



environmental affairs

Department
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

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*Agreed / have
This was copied to her
Abc Sibuya.
Please advise abc if any
action/response must be made.
Thanks
Pauline
23/6/2011*

Claudia Coetzee
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PER FACSIMILE / MAIL

Dear Ms. Coetzee

REJECTION LETTER FOR THE PROPOSED RADISSON BLU SAFARI RESORT AT THE CONFLUENCE OF THE TIMFENHENI AND CROCODILE RIVERS AND RE-ALIGNMENT OF RHENOSTERKOPPIES ROAD IN MALELANE IN THE KRUGER NATIONAL PARK

The final scoping report (FSR) and plan of study for the environmental impact assessment dated February 2011 received by the Department on 1 March 2011 refers.

The Department has evaluated the FSR and Plan of Study for EIA submitted in respect of the above-mentioned application. The FSR does not meet the minimum requirements of the Environmental Impact Assessment Regulations (EIA) Regulations, 2006. The FSR is hereby rejected as per regulation (31) (1) (c) of GN R.385 of the EIA Regulations, 2006, due to the following reasons:

1. in terms of Regulation 29 (1) (b), (c), (d) and (f) of GN R.385, a Scoping Report must include a description of the proposed activity and of any feasible and reasonable alternatives that have been identified; a description of the property on which the activity is to be undertaken and the location of the activity on the property; a description of the environment that may be affected by the activity; and a description of environmental issues and potential impacts. The FSR does not adequately meet these requirements.

Description of the activity, the property, and of the environment that may be affected by the activity, including any potential impacts

2. The description in the report is lacking in detail. The FSR appears to be based on the initial concept for the hotel, with very little actual project detail available at this stage. The FSR states that most of the project information regarding waste, water, energy, sewage details, hotel layout / description will only be provided once the Environmental Impact Report (EIR) becomes available, as certain specialists and engineers have yet to assess the site and the existing infrastructure. However, this lack of project information limits the ability of the Department to assess the adequacy of the FSR and the Plan of Study for EIA (POS for EIA). It is also possible that a number of potential impacts may not have been identified in the Scoping Report as a result.

- 2.1. There is insufficient detail on the bulk electrical supply line, the bulk water pipelines, the Water Treatment Plant and the realignment of the road. A SANParks Interested and Affected Party (I&AP) has indicated in the Comments and Response Report that, according to the layout plan (not provided to this Department), the water treatment facility is planned to be situated right next to the no-go area for the *Adenium Swazicum* species and that a leakage or spill from this facility may affect this species. This has not been discussed in the report or specifically listed as a potential impact.
 - 2.2. The FSR states that all solid waste will be transported to an on-site central waste plant for sorting and temporary storage. No further mention of this waste plant is made (i.e. whether it is an existing or proposed facility). Please note that such a facility may trigger activities listed in terms of the National Environmental Management: Waste Act, 2008 (Act no. 59 of 2008) (NEMWA) for the temporary storage of waste, depending on the estimated volumes.
 - 2.3. There is insufficient detail on the Park and Ride Facility. The site is identified as being in a sensitive area, however, only a small figure is provided to illustrate the preliminary location of the site. Details regarding the facility, including the extent, will only be determined in the EIA phase. Alternative sites and layouts have therefore not been identified. The description of the environment and the potential impacts provided in the report do not include those associated with the Park and Ride Facility. The FSR must include a description of the environment that may be affected by the Park and Ride, a description of envisaged infrastructure (including total area specification) and any identified alternatives and potential impacts for the proposed facility.
 - 2.4. Certain listed activities have been included in the report, however the infrastructure which will trigger these activities has not been described, most notably Activity 1(n) for the off-stream storage of water in dams or reservoirs. The National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) (AQA) and Hazardous Substance Act, 1973 (Act No. 15 of 1973) are included in the FSR, but the activities which could potentially trigger these Acts are not discussed in the report.
3. The locality and sensitivity maps (included in the FSR as Appendix 2 and Appendix 3) do not show the alternative sites. The reasons for assigning areas as high or very high sensitivity are not explained. Dr Venter (SANParks) has indicated in his comments, attached to the FSR, that the areas marked as very high sensitivity are areas where the critically endangered *Adenium swazicum* occur. This was not clear in the sensitivity map. A map clearly showing the location and extent of the species must be provided. You are also required to provide colour photographs of the site.
 4. Only mammals were considered and discussed in the FSR. The report should at least consider smaller animals such as herpetofauna, invertebrates (spiders in particular) and avifauna. It is noted that the EAP intends to assess the Saddle Billed Stork, Pel's Fishing Owl and the African Fish Eagle in the EIA phase, as these particular species were raised as a concern during the Public Participation Process. It is also noted that Mr Scott Ronaldson of the EWT, who in his capacity as an I&AP identified Pel's Fishing Owl as an issue, will be consulted to provide input on impacts and possible mitigation measures for these birds. Other avifauna species were not considered in the FSR however, and it is not clear whether they will be assessed in the vegetation and fauna assessments. You are reminded to use independent specialists for the specialist studies.

