Spotlight on the Baines Restaurant at Victoria Falls: Attention focuses on ZimParks approval and EMA authorization of controversial development constructed in VF WHS HESZ.

Update for the World Heritage Committee, 11th September

Keep Victoria Falls Wild

Introduction

The Baines Restaurant has become the focal point of increasing controversy over the growing commercial development of the Victoria Falls World Heritage Site. The development, situated on the riverbank immediately above the Falls on the southern Zimbabwean side of the river, is within the Victoria Falls National Park (VFNP) and the World Heritage Site (WHS) and has also been clarified as being within the Highly Ecologically Sensitive Zone (HESZ) which prevents any new infrastructure development (State Parties, 2016, map, p.27 and text descriptions, p.29; KVFW 2023a, 2023b, World Heritage Committee, 2023). Its construction impacts on the site's Outstanding Universal Values (OUV) and therefore comes with serious implications for the WHS.

So how has this development been approved by the Zimbabwe National Park and Wildlife Management Authority (ZPWMA, also known as ZimParks) and how have legal processes and safeguards such as the Environmental Impact Assessment (EIA) process and issuing of an EIA certificate of approval for this project failed to realise the sensitivity of the site and reject this proposal?

The first local residents knew about the development was when construction started with the clearance of ground vegetation at the construction site in April 2022. The discovery of the development resulted in widespread negative publicity for the Falls, with the formation of a campaigning group, Keep Victoria Falls Wild and an online petition launched against this and a wave of tourism development pressures which threaten the VF WHS.

A legal challenge against the developments was soon after raised by a group of concerned residents. The case has dragged on for over a year with no sign of resolution. Meanwhile the restaurant opened July 2023. (Construction of the restaurant is documented on the KVFW website here.)

In response to the legal challenge, the developer launched their own opposing affidavit,



Plan of Riverside Restaurant overlaid over satellite image of site location (enlarged), Zambezi Drive

supplying the court with the supporting paperwork regarding their development, including details of the concession agreement and their EIA document, as well as supporting letters and maps presented by ZNPWMA and others (the full pdf is available to download from the KVFW website here (direct link to download, 114 mb)). The main defence of their development was that it is located within the Medium Ecologically Sensitive Zone (MESZ), which allows 'semi-permanent' developments, and therefore an allowable development. Their argument has been shown to be incorrect - the site is undoubtedly in the HESZ (KVFW 2023a, 2023b) - yet they, and National Parks, still refuse to admit that the site is actually within the HESZ.

We review the documents presented in regard to this development in chronological date order.

Director-General's letter (June 2021)

Documents presented by the developer indicate the National Park Authority as the source of the error in regard to the management zonation of the WHS, with the National Park Director-General, Dr F U Mangwanya, incorrectly stating in a letter dated 22 June 2021 (ZPWMA, June 2021a; Annex Q6, p.297 of document/p.284 of pdf; reproduced as Appendix A of this document) that the site of the proposed development was within the MESZ:

> *"This serves to advise we have now received the opinion from our representative who specialises with Victoria Falls regarding World Heritage consideration in as far as the restaurant proposal is concerned. We have attached the document for your information...*
>
> *"The construction of a semi-permanent restaurant is provided for in the Joint Integrated Management Plan since the proposed development area is under the Medium Ecologically Sensitive Zone."* (ZPWMA, June 2021a)

It has now been established that this claim is incorrect. The site is located in the riverine strip, situated between Zambezi Drive road and including the river bank, and is within the HESZ, together with river and islands. The HESZ does not allow any new infrastructure development (see KVFW 2023 State of Development (Zimbabwe) Final Report for more details on the boundary issues as well as wider issues facing the VF WHS).

The wording of the opening statement regarding their 'representative' is strange and has perhaps been the source of yet more confusion regarding the development (see: EIA Certificate (December 2021)).

The ‘Guideline’ document (June 2021)

We believe the supporting document referenced in the Director-General’s June 2021 letter, titled ‘Guidelines for the Establishment of New Semi-Permanent Structures in the Mosi-os-Tunya/Victoria Falls World Heritage Property’ (ZPWMA, June 2021b; Q13, p.286/291 onwards; pdf download from the KVFW website here) was drawn up internally by ZimParks. The document incorrectly identifies the site of the restaurant development within the MESZ of the VF WHS and appears therefore to be the source of this incorrect claim.

The Park Authority’s UNESCO guideline document (ZPWMA, June 2021b; Q13) also questions if the location of development is even justifiable in the MESZ - let alone the HESZ.

The document quotes the IUCN Advice Notes on Environmental Assessments of November 2018:

> *“Reasonable alternative to the proposal must be identified and assessed with the aim of recommending the most sustainable option to decision-makers. The different options should be clearly communicated to the decision-makers, and those that are least damaging in relation to the site’s Outstanding Universal Value should be highlighted, including in some cases the ‘no project’ option. Very often, economically viable and feasible alternatives can be found to development proposals that may be damaging to a World Heritage Site’s OUV. A detailed and early consideration of alternatives can also help to ensure that resources are not wasted in developing proposals that are incompatible with World Heritage Status.”* (ZPWMA, June 2021b, p.4; Q13, p.289/294)

Before going on to state:

> *“In the case of this eco-friendly restaurant the same may apply in the face of lack of reasonable merits for its establishment in the yellow zone. Alternative sites may* [have to] *be explored.”* (ZPWMA, June 2021b, p.4; Q13, p.290/295)

The document concludes by appearing to suggest the deliberate manipulation and exploitation of perceived weaknesses in the 2016 JIMP document:

> *“In conclusion, the onus is on us as an organization to consider having the restaurant or not. The decision is an outcome on an interplay and balance of trade-offs between:*
>
> *(a) prioritisation of commercial pursuits vs a vis the dictates* [diktats?] *of the WHS,*

(b) the dominance and manipulation of the gray area or void or conflict between the Joint Integrated Management Plan (JIMP) for the transboundary Mosi-oa-Tunya/ Victoria Falls World Heritage Property (MoT/VFWHP) (2016-2021) and the other WHC documents." (ZPWMA, June 2021b, p.6; Q13, p.291/296)

We suggest the 'manipulation' to have already started in the very same document, which appears to be the first to state, incorrectly, that the development site is in the Medium ('yellow') Ecologically Sensitive Zone, a statement repeated in the Director-General's covering letter (ZPWMA, June 2021a) and reflected in the associated maps later presented in defence of the riverside restaurant development (ZPWMA, 2022; Q9 - see Appendix B, Q10 and Q11).

