

To: **Chairperson: Advisory Committee (High-Level Panel)**
c/o **Department of Environment, Forestry and Fisheries**
(hereafter the “Department” or “DEFF” or “DEA”)

For Attention: **Ms. Pamela Singh/Ms. Ofentse Mashiyane**
Per e-mail: submission2HLP@environment.gov.za

And To: **The Director-General Department of Environment, Forestry and Fisheries**
c/o **Mr. Khorommbi Matte**
Chief Director: Biodiversity Economy and Sustainable Use
Per email: kmahamba@environment.gov.za
Cc: kmatibe@environment.gov.za

And to: **Barbara Dallas Creecy**
Minister of Environment, Forestry and Fisheries
Per email: fshaik@environment.gov.za

NOTE: Referenced and supporting documentation is listed at the end of this document.

14 June 2020

RE: Advisory Committee to Review Policies, Legislation and Practices on Matters Related to the Management, Breeding, Hunting, Trade and Handling of Elephant, Lion, Leopard and Rhinoceros and Related Matters

“No-one in their right mind would ever travel to Siam (Thailand) and there murder the rare White Elephants that we find in that country. But people come to South Africa to brutally murder the White Lions of Timbavati in the name of manliness and in the name of sport. The sacred icons of other nations in this world are respected, revered and protected. But the icons of Africa are massacred with cold impunity, sometimes with the connivance of some of Africa’s own [people]...And I ask myself: Did we win our freedom for this?”

**-Credo Mutwa, esteemed Zulu Traditional Leader, Keeper of the African Records
Presented in South African Parliament 2008, 2018 and 2019**

FOUNDING PATRON: Dr Ian Player, PATRON WLLA: Princess Kabelo Chiloane,

PANEL OF ADVISORS: Adv. Nkosi Phathekile Holomisa (MP) Mr Harold Posnik, Mr Noel De Villiers, Rev Canon Mpho A Tutu

COUNCIL OF INDIGENOUS ELDERS: Retired High Chief Francois Paulette (Dene People, Canada); Ilarion Imerculieff (Aleut People, Alaska); Mother Moon (Chippewa People, Ojibwa Nation, Native America); Dr Apela Colorado (Oneida People, Hawaii); Dr E. Richard Atleo (Nuu-chah-nul People, Canada); Jan Si Ku (Kumani San People, South Africa)

TRUSTEES: Linda Tucker (CEO & Founder, MACantab); Jason A Turner (MSc Lion Ecology), Paul Saayman (CA SA), Peter Rutsch (LLB), Jennifer Booth (LLM)

The **Global White Lion Protection Trust** is a global conservation authority with a long track-record of engaging legislative process in respect of *Panthera leo*, internationally and locally, (as Gazetted in South African Parliament, 2008: <https://pmg.org.za/committeemeeting/8816/>) and has over 3 decades, in stakeholder engagements, repeatedly called for the protection of South Africa's White Lions as a proud living heritage. Throughout, we have represented the case of South Africa's Indigenous communities who revere the White Lions as a Sacred Animal and "Climate Indicator Species", recognized as such by Indigenous leaders globally (*Resolution 33 World9 Congress*, Mexico, 2009), as well as the ecologically sustainable position supported by responsible scientific authorities, including submissions by specialist lion ecologist, Jason A. Turner, Director of Ecology for the **Global White Lion Protection Trust**.

As we have previously placed on record, in the strongest terms, our condemnation for **Department of Environment, Forestry and Fisheries's** authorization of the Canned Hunting industry, the Lion Bone trade, and the associated industrialization of all wildlife in an exploitative, unsustainable, inequitable and exterminatory plan which is currently couched as the "Wildlife Economy Model", we hereby place on record for Parliamentary review our position with regard to the selection, mandate and agenda of the **High Level Advisory Panel**.

This panel, its selection, and its agenda to drive forward the post-colonial consumptive and extractive use "Wildlife Economy" model *as it currently stands*, is invalid and unsound. Accordingly, the **High Level Panel's** selection process and the very basis of its mandate is in question. Without critical revision so as to include Indigenous stakeholders, ecological sustainability and the rights of Nature, the **Wildlife Economy** model as it currently stands, is unecological and, therefore, fundamentally unsustainable.

At this critical turning point for humanity and the planet, at a time when South Africa and the world attempt to drag ourselves out of the devastation of the Covid-19 pandemic, we call on the South African Government to lead by example by respecting African Indigenous Knowledge Systems, and thereby place the regeneration of our living Earth at the center of all decisions affecting our mutual future.

Recognizing the urgent need for the good governance of our inherited wildlife legacy, we have not only called for the protection of White Lions and all wildlife as a *living* heritage in the hearts and minds of humanity, we have also put on record the dire consequences of failing to uphold this objective.

Most recently, we put on record (**Parliamentary Colloquium** 21/22 August 2018) the risks of zoonotic disease posed by the unethical and unecological removal of lions from their natural habitat, and captive breeding-for-slaughter of lions for human consumption. This applies to other wildlife, including rhino, elephant and leopard recently listed under the Agriculture Act.

The Covid-19 Pandemic has taught us that zoonotic diseases, and their far-reaching socio-economic impacts, do not respect national borders. In fact, it is patently evident that all conservation issues today are global issues and what is perpetrated here in South Africa has global consequences.

Thus, we bring to your attention that this submission is supported not only by leading South African environmental law firms, but also by international leaders in environmental law: **Center for Environmental Rights** <https://www.centerforenvironmentalrights.org/> and **Natural Justice Legal Firm** <https://naturaljustice.org/>

Furthermore, we submit that this industry is not only scientifically unsound, environmentally unsustainable and fundamentally unethical, it is also culturally offensive to any and all cultures who hold Nature with love and respect. It denies the children of South Africa their pride, their purpose and their future.

Therefore, we bring to your attention that this submission is not only the position of the **Global White Lion Protection Trust**, it is supported by all strata of South Africans, as the signatories to this document attest.

