

IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN

Case no: 2026-024184

In the matter between:

LIBERTY FIGHTERS NETWORK

First Applicant

REYNO DAWID DE BEER N.O.

Second Applicant

and

**PREMIER OF THE WESTERN CAPE,
MR. ALAN WINDE N.O., OR HIS
SUCCESSOR IN TITLE**

First Respondent

**SPEAKER OF THE WESTERN CAPE PROVINCIAL
PARLIAMENT, MR. DAYLIN MITCHELL N.O.,
OR HIS SUCCESSOR IN TITLE**

Second Respondent

**WESTERN CAPE PROVINCIAL MINISTER
FOR LOCAL GOVERNMENT, ENVIRONMENTAL
AFFAIRS AND DEVELOPMENT PLANNING, MR.
ANTON BREDELL N.O., OR HIS SUCCESSOR IN
TITLE**

Third Respondent

**OFFICE OF THE COMMISSIONER OF THE
ENVIRONMENT**

Fourth Respondent

SOUTH AFRICAN NATIONAL PARKS

Fifth Respondent

CAPENATURE

Sixth Respondent

**CITY OF CAPE TOWN METROPOLITAN
MUNICIPALITY**

Seventh Respondent

**CHAIRPERSON OF CAPE PENINSULA
BABOON MANAGEMENT JOINT TASK TEAM,
MR. ROBERT McGAFFIN N.O., OR HIS SUCCESSOR
IN TITLE**

Eighth Respondent

JUDITH ANNE SOLE

Ninth Respondent

**WILDLIFE ANIMAL PROTECTION FORUM OF
SOUTH AFRICA**

Tenth Respondent

BABOON ADVISORY GROUP

Eleventh Respondent

FIFTH RESPONDENT'S ANSWERING AFFIDAVIT IN PART A



I, the undersigned,

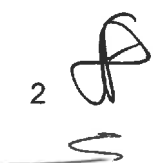
DELSEY FAHLAZA MONALEDI

declare under oath:

- 1 I am the General Manager: Legal Services of South African National Parks (“**SANParks**”), the fifth respondent, and am authorised to oppose this application and sign this affidavit on its behalf.
- 2 The facts contained in this affidavit are within my personal knowledge, unless otherwise stated or appears from the context, and are true and correct. In relation to other facts, by virtue of my position, I have access to information and records held by SANParks regarding the facts and issues dealt with in this affidavit and I depose to this affidavit having regard to that information and records.
- 3 Legal submissions are made on the advice of the SANParks’ legal representatives.

OVERVIEW OF OPPOSITION

- 4 The applicants have brought an urgent application – with an extremely truncated timetable – for *inter alia* interdictory relief against SANParks, the City of Cape Town (“**the City**”) and the Western Cape Nature Conservation Board (“**CapeNature**”).
- 5 SANParks, the City and CapeNature operate Joint Task Team to manage Chacma baboons in the Cape Peninsula. As the Court will know, baboons reside in the Table Mountain National Park (“**TMNP**”), which SANParks bears statutory responsibility for.
- 6 The Joint Task Team was established and formalised after many years of disputes about the proper role of various spheres of government in the management of baboons in the Cape Peninsula. A Memorandum of Association (“**MoA**”) was concluded on 6 July 2023,



on the basis of a common recognition by the three organs of state that the Cape chacma baboons play an important ecological role in the Cape Peninsula; that keeping baboon troops in natural areas promotes a safe and healthy environment for residents and landowners and protects baboons from conflict with humans; and that co-operation between the three entities was necessary and desirable in order to achieve the sustainable management of the baboon population in the Cape Peninsula.

- 7 In September 2023, the Joint Task Team adopted the Baboon Strategic Management Plan (“**BSMP**”). The BSMP is the product of a comprehensive public participation process, including review by experts.
- 8 Last year, the Joint Task Team adopted the Final Baboon Management Action Plan dated October 2025 (**the Action Plan**). It addresses the practical implementation of the BSMP in accordance with principles and tools approved in the BSMP. A copy is attached to the applicants’ founding affidavit as **D**.
- 9 On 20 November 2025, the Joint Task Team published a notice concerning the Action Plan’s adoption (a copy is attached to the City/CapeNature answering affidavit as **AA1**).
- 10 In the present application launched in February 2026, the applicants plead a single legal issue. They baldly contend – more than two-and-a-half years after the Joint Task Team was established – that CapeNature had no legal authority to conclude the MoA that established the Joint Task Team or to participate in the Action Plan.
- 11 In Part A of the application, the applicants *inter alia* ask the Court to restrain the Joint Task Team, as well as SANParks, the City and CapeNature, from implementing core components of the Action Plan, pending a complaint made to a provincial authority. The applicants know that this complaint will not be dealt with swiftly (if ever), as it de facto has never existed.