The Concession Contract (August 2021)

The concession contract (ZPWMA, August 2021; Q1, p.18/21) was signed between ZPWMA and Scanner Investments (Pvt) Ltd (trading as Victoria Falls Investments) in early August 2021. The contract allows for a semi-permanent development (on basis that the site is in MESZ) and details a maximum of 150 clients and allows the restaurant to operate from 06.00 until 21.30 in the evening.

The site of the concession covers an extensive section of the riverine fringe (see Appendix D), extending from the VIP car-park immediately above the Devil's Cataract, up to the new National Parks 'rock pool' development (and which is also in the HESZ), effectively preventing access to this whole area, which was previously open to the public and which the National Park Authority now appears to see as trespass (despite claims they are opening up access to the community). As there was no public disclosure there has been no public debate on the alienation of this area of the National Park, which represents a significant change in the management of the area against that presented in the 2016 JIMP and the historical management of this area.

The contract, under the heading 'Conservation Support' (point 10) specifies:

"The Lessee shall construct a semi-permanent public picnic site at Rock Pool with ablutions, braai area, under roof cover eating area, natural car park, built in dust bin and controlled entrance and exit area." (ZPWMA, August 2021, p.5; Q1, p.22/25)

The concession agreement, covering an area of 7,282 m2, also allows up to 12 employees to live permanently at the site, and even grow vegetables for their own consumption (ZPWMA, June 2021b; Q1, p.24/27). The ecological sensitivity of the site means it cannot sustain any permanent residents or any cultivation of any vegetables

and it is a mystery as to why this clause has been included in this agreement and its presence needs to be explained.

The EIA Document (August 2021)

The EIA (Environmental Guardian Services, 2021; Q3, p.121/124 onwards), conducted by Environmental Guardian Services (Pvt) Ltd, was also commissioned and completed over July and August 2021 (leaving little time, it should be noted, for any public disclosure process).

Despite the extensive number of pages, the EIA lacks specific substance, and is especially weak in the assessment of the operational impacts of the development, with little reference to the operational impacts of the restaurant, especially regarding light and noise pollution. The EIA is in fact more informative in regards to areas it does not cover than in those it does.

The EIA hardly mentions UNESCO and appears to struggle to identify if the site is inside, or outside the WHS. The document first identifies the development site as being 'on the fringes' of the WHS (Environmental Guardian Services, 2021; Q3, p.131/134), then in another reference it 'lies adjacent to the Zambezi National Park (included in the Victoria Falls World Heritage Site)' (p.154/157) and soon after the WHS is identified as being 2-3 km away (p.156/159), before it is finally acknowledged, perhaps accidentally, as within the WHS and MESZ (p.204/207), before soon after being relegated to again being on the fringes of the WHS (p.205/208) and towards the end of the document it is 'close' to the WHS (p.224/227).

In total the report makes five references to the site being outside of the WHS (varying from being adjacent to up to 2-3 km away) and only one correct reference to the site being within the WHS, but incorrectly identified as within MESZ. This appears to be the only reference to the management zones within the whole EIA document. The EIA appears is therefore inadequate and unreliable in presenting these key details of the development, and thus in assessing its environmental impacts, and the details it does contain are contradictory and insufficient on which to base the EIA approval for a development in such a sensitive location.

There is no reference to impacts on OUV, as specifically requested by the Committee for all developments within and adjoining the WHS.

Regarding the construction materials to be used the EIA opens by stating:

"The construction materials to be used will be wood for floors, logs for pillars and

a stretcher tent for shed [shade?]. *All this will blend with the natural environment"* (Environmental Guardian Services, 2021, p.1; Q3, p.126/129).

The EIA document then goes on steadily make more revealing references to parts of the construction being made with brick, stone and then concrete.

"Various building materials will be used to construct the restaurant. The will be brick and stone work, metal fabrication, woodwork, floor tiling, just to mention some." (Environmental Guardian Services, 2021, p.7; Q3, p.132/135)

"Resources like sand, bricks, cement, water and sewage reticulation piping... among other things, will be made use of... The design of the restaurant is essentially a reinforced woodwork construction. During the construction the foundation holes will be reign forced [reinforced?] *with concrete. All beams and columns will be of wood and steel reinforced. A drop ceiling will hang above the deck platform. The plumbing lines and electrical conduits will be housed within the drop ceiling. Floors will be covered with wooden tiles."* (Environmental Guardian Services, 2021, p.8; Q3, p.133/p.136)

It is difficult to imagine that these statements all refer to the same design, for they appear at odds with the opening description. The apparent spelling errors again make interpreting the exact meaning of these descriptions difficult. The use of brick, stone and concrete in a zone which only allows 'semi-permanent' developments (assuming, incorrectly, that it is the MESZ) is highly questionable and the developers could be considered to be in breech of their contact with the National Park Authority. However the contract itself is incorrect in allowing a semi-permanent development in an area which is actually in the HESZ.

The EIA also appears to make some recommendations which appear to be in further conflict with the concession contract and unsuitable to the management the WHS HESZ.

"It is suggested that in between roads, there should be green zones that will be covered with grass lawn, trees and plants that attract birds and butterflies. Birdbaths will be placed in strategic areas. The park will play a pivotal role in providing up-market resting places for the guests. The Park will give guests a place to connect with the natural world. It will also make the restaurant to blend well with the local environment." (Environmental Guardian Services, 2021, p.12; Q3, p.137/140)

The report goes on to suggest:

"Gardens or landscaped areas around the proposed development will be planted with

indigenous (preferably using endemic or local species from the area) grass, forbs, shrubs and trees, which are water wise and require minimal horticultural practices." (Environmental Guardian Services, 2021, p.100; Q3, p.225/228)

And later:

"To improve water efficiency of the restaurant's gardens, water wise plants will be planted, with the restaurant's flowering plants that will be planted will be the succulents which require less water." (Environmental Guardian Services, 2021, p.115; Q3, p.240/245)

The irony of an EIA suggesting the landscaping and development of managed lawns and gardens, so that visitors can *"connect with the natural world,"* in a previously pristine site within the HESZ of the VF WHS is beyond words. The planting of grasses, flowers and succulents in such an ecologically sensitive area is surely not to be welcomed or encouraged. The suggestion also appears to be in conflict with the developers contract, which, as already mentioned, only allows them to grow vegetables and makes no mention of ornamental gardens and landscaped lawns. It should further be noted that water-wise succulents are a feature of the flora of the gorges downstream of the Falls, and not the upstream riverine fringe. This issue is not contained to this development, and it should be noted that landscaped lawns are also being created at the site of the National Park 'rock pool' development and also at the Wild Horizons Lookout Cafe.