Herewith, our submission, which is not exhaustive:

1. The Wildlife Economy model is unecological and unsustainable

The **Wildlife Economy model** as it currently stands is based on the extractive and consumptive use of Nature, which is not in line with ecologically sound management and governance principles, such as those upheld by Indigenous African communities for millennia, which, prior to imposed colonial structures, sustained the health and regeneration of the continent.

- 1.1 It is also out of line with leading new paradigm conservation models, globally, which recognize that, as the primary stakeholder in issues around ecological sustainability, Nature requires representation.
- 1.2 In order to sustain the health of our planet, there is an ever-increasing movement to recognize the legal rights of Nature, which **The Global Alliance for the Rights of Nature** defines as a “recognition and honoring that Nature has rights”.¹ Rights of Nature laws recognize that the natural world, including ecosystems and species, possess “rights to exist, regenerate, evolve, and be restored.”²
- 1.3 This concept is “from a system of thought based on a conception of the Human being as an integral part and not simply as a ruler of nature which would allow a process of self-regulation of the human species and its impact on the environment, recognizing its role within the circle of life and evolution from an ecocentric perspective.”³

¹ GARN, *What is rights of nature?*, <https://therightsofnature.org/what-is-rights-of-nature/>.

² Mari Margil, *Legal Rights of the Natural World: Beyond Personhood*, *Common Dreams*, September 26, 2019, <https://www.commondreams.org/views/2019/09/26/legal-rights-natural-world-beyond-personhood>.

³ JUDGMENT T-622 DE 2016, *Constitutional Court of Colombia*, File T-5-016-242, November 10, 2016.

- 1.4 The **Wildlife Economy model** as it currently stands is fundamentally old school, rather than embracing new paradigm solutions based on ecologically sound principles. The fragile balance between human systems and ecosystems has been highlighted by both scientific and experiential evidence of climate change and environmental degradation. Our government ignores the rights of the Land at its peril, because the people's well-being is directly dependent on the well-being of our country's ecosystems. Ongoing exploitative damage to Land and the ecosystem will result in the ecosystem's inability to support the diverse life systems, including the human system.⁴
- 1.5 Ecuador was the first country to recognize Rights of Nature in its Constitution⁵ and other countries are beginning to follow, with Bolivia formally recognizing the rights of Nature in law, a national law in Uganda, and the recognition of the rights of rivers in Bangladesh, New Zealand, and Colombia⁶, while rivers such as the Ganges in India have been recognized as possessing certain legal rights "to protect, conserve and preserve" the river.⁷
- 1.6 Sacred Natural Sites have been recognized around the planet as *"ecologically and spiritually powerful pieces of the web-of-life that fulfill a critical role on Mother Earth. They can be biodiversity hotspots, or individual elements such as source waters, wetlands, rivers, lakes, waterfalls, estuaries, oceans, reefs, bays, trees and forests, caves, mountains, soil systems or open planes. They carry the original templates for the continuity of Life, the source codes for a healthy planet. The Indigenous Way recognizes that, like organs in a living body, the sites are interconnected and fulfil vital and varied roles supporting the health of the whole organism of Mother Earth (Gaia), including the global ecosystem. Protecting one Natural Sacred Site helps protect them all; whereas damaging one damages all."*(**ASSEGAIA Declaration**, presented during the **World Economic Forum**, Davos, 2020.)
- 1.7 The **African Commission on Human and Peoples' Rights** recognises, *"that sacred natural sites are one of the oldest forms of culture-based conservation, defined as "areas of land or water having special spiritual significance to peoples and communities" (IUCN, 2008) and often harbouring rich biodiversity contributing to connectivity, resilience and adaptability of valuable landscapes and ecosystems;"* (extract from Resolution 372, taken at The African Commission on Human and Peoples' Rights, meeting at its 60th Ordinary Session held from 8 to 22 May 2017

⁴ Submission to Ms Pat Jajiya (11 June 2018) **SUBMISSION TO THE JOINT CONSTITUTIONAL REVIEW COMMITTEE IN TERMS OF SECTION 25 OF THE CONSTITUTION OF SOUTH AFRICA (ACT 108 OF 1996)**

⁵ GARN, Ecuador adopts Rights of Nature in Constitution, <https://therightsofnature.org/ecuador-rights/>; Rights of Nature Articles in Ecuador's Constitution, <https://therightsofnature.org/wp-content/uploads/pdfs/Rights-for-Nature-Articles-in-Ecuadors-Constitution.pdf>.

⁶ Mari Margil, *Legal Rights of the Natural World: Beyond Personhood*, Common Dreams, September 26, 2019, <https://www.commondreams.org/views/2019/09/26/legal-rights-natural-world-beyond-personhood>.

⁷ Judgment of March 20, 2017, in response to Writ Petition No.126 of 2014, High Court of Uttarakhand at Nainital, India.

- 1.8 In line with leading new paradigm conservation models, South Africa has been recognized as housing critically important biodiversity regions as part of the global ecosystem, with more than one site already being declared as a “Sacred Natural Site” by the **ASSEGAIA Alliance for Sacred Sites**, an international body of experts in this field. The White Lion Heartlands, at the epicentre of UNESCO’s Kruger to Canyons Biosphere, is one of the Sacred Natural Sites declared by **ASSEGAIA Alliance for Sacred Sites**.
- 1.9 By definition, “sacredness” is associated with protection of the highest order: something to be set aside to be consecrated and venerated in its pristine state. The sacredness of these sites was defined by their inherent *natural* significance, which was honoured and recognised as sovereign and sentient by ancestral precedent, which spoke for them and their consecration. Many such sites were recognised by the indigenous communities who, as a result, acted as the sites’ custodians. While the custodians linked the wellbeing of the human communities to these *natural* sites, who were inherently dependent on the pristine nature and physical health of the site, the site itself had intrinsic value over and above the cultural, spiritual or material importance placed on them by those human communities.
- 1.10 The **Wildlife Economy Model** as it currently stands does not allow for the concept of “sacred”, or “sacred animal” or “sacred heritage” and therefore is at risk of acts of gross sacrilege alongside ecologically unsustainable practices.
- 1.11 In order to remedy this, Indigenous capacity and local knowledge regarding the conservation of wild animals should be recognized, respected, recorded, developed, and must play a significant role in determining the management practices and policies for wildlife in South Africa.
- 1.12 Indigenous and local communities play a key role in protecting ecosystems, as custodians of biological diversity. Many animals are regarded by Indigenous and local communities as sacred, and accordingly communities have taken responsibilities for their well-being and sustainability. However, many laws, including the laws relating to wild animals in South Africa, and specifically those currently under review by the **High Level Advisory Panel**, directly undermine Indigenous peoples and local communities, and their approaches to conservation and sustainable use.
- 1.13 While communities govern and manage integrated territories, land and seascapes, the State tends to view each type of resource and associated traditional knowledge through a narrow lens of separatism, drawing legislative borders around them and addressing them in isolation, essentially compartmentalizing otherwise interdependent aspects of social-ecological landscapes. One clear example is the historic delineation between matters of wildlife management and matters of welfare. Another is the delineation between Indigenous knowledge and wildlife management. This fragmented nature of the law is compounded by the fact that such a compartmentalized approach is implemented by government agencies focusing on particular issues such as biodiversity, forests, agriculture, or Indigenous

