Animal Welfare.
Worldwide.

The Director-General, Dr Tsepang Makholela
Department of Forestry, Fisheries and the Environment
Environment House
473 Steve Biko Street
Arcadia
Pretoria
policyposition@dffe.gov.za

17th October 2023

FOUR PAWS comments on the Draft Policy Position on the Conservation and Sustainable Use of Elephant, Lion, Leopard and Rhinoceros.

Dear Dr Makholela,

I write to you on behalf of the animal welfare organization dedicated to the protection of animals under direct human influence, FOUR PAWS in South Africa, regarding the call for comments on the Draft Policy Position on the Conservation and the Sustainable Use of Elephant, Lion, Leopard and Rhinoceros. We have expertise in international wildlife trade, as well as the captive keeping of large carnivores. Our LIONSROCK Big Cat Sanctuary is located in Free State and has rescued over 100 big cats from inappropriate keeping conditions and provides life-long care free of exploitation, including from the South African captive lion breeding industry.

FOUR PAWS has historically submitted comments in responses to various consultations on previous policy positions regarding the five iconic species and the Draft White Paper on the Conservation and Sustainable Use of South Africa's Biodiversity. Given our area of expertise, our comments will be limited only to topics regarding lions and leopards within this policy position and the headings align with those published in the Policy Position. We would like to take the time to commend the Department for Forestry, Fisheries and Environment on the intent included in the Policy Position that seeks to "end the captive keeping of lions for commercial purposes and close the captive lion facilities, put a halt to the intensive breeding of lion in controlled environments, and end the commercial exploitation of captive and captive-bred lions." This requires urgent action to address an issue that has already had a significant, adverse impact on South Africa's reputation in wildlife conservation, caused widespread animal cruelty and perpetuated an illegal trade in big cats and their parts.

Executive Summary

South African courts have in recent years made some significant animal-related rulings. In 2016, the Constitutional Court held that ''the rationale behind protecting animal welfare has shifted from merely safeguarding the moral status of

FOUR PAWS in South Africa
9B Bell Crescent,
Westlake Business Park,
The Green Building,
Cape Town, 7945

Phone: +27 21 702 4277
E-mail: office@four-paws.org.za
www.four-paws.org.za
www.lionsrock.org

Registration Number: 2006/039176/08
PBO Number: 930025282
FNB Account number: 62139547759
Branch code: 230 133

humans to placing intrinsic value on animals as individuals.''[1] The court furthermore quoted a 2015 Supreme Court of Appeal rhino poaching case, *Lemthongthai,* with approval, which held that "constitutional values dictate a more caring attitude towards fellow humans, animals and the environment in general".[2] The Constitutional Court also established that ''[A]nimal welfare and animal conservation together reflect two intertwined values'.[3]

In addition, the High Court ruled that Government is legally obligated to consider animal welfare in all its conservation decisions, in order to be compliant with Section 24 of the Constitution.[4] The court furthermore stated that ''[W]hile it may be correct that the welfare mandate for lions in captivity may substantially reside with DAFF there is a difference in law in having responsibility for the welfare mandate and taking welfare considerations into account.''[5] The court went on to state, ''[I]n any event there must be some doubt as to whether the assertion that the welfare mandate for lions in captivity resides exclusively in DAFF is correct.''[6] In line with these rulings, section 2 of NEMBA has been amended to include in its purpose ''the consideration of the well-being of animals in the management, conservation and sustainable use thereof.''

The Executive Summary states that "South Africa's priority is to secure the survival of species in the wild.'' While conservation efforts are critical, ensuring the well-being of both free-roaming and captive wildlife should also be a key priority. Conservation cannot be addressed effectively without considering the well-being of the animals; Nor should the captive breeding of wildlife be allowed to subsist under the assumption that it promotes conservation or that it does not adversely impact conservation efforts.