The creation of managed lawns and gardens will end up attracting common 'garden' species of birds which can tolerate human disturbance. Rarer species will be displaced. The same can be said for reptiles and insects. It is the protection of these rarer species which should be the priority of the National Park Authority.

The decommissioning phase also identifies sowing of an indigenous seed mix of up to 30 species, including several species of fast growing grass, to encourage regrowth (Environmental Guardian Services, 2021, p.126; Q3, p.251/256). Again it is highly questionable as to whether this is to be encouraged in such an ecologically sensitive area - only species native to the immediate area should be used, and even then recolonisation should be encouraged to be as natural as possible, supported possibly by the relocation of mature species to replace those cleared or removed as part of the site's development.

The EIA document appears to make no mention of the neighbouring 'rock pool' developments to be constructed by the restaurant developer as part of the concession contract. The building, in stone and cement, was constructed in 2022 and is now completed and operational. Questions must also be asked over this permanent structure



The National Park 'Rock Pool' development - constructed early 2022 (May 2023)

developed within the WHS HESZ and if any EIA process was conducted and whether UNESCO have been adequately informed.

EIA Certificate (December 2021)

The EIA certificate for the development (p.270/p.275) was awarded by the Environmental Management Agency (EMA) in December 2021 on basis of the claim that site is located within the MESZ and an allowable development, and despite the contradictions in the EIA indicating the site was outside of the WHS.

In August 2022 it was reported in the Zimbabwe Independent newspaper that a EMA spokesperson had confirmed the issuing of an EIA certificate of approval for the development, based on submissions including a recommendation from the UNESCO local office.

> *"EMA spokesperson Amkela Sidange told the Independent that Scanner Investments had been issued with an Environmental Impact Assessment (EIA) certificate after weighing submissions made by key stakeholders including the Unesco local office.*
>
> *"'Scanner has an EIA certificate whose approval came with recommendations from landowners and relevant stakeholders who include the local Unesco office,' she said this week, explaining that she was not aware of the nature of the commercial project the firm intended to set up in the delicate areas of the falls."* (Victoria Falls Bits and Blogs, August 2022)

There is no UNESCO ‘local office’ in Victoria Falls or anywhere else in Zimbabwe, but there is a Regional Office, based in Harare. Guy Broucke has not replied to enquiries trying to verify any ‘recommendation’ made in relation to this development.

The EMA statement that the proposal included recommendations from UNESCO is believed to be incorrect - the court papers presented by the developer suggest that this may be a confusion resulting from the rather oddly specific wording of the Director-General’s June 2021 letter (ZPWMA June 2021a; Q6), and supporting ‘Guideline’ document (ZPWMA, June 2021b; Q13), which as already stated we believe is an internal ZimParks document. We do not believe there has been any written ‘recommendation’ for this proposal from any UNESCO office or representative.

In summary the EMA appears to have issued an EIA certificate for a development which:

i) is claimed by National Parks and the developer to be within the MESZ of the VF WHS when it is in fact within the HESZ which prevents all new development;

ii) identifies the use of permanent building materials such as brick, stone an cement, in an area which according to the developers, and their contract with the National Park Authority, only allows ‘semi-permanent’ development. The site, as already clarified, is actually in the HESZ, which allows no new development;

iii) they have confused documents produced by National Parks in relation to the development as being ‘recommendations’ from UNESCO;

iv) finally, and most significantly, overlooked the many short-comings within the EIA document, including the many incorrect claims that the development site is outside the WHS. (As such, the EIA is totally inadequate and unsuitable for its legally required purpose and should have been rejected on this ground alone.)

The question here therefore is whether the EMA have followed due process and diligence in awarding the EIA certificate of approval for this development, and if so, how the shortcomings identified above have arisen.

Developer Statement (June 2022)

In a statement released under the name of Victoria Falls Investments (VFI) in June 2202 the developer incorrectly claimed that their site was located within the ‘orange’ management zone. There is no orange zone, but from their statement it is clear that they are referring to the yellow MESZ.



Riverside Restaurant construction (January 2023)

> *"The site* [is] *located within UNESCO deemed Orange Zone of the World Heritage plan and is fully compliant with all UNESCO zone regulations. The Orange zone, according the World Heritage Plan, allows for the development of 'semi-permanent structures such as restaurants, lodges, jetty sites, etc.' within its boundaries. Thus there are no breaches of the UNESCO World Heritage plans and thus no threat to the World Heritage status of the Victoria Falls."* (VFI, 2022)

As we now know, this claim is incorrect. The site is located in the HESZ (Block 6) which includes the riverine strip, situated between Zambezi Drive road and including the river bank, river and islands, and which does not allow any new infrastructure development as outlined in the 2016 JIMP (State Parties, 2016, map, p.27 and text descriptions, p.29). A supporting map, provided by VFI (VFI, July 2021; Q4, p.276/281; Appendix C), shows the 2016 JIMP map annotated with an arrow to show the location of the development - and incorrectly points to the MESZ (Block 7) (KVFW 2023a; 2023b).

They also claimed that the design of the development 'only' includes 'semi-permanent (removable) structures.'



Lights from the newly constructed Baines Restaurant intrude on the view of the Devil's Cataract in a picture taken at night on a special tour to experience the lunar rainbow (August 2023)

> *"Design features only semi-permanent (removable) structures as per regulations."* (VFI, 2022)

Not only is this statement at variance with the information presented in their EIA document, which specifies the use of brick, stone and concrete, we do not believe that brick and concrete structures (see photograph, previous page) are 'semi-permanent' in regard to the regulations or their contract conditions.

