

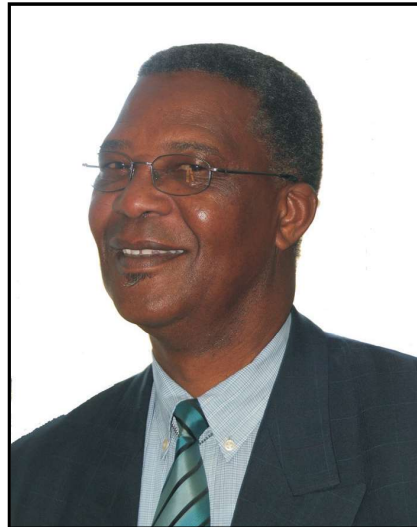
POLICY ON TOURISM AND WILDLIFE CONCESSIONS ON STATE LAND

2007



MINISTRY OF ENVIRONMENT & TOURISM

PREAMBLE



Concessions on State land have significant roles to play in Namibia and complement other contributors to the economy of the country. Concessions are a means of providing access for tourists to parts of our protected areas that are ordinarily not accessible, to diversify the range of hunting opportunities on offer, and also to generate additional revenue for the State in a sustainable way from Namibia's indigenous plant and wildlife resources.

Concessions also create opportunities for business development and the economic empowerment of formerly disadvantaged Namibians through access to tourism, hunting and industries based on wild plant and animal resources. Improving access to public resources for the empowerment of formerly disadvantaged Namibians with the aim of uplifting this sector of the population is of the utmost importance.

In line with the Constitutional guarantees and the objectives set out in Vision 2030, this policy is formulated for the advancement of Namibians who have been socially, economically and educationally disadvantaged by past discriminatory laws or practices. Amongst the objectives of our Government's Vision 2030 is to ensure the development of Namibia's "natural capital" and its sustainable utilisation for the benefit of the country's social, economic and ecological wellbeing and amongst its broad strategies is to maintain stable, productive and diverse ecosystems managed for long term sustainability.

Importantly, this policy for the first time explicitly targets such empowerment through improving access of formerly disadvantaged Namibians to these industries. The special situation of rural communities that are

neighbours of parks, or in some cases resident in parks, is also recognized and such communities are invited to make the best possible use of concessions that in future could be made available to them. In this way, I trust that our parks and wildlife resources will contribute to rural development, employment creation and economic growth in general.

Some of the concessions that potentially could be made available include world-famous attractions and scenery that lend themselves to the form of high value but low impact tourism that we wish to promote in Namibia, or include an unrivalled selection of high quality big game species and valuable indigenous plant resources. Most of the State land that is potentially suitable for concessions is nevertheless characterized by fragile environments, requiring careful attention to the management of concessions in ways that would avoid negative impacts and maintain the value of our natural assets.

It is for these purposes that a detailed policy has been developed to guide the establishment and awarding of tourism, hunting and indigenous plant and wildlife concessions, and to bring objectivity and transparency to the process. The policy would provide the basis for legislation that would prescribe the form of the concession rights to be awarded, and an objective process for the awarding thereof.

A handwritten signature in black ink, appearing to read 'W. Konjore'. The signature is fluid and cursive, written over a white background.

W. Konjore MP
Minister

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GLOSSARY

For the purposes of this policy, the words or phrases set out below have the following meanings:

Commercial tourism activities mean *all activities involving tourism, based on an agreement between the Ministry of Environment and Tourism (MET) and a concession holder.*

Community means *a group of rural area residents on State land, that have formed a legal entity, which has a defined membership, defined boundaries, and an elected body which represents the interests of the members; or a group of Namibian citizens that have defined themselves as a community and by virtue of being formerly disadvantaged are being considered as beneficiaries under this policy.*

Community forest means *a Community forest as defined in the Forest Act, 2001 (Act 12 of 2001).*

Concession means *the rights, whether full or restricted or shared or exclusive to conduct tourism activities and/or to commercially use state-owned plant and/or animal resources (collectively referred to as wildlife resources) on business principles in proclaimed protected areas and any other State Land for a specified period of time.*

Concession agreement means *an agreement between MET and a concession holder that outlines each party's rights and obligations arising out of the granting of the concession*

Concessionaire or concession holder means *any individual, collective of individuals, community, conservancy, community forest or incorporated or unincorporated entity that has been granted a concession by the MET.*

Conservancies mean *community based organizations registered by the MET under the Nature Conservation Amendment Act (Act 5 of 1996) for the purpose of providing an economically based system of sustainable management and utilization of game on communal land.*

Disadvantaged people mean *designated groups as defined by the Affirmative Action Act (Act 29 of 1998).*

Empowerment means *the economic empowerment of formerly disadvantaged Namibians including women, workers, the youth, people living with disabilities and people living in rural areas through concessions, based on strategies that include, but are not limited to:*

- *Increasing the number of formerly disadvantaged people that manage, own and control enterprises and productive assets;*
- *Facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;*
- *Human resource and skills development;*
- *Preferential procurement;*
- *Investment in enterprises owned or managed by formerly disadvantaged people.*

Ordinance means *the Nature Conservation Ordinance, 1975 (Ordinance 4 of 1975), as amended by the Nature Conservation Amendment Act (Act 5 of 1996)*

Proclaimed protected areas mean *areas proclaimed as national parks, game parks, recreational areas or similar areas in terms of Ordinance 4 of 1975 (as amended) and Ordinance 20 of 1973, and managed by the MET.*

Regional Council means *a Regional Council as defined in the Regional Councils Act (Act 22 of 1992).*

State Land means *land inside and outside of protected areas that belongs to the State and it includes national parks, game parks, recreational areas, communal land, conservancies and community forests.*

Sustainable use means *the use of a renewable natural resource in a way and at a rate that allows for the regeneration of the same resource.*

Traditional Authority means *a Traditional Authority of a traditional community whose traditional leaders have been recognized under the Traditional Authority Act (Act 25 of 2000, as amended.)*

Wildlife resources mean *wild animal and plant species that can be used to derive a commercial value.*

ABBREVIATIONS

MET Ministry of Environment and Tourism
MAWF Ministry of Agriculture, Water and Forestry

RfP Request for proposals/participation
SADC Southern African Development Community

1. Introduction

The granting of 'concessions' in Namibia by the Ministry of Environment and Tourism, and previously other authorities, dates back over several decades. Existing and previous concessions have originated in different periods, for different activities and on different types of State land, e.g. tourism, hunting and timber concessions in proclaimed protected areas and on communal land. However, these widely diverse concessions were never awarded and developed under a uniform policy framework. Concessions also create opportunities for business development and the economic empowerment of formerly disadvantaged Namibians through the tourism, hunting and forestry industries. It is therefore the aim of this policy to explicitly target such empowerment through tourism development and wildlife utilization based on public assets.

The *Nature Conservation Ordinance, 1975 (Ordinance 4 of 1975)*, as amended by the Nature Conservation Amendment Act (Act 5 of 1996) vests wide-ranging powers in the Minister of Environment and Tourism ("the Minister") to authorize other parties to provide services on behalf of the State within proclaimed protected areas, including the provision of tourism services in proclaimed protected areas through concessions. The same Ordinance also stipulates that the Minister may allow trophy hunting under a permit to hunt species of game and the number that may be hunted. The Minister may similarly grant approval for the use of indigenous plant resources under his/her jurisdiction and in accordance with the requirements of the Forest Act (Act 12 of 2001), and in consultation with the Minister of Agriculture, Water and Forestry to ensure coordination given the current overlapping scopes of the Ordinance and the Forest Act.

Although the legislative framework authorises the Minister to grant concessions in proclaimed protected areas and any other State land, at this moment guiding principles and systems are inadequate. There is no legislative or uniform policy framework within the MET that has been specifically established to deal with such diversity of concessions. The purpose of this document is to articulate a policy and regulatory framework for awarding and managing concessions that will serve as policy guidelines to enable MET to act in a standardized and transparent manner when dealing with concessions and concessionaires and in line with the powers of the Minister and provided for in the relevant provisions of the Ordinance.

The scope of the policy is focused on concessions in proclaimed protected areas and any other State land, concerning natural resources under the jurisdiction of the Minister. The types of concessions referred to are: tourism concessions, hunting concessions, concessions for the harvesting of indigenous plants or any other concessions for the commercial use of State-owned plant or animal resources. All such concessions are to be managed within this same policy framework.

The special role of park neighbours also has relevance, within the context of Namibia's community-based natural resource management programme and the Ministry's park-neighbour policy. Park neighbours experience conflicts with and bear costs of animals leaving parks. There are similarly situations where parks have resident people with minimal scope for economic development or where traditional authorities provided land for proclamation as parks with the understanding that they would share in the economic benefits from such parks through sustainable community-based natural resource management. In most instances, concessions can be used to address these needs.

For concessions on State land outside proclaimed protected areas (including communal land), Regional Councils and Traditional Authorities have special roles to play and must be consulted throughout the process to ensure that such concessions complement regional and local community development objectives and comply with the Communal Land Reform Act (Act 5 of 2002). It may furthermore be determined in future that more specific responsibilities concerning concessions are delegated or otherwise transferred to Regional Councils through the process of decentralization. In this event, the respective roles of MET and Regional Councils will be defined according to the relevant policies on decentralization.

A further objective of the policy is to provide a transparent and objective framework for awarding and managing concessions and to obtain support from other line Offices/Ministries/Agencies. This document will set out a process and, where appropriate, indicate what supporting documents and procedures are required to initiate and implement a concession process from start to finish.

2. Current and future legal framework

In addition to the State prerogative to conclude State contracts, or the Tender Board of Namibia Act (Act 16 of 1996), specific legislation exists that authorises the allocation of wildlife and tourism concessions. The *Nature Conservation Ordinance, 1975 (Ordinance 4 of 1975)* as amended by the Nature Conservation Amendment Act (Act 5 of 1996), gives wide authority to grant concessions for providing services on behalf of the Minister in proclaimed protected areas [Section 17(2), specifically paragraph (j) of the Ordinance], within the general framework of the Minister's responsibilities concerning such areas. The Minister has the authority in terms of the Ordinance to issue concessions, however, consultations with other parties are not excluded and are indeed beneficial. The Minister may act in his/her own discretion, and there is no obligation as such to issue concessions.

