come from Schmidtsdrift CPA members;
- Skills development and training for local residents as required by the SLP;
- Contribution to local economic development as required by the SLP.

It is also recommended that the contract between the CPA and the mining company should require the mining contractor to prepare the EMPR and SLP. In addition the mining contractor should also be required to refund the CPA the R 464 500.15 required for the rehabilitation fund. If the CPA pays this amount it would effectively mean that R 464 500.15 would not be available to the community to invest in community projects.

Conclusion

It is clear that mining is the key strategic asset in the short to medium term in Schmidtsdrift. However the challenge is to ensure that this asset realises its full potential so that revenues from mining can be reinvested to develop other productive assets at Schmidtsdrift and to ensure a just and equitable distribution of benefits amongst its members on and offsite.

At the same time a formula has to be found to maximise Schmidtsdrift interests in any mining deal in ways which create employment transfer skills and create opportunities for local enterprises.

Chapter 6: Agriculture

The chapter at a glance

This chapter provides:

- A review of the agricultural and water resource base;
- An overview of current agricultural activities in Schmidtsdrift;
- A review of available information on livestock and grazing management;
- A history of interventions by government and NGOs to develop plans, local institutions and provide practical support for agricultural activities;
- An overview of Phuhlisani's initial observations.

Agricultural resources and environmental management

The Africon 2005 report notes that from a geological, vegetation and soil perspective, the farm Schmidtsdrift 248 is a relatively homogeneous landscape. The only sensitive landscape is a large wetland system situated approximately 1 km west of the Boomplaats settlement.

The Schmidtsdrift farm study undertaken in 2006 by Farm Africa identified the predominant grasses as Stikgrass, Bloebuffelgrass, kalkgras and Rooi top which combine both palatable and less palatable species.

The study highlighted the problems of bush encroachment from swaarthaak/blackthorn (*acacia mellifera*) which it described as high. Other invader plants include driedoring (*rhigozum trichotomum*) a rigid and woody plant, 1 to 2 m tall and 0.5-1.2m in diameter which is unpalatable except for pods and flowers. This species is becoming increasingly invasive in arid rangelands as a result of overgrazing. It spreads very effectively by vegetative propagation and prefers sandy and calcareous soils. Driedoring displaces more valuable plants and sometimes forms impenetrable thickets.

A review of the Pniel project near Barkley West⁷¹ highlights the problem of bush encroachment similar to those being experienced in certain areas of Schmidtsdrift.

“The main encroaching species are thorn trees (e.g. Acacia mellifera (the encroaching species at Schmidtsdrift), A. karroo, A. reficiens, A. tortilis and Dichrostachys cinerea). These species also tend to have very high levels of phenolic compounds (e.g. tannins) in their leaves, which reduce their digestibility to livestock (Rohner and Ward 1997). The combination of thorniness and low digestibility of Acacia trees reduces their accessibility and nutritional value to livestock, thereby reducing the ability of the land to sustain people and their livestock. Thus, bush encroachment can lead to serious reductions in livestock, ultimately causing famine, which is often exacerbated by drought. Bush encroachment is an example of an agricultural problem that is also a biodiversity problem: reduced agricultural productivity occurs because of the low value of thorn trees to livestock; reduced biodiversity occurs because a multi-species grass sward is replaced with a single tree species. Finding a solution to the

⁷¹ Retrieved from http://www.botany.unp.ac.za/Staff/david/David_files/Pniel.htm 14 October 2008

problem of bush encroachment is therefore of mutual benefit to agriculture and conservation. Furthermore, when bush encroachment occurs, many indigenous plants that are traditionally used by people for nutritional and health purposes are outcompeted or shaded out by trees. This leads to a serious decline in the quality of life for the people who use these plants."

Impact of mining on agricultural activities

In May 2005, the Agricultural Extension Officer met with the Schmidtsdrift Agricultural Committee to discuss farming in the area and to assess the state of irrigable land.⁷² According to the minutes, various camps were visited and it was found that mining operations had significantly damaged some agricultural land. A portion of irrigable land closest to the SANDF camp had been "almost turned upside down" by digging, a large mud dam had been left which posed a danger to animals as they could get stuck in it, and where rehabilitation had been done the soil had caved in, indicating instability. Other irrigable land had been partially dug up, and the roads were inaccessible. It is clear that rehabilitation monitoring needs to be tightened up and the mining of high potential agricultural land needs to be undertaken with particular care with respect to its subsequent restoration.

The environmental impact is a key driver of the hostility and resentment that many Schmidtsdrift residents show to the mining operations which they perceive as damaging valuable assets and providing very little, if anything in return. These resentments have boiled over into protest action and industrial sabotage in the past. It is important that mining companies and their contractors recognise what is of value to livestock owners and aspirant farmers at Schmidtsdrift.

Land Care and fire risk management plans

The Department of Agriculture and Land Reform and the CPA have discussed mitigating the non mining environmental impacts of poor grazing controls, bush encroachment and invasive plants through different measures.

The CPA Executive met with a Mr Bapela from the Department in July 2005 at which a land care plan was discussed due to concern about the impact of overgrazing in certain areas. The objective of the Schmidtsdrift Land Care Project is to save indigenous flora, and to improve veld condition and long-term production capacity of the land. It also proposes the chemical eradication of the declared noxious weed *Opuntia fulgida* (Rosea cactus) from 2000 ha of Schmidtsdrift. This is described as "a high priority need of the Schmidtsdrift beneficiaries and their agricultural land". Other objectives of the project are to train 30 farmers in veld management skills, and provide work for ten unemployed members of the Schmidtsdrift community. A Land Care Business / Project Plan Framework for bush control and the creation of fire lanes on 2000 ha of a sparsely populated area of Schmidtsdrift has been drawn up by K. Mokgothu of the Department.⁷³

The Land Care Plan was due to be implemented from April 2008 to March 2009. An official of the Department of Agriculture and Land Reform as well as the 'Schmidtsdrift Land Care committee' is supposed to manage and monitor the project on a monthly basis.

We have yet to establish whether implementation has begun on schedule with respect to the Land Care plan. To date the CPA Executive has made no mention of this project.

⁷² Task Team minutes, 07/06/2005 point 5

⁷³ LandCare Business / Project Plan Framework. Schmidtsdrift Land Care Project. Department Of Agriculture And Land Reform Northern Cape Province.

Clearly the Land Care project needs to be linked to a wider process of improved livestock and grazing management at Schmidtsdrift and the identification of land currently under grazing and encroachment pressure. This will require a baseline study to be undertaken and indicators identified in co-operation with local users in different grazing areas which will assist in monitoring rangeland quality and species composition over time.

Irrigable land and water rights

The Bigen 2000 report states that around 400ha of soils suitable for irrigation along the Vaal River had been identified by the DoA in a study conducted in 1998. In 2008, the Northern Cape Department of Agriculture and Land Reform is reported to have estimated that about 500ha could be used for irrigation purposes, but noted that this is “under threat due to mining activities in the area”.⁷⁴

Schmidtsdrift currently has 180 hectares or 1600 000m³ of Vaal River water allocated to them on the basis of an undertaking by the Minister of Water Affairs and Forestry Professor Kader Asmal in 1998⁷⁵ To date however the CPA has not been able to determine how best to make use of this valuable entitlement which if valued at R30,000/ha is worth 5.4 million rand on its own. (See DoA estimate below).

This lack of action by the CPA is a reflection of a number of factors:

- The impact of mining which had disturbed or otherwise threatened available irrigation land;
- The delays and uncertainties associated with royalty payments from successive mining houses;
- The high cost of irrigation development which according to a DoA official in early 2005, was estimated at around R30 000 per hectare⁷⁶ without water rights. It was stated that the price per hectare would double if water rights had to be purchased as well.⁷⁷
- The lack of clarity about rights and benefits of individuals joined in the claims and the way in which these water rights could best be utilised;
- Loss of institutional memory due to frequent changes and poor handover between CPA committees

In May 2005 the Agricultural Committee was told by a DWAF representative that with the passing of the National Water Act the department had done away with water rights and that only water licenses would be issued in future. Apparently the CPA was informed that it would have to apply to the Upington DWAF office for a licence if it wanted to make use of this resource.

In 2004 DWAF developed a Policy on Financial Assistance to Resource Poor Irrigation Farmers in terms of sections 61 and 62 of the National Water Act, 1998. This policy represents a major opportunity for Schmidtsdrift to access government support to develop its irrigation assets. The policy provides for a grant on the capital cost for the construction and/or upgrading of irrigation schemes, to resource poor farmers who are members of Water Users Associations or other approved legal entities. It appears that Schmidtsdrift would be eligible to apply for a grant can be used for:

- consultant services for facilitation, needs assessments, technical planning and design, including the socio-economic feasibility studies;

74 LandCare Business / Project Plan Framework. Schmidtsdrift Land Care Project. Department Of Agriculture And Land Reform Northern Cape Province. Prepared By: K Mokgothu. No Date. Probably 2008.

75 Minutes of the Task Team meetings, 2004/5

⁷⁶ This will have risen substantially since 2005.

⁷⁷ Fax in Afrikaans from the Department of Agriculture, Nature Conservation and Land Reform (N Cape Province) to Mr. J Prinsloo of Africon. Subject: Planning of agricultural activities in Schmidtsdrift. 31/03/2005.

- the assessment of long term water availability, existing infrastructure, different options available and development prospects for irrigation schemes;
- the cost of materials, equipment and construction of new bulk-supply;
- water works or the rehabilitation or upgrading of existing schemes;
- water conservation and water management measures on irrigation schemes;
- dealing with the legal and administrative requirements for the development or rehabilitation of irrigation schemes.

According to the policy qualifying legal entities must comply with the following criteria:

- Acceptable financial management, as specified by the Public Finance Management Act (Act 1, 1999 as amended by Act 29 of 1999);
- Provide full information of its individual members and the share every individual person has in terms of liabilities and benefits in the legal entity;
- The constitution of the entity should adequately (to DWAF) specify and/or prescribe:
 - the sustainable management, operation and maintenance of its irrigation related systems and assets; and
 - its objectives with regard to efficient water use, water conservation and demand management within its area of operation.
- The actions of the legal entity should adequately (to DWAF) comply with its constitution.

The above criteria underline the importance of the CPA developing transparent and rigorous financial management and reporting systems and clarifying the individual rights and entitlements of its members.

In Sept 2008 the DWAF manager in Kimberley contacted the CPA and requested them to register their rights on the Water Allocation Resource Management System operated by the Department.

Phuhlisani is in the process of engaging with the Departments of Agriculture and Water Affairs to ascertain the most suitable irrigable areas which have not/will not be affected by mining. We are also in the process of assessing whether/at what point any rehabilitated land will be suitable for irrigation.

Infrastructure

Fences and camps, water points, livestock stations

Currently there are six identified grazing areas but no formal camping system or rotational grazing. Previous planning exercises in 2005 and 2006 delineated camps in different ways. A planning process in 2005⁷⁸ had identified the need for 11 camps. Local livestock owners participating in a participatory land use planning exercise facilitated by Farm Africa in 2006 identified 6 camps. These appear to correspond with the grazing ranges associated with the six settlement areas established in terms of the betterment planning undertaken in 1960. Phuhlisani field work to date suggests that this continues to underpin informal tenure arrangements and the delineation of grazing areas at present. Part of one of the six camps (Camp 6) has since been designated as a game farm area.

In June 2006 Farm Africa carried out a survey of the physical livestock infrastructure at Schmidtsdrift following complaints by the agricultural committee who cited a lack of fences and damage to existing fences; roads to cattle posts needing to be graded; and windmills, water tanks, submersible pumps and water troughs needing repair.

⁷⁸ It is presumed that this process was undertaken by the Department of Agriculture

Farm Africa identified and assessed the following infrastructure:

Infrastructure type	Number	Condition	Comments
Jackal proof boundary fencing		Good	
Gates		Poor	Gates need replacement
Kraals in six grazing areas		Fair	
Dipping pens		Fair	Fences around dipping pens need to be erected
Crush pens	6	Bad	Need to be repaired
Loading ramps	6	Bad	Need to be repaired
Cement water dams	13	Satisfactory	An additional dam needed in camp 2
Boreholes	8	6 Satisfactory	2 not working
Troughs	13	Fair	Need some attention
Windmills	13	Stable working conditions	In need of attention
Tanks	6	Good/ fair	Two tanks leaking
Pipeline	13	Working condition	
Submersible pumps	5	3 working	2 broken

Farm Africa concluded that most of the infrastructure was in good condition, although some maintenance and repair was needed.

The more recent (March 2007) geo-hydrological report on Schmidtsdrift which had been prepared for the Siyancuma Local Municipality and MVD Kalahari also has information on the pumps and boreholes which supply water to settlement areas, eight of which were test pumped and sampled to determine their sustainable yields and water qualities.⁷⁹

According to the RLCC in August 2007, a Schmidtsdrift farm infrastructure development plan had been developed and was due to be submitted for Comprehensive Agricultural Support Programme (CASP) funding. The implementation was planned to take place in phases, with outside fencing the first priority, then the setting up of internal camps, windmills and dams.

The objective of the Schmidtsdrift CASP Business Plan (prepared by K. Mokgothu) is to "upgrade and develop stock fencing and stock watering systems to ensure optimal utilisation of the farm, hence good farming practice". It is planned to implement the project in three phases; the business plan only covers the first phase for 2008/9 (a total of R1m.)

With regard to institutional arrangements and management, the Business Plan says that the CPA agricultural sub-committee and the district manager who serves as the District coordinator together with the Project manager/leader (the local extension officer, probably) will be responsible. The project leader's duties include reporting on job inspections, expenditures, payments, number of jobs created, training completed and the final project report.

The Plan notes that a "participatory and holistic development approach is being used to ensure that the community is hands on with nearly every activity taking place" It asserts that they were involved in the

⁷⁹ Geohydrological Report Schmidtsdrift for Siyancuma Local Municipality and MVD Kalahari by GHT Consulting. March 2007. JJ Hough and DC Rudolph. The file includes a loose progress report from GHT to Andries Goliath of MVD Kalahari dated 06/03/2007 on tests conducted on six of the eight water supply boreholes. (Given to PS by Mr. Molelekwa.)

project conceptualisation and planning, and will be also be involved in the implementation and evaluation phases. The district and local municipalities are involved through their participation in the Schmidtsdrift Development Stakeholders Committee, which is linked to their Local Economic Development (LED) and Integrated Development Programme (IDP).

For implementing the plan, the Provincial Tender Board is to appoint a service provider to complete the project according to DoA specifications. It is envisaged that a monitoring and evaluation tool for the proper management of the project will be developed. Other objectives that the plan seeks to meet include income generation, better production, permanent jobs, and capacity building.

The plan envisages that members of the community will be trained in skills such as the erection of fences, reservoir construction and laying pipelines. This training will "form part of the exit strategy to ensure the sustainability of the project". It is hoped that there will be other (unspecified) transfer of skills by service providers who employ members of the Schmidtsdrift community during their work on the project. The community will be provided with tools to maintain infrastructure such as windmills.

In May 2008, Mr. Mokgothu told an agricultural committee meeting that he had drawn up a business plan for Schmidtsdrift and submitted it to the Department.

The DoA had told him that the project should be implemented in phases due to a shortage of funds. A sum of R1m had been allocated to fixing the windmills, which would be the first project to go ahead, and more funds had been allocated to eradicate noxious plants. The need to train people in each ward on how to fix windmills was discussed. This process is currently underway.

Other infrastructure

A lot of SANDF infrastructure remains at the former San camp. Phuhlisani is in the process of assessing what of this infrastructure might have a high potential utility for agriculture. Apart from existing buildings there are 12m x 28m steel frames which could potentially be used for packsheds, chicken housing, cold rooms or horticultural tunnels, there is a 150mm pipeline from the river up to the camp. Although the river pump seems to be missing, and the pipe fractured in a few places, there are 5 settlement dams and a lift pump (30kw) and various water tanks, the sum of which might be able to form the basis of an irrigation system.

A neighbouring farmer has negotiated access to the land and has fed a 75mm irrigation pipeline up the Western boundary of the farm, through the game farm area (with permission of the Community). It might be possible to share this line which might be used for holding water in tanks for onward small-scale irrigation.

Expressed interests in agriculture

Schmidtsdrift has significant agricultural assets and according to the Emendo survey carried out in May 2000, the overwhelming majority of households surveyed - 82% - expressed interest in farming with the vast majority interested in stock farming. Of this 82% who wanted to be involved in farming, only 21% were interested in irrigation farming, while 79% were interested in stock farming.

However there appears to be a much smaller grouping of beneficiaries who have practical farming experience. Only 40% of households were involved in small-scale farming activities, mainly livestock, at the time of the survey, while 60% had "no experience whatsoever" of farming.

This highlights the importance of sustained extension support, farmer to farmer learning, education and financial assistance needed to ensure the sustainability of any farming initiatives planned for Schmidtsdrift.

Assessing levels of farmer organisation

According to the PLAAS report (2006) a total of 64 farmers were involved with a farmers' association that was established in 2004. This group was said to own close to 3,000 livestock. In addition, various other farmers from within and from outside Schmidtsdrift are also grazing livestock and cattle on the land. Members of the farmers' association perceived that these farmers were grazing illegally and felt they were abusing the resources that they rely on to sustain their families. This indicates the dangers implicit in broad and seemingly inclusive references to the 'community' and 'Schmidtsdrift farmers' which make frequent appearances in plans, minutes and other documents. In addition to the farmers association documentation makes reference to NAFU members, an agricultural development forum, a co-op and a farmers' union.

Phuhlisani's investigations have highlighted, however, that it will not be useful to refer to Schmidtsdrift farmers as if they were a homogenous group. Livestock owners vary substantially in their livestock holdings and have different zonal and institutional interests and affiliations. Some people have in excess of 200 head. Several livestock owners live offsite. According to community informants in Zone 1 one farmer based in Kimberley is reported to have constructed his own windmill and employs shepherds from Lesotho to mind his stock. This indicates that in certain areas there may be individuals who are effecting de facto private resource capture.

The history of formal farmer organisation at Schmidtsdrift seems to correlate closely with the involvement of Farm Africa in the area. Farm Africa, facilitated a farmer development programme which ran up to November 2006. Farmer organisation has also been influenced by the Department of Agriculture who recruited twenty young people to establish the Tsalanang Co-operative which was to raise goats as part of the Kalahari Kid initiative. These are discussed in more detail in a different section below.