6.1 Captive lions

We are supportive of the intent to close the captive lion breeding industry and remain encouraged by statements such as "the intensive breeding of lion in controlled environments, and the commercial exploitation of captive or captive-bred lions negatively affects their iconic state." The acknowledgement that "although some operators may implement acceptable standards of welfare, there are major animal welfare contraventions in the industry in general," is important to justify the urgency at which the closure of the industry is required. We appreciate the Ministerial Task Team will offer

[1] *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* [2016] ZACC 46, Para 57.
[2] S v Lemthongthai [2014] ZASCA 131; 2015 (1) SACR 353 (SCA) (Lemthongthai) at para 20.
[3] *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* [2016] ZACC 46, Para 58.
[4] *National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others (86515/2017) [2019] ZAGPPHC 337; 2020 (1) SA 249 (GP) (6 August 2019), para 67.*
[5] National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others (86515/2017) [2019] ZAGPPHC 337; 2020 (1) SA 249 (GP) (6 August 2019), para 67.
[6] National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others (86515/2017) [2019] ZAGPPHC 337; 2020 (1) SA 249 (GP) (6 August 2019), para 68.

FOUR PAWS in South Africa
9B Bell Crescent,
Westlake Business Park,
The Green Building,
Cape Town, 7945

Phone: +27 21 702 4277
E-mail: office@four-paws.org.za
www.four-paws.org.za
www.lionsrock.org

Registration Number: 2006/039176/08
PBO Number: 930025282
FNB Account number: 62139547759
Branch code: 230 133

more specific recommendations on how this will be achieved, but in the meantime, it is important to note that 10,000 – 12,000 lions remain in conditions that are commonly evidenced to be not species-appropriate captive environments, while the decisions are yet to be made. This is of course in addition to a number of other big cats species, such as tigers (a species listed as endangered by the IUCN Red List). FOUR PAWS has authored a roadmap for the phase out of captive tigers that has been offered to be shared with the DFFE and the Ministerial Task Team working on the phase out of captive lions and will be presented at the Convention on the International Trade of Endangered Species Standing Committee 77 in November 2023. FOUR PAWS experts are able to present this at a time that is convenient for the Department in relation to the captive lion phase out.

We agree and support the actions for implementation outlined to address the situation for captive lions, including ending the captive breeding of lions through a sterilization process, monitoring of the impact on the breeding of other cat species, and ensuring that poor lion practices are not transferred to other species. A moratorium on the breeding of all big cats in South Africa is urgently required as currently the total number of animals is unknown and there is a lack of effective monitoring and regulation at captive breeding facilities to monitor births, deaths and the disposal of carcasses. This means that captive breeding facilities can act as a conduit for illegal and illicit trade. Similarly, prohibitions should be urgently promulgated to end the handling/petting/interactions between the public and lions for commercial purposes and all trade in captive lions and their parts and derivates, hunting of captive bred lions, and establishment of new captive lion facilities. With regard to an exit process which is developed in respect of the disposal of lions in existing captive facilities, we recommend that True Sanctuaries be considered within these possible options. These are sanctuaries that do not allow breeding, interactions between the public and big cats, and trading of animals for profit.

The Department should also ensure there are no loopholes for exploitation that would allow the industry to continue in another form. For example, captive facilities may attempt to rebrand as ranches and similarly trade/hunting in ranched lions in order to continue their businesses as usual. A mass slaughter of animals should be avoided through a time-bound roadmap. This is something FOUR PAWS would be able to offer expertise on, given that we have worked on similar roadmaps previously.

6.3 Leopard hunting and damage-causing leopards

FOUR PAWS is highly concerned that rather than protecting leopard in their natural ranges, this policy position sets out to expand the leopard hunting industry for commercial profit. Global leopard populations are notoriously hard to quantify across their range as the species is incredibly elusive and their populations broad. The IUCN Red List for Endangered Species even states that range-wide population estimates are not possible due to "lack of empirical on distribution status and population size."[7] Statements within the policy position such as "leopard are also an important

[7] https://www.iucnredlist.org/species/15954/163991139

component of international packages, making such packages internationally competitive," put an alarming value on the economic benefit that may be generated from hunting of a big cat species listed as vulnerable and decreasing by the IUCN Red List for Endangered Species, without considering the impacts this will have on their populations. This statement has no relevance to conservation or science, nor do they address welfare, instead they are solely commercially driven. These are highly concerning given the gaps in our knowledge of the stability of leopard populations and the impact that hunting the species will have on these populations.