The Minister currently also has in terms of section 36 of the Ordinance the authority to grant trophy hunting concessions.

The *Forest Act (Act 12 of 2001)*, as amended, vests powers in the MAWF to issue licences for the harvesting of forest produce on all State land. Some of the same forest produce are also covered in Ordinance 4 of 1975, and may be the subject of concessions awarded by the Minister of Environment and Tourism, therefore requiring close coordination between MET and MAWF in such instances.

In cases where rights over wildlife and tourism resources have been devolved to communities residing on communal land (conservancies and community forests), such community management bodies are responsible for making their own arrangements² concerning the commercial use of wildlife and forest products, and for tourism, subject to the provisions of the policy and regulatory frameworks administered by MET and MAWF and in consultation with Regional Councils, Traditional Authorities and Communal Land Boards. However, the procurement processes and guidelines contained in this policy serve as guidance from the MET to other stakeholders concerning the objective and transparent award and management of concessions in conservancies and community forests. On other State land, the Minister may issue concessions regarding the use of wildlife and plant resources under his/her jurisdiction, with the concurrence of the relevant Traditional Authority and Communal Land Board.

The authority of the Tender Board of Namibia (“the Tender Board”) concerning concessions only applies to cases where concessions are required to provide services to the State, as pointed out by the Office of the Attorney General. Concessions issued by MET have been regarded by Namibian Courts as services on behalf of the State, and therefore not within the mandate of the Tender

Board. The Tender Board has concurred that the MET is not required to follow the Tender Board procedures when tendering concessions under its jurisdiction. It agrees that the authority to issue concessions in such areas rests with the Minister; however the MET must ensure that the awarding of concessions is competitive, fair and transparent, and ensure that safeguards against favouritism, improper practices, fraud, theft and corruption are in place and followed.

The Minister has to exercise his/her powers fairly and reasonably and in compliance with this policy, the common law, the enabling legislation and in his/her discretion. In exercising his/her powers and discretion, the Minister will give priority to the empowerment of formerly disadvantaged Namibians through various empowerment strategies, in accordance with Article 23 paragraph (2)³ as well as Article 95 of the Constitution. In the absence of a procedure prescribed in law concerning the awarding of concessions, the Minister has the authority to establish a process that will govern such awards and comply with the general requirements of fair and reasonable administration. In the exercise of his/her power and discretion, the Minister will be guided by other applicable laws, regional protocols and international agreements⁴.

A standard and robust procedure for the awarding of concessions and the management of concession agreements is needed to ensure transparency, fairness and efficient monitoring of compliance with agreements. It is essential to base the proposed framework on specific provisions in future legislation and procedural guidelines, and thus to strengthen and elaborate the current legal authority of the Minister under existing statutes. Provision will accordingly be made in the proposed *Parks and Wildlife Management Bill* for a proper administrative, legal and procedural framework for concessions in proclaimed protected areas and on other State land according to this policy.

¹ Section 17(2) of Ordinance 4 of 1975, as amended, provides that the Minister may within a game park or a nature reserve, in paragraph (j), “authorize any person to carry on, subject to such conditions and the payment of such charges as it may deem fit, any activities which may be carried on by the Minister” in terms of paragraphs (e) [i.e. referring to provision of meals and refreshments], (f) [i.e. referring to business or trade for the convenience of visitors] or (g) [i.e. referring to providing any other service for the convenience of visitors]; read with paragraphs (h) [which authorizes the Minister to establish infrastructure in connection with the abovementioned services] and (i) [which authorizes the Minister to make any charges in connection with any of the above].

² Although e.g. registered conservancies have been vested with rights over the consumptive and non-consumptive (i.e. including tourism) use of wildlife resources, MET will be guided by the objectives of this policy in developing safeguards in legislation to enable MET to set guidelines for such arrangements or co-sign commercial contracts associated with such arrangements to ensure that rural communities are not exploited.

³ Article 23 (2) states that “Nothing contained in Article 10 (*on equality and freedom from discrimination*) shall prevent Parliament from enacting legislation providing directly or indirectly for the advancement of persons within Namibia who have been socially, economically or educationally disadvantaged by past discriminatory laws or practices, or for the implementation of policies and programmes aimed at redressing social, economic or educational imbalances in the Namibian society arising out of past discriminatory laws or practices, or for achieving a balanced structuring of the public service, the police force, the defence force, and the prison service.”

⁴ These include for example, other Articles in the Constitution, the Affirmative Action Employment Act, the Criminal Procedure Act, the Anti-corruption Act, SADC protocols, Transfrontier conservation agreements and multi-lateral environmental agreements.

3. Types of Concessions

MET is already responsible for administering existing long- and short-term tourism concessions, but it is also foreseen that there will be new initiatives that have never before been implemented. The policy makes provision for four types of concessions:

3.1 Tourism

Tourism concessions could entail a combination of various types, for example the right to develop a lodge within a specified area, the right to offer tourism services such as guided tourism within a specific area, or the right to offer more specialized tourism services such as adventure tourism, aerial tourism, car rentals, etc. within a specified area.

In comparison to the privately owned tourism sector, Namibian proclaimed protected areas, and other State land, are relatively under-developed in terms of tourism, with a narrow range of tourism services and activities on offer. Concessions are one of the mechanisms to expand the use of parks and other State land and diversify and modernize the tourism product, encourage innovation and thus enhance Namibia's competitiveness in the international tourism market. Other examples would include the provision of additional or more specialized accommodation suited for specific components of the tourism market, transport services (including by boat or air), night-driving or hides at waterholes), guided tourism concessions in place of, or in addition to, self-driving tourism, by vehicle, on foot, on horseback etc. as the situation warrants in each proclaimed protected area and other State land. Opportunities also exist in the retail and commercial service sectors, e.g. car rentals, banking, travel agencies, shopping, restaurants, refreshment kiosks etc. for the provision of services in proclaimed areas related to tourism. In many instances, it may be advantageous to offer economic opportunities concerning the rendering of such specialized services separately from the provision of accommodation services, and thus to spread access to such economic opportunities to a greater number of beneficiaries.

In some instances, a tourism concession may involve the establishment of permanent infrastructure. Such permanent infrastructure established on State land becomes the property of the State. Concession holders will be given a reasonable opportunity to recover the costs of investment in such permanent infrastructure during the lifetime of the concession. If a concession in such an instance is terminated for any reason except through a breach of the agreement by the concession holder, the State will have to compensate the concession holder for the reasonable value of the permanent infrastructure established, as would be specified in each contract.

Concessions similarly provide an opportunity to establish tourism in situations which characterize many Namibian parks and other State land, where sensitive habitats and substrates or other limiting factors require strict limits on the use of such areas for tourism, which can often only be accomplished through a highly controlled or specialized form of tourism. However, it is important that such opportunities are compatible with environmental and conservation objectives for park management or other State land and within the constraints posed by the conservation needs and the environmental characteristics of protected areas or other State land. MET therefore will specify exactly the nature of the tourism activities included in a concession and the concession agreement will prescribe such authorized activities in each instance. Therefore, the granting of a concession does not imply that the concession holder will have any rights over the natural resources within the specified area or any other economic opportunity not specified in the concession agreement.

3.2 Plant materials

A further type of concession could entail the harvesting of plant material. Although the granting of indigenous plant concessions (e.g. the harvesting of medicinal plants, thatching grass or other valuable species, or bio-prospecting) has not commenced on State land there is still potential for these concessions in the future⁵. Provision is therefore made in this policy for the MET to use concessions to implement innovative strategies to yield benefits and attract investment concerning indigenous plants resources in proclaimed protected areas and on any other State land. It is essential that the MET determine whether sufficient resources exist and that such action benefits the country economically and contributes to the sustainable environmental management of indigenous plant resources in Namibia, and that any such concession be developed in consultation with the Minister of Agriculture, Water, and Forestry and other stakeholders.

3.3 Trophy hunting

Trophy hunting concessions represent valuable economic assets and hunting experiences with considerable international marketing potential. The granting of such concessions can play a beneficial role in Namibia's rural areas, as a means of creating employment, facilitating the empowerment of formerly disadvantaged Namibians, contributing to the management of declared problem animals, providing meat for distribution to traditional authorities and rural communities, addressing over-population of certain species, and generating revenue from land or resources that are otherwise unproductive. However, high standards should be required for the

⁵Noting that forestry concessions for the harvesting of timber on State land other than protected areas had in the past been issued by MET, but will in future be managed by the Ministry of Agriculture, Water and Forestry.

operation of such concessions to maintain the value of the resource and the ambience of the concession area, and Namibia's competitiveness in the hunting sector.

Trophy hunting concessions should be managed and operated in a spirit of responsibility, cooperation and accountability amongst all parties. The concessions should be operated in such a way to maintain environmental integrity. This includes the establishment of hunting quotas that should be sustainable and carefully monitored. Such concessions should also complement the conservation management of the area concerned. MET should therefore establish measures to ensure a high standard of control and monitoring of trophy hunting concessions.

3.4 Other uses of wildlife

It is also foreseen that there may be a need in future to regulate the commercial use of certain other wildlife resources in State ownership through the granting of concessions in respect of such resources.

4. General Principles and Objectives

Concessions are a powerful mechanism to enhance tourism development and sustainable natural resource management at regional and national level. This is achieved by increasing the economic value of proclaimed protected areas and other State land in national development, while maintaining and strengthening the conservation of biodiversity and the maintenance of the ecological integrity of proclaimed protected areas and other State land. Concessions can also contribute to economic growth through foreign currency earnings, employment creation, rural development, the alleviation of poverty and addressing social inequities.

4.1 General principles for the awarding of concessions

4.1.1 In the interest of ensuring transparency and fairness, a just and fair competitive process should be applied to award concessions. Equal opportunity should be given to any interested Namibian party to apply for a concession when concessions are offered to the public. The awarding of concessions in such cases should be determined on the basis of the degree to which applications meet the objectives outlined below.