For a period it seems that the farmers association had an independent existence from the CPA. For example in March 2006 it was reported that a separate bank account had been opened for the Farmers' Association. The signatories were the chair of the association, Mr Segami; the secretary, Mrs Lekwene and a Mr Groenewald. An application had been made to the DoA for funds for land improvement.⁸⁰ By early 2007 it was reported that R25 000⁸¹ had been transferred to "the local NAFU members" to open a stock bank for each member of the community interested in participating.⁸²

By November 2006 a meeting of stakeholders for agriculture in Schmidtsdrift had been set up; it included the CPA Committee, DoA, the LCC, the Ward Councillor, a community development worker, NAFU / Farm Africa, and Tsalanang Co-operative. This became known as Schmidtsdrift Agricultural Development Forum. However there were complaints that stakeholders were not attending meetings, and it seems the committee was still to define its objectives.

At a meeting in December 2006 it was decided that the Schmidtsdrift Agricultural Development Forum should elect 14 members and meet monthly. R. Duiker⁸³ was elected as Chair, and E.T. Mnzana⁸⁴ was

⁸⁰ CPA Quarterly meeting 04/03/2006

⁸¹ The origin of these funds is not clear from the documentation

⁸² CPA Chairperson's report, 2007

⁸³ Currently the community development worker and a member of the Garamatale Small Miners Association

⁸⁴ An additional member of the 2007-2009 CPA Executive

elected secretary. Mr Bapela was made responsible for an implementation plan. The projects prioritised by the forum at this time included:

- Accessing the Farm Africa livestock bank programme discussed further below
- Investigating the Kalahari Kid Corporation – which offered a system of “Cooperative Contract Growing” designed to assist non-commercialised goat farmers to supply high quality goat products
- Development of camps; fencing and watering points for farmers in different areas.

At this time the Schmidtsdrift Farmers' Association and an Agricultural Sub-Committee of the CPA were also functioning, according to these minutes, but there is no information on the relationship between these three groups.⁸⁵

Farm Africa and Legal Resources Centre held workshops with members of the Farmers' Association in November 2006. This reported that there was a poor relationship between the CPA and the Farmers' Association. Members of the Association perceived that the CPA was more concerned about mining than anything else.

In the period since the closure of the Farm Africa programme in the Northern Cape it appears that much of the impetus for supporting local farmer organisation has been lost. Thus far, Phuhlisani's work in Schmidtsdrift, which has involved a number of locality based focus group processes and interactions with individual farmers has produced very little evidence of continued coherent farmer organisation at Schmidtsdrift. The CPA has an Agricultural Sub Committee, but this does not appear to be active.

In day to day farming activities, Phuhlisani has identified that less formal systems predominate. It appears that local livestock owners utilising particular cattle posts and grazing their stock on particular ranges will co-operate on matters of mutual interest. In certain localities such as Zone 1 people who state that they are ignored by the CPA reported that they have organised together to raise money and fix a broken windmill which is their key water source.

Where livestock farming is concerned state vets and animal health assistants who immunise, dose and inoculate stock are the key interface between farmers in different localities at Schmidtsdrift. The recent inoculation programme undertaken in September 2008 has inoculated all stock on the farm has meant that the Department has invaluable data of what stock are located where, and which are owned by whom. This data will form the basis of the tenure arrangements and land management plans to be developed with the farmers.

PLAAS agricultural assessment

The PLAAS report produced at the end of 2006 which draws on the Farm Africa survey contains this assessment of the agricultural situation at Schmidtsdrift.

“A number of factors hamper the development of agriculture at Schmidtsdrift. Henry Seleka, a farmer and resident of Schmidtsdrift, reported that the main problem facing small-scale farmers is the lack of management of the land. This has resulted in a ‘free for all’ approach towards the commonage and certain other parts that were not designated as grazing areas. The result is overgrazing, no rotational grazing, stock theft and no maintenance of resources. The situation has caused a lot of anger among the

85 Schmidtsdrift Agricultural Development Forum. Minutes of the meeting held on 07/12/2006 at the CPA Hall.

farmers who are dependent on the land. In turn, this has led to an unpleasant relationship between the farmers' association and the CPA committee, which they feel is responsible for the commonage. The small farmers would like to see the land divided into camps, with a proper management system being implemented to conserve the commonage, but their pleas for proper maintenance of the commonage have not received any attention from the CPA executive.

"Members of the farmers' association reported that they would like to receive support from the executive committee to enable order on the commonage, to grow livestock numbers according to the carrying capacity of the land, which in turn would help them to increase their sales and generate bigger incomes. Farmers generally make very limited sales of livestock due to the fact that access to markets is limited and because of their view of their livestock as their only wealth. They are therefore reluctant to sell unless absolutely necessary. In a meeting with Farm Africa this was cited as a survival strategy because of the high dependence on livestock to meet family needs."

Currently little evidence has come to light to indicate that this situation has changed. In many respects the governance vacuum has increased at Schmidtsdrift as evidenced by the current resurgence in contestation between the Batlhaping Trust and the CPA. In some respects this could be seen as an indicator that people who are more reliant on agriculture and natural resources are seeking a credible authority to ensure some level of resource and infrastructure management.

Grazing and livestock management

According to the Bigen 2000 report, there were no formalised or managed agricultural activities in Schmidtsdrift at the time the study was conducted. Although stocking posts had been established in order to manage stock, no formal plan existed with regard to the number of stock linked to the carrying capacity of the land or the management and establishment of camps. No system existed to protect the land from overgrazing. Bigen warned if these activities continued unchecked it was probable that the already sensitive ecosystem could be destroyed or damaged, with serious long-term implications.

Livestock remains an important economic activity for many households. Although livestock farming does not provide a regular income for many, it does make an important contribution to household livelihood security as farmers are able to sell livestock in times of financial need.

In May 2005, the Agricultural Extension Officer told the Schmidtsdrift Agricultural Committee that there was about 29 925ha of land suitable for grazing. Developing land for grazing would cost around R400 per hectare; these calculations were made on the assumption that only new materials would be used for fencing, dams, drinking troughs, and pipelines. The cost of labour was included but that of boreholes excluded. If the whole area available for grazing was to be divided into camps of 250ha with a drinking trough in each camp, the cost would be just under R12m.

The PLAAS report (2006) says there is 23,000 ha of grazing land (with an estimated carrying capacity of 18 ha per large stock unit, or 1,278 LSU in total). At the time, community-owned stock was estimated to include 1,500 sheep, 1,200 goats, 450 cattle and an unknown number of donkeys (i.e. about 80% of the recommended number, in total).

Both the Bigen and the more recent CSIR reports note that some members of the community have large herds of livestock while others have almost none, but neither study provides any further information.

Developing a livestock database

Recently there have been reports about new *Intervet ID tags*, which have been introduced on a voluntary basis to small scale farmers in Northern Cape, and which are part of a global traceability system. Livestock are being fitted with bar-coded ear tags, linking each animal to a central database containing information such as sex, weight, treatment history and change of ownership. When animals are sold, new owners can download free software to become part of the traceability chain, thereby accessing the available information.

Apparently the system also has value for small-scale farmers who lack access to computers. For these farmers, a book-based written version of the system is available, enabling them to become part of a managed livestock supply chain.

Data captured by State vets combined with the introduction of this system will help provide accurate data about the actual numbers of livestock on the property and their grazing ranges. Such information could be invaluable for future grazing management and animal health strategies at Schmidtsdrift.

Gender dimensions of livestock ownership

To date the gender dimensions of livestock ownership do not appear to have been systematically analysed at Schmidtsdrift.

A recent International Livestock Research Institute paper notes with reference to Southern Africa more broadly that “women, particularly the elderly, widowed and divorced women, and female-headed households, were disproportionately represented among vulnerable groups due to lack of key assets such as land and livestock... Women and female-headed households in southern Africa are more likely to be vulnerable than the general population because they tend to have fewer livestock”.⁸⁶

Crops

In a Task Team meeting in 2005, the DoA representative (Mr Stemmet) said DoA had tabled “numerous” business plans for Schmidtsdrift since 1995, and they were waiting for a final decision regarding the development of Schmidtsdrift before they would budget again for a final report.⁸⁷

In May 2005, the Agricultural Extension Officer met with the Schmidtsdrift Agricultural Committee to discuss farming in the area and to assess the state of irrigable land. An inspection found that although there had been considerable damage to valuable agricultural land by mining operations, a large portion of irrigable land along the Vaal had not been disturbed and could be used for farming of which two portions of about 140ha each were in very good condition and could be used for irrigation farming; and the furthest portion downriver (Area 4, about 130ha) was also in good condition.

The Agricultural Committee was told that developing irrigated land would cost about R30 000 per hectare. As indicated above, providing infrastructure for grazing across the farm in camps of 250ha would cost just under R12m. The DoA therefore estimated that developing both livestock and irrigation farming in Schmidtsdrift would cost in the region of R19m. The Committee was also told that the DoA was

⁸⁶ H Ade Freeman, S Kaitibie, S Moyo and BD Perry (2008) Designing livestock interventions for emergency situations in southern Africa. Retrieved from http://www.ilri.org/Infoserv/webpub/fulldocs/Target%20Inov_Brief_1/Designing_Livestock_Intervention.pdf 14 October 2008

⁸⁷ Task Team minutes 01/03/2005

short staffed and would not be able to help the community with planning; Mr. Bapela, who was not present, was responsible for the budget and would visit the community to discuss their basic farming needs.⁸⁸

Since that time there has not been any movement with respect to plans to develop and utilize irrigable land with the DoA remaining concerned about the possibility of irrigation land being mined.

CPA policies on agricultural land use

Section 20 of the CPA Constitution deals with land use, and stipulates that the Committee must develop land use rules “in consultation with other relevant government departments to regulate allocation of grazing camps, allocation of sites and administration of rights (rights allocation to members). The rules will have to be adopted by the General meeting setting out the clear timeframes for implementation and sanction penalty clauses.”

The Schmidtsdrift Investment Policy (undated document) which was prepared by an earlier Schmidtsdrift CPA Executive (discussed above) provided some guidelines for land use, including livestock management. Agriculture is seen as a key way to achieve self-reliance and to fight poverty in the community. The policy states that a “large portion” of the land should be dedicated to labour-intensive agriculture, with vegetables and lucerne mentioned specifically.

The policy states that all land use activities must be “registered with or known by the CPA.” All land use, by beneficiaries or outsiders, should be contractual and charged for.

The policy on livestock includes the following points:

- A farm manager must be appointed by the community to “manage and control all issues related to farming”;
- A “large portion” of the farm should be reserved for livestock, and divided into camps with windmills sited in such a way that they can serve more than one camp;
- A system of grazing rotation must be established in order to prevent soil erosion through overgrazing, and to protect indigenous traditional herbs, small animals and insects;
- A livestock register must be drawn up and maintained; it must indicate the number of livestock owned by each person and the number of livestock in each camp.

Disregard of rules governing grazing use

According to the CSIR report (2004) the CPA attempted to put in place a system to register livestock and limit the numbers of livestock. However it notes that “clear rules” regarding livestock were disregarded. According to committee members, community members were required to register their livestock at the CPA offices but did not do so. However, the CSIR report also refers to “traditional commonage rules such as rules stipulating the cutting of trees” and a Code of Conduct.

This tension is indicative of the broader governance contestation between the “traditional” way of managing resources as opposed to this new CPA system: according to the CSIR (2004). “Many of the ‘rural dwellers’ prefer the old way of life when the tribal authority still made decisions and kept the peace (and were) not in favour of the CPA or CPA committee and do not participate in the processes of the CPA.”

⁸⁸

Task Team minutes, 07/06/2005 point 5

There was concern about strong resistance within the community to registering the number of livestock owned, and participants felt this should be handled by an outside agency. The lack of clearly defined rights and responsibilities with regard to using land for grazing was identified as a crucial problem.⁸⁹

Support from government and the NGO sector

Department of Agriculture

Attempts to begin agricultural projects were hampered from the outset by lack of information on the intentions of the mining companies, and DME's apparent refusal to share information with the CPA committee that was essential for planning such projects.

In a Task Team meeting in 2005, the DoA representative (Mr Stemmet) said DoA had tabled "numerous" business plans for Schmidtsdrift since 1995, and they were waiting for a final decision regarding the development of Schmidtsdrift before they would budget again for a final report.⁹⁰

Tsalanang Co-operative - Goat farming initiative

According to PLAAS (2006), twenty young farmers (between 18 and 23 years) were involved in a DoA training project for goat farmers. The project provided training in the management and marketing of livestock to this group of young people, and to a smaller group of women who had formed a co-operative.

"The Department of Agriculture's extension officer involved with the training explained that ... the medium-term goal was to incorporate these youngsters into a co-operative with an already-established group of women and to provide assistance to this group in marketing the livestock. In order to assist these young farmers, the Department of Agriculture will provide a 'start-up kit' consisting of a small number of livestock, animal medicines and equipment necessary for farming with livestock. It is hoped that these young farmers with new skills and equipment would support the broader farming community."

"The department (it appears without consultation) also took a decision to support goat farming in Schmidtsdrift and will assist in facilitating access to international markets where there is a demand for goat meat. This led to the training of a new generation of young farmers in the community, as discussed. This initiative, however, appears not to be fully understood or accepted by the older established livestock farmers."

Phuhlisani is currently investigating what became of this project and how to integrate such initiatives into the general agricultural plans with the farmers.

Farm Africa and the Stock Bank

Farm Africa worked with the community on a farmer development programme which ran up to November 2006. According to PLAAS (2006):

"The most valuable outcome of the Farm Africa programme was a stock bank of livestock that farmers were able to build up. Farm Africa purchased 88 goats (85 ewes and 3 rams) and 26 Van Rooy sheep/whitehead Dorpers (25 ewes and 1 ram). Twenty-three households benefited from the first loan"

⁸⁹ LRC report on Schmidtsdrift to FARM. (Notes in Afrikaans). No date

⁹⁰ Task Team minutes 01/03/2005. (*We do not have any of these business plans.*)

arrangement..., whereby each household is entitled to receive five ewes on loan and must repay the loan with six ewe lambs aged six months.

“Every participating farmer has to pay R100 as a deposit and a monthly fee of R60 over 18 months. After the repayment of the ewe lambs and the required monthly payment, the farmer becomes the owner of the stock. The deposit and monthly fees are used for the purchasing of medication and fodder and as a contribution towards remuneration of a herd boy.

“This system helped set up those farmers who were not able to start up flocks of livestock but were interested in livestock farming or who wanted to expand their own livestock numbers. So while the stock bank assisted farmers, farmers also helped maintain and grow the livestock stock numbers in the stock bank.

The current situation

In August 2008, there was an agricultural committee in place, headed by Mr Viljoen Johane. The committee's records are in serious disarray and its secretary is in urgent need of assistance to set up basic administrative systems. The Committee does not know how many people own stock, or how many animals they own. It appears that almost no written records pertaining to agriculture are available at the CPA offices.

Some issues drawn from recent minutes of the agricultural committee follow.

- On 12/07/07, the main topics discussed by the agricultural committee were the slimes dams and graves. Mr. Stemmet referred to a comprehensive report which had to be ready by July 15th, and a business plan that had to be finalised in August – there are no details.
- The minutes of an agricultural committee meeting held on 28/02/2008 indicate that the matters discussed concerned the environmental impact of mining operations rather than any actual farming issues. Slimes dams, the fencing of graves, and anthrax in the area topped the agenda.
- Also, the meeting was informed that CASP would start with water points first and go on with fencing on at the beginning of April; with regard to the land care project of eradicating Rosea cactus, this was to go ahead as well. The meeting also apparently resolved to identify areas for use by the community for agricultural activities (“livestock and other”) and liaise with the relevant government departments on this matter.
- An agricultural meeting was held in May 2008. It appears that some system of committees in the community had been formed, but this is not clear from the minutes. Concern was expressed at the non-attendance of “people from other wards”, especially No. 1, at agricultural meetings despite being informed of these meetings.
- Councillor Marekwa felt that the community was not properly informed about agricultural projects.

Identifying possible options

Generally, Farm Planning involves four main steps:

1. *Analysing the current farm situation*, which includes identifying key assets and assessment of project resources in four areas:

- the people involved in the project (their farming knowledge and interest areas, business and marketing skill levels, labour availability, etc),

- physical resources (water availability, soil types, climate, veld type and quality, farm infrastructure, available farm machinery, etc.),
 - financial resources (what is the financial structure of the farm i.e. how is a farm currently financed? What financial resources are available?),
 - marketing resources (knowledge of processing and packaging, contracts, pricing, access to specific market opportunities, etc.).
2. *Setting goals* to provide a realistic vision for the farm, including the planning of appropriate enterprises which make use of available resources
 3. *Developing and implementing an action plan* –which sets out how the goals will be achieved
 4. *Monitoring on-farm progress toward goals* (This includes simple accounting and record keeping to keep track of farm performance and to provide information for farm management decisions).

The heterogeneous Schmidtsdrift situation however calls for a careful approach within this framework.

The challenges of planning in a contested landscape

It is essential that the Schmidtsdrift beneficiaries must make their own farm planning decisions and take full ownership of them. There is a plethora of agricultural interest groups within the Community, some of whom have formal representation and others who don't.

Groupings of stakeholders could be expected to be beneficiaries resident on the farm in different localities and beneficiaries resident in nearby towns; livestock holders and non-livestock holders; people interested in livestock farming; people interested in irrigation farming; people only interested in food security production; women and men farmers; etc. To further complicate the issue, there are allegations that non-beneficiaries are also using farm grazing.

Our key challenge is how to undertake agricultural planning and design rangeland management systems which adequately reflect different interests and needs and which can be implemented by people living in different localities with the support of a revived and capacitated CPA. It is essential that the contestation and conflict which have characterised the period following the settlement of the claim be resolved to avoid the planning process becoming overshadowed by struggles amongst competing interests. For this reason, the mediation process is to take place at the same time as the planning process.

Physical resource assessment and data

As a basis and departure point for generating and appraising future farming possibilities, Phuhlisani is currently securing data in the different areas highlighted in the table below.