5. Comments included in the FSR indicate that the Crocodile River road is used as a major crossing by animals including hippo, buffalo and elephants and that a SANParks conservation ecologist will be consulted as to the best times for construction to reduce impacts on animal migration. This impact must be included in the FSR.
6. Species protected by the National Environmental Management: Biodiversity Act (No. 10 of 2004), the National Forest Act (No. 84 of 1998) and the provincial legislation were not given due consideration. The occurrence of listed Threatened or Protected Species (TOPS), as well as provincially protected species, should be included in the Scoping phase. *Siphonochilus aethiopicus* and *Warburgia salutaris* were mentioned in the FSR, but there was no investigation into other TOPS listed species. In section 5 of the FSR (Description of the Environment: Fauna), reference is made to a Red List Species Classification attached as Appendix 3, however this is not attached.
7. It appears as if other protected plants and animals that possibly occur in the area were not discussed. These may include protected trees such as Manila and Apple Leaf, which an I&AP (in the Comments and Response Report) has indicated occur in the area.
8. The vegetation survey seems not to have been conducted in the right season. The FSR indicates that two Declining species need to be searched for in November, as these are difficult to locate when not flowering. It is not clear whether this will be taken into account / corrected for in the vegetation study.

Description of any reasonable and feasible alternatives

9. The FSR identifies Site 2 as the preferred alternative. The remaining sites discussed in the FSR were considered not to be ideal primarily from a visual perspective. The sites were excluded without considering biodiversity aspects, which are of particular importance within a National Park. The FSR further indicates that site alternatives will only be considered if the preferred Site 2 proves to be unfeasible and cannot be mitigated to an acceptable level, and that only the ecological conditions of the site alternatives will be investigated in the Environmental Impact Report (EIR).

You are reminded that, in terms of Regulation 29 (1) (b) of GN R.385 (21 April 2006), a Scoping Report must consider *feasible* and *reasonable* alternatives. The reasons for elimination of the site alternatives have not been adequately discussed in the FSR. If the sites are considered to be unfeasible from a visual perspective, they must be assessed in the Visual Impact Assessment in order to support this claim.

In light of the sensitive (pristine) nature of the site and the presence of a critically endangered species on the site, and in light of the fact that the zoning of the site (as provided for in the Kruger National Park Management Plan) from "primitive / limited activity" to "high intensity leisure" is not yet formalised, you are hereby instructed to provide a holistic assessment of all reasonable and feasible site alternatives in all of the specialist studies. Such an assessment will ensure the selection of the best practicable environmental option, in accordance with the Principles of the National Environmental Management Act, 1998 (Act. No 107 of 1998) (NEMA).

10. The SANParks Press release included as an Appendix to the FSR states that the hotel will not be built on pristine land, and that the area identified for development is an old road construction camp and quarry. This is contrary to the description of the preferred site provided in the FSR. No explanation has been provided as to why the site in the SANParks Press statement is no longer being considered.
11. It has come to this Department's attention that Mjejane Game Reserve (MGR) - a community project adjacent to the KNP and with traversing rights and no fences between it and the KNP - has a vacant hotel site (100 rooms) on the Crocodile River, for which approval has been obtained. The Department recommends that the MGR hotel site, the site referred to in the SANParks press statement, the previous site of the Malelane Hotel, and / or any other feasible disturbed sites inside or outside of the Park, be included in the site alternatives being considered for the hotel.
12. The FSR states that the No-go alternative will only be assessed if significant negative impact cannot be mitigated against. You are reminded that the No-go alternative must be assessed in the EIR in accordance with regulation 29 (i) (iii) of GN R.385.
13. In the FSR it is stated that alternative energy sources may be the only viable alternative and that an engineer has been commissioned to investigate these, however, energy alternatives have not been adequately discussed in the Scoping Report. It is briefly mentioned that solar power and generators may be the most practical. A description of the specific types of alternative energies being considered for the development should be included in the report, as well as their potential impacts. It is also not clear if the alternatives will be utilised in conjunction with the Eskom power lines.

Plan of Study for EIA (POS for EIA)

In terms of regulation 29 (i) (j) of GN R.385, a POS for EIA must include a description of the tasks that will be undertaken as part of the EIA process, including any specialist reports or specialised processes and the manner in which such tasks will be undertaken.