- 12 This urgent application is unsustainable.
- 13 The application falls at the first hurdle; urgency.
- 13.1 The applicants attempt to springboard off a letter written by the Joint Task Team on 21 January 2026 to establish urgency.
- 13.2 This is inappropriate and contrived.
- 13.3 As the brief description of the matter I set out above demonstrates, the applicants' complaint in law concerns events that occurred more than two-and-a-half years ago – namely, the conclusion of the MoA.
- 13.4 Urgency is thus hopelessly self-created.
- 13.5 Even if the complaint was targeted at the specific baboon management measures included in the Action Plan, urgency would still be a problem.
- 13.6 This is because the Action Plan implements the BSMP – which was adopted more than two years ago in September 2023. There is no explanation for why the applicants did not approach the Court sooner.
- 13.7 Even if for sake of argument one were to consider urgency from the date of the Action Plan (in November 2025) there would still be self-created urgency, since the application was launched almost three months later without any explanation.
- 13.8 But it gets even worse for the applicants.
- 13.9 In correspondence referred to by the applicants in the founding affidavit between December 2025 and January 2026, the Joint Task Team repeatedly invited the applicants for a meeting to discuss any concerns they have. The applicants would only meet if the Joint Task Team agreed to halt

- implementing the Action Plan (and to meet with the non-existent provincial commissioner).
- 13.10 The applicants thus refused to meet on any reasonable grounds and deemed it appropriate to come straight to Court.
- 13.11 The manner in which the case has been litigated by the applicants creates further problems.
- 13.12 On the applicant's version the precipitating fact for urgency was the letter addressed to them by the Joint Task Team on 21 January 2026 (I have already explained why this is contrived).
- 13.13 But even if it were permissible to rely on the 21 January 2026 letter (which it is), the applicants took 11 court days to issue this application on Thursday 5 February 2026 and served it on SANParks at approximately 16h05 on that day.
- 13.14 The applicants have set down the application on Tuesday 17 February 2026 and given the respondents less than three court days to file an answer by 12h00 on Tuesday 10 February 2026 (the application is 172 pages with annexures).
- 13.15 That is manifestly prejudicial and unfair to the respondents.
- 13.16 It is also manifestly inappropriate to expect the Court to entertain this matter in the Fast Lane. The Court should not be distracted from truly deserving urgent cases.
- 13.17 The Court thus need not even look into the merits and can dispose of this case on the issue of self-created urgency alone.

- 14 The merits of the relief sought in Part A are in any event also hopeless.
- 14.1 The applicants have not established (or even pleaded) any right to interdictory relief or demonstrated an apprehension of irreparable injury harm.
- 14.2 There is no basis set out in the application to justify the Court's intervention in the complex and policy-laden issue of managing baboons in the Cape Peninsula.
- 15 I address this and the other relief sought in Part A below.
- 16 I also explain why there are numerous other insuperable hurdles in the applicants' way of obtaining relief. For example, the applicants do not establish what interest they have in the management of baboons in the Cape Peninsula, and thus fail to establish their standing to be in Court.
- 17 This application is manifestly inappropriate and vexatious. It is an abuse of the Court's process for a number of reasons. SANParks (like the City and Cape Nature) requests that Part A of the application be dismissed or struck from the roll, in either event with punitive costs.
- 18 It is important to highlight that while the applicants are self-represented, they have long forfeited any claim to protection from adverse costs on this basis.
- 19 The applicants are notorious litigants in our Courts, and have launched numerous unsustainable cases against organs of state across South Africa – many of which were dismissed. The second applicant's attitude towards members of the Judiciary, as well as Registrars, Clerks and other administrative staff of the Courts has been deprecated by the Supreme Court of Appeal.

20 The applicants have regrettably not taken heed of what various Judges have explained in their judgments concerning their behaviour and approach to litigation. Punitive costs are thus an appropriate measure in this matter. The second applicant should be ordered to pay the costs in his personal capacity (since his claim to be acting in a representative capacity is plainly contrived).

21 SANParks also asks for an order directing that the applicants may not proceed further with Part B of their application until they have fully satisfied the costs orders. This too is appropriate in light of their conduct.

22 In the remainder of this affidavit:

22.1 I first set out the relevant background, including the legal framework governing the different roles and responsibilities of the respondents; the nature and history of Table Mountain National Park ("TMNP") ; and the ongoing efforts at co-operation and collaboration between the City, Cape Nature and SANParks in the Joint Task Team, as well as the prior litigation and Action Plan.

22.2 Then I answer the founding affidavit *seriatim*, and in doing so explain in more detail why this application is unsustainable both on matters of procedure and substance;

22.3 Finally, I explain why this affidavit was not filed within the period set out in the notice of motion and seek condonation, to the extent necessary.

BACKGROUND

Legal framework

- 23 SANParks was established by section 5 of the National Parks Act 57 of 1976.
- 24 Although the National Parks Act was repealed by section 90 of the National Environmental Management: Protected Areas Act, 57 of 2003 (“**the Protected Areas Act**”), section 54 of the Protected Areas Act provides for the continued existence of SANParks as a juristic person.
- 25 SANParks’ core mandate is the conservation and management of biodiversity through a system of national parks. TMNP is one of the national parks under SANParks’ management. SANParks is also involved in the promotion and management of nature-based tourism, and delivers both conservation management and tourism services.
- 26 Section 3 of the Protected Areas Act provides that “In fulfilling the rights contained in section 24 of the Constitution, the State through the organs of state implementing legislation applicable to protected areas must – (a) act as the trustee of protected areas in the Republic; and (b) implement this Act in partnership with the people to achieve the progressive realisation of those rights”.
- 27 In terms of section 17 of the Protected Areas Act, the purpose of declaring areas as protected is, amongst others, to preserve the ecological integrity of those areas; conserve the biodiversity in those areas; protect areas representative of all ecosystems, habitats and species naturally occurring in South Africa; protect an area which is vulnerable or ecologically sensitive; assist in ensuring the sustained supply of environmental goods and services; and to provide for the sustainable use of natural and biological resources.