Farm division	Data required	Responsibility/source
1. Whole farm	As much information as possible on the profile and numbers of farmers and aspirant farmers Clear understanding of community agricultural representative structures and how they fit into overall community management	CPA, NAFU and PDA CPA (and leaders of any non-CPA farm group), NAFU

Farm division	Data required	Responsibility/source
2. Livestock	Definitive livestock no's by type.	PDA (Vet. Services)?
	Veld assessment	PDA
	Recommended carrying capacity	PDA
	Recommended grazing camp layout and fit with de facto tenure arrangements in operation currently	PDA
	Any environmental problem areas?	DEAT, PDA
	Existing infrastructure (fencing, water points, dips, handling facilities)	PDA (CASP)
	Assessment of infrastructural requirements	PDA (CASP)
	Local area marketing resources (salespens, abattoirs, transport contractors, processing, feedlots, etc)	PDA (CASP), Abattoirs, etc
	An understanding of previous interventions at Schmidtsdrift (lessons to be learned?)	PDA (CASP) Livestock agents, PDA, FarmAfrica
	Potential for joint ventures	e.g. Kalahari Kid, Farm Africa, Commercial co-ops, Commercial Farming Assocs.
3. Cropping	<i>a) Potential commercial cropping</i>	
	Definitive situation re. current and potential future water rights	DWAF
	Basic water scheme tax/fees	DWAF
	Special climatic factors (wind, frost)	PDA
	Average. rainfall, distribution. Evapo-transpiration.	PDA
	Recommended sites, areas and soil survey	1998 PDA report, and more recent assessments
	Any special soil pointers (drainage, reclamation, conservation works?)	PDA (Land Care) and others
	Recommended crops and rotation for area	PDA
	Recommended fertiliser programme	PDA, Fertiliser Companies
	Appropriate potential yield estimates	PDA

Farm division	Data required	Responsibility/source
	Irrigation water requirements	PDA (Engineering)
	Appraisal of existing infrastructure in terms of irrigation extraction and delivery to crop land	DWAF, PDA (Engineering)
	<i>b) Potential for small-scale food security cropping</i> Recommended sites, areas and soil survey Indication of demand	PDA, CPA
	Appropriate irrigation potential	CPA, PDA, PDA (Engineering), DWAF
	What engineering, pumping, piping, or electricity capital works would be necessary? What would these costs be?	DWAF, PDA (Engineering), Eskom.
General	Finance available for agricultural expansion (Grants and short, medium and long-term loans)	Various

Production options - preliminary desktop examples

Preliminary desktop examples of various possible agricultural enterprises have been prepared to illustrate the various types of farming, and the magnitude of their impact, that could be contemplated. This has been done to act as a catalyst for future engagement with farmer representatives. The examples are not meant to be finite with regard to possibilities, and many other possibilities exist (e.g. food production for mine labour, running springbok with livestock, livestock fodder production to expand livestock and game output, concentration on irrigated maize production with a maize milling operation, feedlot production, etc.).

The indicative budgets presented on the following pages should be used with caution as they deal with on-land costs only and do not include the cost of water delivery to the production area, nor do they accommodate overall farm management costs. In addition, the capital costs per ha. (farm machinery and equipment) have been taken from larger irrigation schemes where some economies of scale might have been achieved.

Two ends of a possible production spectrum are shown (commercial agriculture on the one hand and food security production on the other) whereas the final product could very well be a blend of the two.

Given the current situation at Schmidtsdrift with respect to livestock production which runs on the basis of individual livestock owners running their stock within a communal tenure framework commercial livestock production models are presented for illustrative purposes only.

Commercial cropping options (assuming 55ha. irrigation)

	Commercial irrigation (per ha.)						OR	Permanent Lucerne				
	Grown in a rotation					Maize			Wheat	Groundnuts	Sunflowers	Soya Beans
	Maize	Wheat	Groundnuts	Sunflowers	Soya Beans							
Crop establishment costs								7750				
Yield (tons)	10	6	1.75	3.5	3.5			15				
Producer price (R/ton)	1290	1530	2800	2175	1780			900				
Gross income	12900	9180	4900	7613	6230			13500				
Direct production costs	7900	5600	1750	4575	4430			7455				
Gross Margin	5000	3580	3150	3038	1800			6045				
Annual depreciation on capital (10%)	255	290	240	255	350			550				
Annual share of 1st yr establishment								1200				
Poss.annual irrig. costs (centre pivot)	1350	1350	1350	1350	1350			1900				
Overhead' costs	1605	1640	1590	1605	1700			3650				
Net profit (Gross Margin less Overheads)	3396	1940	1560	1433	100			2395				
On farm capital costs (less irrigation)	2545	2900	2400	2550	3500			5500				

Crops grown in rotation/ 55 ha commercial irrigation

Per 55ha. commercial irrigation		
Grown in a rotation	OR	Permanent
Assumption: Rotation of maize, wheat, groundnuts, wheat, maize, fallow over 3years		

	Maize	Wheat	Groundnuts	3 yr Total	Annual Average	Lucerne
Gross income	1419000	1009800	269500	2698300	899433	742500
Direct production costs	869000	616000	96250	1581250	527083	410025
Gross Margin	550000	393800	173250	1117050	372350	332475
Annual depreciation on capital (10%)	27995	31900	13200	73095	24365	30250
Annual share of 1st yr establishment						66000
Poss.annual irrig. costs (centre pivot)	148500	148500	74250	371250	123750	104500
Overhead' costs	176495	180400	87450	444345	148115	200750
Net profit (Gross Margin less Overheads)	373505	213400	85800	672705	224235	131725
On farm capital costs (less irrigation)	139975	159500	132000		431475	302500

Commercial livestock

Assumptions		
Commercial beef production		
Necessary camps and waterpoints provided under CASP		
23000 ha. Available for veld grazing.		
Stocking rate 18ha. Per LSU		
Overall sustainable stocking of 1275 LSU (which would mean an approximate breeding herd of 550 cows).		
Heifers/steers sold at 340kg live weight.		
Current stock holding equates to approx. 900 LSU.		
		Commercial beef prod.
Potential gross income		1861500
Direct costs (inc. approx. R490000 supplementary feed)		796875
Gross Margin		1064625
Interest on purchasing extra cattle (@ 15% p.a.)		160000
Net profit (Gross Margin less Overheads)		904625
On farm capital costs (cattle)		
Owned -	900 LSU @ R4500	4050000
Further requirements -	375 LSU @ R4500	1687500
TOTAL		5737500

Livestock under a communal production system.

Assumptions		
Necessary camps and waterpoints provided under CASP		
23000 ha. Available for veld grazing.		
Stocking rate 18ha. Per LSU (potential for 1275 LSU)		
900 LSU available		
Performance factors based on a E.Cape survey (<i>Small farmer cattle ownership, production and marketing in the Eastern Cape Province, South Africa. 2005. M.I.Murray</i>).		
		Communal prod. system
Potential income/ value		675000
Probable direct costs		350000
Net Profit/benefit		325000
On farm capital costs (cattle)		
Owned -	900 LSU @ R4500	4050000

Towards food security - broiler chickens

Assumptions			Broiler chickens
There are up to 300 households living at Schmidtsdrift.			
At 1 broiler per week, local market could be 15600 live chickens.			
This could be serviced by some 32 households each producing 100 broilers every 10 weeks.			
100 Broilers every 10 weeks (8 weeks production; 2 weeks rest period) = 520 broilers/year @ R30 (sold live)			15600
Direct costs @ R18.50 (includes labour, feed, vet. medicine, etc.)	9620		
Marketing (bakkie costs)	700		10320
Net Profit			5280

Towards food security - vegetable production

Assumptions			Vegetables
Significant food security could be made by households producing vegetables in small individual allotments (100m ² is used here as an example)			
Irrigation could be gravity fed from an elevated tank, using drag-lines & sprinklers.			
A potato/cabbage rotation is used here as an illustration.			
2.5 tons of potatoes @ R1800/ton (R18/pocket)			4500
4 tons of cabbages @ R740/ton (R18.50/bag)			2960
Value of production			7460
Potatoes			2640
Cabbages			2040
Costs			4680
Net benefit/profit per household			2780

Conclusion

The current lack of clarity about members' rights and obligations with respect to grazing and livestock keeping, together with internal contestations among the CPA members make it very difficult to present whole farm solutions. Currently the farm is functionally subdivided into six grazing areas which appear to reflect the old betterment residential and grazing allocations – although this assumption has to be further tested. Phuhlisani will need to further examine the current spatial logic which informs these informal subdivisions while simultaneously obtaining and analysing the data on livestock ownership and spatial distribution at present. This will enable the development of locality plans with a higher level of local support and buy-in than is likely to come from a whole farm plan. However the question of the valuable water rights and irrigation potential requires a different approach. Given the management and capital intensity associated with commercial irrigation this is likely to require a business model similar to that contemplated for community mining. Phuhlisani will model these options in more detail in the planning development phase which we are now entering.

Chapter 7: Game farming

The chapter at a glance

This chapter:

- Tracks the evolution of game farming initiatives on the Schmidtsdrift property;
- Clarifies the involvement of DEAT and GTZ;
- Highlights Nare's undertakings which have recently been assumed by New African Mining;
- Reviews the current situation and identifies suggested feasible options for the existing facility.

History of game farming initiatives

The game farming industry in the Northern Cape is believed to be one of the fastest-growing economic sectors in the province, largely due to the high returns on investment from the range of products offered by the industry which include hunting, meat products, taxidermy and eco-tourism.

This trend was identified by the provincial government in 2002 and the then Department of Agriculture, Land Reform, Environment and Conservation undertook a policy review. One of outcomes of this review was a decision to support the establishment of game farming in rural communities in the Northern Cape. It was planned to use excess game from existing reserves to stock community game farms. The Department planned to provide training at all levels of game farming, assist with the development of game farm plans, and provide continued extension support.

According to Mr. Jonk of the Department of Tourism, Environment and Conservation, in late 2002 the communities of Schmidtsdrift and Platfontein - the area to which the San former SADF trackers and their families had moved by 1998 - approached the then Department of Agriculture, Land Reform, Environment and Conservation for assistance with the development of game farming and related activities. Two aerial game counts were carried out at a cost of R11 000 and a game stocking advice report for a proposed communal game ranch was completed in October 2002.

In early 2003, a two-week hunting skills development course was conducted for all land restitution communities in the Northern Cape, and the enlargement of the existing SANDF game camp and upgrading of the fencing was completed by the end of April 2003 at a cost of R0,5m. ⁹¹

In July 2003 a project proposal for the development of a tented camp was submitted to the Community-Based Natural Resource Management National Steering Committee and a consultant was appointed to do a feasibility study of what was called "the Schmidtsdrift Game Ranch initiative." The report was completed in March 2004.

According to Farm Africa (2006) the following game was on the farm. However it is not known whether this data comes from the 2002 count or whether it was the result of a fresh count.

⁹¹ Letter from J. Jonk of the Department of Tourism, Environment and Conservation (Kimberley) to Mr. J Prinsloo of Africon. Subject: Communal Game Ranch development plan for Schmidtsdrift. 30/03/2005.

Game types	Number
Zebra	3
Kudu	100
Ostrich	70
Springbok	50
Blouwilderbees	80
Hartebees	9

Given the allegations of uncontrolled hunting on the property which have surfaced in focus group sessions it is not clear how much of this game remains.

DEAT / GTZ plans

In November 2004, consultants completed a detailed plan for the development of game farms and tourism infrastructure in both Schmidtsdrift and Platfontein. According to the plan, a set of principles and a “broad vision” had been agreed to by both these communities to guide development of the projects.

Core elements of the business would revolve around the development of an eco-tourism project drawing on wildlife as well as the “diverse cultural attributes” of the community, and that there should be a diversification of attractions within the framework of the core business, including hunting, trails, cultural and historic experiences, arts and crafts. Also, the project should be integrated into other initiatives and programmes such as the proposed Kimberley Triangle public/private partnership development and provincial government policy regarding the development and support of community-based wildlife farming.

The proposed possible business activities of the project are listed as follows:

- The development of six safari-type self-contained and fully equipped tents on platforms along the river;
- The provision of basic services (access road, water, electricity and sewerage);
- Hunting and slaughter facilities;
- Game trails (walking and on horseback) and picnic sites;
- A 4x4 trail;
- The development of fly fishing and canoeing;
- The airstrip;
- Provision of basic provisions and beverages. ⁹²

⁹² Schmidtsdrift, Platfontein Business Plan. November 2004. This plan was tabled again in January 2005 with a new title: Schmidtsdrift Platfontein Feasibility Study. Prepared for GTZ on behalf of DEAT by Peter Wakelin. January 2005.

By 2005, according to Mr Jonk, the funding for the project outlined in the November 2004 report was available from DEAT (Poverty relief).

A confidential letter agreement dated 15/02/2006 was signed between the MD of Nare, Charles Mostert, and Victor Mokgoro, chair of the CPA Committee, on 17/02/2006. The letter notes that Nare had dealt with most of NDC's creditors and was repositioning itself to recommence mining. Nare had identified, however, that the current game farm was on a portion of land that would be mined and indicated that it would contribute a maximum of R2m towards establishing a new game farm on zones 21,22,23 and 24 of the farm. The agreement also stipulated that a trust, named the CPA Schmidtsdrift Game Farm Trust, co-managed by the Community and Nare, would be established to manage the new game farm and which would be able to access the R2m.⁹³ A revised business plan was therefore prepared by Steve Collins of GTZ.⁹⁴

By mid-2007 the DEAT had put in R1,7m, and money that had been set aside in an Absa account for nature conservation had been released, making the total R3.8m allocated to the game farming venture. It was planned to use the money from DEAT to fence the area, restock with game not donated by DEAT, train community game guards, establish services for the bush camp, build an entrance gate and reception office, establish picnic sites and toilets, and also provide basic accommodation for staff. In addition, members of the community would be trained in hospitality and nature conservation skills.⁹⁵ Work was expected to begin by February 2007 and fencing of the new area would not be complete before June 2007.

A Business Plan was submitted, apparently in August 2007. The start date is given as 01/08/2005 (sic) with completion at the end of February 2008. The project is described as the creation of a 2300 hectare community nature reserve by:

- a) Fencing the area with Kudu height fencing;
- b) Erecting an entrance gate, reception office, picnic and camp site as well as staff accommodation;
- c) Laying services for a future bush lodge to be built with community money;
- d) Creating a picnic/camp site with ablutions.⁹⁶

According to the RLCC in August 2007, the area for game farming had recently been fenced with the assistance of DEAT and GTZ. The programme was ending but funds were still available, apparently for the transfer of game which the provincial Department of Nature Conservation had promised to donate to Schmidtsdrift. About 100 people had been trained in aspects of the hospitality and tourism industry through the FET college in the Northern Cape, and were due to go for practicals in late 2007.

On 07/05/2007 the CPA's attorneys (EMW&H) sent them a draft trust agreement for the game camp. By 17/06/2008 the CPA Committee had still not responded on this matter. Phuhlisani has forwarded the Trust Deed to our legal team for assessment and proposed changes are in the process of being developed to make it more appropriate for the proposed initiative.

⁹³ Letter agreement marked "confidential" between Nare Diamonds Ltd and the Schmidtsdrift CPA. RE: Establishment of a game park at Schmidtsdrift. Date: 15/02/2006.

⁹⁴ We do not have a copy of this business plan.

⁹⁵ CPA Chairperson's report 2007

⁹⁶ Business Plan (2004/7) for Project AP3 – Platfontein / Schmidtsdrift. Filing ref no 15/14/4146. Date of report: 28/08/2007. On the DEAT website (ref)

Current situation

In January 2008, work led by GTZ-Transform and the Northern Cape DEAT was continuing. Contractors had been invited to submit proposals by the end of February 2008 for a DEAT-funded design and development of a camp site with ablution facilities and three braai stands.

Some difficulties were experienced with funding the project. By January 2008 the CPA Committee had been told by GTZ that the budget was insufficient to cover plans to relocate animals to the Schmidtsdrift game camp.⁹⁷

In a letter titled “Schmidtsdrift CPA and Project Advisory Committee (PAC)” dated 14/02/2008, the GTZ management team informed the CPA Committee that they had decided to lay off all the labourers working on the project. It appears this is partly because funds had not been received from DEAT and partly because most of the work they had been employed to do was finished. After examining the project budget again, they had realised that there were insufficient funds “to finish all the items as stipulated in the last PAC meeting held on the 7th February 2008.” They committed themselves to ensuring that any outstanding wages are paid eventually, and envisage that the ablution blocks would be finished by the end of March 2008.

In February 2008, a business plan indicating how the R2m Nare would donate was tabled. The report says that “feasibility is based on an assessment done for GTZ in 2006 that formed part of the initial proposal to DEAT. ... The feasibility is based on similar businesses. These are Witsand (a government owned nature reserve) and three privately owned game farms.”

The plan says this money will be used for the following aspects of the project:

- Finalising the construction of the staff quarters and the reception office at the entrance gate;
- Construction of a second 6 bed bush camp with associated camping facilities - the CPA will identify the site for development;
- Employ the following for 1 year upon completion of CCA (from April/May 2008 to April/May 2009): 1 manager, two rangers, a receptionist / clerk, and three maintenance and cleaning personnel;
- Purchasing equipment for use at the CCA;
- Establishing a partnership with private sector tourism or hunting company to bring tourists to the area;
- Covering veterinary costs and further animal introduction costs.

It is anticipated that the construction components of the work would take 3 months and could begin in the first quarter of 2008.

The report also notes that:

- At a meeting on 13/02/2008 with representatives of the CPA and community members, it was resolved to include the creation of a game lodge/farm business that will be responsible for the day-to-day management and marketing of the community conservation area. This business will be registered by 1 May 2009 and ready for operations.
- The CPA will also be exploring options to bring management expertise from outside in the form of employment or through a management partnership.

⁹⁷ Quarterly Meeting Held On The 19 January 2008

The plan includes an assessment of the strengths (assets) and potential risks that could affect the long-term sustainability of the project:

The strengths are listed as follows:

- The physical assets – 35 000ha of land along the Vaal River that enhances the attraction and other business opportunities;
- Location along a key economic corridor – the road between Kimberly and Upington;
- Human asset base;
- Historic, culture and traditional values retained;
- The diamond rich fields and mines.

The risk factors include

- The lack of managerial and financial expertise in the community. Measures were proposed to mitigate this lack of expertise included recruitment or managing the project through a Joint Venture, partnership or management agent who would provide on the job training for a set period.
- Lack of exposure to medium scale business practices. To mitigate this, consideration could be given to the creation of a business that will be responsible for the game lodge, and visits to other game lodges (private and public) for exposure visits.
- Unrealistic expectations due to high unemployment, access to resources which give rise to tension in the community. To mitigate this risk, the CPA should be transparent in what it does, and spell out criteria for activities and participation. There should be clear communication about the limited employment, short term benefits and long term benefit to the community. Additional employment and SME opportunities should be created.

The project time frame was as follows:

- 1 month to finalise construction of staff quarters and reception office at the entrance gate;
- 4 months for the additional bush camp;
- 12 months for the R 2 million NARE grant (inclusive of the 4 months bush camp construction). ⁹⁸

In June 2008, the CPA's lawyers yet again raised the issue of forming the trust for the game reserve. The relevant minutes seem to indicate that the RLCC was unhappy about this idea and wanted it dropped. This requires further investigation. An alternative could be the establishment of a Schmidtsdrift business entity such as the Schmidtsdrift Development Corporation originally envisaged in the agreement between NDC and the CPA which would be responsible economic development projects at Schmidtsdrift. As highlighted above, Phuhlisani is currently assessing the different forms of entity for this initiative.

Assessment of current facilities and related options

Game and management of game

According to Richard Davies ⁹⁹, there is no game in the newly fenced area at present, although there could be a few kudu and smaller species. What game remains in the 'old' game camp to the north will be captured and moved into the area. Current numbers of these are not known.