4.1.2 The Minister may nevertheless in some cases, in his/her discretion, and in consultation with the relevant Regional Council, Traditional Authority and Communal Land Board as appropriate concerning concessions on other State land than proclaimed

protected areas, decide to reserve a specific concession for a resident community (e.g. to provide for economic development opportunities for such residents that are consistent with the objectives of a park), or for a neighbouring community (e.g. to offset the costs associated with problem animals or in cases where such communities requested that a park be established on their land to enable them to benefit from wildlife and tourism) or in any other case of merit.

4.1.3 In awarding concessions to communities, the MET will:

- Award concessions directly to communities with representative, accountable and stable community institutions that are legal entities with the right to enter into contracts on behalf of a defined community;
- Give priority to communities that are resident inside protected areas or are immediate neighbours, as these are the people who suffer most costs caused by wildlife as well as loss of access to land and resources;
- Use concessions to mitigate the costs that such communities suffer, to provide incentives for them to support the objectives of the protected area, and to stimulate local economic growth;
- Provide assistance and guidance in the negotiation of beneficial agreements with joint venture partners or investors, and technical assistance to access business management skills and resources;
- Ensure that the communities are not exploited in any sub-agreement or joint venture with other partners; and
- Ensure that community organizations or representative bodies entering into concession agreements with the State act in accordance with their mandate from their members.

4.1.4 Preference will be given to rural communities and joint ventures that are demonstrably beneficial to rural communities, either through the generation of revenue to that community and employment opportunities or other benefits. To guide the development of joint ventures involving rural communities and concessions in parks, principles and guidelines are provided in Annex 1. These principles and guidelines will continue to evolve to ensure that the desired impacts in development, empowerment and poverty alleviation are achieved. A standard tem-

plate for agreements, as well as for processes to ensure equitable sharing of costs and benefits, transfer of skills, management responsibility, and ownership of rights and assets within agreed timeframes, will be developed by MET in consultation with other stakeholders.

4.1.5 Concerning empowerment, it is recognized that formerly disadvantaged Namibians, empowerment groups and rural communities specifically may face challenges in securing capital and skills to enable their participation in concessions. MET will continue to advocate for support from commercial and statutory financial institutions in this regard, and explore other ways of facilitating access to capital. Except in the case of rural communities, the practice of using empowerment status to acquire a concession and subsequent sub-leasing a concession because of a lack of capital or skills to operate such a concession should be discouraged. As a general principle, concession rights are not transferable without the approval of the Minister. Empowerment groups should be advised to enter into mutually beneficial joint ventures with established companies instead, within an equitable framework to ensure the transfer of skills, full accounting of the contributions from both parties, and sharing in the management, decision-making, ownership and financial benefits from a concession. However, it is recognized that in the case of communities, it may be beneficial for them to enter into management contracts with other entities until they (or local entrepreneurs within the community) have developed the skills to manage the concession activity themselves. Guidelines for these sub-agreements are outlined in Annex 1.

4.1.6 As a general approach, and in recognition that concessions based outside proclaimed protected areas fall within the jurisdiction of Traditional Authorities, Communal Land Boards and/or Regional Councils, these entities will be consulted in the granting of concessions as a means of fast-tracking socio-economic advancement and integrated rural development. MET recognizes the plight of rural people and considers them as the priority beneficiaries from concessions in their immediate geographic area and also in accordance with the national priority accorded to this group in terms of the SWAPO Manifesto, National Development Plans and Vision 2030. While

not excluding other formerly disadvantaged Namibians from concession opportunities, priority will be given to disadvantaged rural communities by awarding concessions to them that are in their immediate geographic area. As a general approach, concessions should therefore be awarded in such a way to have the greatest impact in addressing local development in rural areas.

4.1.7 Since the development, management, administration and particularly the monitoring of concessions have significant cost implications for the Ministry, one of the goals is to generate revenue for the State through concessions as a means of recovering costs. Consultation with the Ministry of Finance will be required to ensure that MET or any other body with a responsibility concerning concessions is not left with additional management and monitoring costs concerning concessions without a commensurate increase in its financial resources, especially if the number of concessions is increased. The establishment of a dedicated fund for supporting concession-based enterprise development will be pursued with the Ministry of Finance should gaps be identified in existing support mechanisms. As a general approach, and in recognition that concessions based outside proclaimed protected areas fall within the jurisdiction of Traditional Authorities and/or Regional Councils and Communal Land Boards, responsibilities for and revenues from such concessions will be shared on an equitable basis with Regional Councils for further allocation to Traditional Authorities where applicable, based on future guidance from the Ministry of Finance.

4.2 General objectives of concessions

MET has the following objectives for concessions that should guide future decisions to establish and award concessions, and serve as a benchmark for assessing concession proposals or their environmental and socio-economic impact, i.e. to:

- Enhance the conservation of biodiversity and the maintenance of the ecological integrity of proclaimed protected areas and other State land;
- Enhance the ability of the MET to effectively manage proclaimed protected areas and wildlife resources on other State land where applicable and to control and monitor tourism operations, trophy hunting, the provision of services in proclaimed protected areas and other concessions involving wild animal or plant re-

sources;

- Enhance through concessions the economic value of proclaimed protected areas and wildlife resources on other State Land where applicable, and the generation of revenue from the sustainable use of national assets contained in proclaimed protected areas and on other State land;
- Promote economic empowerment of formerly disadvantaged Namibians and their entrance into the tourism, hunting and wildlife-based industries. Affirmative action should be applied and empowerment opportunities associated with concessions should be enhanced by formulating minimum requirements that would ensure the participation of previously disadvantaged groups. Preference should be given to awarding concessions to disadvantaged rural communities where such concessions would have the potential to provide the greatest socio-economic impact at local level, whilst also recognizing the importance of employment creation;
- Provide support to ensure the development of capacity, skills and to facilitate access to capital for all Namibians to meet concession requirements;
- Use concessions as a means of promoting sustainable development, poverty alleviation and employment creation in protected areas and on other State land.

5. Process of establishing, awarding and managing concessions

The process and procedure for awarding concessions will be transparent, objective and fair, but with the empowerment of formerly disadvantaged Namibians as a priority, and preference given to rural communities for concession opportunities in their vicinity. In certain instances after consultation with the relevant Regional Council, Traditional Authority and Communal land board, the Minister as appropriate, may determine that a concession be allocated to a specific rural community resident in or neighbouring to a proclaimed protected area as provided in Section 4. The Minister has the discretion to determine whether a concession is to be awarded directly or through tender or auction.

MET will furthermore identify concession opportunities in three categories for the awarding of concessions, i.e. concessions that should be reserved for communities that

are residents in or neighbouring to parks or other cases or merit; concessions that should be made available through tender; concessions that should be made available through auction, and criteria on which to base such classification. Once approved, it will provide a working framework for MET to initiate, manage and regulate concessions. Annex 2 outlines the process of awarding and managing concessions in more detail, whilst Annex 1 makes suggestions regarding the award of sub-agreements by communities that receive concessions directly, as explained above.

The process for solicitation of concessions will be by way of application in a form as prescribed by the Minister or in such other manner, regard being had to the type of concession applied for and on such other terms and conditions as the Minister may deem fit (see Annex 2).

5.1 Concession Committee

An appropriate institution for dealing with concessions by MET and to provide advice to the Minister, is needed to oversee the process and to ensure objectivity. This committee will perform this function as well as advise on any procedures, policies and documents that will form part of the procurement and allocation process. The Committee will need to convene from time to time to review the process and if necessary ensure that the process is fair, equitable, transparent and clearly defined by monitoring compliance with the principles and procedures outlined in this policy. The Committee will have to ensure that all relevant government policies and laws are complied with, that the outcome will not jeopardise the State or other parties and create the possibility of litigation against the Minister.

Proposals to amend concessions or the underlying contracts should be considered by this Committee, and forwarded to the Minister for approval before such amendments are implemented.

The Concession Committee will be appointed by the Minister and will comprise of representatives from MET, the Ministry of Justice, the Ministry of Finance, the Ministry of Agriculture, Water and Forestry, the Ministry of Lands and Resettlement, the Ministry of Regional and Local Government, Housing and Rural Development and Regional Authorities where appropriate, as well as representatives of the private sector and civil society. The Minister will appoint the Chairperson of this Committee.

Such criteria may e.g. include:

- a) for direct awards to community: to promote rural development; resolution of human-wildlife conflicts; create opportunities for park residents; promote diversification of subsistence livelihoods that may otherwise conflict with park land use;
- b) for the auction or tender processes: to maximize revenue to the State and resources for conservation and park management through the Game Products Trust Fund and Environmental Investment Fund;
- c) for the tender process: where complexity of services or infrastructure and the level of investment requires the thorough due diligence that the tender process requires.

For concessions on State land outside proclaimed protected areas, Regional Councils, Traditional Authorities, Communal Land Boards, and Traditional Authorities have special relevance and must be consulted throughout the process to ensure that such concessions complement regional development objectives and applicable legislation. It may furthermore be determined in future that more specific responsibilities concerning concessions will be delegated or otherwise transferred to regional level through the process of decentralization. In this event, the respective roles of MET and Regional Councils will be defined according to the relevant policies on decentralization. In Regions where concessions are located or where there are concession opportunities on land under the jurisdiction of a traditional authority or the Regional Council outside a conservancy, existing structures under Regional Councils as well as Communal Land Boards should be included in the process of identifying, allocating and monitoring such concessions.

5.2 Concession Unit

Day to day administrative implementation of the concession framework, as well as the secretariat role for the Concession Committee, have to be assigned to a dedicated staff unit. Experience in MET has shown that this responsibility cannot successfully be fulfilled on a part-time basis, and the proposed framework requires a significant administrative workload that cannot be achieved otherwise than making this the core responsibility of a separate staff unit. It is therefore proposed that a Concessions unit be established in the MET.

6. Other issues

6.1 Record-keeping

Detailed records of all aspects of the concession process need to be maintained securely, for subsequent reference, auditing and in case disputes arise. The Concession Unit will be responsible for all aspects of record keeping.

6.2 Ongoing economic valuation

An economic valuation study needs to be carried out to determine the economic and other non-economic values of concessions.