- 28 The Protected Areas Act defines SANParks' functions and powers. Section 55(1) sets out SANParks' mandatory functions; section 55(2) contains its permissive functions; and section 56 provides for its general powers.
- 29 Most significant amongst its mandatory functions are, in terms of section 55(1) of the Protected Areas Act:
- 29.1 to manage all existing national parks and protected areas in accordance with the Protected Areas Act and any specific environmental management Act referred to in the National Environmental Management Act 107 of 1998 ("**NEMA**"); and
 - 29.2 to protect, conserve and control national parks and other protected areas, including their biological diversity.
- 30 In terms of section 55(2), in managing national parks, SANParks may, amongst other things:
- 30.1 control, remove or eradicate any species or specimens of species which it considers undesirable to protect and conserve in a park or that may negatively impact on the biodiversity of the park;
 - 30.2 carry out any development and construct or erect any works necessary for the management of a park, including roads, bridges, buildings, dams, fences, breakwaters, seawalls, boathouses, landing stages, mooring places, swimming pools, oceanariums and underwater tunnels;
 - 30.3 allow visitors to a park;

- 30.4 make, set penalties for, and enforce traffic rules in such national parks, special nature reserves, protected environments, world heritage sites or other protected areas assigned to it by the Minister;
- 30.5 take reasonable steps to ensure the security and well-being of visitors and staff; and
- 30.6 determine and collect fees for entry to or stay in the park, or for any service provided by SANParks.
- 31 In order to perform these functions, SANParks is granted various powers under section 56, including the power to obtain, by agreement, the services of any person, including any organ of state, for the performance of any specific act, task or assignment; and to perform legal acts, including acts in association with or on behalf of any other person or organ of state.
- 32 It is evident from the provisions described above that SANParks' mandate is to manage protected areas, including national parks, and to regulate the activities that occur within such national parks.

Table Mountain National Park

- 33 The origin of TMNP can be traced back over 100 years to the establishment of a number of state forests (Devils Peak, Cecilia and Tokai) in the late 1800s and early 1900s. Table Mountain itself was declared a national monument in 1958 and a nature reserve in 1964.
- 34 Initially, the area comprising what is today TMNP was subject to 14 different management authorities. In 1994, the Kahn Working Group recommended that a single statutory managing authority be established for the future management of the Cape Peninsula Protected Natural Environment. In 1996, following a national cabinet

decision, national, provincial and local authorities took steps to make additional land available within the Cape Peninsula Protected Natural Environment for the establishment of the national park. This included land from various national government departments, provincial government properties, and local authority properties.

35 What is today TMNP was declared as the Cape Peninsula National Park in 1998 (Government Gazette 18916). Its name was subsequently changed to Table Mountain National Park in 2004 (Government Gazette 26305).

36 Today, TMNP is recognised as a national park established in terms of section 20 of the Protected Areas Act. It falls under the management authority of SANParks by virtue of section 38(1)(aA) of the Protected Areas Act. It is listed at Item 19 of Schedule 2 to the Protected Areas Act (i.e. the Schedule of National Parks).

37 TMNP stretches 70km from Signal Hill and Table Mountain in the north, to Cape Point in the south. The terrestrial boundary covers approximately 25 000 (twenty-five thousand) hectares. It is home to a wide variety of fauna and flora, many of which are found nowhere else in the world. It is a Natural World Heritage Site and home to one of the new Seven Wonders of Nature. It is also a tourism hot-spot, attracting as many as 4 million visits per year.

38 I am advised that our courts have previously recognised the significance of the TMNP – particularly that it is home to an abundance of fauna and flora; that it is one of eight areas constituting the Cape Floral Region (“CFR”), which was listed as a World Heritage Site in 2004; and that this listing elevated the CFR “to a site of outstanding significance to humanity”. Our courts have also recognised the significance of TMNP for tourism, given major attractions such as the Table Mountain Aerial Cableway, Boulders Penguin Colony and the Cape Point promontory, as well as its abundance of beaches, picnic sites and braai areas where the natural beauty can be enjoyed by all.

- 39 About two-thirds of TMNP is non-gated, allowing for free-of-charge, open access. TMNP is, in this sense, unique, in that it is the only “open access” national park in the country. Indeed, it is one of the few urban, non-gated, protected areas in the world. It allows visitors free and easy access, and thereby offers unique and diverse tourism and recreational opportunities to all. There are only four points of entry where conservation fees must be paid – Cape of Good Hope, Boulders, Silvermine and Oudekraal. Save for these points, it is a special feature of TMNP that it allows for free and open access.
- 40 For the 2024/2025 financial year ended March 2025, TMNP estimated that there were more than 4.5 million visits to the open access area from numerous visitors who were entering from more than one open access area of the TMNP per day.
- 41 The open-access nature of TMNP is vitally important for various reasons. One of these is that, unlike many national parks, TMNP is located within a city. TMNP constitutes a public resource for the people of that city. Moreover, Cape Town, like many cities in South Africa, continues to suffer from the spatial legacies of apartheid, with the result that poorer communities live further away from TMNP than do wealthier communities.
- 42 SANParks is able to facilitate greater and more equitable access to the benefits of TMNP through various initiatives, including education outreach programmes, an affordable access card (for use at pay entry points) and youth development projects. But a key means by which SANParks promotes widespread access to TMNP is by retaining its status as a predominantly free and open-access national park.
- 43 The twin goals of sustainability and access are captured in TMNP’s slogan: “A Park, for All, Forever”.
- 44 Section 39 of the Protected Areas Act requires management authorities to submit a management plan for each protected area to the Minister for approval.