14. Some of the impacts raised in the FSR, such as noise, have not been carried through to the POS for EIA. It is therefore not clear if all of the issues in the preliminary list of impacts are considered significant and will be further assessed in the EIR, either by the EAP or by the various appointed specialists. Given the lack of project detail, it is imperative that the POS for EIA contain Terms of Reference for the specialist studies, in order to provide clarity on exactly what tasks will be undertaken and which impacts will be assessed as part of the specialist studies.
15. Socio-economic and tourism concerns (including sense of place, overcrowding in the south section of the Kruger National Park (KNP) and the tourism carrying capacity of the KNP), were raised numerous times by various I&APs. The EAP has stated on page 43 of the Comments and Response Report that socio-economic impacts will be investigated in depth as part of the EIA and the results will be included in the EIA report. However, elsewhere in the Comments and Response Report, the EAP states that socio-economic impacts will be investigated however a full assessment will not be conducted. A socio-economic study should also form part of the specialist investigations proposed (with investigation into the potential impacts of tourism), given the nature and number of comments received on this issue.

16. The FSR states that the status quo of the tourism market and the feasibility of the new proposed Hotel was investigated by SANParks and was proved to be financially sustainable. This information can be used to support the Socio-Economic assessment
17. The FSR indicates on page 17 that a Heritage Study has been undertaken (and is currently being amended), however this study has not been included in the list of specialist studies in the POS for EIA. The heritage study must take into consideration the graves near the Park and Ride Facility, which a SANParks I&AP raised as a concern in the Comments and Response Report.
18. The FSR indicates on page 17 that the development's impact on water bodies will be investigated in depth. The Background Information Document (BID) also indicates that an aquatic assessment will be undertaken; however this has not been carried through to the POS for EIA.
19. The FSR indicates that a hydrological study will only be undertaken if borehole water is to be utilised. The water availability in the river at present must also be assessed to determine if there is sufficient capacity for the development, should potable water be abstracted from the river.

Public Participation and Key Stakeholder Consultation

In terms of regulation 56 (2) of GN R.385, the EAP must take into account any guidelines applicable to public participation and must give notice to all interested and affected parties of the application. Proof of this must be provided as per regulation 29 (h) (ii) of GN R.385.

20. The FSR indicates that the removal of protected tree species will require permits from the Department of Agriculture Forestry and Fisheries (DAFF); however, there is no proof that DAFF has been consulted.
21. The Comments and Response Report indicates that comment was received from the Nkomazi Local Municipality (Fax dated 26 August 2010); however the fax was not attached to the report.
22. This Department requires proof that the Scoping Report was submitted to the Department of Water Affairs (DWA), WESSA, DAFF and the Nkomazi Local Municipality. You are also advised to submit the report to the Mpumalanga Heritage Authority, who has been identified by the South African Heritage Resources Authority (SAHRA) as the relevant authority on the Built Environment and the Cultural Landscapes, and the Department of Rural Development and Land Reform and / or any other relevant land claims authority. Please provide this Department with the details of the relevant contact persons once this task has been undertaken.
23. MEDET has indicated in correspondence to this Department, that they have submitted comments on the Scoping Report. These comments were not included in the FSR and must be attached in the amended report.
24. The Comments and Response Report indicates that comments from an I&AP, namely Elzel Hurter, are attached, however these were not attached. Please also ensure that all I&APs who have submitted comments or have requested to be registered, are included on the database.

25. The newspaper advertisements did not specifically mention the Park and Ride Facility. The Sunday Times advertisement includes an item from the 2010 EIA regulations, namely GN R.546 Item 19 (a) (ii) (aa). This item should not have been included. This Department's guideline series 3 on Stakeholder Engagement, which the EAP indicates was considered, states that advertisements should not be placed in the legal section of the newspaper, where they may be overlooked. The advertisements for this development were placed in the legal section of the newspapers.

Activity 4 (11) of GN. R718 (waste management activity: the construction of facilities for the treatment of effluent wastewater or sewage with an annual throughput capacity of 15 000 cubic metres or more) is also applicable to this development, but has not been included in the FSR or the newspaper advertisements.

Please ensure that all advertisements contain the correct listed activities and project details, and that advertisements are placed in the main body of the relevant newspapers.

26. Subsequent to the submission of the FSR, this Department was informed that the waste specialist who had been commissioned to investigate the waste aspects of the project and to undertake the waste license application, had completed said studies. The Department's counsel was sought on whether the Scoping Report should be amended to accommodate for this waste information, or whether the information should be submitted separately, as a supplementary document to the FSR.