knowledge systems, without considering a systemic ecosystem approach to conservation and wild animal management, which is the Indigenous Way.

- 1.14 The manner in which many wildlife species are being commoditised within the parameters of the **Wildlife Economy Model** as it currently stands, is *diametrically opposed* to the manner in which Indigenous and local communities have historically cohabitated and coexisted with wildlife to mutual benefit, and this undermines cultural practices and institutions that support sustainable ecosystem management.
- 1.15 In order to ensure that the **Wildlife Economy Model** is ecologically sound as well as culturally significant, it is critical for governing structures to recognize and respect the fact that biodiversity, customary sustainable use and traditional knowledge are intrinsically linked. Indigenous and local communities depend directly on biodiversity and its customary sustainable use and management for their livelihoods, resilience and cultures, and are therefore well placed, through their collective actions, to efficiently and economically manage ecosystems using an ecologically sustainable approach.⁸
- 1.16 Indigenous and local communities and holders of traditional knowledge related to customary sustainable use of biological diversity also contribute to the generation of new knowledge for the benefit not only of Indigenous and local communities but of human well-being at large.⁹ And this is increasingly recognized as a leading international eco-cultural conservation movement, which holds solutions to the most critical issues of our times, such as climate reversal, biodiversity regeneration and associated poverty alleviation.

2. The Wildlife Economy model is unAfrican

[The references here to Credo Mutwa, **Isilwane the Animals**, are echoed by Indigenous African authorities throughout the continent.]

“When you talk of wildlife conservation nowadays, many people assume you are talking about something new...But wildlife conservation is as old as Africa.”

“...people were aware, even in ancient times, of the interdependence of all living creatures upon this Earth, and that if you harm one, you harm others and, in the end, yourself.”

“What many people do not realize is that these huge, wild herds existed because the native people of Africa regarded them as a blessing from the gods – as something unbelievably sacred and vital for the continued existence of human beings.”

“One hears of the strange belief that man is superior to all other living things on Earth, and that he was especially created to be overlord and custodian of all things, animate or

⁸ UNEP/CBD/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity (6.b.).

⁹ UNEP/CBD/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity (6.a.).

inanimate. Until these attitudes are combated and erased from the human mind, Westernized human beings will be a danger to all earthly life, including themselves.”

“Expelling God from everyday life leaves the field clear for supercapitalists, colonialists and other plunderers to rape the Earth, to destroy nature, to ravage priceless natural resources with cold impunity.”

2.1 The South African legal regime for wildlife management, and specifically the **Wildlife Economy Model** as it currently stands, often conflicts with the customary laws that governed communities’ stewardship of natural resources, including wildlife species,¹⁰ In the case of Indigenous and local communities’ property systems, which tend to emphasize relational and collective values of resources,¹¹ the legal basis of ‘property’, and designation of wild animals as property within the **Wildlife Economy Model** as it currently stands, is antithetical. It is based on the private rights of a person (human or corporate) to appropriate and alienate physical and intellectual property, often without prior informed consent of affected communities, which, for millennia prior to imposed colonial structures, sustained the health and regeneration of the continent.

2.2 We are gravely concerned at the lack of prior informed consent with regard to Indigenous community rights, as further detailed below. The fact that some segments of the population benefit financially from these malpractices, which are often perpetrated against wildlife in cages, largely out the public eye, does not justify them.

2.3 **Below, we consider the case of *Panthera leo*, in particular.**

2.3.1 Industrialisation, factory farming, and trophy hunting of lions is not part of the African tradition; it is viewed as an unacceptable practice by other African countries today, and it did not exist in any formalized or regulated way until the end of the 20th Century. It emerged out of South Africa’s Apartheid Regime of domination and separatism, and was amplified by the post-colonial, global economy.

2.3.2 With particular relevance to lions: by removing the Capstone animal from its vital function in the ecosystem, the captive breeding industry is a dangerous unethical by-product of the same regime of domination and separatism that was introduced and brutally enforced by Apartheid principles.

¹⁰ Cotula and Mathieu, 2008, page 11.

¹¹ Tobin, B., and E. Taylor 2009. “Across the Great Divide: A Case Study of Complementarity and Conflict Between Customary Law and TK Protection Legislation in Peru”. *Initiative for the Prevention of Biopiracy*, Year IV: 11, page 10. Such systems have been described as “...commonly characterized by collective ownership (where the community owns a resource, but individuals may acquire superior rights to or responsibilities for collective property), and communal ownership (where the property is indivisibly owned by the community).” See Tsosie, R., 2007. “Cultural challenges to biotechnology: Native American cultural resources and the concept of cultural harm”. *Journal of Law, Medicine & Ethics*, 35: 396, cited in Tobin and Taylor, 2009, page 36.