- 44.1 The objectives of the management plan (section 41(1)) are to ensure the protection, conservation and management of the protected area in a manner which is consistent with the objectives of the Act and for the purpose it was declared.
- 44.2 Such a management plan must, amongst others, contain the terms and conditions of any applicable biodiversity management plan.
- 44.3 SANParks finalised its existing Park Management Plan in relation to TMNP in November 2015, and it was approved by the Minister of Environmental Affairs on 15 April 2016. It covers the period 2015 to 2025. The new 10-plan is presently being processed (having undergone public participation) and the November 2015 plan remains in force in the interim
- 44.4 A copy of the TMNP Park Management Plan is attached marked "**SP1**".
- 44.5 The Park Management Plan describes, at paragraph 2.12.11, the socio-economic considerations I have explained above, and the importance of facilitating free and open access to TMNP.
- 44.6 Paragraph 10.2.1.3 describes the Fauna Management Programme, the purposes of which are:
- 44.6.1 to understand the historical occurrence of fauna in TMNP;
 - 44.6.2 to maintain designated large game areas as natural and historical representations of what once occurred in TMNP;
 - 44.6.3 to understand the ecology of smaller fauna that are found throughout the Park; and

44.6.4 to manage damage-causing animals according to the SANParks Damage-Causing Animal Policy and by participating in Baboon Management fora in co-operation with partners and stakeholders.

45 In addition to its park-specific plans, SANParks has a five-year Integrated Wildlife Management Policy . I attach the most recent version as “SP2”.

45.1 The purpose of the Integrated Wildlife Management Policy is to provide for the integrated management of animal populations in national parks, in the interests of maintaining biodiversity while also promoting nature-based tourism. The Plan explains that the goal is “*to have resilient wildlife populations in dynamic ecosystems that provide equitable opportunities for socio-economic development and natural heritage experiences while maintaining SANParks’ sustainability and conservation leadership.*”

45.2 The Integrated Wildlife Management Policy addresses the specific issue of national parks which are not fenced off (paragraph 5.8.1). It explains that SANParks accepts that it has exclusive authority to exercise possession and control over wild animals found in national parks. Therefore, all animals occurring in the national park are considered to be under SANParks’ possession and control while they are within the boundaries of the national park. However, once they exit the boundaries of the national park, they are res nullius and fall outside the possession and control of SANParks.

Co-operation between SANParks, Cape Nature and the City regarding baboon management

46 There is a long history of baboon management in Cape Town by the various organs of state. This is necessary because baboons living so close to humans and urban areas

can and do cause problems. Unfortunately, there has been increasing conflict between baboons and humans in the Peninsula.

47 Proper management requires the use of aversion methods and management tools to keep baboons out of urban areas.

48 The BSMP explains:

48.1 Between 2013 and 2019, only 14% of baboon deaths were human-induced, precisely because a full set of aversion methods and management tools were being implemented by the authorities under a management program.

48.2 The number of human-induced deaths increased significantly in 2023, when 44.8% of all baboon mortalities were human-induced. This increase is the result, in part, of significant increases in the population numbers of baboons, together with limited low-lying wildland space. It is also in part because, since 2020, there have been constraints on the application of relevant methods and tools available.

48.3 An older programme 2018 ultimately became unsustainable over time. As explained, this was due to the increase in the baboon population on the Cape Peninsula and specifically in areas directly bordering on the urban interface. It was also due to legal challenges to the use of aversion tools and other interventions intended to keep baboons out of the urban areas and in their natural habitat; the increasing habituation of certain baboon troops and individual dispersing males to human derived food sources; the subsequent splintering of baboon troops; the lack of baboon-proof bins; irresponsible behaviour by people, businesses, and landowners in terms of waste management; and the lack of baboon-proofing of properties, vegetable gardens, and fruit trees by residents and businesses.

- 49 The increase since 2020 in human-induced baboon injuries and deaths certainly calls for a carefully considered approach to baboon management. That is precisely the task in which the Joint Task Team is currently involved.
- 50 It is important in this regard to appreciate the different roles and functions of SANParks, CapeNature and the City.
- 50.1 SANParks is an organ of state that operates in the national sphere of government. It is tasked with managing, protecting, conserving and controlling national parks and other protected areas, including their biological diversity.
- 50.2 CapeNature is a provincial entity. It is established in terms of section 9 of the Western Cape Biodiversity Act 6 of 2021. It is responsible for the conservation of biodiversity across the Western Cape province, including managing provincial protected areas.
- 50.3 The City is a municipality in terms of Schedules 4 and 5 to the Constitution, and the Local Government: Municipal Structures Act 117 of 1998. It has responsibility for matters within its constitutional competency, including land use, waste management, public nuisance, fences, traffic, electricity, environmental health, safety and security and the enforcement of City By-laws.
- 51 SANParks, the City and CapeNature – though they exist in different spheres of government, and have different mandates and competencies –are currently working together closely and collaboratively to address the management of baboon populations in a co-ordinated manner;

