

23 March 2026

TO: **Department of Forestry, Fisheries and the Environment**  
**Director-General**  
**Ms Olga Kumalo** cites@dfpe.gov.za

FROM: **The Biodiversity Law Centre** kate@biodiversitylaw.org  
lara@biodiversitylaw.org  
andre@biodiversitylaw.org

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Dear Olga Kumalo

**RE: CONSULTATION ON THE INTENTION TO SET AND ALLOCATE THE 2026 AND 2027 CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES) EXPORT QUOTAS FOR ELEPHANT, BLACK RHINOCEROS AND LEOPARD HUNTING TROPHIES**

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## INTRODUCTION

1. Thank you for the opportunity to comment on the proposed Convention on International Trade in Endangered Species of Wild Fauna and Flora (“**CITES**”) export quotas for elephant, black rhinoceros and leopard hunting trophies, published for comment on 6 February 2026 in Government Gazette 54098 under Government Notice 7106 and on 23 February 2026 in The Citizen newspaper (the “**Hunting Trophies Export Quotas**”) by the Department of Forestry, Fisheries and the Environment (“**DFFE**”) in terms of the National Environmental Management: Biodiversity Act 10 of 2004 (“**NEMBA**”). A public comment deadline of 30 days from the date of publication has been set for written representations or objections on the setting and allocation of export quotas for elephant (*Loxodonta africana*), black rhinoceros (*Diceros bicornis*) and leopard (*Panthera pardus*) hunting trophies for the 2026 and 2027 calendar years.<sup>1</sup>
2. These comments are submitted by the Biodiversity Law Centre (“**BLC**”), a non-profit law centre that uses the law to protect and restore indigenous species and ecosystems that support sustainable livelihoods in Southern Africa. The BLC is particularly concerned with law and policy that give effect to section 24 of the Constitution, and the State’s obligations to protect the environment for present and future generations, by preventing pollution and ecological degradation, promoting conservation, and securing ecologically sustainable development.
3. At the outset, the BLC submits that the proposed Hunting Trophies Export Quotas are invalid on both procedural and substantive grounds. Procedurally, The Quotas are not supported by the legally required non-detriment findings in a manner that was accessible at the time of their publication, rely on outdated and inaccessible information, and fail to enable meaningful public participation. Substantively, the Quotas do not advance the protection of the environment or ecologically sustainable development. As a result, they constitute procedurally unfair and irrational administrative action under the Promotion of Administrative Justice Act 3 of 2000 (“**PAJA**”), and fall short of the State’s obligations under section 24 of the Constitution and NEMBA.
4. These defects must be understood within the broader legal framework governing biodiversity conservation in South Africa, informed by the State’s domestic and international obligations to protect biodiversity.

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<sup>1</sup> Public Notice: Consultation on the intention to set and allocate the 2026 and 2027 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Export Quotas for Elephant, Black Rhinoceros and Leopard Hunting Trophies, published in The Citizen newspaper on 23 February 2026: “Members of the public are invited to submit, within 30 days from the of the publication of this notice or the Notice in the Government Gazette, whichever is the later date of publication, written representations or objections on the setting and allocation of the quota for export of elephant (*Loxodonta africana*), black rhinoceros (*Diceros bicornis*) and leopard (*Panthera pardus*) hunting trophies for 2026 and 2027 calendar years...”

## SOUTH AFRICA'S DOMESTIC AND INTERNATIONAL OBLIGATIONS TO PROTECT BIODIVERSITY

5. The BLC's particular interest in biodiversity arises as South Africa is the third most biodiverse country in the world.<sup>2</sup> Biodiversity is defined as-

*'the variability among living organisms from all sources including...aquatic ecosystems and the ecological complexes of which they are part',<sup>3</sup> and is-*

*'foundational to the wellbeing of [South Africa's] people giv[ing] our people food, clean water, medicine and materials; support[ing] agriculture and fisheries; offer[ing] resilience against disasters; and provid[ing] the basis of a vibrant tourism industry while offering natural spaces for recreational and cultural activities.'<sup>4</sup>*

6. Biodiversity is also essential for climate change adaptation and mitigation.<sup>5</sup>
7. Under the Convention on Biological Diversity ("CBD"),<sup>6</sup> Parties, including South Africa, adopted the Kunming-Montreal Global Biodiversity Framework ("GBF")<sup>7</sup> in response to biodiversity deteriorating worldwide at unprecedented rates,<sup>8</sup> with the aim of galvanising urgent and transformative government action to halt and reverse biodiversity loss.<sup>9</sup>
8. The GBF sets interim targets to be reached by Parties by 2030:
- 8.1. Target 2, restore 30% of all degraded ecosystems;
  - 8.2. Target 4, seeks to halt species extinction, protect genetic diversity, and manage human-wildlife conflicts by *'ensur[ing] urgent management actions to halt human induced extinction of known threatened species and for the recovery and conservation of species, in particular threatened species, to significantly reduce extinction risk'*;
  - 8.3. Target 5, which aims to ensure the use, harvesting and trade of wild species is sustainable, safe and legal, preventing overexploitation;
  - 8.4. Target 14, which seeks to integrate biodiversity in decision-making at every level;

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<sup>2</sup> <https://www.biofin.org/south-africa>.

<sup>3</sup> National Environmental Management: Biodiversity Act 10 of 2004 ("NEMBA") section 1(1) definition of "biodiversity".