2.3.3 We hereby point out that your **Terms of Reference** for selection, mandate and agenda of the **High Level Panel** fail to identify and uphold the vital role and function that the lion performs as the capstone animal in the ecosystem, which establishes a biased and unsound positioning. In Indigenous science,¹² the Lion is recognized to play the fundamental ecological role of maintaining the balance of all trophic levels, and therefore balances all speciation in the complex biodiversity of its ecosystem, supporting and ensuring the “Web of Life”. Accordingly, the role of the Lion as Apex animal has now been recognized by western Ecology, which provides the term “Trophic Cascading.”

2.3.4 By removing the Apex animal from its vital function in the ecosystem, the captive breeding industry is breaching the fundamental Law of Nature.

The Law of Nature is “*the eternal codes governing natural Creation which ensure the dignity, freedom, mutuality, continuance and flourishing of planetary life and health, of which humanity is an integral part. Humanity cannot exist independently of Nature and therefore human law must be subservient to Nature’s Law.*” **WORLDWIDE INDIGENOUS PEOPLES GOVERNANCE CHARTER, 2020 Draft.**

2.3.5 Indigenous science illustrates that it is illogical and fallacious to attempt to uphold the position that this industry and its actions exist in isolation from the fundamental role *Panthera leo* plays in our ecosystems. The two are entirely interconnected. Indignities perpetrated against *Panthera leo* in captive breeding facilities have *direct causal impact* on *Panthera leo* in the wild, and *visa versa*. Therefore, captive lion breeding and associated activities is fundamentally un-ecological.

2.3.6 In honoring Nature, the Indigenous way is to follow Nature’s Law, since it is an inheritance from “Great Spirit”, the true Authority. In the great African tradition, part of this honoring is to create cultural events of celebration which include praise songs, poetry and naming festivals for different species. In the great African tradition, to name an animal, is to honor and protect it.
[Credo Mutwa, *Isilwani the Animal*]

We refer you to our letter sent to the **Director General, Mrs Nosipho Ngcaba, (20 July 2018)**, requesting the dignification of each and every lion intended for slaughter in the Department’s endorsement of an official quota, by granting each of these individual animals the rights to, at the very least, be named. Once again, we assert, this is an absolutely minimum requirement to honor the Indigenous African way, alongside other methods of governmental accountability.

¹² (“Indigenous knowledge systems arising out of deep understanding of ecological principles, Nature’s Law and ecological sustainability that ensure the continuation of healthy systems” [Worldwide Indigenous Peoples Governance Charter, 2020 Draft])

3. Wildlife Economy model is not aligned with the Indigenous Way

"The African people knew, just as the native American people knew, that if you destroy the environment, you will ultimately destroy the human race" [- Credo Mutwa, Isilwani the Animal]

- 3.1 An extractive and consumptive use model is an offence against Indigenous peoples and local communities worldwide, and their foundational principles which uphold right-relationship with our planet.
- 3.2 The Indigenous Way recognizes that *"Since Nature is sentient..., all man-made laws regarding the "benefit-sharing" of Nature must, first and foremost, consider the benefits for Nature's health and flourishing."* (WIPGC).
- 3.3 Indigenous nations, both locally and globally, are united in sharing **one holistic ethos** to serve Nature, as a living heritage from Great Spirit, the Creator. Furthermore, this ethos is founded in the truth that *"Humanity cannot exist independently of Nature, and therefore the Indigenous way is to recognize the mutuality, or equality, of all species. There is no "other". All species are to be treated with the respect due to family members, elders, or ancestors."* (WIPGC)
- 3.4 This deepest cultural affiliation of Indigenous and local peoples with their wildlife heritage, regarded as family members and ancestors, was evidenced in South African Parliament, during the **Inquiry of 5/6th February 2019**, when representatives from the Moletele Traditional authority and other Indigenous and local peoples objected in the strongest terms to the indignities being perpetrated against lions both in captivity and by being commercially trophy hunted in the Associated Private Nature Reserves (APNR), as they are revered as Kings, family members of the Royal house, as well as ancestral authorities over Indigenous and local peoples. Princess Kabelo Chiloane said: *"if a White Lion was killed the spirit of an ancestor was killed, and it disturbed the ecosystem."* [Minutes of Meeting Summary of the Kruger National Park and Private Reserves Benefit Agreement Inquiry, Day 1, 5th Feb]
- 3.5 Accordingly, in presenting on the question of beneficiation at this Parliamentary Inquiry, the **Global White Lion Protection Trust** pointed out that it is unacceptable for regional landowners to destroy a global heritage. Dr Jason Turner, Director: Ecology and Conservation, said that since the white lion is *"a fundamental part of cultural heritage ...its beneficiation should be redefined to acknowledge Indigenous knowledge and cultural beliefs that places a sustainable use, cultural and intrinsic value on lions and other wildlife...To achieve success in ecosystems planning the APNR and SANParks agreement needs to respect Indigenous knowledge systems and incorporate vital knowledge systems into local policies and national legislation."* Citing international precedents (such as Canada's *spirit bear*) which is a flagship animal for protecting biodiversity of the entire ecosystem, so too the model of

beneficiation of Indigenous and local communities as true stakeholders in the benefits of land custodianship, access to renewable resources and eco-tourism can be achieved within the Greater KNP region. <https://pmg.org.za/committee-meeting/29806/>

- 3.6 It is government's duty to ensure prior informed consent of affected Indigenous and local communities, which duty has not been honoured in the current extractive and consumptive use **Wildlife Economy Model**.
- 3.7 In today's global economy and ecology, this duty becomes a matter of international scrutiny and accountability. **Wildlife Economy Model** of wildlife management as it currently stands is a desecration of Nature and a violation of Nature's law, and as such, has global consequences. *"Given the interconnectedness, interrelatedness and interdependence of all facets of Creation, what is perpetrated against Nature's law locally, has consequences globally."* (WIPGC)

4. Failure to consult with Indigenous authorities and communities

In driving forward the **Wildlife Economy model** as it currently stands, the provincial departments have failed to fully investigate, propose, support and implement ecologically regenerative practices that are offered by the Indigenous Way. **Ecologically regenerative practices** are *"economic and agricultural activities that are conducted in such a manner that they not only sustain the ecology but also help regenerate it. All that is extracted from Nature must be granted permission from Nature on the understanding that Nature is sentient. These practices include localised regenerative farming methods, food and energy production as well as the manufacture of health-care products that ensure the honoring, health and regeneration of the land, animals and Nature's elements"* (WIPGC).