The statement also claims that the development will not be visible from viewpoints within the Victoria Falls visitor park.

> *"Structures will not be seen from the Victoria Falls viewing points and will blend into the natural surroundings of the river bank, being offset from the river."* (VFI, 2022)

A recent photograph (above) showing light pollution from the restaurant intruding over the view of the Devil's Cataract viewed from the rainforest, illustrates this statement not to be true either.

Finally they claim:

> *"The development will be unique and upmarket attraction that will enhance the city's current offerings and our aim is to spark renewed interest in the appeal of the city on the international and local tourism markets alike."* (VFI, 2022)

In fact the development has resulted in widespread negative national, regional and international media publicity on the Falls, and continues to have the potential to generate many more headlines, as well as serious implication for the VF WHS.

Opposing Affidavit (July 2022)

In the opening statement of the Respondent's Opposing Affidavit (Scanner Investments, 2022, original document titled 'Respondnet's Opposing Affidavit'), issued in July 2022, the Managing Director of Scanner Investments and VFI, Andrew Lane, goes on to emphasise, many times, that their development is within the MESZ. It is such a fundamental foundation to his case that the fact that the site is actually within the HESZ should totally undermine the whole defence of this development.

In support of their argument they present three maps (Q9 - reproduced in Appendix B, Q10 and Q11, p.282/286 onwards) which are stated to have been produced by the National Park Authority. These maps do not conform with those submitted to UNESCO in the 2016 JIMP and, more significantly, the text descriptions agreed in that document, and incorrectly show the site, and the whole of the riverine strip, within the MESZ.

In addition to the incorrect statement by the Director General (June 2021) and supporting 'Guideline' document that the development is within the MESZ, it appears without doubt that the National Park Authority are the source of the incorrect claims relating to this site, and which only five years earlier was firmly within the HESZ (State Parties, 2016).

They also appear to suggest that the JIMP is a 'guideline' document only (their emphasis):

> *"20. In carrying out its mandate, the Zimpark's operations are guided by the Joint Integrated Management Plan 2016-2021 (hereinafter 'the plan'). This is an agreement entered into between the two countries who share the Victoria Falls namely, Zimbabwe and Zambia. The purpose of the agreement is to regulate the sustainable management of the Victoria Falls. The plan is a framework offering* ***guidelines*** *as regards what each member state can do to ensure maximum conservation of the Victoria Falls."* (Scanner Investments, 2022, p.6/9)

And go on to suggest that the document is not legally binding.

> *"22. The Joint Integrated Management Plan has its roots in the UNESCO World Heritage Convention. This is a multi-state initiative, which is meant to preserve natural and cultural sites. This is however not a legally binding."* (Scanner Investments, 2022, p.7/10)

The fact remains, however, that the Terms and Conditions (ZPWMA, December 2021; Q14, reproduced in Appendix E) issued by ZPWMA to the developer specify under the Special Conditions that the developer must follow the UNESCO guidelines:

> *"Adhere to operational guidelines of UNESCO which regulates developments in the World Heritage Site."* (ZPWMA, December 2021; Q14, p.293/298; Appendix E)

The developer's claims to have conducted public disclosure on the development, as required by UNESCO guidelines (IUCN, 2013), appear to relate to a number of private stakeholder meetings, most of which were required by due process, and there appears to have been no attempt to share information on the development to the wider community of Victoria Falls during the period prior to the start of construction in April 2022.

Their sole claim to public disclosure rests on a private discussion with a single resident of Victoria Falls who they claim as being a representative of the whole community.

> *"53. Furthermore as per Annexure Q4 hereto shows, which are Minutes of Meeting regarding the proposed developments, the 2nd Respondent* [Scanner Investments] *consulted 'Victoria Falls Enviro Watch' on 1st July 2021. This is a legally registered Trust, with a board of Trustees who represent the community of Victoria Falls on Environment issues. To suggest that no public consultations were made is therefore mischievous and misguided."* (Scanner Investments, 2022, p.11/14)

The developer did not meet with VFEW - they met with one individual, Tony Peel, who is chairman of VFEW, but the meeting was private and no details of the development were made public. We maintain that there was no public disclosure to the wider community on the development. The developer's next point appears to confirm this.

> *"54. The issue with the ten Applicant is that none of them is directly involved in the environmental issues of the Victoria Falls at organizational, such that they could not be identified for consultation during the Environmental Impact Assessment."* (Scanner Investments, 2022, p.11/14)

The whole point of a public disclosure process is to reach members of the community

who the developers may not be aware of. Principle 7 of the IUCN World Heritage Advice Note: Environmental Assessment (2013) on World Heritage Impact Assessment Principles advises *"The assessment must be publicly disclosed and subject to thorough public consultation at different stages"* before going on to specify including the local community (IUCN, 2013, p.6). Annex 2, point 7 of the same document details:

> *"The assessment should be publicly disclosed as early as possible and subject to thorough consultation via appropriate means, including public meetings, online, in local languages as appropriate."* (IUCN, 2013, p.16)

The developer claims, once again, that the restaurant will not be visible from the viewing points within the Victoria Falls visitor area (their emphasis).

> *"62. I stress categorically that the restaurant will **NOT** be visible from the viewing points within the Victoria Falls."* (Scanner Investments, 2022, p.12/15)

Yet photographic evidence suggests otherwise.

KVFW State of Development Summary Report (February 2023)

In February 2023 Keep Victoria Falls Wild published their 2023 Victoria Falls World Heritage Site State of Development Summary Report raising specific concerns over this development and highlighting that the site of the development is actually within the HESZ of the VF WHS according to the 2016 JIMP document.

UNESCO request info (March 2023)

In response, the World Heritage Centre sent a letter to the State Party of Zimbabwe in March 2023 asking for clarification over the issuing of permits for two commercial developments within the area currently recognised as the HESZ.

> *"In a letter dated 14 March 2023, the World Heritage Centre transmitted to the State Party of Zimbabwe, for comments, third-party information reporting the issuing of a permit for two commercial sites for tourism developments within areas of the property that are recognized as highly sensitive zones according to the JIMP* [Joint Integrated Management Plan]*. No response has been received from the State Party at the time of writing this report."* (World Heritage Committee, 2023, p.17)

While the restaurant development is not specifically named in this public statement we submit that it is one of the two identified developments of concern (the other being the Kandahar Camp concession).