⁹⁸ Schmidtsdrift: Business and operational plan for the construction of a bush camp and establishment of a game lodge. Prepared for Nare by GTZ. February 2008

Phuhlisani's investigation highlighted that there is currently no management of the area, although the CPA has appointed a committee member to be in charge of the project. There is no vehicle or dedicated staff member or other resources available. The neighbouring farmer has indicated that there is poaching with snares on their property and felt the same may be occurring within the game camp.

Infrastructure

The boundary has been fenced with a game fence. The river, which is an important habitat, is not fenced.

A new entrance facility has just been built with a 50m² house. This would be suitable for a reserve manager or game scouts. There is currently no water at this facility and the closest connection to the Eskom power grid is about 3,5km away. There is also an ablution and kitchen facility which has been erected near the river, but not adjacent to it; a small solar panel has been installed for lights. A borehole is nearby which has a solar pump and two panels. The water quality is apparently very poor.

Environmental dimensions

Advice on how to stock the game camp was drawn up in 2002, based on the carrying capacity of the land allocated at that time to the game camp (Sivonel 43 on the southwestern border of Schmidtsdrift).¹⁰⁰ The location of the game camp had to be changed in 2006 after Nare indicated that it intended to mine the area. It is not known whether the new camp has the same vegetation and carrying capacity as Sivonel.

According to Davies, the vegetation on the new game camp is known as Schmidtsdrift Thornveld (Mucina L and Rutherford MC, 2006). The dominant species are short thorny scrub (1 to 3m) with *Acacia mellifera* and *A. tortilis* and some broadleaf *Tarchonanthus camphorates*, *Ziziphus mucronata* and *Grewia flava*. The grass layer is very patchy.

There has been mining within the game park area; these areas have been "rehabilitated" – although this seems to have been no more than shifting the soil back into the holes, thereby destroying topsoil.

The productive capacity of the veld is not considered to be high for the following reasons:

- The low rainfall coupled with high summer temperatures and low winter temperatures;
- The poor soils;
- Poor species composition of the grass layer;
- The past disturbance from mining and other activities; and
- What appears to be heavy grazing that has occurred more recently. (This reflects grazing by Mr Kok and other beneficiaries from Douglas who have been grazing in this area since the land was restored and who claim not to have been consulted or compensated for their loss of grazing when the game farm was arbitrarily relocated. They continue to graze their stock in the area despite attempts to remove them by the CPA.)

⁹⁹ Schmidtsdrift Game Park Options Summary. August 2008. Richard Davies. Prepared for Phuhlisani.

¹⁰⁰ Game stocking advice for the communal game ranch at "Schmidtsdrift". Compiler: JJ Jonk, Department of Tourism, Environment and Conservation. October 2002

Mr J Koen from the Northern Cape Department of Conservation advised that the carrying capacity for the area would be between 18 to 20 hectares per Animal Unit (AU), where an Animal Unit would be the metabolic equivalent of a 450kg steer¹⁰¹.

Using the same criteria, the estimate given in the 2002 report by JJ Jonk was 18ha/AU; he also noted that the Grassland Research Centre advises that game should be stocked to only about 70% of the overall stocking capacity because they feed much more selectively than cattle, and it is not possible to move them from camp to camp.

Not all animals eat the same plants or parts of the plant and it is therefore necessary to mix the species according to their feeding requirements. Large animals like cattle which are predominately grazers and eat lots of stemmy grass are called bulk grazers. This group includes buffalo and zebra. Concentrate (or selective) grazers eat only certain parts of plants. These include wildebeest, warthog, red hartebeest and others. Animals which eat some grass and some browse (bushes) are termed mixed feeders, and include eland. Other species are exclusively browsers, such as kudu and giraffe.

These species should be stocked in the appropriate proportions to ensure that the long-term production of the veld is optimized, and that the objectives of the game farm project are achieved. Typically, in the type of veld found at Schmidtsdrift the allocation between the feeder groups would be as follows:

- 30 to 35% of the food available to bulk grazers;
- 30 to 35% of the food to concentrate selectors;
- 25 to 25% to mixed feeders; and
- the remaining 15 to 20% to browsers¹⁰².

This area has a relatively high browse component due to the density of the bushes as well as their height; most are accessible to the browsing animals.

These principles will be used in the detailed planning process to determine a suitable species mix based on the objectives for the area.

Possible options

An initial assessment by Phuhlisani indicates that the game camp is relatively small and the carrying capacity low. The recently promulgated Biodiversity and Protected Areas Acts prohibit the movement of animals which did not previously occur in an area to be introduced into that area. These restrictions limit the range of species which could be introduced. The following are therefore recommended: springbok, red hartebeest, blue wildebeest, gemsbok, eland, kudu, zebra, and impala. The following may be suitable for specific objectives: giraffe, buffalo and white rhino. The following are not recommended: waterbuck, warthog, roan, sable, elephant and larger predators.

The choice of suitable species will also be determined by the objectives of the property which will be determined in discussion with the relevant roleplayers in the community, in the process of detailed planning.

¹⁰¹ Personal communication with Davies.

¹⁰² Davies, 2008

Tourism not a viable option

According to the Phuhlisani Game farm specialist tourism should not be seen as a viable option due to the high risk of failure. Reasons cited include the following:

- Running “big five”-type tourism enterprise will not be possible in such a small area with the low carrying capacity, and the species suited to this area are not that important for tourism;
- The tourism market has become increasingly diversified and competitive;
- The Schmidtsdrift landscape is not particularly remarkable or unique in any way, and has been damaged by mining;
- Kimberley is not a popular tourist destination;
- If a cultural experience were included this could be an option but the marketing, infrastructure and management required to make a success of it would be a real challenge and very expensive.

Possible game production enterprises

Taking these considerations into account, Phuhlisani’s initial proposals are that the following enterprises could be pursued:

- Hunting: biltong hunting (local market mainly), or trophy hunting (international market mainly);
- Selling live game; and
- Breeding valuable species – this is a more lucrative but higher risk option and, in this area, disease-free buffalo are identified as important.

Conclusion

A significant amount of money has been invested in the game camp area. However it appears that the relocation process was poorly managed and that the land use is currently contested by people who regard themselves as having prior grazing rights there. This will have to be addressed as part of the mediation process and alternative grazing land found for people currently utilising this section of the property.

It also seems clear from Phuhlisani’s assessment that the expectation of high tourism revenues should be tempered and the property used for a combination of biltong hunting and sale of live game. The costs, benefits, risks, labour and management needs of this scenario will be fully developed with key players in the next phase for presentation and consideration by the members of the CPA.

Chapter 8: Human settlement and non-farm livelihoods

Human settlement planning

The long-term community vision for Schmidtsdrift

In a workshop organised in 2004, the claimants outlined their vision for a future Schmidtsdrift. It would have most of the amenities and businesses common to small towns, including a swimming pool and library. Support for agricultural and industrial development, a clothing factory, mining, and essential infrastructure for livestock farming were also seen as essential.¹⁰³

1995 - 1999

At the beginning of the restitution process, the DLA embarked on a Pre-Planning Phase, which was to be followed by a Detailed Planning phase.

In 1995, ASCH Consultancy was appointed as project managers to assist the community in meeting its basic needs in terms of local governance, administration and capacity building and infrastructure planning for the provision of essential services. The mandate for the consultants was to manage a process of empowerment and capacity building through participatory engagement with the community while providing the technical expertise that is necessary for the project. The aims for the pre-planning process were set out as follows:

- Facilitate the speedy restitution of the land claim;
- Co-ordinate and oversee the return of the claimants in an organised way;
- Resolve the land need of the San community that was settled in Schmidtsdrift under the SANDF;
- Develop a master plan that would set out the provision of infrastructure; land use planning and economic development.

This pre-planning process was officially launched on 26–27 April 1996 when a planning convention (said to be the first of its kind with restitution) was conducted in an effort to secure a mandate from the community and engage the community in decisions regarding appropriate land use and economic development based on the principles of the Reconstruction and Development Programme.

In September 1996 a strategic planning workshop was held in Kuruman with the aim of identifying a strategic plan for projects, particularly those which would not ordinarily be funded by government. A shortlist of projects was identified on the basis of their potential for creating jobs and generating income in Schmidtsdrift itself. The list of priority projects included community enterprises linked to a game reserve, processing of river sand, stone crushing, a dairy, bakery, poultry farming and brick making.

The need for skills and entrepreneurship training was recognised as a major constraint that had to be overcome for future LED activities. ASCH prepared a 'master planning document' on the physical and

¹⁰³ Africon 2005 report, section 5.7).

infrastructural development of Schmidtsdrift which outlined possible planning scenarios in terms of physical labour, and details of possible future economic activities¹⁰⁴. It was circulated for comment to all government departments in the Northern Cape before the final draft was completed.¹⁰⁵

According to a DLA memorandum, the Northern Cape Department of Agriculture, Nature Conservation and Land Reform decided that the final product produced by ASCH was not adequate in some respects, and should be upgraded by Bigen Africa.¹⁰⁶

2000 - 2003

Overview

The PLAAS report (2006) notes that after the land was transferred to the Schmidtsdrift community in 2000, three further consultancies were appointed to develop a business and asset management plans:

- Bigen Africa Consulting Engineers and Project Managers (2000);
- ASCH Consulting Engineers (2001);
- Africon Project Managers (2004–2005).

A Schmidtsdrift Project Steering Committee was established to liaise with the various consultants. It was chaired by the Regional Land Claims Commission (RLCC) and included representatives of the Schmidtsdrift executive committee (the Schmidtsdrift Resettlement Committee), the provincial Department of Housing and Local Government, and the Siyancuma Local Municipality.

According to PLAAS, two major reports were produced from these interventions:

1. Schmidtsdrift Pre-planning Master Plan for Resettlement (Bigen Africa. October 2000);
2. Schmidtsdrift Restitution Township Establishment proposal (Africon 2004).¹⁰⁷

The Bigen report (October 2000)

Bigen Africa Consulting and Engineers and Project Planners, assisted by Emendo Inc Town and Regional Planners, was appointed by the Department of Land Affairs (DLA) to prepare a document which would guide the planning process for the resettlement of the claimants in Schmidtsdrift.

The terms of reference for the Bigen appointment included the following:

- Review assumptions, preconditions and current conditions with regard to the following:
 - Environmental issues, including sites of archaeological and historic interest;
 - Physical aspects, which should include but not be limited to the integration and use of existing infrastructure; the fact that settlement has commenced on various areas, and that basic infrastructure exists at the core settlement; soil and irrigation surveys;

104 Schmidtsdrift Restitution and Pilot Land Reform Programme: A planning and implementation proposal by the Schmidtsdrift Community Consortium. Unpublished report. Kimberley. ASCH Consulting, 1995. We do not have a copy of this report.

105 Rural Local Economic Development and Land Restitution in South Africa: the Case of Schmidtsdrift, Northern Cape. Philander, D.D and Rogerson C.M. Dept. Geography and Environmental Studies, University of the Witwatersrand. Published in the Singapore Journal of Tropical Geography 22 (1), 2001, 74-89. Page 84

106 Memorandum. Schmidtsdrift Restitution Case (Task number 200101309) Reference NC/6/5/NC/R003. Late 2001. The February 1997 Master Plan produced by Asch is available.

¹⁰⁷ According to Jochie Prinsloo of Africon, the last report tabled by Africon is titled *Business Plan for Housing Development, Implementation Plan and MTEF Framework for Schmidtsdrift Restitution Project Rev. 1. July 2005*.

- A survey of socio-economic conditions;
- Institutional framework;
- Economic feasibility;
- Legal environment;
- Financial implications;
- Issues relating to minerals and mining.

Bigen was required to recommend appropriate standards, norms and procedures for the following:

- Settlement and tenure options;
- Design principles and guidelines for town and regional planning and engineering services;
- Allocation criteria;
- Establishment of social infrastructure, with due regard to the regional setting and the administrative requirements.¹⁰⁸

According to Bigen, the decision-making process was guided by a project steering committee, convened by DLA, which included members of the claimant community and other stakeholders. De Beers, the NDC and the Agricultural Research Council are the private sector stakeholders listed.

Bigen says a consultative approach was followed and workshops were held with the management of the CPA. At a workshop on 05/08/2000, community representatives debated and approved the planning proposals and principles.

According to their report, the spatial development framework developed makes provision for the use of the land for settlement, agriculture (livestock, game farming and intensive crop farming), an agricultural production centre, and mining. Detailed boundaries for all these initiatives would be finalised when the results of the mining exploration to be undertaken and the findings of a detailed agricultural development plan were available.¹⁰⁹

The development strategy covers physical aspects, transportation, environmental management and engineering services. Proposed projects include an application for a housing subsidy for 800 stands, and application for funds for the associated engineering infrastructure.

The community development strategy recommends the building of a school and multi-purpose centre for the provision of social services including health, welfare, and policing.

With regard to economic development, initiatives including stock and game farming, irrigation, mining and others are identified for more detailed studies.

A guiding principle was to establish a self-sufficient and sustainable local economy rather than to compete with adjacent settlements.¹¹⁰

2004 - 5

Africon was appointed on 1 November 2003 by the Land Claims Commission to support the CPA of Schmidtsdrift, Siyancuma Municipality and the Land Claims Commission with the Detailed Planning

¹⁰⁸ Schmidtsdrift Pre-planning Master Plan for Resettlement. Bigen Africa. October 2000. Pages 1.5-1.6.

¹⁰⁹ This would seem to still be outstanding

¹¹⁰ Schmidtsdrift Settlement Plan. Progress Report 3. 06/07/2000 Bigen Africa. Appendix titled Schmidtsdrift Guiding Principles, p 9.

Phase of the Schmidtsdrift Restitution Project on the basis of the Pre-Planning Masterplan developed by Bigen. Over and above the establishment of a settlement, the following were deliverables of the project:

- Preparation of a housing application;
- Preparation of a MTEF framework for implementation;
- Preparation of a resettlement plan.

The RLCC made a Settlement Planning Grant to the value of R1 152 000 available for this work.¹¹¹ A steering committee to oversee the process, chaired by the RLCC, met monthly.

According to the *Schmidtsdrift Business Plan for Housing Development, Implementation Plan and MTEF Framework (2005)* prepared by Africon¹¹², input from the community during a workshop held in March 2004 served as a basis for the compilation of the project list. The following projects are listed:

- bulk services;
- internal services;
- housing;
- administering the project;
- public facilities (primary school, clinic, sports fields, cemetery, community hall and one-stop service centre; police station);
- agricultural economic development - irrigation and stock farming;
- develop local market;
- game farm and eco-tourism;
- develop commercial property;
- mining development.

The completed development will consist of 800 housing units which include the existing houses, new and existing business properties, thirteen churches, two schools, two crèches and a sports field.

The urban type development at Zone 4 will accommodate about 600 households, while the rural type residential development at Zone 5 will cater for around 200 households (Africon 2005). The Bigen socio-economic survey done in 2000 found that there were 2.2 people per household.

Zone 4

The proposed urban type residential development is north of the R64, Kimberley - Griekwastad road. The R370 to Delportshoop forms the eastern boundary of the development. The existing residential erven are on average 1 100 m² in size. The new erven vary between 1 000 m² (25 x 40 m), 814 m² (22 x 37 m) and 612 m² (18 x 34 m), with a few larger erven on block corners. The Communal Property Association (CPA) accepted the smaller erven because they are less expensive to service. A total of 600 residential erven are provided. This number includes the existing 252 erven, but excludes the erven east of the R370 that have to be relocated. (Africon, 2005)

¹¹¹ Schmidtsdrift (Batlhaping) Restitution Project. CASE Research for Department of Land Affairs: Monitoring and Evaluation. No date. No publisher or web address.

¹¹² Africon told Phuhlisani that this is the most recent document on Schmidtsdrift that they have produced.

Zone 5

The proposed rural type residential development is south of the R64, Kimberley – Griekwastad road, at the intersection of the Douglas/Kimberley road. The existing residential erven are on average 2 500 m² in size. The new erven vary between 2 400 m² (40 x 60 m) and 2 080 m² (40 x 52 m). The CPA accepted the new layout. A total of 200 residential erven are provided. (Africon 2005)

The only water available at the time was from boreholes, which would not be sufficient for the scale of residential development. The report discusses options for bulk water supply by DWAF. Other aspects of the development dealt with include fire hydrants and appropriate types of road.

Applications for funding for community facilities

An application for over R2,6m in funding for a sports facility had been submitted to the Lotto fund but no response had been received by July 2005. No funding was available for the following projects, which required an estimated R24 292 740: a clinic, a Community hall/one-stop centre, agricultural development, a local market, the game farm/eco-tourism, and commercial property/shops.

Gomotsegang Consultancy sent a two-page concept document for the construction of a multipurpose centre in Schmidtsdrift to the CPA Committee in February 2007. An estimate of just under R7.5m is given for total costs of the project.¹¹³

Assessment of settlement sustainability

In a document titled *Schmidtsdrift: Guiding Principles*, Bigen included information on the settlement pattern within the sub-region, the hierarchy of towns linked to their functions in the sub-region, and evaluated the proposed establishment of Schmidtsdrift in this context:

“...Schmidtsdrift, in view of locality and functionality, will not be able to fulfil any medium- to higher order function. As opposed to normal locational factors for settlements which are normally linked to economic, administrative, transport, recreational and commercial reasons, the Schmidtsdrift settlement will be established owing to the current political transformation process.

“Schmidtsdrift will be a controlled environment in terms of the settlement of households (land restitution claimants.) This situation will be to the benefit of the area as the land will be privately owned and the influx of people could be managed.

“Economic activities will be focussed in order to provide for the local residents. Economic linkages (markets, services, etc.) will be established with the adjacent higher order towns. Based on the above elements, two scenarios regarding the development of Schmidtsdrift within the sub-region can be developed namely:

“Scenario1: Should the beneficiaries of the land not illustrate the will, commitment or dedication towards economic and social sustainability, this area will become a residential / rural poverty zone which will have to be economically, socially and financially cross-subsidised from Provincial and Local government sources.

¹¹³ Proposal for the construction of a multipurpose Centre in Schmidtsdrift (Northern Cape). No date or author. The two-pager was faxed from Gomotsegang Consultancy on 10/02/2007. (Given to Phuhlisani by Mr. Molelekwa – deputy chairperson of the CPA Committee)

“Scenario 2: Should the management of this area be focussed towards economic and social upliftment, this area could be developed to create local sustainability. Notwithstanding the fact that an additional settlement will fragment the economic and social focus of the sub-region, as opposed to the consolidation thereof, the advantage is that the extent of the community (number of beneficiaries) could be managed in view of the number of approved claimants. The development process of Schmidtsdrift should be “patient” with a medium- to long-term focus.”