- 52 SANParks has complied, and continues to comply, with its legal obligations in respect of the management of baboons within the boundaries of TMNP.
- 53 In June 2022, the JTT – comprising representatives of SANParks, the City and CapeNature – deliberated on terms of reference and a work plan. They resolved to conclude a memorandum of agreement and a Strategic Management Plan for baboon management to span the next 10 years.
- 54 In July 2023, the City, CapeNature and SANParks signed a Memorandum of Agreement (“**MoA**”), which I attach marked “**SP3**”.
- 55 The MoA was concluded on the basis of a common recognition by the three organs of state that the Cape chacma baboons play an important ecological role in the Cape Peninsula; that keeping baboon troops in natural areas promotes a safe and healthy environment for residents and landowners and protects baboons from conflict with humans; and that co-operation between the three entities was necessary and desirable in order to achieve the sustainable management of the baboon population in the Cape Peninsula.
- 56 The MoA contains the following material terms:
- 56.1 Clause 3.1 records the purpose of the MoA as being to enable cooperation between the parties, through the implementation of a Baboon Strategic Management Plan (i.e. the BSMP), and through joint decision-making processes on the undertaking of actions and interventions, either individually, or jointly where possible, subject to the parties having the necessary authority.
- 56.2 Clause 4.2 provides that the parties shall, every three years, review the viability of the MoA with a view to improving cooperation between the parties.

- 56.3 In terms of clause 5, the parties agree to jointly develop and implement a BSMP for the Cape Peninsula, and to co-operate towards its implementation by fulfilling their respective roles and responsibilities.
- 56.4 Clause 6 provides for the establishment and governance of the JTT, in order to facilitate joint decision-making and oversee the implementation of the BSMP.
- 56.4.1 Clause 6.2 provides that each party shall have equal representation on the JTT, comprising a minimum of two representatives.
- 56.4.2 Clause 6.4 provides that the JTT will adopt terms of reference at a full meeting of nominated members.
- 56.4.3 Clause 6.7 provides that the JTT will establish the Cape Peninsula Joint Baboon Operational Team (the “**JBOT**”), to facilitate participation of the parties in decision-making processes on operational matters.
- 57 On 29 September 2023, the JTT finalised the BSMP. It is attached to the City/CapeNature answering affidavit as “**AA2**”. This followed an extensive public participation process: the draft plan was published in January 2023, a stakeholder engagement meeting was held in March 2023, and 800 individual comments and representations emanating from the public participation process were considered.
- 58 I draw attention, in particular, to the following aspects of the BSMP.
- 58.1 The BSMP recognises the ecological importance of baboons. It also notes that the fact that a substantial portion of low-lying land – baboons’ preference for foraging – has been transformed into residential, commercial industrial or

agricultural use, resulting in human-baboon conflict. This has been exacerbated by rapid recent growth in the baboon population.

- 58.2 The BSMP notes historical attempts to manage the baboon-human interface, but identifies the need for a new strategy involving SANParks, CapeNature and the City, together with other stakeholders, role-players and residents.
- 58.3 The need for a new strategy arises from the fact that human-wildlife conflict management has been rendered ineffective, requiring management intervention so as to “*significantly step-up waste management and baboon proofing of properties and infrastructure, to fence strategic hotspots and to manage the population sustainably through removal, including, euthanasia, culling and translocation of baboons when appropriate.*”
- 58.4 The BSMP notes the insufficient response to the call to make waste and human food areas “*baboon proof*” in urban areas. While these interventions are within the City’s mandate, their success requires cooperation from residents, visitors, businesses and landowners.
- 58.5 The BSMP identifies the need for SANParks, CapeNature and the City to work together with all stakeholders. Baboon studies have shown that limiting access to high-quality and predictable food sources and human-transformed and human-dominated habitats, reduces the time spent by baboons in those environments, resulting in reduced levels of human-baboon conflicts and the potential of human-induced baboon injuries and mortality.
- 58.6 The BSMP also emphasises the importance of methods and tools for limiting access to human-dominated habitats constantly being reviewed.
- 58.7 Paragraph 9 of the BSMP provides, in Table 1, for the Implementation Plan. It sets out outcomes, outputs, responsibilities and timeframes.



- 58.8 The Implementation Plan identifies seven separate outcomes, as follows:
- 58.8.1 A wild baboon population is sustainably managed and conserved on the Cape Peninsula;
 - 58.8.2 Authorities at national, provincial and local level provide for regulatory requirements and the promotion of compliance and law enforcement;
 - 58.8.3 Stakeholder engagement and partnerships inform solutions and local action to keep baboons in the natural landscapes and thereby reduce human–baboon conflict;
 - 58.8.4 Effective waste management and waste holding facilities in the natural, rural and urban areas ensure that baboons are unable to access human derived foods;
 - 58.8.5 Stakeholder communication, education and awareness on all aspects of baboon management for residents, businesses and tourists enable the conservation and well-being of baboons and the mitigation of human-baboon conflict;
 - 58.8.6 Infrastructure and services on residential, commercial and state-owned properties are designed and operated to minimise impacts on baboons; and
 - 58.8.7 Adaptive management of the baboon population is informed by continuous monitoring, evaluation, scientific research and stakeholder feedback.
- 58.9 In respect of each outcome, the Implementation Plan identifies various specific outputs, as well as the associated actions to achieve those outputs.

