

Draft Rhino Biodiversity Management Plan

NAME OF COMMENTER AND ORGANISATION: Custodians of Professional Hunting & Conservation South Africa

CONTACT DETAILS (PHONE AND EMAIL): Adri Kitshoff-Botha, 083-650-0442, ceo@cphc-sa.co.za

NAME & ORGANISATION	GENERAL COMMENT OR REGULATION NUMBER	COMMENT <u>and</u> SUGGESTION
	General Comment	Custodians expresses our appreciation towards the Department for being included in consultations over the past two years and being awarded the opportunity to comment on the proposed BMP
	Section 1.6: Common Issues raised	<p>Common issues raised, included Revenue (national and international trade in rhino and rhino derivatives, hunting and ecotourism).</p> <p>However, the objectives do not include any specific issues about hunting and how the responsible hunting or rhino can be implemented. The value of trophy hunting's role in growing populations should be acknowledged.</p> <p>Proposal: To include the NDF in the BMP.</p>
	<p>The Vision for rhino conservation and sustainable use in South Africa is:</p> <p>"Thriving national herds of wild black and white rhino are valued, promote conservation, and people benefit from their inclusive sustainable use."</p>	<p>CPHC-SA in general supports the vision.</p> <p>Referring to people benefit:</p> <ul style="list-style-type: none"> - We propose that the benefits and value propositions for each of the different sectors within the South African wildlife industry be stipulated in the document, e.g. private rhino ownership, professional hunting, ecotourism. <p>Private rhino owners have set an excellent example for the role they have played in conserving an iconic specie. We propose that incentives should be provided to rhino owners, by e.g.:</p> <ul style="list-style-type: none"> - tax breaks / deductions; and - a special line of credit at better interest rates; a "green deal" initiative

	Section 3.1.2: CITES	Section. 3.1.2 refers to a trophy hunting quota of 0.5% of the total black rhino population. Appendice 1, still refers to 5 tags, which needs to be corrected.
	Section 3.2.6: Norms and Standards for Biodiversity Management Plans	<p>The draft BMP refers to NEM: BA.</p> <p>The proposed NEMBA Bill has been published, with comments to be submitted by the 25th of July.</p> <p>It would be important to consider the outcome of comments to the proposed NEMBA Bill, before finalizing the Rhino BMP for the following reason:</p> <p>Section 5 of the proposed NEMBA Bill stipulates: <i>In the event of any conflict between a section of this Act and other <u>national</u> legislation relating to <u>biodiversity</u>, this Act prevails</i></p> <p>The National Environmental Management Act (NEMA) is national legislation, which gives effect to the objectives of the Bill. If a provision of the Bill conflicts with a provision of NEMA relating to biodiversity, section 5 directs that the section of the Bill will prevail over NEMA. This is not in line with section 6 of the Bill, nor section 2 of NEMA.</p> <p>The NEMBA Bill defines the “Act” as including “<i>any regulation or notice made or issued under this Act.</i>” This means that even a regulation published under the Bill will prevail over other national legislation where the conflict pertains to “biodiversity”. Given that the Bill seeks to give wide unfettered powers to the Minister to make regulations in section 70(1), it is unclear the extent to which this section 5 will permeate through other legislation.</p> <p>An example of a potential conflict between a provision of the Bill and another provision of national legislation relating to “biodiversity” is section 36 of the Bill and section 38 of NEMPAA. Section 36 of the Bill relates to Biodiversity Management Plans, and section 36(1)(a) of the Bill empowers the Minister/MEC to publish a BMP in relation to an ecosystem (listed or not listed but warrants conservation attention). Section 36(2) of the Bill requires the Minister/MEC to identify a suitable person, organisation or organ of state that will be responsible for the implementation of the BMP. However, section 38 of NEMPAA provides for the assignment of a management authority for protected areas. The assigned management authority of a protected area is responsible for implementing the Protected Area Management Plan. CONFLICT: If a BMP is published for an ecosystem that falls within a declared protected area (which is likely due to the biodiversity characteristics of a PA and the ecosystems listed/protected by the BMP), the result is that there will be two different</p>