6.3 Provisions relating to declarations of interest

Situations may arise where members of the Concession Committee or staff members within the Concession Unit have an interest in the concession(s) being applied for. Any such member or staff member who or whose familial or business relation in any way has any interest of whatsoever nature in a concession(s) being applied for, shall fully and in writing disclose such interest. The obligation to declare such interest continues in respect of an interest which may arise after the particular concession is granted. In respect of staff members of the Unit, the declaration should be forwarded to the Concession Committee. In respect of the latter entity, the declaration should be recorded in the minutes of the Committee meeting and forwarded to the Minister. In both instances, the Minister should be apprised of the interest. The declaration should be submitted to the relevant entity/person promptly after such interest comes to the attention of the relevant person.

In the event that the interest is material in nature, the existence of such an interest disqualifies the relevant person from further participating under the auspices of MET, in any fashion whatsoever with the concession in question. Failure to declare a conflict of interest will, in respect of Public Service staff members comprising the Committee or the Concession Unit, render such person(s) guilty of misconduct.

7. Monitoring and evaluation

The impact of the implementation of this policy and progress and constraints regarding its implementation will be periodically assessed in consultation with other stakeholders.

ANNEX 1

Key principles and guidelines for
the awarding of concessions to
communities living adjacent to or in
protected areas





ANNEX 1: Key principles and guidelines for the awarding of concessions to communities living adjacent to or in protected areas

1. Principles for Selecting Community Beneficiaries

Some general principles can be applied to identifying a community to whom a concession can be awarded in a protected area. *Perhaps the most crucial is that in order for the Ministry to award a concession there needs to be a representative and stable community institution that is a legal entity with the right to enter into contracts on behalf of a defined community.* Institutions that fulfil this requirement include conservancies, community forests, appropriately structured Trusts and registered community associations, and cooperatives, and recognized Traditional Authorities and their traditional communities. For the purposes of this policy document, the definition of “community” refers to a group of rural area residents that has formed a legal entity, which has a defined membership, defined boundaries, and an elected body which represents the interests of the membership.

The following are further principles for selecting community beneficiaries:

- Where the community suffers personal injury, damage to crops or livestock losses due to wildlife from the protected area;
- Where people are in some other way negatively affected by the protected area;
- Where awarding the concession will help to improve natural resource management inside or outside the protected area (for example promote the adoption of compatible land uses in adjacent areas);
- Where communities already show a commitment to conservation and can provide support to the protected area;
- Where communities are particularly needy because they are marginalized (e.g. San communities);
- Where awarding the concession contributes to diversification of livelihoods for the neighbouring community.

2. Principles for Applying the Concessions Policy to Different Types of Communities

Namibian protected areas have a diversity of community neighbours. In some cases, people are living inside the park but there are also communities neighbouring the protected area. In most cases, there are many different community neighbours, including some that have formed legal entities such as conservancies and others that have not. It is therefore important to consider how the concessions policy can be applied in these different sets of circumstances:

2.1 Communities resident in protected areas

The main target for concessions from protected areas to local communities should be communities resident in a protected area because such communities potentially have the most impact on the park and are likely to be most negatively affected by wildlife or by loss of access to land and resources. Where communities live within protected areas and there are other neighbouring communities negatively affected by the protected area, the Ministry should give preference to those people resident within the protected area when awarding concessions. It should however, endeavour to ensure that concession opportunities are equitably (i.e. fairly) awarded to other neighbours according to the principles in 1 above.

2.2 Communities which have formed a legal entity living adjacent to protected areas

Such communities should also be targeted for concessions from protected areas because residents often suffer livestock and crop losses due to wildlife leaving parks and game reserves, and proclamation of the protected area has often denied residents access to land and resources. Such communities can also have potentially negative impacts on the protected area. However they can have positive impacts if they also adopt tourism and wildlife management as land users in areas adjacent to the protected area, and if they gain a stake in the success of the protected area.

2.3 Neighbouring or resident communities which have not formed a legal entity

Where there are neighbouring communities but no suitable legal entities, the Ministry should notify potential beneficiaries of pending concession opportunities and encourage the formation of a legal entity. If the community is interested in forming such a legal entity, the Ministry should facilitate this process or help the community access support for this process.

2.4 Multiple neighbouring communities

Where there are multiple neighbouring communities that have legal entities, the Ministry should issue concessions depending on the number and type of available concession opportunities and the number of immediate community neighbours that meet the principles in 2.1 and 2.2 above. A number of options are possible. For example, where concession opportunities are few (e.g. where tourism carrying capacity or market demand is low), the Ministry

could consider issuing a joint concession to two or more communities, provided they were willing to cooperate (e.g. the existing joint hunting concession along the Kwandu River in Caprivi Region). Furthermore, concessions need not be exclusive or limited to accommodation provision. Concessions could also be made available for different activities such as guided tours, walking trails, boat trips, hot air ballooning etc., some or all of which could take place within the same area of a park.

2.5 No immediate neighbouring community

Where there is no immediate neighbouring community the Ministry can consider awarding concessions as part of its poverty reduction objective to organized community groups that meet the following principles:

- Groups with a commitment to conservation (e.g. conservancy, community forest, community conservation trust, etc);
- The income received by the community is likely to be used for conservation in that community's own area;
- The community is particularly needy (i.e. it has limited existing means of generating income).

3. Options for managing community concessions and ensuring community benefit

MET wishes to ensure that concessions in protected areas or on State land that are awarded to local communities provide a full range of benefits that includes income, employment, the opportunity to provide "spin-off" services and the opportunity to be an owner of the concession enterprise. In some cases, the capital and skills may be available locally for the community to develop and run certain activities or to provide certain services.

MET's first preference is that communities should own and manage concessions awarded to them and any

business enterprise derived from that, and MET is committed to assist communities to achieve this objective to the greatest extent possible. MET intends to create a specialized organizational unit for this purpose and where MET's resources are insufficient, consideration will be given to alternative mechanisms of facilitating support to community-based enterprise development.

However, MET recognises that many communities currently have neither the capital nor the capacity to run large-scale tourism operations which is a legacy of apartheid and discrimination and should not be perpetuated. Where communities do not have the capital and capacity, and/or are unable to raise funding from recognised financial institutions on their own, then they will need to enter into a partnership with another entity(s) to jointly co-operate in the development, management and operation of the enterprise.

In such cases, there is a need to ensure that any sub-agreement with a third party does not exploit the community, and to ensure that appropriate benefits accrue to the community. *However, it is neither desirable nor possible to prescribe in advance the type of arrangements between the community and the third party and the exact nature of the benefits to the community. It is nevertheless essential that such arrangements have the approval of the Ministry. Partly this is because each concession will be different, and partly because it is an important aspect of the empowerment process for communities to negotiate agreements themselves and decide how they want to benefit from the agreement.*

3.1 Where communities enter into a joint venture or other form of partnership with any other entity,

MET will ensure that each sub-agreement between a community and third party covers the following elements and sets targets and deadlines for the performance regarding these elements:

- The level of community involvement in the business desired i.e. being the full or part owner of the business, and ensuring that the option is available for the community to acquire or progressively increases its shareholding⁷;
- The level of supervision to be exercised by the community (e.g. monitoring of performance

⁷ The community could become a partner in a company through owning equity (i.e. shares) in the business. Community income will depend on: a) the percentage of shares held by the community and therefore the same percentage of the *profit* of the enterprise, and b) the level of profit made i.e. the amount left in the business after operating expenses and tax. In this situation the community takes the risk that profits are low, but it has the option to sell its shares to provide a one-off source of income.

⁸ Note: Concerning the calculation of income payable to the community from a partner company that develops and operates the concession activity (via a sub-agreement), payments are usually calculated as a percentage of turnover. Turnover refers to the income of the operation (less trade commissions and VAT) before operating costs and income tax is deducted. Most tourist operations such as lodges do not make a profit in the first three to five years of operation. If communities were to get a percentage of profit, they might go several years without income from the lodge. By getting a percentage of *turnover*, communities are able to get a regular income right from the start. Further, if the business fails, the community can seek another partner to run it better, and it will not lose its own assets and capital. Other benefits that can be linked to payment of a percentage of turnover are skills transfer, procurement of supplies and services etc.

and compliance with the contract through a joint monitoring committee);

- Income due to the community and how this is calculated⁹;
- Preferential employment for community members;
- Skills transfer, capacity building in all aspects of the management of the business entity and customer service delivery, and the promotion of local people into management positions, aimed at establishing equity and a balanced form of cooperation and partnership between the community and its partner;
- Preferential procurement of goods and services from the community during construction and operation of the tourism activity;
- Environmental management obligations of the parties;
- Formal consultation, communication and monitoring and evaluation mechanism involving operator, employees, community stakeholders, and MET to ensure that the objectives of the concession are met and that problems and opportunities are timely addressed.

4. Supporting Communities to Negotiate and Manage an Agreement

In most cases, it is likely that the local community will need assistance in negotiating an agreement with a third party. Furthermore, MET wishes to ensure that its objec-

tives in awarding a concession to a local community are properly achieved. MET will therefore:

- a) Ensure that the business plan for the enterprise activity is developed in a transparent way, is realistic and clearly shows the level of investment and projected levels of income and profit over time;
- b) Assist the community to set its benefit and empowerment objectives, including the extent to which the community wishes to become involved in management of the activity and ownership of the business;
- c) Assist the community to negotiate a realistic target for income from the private sector based on the business plan/proposal for the enterprise;
- d) Assist the community to understand the offers being made by the private sector;
- e) Assist the community to develop principles for assessing the private sector offer;
- f) Endorse the financial offer from the private sector;
- g) Assist the community to monitor private sector performance and compliance with the contract once it has been signed; and
- h) Provide advice to communities on legal and policy issues pertaining to concessions.