At present, it is apparent that the community is aspiring to create the Scenario 2, and as Bigen predicted 8 years ago, the development process at Schmidtsdrift is taking time to be implemented.

Water points

In March 2007 a geo-hydrological report on Schmidtsdrift which had been prepared for the Siyancuma Local Municipality and MVD Kalahari was completed. Tests had been conducted on six of the eight water supply boreholes. The objective of the study was to determine the sustainable volume groundwater available from the Schmidtsdrift borehole field as well as their water quality. Eight of the water supply boreholes were test pumped and sampled to determine their sustainable yields and water qualities.¹¹⁴ Of the eight boreholes, four were not recommended for water supply purposes and only two were classified as “good water quality”.

Services and sanitation

According to the CSIR report (2004):

There is limited water-borne sanitation infrastructure available at the proposed settlement. Only the temporary school and offices are linked to a small package plant. Ventilated Improved Pit toilets have been in use in the settlements for a number of years. This seems to be a successful means of sanitation. The only clear water available on the development area is from groundwater sources. Water is currently supplied from boreholes on the site. The communal standpipes are located within 200m. However, water pipes are located just above ground level and the water is very hot in summer (CASE report, 2004.) Housing plots in the “town” area have pit latrines, a tap point as well as access to Telkom telephones. Infrastructure in the more rural areas is minimal and mainly consists of wind pumps.

Township establishment and future growth

The formal applications for rezoning and township establishment for Zones 5 and 4 were done by Africon in 2004. Notice of the township establishment was given at the end of 2004 and the township establishment was finalised during 2005/6. The *Schmidtsdrift Business Plan for Housing Development, Implementation Plan and MTEF Framework* was finalised in 2005 by Africon.

Siyancuma Municipality appointed MVD Kalahari (consulting civil and structural engineers), Thubelisha Homes (project managers) and Mathews & Partners (attorneys) to take the project forward.

Information relevant to this section may be found in the *Business Plan: Schmidtsdrift Housing Project and Development of Civil Services* (completed by MVD after March 2006). Phuhlisani has also been

¹¹⁴ Geohydrological Report Schmidtsdrift for Siyancuma Local Municipality and MVD Kalahari by GHT Consulting. March 2007. JJ Hough and DC Rudolph. The file includes a loose progress report from GHT to Andries Goliath of MVD Kalahari dated 06/03/2007 on tests conducted on six of the eight water supply boreholes. (Given to PS by Mr. Molelekwa.)

given some technical reports by MVD on water treatment and auxiliary works and bulk supply pipelines, and on other essential infrastructure such as sewer lines. In June 2007, Africon tabled an Environmental Management Plan (EMP) for the construction phase of the proposed development.¹¹⁵

According to the RLCC in August 2007, the residential planning had been completed, and the Department of Housing and Local Government and the Siyancuma Municipality were implementing these plans. The RLCC had transferred R8,7m to the housing department to fund construction of houses once services were in place. A technical committee including the CPA Committee, RLCC FS/NC, the municipality and consultants had been meeting regularly.

With regard to possible future growth of the number of stands at Zone 4, Andries Goliath (formerly with Africon) says the township layout in both Zones 4 and 5 was based on the number of beneficiaries and on a request from the claimants that there should be two areas. They would have preferred more developed areas but had to accept that there was insufficient funding available.

Africon's layout plan made provision for expansion of Zone 4. These erven are indicated in dotted lines on the relevant plans. Should the CPA wish to extend the townships in future they may do so, but like any private landowner they will have to apply to the Council for Rezoning and township establishment in accordance with the Northern Cape Planning and Development Act and other relevant legislation. It would be possible for the CPA to establish plots on the margins of the current settlements as long as this is in accordance with relevant legislation and with the approval with the Council, which approval may not be unjustly denied.¹¹⁶

Goliath lists the following key features of the current legislative and policy framework relevant to human settlement planning in Schmidtsdrift:

- The landownership resides with the CPA and allocation of individual sites is thereof the responsibility of the CPA;
- Once the sites are transferred to the individual owners, they become the responsibility of the new owners;
- Any development - by individual owners or the CPA – must be done in accordance with municipal bylaws including Building Regulations and Standards, Zonal Scheme Regulations, application for service connections, approval of building plans and any other bylaws and policies published by the Local Authority;
- Service provision is the responsibility of the Council in accordance with legislation and the social compact agreement signed by all parties involved;
- Site owners (individuals, organisations or the CPA) will be responsible for the payment of services, rates and taxes once service installation is completed and operations started;
- The Council resolved that uniform rates will be applied throughout Siyancuma for services rendered by the municipality. Individual households will be responsible unless the CPA decides otherwise.

¹¹⁵ Schmidtsdrift Restitution: Township Establishment. Scoping Report. Prepared for Siyancuma Municipality. Africon. June 2007.

¹¹⁶ Andries Goliath of MVD Kalahari, formerly with Africon; email communication in response to questions from David Mayson on 21/08/2008

Housing subsidies

According to the Africon 2005 report, the housing subsidy may be utilised for top structures, internal services, planning, project management, conveyancing and facilitation.

The total available was calculated as R30 171 251. This was based on 800 households with a subsidy amount of R31 900 plus 15% for geotechnical conditions. An indication on the allocation of funds could not be obtained from the Department of Housing and Local Government. The R 8.7 million that was made available for the development of Schmidtsdrift from the Regional Commission was stipulated that it could only be utilised as follows:

- It must be used for housing, i.e. top structures;
- It does not form part of the normal Housing Grant – it must be considered over and above the normal Grant;
- All beneficiaries should benefit from the grant.

It was recommended that the R 8.7 million be pooled with the normal Housing Subsidy Grant in order to make it possible to start with development as soon as the General Plan had been approved by the Surveyor General and the Township Register had been opened. The Housing Grant could then be utilised to construct more expensive top structures when it is made available.

According to Andries Goliath, the housing grant application was done in two phases, in accordance with the National Housing Act and Policy which is applied and implemented by the provincial Department of Housing and Local Government.

Phase 1 of the application was for the bulk services, which includes the roads, sewer and water services. This phase was under construction in August 2008 on all 800 erven (600 in Zone 4 and 200 in Zone 5).

Phase 2 of the application is for the top (house) structure. This application is based on the individual subsidy application by the households, and the filling in of application forms was still in progress in August 2008. According to a progress report provided by a member of the CPA Committee at this time, only 347 (out of 800) subsidy application forms had been received by the official in the Municipality.

The Committee has reported that some beneficiaries believe they do not qualify as they had received a housing subsidy elsewhere and have not applied for this reason. It was resolved that this matter will be addressed by the CPA in collaboration with the Council, the Department of Housing and the Land Claims Commission.

Various conditions and legal requirements must be taken into account in assessing these applications. Not all claimants will necessarily qualify for the subsidy, and the subsidy will be implemented on a sliding scale – meaning subsidies might vary from 100% to 0%.

Business site allocation

The CPA will have to develop its own policies as to how church, business and industrial sites, will be allocated, who will pay for transfer costs, who will pay for future service connections, what will the price of the sites be, if they are to be owned by individuals and who will be responsible for the development of those sites if they remain CPA owned sites – the CPA or the individual owner.

Currently there is no policy on business site allocation and the CPA Committee is expecting assistance from Phuhlisani in this regard.

Local economic activity

Currently there is very little visible economic activity taking place in the main residential areas. In Zone 4 there is a bakery project which does not appear to be working well. There are some spazas and several shebeens. Several residents are involved in selling small items from their homes. The CPA has had applications for the allocation of business sites including a general dealer and a bottle store and four funeral parlours. However to date none have been approved.

Conclusion

Currently major work is underway in both Zones 4 and 5 with the installation of bulk services and roads. There remains a silence as to what the future holds for zones 1, 2 and three. Can these areas expect any increase in service provision and if so where is this to come from? Will people who remain in these areas have to provide their own basic services as has been indicated in the Africon reports? What can they legitimately expect from the CPA? Will these settlement areas suffer from the natural attrition as younger people seeking stands move away to zones 4 and 5? The disparity in service levels feeds the sense of separation, marginalisation and frustration which residents of these areas experience. This increases the possibility of future conflict at Schmidtsdrift.

Overall the key question is how to secure the long term viability of the settlement as a whole, particularly once mining activities come to an end. Currently well over a hundred people are employed in local mining activities. This is likely to increase with the development of the community mining zone. The remainder of the people living in Schmidtsdrift are dependent on social grants and remittances from family members working away. Poverty and indigency levels are very high.

When the settlement was planned planners warned of the risk that it could turn into a rural poverty trap requiring subsidy from provincial and local government to enable its survival. Such a scenario remains a distinct possibility if the revenues from the mining are not well invested to increase returns from livestock farming, enable utilisation of irrigation land, develop other enterprise opportunities and secure revenue from the game farm. This will require an investment by the State in the ongoing settlement and implementation support to the CPA in order to prevent a post mining project failure.

Chapter 9: Key issues and associated interventions

The chapter at a glance

This chapter:

- lists the key issues highlighted in the preceding chapters;
- clusters them into different categories;
- identifies the key interventions required to address each issue.

Social and institutional issues

Issues in this cluster relate to the membership and management of the Communal Property Association

Issue	Description	Intervention
'Community'	The 740 households joined in the claim do not 'represent' a 'community' except in so far as they are members of the CPA. The membership is stratified and fragmented by class, perceived ethnic origin, location, gender and age. The members live onsite in five different locations and offsite in Kuruman, Kimberley, Campbell, Douglas and other areas	<ul style="list-style-type: none"> • A membership communication strategy which acknowledges difference and which promotes dialogue based on a clear agreement of individual members rights, benefits and obligations • Utilisation of sms and newsletter • Documentation of Schmidtsdrift history and memory • Cultural activity around community building
Constitution	Attempts were made to amend the Constitution in 2004 which created internal contradictions and which the Registrar of CPAs within DLA has no record of.	<ul style="list-style-type: none"> • A properly amended CPA constitution which clearly distinguishes between members' procedural rights and their eligibility to apply for substantive rights including dividends and other benefits. The constitution must also resolve issues of representation by groupings (Fonteintjie, Batlhaping Trust, offsite and onside area/constituency based representation) • A distinction between eligibility for membership of descendants of current rights holders and membership approval which confers rights and duties
Membership, rights, benefits and obligations	Membership currently vests in households. There has never been any clarification of the rights, benefits and obligations of households and individuals. The membership register has not been kept up to date. There is no distinction between the rights of members and non members who are living on site, nor rights	<ul style="list-style-type: none"> • An updated and accurate membership register identifying individuals within qualifying households • A membership code spelling out eligibility for rights, benefits together with obligations of members • A members' ID book which contains personal

Issue	Description	Intervention
	and benefits of members on site and members offsite	particulars, and which lists individual rights, benefits and contains a signed undertaking with respect to duties and responsibilities including an obligation to declare stock grazed on the farm and make financial contributions to upkeep and management of farm infrastructure <ul style="list-style-type: none"> • Dispute declaration and resolution procedures
Conflict	There are at least three conflicts currently impacting on the functioning of the CPA	<ul style="list-style-type: none"> • Mediation process to clarify positions and resolve conflicts • Agreed process for declaring and resolving disputes in future.
	The conflict over the interpretation of the settlement agreement, representation on the CPA, the membership rights and benefits of people who identify themselves as Griquas of the Klein Fonteintjie grouping and associated individual grievances	<ul style="list-style-type: none"> • Clarifying distinction between representation and ownership in law • Clarification of grazing ranges and contestation over game farm area • Resolution of individual disputes and grievances
	The conflict over local governance between the supporters of the CPA and those aligned with the Batlhaping Trust who wish to see traditional governance structures replace it.	<ul style="list-style-type: none"> • Possible formal recognition of this constituency and rights of representation on the CPA Executive?
	The conflict over the rights to mine and benefit from Zone 16 – the community mining area	<ul style="list-style-type: none"> • Transparent process which creates local opportunities and maximise benefits (See Community mining below)
CPA institutional management	There are several dimensions to this issue including:	
	Short term of office of CPA Executive and total turnover tendency at elections, no induction or handover processes, no training for executive members	<ul style="list-style-type: none"> • Extension of the term of office. Staggered entry and exit of CPA Executive members to ensure continuity. Possible differential terms or starting points • Formal handover requirements – CPA Executive contract • Ring fenced budget for CPA Executive training provided by DLA?
	Inadequate portfolio description, functions and responsibilities. Election of people unsuited to the demands of the position, lack of clarity concerning remuneration and expense claims	<ul style="list-style-type: none"> • Portfolio job descriptions and competency criteria • Agreed remuneration and expense claim maxima • Peer performance review
	Lack of professional management staff – the equivalent of officials in a municipality. Current staff poorly directed and supervised. No performance management system. No salary	<ul style="list-style-type: none"> • Profession staff job descriptions including CEO/project manager, office manager, rangers driver, security and cleaner detailing leave and benefits • Employment contracts

Issue	Description	Intervention
	determination system.	<ul style="list-style-type: none"> • Salary scales • Performance review system • Outsourcing of financial accounting and auditing
	Inadequate budgeting, financial management control and accounting. Unmonitored expenditure, misappropriation, lack of transparency and reporting	<ul style="list-style-type: none"> • Budget template • Bimonthly financial reporting template • Communication of financial information to members • Annual audit and financial statements • CPA Executive training on financial matters
	Inadequate investment management. High investment costs. Limited returns on CPA investments	<ul style="list-style-type: none"> • Investment review • Revised investment strategy
	Absent or unimplemented policy and procedures	<ul style="list-style-type: none"> • Policy on CPA Executive remuneration • Policy on Travel and subsistence allowances • Policy on vehicle use • Policy on CPA professional staffing • Policy on financial management • Policy on CPA Enterprise development • Policy on social development, bursaries, member education and training • Policy on community mining • Policy on service provision to non township areas • Policy on irrigation land investment and dividends • Policy on game farm investment, and dividends • Policy on mining royalty investment and expenditure • Policy on local employment and procurement • Policy on allocation of residential and business sites • Policy on natural resource management • Policy on livestock and grazing • Policy on member dividends • Policy on the rights of non members resident at Schmidtsdrift
	A low skills base amongst the majority of CPA members	<ul style="list-style-type: none"> • Investment in education and training of all levels • Bursary scheme • Members skills register
	Low levels of trust and social capital	<ul style="list-style-type: none"> • Good communication. • Clear and fair rules based system which acknowledges different interests and values • Clear dispute declaration and resolution system

Issue	Description	Intervention
	Inadequate office infrastructure	<ul style="list-style-type: none"> • Upgrade of computer, investment in virus software, internet connection, email
	Inadequate office, computer and document management systems	<ul style="list-style-type: none"> • Computer back up systems • Filing and document management systems • Petty cash system

Sustainable human settlement

Issue	Description	Intervention
Allocation of business sites	Currently there are no definite agreed procedures within the CPA on how to allocate business sites and manage applications. It is also not clear how the CPA should interface with the municipality in this regard. Currently there are at least five applications which require a response	<ul style="list-style-type: none"> • Engagement with municipality to establish key procedures and clarify legal framework • Development of options paper highlighting legal, cost and management implications for the CPA of different approaches • Policy on allocation of residential and business sites • Develop application form template for business applications
Housing subsidies	Currently the CPA has collected about 350 subsidy applications. Currently there is no agreed closing date for the processing of these applications and no clear process for communicating with potential returnees in this regard	<ul style="list-style-type: none"> • Letter informing members of their rights to a site and access to a subsidy under certain conditions with a cut off date with • Application form template for returnees wishing to apply for a site and housing subsidy
Rights to plots of non members	Certain non members already have been allocated sites and it is possible that others may apply in future	<ul style="list-style-type: none"> • Policy on allocation of residential and business sites • Policy on the rights of non members resident at Schmidtsdrift • Develop application form template for non members •
Allocation of new sites to members	Currently the CPA approves the allocation of new sites. However there will be transaction and conveyancing costs associated with transferring that site into the name of the new owner in future and including the owner in the township register. It is not clear who will be responsible for meeting these costs. If it is the owner then there is a strong likelihood that informal site allocation will take place as most people are unlikely to be able to afford the transfer costs	<ul style="list-style-type: none"> • Develop procedures for new site allocation, associated conveyancing and transfer • Feasibility and risk assessment with respect to future site transfer • Application form for new site
Servicing other	People living in Zones 1 – 3 were apparently told that if they settled in these areas	<ul style="list-style-type: none"> • Examination of options to improve service levels in Zones 1 and 3 where it is not feasible

settlement areas	<p>government would not be able to assist with services.</p> <p>However the Water Services Act apparently makes provision for provision of water and sanitation services on private land while retaining State control of the infrastructure</p>	<p>to establish a township. These include the use of the Municipal Infrastructure Grant to fund service upgrade provided the CPA make a financial contribution¹¹⁷</p> <ul style="list-style-type: none"> • Policy on service provision to non township areas
------------------	--	--

Integrated natural resource management

Issue	Description	Intervention
Rehabilitation monitoring	Currently there are serious questions about the adequacy of rehabilitation work being undertaken by the mines. This will also be a major issue with respect to the community mining when it gets off the ground	<ul style="list-style-type: none"> • A rehabilitation monitoring system • Briefs to the CPA directors on SME to watch and receive reports on this at least quarterly • Access to independent rehabilitation monitoring services • Engage DME on monitoring rehabilitation processes on all mines
Building sand	There is potential to extract good quality building sand from Schmidtsdrift	<ul style="list-style-type: none"> • Identify extent of building sand availability • Examine different business models for extraction together with sand mining permits and EIA requirements • Identify post sand mining rehabilitation requirements • Develop a community or open tender for sand extraction
Livestock, grazing and water resource management	Currently there is no grazing management system in place or means to ensure that essential fencing and livestock water points are maintained	<ul style="list-style-type: none"> • A grazing management plan and camping system • Identification of zonal grazing ranges • Data on small and largestock ownership within the different zonal ranges utilising barcoded ear tags utilised by State vets • Establishment of zonal rangeland management user committees • Determination of maintenance needs, budgets and responsibilities for infrastructure maintenance • Determination of levies for fencing and water point maintenance in proportion to stock ownership in cash or kind • Employment of rangers to protect against stock theft, predators and to ensure implementation of grazing plan

¹¹⁷ Sustainable Development Consortium 2007 Settlement and Implementation Support (SIS) Strategy for Land and Agrarian Reform in South Africa. P 299.