It also stipulates an estimated timeframe, and indicates the entity which will take lead responsibility for each action, supported by the other entities.

59 It is important that I emphasise that in the present case, the applicants complain about certain management measures set out in the Action Plan. The notice of motion seeks to interdict:

- “5.1 capture, removal, relocation, translocation, confinement in any sanctuary or enclosure, or any forced movement of any baboon troop;
- 5.2. any vasectomy programme or any reproductive intervention;
- 5.3. any euthanasia, lethal control, destruction, or lethal authorisation in respect of any baboon;
- 5.4. concluding, signing, implementing, or giving effect to any agreement with any third party concerning a baboon sanctuary and/or enclosure programme;
- 5.5. commencing or continuing any construction, installation, electrification, fencing, enclosure building, or other infrastructure works aimed at sanctuary confinement;”

60 Most of these measures were however not set out in the Action Plan for the first time. Instead, they were adopted explicitly or referred to in the BSMP in September 2023. On p 6 para 3 of the BSMP for example, the following is recorded:

“The spatial ecology of the baboon population indicates an increasing number of pressure points where human-wildlife conflict management has been rendered virtually ineffective, leading to the realisation that the required natural space and resources on the Cape Peninsula for certain troops may have been exceeded (Hoffman, 2011; Hoffman and O’Riain, 2012). In order to return the situation to a more sustainable level, management intervention is called for so as to significantly step-up waste management and baboon proofing of properties and infrastructure, to fence strategic hotspots, and to manage the population sustainably through removal, including, euthanasia, culling and translocation of baboons when appropriate. While contraception and sterilization have been suggested by interest groups as feasible population control methods, such methods have not been used or researched on wild populations of baboons and would require further investigation.”



Prior litigation

61 In 2024, there was litigation concerning the Joint Task Team's baboon management on the Peninsula.

62 A court order was granted by agreement. The application was withdrawn, with each party to pay their own costs.

63 The preamble to the order recorded:

AND WHEREAS the First Respondent (the City), Second Respondent (SANParks) and Third Respondent (CapeNature) who together constitute the Cape Peninsula Baboon Management Joint Task Team (the JTT) have undertaken to co-operate with one another through the implementation of the JTT's Baboon Strategic Management Plan (BSMP) by fulfilling their respective roles and responsibilities as detailed in the BSMP, in an Agreement concluded on 6 July 2023, and the JTT are doing so through their best endeavours within a reasonable time frame and will continue to do so in the lifespan of the JTT;

WHEREAS in pursuit of the BSMP the City has on 11 November 2024 entered into a short-term contract with a service provider for the provision of baboon ranger services in the Cape Peninsula from 1 to 31 December 2024;

AND WHEREAS the JTT, resolved to select a non-profit organisation to provide the implementation of baboon management services, including community engagement and any ranger services of the BSMP in the Cape Peninsula for a three-year period, to give effect to elements of the BSMP;

AND WHEREAS the City Council approved on 5 December 2024, to appoint Shark Spotters NPO for a three year period for the purposes of, inter alia the implementation of baboon management services, including any community engagement and ranger aspects of the BSMP with the City providing funding over the three financial years, subject to budgetary approval, and all the JTT parties contributing in a manner consistent with their functional areas and statutory duties; conditional upon the City Council granting approval in December 2024 for the City to conclude a memorandum of agreement with Shark Spotters NPO.

The Action Plan

64 The Action Plan is attached to the founding affidavit as "D", without its appendices

65 The Action Plan details the management actions to be implemented by the Task Team between November 2025 and November 2030. The Plan expressly provides that it:

“sets out defined management actions based on scientifically informed principles and an approved set of tools **already detailed in the Cape Peninsula Baboon Strategic Management Plan (CPBSMP)** [i.e. the BSMP]2023/24 to 2033/34”

- 66 The Action Plan went through an iterative process with consultations with various stakeholders and experts. This included the Cape Peninsula Baboon Advisory Group (“**CPBAG**”), established by the Joint Task Team to advise and support the implementation of the BSMP. The CPBAG is made up of individuals forming part of formally constituted groups such as ratepayers, organs of state, private user groups, special interest NGOs, and the like.
- 67 Action Plan includes a proposed implementation schedule (annexure N), which includes a budget for the action items. A copy is attached to the City/CapeNature answering affidavit as “**AA8**”. Various aspects of the implementation schedule would be impacted and halted by the relief sought by the applicants.

SERIATIM

- 68 I now provide SANParks’ seriatim answers to the founding affidavit.
- 69 Due to the extremely truncated time periods in which this affidavit had to be prepared, SANParks asks that any allegation not specifically dealt with be understood as denied.
- 70 The answers also pertain to the relief sought in Part A. SANParks will deliver a more detailed answering affidavit to the relief sought in Part B at an appropriate time.

Ad “Introduction”

- 71 Ad para 2

I deny that the facts set out in the second applicant’s founding affidavit are true and correct.