5. The basis of The Wildlife Economy requires critical review

- 5.1 **Section 24** of South Africa's Constitution enshrines our right to an ecologically sustainable environment.
- 5.2 In **Section 24**, the term "development" is premised on ecological sustainability.
- 5.3 However, in adopting the consumptive and extractive use agenda of **The Wildlife Economy** model as it currently stands, without regard for ecologically sustainable principles, governmental bodies have promoted their own narrow interpretation of **Section 24** – essentially only focusing on *"utilisation...and development"* without taking into account the remainder of the section of the Constitution, nor the spirit of the Constitution itself, nor its values. We reject this interpretation.
- 5.4 **Ecological sustainability** is defined as: *"Ensuring the dignity, freedom, mutuality, continuance and flourishing of planetary life and health, of which humanity is an integral part."* (WIPGC)

- 5.5 The South African people's right to a healthy environment is a Constitutional right, necessitating an environment that is both in a healthy state and promoting continued health of all that are dependent on it.
- 5.6 Our right to an environment which is both ecologically sustainable and not harmful to our health, is enshrined in **Section 24** of our Constitution. Because it is unecological, unsustainable and damaging to the very foundation on which our health is dependent, the consumptive and extractive use model on which the **Wildlife Economy** is currently founded, violates this right.

6. Failure to adhere to legislative processes

- 6.1 *"Because we are a constitutional state, all laws made by Parliament must pass the test of constitutionality"* (www.parliament.gov.za). Furthermore, Parliament is required to keep oversight of the organs of state and the National departments are directly accountable to Parliament.
- 6.2 In driving forward the **Wildlife Economy model** without due diligence or stakeholder engagement, particularly the prior informed consent of Indigenous and local communities, the Department has shown disregard for the judiciary.

The following examples demonstrate the breakdown and breach of responsibility in the chain of duty of Parliament and Department to uphold our Constitutional rights, which are not exhaustive (we limit the examples here to those pertaining to *Panthera leo*). It is important to point out that these examples of procedural failure followed upon actions taken by the Department without due process, which included a bid to effectively double the quota for lion carcasses exported by South Africa in the lion bone trade (raising the official quota from 800 to 1500 without stakeholder participation), which was later ruled as unconstitutional by High Court decree. Both the 2017 and 2018 quotas were deemed unconstitutional.

EXAMPLE 1:

*Following the **Colloquium on Captive Lion Breeding for Hunting Parliamentary** (21/22 August 2018), conducted by Portfolio Committee for Environmental Affairs (PPCEA) a **Parliamentary Report** was adopted by the National Assembly in December 2018.*

In respect of accumulating evidence of unethical and environmentally irresponsible trophy hunting of lions taking place in the private nature reserves which open up to the Kruger National Park¹³, the Report resolved that the agreement between the Kruger National Park and Associated Private Nature Reserves (APNR) concluded in 1996, which effectively allows for commercial trophy hunting of national game on

¹³ Amongst other investigative submission, a document was submitted to Parliament signed by 25 conservation entities (both local and international) calling for a **Moratorium** on the trophy hunting of Lions, due to long-standing issues of non-compliance and unethical commercial trophy hunting practices.

the privately owned buffer areas abutting the KNP *“should be revised to ensure that there is sharing of benefits, arising from the collapse of the fences in the western boundary of the Kruger National Park in the interest of the broader society.”*

The Report stated specifically that *“The Committee is of the view that issues of transformation and beneficiation should be taken into account in this agreement, and hence it has directed SANParks to develop a concept paper on this matter for discussion with the Committee in November 2018, with the aim holding public hearings to determine the best way forward after its engagement with SANParks.”*

In defiance of Parliamentary instruction, the concept paper was not presented to the Committee in November, and SANParks and Department did not conduct further public stakeholder meetings or public hearings. Indigenous and local communities were unrepresented. Instead, without due process, SANParks went ahead and signed the multi-stakeholder Kruger Park deal, based on the consumptive and extractive use model, without the informed and prior consent of Indigenous stakeholders.

A subsequent **Parliamentary Inquiry** was scheduled for **5/6th February, 2019**, on the matter of “Benefit sharing arrangements in the western boundary of the Kruger National Park”, during which inquiry several local and Indigenous representatives based on the borders of the KNP presented the case that there had been **no consultative process**. These included the Moleteli Traditional Authority, The Acornhoek Traditional Healers association as well as Khoisan Councils.

The blatant breach of **Parliamentary Directive** was a matter of great concern to Parliamentary Chairperson Mhlophe Philemon Mapulane, who concluded by pronouncing the Kruger Park deal effectively null-and-void. *“The Committee wanted to engage with SANParks and subsequently hold public hearings to determine the best way forward. Despite this clear Committee resolution, which was subsequently publicly communicated through a media statement, SANParks defied Parliament and went ahead with the signing of the cooperative agreement even after it was brought to its attention by the Chairperson that by proceeding with that action, SANParks will be in breach of both the Committee and the National Assembly resolutions on this matter.”¹⁴*

EXAMPLE 2:

Further, in respect of the lion bone trade and captive breeding industry, the PPCEA Report concluded that there “was an overwhelming consensus for the need to bring an end to the controversial aspects of captive lion breeding industry in South Africa.” The Report therefore resolved that the DEA should initiate a policy and legislative review of the industry “with a view to putting an end to this practice”.

¹⁴ <https://pmg.org.za/committee-meeting/27824/>

The Department was required to “conduct an audit of captive lion breeding facilities throughout the country to ascertain the conformity with the current TOPS regulations ... and state the courses of action it had pursued against violators of TOPS Regulations dealing with CLB.”