		<ul style="list-style-type: none"> • Policy on natural resource management • Policy on livestock and grazing
Bush encroachment	Currently acacia mellifera are encroaching on grasslands and becoming both an ecological and agricultural problem	<ul style="list-style-type: none"> • Farm assessment by DoA to assess scale of problem. • Highlight hotspots • Investigate economic options related to firewood and charcoal sales • Possible establishment of a linked clearing and wood sale programme
Invasive aliens	Currently 2000 ha are said to be infested with an invasive cactus species	<ul style="list-style-type: none"> • Examine Land Care plan • Link Land Care initiative to broader natural resource management priorities
Hunting	There is currently no policy on hunting and reports of widespread snaring of game	<ul style="list-style-type: none"> • Develop policy on hunting and snaring • Examine potential for Schmidtsdrift involvement in Land Reform, Land Trusts and Stewardship programme co-ordinated by Conservation International and SANBI
Fire risk reduction	Members report that past fires at Schmidtsdrift have resulted in heavy livestock losses	<ul style="list-style-type: none"> • Assess fire risk and investigate assistance from DWAF into National Veld and Forest Fire Act for basic fire fighting training and equipment to bolster earlier training initiatives
Wetland management	Documents report that there is a wetland area on the property	<ul style="list-style-type: none"> • Identify wetland area and undertake a rapid assessment • Engage with DWAF/ DEAT for wetland management guidelines and support and develop agree upon policy and procedures
Heritage	There are numerous graves and other historical sites on the property which need to be preserved	<ul style="list-style-type: none"> • Identify sites and map them • Develop a heritage management plan and budget

Economic

Issue	Description	Intervention
Livestock	Currently the CPA has no accurate data on individual livestock holdings and group initiatives other than the 2006 Farm Africa estimates. We need to understand the value of the herds on the land at Schmidtsdrift and the contribution they make to household livelihoods.	<ul style="list-style-type: none"> • Obtain and analyse vet's livestock data • Obtain ID and engage with members of farmers association established under Farm Africa programme • Follow up goat co-op and Farm Africa livestock bank beneficiaries • Link to member profiles and locations • Establish and map grazing ranges • Develop livestock grazing and management plan (See NRM above) in association with Agriculture and representatives of livestock owners

		<ul style="list-style-type: none"> • Examine link between livestock owners and potential lucerne production on irrigated land
Irrigation	CPA has 180 ha water rights. Much of the land suitable for irrigation has been mined. Key issue is how the CPA can make best use of this valuable resource and designing different business models for this purpose	<ul style="list-style-type: none"> • Reassessment of potential irrigation land in association with agriculture • Identification of areas which it is feasible to irrigate • Examination and costing of different business models with reference to management, labour and projected revenues • Develop clear proposals on use of water allocation for varying levels of production from food security allotments through to capital intensive production.
Household food security	The low rainfall, limited water availability in settlement areas, poor soils and fencing seem to make arable production very difficult for most households at present. Currently we do not have a picture of what is possible by way of homestead production in the different areas	<ul style="list-style-type: none"> • Rapid appraisal of household food security options in the different residential areas • Small scale group/individual enterprises
SME	Lonrho has just sold its share in SME to New African Mining who wish to apply for a mining licence which will require the drafting of a social labour plan.	<ul style="list-style-type: none"> • Develop options for inclusion in SLP • Assist SME Directors and CPA in negotiations on Shareholders agreement in terms of benefits, royalty payments etc.
Community mining	480 ha are available for community mining but disputes concerning the approach have meant that nothing has happened here.	<ul style="list-style-type: none"> • Develop options and approaches to community mining including projections of costs and potential benefits • Use the options to initiate a process with CPA members to decide on best option • Provide assistance to enable selected option to be implemented
Game camp	Game camp infrastructure is in place. However game has not been relocated and we are unsure of how much game remains in the old SADF game area. There are different perceptions about possibilities for this venture. Phuhlisani's initial assessment recommended a low key approach involving biltong hunting and animal sales	<ul style="list-style-type: none"> • Develop a costing and a plan to implement these recommendations with a focus on staffing, investment requirements and utilisation of NARE/NAM funding and facilitate decision on best approach • Assess proposed approach of establishing a game trust
Sand extraction	See NRM	See NRM
Braai wood, charcoal	See NRM	See NRM

Conclusion

As is evident from the foregoing chapters and the table above the opportunities at Schmidtsdrift are significant, but to date have been overshadowed by conflict and contestation. Phuhlisani's task will result in an integrated plan supported by policies, systems and management procedures. At the same time we are seeking to mediate and find solutions to the current conflicts which results in a new Constitution and related policies and procedures. The resolution of conflict will be a prerequisite for the successful development of the resultant plan and will go some way to create conditions favourable for its implementation.

Clearly this plan will only be worth the time and money invested in it if is successfully *implemented*. Should the mediation and planning initiative fail, the future of Schmidtsdrift will be uncertain at best. A number of development plans have not been implemented at Schmidtsdrift, due to a combined lack of management capacity and unresolved social contestation.

Phuhlisani have proposed after discussions with the RLCC that a minimum of a two-year process of management support must be put in place to enable the current and future CPA Executive to take forward the necessary developments at Schmidtsdrift for the benefit of all.

Appendix 1: Inventory of Schmidtsdrift documents consulted

Evaluations of the project

CRLR / Phuhlisani documentation:

- Attendance register of meeting convened by the Commission Restitution of Land Rights on 05/10/2007 for a briefing on the Schmidtsdrift Project to the Phuhlisani Consortium and the Schmidtsdrift CPA Committee.
- Terms of reference for the appointment of service provider to submit proposals for capacity building / institutional development of the Schmidtsdrift Communal Property Association. Reference: NC/6/5/NC/R0003. Peter Mokomele. August 2007.

Schmidtsdrift Community Land Claim. Diagnostic Report. Programme for Land and Agrarian Studies (PLAAS) for the Sustainable Development Consortium (SDC). February 2007 (Electronic copy)

Schmidtsdrift (Batlhaping) Restitution Project. CASE Research for Department of Land Affairs: Monitoring and Evaluation. No date. No publisher or web address. (Electronic copy)

Field Notes: Schmidtsdrift 4-7/12/2006. Author not indicated.

Includes an overview of earlier planning initiatives. Refers to a transcript of an interview with the then chair of the CPA but this is not attached to the field notes.

General Info on Schmidtsdrift. No author or date.

Detailed information on the claims lodged by the Batlhaping community and the Kleinfonteintjie community.

Land Claims, Settlement Agreement and related documentation

A brief history of the Griqua people in South Africa. By R Beddy: Northern Cape Griqua Land Affairs Committee. No date. (8 pages)

Schmidtsdrift Draft Submission to ACLA. No author or date, but written after February 1992 and before January 1993.

Historical overview of the habitation, allocation, administration and utilisation of land in the Northern Cape from the 1870's onwards, as well as of dispossession and its consequences (12 pages.)

Memorandum of Agreement between Department of Public Works (1st party) and the SA National Defence Force (2nd party) and Premier of the Northern Cape Province (3rd party) and Department of Land Affairs (4th party) and the Board of Trustees, Schmidtsdrift Tswana Trust, representing the Schmidtsdrift Tswana

Community (5th party) and the Board of Trustees, South African !Xu and Khwe Community (6th party).
1996. Unsigned

Documents relevant to the case heard in the Land Claims Court (Case Number LCC 29/96):

- Replication to the response of the United Griquas of Griqualand West
- Response to the Notice of Referral
- Report of the Commission in terms of Section 14(1) and (2) of the Restitution Act
- Letter to Mr. GG Mokgoro, Chair of the Schmidtsdrift Board of Trustees from the Land Claims Court. 19/08/1998. RE: LCC 29/96: Schmidtsdrift Community claim. Reminds him his written submission has still not been received.
- Letter from MC Nortje Attorney to Mr. Mokgoro. 27/08/1998. Copies sent to Mr. Engelbrecht of United Griquas of Griqualand West and to the Office of the Premier. Attached:
- Filing notice;
 - Grondeisvorm (Land Claim Form). Completed by William Wellen in his capacity as chair of the Fonteintjie Gemeenskapontwikkelingstrust Raad / Community Development Trust Council and Griekwa Families of / van Fonteintjie.
 - *(Note: the Response includes some historical background to the Griqua community in the area and an historical review of administration of the land in question before 1913, and after the Griqua community began leaving the land.)*

Letter from Deneys Reitz Attorneys to the Schmidtsdrift Board of Trustees. 27/03/1997. RE: Schmidtsdrift. Refers to the amendment of the trust deed as requested in a letter from the Schmidtsdrift Board of Trustees dated 10/03/1997. Attached:

- Supplementary submissions of the Tswana Community in regard to Schmidtsdrift (no date and looks incomplete)
- Report of the Commission on Land Allocation of the land known as Schmidtsdrift District Herbert. SW McCreath, Chair of the Commission on Land Allocation. 21/12/1993
- Draft document titled Withdrawal of land Claim at Schmidtsdrift: United Griquas of Griqualand West. August 1999. (1 page)

Blockages to the signing of the General Agreement in respect of the Schmidtsdrift Land restitution claim by the following parties: Department of Defence, Department of Land Affairs, and Department of Public Works. 1997. (1 page)

Update of Northern Cape Land Restitution Claims (Prepared for communities attending the AGM of the Association for Northern Cape Rural Advancement (ANCRA) on Saturday 5 July 1997. (8 pages)

Memorandum from Commission on Restitution of Land Rights to All Parties in Schmidtsdrift Restitution Claim. 09/02/1998. RE: Delay in finalizing the case

Letter from Commission on Restitution of Land Rights to the Land Claims Court. 04/03/1998. RE: Schmidtsdrift Claim – LCC 29/96

Update on N Cape land Restitution claims – 21/22/May 1998. Adv WA Mgoqi, regional land Claims Commissioner (Western and Northern Cape.) No date

Final Agreement on the Schmidtsdrift Land Restitution Claim. September 1999. 4 pages. Unsigned. (Someone has scratched out point 9.)

Schmidtsdrift Claimants List (Batlhaping – Fonteintjie Claimants list). February 2000.

769 names. Includes those who want to relocate and those intending to stay on the compensatory land.

Commission on Restitution of Land Rights Memorandum. Submission in terms of Section 42D of the Restitution of Land Rights Act 22 as amended in the matter of Schmidtsdrift Tswana Development Trust and the Fonteintjie Community Development Trust concerning the Schmidtsdrift Farms (listed.) March 2000

Draft Negotiation Position. Restitution Package: Schmidtsdrift Restitution Claim. 06/03/2000. Compiler: Maxwell Jansen. (May be incomplete.)

Commission on Restitution of Land Rights media release on the ceremony to mark the settlement of the Schmidtsdrift Restitution claim on 08/04/2000. (*Very useful background information to the claim.*)

Settlement Agreement. S42D of the Restitution of Land Rights Act, 1994 between the Commissioner on Restitution of Land Rights, the Minister of Land Affairs, Minister of Public Works, Minister of Defence, Premier of the Northern Cape and the Interim Committee of Schmidtsdrift Communal Property Association and !Xhu and Khwe Communal Property Association. 08/04/2000.

Deed of Transfer of the remainder of the farm Schmidtsdrift no. 248 to the Schmidtsdrift Communal Property Association. 21/05/2003

Regional Reports – Free State and Northern Cape. Regional Land Claims Commission. Probably 2001. (Two page photocopy.)

Human settlement planning and implementation

Opening address by the Minister of Land Affairs Derek Hanekom MP. National Conference on Land Policy. 31 August 1995.

Major planning reports and related documentation:

Schmidtsdrift Land Restitution Project. A Presidential Lead Project of the Reconstruction and Development Programme. Master Plan Document. Part 1 Revision 0. February 1997. Prepared by ASCH Consulting Engineers.

Schmidtsdrift Draft Socio-Economic Survey. Prepared by Emendo. May 2000. *Includes a database of persons over 18 at the time.*

Schmidtsdrift Pre-Planning Master Plan for Resettlement. Department of Land Affairs. Emendo Town and Regional Planners and Bigen Africa Consulting Engineers. October 2000.

Business Plan for Housing Development, Implementation Plan and MTEF Framework for Schmidtsdrift Restitution Project. Rev. 1. July 2005. Africon. (Electronic document)

Attached to this report:

- Technical Report For Engineering Services For The Proposed Township Of Schmidtsdrift In The Siyancuma Municipality. January 2005 Report No: Africon 100677-R0
- Deed of Transfer
- Project Application For Schmidtsdrift Housing Project
- Land Claims Commission Report On The Geotechnical Investigation For Township Establishment At Schmidtsdrift Report 100677-G1 September 2004
- Land Claims Commission Report on The Geotechnical Investigation for Township Establishment at Schmidtsdrift Zone 5 Report 100677-G2 September 2004
- *Note: This was Africon's final document.*

Other documents

2000 - 2001 (and documents that might be from this period)

Schmidtsdrift Settlement Plan. Progress Report 3. 06/07/2000 Bigen Africa.

One of the appendices is titled Guiding Principles and seems to have a fair amount of background information.

Department of Land Affairs. Schmidtsdrift Pre-Planning Master Plan for Resettlement. Emendo Town and Regional Planners and Bigen Africa Consulting Engineers. October 2000.

Rural Local Economic Development and Land Restitution in South Africa: the Case of Schmidtsdrift, Northern Cape. Philander, D.D and Rogerson C.M. Dept. Geography and Environmental Studies, University of the Witwatersrand. Published in the Singapore Journal of Tropical Geography 22 (1), 2001, 74-89. *Describes the 1995 consultation and planning processes by ASCH Consultants in detail. In the General Documents file.*

Rural Local Economic Development and Land Restitution in South Africa: the Case of Schmidtsdrift, Northern Cape. Philander, D.D and Rogerson C.M. Dept. Geography and Environmental Studies, University of the Witwatersrand. Published in the Singapore Journal of Tropical Geography 22 (1), 2001, 74-89.

Describes the 1995 consultation and planning processes by ASCH Consultants in detail.

Schmidtsdrift Restitution Project. Terms of Reference. Settlement Phase.

Regional Land Claims Commission. No date.

2003

Schmidtsdrift Community Production Centre (CPC). Sustainability Plan: Section I: Core Issues. Prepared for the Independent Development Trust (IDT) by Kojo Aihoon & Associates. August 2003. Section II: Main Report is also bound with Section I.

The executive summary of the main report notes that the Schmidtsdrift CPC is "expected to be an agriculturally-based project encompassing food security and income-generating agriculture, as well as value-adding (to agricultural production) SMMEs."

Submission to request approval for the release of funding of R1 158 700 for the settlement planning grant and additional amount of R6 700 for the settlement planning grant of the Schmidtsdrift community. Commission on Restitution of Land Rights. Signed on 22/10/2003

Schmidtsdrift Restitution Project. Project Process Plan for Detailed Planning Phase. November 2003. Version 0. Africon. (Several pages missing.)

2004

Letter from JJ Prinsloo of Africon to Mr. MM Mohapi, Regional Director DME (Kimberley). 27/06/2004. Reminds Mr. Mohapi that during a meeting in early April 2004 he promised to pass on “diagrams for the extent of land where mining licenses will be granted” and that the fact that he had not done so had been identified as a constraint on sustainable planning by the Department of Agriculture, Conservation and the Environment. This Department had recently made a presentation on their development projects for nature conservation at Schmidtsdrift.

Documents concerning the Uitspanning Incorporation Issue:

- Letter from JJ Prinsloo of Africon to Mr. Peter Mokomele (Land Claims Commissioner, Kimberley). 09/07/2004. Subject: Schmidtsdrift Restitution Project: Incorporation of Uitspanning.
- Reports on discussions held between Schmidtsdrift CPA, Africon, SANDF, National Department of Public Works. Details on proposals tabled by SANDF. Map of area under discussion attached.
- Letter from Shirley Leburu (DG: Property Management, DPW Kimberley) to Mr. Peter Mokomele. 22/07/2004. Subject: Schmidtsdrift Restitution Project: Incorporation of the Outspan.
- Letter from JJ Prinsloo of Africon to Shirley Leburu of the Department of Public Works regarding the state of negotiations between her department and the SANDF wrt to incorporation of Uitspanning, so that surveying and other work can begin. 05/01/2005

Monthly Progress Report from Jochie Prinsloo (AFRICON) to Mr. Peter Mokomele (Land Rights). 14/09/04

Schmidtsdrift Restitution Township Establishment. Plan of Study for Scoping. AFRICON. October 2004

Project title: Siyancuma Municipality Schmidtsdrift Restitution Project. Resettlement of the Schmidtsdrift Community. Map title: Proposed Layout Plan for Zone 4. Africon. Date: November 2004

Project title: Siyancuma Local Municipality Schmidtsdrift Restitution Project. Resettlement of the Schmidtsdrift Community. Map title: Proposed Layout Plan for Zone 5. Africon. Date: November 2004

2005

Collection of minutes of meetings of and monthly progress reports. CRLC / Africon. Dated between late May 2004 – August 2005.

Collection of minutes of the Schmidtsdrift Restitution Project Task Team.

Technical report for engineering services for the proposed township of Schmidtsdrift in the Siyancuma Municipality. January 2005. Prepared by Africon.

Letter from JJ Prinsloo of Africon to Mr. AM Mogale, Municipal Manager of Siyancuma Municipality. 07/01/2005. Subject: Schmidtsdrift Restitution Project: Preparation of Housing Application.

- Concerns actions that have to be taken before Africon can prepare a housing application and an MTEF framework for the development of Schmidtsdrift.
- Appendices listed in this letter:

- Draft social compact (joint venture) agreement between the community, the developer and the municipality (page missing)
- Draft project application form (not attached)
- Draft framework for the compilation of a Development and MTEF Framework for Schmidtsdrift.

Permit authorizing the change in land use from agriculture to residential for the purposes of developing two townships (Zone four and five) at Schmidtsdrift 248. 28/06/2005. Department of Tourism, Environment and Conservation.

Letter from Schmidtsdrift CPA to Mr. Mokomele or Mokomele, Regional Land Claims Commissioner. Subject: CPA response to the Social Compact document drafted by Africon. Date: 04/08/2005.

Comments by New Diamond Corporation (Pty) Ltd on the township development plan by Africon and the communal game rang project as proposed by the Department of Tourism, Environment and Conservation on the application for a mining right. 2005. *Incomplete. Only one page of this document with a covering letter from New Diamond Corporation to Mr. GI Mfetoane of the DME, dated 21/04/2005. NDC says it does not object to excluding the area Africon has designated for township development (Zone 4) and related services from its Mining Right Application. NDC comments on the proposals for a game farm are missing.*

2006

Constitution for the Schmidtsdrift Project Advisory Committee. Transform (Training and Support for Resource Management Programme.) A co-operation programme between the Department of Environmental Affairs and Training and GTZ. 2006. Not signed. *(Uncertain whether this document is complete.)*

Memorandum of Agreement on the transfer of funds from the Department of Land Affairs to the Department of Housing and Local Government for the implementation of the Schmidtsdrift Housing Project: Payment made in full. 20/02/2006.