ANNEX 2

Guidelines for the management of the concessioning process





ANNEX 2: Guidelines for the management of the concessioning process

1. Identification and description of concessions

- 1.1 MET will identify a site or opportunity (or a group of sites or opportunities) within proclaimed protected areas or any other State land for a concession. MET should endeavour to base all concessions on a pro-active planning process for the management of tourism, trophy hunting and wildlife resources in proclaimed protected areas and other State land.
- 1.2 Management plans should therefore provide the basis for defining concessions, and specifying areas that would be excluded from concessions. Defining the concession areas and the type of concession has to be done through a consultative process within MET, involving all key Directorates and other relevant stakeholders. Management plans would identify sites which may be suitable for concessions. They must include the physical location of the opportunity/ies, the expected outcome and the approximate timing of the development. They must identify any expected additional costs or resources which will be required by MET and importantly must identify what benefits are expected. These may include the financial return to the State, social and economic benefits and any expected environmental implications. These plans are not expected to provide fine detail but merely identify broad issues and strategic direction over the projected time period.
- 1.3 The concession needs to be thoroughly defined, including any restrictions that will apply, such as types of transport, maximum numbers of guests, activities allowed and prohibited, and whether the concession is exclusive (e.g. in terms of access to area, or service) or not. Restrictions should be fair and reasonable, and should be based on legitimate objectives that are sought to be achieved. Ideally this should have been broadly described within the Management Plans for such areas. MET should include the identification of such sites or opportunities in its management (and tourism development) planning process. Management planning should be an ongoing function within the MET, where such plans are formulated for parks and identified State land periodically. These would then be presented to the Minister for approval and would guide the development of parks and other identified areas in line with the strategic goals of MET. Developing concessions in parks where management planning has not been completed is more risky, but may proceed provided that at least a basic management and tourism development plan has been compiled.
- 1.4 For concessions on State land outside proclaimed protected areas, concurrence from the relevant Regional Council, and where appropriate the Communal Land Board, must be obtained. If the responsibility for the identification and awarding of concessions on such land is subsequently delegated or transferred to Regional Councils through the process of decentralization, the relevant responsibilities of MET and the relevant Regional Council must be determined through the normal processes required for the decentralization of functions currently vested with MET.
- 1.5 Consideration will be given to whether the concession impacts on existing land or resource rights. Where the proposed concession requires that leasehold rights over communal land be granted, approval of the relevant Traditional Authority and the Communal Land Board would be needed. Should the period of the leasehold rights exceed 10 years then the approval of the Minister of Lands would also have to be obtained.
- 1.6 When concessions identified may be in conflict with incompatible forms of land use, consultation with other stakeholders and consideration of long-term local, regional and national socio-economic costs and benefits, environmental impacts or benefits are essential. If necessary, Cabinet must be consulted in decisions on trade-offs based on such considerations.
- 1.7 From the outset the duration of the concession has to be determined. Criteria need to be developed to guide the determination of the duration (e.g. a longer period such as 15 years for tourism concessions or more is required where the concessions would involve the establishment of fixed infrastructure by the concessionaire that would become the property of the State at the termination of the concessions) compared to shorter terms for trophy hunting and other wildlife-based concessions.

2. Feasibility assessment

Once a concession opportunity has been identified, the following information must be compiled by the Concession Unit in collaboration with other components of MET as a feasibility study:

- a) Site description of the area: This must detail what the anticipated opportunity will offer. It must include a definition as to where developments or activities are permitted and what the nature and extent of these developments or activities are. It must specify broadly what type of activities should be permitted (including a justification for any such restrictions), which structures may be erected, how many visitors are permitted on the site at any one time, how waste will be handled, how access and services will be supplied and controlled, what environmental limits may be imposed for the development sites, cultural or archaeological issues and the general use of the area. A more detailed analysis of the development and environmental guidelines is presented in Annex 3.
- b) Infrastructure assessment: This must list what potential services may be available, if they are used by other parties, if they have spare capacity, how access will be controlled and what mechanisms could be practically implemented to control and administer the operation should it become operational, and what infrastructure may or may not be developed.
- c) Institutional capacity: Resources available to park management staff and any other identified group(s) may be insufficient to deal with and manage the concessionaire and resulting problems. A thorough assessment of management capacity and resource needs must be objectively undertaken.
- d) Social or cultural issues which may need to be addressed: These must include expected employment, source of employment, affirmative action targets, empowerment targets for formerly disadvantaged Namibians, and community concerns and rights which may exist (or perceive to exist) in the area.
- e) Legal issues which may need clarity or further investigation: These must include mineral rights (mining or prospecting), existing tourism, trophy hunting, possible claims by third parties etc.
- f) A financial assessment (cost benefit analysis): To enable MET to measure the overall financial effect of the anticipated concession agreement, the following aspects should be covered: any additional costs which MET may have to make provision for as the result of the opportunity; an estimate of the value of the concession to MET (which would provide a baseline on which an evaluation can later be made on any bids submitted by investors and therefore a threshold or minimum baseline rental for payment to the MET for any site or opportunity); impacts on other operations, for example an existing facility could be impacted on positively or negatively and this may make it unprofitable or non-viable; and the possible contribution of the developed site to economic growth and job creation.
- g) Market assessment: This need not be elaborate but it must explore what other facilities/activities are in the area, how viable they are, what niche they are positioned in and what the likely demand for the site/activity may be. It should also identify what type of product/species is expected or available, e.g. up market low volume, dense - sparsely or other.
- h) Timeframe: An initial assessment of an appropriate timeframe for the concession should be developed. Concessions are to be granted for a fixed term period, renewable.
- i) Risk assessment: This must identify what risks the MET may be exposed to in the process and how these will be dealt with through the process and procedure. If possible some attempt must be made to quantify them in financial terms, if not then qualify them.
- j) Based on the above analysis a recommended strategy and concession outline must be prepared assuming it is viable. This must detail how the concession will operate, the duration of the contract, perhaps what sort of partners may be sought and any other relevant considerations. An evaluation must also be made whether the concession should be allocated through the tender process or by auction or by direct allocation to a rural community.

This assessment should form the basis of a recommendation to proceed subject to the provisions identified in the assessment. At the time of the submission of such a recommendation to the Concession Committee, a broad outline of the tendering or auctioning parameters must also be proposed to provide guidance in the drafting of documents for tendering or auction. The Concession Committee may reject the proposal, make recommendations for improvement and re-submission or approve to the next step.

3. Direct award of concessions

- 3.1 When MET is satisfied that a feasible concession opportunity is available, that it suits the criteria of direct awards, that it is compatible with an expression of interest already received or anticipated, MET will in the case of opportunities on State land other than proclaimed protected areas consult the relevant Regional Council, Traditional Authority and Communal Land Board regarding its intentions to

make a direct award of a concession to a community. Once confirmation of support has been received, MET will inform the target community of the opportunity. In the case of opportunities in protected areas that meet the criteria, MET will inform the community of the opportunity.

- 3.2 The feasibility assessment will be explained in detail, as well as the anticipated benefits to and responsibilities of the community, options towards the implementation of the concession and the requirements of MET, but also taking into account the consideration of alternatives that the community may suggest, and the capacity of the community to make use of the opportunity. Assistance that the community may need to make use of the concession opportunity must be identified at this stage.
- 3.3 If the community is in agreement and ready to accept the concession opportunity, such agreement must be documented. Thereafter MET will provide assistance to that community to meet their obligations concerning the concession, access capital, negotiate subsidiary agreements, identify suitable partners or investors etc.

4. Preparations for the tender of auction process

4.1 Preparation of tender or auction documents

The information and planning compiled in the identification and description as well as the feasibility assessment forms the basis of the tendering or auctioning process through the preparation of a Request for Proposals/Participation (RfP) document.

This document, to be drafted by the Concession Unit of MET, and reviewed by the Concession Committee, should describe the concession opportunity and the rules of the tendering/auctioning process. The RfP is based on the earlier feasibility study. The RfP must define what MET wishes to achieve in the process and what the expected outcome of the process is. It should list any relevant important information which may make the offer/opportunity attractive. It should identify what type of contracting arrangement is expected, how the process will be conducted and what specific outputs are required. The environmental and social or other specific performance standards and site-specific conditions must also be set. Where the management plan is not sufficiently detailed, more precisely defined standards and conditions need to be specified (see the checklist in Annex 3).

Details of the concession area and development

site must be exactly defined and preferably clearly delineated on a map. All rules for the use of the area by the concessionaire, including all details of rights for exclusivity, must be described and any limitations on use unambiguously stated. Restrictions on types of use and development should also be listed. Expectations or requirements regarding communities and the development of local economies, small businesses and empowerment targets must be set as applicable. Any other conditions or restrictions should be clearly stated, e.g. requirements concerning site visits, harvesting areas and species. Where the concessions involve the development (or maintenance) of infrastructure, specific guidelines must be supplied. The option of negotiating these and other issues during the tendering process should be described where applicable. Where applicable, a bid guarantee should be established and included in the RfP. The format for financial offers in case of tendering must be described in the RfP.

The RfP should indicate the minimum requirements that will be non-negotiable and failing compliance with which, the bidder may be ruled out from further consideration (e.g. compliance with procedures, capacity and experience, empowerment, environmental management etc.). The RfP should contain a checklist for documentation to be provided to assist bidders in the preparation of their submissions.

The RfP should indicate if a pre-determined grace period may be provided between the allocation of a concession and signing of a contract, to allow the concessionaire an opportunity to obtain the necessary operating licences, registrations, skills, assets etc.

The RfP must specify a deadline for the submission of tenders and in the case of an auction the date of the auction, as well as submission requirements. Between the launching of the process and this deadline sufficient time must be given to the bidders to obtain the documentation, familiarise themselves with it, attend the required meeting and consult partners or financiers before the final submission. This process can take between 3 to 9 months depending on the complexity of the issues. Typically the site visits would occur within 2 to 4 weeks of the process being launched with a presentation conference about 6 weeks before final submission. These deadlines must be clearly spelt out in the process and must be adhered to, save in exceptional circumstances.