Despite the Parliamentary Resolution which was taken “in light of ongoing and increasing disquiet about the captive lion industry,” the Department took their own position that the captive breeding and trophy hunting industries and the lion bone trade should be allowed to continue. Of 227 captive lion breeding facilities investigated, nearly a third were non-compliant (88), but were nevertheless reissued with permits. In a number of cases, the Department actually purchased non-compliant facilities, which raises additional concerns of a very serious nature. [PPCEA Report Briefing on the Implementation on the Resolutions of the Colloquium on Captive Lion Breeding, PCEA Report 12 March 2019]

EXAMPLE 3:

The **High Level Panel** was selected, prior to public review of **The Terms of Reference**, which were not attached to the Gazette nor were they included in the Newspapers.

This Department’s defiant attitude cannot be allowed to continue with respect to the selection, mandate and agenda of the **High Level Panel**. Given the examples of procedural failure, detailed above, we call for a full review of the selection of the **High Level Panel** to ensure significant Indigenous representation, since the specific issues outlined in **High Level Panel Extension Status and Notice**, of “*transformation, restoration, and rewilding as processes for our rural landscapes*”, are fundamentally the domain of Indigenous governance, which ensures ecological sustainability. Failure to do so risks increasingly severe consequences including international condemnation, and fundamental failure to protect the environmental and heritage rights of our people, including Indigenous rights, with devastating consequences for biodiversity loss and human health. In the wake of the Covid-19 pandemic, and specifically in respect of the high risks associated with zoonotic disease transmission, these breaches are of critical concern to civil society, whose constitutional rights are stake.

7. Selection, mandate and agenda of the High Level Panel

7.1 The **High Level Panel Extension Status and Notice** states that: The panel “*encourages submissions from all interested and affected parties, in order to enrich the deliberations in such a manner as to allow consideration from multiple perspectives, such that we ensure broad relevance and applicability of the recommendations of the panel, and that they are informed by the rights, values, aspirations, and ambitions of the people.*”

- 7.2 The Panel is required to be *“guided primarily by the Constitutional Mandate in the Bill of Rights, especially in terms of section 24 which provides for our environmental rights, but also considering all elements of the Bill of Rights, including the foundational values of dignity, achieving equality and advancement of human rights and freedoms, the necessity for transformation and restitution.”*
- 7.3 The Panel is, therefore, by constitutional right required to include representation of Indigenous and local communities. It is notable that Indigenous Governance recognizes that *“human rights to dignity, freedom, mutuality, continuance and flourishing are entirely dependent on upholding the dignity, freedom, mutuality, continuance and flourishing of other species and indeed Mother Earth herself, our great Mother.”* (WIPGC)
- 7.4 Furthermore, the Department must be able to demonstrate that it has included the rights, values and aspirations of Indigenous representation, which puts forward an alternative approach to wildlife management, and one that is specifically, ecologically sustainable.
- 7.5 Notably “wildlife economy” should not be viewed through a narrow lens of sheer short-term economic value for consumptive use. Non-consumptive utilization such as eco-tourism as well as alternative considerations of value should be included, and most notably Indigenous representation is imperative. This is supported by the following instructions to the Panel:
- 7.5.1 be *“aware that there may be imperatives such as transformation, restoration, and rewilding as processes for our rural landscapes, but also a need to ensure a vibrant and inclusive wildlife economy.”*
- 7.5.2 *The panel will draw on these resources, other relevant reports and this will inform the engagement with the public. In addition, the panel’s approach is to facilitate an engagement that is premised on the terms of reference but, within reason, allow for innovative and informed recommendations that will lead to a balanced, inclusive report to the Minister.*
- 7.6 In the light of the defiance of the Parliamentary chain of responsibility mentioned above (examples 1, 2 and 3), it is of particular concern that the selection, mandate and agenda for the **High Level Panel**, has been based on the following assumptions:
- 7.6.1 the captive breeding and trophy hunting industries and the lion bone trade (commoditising of lions) should be allowed to continue;
- 7.6.2 the captive breeding industry has a conservation value; and
- 7.6.3 the most recent Non-Detriment Finding for lions and the Interim Report of the Scientific Authority for CITES on the lion bone quota are scientifically sound.

We reject each one of these assumptions, which are entirely antithetical to the Indigenous Way.

8. As concluded in the **Inquiry** into benefit sharing in the Western boundary of the KNP the Parliamentary Committee made it clear that the plea of the Traditional Authorities (opposing the commercial killing of lions) must be heard and included in the forward planning. <https://pmg.org.za/committee-meeting/27824/>

- 8.1 In the light of the history of non-compliance with Parliamentary instruction, it is of concern that the **High Level Panel** is not following through on the **Terms of Reference**. Nor is it representative of South Africa's diverse stakeholders. As such, it is ill-equipped to make a balanced, informed decision to support the well-being of our people, our living heritage and our future generations. The **High Level Panel's** composition is not sufficiently representative of the following:

- 8.1.1 Experts in Indigenous science and traditional knowledge systems
 - 8.1.2 Experts in the field of epidemiology and zoonotic diseases
 - 8.1.3 Experts in the ecology of the specific species under consideration
 - 8.1.4 Experts in animal welfare
 - 8.1.5 Experts in regenerative agriculture
 - 8.1.6 Experts in Nature's rights. As the primary stakeholder in issues around ecological sustainability, Nature requires representation.

- 8.2 Consequently, the **High Level Panel** does not have sufficient representation of expert opinion to present an alternative, ecologically sustainable model, to the consumptive and extractive use agenda of **The Wildlife Economy** model.