(Includes appendices giving information on the planning process and background to the project.)

Memo from Peter Mokomele (Deputy Director: Planning) in the Commission on Restitution of Land Rights to the Registrar of Deeds, Northern Cape – Kimberley. Subject: Certificate in terms of Section 42B of the Restitution of Land Rights Act 22 of 1994 (etc) exempting the remainder of the farm Schmidtsdrift no. 248 from the legislation governing the subdivision of agricultural land (Act 70 of 1970.) 24/11/2006.

Business Plan: Schmidtsdrift Housing Project and Development of Civil Services.

Project name: Construction of civil services for 800 erven in Zone 4 and Zone 5: Schmidtsdrift. No date. Prepared by MVD Kalahari. (Construction programme attached.)

The developer, Siyancuma Municipality, does not have suitable technical personnel for this project and appointed a team of consultants: MVD Kalahari (Consulting and Structural Engineers). Project Managers (Thubelisha Homes), and Attorneys (Mathews and Partners).

Letter from AM Mogale, Municipal Manager of the Siyancuma Municipality to the Department of Housing and Local Government in Kimberley. 14/06/2006. Subject: Schmidtsdrift housing project.

Letter from the DHLG (Kimberley) to Peter Mokomele of the RLCC. Subject: Siyancuma Municipality: Schmidtsdrift: Opening of a township register: Schmidtsdrift c\CPA Registration number CPA/00/0214/A The remainder of the farm Schmidtsdrift no. 248

Siyancuma Municipality: Schmidtsdrift Restitution Project. Minutes of site meeting no. 4 held on 06/10/2006.

Letter from AM Mogale, Municipal Manager of the Siyancuma Municipality, to HOD, DHLG (Kimberley). 16/08/2006. Subject: Schmidtsdrift: Installation of internal service.

Technical report: Siyancuma Municipality: Schmidtsdrift: Water treatment and auxiliary works and bulk supply pipelines. 08/12/2006. Prepared by A Goliath of MVD Engineering.

Includes socio-economic information, projected population growth, expected water demand, estimated cost of R31 242.143.46.

Technical report: Siyancuma Municipality: Schmidtsdrift: Sewage oxidation ponds, main outfall sewer lines and auxiliary works. 11/12/2006. Prepared by A Goliath of MVD Kalahari. *Total estimated cost is R8,739,525.00*

Siyancuma Municipality: Schmidtsdrift: Approved amount for subsidies 2006/2007.

Letter (in Afrikaans) from the head of the N Cape Department of Housing and Local Government (N.P. Ferreira?) to Mr. Peter Mokomele, Regional Land Claims Commissioner. Dated 09/12/2005. States that the Department has approved R1.3m for the first phase of development of Schmidtsdrift for the 2006/7 financial year. Requests that Mr. Mokomele's department should also release its "reserved funds for the development of the town."

Memorandum of Agreement on the Transfer of Funds from the Department of Land Affairs to the Department of Housing and Local Government for the implementation of the Schmidtsdrift Housing Project: Payment made in full. 20/02/2006.

Related documentation re. releasing the funds is attached to this memorandum.

2007

Siyancuma Municipality. Integrated Development Plan. (Draft). 2006/2007 (Electronic copy)

Siyancuma Municipality: Schmidtsdrift Restitution Project. Minutes of site meeting no. 8, 30/03/2007. Prepared by M. Goliath of MVD Kalahari. Attached to this document: Siyancuma Municipality Tender no: SMIDT 24/06/07.

Schmidtsdrift Restitution: Township Establishment. Scoping Report. Prepared for Siyancuma Municipality. Africon. June 2007.

Business Plan: Schmidtsdrift Housing Project and Development of Civil Services. Siyancuma Municipality. No date.

Proposal for the construction of a multipurpose Centre in Schmidtsdrift (Northern Cape).

No date or author, but the two-pager was faxed from Gomotsegang Consultancy on 10/02/2007. (Handed over by Mr. Molelekwa.)

Seems to be a concept document on which a detailed proposal could be based; an estimate of just under R7.5m is given for total costs of the project.

Geohydrological Report Schmidtsdrift for Siyancuma Local Municipality and MVD Kalahari by GHT Consulting. March 2007. JJ Hough and DC Rudolph. The file includes a loose progress report from GHT to Andries Goliath of MVD Kalahari dated 06/03/2007 on tests conducted on six of the eight water supply boreholes. (Handed over by Mr. Molelekwa.)

The objective was to determine the sustainable volume groundwater available from the Schmidtsdrift borehole field as well as their water quality. Eight of the water supply boreholes were test pumped and sampled to determine their sustainable yields and water qualities.

The CPA

Constitution

Communal Property Association Constitution: Draft. Establishing Schmidtsdrift Communal Property Association. 06/11/1999.

Proposed amendments to the Schmidtsdrift CPA constitution. May 2004. No indication of author.

Communal Property Association Constitution. Schmidtsdrift Communal Property Association. As amended in May 2004.

Reports on the CPA

Schmidtsdrift CPA. No date. CSIR. (Electronic copy)

Evaluation of the CPA.

Report on the Schmidtsdrift CPA Annual General Meeting (AGM) that was held on 08/05/2004 at Schmidtsdrift. (No author indicated but probably written by the RLCC)

Report on the legal aspects of the future land use, including tenure plan and tenure regime, of Schmidtsdrift Restitution project. Maisela, R.J. Programme for Land and Agrarian Studies. University of the Western Cape. October 2005

Schmidtsdrift CPA Elections of the New Committee. 16/03/2007. CRLR. Members with rights as signatories to the CPA bank accounts.

CPA policies and draft policies:

Schmidtsdrift Land Use Policy. Schmidtsdrift CPA. Policy no: 01. Policy: Assistance to be given to Schmidtsdrift CPA to enable them to hold and manage land in a sustainable manner. No date. (22 pages). *Includes policies for land use (residential, agricultural, mining) and for the use of CPA vehicles.*

Schmidtsdrift Restitution Project Post Settlement; Discussion document on Schmidtsdrift Investment Policy. Compiled by Leonardo Steenkamp. No date.

Schmidtsdrift Investment Policy (cover sheet title). Two different documents titled “Discussion document on Schmidtsdrift Investment Policy”. Prepared by the CPA of Schmidtsdrift. No date.

Schmidtsdrift CPA Committee Policy Workshop held on the 27 August 2004 at Schmidtsdrift CPA Office

Letter from Schmidtsdrift CPA to Mr. Mokomele or Mokomele, Regional Land Claims Commissioner. Subject: CPA response to the Social Compact document drafted by Africon. Date: 04/08/2005. In the Planning file.

SME / CPA Bursary Scheme. (About 2003)

Financial statements

Financial statements prepared by PricewaterhouseCoopers for the Schmidtsdrift CPA

For the years ended 31/08/2004, 2005, 2006 and the draft statement for 2007.

Schmidtsdrift CPA Financial Statements for the 10 months ended 28/02/2005

Minutes and internal reports on CPA matters

Reports on CPA matters

Handing Over. Purpose: To prepare for the official hand over.

Attached to this document: Year Plan for CPA Executive Meeting 2007 and cash flow projection March – August 2007; asset register.

Chairperson’s Reports

Chairperson’s Report 2007. Schmidtsdrift CPA.

Chairperson’s Report 19/01/08

Minutes of AGMs

08/05/2004

09/05/2005

Minutes of Quarterly meetings

06/08/2005

04/03/2006

19/01/2008

Minutes of General meetings

08/08/2005

19/03/2006

07/07/2007

22/10/2007

Meetings of the CPA Committee / Executive:

22/01/2005

09/04/2005

11/09/2007

16/10/2007

13/11/2007

11/12/2007

08/01/2008

12/02/2008

12/03/2008

26/03/2008

16/04/2008

14/05/2008

18/06/2008

Minutes of meetings of the agricultural committee:

12/07/2007

30/01/2008

28/02/2008

? / 05/2008

SME Directors reports

Schmidtsdrift CPA. The Six Months Review Report. Covers July – December 2003. Prepared by SME Directors Mr. Mokgoro and Mr. Oliphant

Schmidtsdrift CPA Report December 2003 – May 2004. Directors: GG Mokgoro and V Oliphant. *Deals with the withdrawal of Sonop, impact on the NDC, subsequent negotiations with Skeat and a presentation by that company; previous and new arrangements wrt payment of royalties.*

Mining Report. Date: 26 January 2006. Kimberley Diamond Exchange. (Directors' report.)

Minutes of meetings focused on mining activities:

10/02/2001: Topic: Scrutiny and approval of mineral agreement.

12/12/2002: NDC/CPA meeting

13/03/2003: NDC/CPA meeting.

12/06/2003: NDC/CPA meeting.

03/07/2003: NDC/CPA meeting.

02/09/2003: SME Board Meeting.

05/12/2003: Schmidtsdrift meeting with residents who had lost animals at SME

12/12/2003: Schmidtsdrift Directors Meeting at NDC offices NDC/CPA meeting

12/08/2004: NDC/CPA meeting

06/12/2004: CPA, NDC and People that lost their livestock in the slimes dam

25/02/2005: SME Board meeting held by conference call

05/04/2005: SME Board meeting

18/10/2007: Meeting of CPA with Mr Duiker from Clisa company on 18/10/07

29/11/2007: Meeting held at the Hall on 29/11/07 for the presentation of royalties

16/05/2008: Lonrho / Nare / CPA meeting.

10/07/2008: Meeting held on 10/07/08 between CPA and Nare

11/07/2008: CPA / Nare meeting. Headed "Selling of diamonds to the Juta."

Minutes of meetings of / with other CPA committees:

Minutes of meetings with the finance committee

05/03/2004. Meeting between Finance Committee and the CPA Committee

Minutes of meetings with the unemployment committee.

15/03/2006. Meeting between CPA committee and unemployment committee

Minutes of other meetings

Meeting between CPA and PS consultant Ms Ipuseng Lejake, 02/06/2008

Meeting held at Kuruman on 01/09/07 with CPA Committee

Meeting held on 19/06/07 CPA with Guard and former Secretary Mrs Mxutu

Meeting held on 20/11/07 CPA and Municipality (sc)

Meeting held on 23/06/08 CPA, Trust and RLCC Rep

Meeting of 19/08/07

Conflict

Letter from EM&H dated 15/07/2008 to Lazarus Dibakwe.

Letter from Schmidtsdrift CPA to the Secretary, BEC Committee, Schmidtsdrift No. 4. 21/07/2008.
Requests a meeting to "prepare a case against B.T."

Conflict concerning the Garamatale Small Miners Association (GSMA)

Letter or statement from Mr Molelekwa dated 15/05/2007. Recipient not indicated.

RE: In reference to the meeting held on 14/05/2007 at the CPA Boardroom at 14h00 between CPA Committee and GSMA

Memorandum from Schmidtsdrift residents to Schmidtsdrift CPA Committee 25/07/2007 08h00. (1 page) *Demands an urgent meeting with the community to discuss the way forward for the community plant; rejects "GSS Mining Association's self-recognition agreement with the CPA Committee"; demands that Victor Oliphant and others be disciplined for undermining the CPA Committee during the 07/07/07 community plant meeting.*

Letter from AM Mogale, Municipal Manager, to Schmidtsdrift Community. 19/07/2007. *Gives permission for a demonstration to take place on 25/07/2007.*

Reports from Memorandum. No author or date. 2 pages. (Handed over by Mr. Molelekwa.) *Concerns grievances within the community concerning some kind of agreement between the CPA Committee and GSMA*

Letter from Towell & Groenewaldt to EMW&H. 04/02/2008. RE: GSMA / Schmidtsdrift CPA.

Letter from EMW&H to Schmidtsdrift CPA. 14/03/2008. RE: GSMA / Schmidtsdrift CPA

Letter from EMW&H to Schmidtsdrift CPA. 15/05/2008. RE: Meeting of new Committee: Application for a mining right. Notice of a Special General Meeting: Meeting with GSMA

Letter dated 03/06/2008 to Mr Wilmans on CPA letterhead, signed by the Secretary KJ Mokgoro. *Refusal to negotiate with GSMA unless mandated to do so by the community.*

Letter from EMW&H to Schmidtsdrift CPA. 05/06/2008. RE: GSMA

Letter from EMW&H to Towell & Groenewaldt. 08/07/2008. RE: GSMA / Schmidtsdrift CPA

Traditional leaders

Objection letters. From LEKGOTLA LA BORRE. Addressed to the Regional Manager, Department of Mineral and Energy. No date, probably 2003. RE: Objection to issuing of a mining right.

Objection letters. From Schmidtsdrift Youth. Addressed to the Regional Manager, Department of Mineral and Energy. No date, probably 2003. *Lists reasons for opposition to NDC mining rights.*

Letter dated 05/01/2005 from the Acting Regional Manager: Mineral Development, Northern Cape Region of the Department of minerals and Energy to the Secretary, Royal Batlhaping nation. Subject: Permits for prospecting and removal of diamonds from Schmidtsdrift.

Letter from the BSTC to the Chair of the Schmidtsdrift CPA. 09/03/2005.

Requests a donation to allow the Council to continue functioning. It appears their income had been reduced because government had stopped paying unspecified grants, and many people had moved to Schmidtsdrift.

Letter from Mr. SL Cengcani of Cengcani and Associates (Kimberley) to the DG, Department of Land Affairs in Pretoria. 12/06/2007. RE: Schmidtsdrift CPA

Informes the DG that he is acting on the instructions of some beneficiaries of the Schmidtsdrift CPA who also "belong to the Batlhaping Boo Moduane tribe" who wish to declare a dispute with the CPA.

Letter from CP Pholoholo, Director: Traditional Leadership and Institutions in the Office of the Premier of the Northern Cape to the Chair of the Schmidtsdrift CPA. 04/02/2008. *Refers to a meeting to be held on 21/02/2008 in Schmidtsdrift to discuss complaints raised by Mr. Sehunelo about the use of the community hall.*

Letter from the Chair and Secretary of the Schmidtsdrift Batlhaping Trust (Kagiso Jogom and Agisanyang Mabilo) to the Chair of the Schmidtsdrift CPA Committee. 11/03/2008. Requests a meeting with the CPA committee to introduce the trustee committee and discuss the objectives of the Trust.

Letter from Schmidtsdrift Batlhaping Community Trust to Schmidtsdrift CPA. 27/03/2008

Letter from the Chair of the BSTC to the Secretary of the Schmidtsdrift CPA Committee. 03/04/2008. *Requests a meeting to discuss the relocation of the last community members who want to return to Schmidtsdrift, and "beneficiary of the Schmidtsdrift community."*

Letter from the Chair and Secretary of the Schmidtsdrift Batlhaping Trust to the Chair of the Schmidtsdrift CPA inviting the CPA Committee to a meeting of the Trust on 19/04/2008 in Schmidtsdrift.

Letter from the Schmidtsdrift Batlhaping Trust to the Secretary of the Schmidtsdrift CPA. 22/04/2008. *Requests a meeting with the CPA Committee to which Land Affairs will also be invited to discuss the dissolution of the CPA Committee, and an urgent general meeting of the residents and beneficiaries of Schmidtsdrift.*

Letter from the Schmidtsdrift CPA Committee in response to the 22/04/2008 letter from the Schmidtsdrift Batlhaping Trust. 24/04/2008. Demands that a list of documents proving the legal status and credibility of the Schmidtsdrift Batlhaping Trust should be produced before a meeting can be held.

Letter from the Schmidtsdrift Batlhaping Trust to the Schmidtsdrift CPA Secretary, probably 16/05/2008. Attaches documents as requested; lists grievances; notes its refusal to recognise the constitution of the Schmidtsdrift CPA Committee. Attached:

- Letter of Authority from the Dept Justice and Constitutional Development in terms of the section 6(1) of the Trust Property Control Act, 1988 (Act 57 of 1988) certifying that a list of 15 people are authorized to act as trustees of the Schmidtsdrift Batlhaping Community Trust. 22/02/2008.
- One page extract from the Trust Deed
- Minutes of a meeting held for the inauguration of the Batlhaping Boo Moduane Chief VK Sehunelo on 01/12/2007. Covers grievances with the Schmidtsdrift CPA Committee and advice given to form a Trust.
- List of Trustees
- Resolutions taken after the meeting on 01/12/2007
- Attendance register of meeting on 01/12/2007

Fonteintjie and Mr Steenkamp

Letter from the Fonteintjie Community Trust of Kimberley to Mr Craig Davids, Master of the High Court in Kimberley. 13/03/2006. RE: Exercising our right as fifty percent owners of Schmidtsdrift in terms of Section 42D in the Settlement Agreement of 8th April 2000. *Detailed demands for amendments to the Settlement Agreement*

Letter from the office of the Master of the High Court in Kimberley to the Schmidtsdrift CPA. 22/03/2006. RE: Fonteintjie Gemeenskap Ontwikkelingstrust

Letter from the office of the Master of the High Court in Kimberley to the Schmidtsdrift CPA. 03/05/2006. RE: Fonteintjie Gemeenskap Ontwikkelingstrust *Concerns CPA's lack of response to earlier letter.*

Letter from the Schmidtsdrift CPA to Leonardo Steenkamp. 18/05/2006. *Informs him of a decision to terminate his service as a Director on the SME Board*

Letter from Robertson Du Toit to L. Steenkamp. 22/05/2006. RE: Schmidtsdrift CPA / Uself

Letter from EMW&H to Robertson Du TOit. 31/05/2006. RE: Schmidtsdrift CPA: Farm Africa: Mr Steenkamp

Letter from C. Karamanolis & Associates addressed to the Chair, Schmidtsdrift CPA. Date: 25/05/2007. RE: Letter of Demand. Our Client: Fonteintjie Community Development Trust.

Letter from Leonardo Steenkamp to Schmidtsdrift CPA. Final demand. Date: 06/07/2007

Letter from Symington & De Kok to Nare Diamonds Ltd. 24/07/2007

RE: Shareholders' Agreement: Schmidtsdrift Mining Enterprises (Pty) Ltd. *Legal opinion on the agreement, apparently in the context of conflict with the Fonteintjie Community Trust*

Letter from EMW&H to Schmidtsdrift CPA. 30/05/2008. RE: L. Steenkamp. *Concerns outcome of a court hearing on 23/05/2008*

Mining

Agreements and other legal documentation

Heads of Agreement between the NDC (Pty) Ltd and the Schmidtsdrift Community (not the Schmidtsdrift CPA) concerning the development of mining and non-mining commercial activities in Schmidtsdrift. Signed on 12/10/1999.

Memorandum and Articles of Association of the NDC Coal Corporation (Pty) Ltd. 25/10/1999.

