



TRANSMITTED BY EMAIL

TO: **Overstrand Municipality** Date: 26 August 2023

ATT: Municipal Manager Dean O'Neill Your ref: Overstrand Baboon Management
EMAIL: mm@overstrand.gov.za

CC: Mayor, Overstrand Municipality
EMAIL: annelierabie@overstrand.gov.za

CC: Mayor, City of Cape Town
EMAIL: Mayor.mayor@capetown.gov.za

CC: Manager: Biodiversity Management at City of
Cape Town
EMAIL: Julia.Wood@capetown.gov.za

CC: Western Cape MEC for Environmental Affairs
and Development Planning
EMAIL: anton.bredell@westerncape.gov.za

FROM: Sarah Kvalsvig sarah@greencounsel.co.za

Total pages: 4 Our ref: E040-028

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*****URGENT*****

Dear Mr O'Neill

**PRINGLE BAY BABOON MANAGEMENT: MEDIA STATEMENT REGARDING REMOVAL OF "BLUE TAG"
BABOON FROM PRINGLE BAY TROOP**

1. Introduction

1.1. As you know we act for the EMS Foundation South Africa) in this matter.

Expertise grounded in experience

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1.2. Our client has referred us to the post by you on the Overstrand Municipality (OM) Facebook page indicating OM's intention to remove the baboon known as "Blue Tag" from the Pringle Bay baboon troop and relocate him to Gordons Bay, within the City of Cape Town. (<https://www.facebook.com/100068944633097/posts/pfbid0zsLxrTnhePJKmZUtFyoTEKsncg6JRNyGmQaiJgBuVAYbSrmBYar4Ke8WERS7dphl/?mibextid=cr9u03>)

1.3. ***In summary:*** our client objects to this decision and the manner in which the decision was taken and requests that you confirm to us by 5pm today, Saturday 26 August 2023, that no action will be taken in respect of the removal of Blue Tag from the Pringle Bay troop until our client and KVET have received written reasons for the decision and have had a proper opportunity to make representations.

2. **Decision was procedurally unfair**

2.1. As is evident, the social media post was published at 5pm on a Friday afternoon, forcing our client to instruct us to direct this letter to you on a Saturday for fear that the proposed action will be take place over the weekend.

2.2. It would not have been necessary to address lawyer's letters to you over the weekend if you had consulted stakeholders properly before taking this decision and had not published the unilateral decision to do so late on a Friday evening, presumably in the hope that it would not be noticed until the action was taken. Our client objects to the manner in which the decision was taken which was untransparent.

2.3. We also note your previous advice that you would not respond to any letters from us regarding baboon management in Pringle Bay. However, as set out above, no consultation was undertaken prior to the decision and the Facebook post in question does not allow comments or objections. Accordingly our clients have no option but to respond via letters to you and other relevant parties.

3. **Objection to proposed action to remove Blue Tag**

3.1. Our client objects to the decision to remove Blue Tag from Pringle Bay for the reasons set out below.

3.2. Our instructions are that:

3.2.1. Although Blue Tag does originate from Gordons Bay and dispersed from that general area as a result of the action of baboon monitors employed by Human Wildlife Solutions (HWS).

- 3.2.2. He has indeed been responsible in the past for approaching residents of Pringle Bay and “robbing” them of their food.
- 3.2.3. After three years of unsuccessful baboon management HWS left Pringle Bay before their contract ended leaving the town in disarray.
- 3.2.4. KVET stepped in to help manage the situation restricting themselves to the CBD only..
- 3.2.5. Since KVET has been working in the CBD it has been measuring the number of human/baboon conflict situations and these have drastically declined. While the situation is not perfect, it has improved substantially since KVET started its work and Blue Tag is to the best of its knowledge largely no longer being allowed to approach residents, nor is he in any way as assertive as before KVET began its initiative.
- 3.2.6. Moreover, it is the opinion of KVET that Blue Tag has been fully integrated into the Pringle Bay troop over the past 12 months. He is no longer a dispersing or displaced male. He has never raided a shop or house. Accordingly, removal of Blue Tag is not in accordance with the *BTTG4 G04 - Guidelines for Dispersing/Displaced male baboon(s) in Urban Areas* cited in the Facebook post.
- 3.2.7. The troop is stable and peaceful. Removing Blue Tag from the troop is likely to upset the social structure once again, after many other disruptions this year, including the Buffelsdam incident. It is also likely simply to create a vacuum which would attract another baboon male.
- 3.3. Our instructions are further that many other food sources remain in Pringle Bay for baboons, including the municipal dump, where Blue Tag has been seen, and municipal bins. Notwithstanding that OM has a duty to keep its residents safe, before taking the drastic step of removing a baboon the OM must ensure that it has complied with its constitutional responsibilities regarding waste management and protection of biodiversity.
- 3.4. Finally, our instructions are also that in what is a fairly small baboon troop, the addition of Blue Tag’s genes is highly valuable for the genetic health of the troop. Accordingly, the best option from a conservation and biodiversity perspective is that Blue Tag remain in the Pringle Bay troop.
- 3.5. In terms of recent amendments to the National Environmental Management: Biodiversity Act, 10 of 2004 (NEM:BA), it is a new object of the Act to provide for “the consideration of the well-being of animals in the management, conservation and sustainable use thereof” (Section 2(a)(iiA)). This echoes a judgement of the Gauteng High Court in which the Court decided that

in setting a quota for the export of lion bones, the Minister of Environmental Affairs ought to have considered the welfare of the lions involved in that industry. Our view is that OM was obliged to consider the well-being of Blue Tag and that of the troop since the decision to remove a baboon from its natural habitat constitutes both management and conservation of animals for the purposes of NEM:BA. Clearly the decision did not consider well-being. We say so because the removal of a baboon from a troop into which he has been integrated for a whole year will undoubtedly be detrimental to the well-being of both Blue Tag and the other animals in the troop.

4. Conclusion

- 4.1. Our client is aware of the conflicts with humans and damage to property by baboons in Pringle Bay, is sympathetic to the residents and mindful of the OM's constitutional mandate in respect of public safety. However, OM has the responsibility to first remove significant baboon attractants such as its inadequately baboon-proof public waste dump as well as a constitutional duty to protect the environment and to avoid the loss of biodiversity and to allow meaningful participation in the decisions it makes which affect residents.
- 4.2. Accordingly we are requested to ask that you confirm **by no later than 5pm today, Saturday 26 August 2023** that no action will be taken in respect of the removal of Blue Tag from the Pringle Bay troop at least until our client and KVET have received written reasons for the decision and have had a proper opportunity to make representations.

We look forward to hearing from you.

Yours faithfully,



CULLINAN & ASSOCIATES INC.

Per: SD Kvalsvig