Ad "Citation of the applicants"

72 Ad paras 5 to 7

72.1 The second applicant does not provide any objective evidence, other than his mere say-so, that (1) he is the President of the first applicant, or (2) that the first applicant is constituted by the constitution provided in response to the City/Cape Nature Rule 35(12) and Rule 7 notice.

72.2 I deny that the second applicant has proved that he is authorised to bring the application on behalf of the first applicant.

72.3 I also deny that the second applicant – who is not a legal practitioner – is of right entitled to represent a separate legal person in the High Court.

73 Ad para 8

73.1 The second applicant alleges he consulted with the first applicant's National Working Committee.

73.2 SANParks disputes this and requires the applicants to provide objective evidence thereof.

74 Ad para 9

74.1 The applicants contend that the application raises constitutional issues, and that they have the protection of *Biowatch*.

74.2 I deny that any genuine constitutional issue is raised in the application.

74.3 The application is vexatious, manifestly inappropriate and an abuse.

74.4 The applicants have no protection against adverse costs awards in the present case.

75 Ad para 11

75.1 In this paragraph, the second applicant contradicts his earlier assertion that the first applicant is a separate juristic person. He claims that the first applicant is his alter ego.

75.2 He does so to avoid issues of representing a separate person while not having rights to do so in this Court.

75.3 He also appears to do so, to argue that he approaches the Court not personally but in a representative capacity as President of the first applicant. This is a contrived attempt to avoid personal liability for any costs award made against the second applicant.

75.4 I deny that the second applicant appears in a representative capacity.

75.5 SANParks seeks an order requiring that the second applicant personally pay costs, to avoid any debate on this issue.

76 Ad paras 12 and 13

76.1 The applicants simply assert they have standing under section 38 of the Constitution.

76.2 But this is not the legal test for standing.

76.3 While the test for standing under the Constitution is less strict than the common law, whether a party is acting in its own interest under section 38(a) or in the public interest under section 38(d), it must plead and prove what

specific interest they have in the public power challenged or rights issue raised in a case, or why they are genuinely acting in the public interest.

76.4 There is no free-standing right in our law to challenge the legality of government conduct. Some impact on one's interests must be pleaded.

76.5 The applicants are both based in Gauteng according to their papers. How parties based in Gauteng have an interest in baboon management in the Cape Peninsula is not explained in the founding affidavit.

76.6 The purported objectives of the first applicant set out in paragraph 13 certainly have nothing to do with the issues raised in the application.

76.7 The applicants thus have no standing to bring this case.

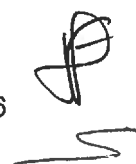
77 Ad paras 14 to 19

77.1 The applicants in these paragraphs refer to prior litigation they have been involved in. They trumpet alleged successes (which are not borne out by the judgments).

77.2 What the applicant do not disclose are the numerous cases where their conduct and attitude in litigation was criticised by Judges.

77.3 These cases are relevant to the question of costs, because they demonstrate a pattern of inappropriate conduct.

77.4 In *Minister of Cooperative Governance and Traditional Affairs v De Beer and Another* (538/2020) [2021] ZASCA 95; [2021] 3 All SA 723 (SCA), the SCA admonished the first and second applicants for their correspondence which was "*crude, gratuitously insulting, clearly contemptuous and intended to denigrate this court*" (para 119), which was referred to the National Director



of Public Prosecution (“NDPP”) to investigate possible charges for contempt. I call on the applicants to disclose what has come of the NDPP’s investigation.

77.5 In *Liberty Fighters Network and Another v Standard Bank of South Africa Limited and Others* (46591/2021) [2025] ZAGPJHC 535 (29 May 2025), the Court refused an intervention application made by the applicants in an application for leave to appeal, where they purportedly sought to assist a bank’s creditor. In awarding costs against the applicants, the Court found that the “*application is insincere and improper*” because they were pursuing their own agenda rather than assisting the creditor (para 58).

77.6 Recently in *Liberty Fighters Network and Another v Registrar of the High Court, Gauteng Division, Pretoria and Another* (2022/030165; 2022/30280; 2022/030165) [2026] ZAGPPHC 4 (2 January 2026), the applicants were criticised for bringing a matter in urgent court where urgency was obviously self-created (paras 10-11). The Court further found that (like in the present case) the second applicant did not prove he was the President of the first applicant and not did prove his authority to bring the case (para 12), and also like in the similar matter, that the applicants sought an interdict without pleading the requirements for an interdict (para 24). The Court noted that the second applicant’s “*tendency to continuously insult judicial personal (judges and clerks) has been the subject of past comment as in Minister of Co-Operative Governance and Traditional Affairs (supra) but it seems that this has no effect on his conduct*” (para 15). In awarding punitive costs against the applicants, the Court rejected the second applicant’s attempt to evade the consequences of his conduct by stating he was a layperson (paras 26-33).

78 The applicants regrettably have not learnt that litigation is not a game in these and other matters. They do not appreciate that Courts have limited resources and that cases

litigated in this fashion mean that truly deserving cases have to wait for judicial resolution.

Ad “Citation of the respondents”

79 Ad para 24

79.1 I have set out in detail SANParks’ mandate in law above.

79.2 I note that the applicants have challenged SANParks’ attorneys’ authority under Rule 7. A power of attorney has been provided.

