

1. PURPOSE

1.1 Debrief the Portfolio Committee on Environment, Forestry and Fisheries on the current status of all land claims lodged against the Kruger National Park in Mpumalanga.

2. BACKGROUND

2.1 The Office of the Regional Land Claims Commissioner: Mpumalanga Province received and registered five (5) land claims lodged by various communities and individuals against the properties constituting the Kruger National Park in the southern part of the park. These communities consist of Gomondwane, Mahashi, Mhlanganisweni, Ngirivani Mathebula and Phabeni.

2.2 All these Five (5) communities' land claims were properly investigated and found to be compliant and meeting the requirement of the Restitution of Land Rights Act, No 22 of 1994, as amended, whereas one (1) is still outstanding and currently at investigation stage.



- 2.3 The ownership of the subject properties under claim currently vests in the name of the State, and forms part of a protected area as defined in sec 1 of the National Environment Management: Protected Areas Act, No. 57 of 2003.
- 2.4 The claimant's initial desired restitution outcome at the time of lodgement of their claims was for the restoration of ownership rights of the claimed properties subject to the conditions that those properties would not be physically occupied, but would remain protected areas in perpetuity.



- 2.5 This desired restitution outcome was swayed by a decision taken by the Cabinet in 2008 that it would be feasible for the claimants to receive equitable redress as the only restitution award for settlement of all land claims lodged against the whole of the Kruger National Park.
- 2.6 A collaborative effort by all relevant departmental institutions resulted in holding a series of meetings with all affected claimant communities for both Limpopo and Mpumalanga to address issues of support and presenting a proposed beneficiation package as part of a settlement agreement.



2.7 The proposed equitable redress option was duly accepted by the claimant communities. Sec 42D's were thereafter prepared for four (4) communities and forwarded for Ministerial approval, and ultimately approved in March 2016, and August 2018 respectively.

2.8 The settlement model was premised on two settlement awards, e.g. the first being financial compensation in lieu of improvements lost during dispossession, and the second being beneficiation scheme which would empower communities to have development rights both inside and outside the Park.



2.9 APPROVED FUNDS FOR THE FOUR (4) COMMUNITIES ARE AS DEPICTED IN THE TABLE HEREIN BELOW AS FOLLOWS:

Claim name	No. of households	Extent Lost	Restitution award approved	Development funds approved
Gomondwane Comm	302	20400ha	R33, 505, 994.00	R43, 824, 065.00
Mahashi Comm	191	14924ha	R21, 190, 877.00	R9, 095, 348.88
Mhlanganisweni Comm	116	49060ha	R12, 869, 852.00	R29, 899, 344.44
Ngirivani Mathebula Comm	136	61100ha	R15, 088, 792.00	R37, 237, 055.55
Total	745	1454884ha	R82, 655, 515.00	R120, 055, 813.87

3. CURRENT STATUS

- 3.1 A project management unit has been established and currently located within the precinct of SANParks. Its overall objective is to oversee the development and implementation of the beneficiation scheme in respect of the land inside the park.
- 3.2 A draft document of the beneficiation scheme has since been developed and circulated to all stakeholders for inputs.



- 3.3 Communities currently do not have any proper and registered legal entities to conclude agreements on behalf of their respective communities. This process is currently being facilitated by the project management unit to ensure that governance structures are put in place.
- 3.4 Some communities in Mpumalanga are willing to sign-off the finalized beneficiation scheme.
- 3.5 The outstanding research report for Phabeni has been approved and a Rule 5 Acceptance Report has been submitted for gazetting. This community land claim will be settled in the next financial year of 2022/2023, and this will therefore be marked as the final land claim lodged against the Kruger National Park in Mpumalanga Province.

4. PROGRESS REGARDING FINANCIAL COMPENSATION PAYMENTS

4.1 Financial compensation payments have already been effected as demonstrated in the table depicted herein below:

Claim name	Fincom Award	Amount paid	Amount Outstanding
Gomondwane Comm	R33, 505, 994.00	R24, 279, 163.79	R9, 226, 830.21
Mahashi Comm	R21, 190, 877.00	R19, 247, 300.98	R1, 943, 576.02
Mhlanganisweni Comm	R12, 869, 852.00	R12, 286, 248.30	R583, 603.70
Ngirivani Mathebula Comm	R15, 088, 792.00	R9, 774, 661.28	R5, 314, 130.72



5. CHALLENGES

- 5.1 Finalization of the establishment of governance structures on behalf of the respective communities.
- 5.2 Confirmation from the Director-General's office ensuring that the department becomes the founder and the Director General the organizational representatives. (In process) form J40



- 5.3 Financial payment for Phase 1 has been rather very slow during the current and past financial years due to some fraudulently altering of beneficiary lists and failure to avail required documents to effect payments
- 5.4 There is currently acrimonious factional infighting in the Ngirivani Mathebula beneficiaries and alleged fraudulent activities encouraged by the current Chairperson.
- 5.5 Submission of an addendum Sec 42D for the originally dispossessed individuals who had more than one spouse will be submitted for approval in 2022/2023 financial year.



5.6 The Kruger National Park communities are represented by different legal representatives who at time make different demands making it difficult to reach a point of convergence.

5.7 Some individuals within the beneficiary communities decide to appoint legal representatives without consulting the broad community resulting in conflicts. Further, the expectation is that the Commission will fund such costs with out prior approvals.

5.8 The beneficiation Scheme which was part of the settlement was negotiated with all the beneficiaries over a period of almost 1 year. We received representation from some of the communities legal representatives who said they were not happy with the proposed scheme.

5.9 One of the legal representatives Richard Spoor declared a formal dispute and requested that an independent mediator be appointed to finalise the Beneficiation scheme.

5.10 An independent mediator Mr Mzi Memeza was appointed and unfortunately was not able to carry out this plan as the legal representatives of some of the communities refused to allow him to meet without the communities if they were not present. He was unable to complete his work within the agreed timeline of 6 months. He refused an extension of the contract citing challenges with his inability to consult directly with the beneficiaries

5.11 The mediation of the benefication scheme as a result collapsed.



6. WAY-FORWARD

6.1 The Commission has resolved to refer the negotiation of Beneficiation Scheme to the Land Claims Court for a court led mediation.

6.2 The Office of the Chief Land Claims Commission has under sec 29(4) of the Restitution Act appointed legal representation for each community to be represented during the court led mediation process.



THANK YOU