5. Tender process

5.1 Process and requirements

The RfP must indicate what the bidders are required to submit and how many signed copies, that

all copies of certificates and other relevant documents should be duly certified. The requirements and format of the tender submission should be specified e.g.:

A. Technical proposal

- Business plan and feasibility study for the proposed developments in the submission, including sketch plans of any developments and/or alterations to the site and/or buildings;
- Company profile, i.e. the organisational structure of the bidding company, including any joint venture arrangements or cooperative ventures with other parties that would be involved in the proposal, and detail on the arrangements concerning such parties;
- Empowerment plan where appropriate (including information on capacity building or other forms of benefit sharing with a local community or other empowerment beneficiary group), (including information regarding the sourcing of employment, goods and services at local or regional level);
- Environmental plan, outlining how the bidder intends to meet all the environmental and social guidelines and requirements outlined in the RfP;

B. Financial proposal

- Financial offer for the bid (in a separately sealed envelope);
- A bid guarantee if required;
- Estimated development cost;

C. Supporting documents

- Founding documents of the bidding entity. In the case of companies or close corporations, certified copies of the founding documents including the most recent documentary evidence of directorship and current shareholding or member's interest, as the case may be (noting that such documents, if not available already, could be submitted within the grace period);
- Compliance with affirmative action legislation where appropriate;
- Certificate evidencing due registration with the Receiver of Revenue in respect of applicable taxes (noting that such a certificate, if not available already, could be submitted within the grace period);
- A certificate from the Social Security Commission evidencing that the bidder is a registered employer and has paid all contributions due by him or her (noting that such a certificate, if not available already, could be submitted within the grace period);

- A written undertaking by the bidder to ensure that any employees employed by the bidder for the purposes of performance in terms of the agreement that will be concluded should the bid be successful, are employed on terms and conditions not less favourable than those provided for in a collective agreement in that industry or those prevailing for similar work in the industry and the region in which the employees are employed, or, those prevailing in the nearest appropriate region, if similar work is not performed in the region (see section 136 of the *Labour Act (Act 4 of 2004)*);
- Any other documents required by the process. The RfP should explicitly state that no binding obligations or entitlements are created until such time as a written agreement is entered into with the successful applicant, and that the entire process, including the awarding of the bid, is subject to the conclusion of a written agreement. A sample or draft of such a written agreement could be provided as a part of the RfP.

5.2 Advertising and public announcement

Once the Concession Committee has approved the documents, process and format, the concession opportunity or opportunities must be published in national media, including at least 2 (two) newspapers in national circulation (and where appropriate, international media), as well as announcements over the radio, indicating where the RfP can be obtained. The RfP can also be made available at appropriate trade and investment conferences or missions. Information on any payment required for tender documents should be provided. Any amount payable should be pre-determined by the Concession Committee. Care should be taken with the timing and coverage of the advertising and announcement process, with the aim of ensuring that important investments and development opportunities are not missed through omission.

5.3 Registration

All tenders must make provision for a formal registration of potential bidders at the time when the RfP is distributed, including contact details for later follow-up.

5.4 Site visits

It may be appropriate under some circumstances to require all parties who wish to bid to attend a site visit, and such requirements should be stated in the RfP. Site visits provide an opportunity to bidders to see the area and gain a better understanding of the conditions which have been established. Site visits should be formally arranged on predetermined days and times at the sites. In addition to formal site

visits it may be necessary to allow for a number of informal visits to the site by bidders. In such cases MET staff will need to be available to escort people to the site or area so they can undertake their necessary surveys, but should not provide any additional information that would not be available to other bidders. All site visits should be at the costs and own risks of the bidder, and must be accompanied by MET staff.

5.5 Presentation of concession opportunity

It may be appropriate under some circumstances to require all parties who wish to bid to attend a conference during which the concession opportunity can be presented. This conference will provide all bidders the opportunity to discuss and obtain clarity on any issues in the process or documentation, and the detail on such conference should be provided in the RfP. After the conference the Concession Unit will prepare any changes to the documentation that appear to be necessary as the result of these consultations. Such changes must be submitted to the Concession Committee for approval, and thereafter all bidders must be notified formally of any changes. It is important that this occur some time before the tender process closes to allow bidders to accommodate changes and if necessary modify or reconsider their proposals. Accurate minutes of any such conference must be kept by the Concession Unit.

5.6 Submission of tenders

A two-envelope system will be used, whereby the technical proposal and the financial proposals should be submitted in separate, unmarked, sealed envelopes. Documents must be hand delivered at the specified point, where the envelopes will be numbered, placed in a sealed Tender Box, and a receipt of documents issued. Bids may be received at any date before the deadline announced in the Tender documents. Tenders received by the specified deadline must be registered by the Concession Unit.

5.7 Evaluation of tenders

The evaluation of bids should follow the two envelope system; the one being a technical evaluation (including empowerment and environmental considerations), while the second would be the financial evaluation (fees offered). The bids will be opened at the time, date and location indicated in the Tender documents. Initially, only the technical proposals will be opened, and bidders assessed according to a predetermined compliance checklist to ensure that all required documentation is present and accounted for. Technical bids must then be evaluated on a weighted point basis. It is recommended that the evaluation should be done on a pass-fail basis, with the total meeting a minimum point which would allow proceeding to the next phase (evaluation of financial proposals). Only the financial proposals cor-

responding to the bidders that comply and meet minimum requirements will be opened in order to complete the assessment.

Technical bids would be evaluated by the Concession Unit against the RfP according to a scoring system, with assessments of:

- whether or not the applicant is a Namibian citizen; or where the applicant is a company or close corporation, the extent to which the company or close corporation is owned and managed by Namibian citizens and formerly disadvantaged Namibians specifically, and the extent to which the offer will contribute to social and economic empowerment;
- the ability of the applicant to operate, or acquire the resources to operate the concession in a sustainable, efficient and profitable manner (including, where applicable, prior registration by the applicant to operate in tourism with the Namibia Tourism Board or to conduct hunting in terms of the Ordinance, and the track record of the applicant concerning such prior registrations and compliance with conditions of such registration);
- to what extent the offer will benefit communities resident in, or adjacent to parks, especially those negatively affected by the presence of the park, e.g. through their participation in operating concessions or through joint ventures with concessionaires;
- to what extent will resident people or neighbours be used to source products or services;
- the impact of the proposals on the environment, landscape, aesthetical qualities;
- financial viability, access or potential access to capital, comprehensiveness of the business plan, rates to be charged, expected occupancy, the marketing plan, and the projected income and expenditures over the lifespan of the concession. The finance plan should provide details on whether capital has been secured, how capital will be secured or proof of sufficient own resources;
- whether the company is compliant with affirmative action regulations.

These must all be assessed to ensure that the planning has been thorough and that the proposal is broadly workable. At this stage additional information or clarification can be requested from the bidder.

Once this stage of evaluation has been finalised, the successful bidders who passed the technical bid must be assessed on the financial offer. A Net Present Value (NPV) calculation will be done where a specific discount rate is used, to enable compari-

son amongst the projected cash flows of the different proposals and their comparative economic value to the State. The bidder with the highest NPV, after any adjustments for empowerment or other factors based on the relative weighting of such factors agreed by the Committee, will be recommended to be awarded the contract. If any problems emerge with this bid, then the second bidder would be drawn on and so on and so forth.

The outcome of the evaluation has to be compiled in a report and forwarded to the Concession Committee, who will consider the report, confirm or amend the evaluations, and thereafter forward its conclusions and recommendations to the Minister for final approval.

Once a bid has been accepted and a contract has been signed, those bidders which have failed will have their bid (including the unopened financial offer for those who failed the technical evaluation) returned to them with written reasons for their failure.

6. Auction process

6.1 Process and requirements

The RfP must indicate the qualifications to bid and specified documents that are required to be submitted before and after the auction, and these requirements may include, as applicable e.g.:

- The organisational structure of the bidding company, including any joint venture arrangements or cooperative ventures with other parties that would be involved in the proposal, and detail on the arrangements concerning such parties;
- Empowerment plan where appropriate (including information on capacity building or other forms of benefit sharing with a community or other empowerment beneficiary group).
- Compliance with affirmative action legislation where appropriate;
- A bid guarantee if required;
- A written undertaking by the bidder to ensure that any employees employed by the bidder for the purposes of performance in terms of the agreement that will be concluded should the bid be successful, are employed on terms and conditions not less favourable than those provided for in a collective agreement in that industry or those prevailing for similar work in the industry and the region in which the employees are employed, or, those prevailing in the nearest appropriate region, if similar work is not performed in the region (see section 136 of the *Labour Act (Act 4 of 2004)*);

- Certificate evidencing due registration with the Receiver of Revenue in respect of applicable taxes (noting that such a certificate, if not available already, could be submitted within the grace period);
- In the case of companies or close corporations, certified copies of the founding documents including the most recent documentary evidence concerning the directorship and current shareholding or member's interest, as the case may be (noting that such documents, if not available already, could be submitted within the grace period);
- A certificate from the Social Security Commission evidencing that the bidder is a registered employer and has paid all contributions due by him or her (noting that such a certificate, if not available already, could be submitted within the grace period);
- Any other documents required by the process;
- The requirement that all copies of certificates and other relevant documents should be duly certified; and
- Rules specified by MET concerning the auction and where appropriate, estimated values of the opportunity.

6.2 Public announcement and advertising

Once the Concession Committee has approved the documents, process and format, the concession opportunity or opportunities must be published 3 months in advance of the auction in national media, including at least 2 (two) newspapers in national circulation (and where appropriate, international media), as well as announcements over the radio, indicating where the RfP can be obtained. Information on any payment required for auction documents should be provided. Any amount payable should be pre-determined by the Concession Committee. Care should be taken with the timing and coverage of the advertising and announcement process, with the aim of ensuring that important investments and development opportunities are not missed through omission.

6.3 Site visit

It may be appropriate under some circumstances to require all parties who wish to bid to attend a site visit, and such requirements should be stated in the RfP. In such cases MET staff will need to be available to escort people to the site or area so they can undertake their necessary surveys, but should not provide any additional information that would not be available to other bidders. All site visits should be at the costs and own risks of the bidder, and must be accompanied by MET staff.

6.4 Submission of documentation

Interested parties which qualify for bidding as outlined in the RfP must provide documentary evidence substantiating their qualification in terms of the specifications outlined in the RfP. The specified documentation must be provided to the Concession Committee not less than two weeks before the announced date of the auction.

6.5 Registration of bidders

All auctions must make provision for a formal registration of potential bidders at least 2 hours prior to the auction time on the day of the auction. Duly authorised representatives of the above-mentioned qualifying bidders may also register.