The Draft Policy Paper is committed to using leopards as a tool to generate income before any studies have been undertaken into the impacts of such a transformation of the industry. Already actions for implementation include that "norms, standards and process for revised quota allocations, to enhance, broaden, and transform the industry are implemented." Yet there is little context provided to understand the impact of these on wild populations and the influence this will have on international trade dynamics for leopards, their parts and the trade in other big cats, parts and derivatives. Statements such as the "biodiversity Economy Strategy promotes access to, and unlocks leopard ecotourism and hunting benefit streams, with increased net benefit flows to people in and beyond protected and conservation areas; an understanding of sustainable use that protect leopards and sustains livelihoods and clarifies the responsibilities incumbent on use and legislation, mechanisms and tools enable transformative and inclusive use of leopard along the whole value chain," makes the commercial intent clear. However, commercial profit should not be the only goal and South Africa should be determined to protect leopards and to reverse the decline of their populations.

Furthermore, we are opposed to the promotion of the use of leopard for traditional practices. While living in harmony with nature might include reasonable subsistence use of animals for consumption, certain practices, such as hunting leopard for their skin, is not justifiable as subsistence use. Living in harmony with nature requires not only human dignity to be respected, but that the dignity of the animals must also be respected. Traditional leaders should be encouraged to educate their communities on harmful harvesting practices, in order to evolve traditional use from being anthropocentric to safeguarding the well-being of the animals.

6.4 International trade in live specimens of the five species

FOUR PAWS agrees that the transfer of wild animals into captivity in other countries has the potential to harm South Africa's reputation as a wildlife destination. Only recently in July 2023, in one shipment 10 lions were exported from South Africa to Laos in an alarming incident where the animals are reported to have been shipped to a zoo.[8] Laos is a country that has issues with the large-scale captive breeding of big cats for commercial purposes and trade in parts and where there are known, and well-established illegal wildlife trade networks linked to the various big cat farms. Therefore, the concern is that the lions recently exported from South Africa will be used as breeding stock on such

[8] https://www.rfa.org/english/news/laos/lions-07262023075437.html

Animal Welfare.
Worldwide.

farms as the export include 5 females and 5 males. It is hoped that South Africa would show greater due diligence when issuing such export permits and seek reassurance that the zoo importing the animals had adequate facilities and the animals would not be used for intensive breeding operations.

Policy Objective 4: To promote live export of the five species to range states or any other appropriate and acceptable destinations with suitable habitats on the African Continent.

FOUR PAWS supports the actions for implementation that include that "legislation promulgated to prevent introduction of wild specimens of the five species into captivity, to prevent the export of specimens of the five species, except to range states or any other appropriate and acceptable destinations with suitable habitat on the African continent, for reintroduction into the wild." However, we additionally note wording that states that there is "potential for the live translocation of the 5 iconic species to promote South Africa's relationship and standing with other African countries in the collective conservation thereof." Trading vulnerable species and translocating animals across national borders should never be done with the goal of building international relations between countries; Accordingly, such translocation of animals should only be undertaken if absolutely necessary due to overpopulation in the exporting country and a diminished population in the destination country. These are sentient animals with complex family structures and the translocation of animals with the hope of them flourishing in a new environment requires careful consideration, intensive resources and monitoring. Care must also be taken that the animals do not end up being utilized for commercial purposes in the destination country. Nor should animals be translocated to areas that place them at a heightened risk of poaching.

Once again, I would like to the thank the Department for the progress it intends towards reshaping the way that South Africa views and treats its iconic species, and for the opportunity for stakeholders to offer feedback on the Draft Policy Position.

Yours faithfully,

Fiona Miles
Director

FOUR PAWS in South Africa
9B Bell Crescent,
Westlake Business Park,
The Green Building,
Cape Town, 7945

Phone: +27 21 702 4277
E-mail: office@four-paws.org.za
www.four-paws.org.za
www.lionsrock.org

Registration Number: 2006/039176/08
PBO Number: 930025282
FNB Account number: 62139547759
Branch code: 230 133