Riverside Restaurant riverside viewing deck (August 2023)

KVFW final report (August 2023)

In August 2023 KVFW released their full 2023 Victoria Falls World Heritage Site State of Development (Zimbabwe) Final Report, raising further serious questions over the management of the VF WHS.

The legal challenge by a group of local residents against these developments, raised in May 2021, has been subject of repeated delays in the courts and is still to be concluded.

World Heritage Conference (September 2023)

As the World Heritage Committee looks to discuss the VF WHS at its forthcoming conference in September the committee should seriously consider its reaction to the construction of this restaurant development.

The operation should be closed and the site returned to nature with the complete removal of all aspects of the development and restoration of the area to its natural state. If the development really is semi-permanent, as required by the concession contract, then they should have no difficultly in removing it.

The Committee should also consider its response to the neighbouring National Park 'Rock Pool' development (similarly located within the WHS HESZ, again with no public disclosure and believed to have been constructed without an EIA process - see KVFW website here for more information), launch of tours to Cataract Island (as part of a



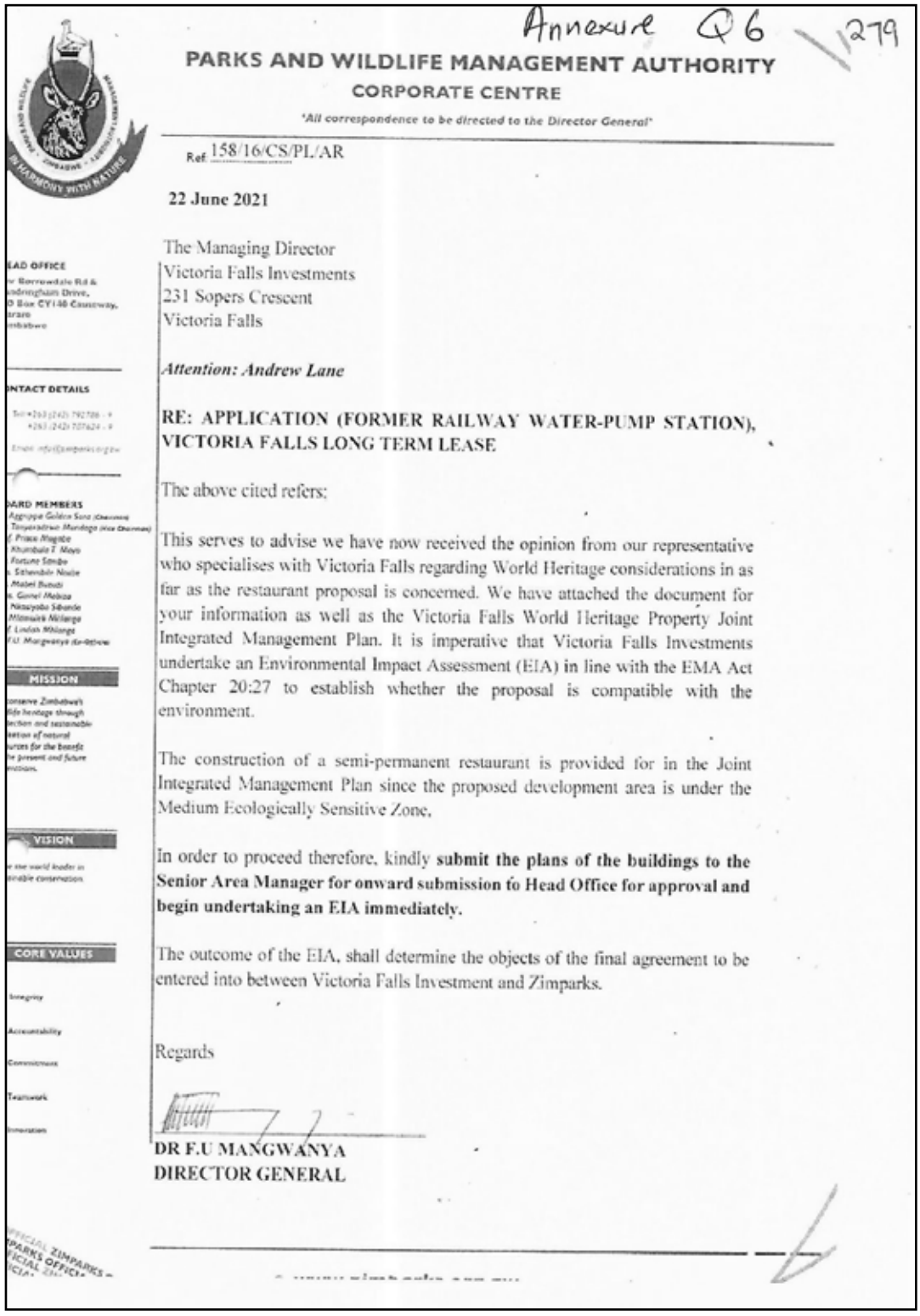
Riverside Restaurant interior (August 2023)

concession agreement with operators of Victoria Falls River Lodge, again without public disclosure or an EIA process - despite previously being specifically requested by the Committee for this activity in 2017 - see here) and the riverside 'tree lodge' concession agreed with another private tourism operator along the riverine fringe surrounding the Elephant Hills Golf Course (again believed to be within WHS HESZ according to the text of the 2016 JIMP, EIA process claimed to be complete, but again without any public disclosure - here).

This is in addition to the previously requested clarification regarding the Kandahar Camp concession located in the Zambezi National Park, and again included within the WHS and HESZ (State Parties, 2022, Appendix 2a, p.2) and again with a concession agreement believed to have been signed by National Park Authority (see here).

We also urge the Committee, in addition to any specific response to the above developments, to consider tightening the wording of decision point 5 to request an urgent review of all development proposals on the southern side of the Site which have been approved by National Parks within the Site or approved by Victoria Falls City Council or National Railways of Zimbabwe either within or partially within the Site or surrounding Buffer Zone, and request that all currently proposed, as well as further/future development proposals, are immediately suspended pending submission and agreement of the detailed 'blueprint' and ESIA documents requested by the Committee.