<sup>4</sup> South African National Biodiversity Institute (SANBI). 2025. National Biodiversity Assessment 2025: The status of South Africa's biodiversity. Summary of Findings and Key Messages. Skowno, A.L., Poole, C.J., Besseling, N.A., Currie, J.C., Da Silva, J.M., Dayaram, A., Harris, L.R., Job, N., Monyeki, M.S., Mtshali, H., Raimondo, D.C., Sink, K.J., Van der Bank, M.G., Van der Colff, D., Van Niekerk, L., Von Staden, L. South African National Biodiversity Institute (an entity of the Department of Forestry, Fisheries and the Environment), Pretoria. <https://hdl.handle.net/20.500.12143/9467> ("2025 NBA").

<sup>5</sup> 2025 NBA at page 5.

<sup>6</sup> United Nations. (1992). Convention on Biological Diversity. <https://www.cbd.int/convention/text/>.

<sup>7</sup> Kunming-Montreal Global Biodiversity Framework UN Doc UNEP/CBD/COP/DEC/15/4 (2022).

<sup>8</sup> GBF at section A 2.

<sup>9</sup> GBF at section B 4. Among the GBF's goals for 2050 are:

Goal A: "Protect and restore", which includes that 'the integrity, connectivity and resilience of all ecosystems are maintained, enhanced, or restored, substantially increasing the area of natural ecosystems by 2050'.

Goal B: "Prosper with nature", being that 'biodiversity is sustainably used and managed and nature's contributions to people, including ecosystem functions and services, are valued, maintained and enhanced, with those currently in decline being restored, supporting the achievement of sustainable development for the benefit of present and future generations by 2050'.

- 8.5. Target 21, which seeks to ensure that the best available data, information and knowledge are accessible to decision makers, practitioners and the public to guide effective and equitable governance, integrated and participatory management of biodiversity.
9. The National Environmental Management Act 107 of 1998 (“**NEMA**”) requires international responsibilities relating to the environment to be discharged in the national interest,<sup>10</sup> bolstering the CBD and GBF’s obligations on the State to protect ecosystems and the biodiversity they support.
  10. South Africa further has specific international and domestic obligations in terms of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (“**CITES**”) to regulate the international trade in endangered wild fauna and flora, with the NEMBA CITES Regulations (“**CITES Regulations**”) confirming its domestic application and enforcement. CITES specifically recognises that wild fauna and flora are an irreplaceable part of natural ecosystems and which must be protected for current and future generations.
  11. In terms of Article II of CITES, endangered species of wild flora and fauna are classified as Appendix I, II, or III species, with each classification bearing differing legal requirements and obligations. Black rhino (*Diceros bicornis*) and leopard (*Panthera pardus*) are currently listed as Appendix I species, the highest and strictest listing in terms of CITES, which are species that are threatened with extinction which are or may be affected by trade.<sup>11</sup>
  12. South Africa’s population of African elephant (*Loxodonta africana*) is listed as an Appendix II species, subject to annotation A10.<sup>12</sup> Appendix II are those species which may become endangered as a result of unregulated international trade.<sup>13</sup>
  13. Regulation 3 of the CITES Regulations establishes the Minister as the management authority for all CITES activities, whilst Regulation 4 of the CITES Regulations establishes the scientific authority to advise the Minister on all CITES activities. The South African National Biodiversity Institute (“**SANBI**”) has been established as the scientific authority in terms of section 60 of NEMBA.<sup>14</sup>
  14. As an implication of their CITES listings, all species listed in the Hunting Trophies Export Quotas either are, or may become, threatened with extinction. Accordingly, principles such as the precautionary principle and prevention principles must be applied to the Hunting Trophies Export Quotas under consideration, to realise ecologically sustainable development.<sup>15</sup> The precautionary principle provides that where there is a possibility for environmental harm, decision-makers must apply a cautious approach and implement protective and preventative measures before the anticipated harm materialises.<sup>16</sup>
  15. It is in this context that our comments are particularly aimed at addressing biodiversity concerns that arise from the proposed Hunting Trophies Export Quotas. As such our comments are structured as follows:

#### 15.1. General comments:

##### 15.1.1. Unconstitutional nature of the Hunting Trophies Export Quotas

<sup>10</sup> NEMA section 2(4)(n).

<sup>11</sup> CITES Article II.

<sup>12</sup> CITES Appendices I, II, and III.

<sup>13</sup> CITES Article II.

<sup>14</sup> <https://www.sanbi.org/biodiversity/science-into-policy-action/scientific-authority/#:~:text=The%20Scientific%20Authority%20has%20been,of%20TOPS%2D%20and%20CITES%2Dlisted%20species.>

<sup>15</sup> NEMA Sections 2(4)(a)(vi) and (vii).

<sup>16</sup> *African Centre for Biodiversity NPC v Minister of Agriculture, Forestry and Fisheries and Others* (2025) SCA.

15.1.1.1. The Hunting Quotas fail to fulfil right to have the environment protected environment as set out under section 24(b) of the Constitution.

15.1.1.2. Intrinsic value of animals

15.1.2. The publication of the Hunting Trophies Export Quotas as they stand amount to unlawful administrative action and therefore infringe upon section 33 of the Constitution.

15.1.3. The publication of the Hunting Trophies Export Quotas as they stand further lack access to information to allow for meaningful public participation and the opportunity for the public to submit meaningful responses or objections.