9. Indigenous Science and the Precautionary Principle

- 9.1 With regard to point 7.6.3 above, the Non-Detriment Finding for lions and the Interim Report of the Scientific Authority for CITES, we emphatically point out that sound scientific opinion today is bound by the "**Precautionary Principle**". This principle argues that *"if the environmental consequences of a particular project, proposal or course of action are uncertain, then the project, proposal or course of action should not be undertaken....This means that should the officials have any doubt regarding the environmental merits or demerits of a proposal, they can apply the precautionary principle and delay development or formal legislative approval, pending further investigations or evidence."*¹⁵

- 9.2 At this present time, CITES along with other regulatory bodies are reviewing their role and responsibility in the global catastrophe caused by Covid-19, which an increasingly substantiated body of research is linking to the viral zoonotic spill-over in the wet markets of Wuhan.

¹⁵ (http://www.enviropaedia.com/topic/default.php?topic_id=200)

9.3 In the light of this, and future global pandemics, alternative methods and methodologies must be sought, drawing on the wealth of Indigenous science, which is based on principles of ecological integrity and ecological sustainability. In Indigenous method and practice, Nature may not be commoditized, corrupted, distorted or otherwise de-Natured.

9.3.1 *“Nature may not be de-Natured by humanity. If Nature or her elements are de-Natured, the essential life force of that element and Nature herself is compromised... Desecration of one part or element of Nature affects the whole. The logical as well as ecological consequences of humanity desecrating Nature’s Law is environmental disasters.” (WIPGC)*

9.4 According to Indigenous science, the Non-Detriment Finding for the mismanagement and commoditizing of *Panthera leo* presented in the **Interim Report** of the Scientific Authority for CITES on the lion bone quota is both unethical, and ecologically unsound.

9 Risks of zoonotic outbreak

- 9.1 With regard to the risks of a zoonotic outbreak, once again, in the most emphatic terms, we put on record that the precautionary principle in western science, which echoes Indigenous science, must be upheld by our governing parties.
- 9.2 Indigenous science and knowledge systems recognize that to de-nature Nature has dire consequences. Under our current **Wildlife Economy** model, 33 wild animals, have been reclassified as farm animals under the **Agricultural Act**, together with a catch-all phase that allows all wild animals to be regarded as food, effectively including apex predators (like lion and leopard), and primordial species (like elephant, rhino, pangolin).
- 9.3 Such action prevents wildlife from being *“able to fully exercise their inherent rights to perform their natural roles and functions in supporting the continuance and flourishing of planetary life and health, of which humanity is an integral” (WIPGC)*
- 9.4 **Prior to COVID-19**, numerous submissions were made to the Department warning about a global pandemic based on zoonotic spillover. In fact, warnings of zoonotic diseases in respect of the Lion Bone Trade have been put on record as early as the Colloquium of 21/22 August 2018.
- 9.5 **Post Covid-19**, responsible scientific investigations internationally are cautioning of the risks associated with captive breeding, transportation and consumption of wild animals [the list of investigative research is exhaustive] with consequent rising outrage in civic society (we simply attach one article on the zoonotic risks associated with consumption lion bones, as of today’s date, 14 June 2020: <https://www.dailymail.co.uk/news/article-8418361/Trade-Lion-bones-Chinese-medicines-spark-new-pandemic.html>). As a result of the mounting

scientific research, combined with global condemnation, of the risks associated with captive wildlife consumption, governing bodies globally are being called upon to take responsible action in revising consumptive farming of wildlife. For example, the Chinese Departments of Agriculture, are taking an informed decision to close down the breeding of wild animals for consumption in numerous provinces in favour of plant-based food production.

- 9.6 In the light of precautionary scientific research and global opinion, South Africa's reclassification of 33 wild animals under the **Agriculture Act**, which keeps them in unnatural, high-stress conditions in close proximity to humans, is brazen and of specific concern.

10. International Concerns

- 10.1 As pointed out in the terms of reference, *"The implications of public sentiments on South Africa's handling of the above matters of contention [ie management of lions and trade in lion bone in South Africa] have escalated into an international discourse that necessitates a national dialogue."*
- 10.2 As one example of the implications of international public sentiments, South Africa's handling of the sensitive issue of lions has given rise to global protest marches for lions (#March4Lions), which mobilized more than 54 cities around the globe in 2014, 2015 and 2016, and the issue is escalating post Covid-19.
- 10.3 How the South Africa government manages, or mismanages, our relationship and responsibility to *Panthera leo*, King of the Bushveld, determines our relationship and responsibility to all wildlife issues, locally and globally. Today, all conservation issues are global issues.

"If Brazil loses its rain forest, Earth has lost Her lungs. If South Africa loses its White Lions, humanity has lost our hearts," Linda Tucker, Parliamentary address, 5/6 February 2019

11. Conclusion

As it currently stands, the **Wildlife Economy Model** which is an old school consumptive and extractive use post-colonial relic, without ethics, respect or responsibility, denies the children of South Africa their natural inheritance. Furthermore, it has global consequences that we are only beginning to experience.

It is unethical, unecological and unconstitutional.

Furthermore, the selection of the **High Level Advisory Panel** is questionable, as is its agenda to ***Review Policies, Legislation and Practices on Matters Related to the Management, Breeding, Hunting, Trade and Handling of Elephant, Lion, Leopard and Rhinoceros and Related Matters***, if it does not achieve substantive representation from Indigenous authorities and international environmental legal firms.

We call upon the South African government to take the opportunity offered through the Covid-19 lesson to consider *ecologically* sustainable alternatives to the consumptive and extractive use post-colonial **Wildlife Economy Model**, as it currently stands. We demand that you consider the models premised on African Indigenous science and knowledge systems, to ensure the dignity, freedom, continuance and flourishing of planetary life and health, of which humanity is an integral part.

To help resolve, mitigate and chart the way to positive resolution and regeneration around the issue of global importance, it is imperative that the Indigenous paradigm (The Indigenous Way) be clearly represented not only in the conservation paradigm of South Africa, but consequently in the selection, the mandate and the agenda of *any* **High Level Advisory Panel** appointed by due diligence to advise and review policies, legislation and practices which concern our wildlife heritage, and the health of this planet.