Certificate of Incorporation for NDC Coal Corporation (Pty) Ltd. 01/11/1999

Extracts from an agreement between DME and NDC (Pty) Ltd Registration number 1998/025116/07. Incomplete (only pp 2,6,7). No date, but some time after 2001. NDC (Pty) Ltd and the DME concluded a Notarial Prospecting Contract on 06/11/2001. The prospecting area is described in detail on pp 6-7. The section describing the prospecting rights granted to NDC is not complete.

Letter from Elliot, Maris, Wilmans & Hay to Mr. Gift Sehunelo, Chair of the Schmidtsdrift CPA Committee. 21/11/2002. RE: The Schmidtsdrift CPA: Draft Shareholders Agreement with New Diamond

Corporation (Pty) Ltd. *A letter from the DG of Land Affairs dated 14/11/2002 in response to a letter from the attorneys is attached.*

Letter from NDC to Schmidtsdrift CPA. 17/02/2003. RE: Finalisation of Shareholders' Agreement: Schmidtsdrift Mining Enterprise (Pty) Ltd

Letter from Elliot, Maris, Wilms & Hay to the CEO of NDC. 08/07/2003. Subject: Shareholders' Agreement. *Explains why the Schmidtsdrift CPA was not prepared to sign the agreement in its present form, and requests the balance due to their clients in respect of 5% of the gross selling price of all diamonds recovered up to and including the end of June 2003.*

Shareholders' Agreement between New Diamond Corporation (Proprietary) Limited and Schmidtsdrift Communal Property Association in relation to Schmidtsdrift Mining Enterprises (Proprietary) Limited. Signed on 06/08/2003

Joint Venture Agreement made and entered into by and between new Diamond Corporation (Pty) Ltd and Schmidtsdrift Communal Property Association and Emmanuel Diamonds CC. 2004. Unsigned.

Letter Agreement – Royalty Payment Terms – Schmidtsdrift. From NDC to the CPA, for the attention of Leonardo Steenkamp. 23/08/2005.

The stated purpose of the letter is to record terms that had been agreed to earlier for the payment of R5m in royalties owed to the community. Signed by Tiego Moseneke only.

Batch of documents produced in 2006 concerning demands by Fonteintjie Community Trust for half the royalties received by the Schmidtsdrift CPA and related concerns, which they want included in the Settlement Agreement of April 2000.

It is also stated that the Trust gives its "unwavering support" to Nare Diamonds to continue prospecting and mining, and that Mr L Steenkamp has been elected by the Fonteintjie Community Trust as "director representing the Schmidtsdrift CPA on the Board of Directors in Nare Diamonds until we inform the Schmidtsdrift CPA otherwise."

Memorandum of Agreement: Contracted prospecting and mining of consolidated farm Schmidtsdrift no 248, Administrative District of Herbert, Northern Cape between Uniteam "777" Mining CC and Schmidtsdrift CPA. Unsigned. 2006.

Letter agreement between Nare Diamonds Ltd and the Schmidtsdrift CPA on the establishment of a game park at Schmidtsdrift. Date: 15/02/2006. (3 pages). Signed. Marked confidential.

Details of which areas will be used for mining; conditions listed include an amendment to the original letter agreement dated 23/08/2005; establishment of the CPA Schmidtsdrift Game Farm Trust; details of financial contributions to be made by Nare. Signed on 17/02/2006 by Charles Mostert of Nare Diamonds and V. Mokgoro for the Schmidtsdrift CPA.

Letter Agreement: New Diamond Corporation (Pty) Ltd. Sent from Nare Diamonds to the Schmidtsdrift CPA and the NDC. Dated 17/02/2006. Signed 17/02/2006. Marked confidential.

Contractor's Agreement made and entered into between Schmidtsdrift CPA (the holder) and the Garamatale Small Miners Association (the contractor.) Sometime in 2007. Not signed.

Letter from Symington & De Kok to Nare Diamonds Ltd. 24/07/2007

RE: Shareholders' Agreement: Schmidtsdrift Mining Enterprises (Pty) Ltd. *Legal opinion on the agreement, apparently in the context of conflict with the Fonteintjie Community Trust*

General documents

Archaeological and Palaeontological resources: Assessment and Mitigation as a Prerequisite for Mining and Prospecting. Pamphlet produced by the South African heritage resources Agency.

2001

New Diamond Corporation. Environmental management plan report for the prospecting phase at Schmidtsdrift, Northern Cape. SRK Consulting. July 2001.

Articles of Association of SME (Pty) Ltd. (Reg. no. 1999/024334/07). No date

Transfer of shares, stock, debentures or options. March 2001. Concerns transfer of shares from Schmidtsdrift CPA to SME.

Prospecting Permit PP 85/2001 issued by DME to NDC on 20/12/2001

2002

Documentation concerning a special resolution to changed the name of the company to SME (Pty) Ltd. 2002

2003

NDC Schmidtsdrift Mining Enterprises memorandum from GE Makokwe, Executive Director, to all SME employees. Presumably mid-2003. *States that as of 01/07/2003 management of operations of SME1 and SME2 will be taken over by Christiaan Potgieter under a management contract to be concluded with NDC. All other management and contractual arrangements to remain.*

Document titled Claim of the Schmidtsdrift Community to Mineral Rights at Schmidtsdrift. 23/09/1994. No author. Lists the farms which comprise the area known as Schmidtsdrift; states "the position wrt mineral rights". (Attached to the NDC SME memo.)

Letter from Schmidtsdrift CPA to EMW&H. 05/08/2003. RE: Appointment of Directors (to SME)

Letter from DME Kimberley to the Mine Manager, NDC. 11/11/2003. RE: Order in terms of Section 53 A (1) (b) of the Minerals Act (...). *Sets aside the order to stop mining under listed conditions.*

2004

Speech or presentation by BP Thompson (Executive Officer: Operations) of NDC/SME with the title: "Reference: Ongoing Prospecting Programme – 2003." (Handed over by Mr. Molelekwa.)

The following are stapled together and were faxed to Johnny Slabbert (Attorney) on 20/01/2004

- NDC Schmidtsdrift Mining Enterprises memorandum from GE Makokwe, Executive Director, to all SME employees. Presumably mid-2003. States that as of 01/07/2003 management of operations of SME1 and SME2 will be taken over by Christiaan Potgieter under a management contract to be concluded with NDC. All other management and contractual arrangements to remain.

- Photocopy of a blank cheque. Account holder is “Society for Resettlement of Tswana’s at Schmidtsdrift 314780”. The name of the bank has been blacked out; the branch is Diamond Place, Kimberley
- Claim of the Schmidtsdrift Community to Mineral Rights at Schmidtsdrift. 23/09/1994. No author.

Correspondence (April – December 2004) between Africon and DME (Kimberley) wrt the need for clarity on the areas for which prospecting and mining rights have been / will be granted, before planning for development projects at Schmidtsdrift by the Department of Agriculture, Nature Conservation and the Environment can take place.

- Letter from JJ Prinsloo (Africon) to Mr. Godfrey Mfetoane, DME. 07/04/2004. Subject: Schmidtsdrift Restitution Project: Mining potential of proposed site = information meeting of 07/04/2004. *The letter states that the purpose of the meeting was to resolve the legal rights that NDC have on Schmidtsdrift which could affect the township development project, and to obtain general information on the involvement of the community in the mining process. It was agreed that DME would make copies of drawings indicating the positions of mining and exploration activities available to Africon within a week, and that Africon could proceed with township development “in the area of the current settlement as planned.”*
- Letter from JJ Prinsloo (Africon) to Mr. MM Mohapi, DME. 27/06/2004.
- Subject: Schmidtsdrift Restitution Project: Mining activities
- *Reminds Mr. Mohapi that during a meeting in early April 2004 he promised to pass on “diagrams for the extent of land where mining licenses will be granted” and that the fact that he had not done so had been identified as a constraint on sustainable planning by the Department of Agriculture, Conservation and the Environment. This Department had recently made a presentation on their development projects for nature conservation at Schmidtsdrift.*
- Letter from JJ Prinsloo (Africon) to Mr. MM Mohapi, DME. 22/11/2004.
- Subject: Schmidtsdrift Restitution Project: Areas approved for mining.
- *Reminds Mr. Mohapi for a second time that he has still not informed Africon of the where mining licenses have been granted, and that this lack of information is delaying the development of Schmidtsdrift.*
- Fax cover sheet from DME to JJ Prinsloo (Africon). 02/12/2004.
- Subject: Schmidtsdrift Mining Areas. *Five copies of the surveyed maps of NDC mining areas were attached to this cover sheet but they are not in the file.*
- Letter from JJ Prinsloo (Africon) to Mr. Godfrey Mfetoane, DME. 09/12/2004. Subject: Schmidtsdrift Restitution Project: NDC Mining Areas.
- *States concern that a mining permit has been granted on the area where the community is in the process of establishing a township (Zone 4) which is “contrary to all discussions and agreements that we had with you previously”. Attached: Map titled Schmidtsdrift Restitution Project Master Plan for Development December 2004.*

2005

Comments by New Diamond Corporation (Pty) Ltd on the township development plan by Africon and the communal game ranch project as proposed by the Department of Tourism, Environment and Conservation on the application for a mining right. (Incomplete.) 2005.

Incomplete. Only one page of this document with a covering letter from New Diamond Corporation to Mr. GI Mfetoane of the DME, dated 21/04/2005. NDC says it does not object to excluding the area

Africon has designated for township development (Zone 4) and related services from its Mining Right Application. NDC comments on the proposals for a game farm are missing.

Letter from Marius de Villiers of De Villiers Attorneys to Mr Mokgoro, Chair of the Schmidtsdrift CPA.
Dated 19/07/2005

2006

Nare Diamonds Limited. Financial Report for the Financial Year Ended 28 February 2006

Letter from Schmidtsdrift CPA to Charles Mostert, MD Nare Diamonds. 01/02/2006.

RE: Confirmation of Board Member appointment – Mr LN Steenkamp

Attendance register for the royalty payment ceremony held on 15/07/2006 at Schmidtsdrift. Sent by Moses Cele of the RLCC (FS/NC) to Susan Mxutu of the Schmidtsdrift CPA.

Printout of emails between Gerhard du Plessis of Nare Diamonds, Mr. C Mostert of Continental Gold Fields (in Australia) and Peter Mokomele of the DLA. May – July 2006.

Letter from V. Mokgoro, Schmidtsdrift CPA chair to Charles Mostert (MD of Schmidtsdrift Mining Enterprise C/O Nare Diamonds). 01/02/2006. Subject: Reference: Confirmation of Board Member appointment – Mr. LN Steenkamp. *States that Steenkamp was appointed as the Schmidtsdrift CPA member onto the Board of Directors with the appointment backdated to 01/08/2004.*

Letter from the Regional Manager: Mineral Development and Administration, Northern Cape to the Commissioner on Restitution of Land Rights. 19/09/2006. Subject: Consultation with regard to an application for a prospecting right... on Portion 1 (Jakhalsfontein) of the farm Schmidtsdrift no. 248, Herbert. Applicant: Lore Trade and Investment. *States that this application is being considered and requests comments regarding claims against the area by 18/10/2006 at the latest.*

Letter to the Schmidtsdrift CPA from Dr Birch of Ecological Management Services. No date but the attached registration form and comment sheet is dated November 2006. (Handed over by Mr. Molelekwa.) *Gives notice of the intention of Clisa 42 to apply for a prospecting right.*

2007

Letters from EMW&H to Schmidtsdrift CPA and to the Director, DME, Kimberley. 23/04/2007. RE: Application for a mining right in respect of a portion of the remainder of the farm Schmidtsdrift 248. *Concerns Dr Birch and preparation of a social and labour plan.*

Letter from Bonolo Bosaaleste of Ramaga Diamonds to Ms C. Mokgoro, Secretary of the Schmidtsdrift CPA. 20/07/2007. Subject: Request to do business. The company is registered with SA Diamond Board.

Email from Peter Mokomele to D. Babuseng and L Wyngaard wrt options available to the CPA arising from an application which they had lodged with the DME to mine 400ha of land. 26/06/2007

Letter from attorneys to Nare Diamonds Limited. 24/07/2007. Subject: Shareholders agreement: Schmidtsdrift Mining Enterprises (Pty) Ltd. Legal opinion on the basis of the Shareholders Agreement and the Settlement Agreement in terms of Section 42D on the dispute between the Schmidtsdrift CPA and Fonteintjie Community Development Trust wrt the nomination of directors.

Correspondence between the Regional LCC, Nare Diamonds and the Schmidtsdrift CPA wrt a planned meeting in June 2007 to discuss a range of CPA concerns about the activities and plans of Nare Diamonds.

Proposed alluvial diamond mining. Rooipoort Nature Reserve. Draft environmental scoping report for comment. August 2007.

Letter from the Schmidtsdrift CPA to unknown offices. 19/10/2007. *Refers to a meeting held with DME representatives on 27/06/2007 during which they were shown the areas where Emmanuel Diamonds had mined illegally, and requests a follow-up meeting. Complains that DME has not responded to repeated calls after the site meeting.*

Winstanley and Cullinan opinion on protection offered by the NEMPA Act. 30/11/2007

Letter from Schmidtsdrift CPA to Mr. Jerry Mdaweni, presumably of DME. 12/12/2007.

Requests that DME inform the Schmidtsdrift CPA of applications to mine in Schmidtsdrift

2008

Draft Environmental Impact Assessment report. January 2008

Appendix 1: Summary of the public participation process.

Draft Environmental Management Programme Report. January 2008. (Source?)

Lonrho Mining 2008 Annual Report

Letter from Schmidtsdrift CPA to Mr. Mdaweni. 15/01/2008. *Refers to a meeting held with him on 06/11 or 10/2007 at which he promised to assist with resolving the problem of Mr. Patrick Mason.*

Letter from Schmidtsdrift CPA to Mr. Mahashe of DME. 26/03/2008. *Complains that there has still been no response to their concerns about Patrick Mason, and also refers to a demand for "a certificate of closure according to Clisa 42 which is mining on the farm no. 25, 26. Requests a meeting with him in April.*

Letter from V. Botha, site manager of Zone 1 Mining to Mr P Mason of Acqui 70, Kimberley. 28/04/2008

No dates

Social and Labour Plan. Department of Minerals and Energy. (Printout of PowerPoint presentation.) No date.

Social and Labour Plan Guidelines for the Mining and Production Industries. Department of Minerals and Energy. No date.

Farming / Agriculture

Planning documents

Schmidtsdrift Community Production Centre (CPC). Sustainability Plan: Section I: Core Issues. Prepared for the Independent Development Trust (IDT) by Kojo Aihoon & Associates. August 2003. Section II: Main Report is also bound with Section I.

The executive summary of the main report notes that the Schmidtsdrift CPC is “expected to be an agriculturally-based project encompassing food security and income-generating agriculture, as well as value-adding (to agricultural production) SMMEs.”

LRC report on Schmidtsdrift to FARM. Afrikaans. No date.

Schmidtsdrift Farm Study. Farm Africa. June 2006.

Schmidtsdrift and Blocuso. No date. Farm Africa. *According to Farm Africa N. Cape, this is a draft report of a household survey they did with a sample of households of the members of Schmidtsdrift farmers association. Ignore the references to BLOCUSO trust in this document.*

LandCare Business / Project Plan Framework. Schmidtsdrift Land Care Project. Department Of Agriculture And Land Reform Northern Cape Province. K. Mokgothu. (Electronic copy)

Schmidtsdrift CASP Business Plan For The Financial Year 2008/2009. Pixley Ka Seme District Farmer Support Services & Landcare Unit. Department of Agriculture & Land Reform Northern Cape Province. K. Mokgothu. (Electronic copy).

General documents

Fax in Afrikaans from the Department of Agriculture, Nature Conservation and Land Reform (N Cape Province) to Mr. J Prinsloo of Africon. Subject: Planning of agricultural activities in Schmidtsdrift. 31/03/2005.

Minutes of meeting of stakeholders for agriculture in Schmidtsdrift held on 03/11/2006 in the CPA boardroom.

Schmidtsdrift Agricultural Development Forum. Minutes of the meeting held on 07/12/2006 at the CPA Hall.

Game farming, conservation

Funding application. Project proposal for USA/RSA Binational Commission. Northern Cape Conservation Service. The Development of a community wildlife-based industry at Schmidtsdrift.

List of personnel linked to Cape Nature Conservation: Northern Cape Region with very brief CV's. No date.

Schmidtsdrift, Platfontein Business Plan. November 2004. Department of Agriculture, Land Reform, Environment and Conservation.

Schmidtsdrift Platfontein Feasibility Study. Prepared for GTZ on behalf of DEAT by Peter Wakelin. January 2005.

Letter from J. Jonk of the Department of Tourism, Environment and Conservation (Kimberley) to Mr. J Prinsloo of Africon. Subject: Communal Game Ranch development plan for Schmidtsdrift. 30/03/2005. *Describes aims of the project, expected deliverables / outputs.*

Letter from Schmidtsdrift CPA to Mr Gopolang Makokwe, NDC. 29/08/2005. RE: Schmidtsdrift Game Project

Constitution for the Schmidtsdrift Project Advisory Committee. Transform (Training and Support for Resource Management Programme.) A co-operation programme between the Department of Environmental Affairs and Training and GTZ. 2006. *Page 4 is missing. Not signed.*

Schmidtsdrift Advisory Committee Meeting. 24/10/2006

Letter from Steve Collins of Transform to Desmond Stevens of DEAT, PPM Northern Cape, Social Responsibility and Programmes. 28/06/2006. The following are attached:

- Subject: Revision of Schmidtsdrift Business plan.
- Memo from JJ Jonk, Chief Nature Conservator: Community Conservation, Namakwaland of the DTEC, Goegap Nature Reserve, Springbok to Steve Collins. 15/06/2006. Subject: Distance of the fence boundary of Schmidtsdrift Game Camp.
- Memorandum (marked Confidential and By Hand) from Charles Mostert, MD of Nare to the Chair of the CPA of Schmidtsdrift. 15/02/2006. Subject: Establishment of game park at Schmidtsdrift. 15/02/2006. The agreement was signed by V. Makgoro for the CPA of Schmidtsdrift and CP Mostert for Nare Diamonds Ltd.
- Game stocking advice for the communal game ranch at "Schmidtsdrift". Compiler: JJ Jonk, Department of Tourism, Environment and Conservation. October 2002

Business Plan (2004/7) for Project AP3 – Platfontein / Schmidtsdrift. Filing ref no 15/14/4146. Date of report: 28/08/2007. On the DEAT website but no detailed information is available from this source.

Schmidtsdrift: Business and operational plan for the construction of a bush camp and establishment of a game lodge. Prepared for Nare by GTZ. February 2008

Letter from GTZ Management Team to Schmidtsdrift CPA and PAC. 14/02/2008.

Letters from EMW&H to Schmidtsdrift CPA. 07/05/2008 and 17/06/2008. RE: Trust for game camp