15.1.4. The publication of the Hunting Trophies Export Quotas as they stand further lack sufficient information to allow for meaningful public participation and the opportunity for the public to submit meaningful responses or objections

15.1.5. The Hunting Trophies Export Quotas fail to consider the relevant regulations published under NEMBA.

15.2. Specific comments

15.2.1. African elephant (*Loxodonta africana*)

15.2.2. Black rhinoceros (*Diceros bicornis*)

15.2.3. Leopard (*Panthera pardus*)

15.3. Conclusions and recommendations.

16. Overall, BLC submits that both the consultation process on the DFFE's proposed 2026/2027 Hunting Quotas quota and the quotas themselves are invalid and stand to be set aside on the grounds that they contravene the Constitution, NEMBA and its regulations, and the Promotion of Administrative Justice Act 3 of 2000 ("PAJA").

17. We therefore request that these and other concerns be carefully considered.

## **GENERAL COMMENTS**

18. The BLC's comments focus on the constitutionality of the proposed Hunting Trophies Export Quotas and how the quotas as they stand contravene the section 24 environmental right as contained in the Bill of Rights.

19. In addition to the above, we discuss in detail comments and objections to the proposed Hunting Trophies Export Quotas in respect of each identified species, namely elephant (*Loxodonta africana*), black rhinoceros (*Diceros bicornis*) and leopard (*Panthera pardus*).

## **A. Constitutional right to have the environment protected**

20. From the outset, the BLC objects to Hunting Trophies Export Quotas as unconstitutional, for the reasons set out below.

### **The Hunting Quotas fail to fulfil the right to have the environment protected as set out under section 24(b) of the Constitution**

21. Section 24(b) of the Constitution recognises that the environment must be protected through reasonable measures that must:

21.1. Prevent pollution;

21.2. Prevent ecological degradation;

21.3. Promote conservation; and

21.4. Secure ecologically sustainable development and use of natural resources *while* promoting justifiable economic and social development.<sup>17</sup>

22. It is clear from a plain reading of section 24(b) that:

22.1. Any development and use of natural resources must be ecologically sustainable; and

22.2. The social and economic development thus achieved must be justifiable.

23. The provisions of section 24(b)(iii) of the Constitution are only capable of one interpretation, and that is one that requires the maintenance and conservation of the environment and its natural resources. It does not enshrine the right to pursue extractive and unsustainable practices as long as some form of socio-economic development/benefit is obtained. Accordingly, the correct interpretation to be provided to section 24(b)(iii) of the Constitution is one which obliges the standard of ecological sustainability to be applied in a cross-cutting manner.

24. Due to the simultaneous obligation to balance the securing of ecologically sustainable (i) development and (ii) use of natural resources, with the justifiable economic and social development, it becomes apparent that economic and social development must not only be justifiable (i.e., lawful) but must also be ecologically sustainable.

25. The Constitutional Court has previously provided in *Fuel Retailers Association of Southern Africa v Director-General: Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province and Others*:<sup>18</sup> “The importance of the protection of the environment cannot be gainsaid. Its protection is vital to the enjoyment of the other rights contained in the Bill of Rights; indeed, it is vital to life itself. It must therefore be protected for the benefit of present and future generations.”

26. In relation to the Hunting Trophies Export Quotas, it is entirely unclear how issuing the Quotas will in any manner serve environmental protection, as required by section 24(b), and certainly no information has been provided in this regard. Indeed, it is largely inconceivable that extracting individuals of the

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<sup>17</sup> Constitution Sections 24(2)(ii) and (iii).

<sup>18</sup> 2007 (6) SA 4 (CC).

species listed, given their status on CITES as being threatened with extinction or becoming endangered, could facilitate protection of the environment.

27. Where the rights contained in section 24 are constructed by interpreting 'benefits for present generations' only as profits or revenue to a few individuals or businesses, and due regard is not given to protecting the environment at the more fundamental levels of preventing pollution, ecological degradation and promoting conservation, then the development and use of natural resources is not ecologically sustainable and thus not protected by section 24.
28. Our courts have held that the Section 24 environmental right is a justiciable right, with environmental considerations requiring appropriate recognition in administrative processes in South Africa, and that an integrated approach be adopted to protect the environment cognisant of social, economic, and cultural considerations.<sup>19</sup>
29. Furthermore, the development and use of natural resources must be justified by the resulting social and economic development. The extraction of profits is not social development per se and may not even constitute economic development, depending on the purpose to which the monies so derived are put.
30. If the environment is to be used and developed, in addition to being ecologically sustainable, the consequences of such use must be more than the accumulation of monetary capital – they must constitute social and economic development.
31. The Hunting Trophies Export Quotas have not illustrated how social and cultural considerations have been factored into the proposed trophy hunting quotas. Furthermore, no submissions have been made in the Hunting Trophies Export Quotas as to how the trophy hunting activities itself, and the funds generated therefrom, will promote conservation and secure ecologically sustainable development, and therefore these are not reasonable measures to promote conservation and secure ecologically sustainable development.
32. Accordingly, the BLC submits that the Hunting Trophies Export Quotas fail to fulfil the requirement in section 24 to protect the environment for the benefit of present and future generations and are thus unconstitutional.

### **Intrinsic value of animals**

33. The Constitutional Court has further held that the "rationale behind protecting animal welfare has shifted from merely safeguarding the moral status of humans to placing intrinsic value on animals as individuals". The Court has stated that "animal welfare is connected to the environmental right to have the environment protected...", and that "showing respect and concern for individual animals reinforces broader environmental protection efforts". The Constitutional Court explicitly recognised the interconnected nature of animal welfare and animal conservation in its interpretation of the section 24 right to have the environment protected through legislative and other means.<sup>20</sup>

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<sup>19</sup> *Director: Mineral Development, Gauteng Region v Save the Vaal Environment* (1999) SCA 719C; *BP SA (Pty) Ltd v MEC, ACE and Land Affairs* (2004) HC paras 142C, 144D, and 144H.