Appendix A: ZPWMA Director-General's letter, 22 June 2021 [Q6]



Annexure Q6 279

PARKS AND WILDLIFE MANAGEMENT AUTHORITY

CORPORATE CENTRE

'All correspondence to be directed to the Director General'

Ref. 158/16/CS/PL/AR

22 June 2021

The Managing Director
Victoria Falls Investments
231 Sopers Crescent
Victoria Falls

Attention: Andrew Lane

RE: APPLICATION (FORMER RAILWAY WATER-PUMP STATION), VICTORIA FALLS LONG TERM LEASE

The above cited refers;

This serves to advise we have now received the opinion from our representative who specialises with Victoria Falls regarding World Heritage considerations in as far as the restaurant proposal is concerned. We have attached the document for your information as well as the Victoria Falls World Heritage Property Joint Integrated Management Plan. It is imperative that Victoria Falls Investments undertake an Environmental Impact Assessment (EIA) in line with the EMA Act Chapter 20:27 to establish whether the proposal is compatible with the environment.

The construction of a semi-permanent restaurant is provided for in the Joint Integrated Management Plan since the proposed development area is under the Medium Ecologically Sensitive Zone.

In order to proceed therefore, kindly **submit the plans of the buildings to the Senior Area Manager for onward submission to Head Office for approval and begin undertaking an EIA immediately.**

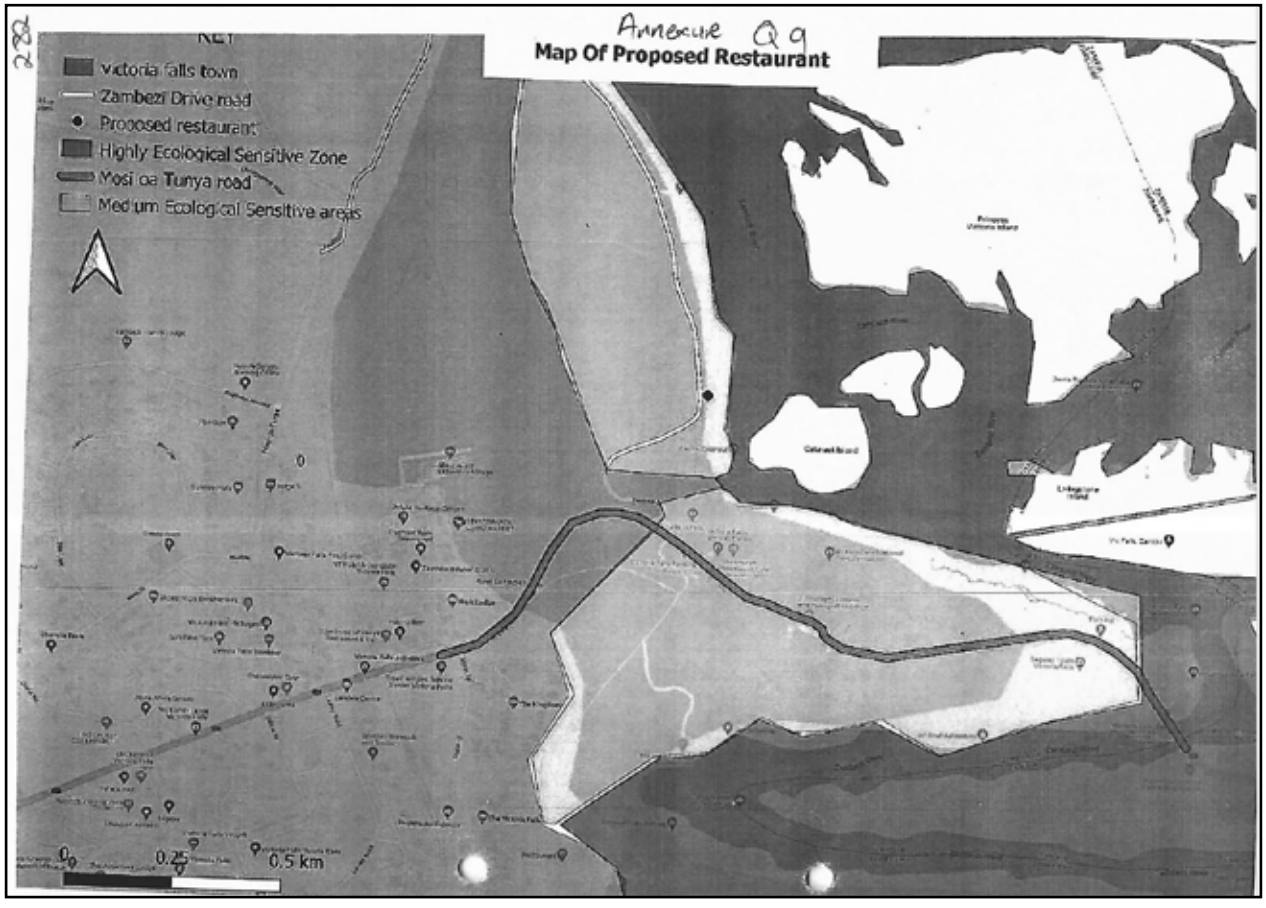
The outcome of the EIA, shall determine the objects of the final agreement to be entered into between Victoria Falls Investment and Zimparks.