6.6 Auctioning

Bids will be invited per concession, in numerical order, and in Namibia Dollars only.

7. Alternative procedures

Some concessions may require an alternative form of procurement, especially in cases where such concessions would not be exclusive or present comparatively small business opportunities or where the value of the concession opportunity would not justify that the full tender procedure be followed. In such instances, e.g. the offering of guided tourism in a park in a situation where there is no need to limit such an operation to one operator only, MET will identify the opportunity, establish requirements, specifications, fees, and invite applications. Anyone who is able to satisfy these conditions could be awarded the concessions on a first-come first-served basis.

An alternative form of the tender process may occasionally be justified, for example in cases where strong competition for a concession is anticipated. This alternative form consists of a request for qualifications prior to the standard RfP tender process.

8. Unsolicited proposals

MET is under no obligation to consider any unsolicited proposal. The preferred process for solicitation will be a public invitation by the MET, open to all qualifying entities, and will be competitive, as outlined above. This process will not only help to ensure a transparent, objective and fair process, but will promote confidence in a fair market value for all parties. Unsolicited proposals will only be considered if they match the concession opportunities identified through this framework. In normal circumstances, the author of the proposal will be advised to respond when the MET invites concession proposals. If, however, the unsolicited proposal contains 'intellectual property' (e.g. an innovation or novel design or development concept) that the MET would like to incorporate in

its invitation), one of two approaches will be followed.

In the first, a two-step process will be initiated. First a RfP will be publicly advertised. If no other interest is received, then an evaluation of the value of the concession must be made, and negotiated with the proponent. If a mutually acceptable value is reached, the concession may be awarded to the proponent. If other proposals are received, then the MET will initiate an open competitive tender process with special provision that the unsolicited proponent will have the right to match the winning bid (technically and financially) in the event that the unsolicited proponent did not win the bid outright. This provision will recognise the use of the 'intellectual property' of the original proponent.

In the second, for unique and highly innovative proposals, the Minister may grant exclusive operating rights to the proponent for a limited period, and thereafter make such rights available through public competition.

9. Contract development and management

In all awards of a concession, a comprehensive contract is to be concluded between the beneficiary and the Minister.

9.1 Drafting a concession contract

After the evaluation process, in the case of tendering, the Concession Committee makes a recommendation to the Minister for approval. The next steps are to inform the successful bidder and finalize the contract in consultation with the Office of the Attorney General. When a grace period has been granted, a letter to the successful bidder indicating such will be provided, to facilitate the process of preparing to comply with all requirements. Once the grace period lapses, and provided that the successful bidder comply with all requirements, the contract should be signed.

If auctioning is applied as a way to grant concessions, a short grace period may be granted to allow the successful bidder to provide the documentation as stipulated by the RfP. The same applies for auctioning as for tendering, once the grace period lapses and the successful bidder complies with the requirement, the contract should be signed.

In the case of a direct award of a concession, the concession contract should be discussed with the beneficiary and thereafter signed within a specified period.

The concession contract must be drafted using as far as possible a standard template, including appropriate annexes such as environmental and social parameters (see Annex 3), the bidders proposal

etc. The contract should contain the following provisions as common terms. The terms will vary from each concession and the items below should be seen as a guide only:

Purpose and Description of the concession: Explain the intention of the parties and a general description of the project.

Definitions and Interpretations: includes all defined terms used in the contract and issues that need clarification.

Rights of the Concessionaire: The rights (activities and usage) given to the concessionaire are stipulated in this section (e.g. exclusive or non-exclusive, type of activities, the rights to sublease or not, etc.). The agreement must deal explicitly with the nature of the rights acquired by the concessionaire in respect of the concession area.

Rights of the Ministry: MET will still have the control authority in the concession areas and thus retain certain rights in the area. The section should indicate those rights (e.g. enter the area at any time, carry out studies to determine the impacts, monitor compliance with the contract, right to terminate the contract in case of breach etc.).

Rights of third parties: The Ministry of Lands and Resettlement or the Communal Land Board might wish to impose specific conditions or requirements on the use of such land, such as e.g. that leaseholds be registered. It also might be necessary to register any such rights acquired with the Communal Land Board.

Concession area: The contract should provide a legal description of the defined area (e.g. as demarcated on map, as gazetted, as defined by GPS waypoints, etc.).

Duration of the agreement: This section of the agreement should specify the starting and ending dates and what will happen at the end of the concession period; whether the Concessionaire will be given the option to renew, in which case the fees and the conditions be renegotiated or the concession may be re-awarded. (The following aspects could determine the duration of the agreement: the level of investment; the expected economic life of the development; debt service period, or compliance with any restriction imposed by the Minister of Lands or the relevant Communal Land Board). The concession contract should clearly state that MET is not responsible for any actions transacted beyond the timeframe of the concession by the concession holder.

Concession fees: The contract should contain a clear statement of all required fees, the manner, timing and place of payment.

Duties and obligations of the Concessionaire: The obligations of the concessionaire should be clearly stipulated in this section (e.g. operational and management responsibilities; performance obligations; empowerment; environmental management; auditing; transfer of improvements and property; insurance and liabilities; etc.).

Duties and obligations of the Ministry: In the execution of the agreement the MET will also have some obligations which should be clearly spelled out to prevent any misunderstanding (e.g. control over conservation, ensure that no tourism and conflicting land uses occurs, etc.).

Ownership of permanent infrastructure: It should be clearly stipulated that all permanent infrastructure erected by the Concessionaire in a park or on other State land will become the property of the State on termination of the concession. If permanent infrastructure is erected on communal land, it should be stipulated whether at termination a new concession will be granted to a community who will take over the running of the tourism enterprise in the concession area or whether the permanent infrastructure is transferred to the community.

Agreements with third parties and the transfer of ownership or management to a third party by the Concessionaire: a clear statement is required that the approval of the Minister would be required concerning third party agreements or the transfer of ownership or management to a third party. Copies of such agreements (including joint-venture agreements) should be provided.

Termination: This part of the agreement should deal with conditions of the termination of the agreement, in other words how the agreement can be ended before the expiration date and the conditions attached to termination. Such conditions should include the eventuality that a partner is used to qualify for and obtain the concession, but thereafter plays no further part in the operations of the concession.

Breach: This section should make provision for the cancellation of the agreement if parties fail to comply with conditions as set out in the contract and the process that has to be followed in such a case.

Miscellaneous Provisions

Liaison between Parties: The agreement should specify the mechanisms of communication between the parties.

Performance guarantee: The agreement should make provision for the inclusion of a guarantee of performance based on what was projected in the tender offer.

Indemnity: The agreement should contain a disclaimer that MET can not be held liable for any natural, political or economic event or impact in the concession area or damage to or destruction of improvements. The indemnity should also be extended to any injury sustained from whatsoever cause whilst the concessionaire, its employees or agents and or the guests or visitors are in the area. Such a provision should also require the concessionaire to indemnify the Government (including its employees, agents, etc.) against any claim from a third party regarding the activities of the concessionaire in the area.

Jurisdiction and dispute resolution: The agreement should specify procedures to be followed when a dispute arises.

Amendments and indulgence: The agreement should specify that all variations, amendments, additions and relaxations shall only be binding if in writing and signed by both parties.

Force majeure: The agreement should make provision for the consequence of force majeure.

Reporting requirements: Specify the nature (e.g. number of tourists accommodated, number of animals hunted) and frequency of reports, if any, which MET would require to be submitted by the Concessionaire.

Notices: This section should indicate that all correspondence should be in writing in English and the means of delivery. The addresses of the parties should be specified.

Entire agreement: Refer to the attachments and the representation thereof to the entire agreement and serve as proof of the processes followed and commitments made (e.g. tender or auction procurement documents, tender submitted, minutes of meeting between tenderer and MET, management plan, etc.).

No representations: A provision should be included which confirms that the concessionaire has freely entered into the agreement and that no representations of any form were made which induced him/her/it into concluding the agreement.

Warranties: It may be advisable to include certain specific warranties by the concessionaire, including that all information provided during the tendering

process and in support of the bid is accurate. Similarly, the signatories of the agreement should warrant that they have the appropriate authority to enter into the agreement on behalf of the concessionaire. This is particularly appropriate where the concessionaire is a company or close corporation. In the latter instances (i.e. a company or close corporation), it may also be prudent to require that a company /members resolution approving the entering into of the agreement, be submitted.

Incorporation by reference: It may be desirable to incorporate certain submissions made by the bidder into the agreement by reference. Same should be clearly and properly identified and should ideally be appended as annexes to the final agreement.

9.2 Treasury authorization

MET should obtain all necessary Treasury approvals for receipt of revenue in accordance with the *State Finance Act, 1991 (Act 31 of 1991)*, after each contract has been negotiated and signed. In some instances, MET may propose to direct all or part of concession revenues through other funding mechanisms than the Central Revenue Fund (e.g. Game Products Trust Fund or Environmental Investment Fund) to enable MET to cover certain costs associated with the protected area and concession management and monitoring.

9.3 Contract management

Awarding the contract brings the RfP process to an end and initiates the contract management phase. Specific components of MET should be designated to monitor compliance and performance of concession agreements, evaluate reporting required from the Concessionaire and report results to the Concession Unit. This must become one of the duties of such staff, and appropriate training should be provided. In addition to reviewing reports from park level, the Concession Unit has to establish measures to monitor the payment of fees, issue notifications required under agreements, and meeting MET obligations under agreements. These measures include establishing a single pay point for the payment of concession fees, and allocating a reference number for each concession that will be reflected on receipts. Periodic reporting to the Concession Committee is required.

In the case of non-compliance with the contract, stipulations in the contract concerning the breach of contract have to be implemented in consultation with the Office of the Attorney General.