<sup>20</sup> *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* (2016) CC. The approach adopted by the Court in this case has been termed the "integrative approach" in relation to Section 24 and was put forward by Professor David Bilchitz. See: D Bilchitz, 'Exploring the Relationship Between the Environmental Right in the South African Constitution and the Protection of Animals' Interests' (2017) South African Law Journal 134 740-777.

34. In linking (individual) animal welfare to South Africa's environmental right, including that animal welfare is not secondary or subsidiary to conservation, but in fact that "Animal welfare and animal conservation together reflect two intertwined values", the court signaled a redirection away from serving human-based interests only instead of a balanced benefit to both humans and wildlife, including future generations as laid out in section 24.
35. No information has been provided in the Hunting Trophies Export Quotas which demonstrates that animal welfare and conservation were taken into account in the determination of the Quotas. That welfare considerations must be considered when making a decision on quotas is settled law.<sup>21</sup> The glaring omission to provide such information in relation to the Quotas under consideration renders the Quotas not only unconstitutional, but unlawful administrative action under the Promotion of Administrative Justice Act 3 of 2000 ("PAJA").
36. Furthermore, the National Environmental Management Laws Amendment Act 2 of 2022 ("NEMLAA") amended NEMBA to include section 9A, which provides that the Minister may prohibit any activity that may negatively impact on the wellbeing of an animal, such as the hunting of key species for the purpose of trophies. The well-being of an animal is defined as: "the holistic circumstances and conditions of an animal, which are conducive to its physical, physiological and mental health and quality of life, including the ability to cope with its environment."<sup>22</sup> The Hunting Trophies Export Quotas do not account for the holistic well-being of the animals subjected thereto.

## B. Invalid Administrative Action

37. The publication of the Hunting Trophies Export Quotas as they stand amount to unlawful administrative action. On numerous occasions the Hunting Trophies Export Quotas infringe on section 33 of the Constitution, and will amount to reviewable administrative action based on the grounds set out in section 6(2) of PAJA:
  - 37.1. *Failure to take into account relevant considerations*: For example, the Hunting Trophies Export Quotas largely rely on outdated information and irrelevant information which would constitute reviewable administrative action in terms of section 6(2)(e)(iii) of PAJA.
  - 37.2. *No rational connection between the administrative action and the information before the administrator*: Through the failure to appropriately consider the non-detriment findings for each species and the lack of up-to-date non-detriment findings, respectively, the Hunting Trophies Export Quotas are in many ways not rationally connected to the information before the Minister and accordingly constitutes reviewable administrative action as per section 6(2)(f)(ii)(cc) of PAJA.
  - 37.3. *A lack of clarity regarding the purpose and motive for the administrative action taken*: The Hunting Trophies Export Quotas purport to promote conservation and ecological objectives, yet they are more closely aligned with economic objectives thereby raising questions regarding their rationale and purpose, which is also reviewable in terms of section 6(2)(e)(ii) of PAJA.

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<sup>21</sup> *National Society for the Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others* 2020 (1) SA 249 (GP).

<sup>22</sup> NEMBA section 1.

37.4. *Procedural unfairness in the public participation process:* As highlighted below, the Quotas did not provide the opportunity for the public to meaningfully engage with and comment on their content, rendering the process reviewable under section 6(2)(c) of PAJA.

38. The BLC therefore submits that there are several grounds based on which the quotas stand to be set aside in accordance with section 6(2) of PAJA, as further detailed in the sections to follow.

## **C. Inadequate Access to and Sufficiency of information for meaningful public participation**

39. The Hunting Trophies Export Quotas fail to provide adequate access to, and sufficient information for, meaningful public participation. This renders the consultation process procedurally unfair and constitutes reviewable administrative action under section 6(2)(c) of the Promotion of Administrative Justice Act 3 of 2000 (“PAJA”), and non-compliant with section 100(2)(b) of NEMBA.

### **(a) Lack of access to information**

40. Key information purportedly relied upon in determining the Hunting Trophies Export Quotas has not been made readily accessible to the public. . Through information such as the SANBI/Panthera Report not being readily accessible to the public and up to date non-detriment findings not being made, particularly in respect to species such as black rhino and leopard, the public faced a barrier to access to information in relation to the Hunting Trophies Export Quotas, which prevented meaningful public participation. This renders the Hunting Trophies Export Quotas as procedurally unfair and constitutes reviewable administrative action as per section 6(2)(c) of PAJA.

### **(b) Lack of sufficient Information**

41. The Hunting Trophies Export Quotas lack sufficient information and detail in terms of Section 100(2)(b) of NEMBA to allow members of the public to submit meaningful representations or objections. This pertains both to a lack of detail in the Hunting Trophies Export Quotas themselves, as well as the illegibility of details provided, such as the details contained in the maps of eligible leopard hunting zones.