Regards

DR F.U MANGWANYA
DIRECTOR GENERAL

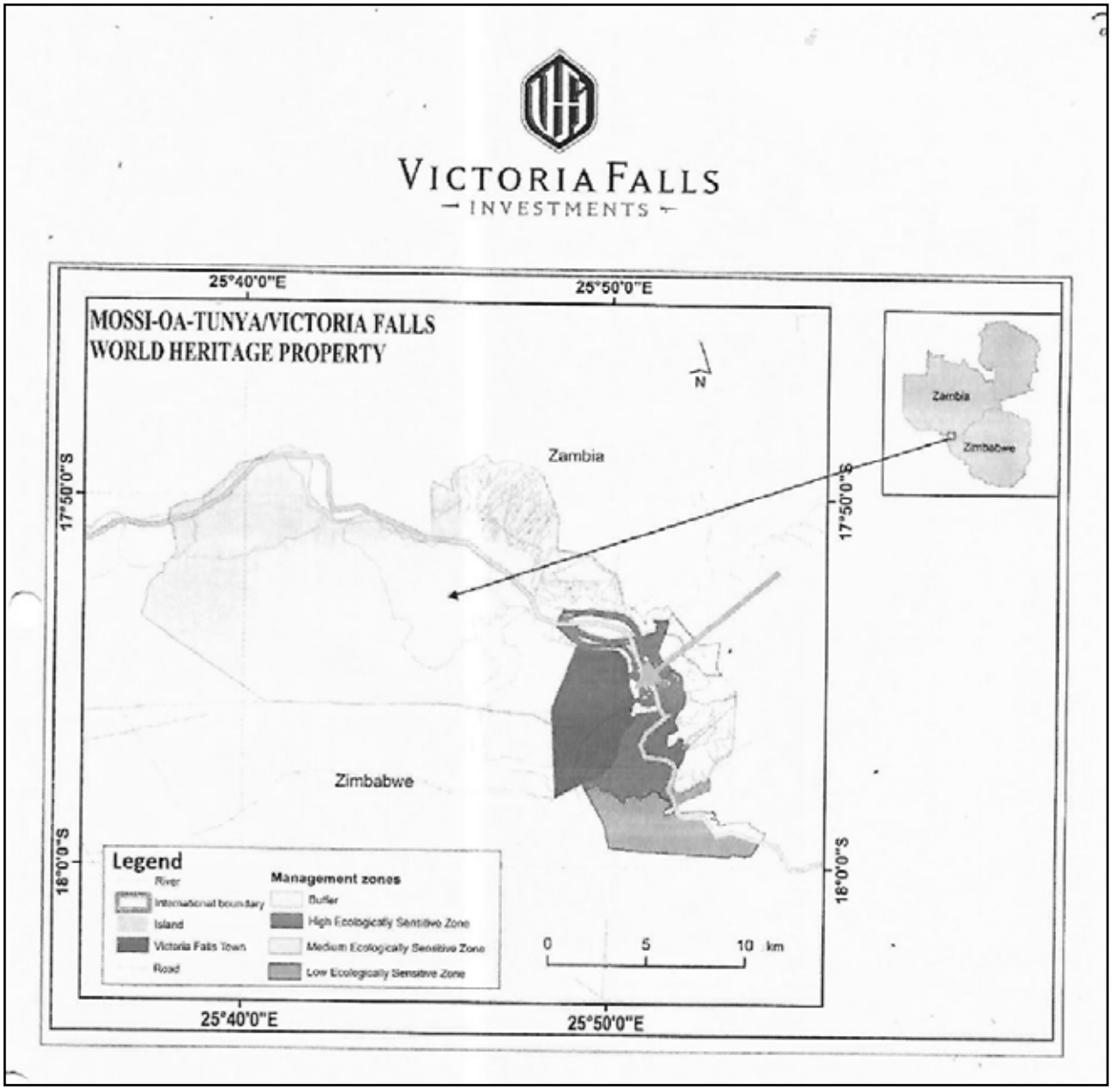
Annex Q6 - Letter from ZPWMA Director-General, 22 June 2021

Appendix B: ZPWMA Map [Q9]



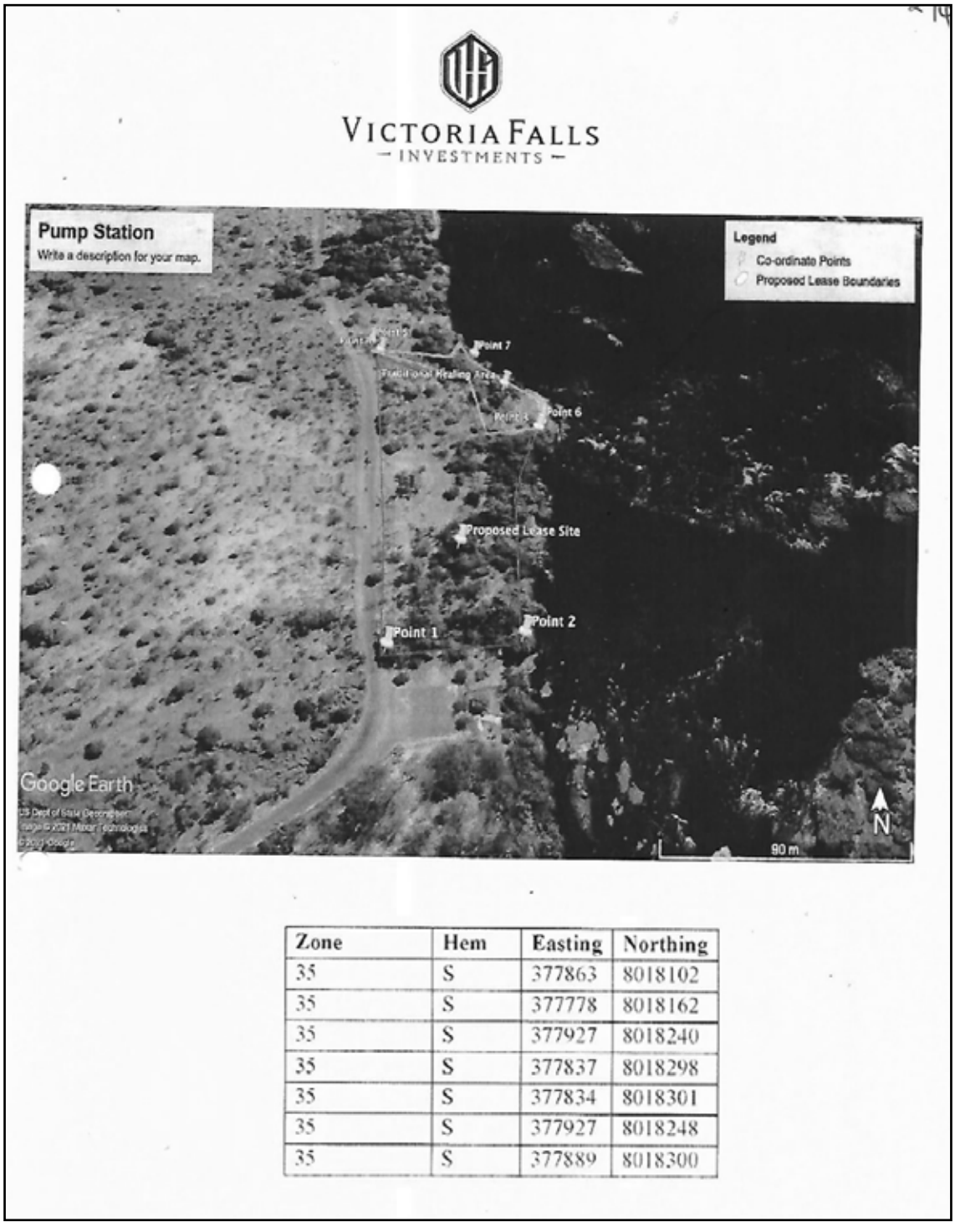
Annex Q9 - Map supplied by ZPWMA incorrectly showing site of restaurant (and also main Victoria Falls visitor area of the 'rainforest') with the MESZ. This, and the maps presented as Q10 and Q11, are at variance with the 2016 JIMP which defines the road running upstream (Zambezi Drive) as the boundary between the MESZ (to the west) and the HESZ (to the east - and the location of the restaurant development). The fenced rainforest area is similarly within the HESZ as specified in the text of the 2016 JIMP.