		<p>entities responsible for implementing different plans over the same area - an assigned management authority under NEMPAA and the person identified by the Minister/MEC responsible for implementing the BMP. This would likely lead to a duplication of functions and create a scenario which would significantly compromise the ability of the Management Authority under NEMPAA to exercise its rights and duties to adequately manage the area under its jurisdiction.</p> <p>An example of another potential conflict is in relation to section 67(1)(a)(i) and (b) of the Bill with NEMPAA management indicators and the Norms and Standards for the Management of Protected Areas in South Africa (GG 39878 GN 382 of 31 March 2016) (“NEMPAA Norms and Standards”). Section 67(1)(a)(i) and (b) of the Bill provides for the Minister’s powers to issue norms and standards for “management and conservation of the Republic’s biodiversity and its components” and “set indicators to measure compliance with those norms and standards”. Section 71(3) of the Bill provides that a person is guilty of an offence if that person “(e) fails to comply with a norm or standard issued in terms of section 67(1)(a)”. However, section 43 and 44 of NEMPAA related to management performance and for the termination of the management authority’s mandate in the event that the management authority fails to properly manage the protected area. The Minister has published the NEMPAA Norms and Standards for the Management of Protected Areas, which include indicators to measure compliance by the management authorities. Since the purpose of the NEMPAA Norms and Standards are to “<i>prescribe norms and standards for the management and development of protected areas, with particular reference to section 2(c) to effect a national system of protected areas in South Africa as part of a strategy to manage and conserve its biodiversity</i>”, it is highly likely that, in the event that the Minister issues norms and standards under the Bill for the “management and conservation of the Republic’s biodiversity and its components” in terms of section 67(1)(a)(i), a conflict will arise with the NEMPAA norms and standards. In this instance, section 5 of the Bill directs that the provisions of the Bill will prevail. However, notwithstanding the fact that the Bill will prevail, the conflict does not absolve the non-compliance with the NEMPAA Norms and Standards. This is an example where section 5 of the Bill and the “biodiversity” threshold for conflict is unworkable.</p>
	<p>Section 3.2.12: <i>Wildlife Trafficking</i></p>	<p>We once again refer to the proposed NEMBA Bill, which includes a definition for wildlife trafficking. Should the Bill come into effect, this definition could be included into the Rhino BMP.</p>
	<p>Objective 3: <i>To advance transformation and community empowerment</i></p>	<p><i>Co-develop and implement fair and equitable benefit-sharing agreements with communities.</i></p> <p>We once again want to point out the concern about the concept of benefit-sharing as detailed in the proposed NEMBA Bill and the effect it might have on this Rhino BMP:</p> <p><i>NEMBA Bill Section 59</i></p>

		<p>(1) The following funds must be paid into a suspense bank account administered by the Department and set up specifically for the administration of those funds:</p> <ul style="list-style-type: none"> a) Funds arising from an access agreement, which are lawfully owed to any party to that agreement, except for funds lawfully owed to the applicant who is party to that agreement; b) funds arising from a benefit-sharing agreement, which are lawfully owed to any party to that agreement, except for funds lawfully owed to the holder of a commercial bioprospecting permit who is a party to that agreement; <p>This provision in the proposed NEMBA Bill, provides for the State's control of all funds arising from the biodiversity economy. It centralises the concentration of all funds arising for all agreements into a suspense account that is created, controlled and administered by the State. The funds paid to the suspense account are funds arising from contractual agreements. This creates cause for concern in relation to liability, breach, mismanagement of the account by the State without statutory oversight and safeguards.</p>
	Objective 3: Transformation	<p>Improve and diversify rhino related benefit flow for communities that live close to rhino populations to unlock economies, promote ecotourism and businesses relating to rhinos, inclusive of cultural practices.</p> <p>We propose to include the promotion of responsible hunting as well, and not only eco-tourism.</p>
	Objective 4: To effectively manage / reduce the demand for derivatives	Reference: Generating income from derivatives.
	Enabler 1: Sustainable financing	<p>Access to capital at affordable rates, will often be the most important determining factor, especially for communities and new entrants. Existing and new entrants to the wildlife industry, including communities and individuals with an interest in rhino ownership, do not qualify for the same financing support as normal commercial agriculture, as financial institutions see the wildlife industry, and certainly rhino ownership, as high risk. This result in lower financing support.</p> <p>Empowerment of communities and new entrants: Government to empower new entrants, communities, with the setting up of financial businesses within the wildlife sector, WITH mentors.</p>

	<p>Enabler 3: This BMP serves as a species recovery plan for both rhino species in South Africa as it also recognises the need for rewilding of certain rhinos (e.g., the 2,000 odd rhinos currently on the farm in North West that has been bought by African Parks)</p>	<p>We propose that the BMP place more emphasis on the proven success of the private sector in increasing and managing rhino numbers and introduce measures to ensure value to the private sector through income streams not only from derivatives, but also from responsible hunting.</p>