### **(c) Timing of critical information**

42. Concerningly, the updated non-detriment findings made in respect of elephant (published on 9 March 2026)<sup>23</sup> were only published *after* the Hunting Trophies Export Quotas had been published (published on 23 February 2026). This irregularity both raises concern because non-detriment findings should be made prior to the setting of export quotas, and because it does not give members of the public sufficient time to examine the information contained in the updated non-detriment findings. . This timing deprived members of the public of a reasonable opportunity to consider and respond to critical scientific information underpinning the Hunting Trophies Export Quotas. As a result, the consultation process was not meaningful, further reinforcing its procedural unfairness under PAJA and non-compliance with NEMBA.

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<sup>23</sup> Government Gazette 52491.

## D. Lack of consideration of NEMBA: Threatened or Protected Species Regulations 2007 (“TOPS”)

43. The NEMBA: Threatened or Protected Species Regulations (“TOPS”) present a further challenge to the Hunting Trophies Export Quotas. TOPS initially came into effect in 2007, with a new proposed updated version being published in 2023. The 2023 version was, however, repealed<sup>24</sup> and accordingly the TOPS 2007 Regulations are currently in force. While there remains a degree of uncertainty surrounding the development of new TOPS Regulations, the Hunting Trophies Export Quotas are required to be compliant with the version TOPS presently in force.
44. In terms of Regulation 72(1) of TOPS the SANBI must determine the annual hunting off-take limit on a national and provincial level in respect of listed threatened or protected animal species. Furthermore, this determination must be done by the end of September for the following year.
45. The Hunting Trophies Export Quotas fall significantly short of complying with Regulation 72(1) of TOPS as no reference is made confirming that the SANBI annual hunting off-take limit has informed the determinations contained in the Hunting Trophies Export Quotas.
46. Furthermore, there is also no evidence tendered that the species contained in the Hunting Trophies Export Quotas are currently listed or not listed as a threatened or protected species in terms of TOPS. Moreover, where the species in the Hunting Trophies Export Quotas are threatened or protected in terms of TOPS, there is also no evidence referenced that SANBI did indeed make an annual hunting off-take limit before the end of September 2025 in respect of each species. This raises concerns regarding whether there will be “double counting” in relation to species hunted.
47. The Hunting Trophies Export Quotas therefore fail to comply with South Africa’s national biodiversity legislation aimed at giving effect to the section 24 constitutional obligations.

## SPECIFIC COMMENTS

### African elephant (*Loxodonta africana*)

48. All comments in this section refer specifically to African elephant (*Loxodonta africana*) (“**elephant/s**”) in relation to the Hunting Trophies Export Quotas.
49. The first notable point of concern is the failure of the Hunting Trophies Export Quotas to consider non-detriment findings in relation to elephant as required by CITES Regulation 6(3)(c) which states that an export permit may only be granted where a non-detriment finding has been made by the Scientific Authority and advised the Management Authority accordingly. Non-detriment findings must therefore be established *before* a quota figure is set. The Hunting Trophies Export Quotas only reference the International Union for Conservation of Nature (“**IUCN**”) in relation to elephant. The IUCN and its associated information do not constitute a non-detriment finding for South African elephant populations and cannot be the sole basis to inform the determination of trophy hunting export quotas for elephant. In terms of section 6(2)(e)(iii) of PAJA the action is therefore based on irrelevant considerations, with

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<sup>24</sup> [https://www.dffe.gov.za/mediarelease/creecy\\_withdrawalgovernmentnotices](https://www.dffe.gov.za/mediarelease/creecy_withdrawalgovernmentnotices)

relevant considerations not being taken into account as no annual non-detriment findings are referenced. On this ground alone, the quotas cannot be approved and must be recirculated citing up to date non-detriment findings.

50. The Hunting Trophies Export Quotas cite that the elephant population is estimated at 43 681 individuals, with the current growth rate at 5.5%. The Hunting Trophies Export Quotas do not however specify whether these figures and statistics take into account that an estimated 76% of elephants on the African continent are transboundary which causes ambiguity in the true population growth, stability, and decline of elephants in the southern African region,<sup>25</sup> including in South Africa. Lack of consideration of the influence of migratory elephant populations in transboundary areas may therefore result in action based on irrelevant considerations, with relevant considerations not being taken into account as per section 6(2)(e)(iii) of PAJA.
51. Furthermore, the Kruger National Park elephant population constitutes 70% of the national elephant population.<sup>26</sup> In terms of NEMPAA and Regulation 45(2)(a)(i) of the NEMPAA Regulations for the Proper Administration of Special Nature Reserves, National Parks and World Heritage Sites (“**NEMPAA Regulations**”) read with Kruger National Park: Park Management Plan 2018 – 2028 (“**KNP Management Plan**”) hunting of elephant is prohibited inside Kruger National Park. The Hunting Trophies Export Quotas therefore depict a biased state of affairs as it does not address the population health, growth, and other factors and circumstances of the remaining percentage of the national elephant population which it intends to issue trophy hunting export quotas for.
52. Moreover, the Hunting Trophies Export Quotas do not account for elephant populations in other protected areas and associated regulation regarding hunting of these populations. For example, no trophy hunting of elephants is allowed in any South African National Parks (“**SANParks**”) administered area,<sup>27</sup> further skewing the elephant population/s potentially subject to the Hunting Trophies Export Quotas. Therefore, the available population/s for elephant trophy hunting export quotas has not been disclosed to the public in the Hunting Trophies Export Quotas, indicating that the action is not rationally connected to the information before the Minister.
53. Additionally, the Associated Private Nature Reserves (“**APNR**”) consisting of Klaserie, Timbavati, Umbabat and Balule private reserves, located to the west of Kruger National Park, does allow trophy hunting of bull elephants.<sup>28</sup> As elephants are able to move freely between the Kruger National Park and APNR, bull elephants hunted in APNR are therefore deprived of their protection<sup>29</sup> in terms of NEMPAA, the NEMPAA Regulations, and the KNP Management Plan. Issuing any trophy hunting export quotas that affect these bull elephants, and other elephants resident in or moving through protected areas, constitute an action that is materially influenced by an error of law, and an action that is otherwise unconstitutional or unlawful, as per sections 6(2)(d) and 6(2)(i) of PAJA, respectively.
54. As a result of the above factors relating to the lack of information, it is submitted that the Hunting Trophies Export Quotas do not contain sufficient information to enable members of the public to submit meaningful representations or objections as required by Section 100(2)(b) of NEMBA. The Hunting Trophies Export