Appendix C: VFI Map



Victoria Falls Investments annotated version of the 2016 JIMP map incorrectly showing location of restaurant development as being in the MESZ. The arrow points to the MESZ to the west of Zambezi Drive road, when the development is to the east - and in the HESZ.
(VFI, July 2021; Q4, p.276/281)

Appendix D: Victoria Falls Investments - Map of Concession



Zone	Hem	Easting	Northing
35	S	377863	8018102
35	S	377778	8018162
35	S	377927	8018240
35	S	377837	8018298
35	S	377834	8018301
35	S	377927	8018248
35	S	377889	8018300

Victoria Falls Investments document showing location of Baines restaurant concession together with additional table of co-ordinates taken from EIA document. (VFI, July 2021; Q4, p.274/279)

Appendix E: ZPWMA Special Conditions, December 2021 [Q14]

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Annexure Q 14

SPECIAL CONDITIONS FOR SCANNER INVESTMENTS OLD PUMP RESTAURANT (13498), HWANGE DISTRICT MATEBELELAND NORTH PROVINCE

TERMS AND CONDITIONS

1. The developer shall comply with the conditions specified in the approved Environmental Management Plan.
2. The developer should notify the Director General if there is any change in the project which is likely to alter the project effect on the environment or if it appears the project effect on the environment differs materially in kind or degree from the effects outlined in the environmental impact assessment prepared for the project.
3. The Environmental Management Agency may carry out periodic environmental audits of the project. The developer shall keep records and submit quarterly progress reports to the Environmental Management Agency.
4. The developer shall ensure that all other licenses and permits are acquired and conditions adhered to.
5. Developer should comply with subsidiary legislation and statutory instruments.
6. This certificate is not transferrable to any other person or developer.
7. This certificate is subject to amendment, suspension or cancellation in terms of Section (104) of the Environmental Management Agency Act (Chapter 20:27).

SPECIAL CONDITIONS (IF ANY)

1. The project should not interfere with wildlife corridors.

2. Adhere to operational guidelines of UNESCO which regulates developments in the World Heritage Site and as guided by the National Parks & Wildlife Authority of Zimbabwe.

RECEIVED BY: Andrew Lane DESIGNATION: Managing Director

ID NUMBER: 08-211355A-A-00 CONTACT NUMBER: 0782513/09

DATE: 07/12/2021

Annex Q14 - ZPWMA Special Conditions, December 2021

References

Environmental Guardian Services (2021) Environmental Impact Assessment Report for Scanner Investments. August 2021 [Q3; available to download as part of Scanner Investments (2022)].

IUCN (2013) World Heritage Advice Note: Environmental Assessment. 7th June 2013.

Keep Victoria Falls Wild (2023a) 2023 Victoria Falls World Heritage Site State of Development Summary Report. [Available to download from the KVFW website here.]

Keep Victoria Falls Wild (2023b) 2023 Victoria Falls World Heritage Site State of Development (Zimbabwe) Final Report. [Available to download from the KVFW website here.]

Scanner Investments (2022) Respondent's Opposing Affidavit, court documents. [Available to download from the KVFW website here (**114 mb**).]

State Parties (2016) Victoria Falls/Mosi-oa-Tunya World Heritage Site Joint Integrated Management Plan 2016-2021. [Available to download from the UNESCO World Heritage website here.]

State Parties (2022) 2021 Victoria Falls/Mosi-oa-Tunya World Heritage Site State of Conservation Report. [Available to download from the UNESCO World Heritage website here.]

Victoria Falls Bits and Blogs (August 2022) Praz disowns Vic Falls project. 6th August.

Victoria Falls Investments (July 2021) Paperwork relating to restaurant development, July 2021 [Q4; available to download as part of Scanner Investments (2022); see also Appendix C and D].

Victoria Falls Investments (June 2022) Statement by Victoria Falls Investments on our Restaurant Site Development. [Available to download from the KVFW website here.]

World Heritage Committee (2023) Item 7B of the Provisional Agenda: State of conservation of properties inscribed on the World Heritage List (WHC/23/45.COM/7B.Add) p.16-9.

ZPWMA (June 2021a) Application (former Railway Water-Pump Station, Victoria Falls Long Term Lease. Letter from Dr F U Mangwanya, Director-General, ZPWMA, 22 June 2021 [Q6; Appendix A, available to download from KVFW website here.].

ZPWMA (June 2021b) Guidelines for the Establishment of New Semi-Permanent Structures in the Mosi-os-Tunya/Victoria Falls World Heritage Property [Q13, available to download from KVFW website here.].

ZPWMA (August 2021) Memorandum of a Lease Agreement Entered into by and between Parks and Wildlife Management Authority and Scanner Investments (Pvt) Ltd. [Q1; available to download as part of Scanner Investments (2022)]

ZPWMA (December 2021) Special Conditions for Scanner Investments Old Pump Restaurant (13498) Hwange District Matabeleland North Province [Q14; Appendix E, available to download from KVFW website here.].

ZPWMA (2022) Maps presented in support of riverside restaurant (and incorrectly showing the riverine strip (and rainforest) within MESZ). [Q9, Q10 and Q11, available to download from the KVFW website here, here and here.]