ANNEX 3

Environmental and development checklist





ANNEX 3: Environmental and development checklist

<p>Design and construction parameters</p>	
<p>Visual impact</p>	<ul style="list-style-type: none"> • Requirements for particular architectural style, building materials etc. to reduce visual impact should be included in the initial documentation. This should take into account potential future users of the area. • Visual impact of support services should also be considered.
<p>Construction Activities</p>	<p>Site definition</p> <ul style="list-style-type: none"> • The site for development must be clearly defined so the assessment can be made within this area. • During construction the site must be well marked, possibly by pegging, so that the limits are clearly understood by all. <p>Environmental management plan</p> <ul style="list-style-type: none"> • In the case of new developments an environmental scoping should be carried out prior to the concession being granted. Following the initial acceptance of a proposal, an environmental screening should be conducted, and thereafter if necessary a full environmental impact assessment should be carried out, and this should lead to an environmental management plan (EMP), which will incorporate the issues in this checklist. • An Environmental Control Officer (ECO) should be appointed to oversee developments and ensure compliance with the EIA and EMP. <p>Issues during construction</p> <ul style="list-style-type: none"> • The EMP should clearly detail what level of disturbance to surrounding areas is permitted and what may be removed or altered (e.g. large trees etc). • Penalties should be determined for violations of the EMP, including off-site impacts and trees or features that may be defaced or destroyed. Irreplaceable and/or critical features must be clearly marked. • The EMP should specify how construction workers are to be accommodated, and what ablution facilities and other waste management are to be allowed. • Give guidelines on use of resources, especially local building supplies. If this is permitted it should be spelt out how such use should be carried out and regulated and whether there should be any fee for it. • There may need to be restrictions on the maximum size of vehicle used for construction, and access to the park may need to be restricted to certain times, for control purposes and to reduce impact on other users. • It is possible that there may be chance cultural, historical and/or archaeological finds. A procedure for dealing with these should be detailed in advance.
<p>Buildings and structures</p>	<ul style="list-style-type: none"> • In the case of concessions where there are existing buildings it must be specified what changes to them would be permitted and whether a deposit or guarantee is required before structures are

	<p>damaged, altered or removed.</p> <ul style="list-style-type: none"> • There may be existing 'immovable' assets (pumps, borehole equipment, etc) that fall within the concession area. It should be specified what will happen to these, what use may be permitted, who will maintain them and in what condition they must be in at the end of the concession agreement if the concessionaire uses them. • If new structures are to be erected, there may be some restrictions on the types of buildings allowed, including their location within the concession areas. • It should be made clear whether fixed structures will be permitted or only temporary structures, and if so how this is defined. Depending on the circumstances and sensitivity of the area it may be necessary to be specific on guidelines such as area, style, height, building material, colour, number of guests and staff, services etc. These are often highly subjective issues, but they must be limited firstly by environmental and cultural factors (water, sewerage, habitat etc) but also on the visitor carrying capacity for the park and the market niche to be catered for. These issues must be broadly defined in the management plan.
Roads and Tracks	<ul style="list-style-type: none"> • A concession, particularly one covering a substantial area, is likely to require roads and tracks. The road network must reflect the type of product offered and the expected visitor usage. Some of these will be pre-existing, while others may need to be developed. It must be clear who is responsible for maintaining these roads, and if new roads may be constructed, how these will be approved and what type is permitted (single track or built up road). These should all require an EIA that must address the location and the sourcing of any building material from quarries. • The cost implications to the MET must be considered if the MET is to maintain the road network since this cost may escalate with increasing usage. • It should be specified whether 'off-road driving' may be permitted and if so under what circumstances.
Support infrastructure	
Electricity/energy	<ul style="list-style-type: none"> • Depending on the site, it may be necessary to impose limitations on the type of energy source which may be used and on reticulation to and on the site (for instance whether this can be overhead or should be underground). This will be dependent on noise, air and fuel pollution from diesel or other power generation systems, the visual impact of the power supply and the costs of these systems. It must be clear who will pay for the power supply.
Water	<ul style="list-style-type: none"> • Water is often a major limiting factor in any development and although the risks for finding and supplying this must rest with the concessionaire, the MET should conduct an initial feasibility study to ensure that water is present and is likely to meet the specifications expected for the site. MET must define what may be used by the concessionaire, both in terms of the quantity and source. If information is available on water quality and quantity, this should be supplied, but the concessionaire should conduct tests to verify this before investing. • It should be defined who carries the risk if water dries up or quality deteriorates. • Meters may need to be fitted, and if so it should be specified at whose cost this will be done, who will read them and what penalties will be applied for overuse. • If water resources are to be shared with other users, this will need

	to be specified, and agreement sought with the other users.
Communications	<ul style="list-style-type: none"> Type of communications systems allowed and standards required for safety. Use of overhead lines, masts and towers.
Waste Management	
Liquid waste and by products	<ul style="list-style-type: none"> Standards may need to be applied for disposal of sewage and wastewater. These will be dependent on the sensitivity of the area, availability of water, and possibility of ground water contamination. Specific conditions may be applied to storage of liquid fuels/solvents/cleaning materials, and there may be limits on type or quantity or storage and containment structures. Conditions should be established for the use of toxic products, including a list of any banned and how will they be handled and managed on the site and transported. Indicate whether there is a policy regarding the use of environment friendly products.
Solid Waste	<ul style="list-style-type: none"> System for disposal of solid waste. Policy over reduction at source, recycling and sorting. Storage prior to removal, including specifications and how long it may be stored before it is disposed of in an appropriate site. Transport of waste. Permitted types of containers and preferred route.
Air emissions	<ul style="list-style-type: none"> Permission for use of incinerators and standards to be applied.
Environmental Parameters	
Carrying capacity	<ul style="list-style-type: none"> Number of guests and staff permitted to use the area. Determination of carrying capacity is often highly subjective, if it is not clearly defined by environmental constraints. Other users. If they increase as a result of the added marketing and awareness, can the park infrastructure and management accommodate this additional use?
Fauna and flora	<ul style="list-style-type: none"> If there are any rare, endangered or endemic species or habitats that require special attention, conditions to safeguard these organisms or habitats may be required. Policy with regard to introductions of additional species, and/or removal of existing exotics. Water holes and feeding of animals/birds. Is this permitted in any form and if so what are the special conditions which may apply? The general policy regarding water for game in the park should be addressed in the management plan. Responsibility for dealing with problem animals, especially those presenting a risk to visitors, should be specified. If capture, culling or hunting of wildlife may be carried out in the area it is important to bring this to the attention of the concessionaire and include it in the contract.
Footpaths and trails	<ul style="list-style-type: none"> Who will provide these and to what standard? Who will provide and maintain these and to what standard? Who will be responsible for erosion control?
Landscaping and gardening	<ul style="list-style-type: none"> Species not permitted and any restrictions in this regard.

	<ul style="list-style-type: none"> • Specific issues relating to landscaping (water features etc). • Use of pesticides, herbicides and fertilizers.
Permitted Activities	<ul style="list-style-type: none"> • Provide a list of permitted activities with definite restrictions if necessary, for example, no off-road driving on gravel plains, protocol for driving in sand sea, rivers and on coast. • Detail what may be done, such as hunting, fishing, walking, aircraft safaris etc.
Disabled access	<ul style="list-style-type: none"> • Requirements to make some or all facilities available for disabled access.
Archaeological/cultural and historical	<ul style="list-style-type: none"> • Known sites which require special treatment. • Policy if chance find is encountered. • Any relevant legislation to be brought to the attention of the concessionaire.
Management issues	
Access and exclusivity	<ul style="list-style-type: none"> • Regulation and control over access to the park and the site. • Will the concessionaire be the only user of the area or will others also have access and use, possibly during concession period? • Will the general public be allowed access to the area or will all other visitors be excluded? Specify how the regulatory aspects will be dealt with regarding access by the public / visitors / tourists to the areas.
Gates	<ul style="list-style-type: none"> • Responsibility for control of gates. • Responsibility of concessionaire for dealing with trespassers in area.
Signage	<ul style="list-style-type: none"> • How will the concessionaire provide directions to the site? • Restrictions on type, colour, logos of signage.
Domestic Stock	<ul style="list-style-type: none"> • Domestic stock, such as horses, elephants or camels for visitor use. • If so any restrictions on enclosures, feeding, importing feed into the Park and removal of waste should be specified.
Fire	<ul style="list-style-type: none"> • Is fire management likely to impact on the concessionaire? • Precautions to be taken by the concessionaire. • Policy on combating wildfires in the Park. • Measure for protecting property and life, including firebreaks, and responsibility for maintenance. • The need for insurance of buildings. • Will the concessionaire be provided with alternative areas if their entire concession area is burnt in a single season?
Aircraft and airstrips	<ul style="list-style-type: none"> • Are these permitted? If so under what conditions? • Construction of strip, approach and take-off, other tourist interference, aerial safaris. • Special species in flight paths.
Resource use	<ul style="list-style-type: none"> • May local materials be used for any purpose? If so under what conditions and restrictions, and is any payment required? • Is hunting or fishing allowed? Does it take place in the park currently? Are other users permitted to undertake these activities? • Will they impact on the concessionaire?

<p>Guest activities, staff safety and accommodation</p>	<ul style="list-style-type: none"> • Emergency procedures, including any special conditions people must be made aware of (heat, dehydration, dangerous game etc). • Staff accommodation, location and standards. Special protection measures such as fencing. • Requirement for concessionaire to enforce park rules on guests and staff. • Any guiding standards or qualifications required, minimum requirements for vehicles or buildings to meet special requirements etc.
<p>Marketing</p>	<ul style="list-style-type: none"> • Can logos and reserve names be used in marketing? • Joint marketing of reserve and product.
<p>Supervision and monitoring</p>	<ul style="list-style-type: none"> • Who will do this, and who is responsible for what? • Are regular meetings required? • How will concessionaire be managed? • If there are other concessionaires it may be useful to create a forum to agree jointly on operations? • Code of conduct and site development manual.
<p>General compliance with responsible tourism development</p>	<ul style="list-style-type: none"> • Has the proposal taken sufficient account of the following elements: <ul style="list-style-type: none"> - Avoid waste and over-consumption; - Use local resources sustainably; - Maintain and encourage natural, economic, social and cultural diversity; - Be sensitive to the host culture; - Involve the local community in planning and decision-making ; - Assess environmental, social and economic impacts as a prerequisite to developing tourism; - Ensure communities are involved in and benefit from tourism; - Market tourism that is responsible, respecting local, natural and cultural environments; - Monitoring impacts of tourism and ensure open disclosure of information; - Safety and security of employees and clients.

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