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<sup>25</sup> Lindsay K, Chase M, Landen K, & Nowak K “The shared nature of Africa’s elephants” 2017 (215) *Biological Conservation* 260-267 263.

<sup>26</sup> NDF Assessment for *Loxodonta africana* (African savanna elephant) (“**Elephant 2025 NDF**”) 2.

<sup>27</sup> Elephant 2025 NDF 3.

<sup>28</sup> Elephant 2025 NDF 3.

<sup>29</sup> Non-detriment finding for *Loxodonta africana* (African savanna elephant) 2024 (“**Elephant 2024 NDF**”) 3.

Quotas document therefore constitutes a defective notice and must be re-published with sufficient information for members of the public to submit meaningful representations or objections.

55. Lastly, it has been identified that the major threat to South African elephant populations are isolated and fragmented subpopulations occurring in small areas.<sup>30</sup> It is estimated that roughly 73% of all South African elephant populations have less than 100 elephants, with 21% of the elephant populations having less than 10 elephants.<sup>31</sup> It is further recognised that should the management challenges facing these smaller and fragmented elephant populations not be addressed the continued survival of these elephant populations are under threat.<sup>32</sup> As DFFE’s primary mandate is to manage, protect and conserve South Africa’s environment and natural resources,<sup>33</sup> there is no rational link between trophy hunting and how it will assist DFFE to manage, protect and conserve small and fragmented elephant populations in South Africa. In terms of section 6(2)(e)(ii) of PAJA the Hunting Trophies Export Quotas therefore appear to lack a clear motive.

### **Black rhino (*Diceros bicornis*)**

56. For the purposes of these comments references to black rhino include references to all subspecies of black rhino, including *Diceros bicornis bicornis*, *Diceros bicornis minor*, and *Diceros bicornis michaeli*. Where comments are made in relation to a specific black rhino subspecies, that subspecies will be identified in the relevant comment/s.

57. It is submitted that the Hunting Trophies Export Quotas do not contain sufficient information to enable members of the public to submit meaningful representations or objections as required by Section 100(2)(b) of NEMBA. The Hunting Trophies Export Quotas do not disclose sources of information relied on by the Minister in determining the proposed black rhino quota allocations. It further does not provide explanations with substantiating evidence to explain how the Minister came to decide on the quota allocations in question. The Hunting Trophies Export Quotas document therefore constitutes a defective notice and must be re-published with sufficient information for members of the public to submit meaningful representations or objections.

58. Black rhino is considered a rare species in South Africa due to its low population with 2065 individuals recorded in 2023.<sup>34</sup> According to the Hunting Trophies Export Quotas the total population of black rhino was at 2307 in 2024 which constitutes only an increase in population of 11.7%. This can through no interpretation be seen as a significant increase which has caused black rhino to be abundant in South Africa.

59. Moreover, the data and information pertaining to the population size in years published in the Hunting Trophies Export Quotas are outdated, as it pertains to the 2024 calendar year. This data and information can therefore not be relied upon to make any decision for the 2026 and 2027 calendar years. Furthermore, CITES Conf. 14.7 (Rev. CoP15) establishes that in accordance with Resolution Conf. 12.3 (Rev. CoP19) that export quotas should be communicated, as far as possible, at least 30 days before the start of the period to which the export quotas relate. As the Hunting Trophies Export Quotas relates to the 2026 calendar year and were only published on 23 February 2026, they fall short

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<sup>30</sup> Elephant NDF 2025 2.

<sup>31</sup> Elephant NDF 2025 2.

<sup>32</sup> Elephant NDF 2025 2.

<sup>33</sup> <https://www.dffe.gov.za/>

<sup>34</sup> Non-detriment finding assessment for *Diceros bicornis* (black rhinoceros) 2024 (“**Black rhinoceros NDF**”) 1.

of the specified good practice to publish export quotas at least 30 days before the start of the period to which the export quotas relate. Accordingly, the action taken by the Minister in determining the Hunting Trophies Export Quotas is not rationally connected to the information before the Minister.

