

URGENT
TRANSMITTED BY EMAIL

Date: 28 July 2026

To: **Gauteng Department of
Agriculture & Rural Development** Your ref.: E040-009

Att: Acting HoD, matthew.sathekge@gauteng.gov.za
Mr Mathew Sathekge

Att: Deputy Director, Emmanuel.Tshilamulele@gauteng.gov.za
Dinokeng Game Reserve
Mr Emmanuel Tshilamulele

CC: **The Chairperson,** hartogh@dinokengreserve.co.za
**Dinokeng Game Reserve
Management Association** david@dinokengreserve.co.za

CC: **The Chairperson,** loa@dinokengreserve.co.za
Dinokeng Landowners Association tischbc@gmail.com

CC: **Dinokeng Game Enterprises** reception@dinokengreserve.co.za
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From: Sarah Kvalsvig sarah@greencounsel.co.za

Total pages: 4 Our ref: E040-009

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Dear Sirs

Expertise grounded in experience

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RE: PROPOSED DESTRUCTION OF ELEPHANTS AT DINOKENG GAME RESERVE

INTRODUCTION

1. We act for the EMS Foundation, a registered trust, nonprofit organisation and public benefit organisation established for the promotion of social and inclusive justice and the advancement and protection of the dignity, rights and general welfare of vulnerable and marginalised groups and individuals in South Africa with a particular focus on youth at risk, the elderly and the conservation of wildlife.
2. The purpose of this letter is to request certain information regarding the proposed killing of between one and four elephants in Dinokeng Game Reserve (DGR) as damage causing animals and to object to the killing from occurring until it has been shown that all applicable legislation has been complied with and that the killing is a last resort. The basis for this request is set out below.

LEGAL FRAMEWORK

3. In terms of the National Environmental Management: Biodiversity Act, 2004 (NEM:BA), the state is the trustee of *all* biodiversity in South Africa and must manage, conserve and sustain that biodiversity and its components and implement the Act to achieve the progressive realisation of the rights in section 24 of the Constitution.
4. Section 24 affords our client, and the public generally, the right to have the environment protected through reasonable legislative and other measures that promote conservation and secure ecologically sustainable development. The Courts have held that this right includes the principle that animals have intrinsic value and the requirement, given further effect in section 2A(ii)(a) of NEM:BA, that the well-being of animals must be considered in their management and conservation.
5. The Constitution also affords our client the right to access information held by the state that is necessary for the protection and exercise of its section 24 right.
6. Any decision by GDARD to authorise the destruction of elephants at DGR is a decision that may significantly affect the environment which must comply with the principles in section 2 of the National Environmental Management Act, 1998, especially the precautionary principle and the duty to avoid the loss of biodiversity. It is also administrative action which must be lawful, reasonable and procedurally fair in terms of the Constitution and the Promotion of Administrative Justice Act, 2000.

BACKGROUND

7. The reason for this letter is our client has received information to the effect that there has not been proper compliance by the DGR with relevant legislation, including the NEM:BA, the Threatened or Protected Species (TOPS) Regulations, 2007, the Elephant Management Norms and Standards, 2008 and/or the Transvaal Nature Conservation Ordinance, 1983.
8. In particular, our client's information suggests that:



- 8.1. the elephants in question are not damage-causing animals within the definition in the TOPS Regulations in that there is no proof that they have caused “excessive damage to cultivated trees, crops, natural flora or other property” or present a threat to human life as no incident reports, damage assessments, expert findings or other evidence has been provided. Accordingly they cannot be deemed to be damage-causing animals as required by regulation 14(1) of the TOPS Regulations;
- 8.2. there is no proof that the elephants have caused damage by breaking out;
- 8.3. there is no proof that the alternative management methods mandated by the TOPS Regulations and the Norms and Standards have been exhausted; and
- 8.4. there is no proof that fences at DGR are adequate for the purpose or have been maintained properly.

REQUEST FOR INFORMATION AND UNDERTAKING

9. Please advise of the current position regarding any intention to destroy elephants at DGR including whether:
 - 9.1. GDARD has decided or intends to decide to take of the following measures as prescribed by the TOPS Regulations:
 - 9.1.1.capture and relocation;
 - 9.1.2.control by using methods prescribed in regulation 14(4), (5) or(6); or
 - 9.1.3.designating another person for such capture and relocation or control

or whether it is intended that the destruction of the elephants will be by means of a commercial hunt/trophy hunt;
 - 9.2. whether DGR or any other landowner holds a standing permit that authorises the destruction of elephants as damage-causing animals or otherwise for management purposes;
 - 9.3. whether any application has been made for any permit in connection with the destruction of elephants within the Reserve in the last six months; or
 - 9.4. whether any permits have already granted for this purpose. If so, please provide full written reasons therefor in terms of section 5 of PAJA.
10. If any decision has been taken or any application has been made, please advise how many elephants are involved, including their age, sex and herd status and when such measures are expected to be taken.
11. Please also provide us with copies of:
 - 11.1.any such applications, supporting documents, relevant correspondence, assessments, expert reports and scientific advice submitted to or generated by GDARD;
 - 11.2.any such permits granted;
 - 11.3.the approved Elephant Management Plan and National Environmental Management: Protected Areas (NEM:PAA) approved management plan for the DGR; and



- 11.4.evidence showing that the perimeter fences of the DGR comply with legal requirements as well as relevant best practice for such fencing.
12. Please also provide evidence of how any decision to destroy the elephants has taken into account the guiding principles in paragraph 3 of the Norms and Standards, in particular;
- 12.1.that elephants are intelligent, have strong family bonds and operate within highly socialised groups and that the disruption of family groups should be minimised;
- 12.2.that elephants play a role in the functions of ecosystems;
- 12.3.that measures to manage elephants must be informed by the best available scientific information; and, most critically,
- 12.4.how all other alternatives including translocation, deterrence and other non-lethal measures have been properly considered and ruled out.
13. Please also confirm that GDARD has considered whether regular hunting activity, gunfire, vehicle pressure or other disturbance within the DGR has affected the elephants' behaviour or whether there any other factor at play that must be considered.
14. **In light of the above, please provide a written undertaking by close of business on Friday, 31 July 2026** that GDARD will take no action to kill, hunt or destroy any elephants by any means whatsoever nor authorise or allow any other person to do so before stakeholders have been provided with all of the information requested in this letter as well as proof that all non-lethal alternatives have been properly and exhaustively considered and all other legal requirements fully met.
15. Please acknowledge receipt of this letter. We look forward to hearing from you.

Yours sincerely

CULLINAN & ASSOCIATES INCORPORATED
Per SD Kvalsvig