Sincerely,

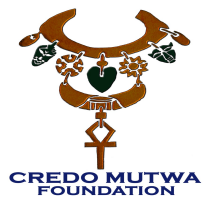


LINDA TUCKER
CEO and FOUNDER, GLOBAL WHITE LION PROTECTION TRUST

CO-SIGNED:

CENTER FOR ENVIRONMENTAL RIGHTS <https://www.centerforenvironmentalrights.org/>
NATURAL JUSTICE LEGAL FIRM <https://naturaljustice.org/>
CREDO MUTWA FOUNDATION
UNITED RELIGIONS INITIATIVE (URI)
GIFTED FOR GOOD, SOUTH AFRICA
ANIMAL TALK AFRICA
ASSEGAIA FOUNDATION
POLLUTERS OUT
AFRICAN CLIMATE ALLIANCE
PANTHERA AFRICA
CAPE TOWN INTERFAITH INITIATIVE
SOUTH PENINSULA KHOISAN COUNCIL

ORGANISATIONS IN SUPPORT OF THIS SUBMISSION



REFERENCES:

1. Government Gazette Notice No. 43173 221 of 2020 dated 27 March 2020 (as amended)¹⁶
2. Terms of Reference circulated [via email on 22 April 2020] (“**ToR**” or “**Terms of Reference**”);
 - a. Media Release – “Extension granted for submissions on work relevant to the High Level Panel into lion, rhino, elephant and leopard management dated 15 May 2020¹⁷ (the “**Extension Statement**”).
 - b. Government Gazette (Notice No. No. 43332) “General Notice Extending the Date for the Submission of Written Submissions, Scientific Information, Socio-Economic Information or any Other Relevant Information to the Advisory Committee (High-Level Panel) On Matters Related to the Management and Handling, Breeding, Hunting and Trade of Elephant, Lion, Leopard and Rhinoceros”¹⁸ [Note: This Gazette links to another Gazette (c) below, which includes the Terms of Reference. The original Gazetted document **did not contain the Terms of Reference**].
 - c. Government Gazette¹⁹ [Note: This Gazette includes the Terms of Reference. The original Gazetted document **did not contain the Terms of Reference**. In addition, it was not legible. The actual original Gazette is included to this Submission as **Appendix III** (Page 3 thereof)].
 - d. Government Gazette 42761 (Notice No. 1317)²⁰ dated 10 October 2019 (the “**Committee Gazette**”) relating Advisory Committee to Review Policies, Legislation and Practices on matters related to the management, breeding, hunting, trade and handling of elephant, lion, leopard and rhinoceros (the “**Committee**”) [Note we have used High Level Panel and “**Panel**” and Committee interchangeably herein. It is unclear if they are the same].
 - e. Media Release²¹ on the appointment of the Committee.
 - f. Government Gazette No 42247, (Notice No 243)²² dated 25 February 2019 relating to the Appointment of a High-Level Panel of Experts for the review of policies, legislation and practises on matters related to the management, breeding, hunting, trade and handling of elephant, lion, leopard and rhinoceros.
 - g. The Letter from the Wildlife Animal Protection Forum South Africa (“**WAPFSA**”) dated 25 November 2020²³ and referred to throughout (“**WAPFSA Letter**”)

¹⁶

https://www.environment.gov.za/sites/default/files/gazetted_notices/nemba_lionrhinoleopardelephant_committeeofinquiry_g431743gn221.pdf

¹⁷ https://www.environment.gov.za/mediarelease/advisorycommittee_noticeforsubmissions_extended

¹⁸

https://www.environment.gov.za/sites/default/files/gazetted_notices/nemba_lionrhinoleopardelephantcommittee_ofinquiry_submissionextended_g43332gn277.pdf

¹⁹

https://www.environment.gov.za/sites/default/files/gazetted_notices/nemba_lionrhinoleopardelephant_committeeofinquiry_g431743gn221.pdf

²⁰ http://www.gpwonline.co.za/Gazettes/Gazettes/42761_10-10_EnvirAff.pdf

²¹ https://www.environment.gov.za/mediarelease/creecyaappointsadvisorycommittee_managementbreedinghuntingtradehandling_elephantlionleopardrhinoceros

²² https://www.environment.gov.za/sites/default/files/gazetted_notices/nema107of1998_reviewofpolicies_gn42247.pdf

²³ <https://emsfoundation.org.za/wapfsa-responds-to-the-high-level-advisory-committee-appointed-by-department-of-environment-forestry-and-fisheries/>

[Others Correspondence contained throughout this Submission

Appeal by 25 conservation entities (both local and international) to **Portfolio Committee on Environmental Affairs** (Chairperson Mohlopi Philemon Mapulane) calling for a **Moratorium** on the trophy hunting of Lions [10 November 2018]

COLLOQUIUM 21/22 AUGUST 2018: CAPTIVE LION BREEDING FOR HUNTING IN SOUTH AFRICA: HARMING OR PROMOTING THE CONSERVATION IMAGE OF THE COUNTRY conducted by Portfolio Committee for Environmental Affairs (PPCEA) Chairperson Mohlopi Philemon Mapulane

Parliamentary Inquiry 5/6th February, 2019, on the matter of “BENEFIT SHARING ARRANGEMENTS IN THE WESTERN BOUNDARY OF THE KRUGER NATIONAL PARK”

Parliamentary Report adopted by the National Assembly in December 2018

SUBMISSION BY GLOBAL WHITE LION PROTECTION TRUST TO THE JOINT CONSTITUTIONAL REVIEW COMMITTEE IN TERMS OF SECTION 25 OF THE CONSTITUTION OF SOUTH AFRICA (ACT 108 OF 1996) Ms Pat Jajiya, Committee Section, 11 June 2018

KRUGER NATIONAL PARK & PRIVATE RESERVES BENEFIT SHARING AGREEMENT: INQUIRY DAY 1: <https://pmg.org.za/committee-meeting/27824/>

Letter by **Global White Lion Protection Trust** to Director General, Mrs Nosipho Ngcaba (20 July 2018)

ASSEGAIA Declaration, Davos, presented during the **World Economic Forum**, 2020

WORLDWIDE INDIGENOUS PEOPLES GOVERNANCE CHARTER, Draft 2020