60. Concerningly, the proposed quota stipulated in the Hunting Trophies Export Quotas for *Diceros bicornis minor* constitutes 8 out of the 12 proposed black rhino quotas, equating to nearly 67% of the total proposed black rhino trophy hunting quotas. *Diceros bicornis minor* has been identified as the most susceptible of the three subspecies to poaching. Its population has not experienced any significant population growth since 2010 and with most recent figures indicating only a 0.03% growth rate.<sup>35</sup> This is insignificant and does not point to a thriving and growing population of *Diceros bicornis minor*.
61. As a result of the stagnated growth experienced by *Diceros bicornis minor*, and its increased susceptibility to poaching, a rational decision-maker would not have allocated any individuals of this subspecies for trophy hunting purposes in terms of the proposed Hunting Trophies Export Quotas. Accordingly, in terms of section 6(2)(e)(iii) of PAJA the Minister did not consider relevant considerations when taking the action to allocate 8 trophy hunting quotas to *Diceros bicornis minor*, nor was the action of allocating 8 trophy hunting quotas to *Diceros bicornis minor* rationally connected to the information before the Minister as stipulated in section 6(2)(f)(ii)(cc) of PAJA.
62. It is recognised that the biggest threat to black rhino is the killing of individuals through illegal poaching.<sup>36</sup> The end-result of trophy hunting is the same as illegal poaching in that it will result in the death of individual black rhino. As the major threat to black rhino is identified as killing of individuals, the motive and manner in which it is done is irrelevant as legalised trophy hunting yields the same end-result as illegal poaching – dead black rhino. Trophy hunting will exacerbate the pressure already experienced by black rhino and cannot be allowed as it will result in decreasing the black rhino population. Allowing trophy hunting of black rhino through the proposed Hunting Trophies Export Quotas, or any other mechanism, constitutes an arbitrary action taken by the administrator.
63. It is further recognised that range expansion programmes and management translocations have made significant contributions to the recovery of black rhino in South Africa.<sup>37</sup> It is these conservation-related interventions that promote the conservation of black rhino in South Africa and not trophy hunting. It is a contradiction to state that black rhino population recovery is enhanced by range expansion and management translocations, and then to intend to commence with trophy hunting. Trophy hunting will detract from the progress made specifically with management translocations as it will permanently remove individuals from the larger population. Accordingly, as per section 6(2)(f)(ii)(cc) of PAJA the proposed Hunting Trophies Export Quotas is not rationally connected to the information before the Minister as trophy hunting is not identified as a significant contributor to the recovery of black rhino in South Africa.
64. Furthermore, the Hunting Trophies Export Quotas stipulate in minimal detail that the objectives of the proposed quotas are for range expansion and maintaining or increasing current population growth rates i.e. ecological objectives. There are a number of issues with these objectives and trophy hunting:

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<sup>35</sup> Black rhinoceros NDF 2.

<sup>36</sup> Black rhinoceros NDF 2.

<sup>37</sup> Black rhinoceros NDF 3.

- 64.1. Firstly, it is accepted that the hunting of black rhino is largely due to economic reasons.<sup>38</sup> No evidence is presented that trophy hunting will achieve the ecological objectives identified in the Hunting Trophies Export Quotas, and accordingly the Hunting Trophies Export Quotas appear to be solely economically motivated. The proposed trophy hunting therefore constitutes an action taken for an ulterior purpose or motive.
- 64.2. Objective 2(a) focuses on range expansion, yet range expansion programmes are already being implemented with great success in black rhino population recovery.<sup>39</sup> Range expansion programmes do not require trophy hunting for successful implementation.
- 64.3. Objective 2(b) of the Hunting Trophies Export Quotas states that the quotas are to “increase/maintain productive population growth rates through the offtake of surplus males”. No evidence or information is tendered to explain what a surplus male is and whether trophy hunting will result in increasing or maintaining the productive population growth rate. Furthermore, at the time of writing trophy hunting of black rhino is not practiced in South Africa, yet the black rhino population is currently being maintained, and slightly increasing in some populations.<sup>40</sup> Therefore, trophy hunting of black rhino is not needed as there is no rational and reasonable connection between trophy hunting and increasing or maintaining the productive population growth rates of black rhino as this objective is already met through current conservation measures.
65. Regulation 6(1) of the CITES Regulations requires the prior grant of an export permit for the export of any specimen or species listed in Appendix I or II of CITES. Regulation 6(3)(c) further states that an export permit may only be granted where a non-detriment finding has been made by the Scientific Authority and advised the Management Authority accordingly. The Minister does not once reference non-detriment findings made in respect of black rhino, nor does the Minister provide the recommendations made by the Scientific Authority. There is therefore no rational connection between the information before the Minister and the allocation of quotas of the three subspecies of black rhino, as per section 6(2)(f)(ii)(cc) of PAJA, as the non-detriment findings are not stated as having been considered.
66. The Minister has not supplied any rationale, methodology and/or information to substantiate how the allocation of quotas for each of the three subspecies of black rhino has been made. There is therefore no rational connection between the information before the Minister and the allocation of quotas of the three subspecies of black rhino and there can then be no justification to allocate three quotas to *Diceros bicornis bicornis*, eight quotas to *Diceros bicornis minor*, and one quota to *Diceros bicornis michaeli*.

## **Leopard (*Panthera pardus*)**

67. All comments in this section refer specifically to leopard (*Panthera pardus*) in relation to the Hunting Trophies Export Quotas.
68. It is submitted that the Hunting Trophies Export Quotas do not contain sufficient information to enable members of the public to submit meaningful representations or objections as required by Section

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<sup>38</sup> Black rhinoceros NDF 3.

<sup>39</sup> Black rhinoceros NDF 3.

<sup>40</sup> Black rhinoceros NDF 1-2.

100(2)(b) of NEMBA. It does not provide explanations with substantiating evidence to explain how the Minister came to decide on the quota allocations for leopard.