You are advised to amend the FSR and to incorporate this information into the report. You are also reminded to submit a Waste Management License Application to this Department for consideration. Registered I&APs must be informed of the application, and also of any amendment to activities applied for, given that not all of the waste activities were advertised in the relevant newspapers and that the FSR does not have detailed information on the waste activities applied for.

Page 13 of the FSR states that a waste use licence in terms of NEMWA will be required. This needs to be corrected, since the Waste Act requires that a waste management licence be issued and not waste use licence.

Strategic Decision for the zoning of the Kruger National Park and land claims

The Department of Environmental Affairs: Biodiversity Management and Trans Frontier Conservation and Protected Areas raised the following concerns regarding the FSR and the proposed development.

27. Section 1.1 (Strategic Decision) of the FSR (page 1) makes incorrect statements with regard to the management plan as approved by the Minister.

SANParks as the management authority is required in terms of sections 39, 40 and 41 of the National Environmental Management: Protected Areas Act, 2003 (Act no. 57 of 2003) (NEMPAA) to submit a management plan to the Minister for approval. This management plan was submitted in December 2008, and approved in February 2009. In that plan the following was stated—

"The CDF [Conservation Development Framework] for the KNP is not yet fully developed as the KNP is in a transition between having a zoning plan and a fully developed CDF.." (p27)

"This full CDF will be available at the first iteration of this plan in five years time." (p28)

"A practical and inclusive zonation (figure 9 and more detailed maps in Appendix of Maps) is available and in use to guide development and protection ... This was derived from the following

informants ... tourism opportunities (including a marketing and products and activities potential analysis) ... access routes (including regional tourism linkages) ..." (p30)

Figure 9 (mentioned above) shows the area zoned as "primitive" as does the Marula Regional Zoning Map (Appendix of Maps).

"Primitive zone: the prime characteristic of the zone is the experience of primitive conditions and wilderness qualities with access controlled in terms of numbers, frequency and size of groups. The zone shares the wilderness of the Remote zone, but with limited access roads and the potential for basic small scale self catering accommodation facilities such as bush camps or small concession lodges." (p32)

Experimental qualities for the zone are given as <16 people per group (table 2, p33).

In summary, the 'approved land use' of the site is "primitive", as depicted in the zoning map in the 2006 Management Plan for Kruger National Park, which was approved by the Minister of the Department of Environmental Affairs. SANParks has taken a strategic decision to amend the zoning plan to change the land use of the site from "primitive" to "high intensity leisure".

The argument for changing the zoning from "primitive zone" to "high intensity leisure" with a public camp in the form of a hotel, will need to be submitted to the Minister as an amendment to the approved Kruger National Park Management Plan in terms of section 40(2) of the Act for approval, before a development such as this could be considered for authorisation.

28. Further, the section in the FSR on the National Environmental Management: Protected Areas Act (page 15) should reflect the requirements of a management plan, as discussed above.

29. Approximately 25% of the Kruger National Park is currently under land claim. The EIA process must therefore take land claims into consideration. Land claims were not discussed in the FSR and the Department of Rural Development and Land Reform / the relevant Land Claims Commissioner was not consulted.

The applicant is hereby reminded to comply with the requirements of GN R.385 (77) with regard to the time period allowed for complying with the requirements of the Regulations, and GN R. 385 (58) and (59) with regard to the allowance of a comment period for interested and affected parties on all reports submitted to the competent authority for decision-making. The reports referred to are listed in GN R. 385 (58) (3a-3g).

Further, it must be reiterated that, should an application for Environmental Authorisation be subject to the provisions of Chapter II, Section 38 of the National Heritage Resources Act, Act 25 of 1999, then this Department will not be able to make nor issue a decision in terms of your application for Environmental Authorisation pending a letter from the pertinent heritage authority categorically stating that the application fulfils the requirements of the relevant heritage resources authority as described in Chapter II, Section 38 (8) of the National Heritage Resources Act, Act 25 of 1999.

In light of the above you are required to make the necessary amendments, make the amended Scoping Report available to I&APs for comment, inform this Department once the amended report becomes available for comment, and provide at least one electronic copy (CD/DVD) of the draft amended FSR to the Department. The Department requests that three hard copies and one electronic copy of the Final amended Scoping Report be submitted to this Department.

You are hereby reminded that the activity may not commence prior to an environmental authorisation being granted by the Department.

Yours faithfully



Mr. Shaan Abader

Deputy Director General: Environmental Quality and Protection

Department of Environmental Affairs

Letter signed by: Mr. Dumisani Mthembu

Designation: Director: Environmental Impact Evaluation

Date: 22/6/2011

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