69. Furthermore, the details contained in the maps of eligible leopard hunting zones published in the Hunting Trophies Export Quotas notice document are illegible and cannot be examined and responded to in any meaningful way. This therefore constitutes a defective notice and accordingly the Hunting Trophies Export Quotas notice must be re-published with sufficient information for members of the public to submit meaningful representations or objections.
70. The Hunting Trophies Export Quotas further cites a source referred to as the “SANBI/Panthera Report (for the 2024 monitoring year)” (“**SANBI/Panthera Report**”) as the findings it has relied upon to make the trophy hunting export quota determination for leopard. Despite the BLC’s best efforts the SANBI/Panthera Report was not readily available online and we were unable to examine the source. This is a further barrier to being able to provide meaningful representations or objections to not only the BLC, but to the general public commenting on the Hunting Trophies Export Quotas.
71. Therefore, claims by the Minister stated in the Hunting Trophies Export Quotas that the leopard populations in the leopard hunting zones are stable and increasing are not appropriately referenced and the source data informing this claim is currently unavailable to the public to assess. Furthermore, there is no information as to how provincial allocations of leopard hunting trophies has been designated. This constitutes a procedurally unfair action as it prohibits access to information to the public, preventing the public from submitting meaningful representations or objections.
72. Additionally, as per the Hunting Trophies Export Quotas notice the SANBI/Panthera Report is cited as a report for the 2024 calendar year with its findings made in reference to leopard trophy hunting export quotas for the 2025 calendar year. The SANBI/Panthera Report can therefore not inform the leopard trophy hunting export quotas for the 2026 and 2027 calendar years as its information does not relate to these calendar years. Reliance on the SANBI/Panthera Report for leopard trophy hunting export quotas for the 2026 and 2027 calendar years is therefore based on irrelevant considerations, with relevant considerations not being taken into account as per section 6(2)(e)(iii) of PAJA.
73. Moreover, Regulation 6(1) of the CITES Regulations requires the prior grant of an export permit for the export of any specimen or species listed in Appendix I or II of CITES. Regulation 6(3)(c) further states that an export permit may only be granted where a non-detriment finding has been made by the Scientific Authority and advised the Management Authority accordingly. The Minister does not once reference non-detriment findings made in respect of leopard, nor does the Minister provide the recommendations made by the Scientific Authority. The BLC wishes to state clearly that the SANBI/Panthera Report does not constitute non-detriment findings and the Minister’s reliance on the SANBI/Panthera Report is not in compliance with the CITES Regulations. Accordingly, in terms of section 6(2)(f)(ii)(cc) there is no rational connection between the information before the Minister and the allocation of trophy hunting export quotas for leopard as the non-detriment findings are not stated as having been considered.
74. Furthermore, despite the fact that the Minister is required to annually publish non-detriment findings<sup>41</sup> and that a new annual non-detriment finding for leopard for the 2026 calendar year has not been published, the last published non-detriment findings for leopard indicated that excessive off-takes for

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<sup>41</sup> NEMBA Section 62.

damaging causing animals and poorly managed trophy hunting are key threats to leopard populations in South Africa.<sup>42</sup> It further recognises that trophy hunting is often poorly managed, and that there are unlikely to be effective habitat conservation incentives for the harvesting of leopard.<sup>43</sup> Accordingly, the findings from the last published leopard non-detriment findings, which is the only document required by law to inform the export trophy hunting quotas, indicates that the export of leopard hunting trophies poses a high risk for the survival of the species. Therefore, action taken by the Minister in determining the Hunting Trophies Export Quotas for leopard resulted in irrelevant considerations taken into account, and relevant considerations not being taken into account as per section 6(2)(e)(iii) of PAJA.

75. There is therefore no legal basis for trophy hunting export quotas to be designated and/or issued for leopard in South Africa.

## CONCLUSIONS AND RECOMMENDATIONS

76. As highlighted in this submission, the Hunting Trophies Export Quotas contain substantive and procedural defects. Critically, the Hunting Trophies Export Quotas are unconstitutional as they contravene section 24(b) of the Constitution to have the environment protected for present and future generations. Through their authorisation of extractive trophy hunting of CITES Appendix I/II species, the Quotas fail to promote conservation and ecologically sustainable development and instead prioritise purported economic gain to trophy hunting operators or businesses over demonstrable protection of these species for present and future generations.

77. Significant defects in the Hunting Trophies Export Quotas render them unlawful, including:

77.1. No express reliance on or reference to the non-detriment findings for each species as required by the CITES Regulations, a reviewable ground in terms of 6(2)(f)(ii)(cc) of PAJA;

77.2. The use of outdated data and information, a reviewable ground in terms of 6(2)(e)(iii) of PAJA;

77.3. A lack of access to sufficient and timely information for the general public to submit meaningful representations on Hunting Trophies Export Quotas, resulting in a denial of meaningful public participation and procedurally unfair administrative action in terms of section 6(2)(c) of PAJA;

77.4. Failure to consider relevant information, a reviewable ground in terms of 6(2)(e)(iii) of PAJA; and

77.5. A lack of rational connection between the action and the available information, a reviewable ground in terms of 6(2)(f)(ii)(cc) of PAJA.

78. Accordingly, the BLC submits that the Hunting Trophies Export Quotas must be withdrawn, that the trophy hunting of the species contained in the Hunting Trophies Export Quotas must not be permitted, and that no export permits are to be issued for these species.

Yours faithfully,

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<sup>42</sup> Government Gazette 39185 16.

<sup>43</sup> Government Gazette 39185 16.

**BIODIVERSITY LAW CENTRE NPC**

*Per:*

André Laäs

*Attorney*

Kate Handley

*Executive Director*

Lara Wallis

*Senior Attorney*