80 Ad para 28

80.1 The applicants have cited Ms Sole as a respondent.

80.2 Ms Sole has purported to enter a notice of intention to “oppose” as “*an interested party supporting the relief sought by providing additional information the court may require to consider*”.

80.3 This too is an abuse.

80.4 The applicants purported to represent Ms Sole and her business (Monkey Land) in making complaints to the Province (see annexure “F” to the founding affidavit).

80.5 Ms Sole could and should have provided an affidavit in support of the application as a witness.

80.6 It is inappropriate for an applicant to cite a friendly respondent and for that party to file an affidavit supporting the relief sought. That party must apply to be a co-applicant.



- 80.7 The clear authority in this Division *includes Goldstar Finance (Pty) Ltd and Others v Capitec Bank (Pty) Ltd and Another* (16589/23) [2023] ZAWCHC 336; [2024] 1 All SA 727 (WCC) at paras 51-52.
- 80.8 Ms Sole appears to be self-represented. SANParks assumes she has been advised by the applicants to participate in this manner. I call on the applicants to disclose to the Court their interactions with Ms Sole in relation to the litigation and the notice she filed.
- 80.9 SANParks reserves its rights to address any affidavit Ms Sole may seek to deliver, including asking that it be struck out.
- 80.10 This is a further abuse by the applicants that warrants punitive costs.

Ad “Succinct summary of the case”

81 Ad paras 34 and 35

81.1 The applicants contend that the case concerns the lawfulness of the Action Plan. But on their own version they do not seek any relief seeking to review and set aside the Action Plan.

81.2 In relation to the Western Cape Commissioner, SANParks aligns itself with the response of the City and CapeNature.

82 Ad para 36

82.1 The applicants contend that the application is urgent because the Joint Task Team has stated that the Action Plan will be implemented.

82.2 The Action Plan is the next step in a process that has been going on for years, which the applicants have not challenged. There is no true urgency.



82.3 And any urgency is now self-created by the applicants' inexplicable and unexplained delays in approaching the Court.

Ad "Purpose of application"

83 Ad para 39

83.1 I say the following about the interdict sought in Part A.

83.2 The applicants claim Part A is to preserve the *status quo ante*.

83.3 They are wrong.

83.4 The *status quo ante* is the Joint Task Team's conduct in managing baboons in the Peninsula pursuant to their authority in law, the MoA, the BSMP and the Action Plan.

83.5 The relief sought in Part A is to prevent the Joint Task Team from taking steps contained in this policy centric and deliberate plan. It would stop the Joint Task Team from being able to manage baboons appropriately.

83.6 That would be severely prejudicial to the baboons, as well as human beings, due to the inevitable conflict that will occur.

83.7 Thus, Part A if granted would *upend* the *status quo ante*; not preserve it.

83.8 The applicants have also not in any event pleaded:

83.8.1 What right or rights they seek to protect with an interdict (whether on an interim or final basis);

83.8.2 What irreparable harm they allege they will suffer; and

83.8.3 Why they have no alternative remedies.

- 83.9 This is fatal to the interdictory relief they seek. (As I said above, they have recently been criticised by a Court for not pleading the requirements for the relief they seek.)
- 83.10 If Part A is properly characterised as an application for interim relief (a matter that will be addressed in argument), the applicants also do not address the balance of convenience and separation of powers harms that interim relief would entail.
- 83.11 I have already explained that SANParks' statutory powers to manage fauna – including baboons – in the TMNP will be impacted by the interdict sought by the applicants.
- 83.12 These matters involve policy-laden and polycentric decision-making – the best methods necessary to control and manage baboons close to an urban environment require special expertise and policy choices to be taken by those empowered to do so by the law.
- 83.13 I reiterate. Preventing the Joint Task Team from capturing or removing baboons, fencing, creating a sanctuary and in necessary circumstances sterilisation or euthanasia, would prevent the proper management of baboons on the Peninsula.
- 83.14 There are accordingly grave separation of powers harm should an interdict be granted.
- 83.15 The application does not in any way meet the “clearest of cases” standard.
- 84 Ad para 41
- 84.1 The applicants contend that “*the application is not brought to dictate policy choices*”.

84.2 With respect, that is precisely what the intention of the application is. It is to halt the City, CapeNature and SANParks from fulfilling their statutory functions and mandates to manage baboons appropriately in the Cape Peninsula, by implementing policy decisions taken by them through a comprehensive process that included public participation and consultation with experts.

84.3 This strikes at the heart of separation of powers.

Ad “Annexures”

85 Ad para 45

85.1 The applicants say that their first “formal letter” about the issues they raise was sent on 28 November 2025.

85.2 They do not explain why they waited nearly 10-weeks to approach the Court for urgent relief.

85.3 The further exchanges of correspondence do not justify the delay.

86 Ad para 47

86.1 The applicants attach the Joint Task Team’s response letter dated 8 December 2025 as annexure “E”, but fail to deal with its contents.

86.2 This is a critical letter.

86.3 The letter explains the Joint Task Team’s position in relation to the concerns.

86.4 It then invites the applicants to a meeting to discuss their concerns.

86.5 It finally records:

“should you proceed to institute legal proceeding against the CPBMJTT, prior to the intended meeting, the CPBMJTT will place this letter before the Court and ask that costs be awarded against you on a punitive scale”

86.6 The applicants refused to meet, unless an undertaking was provided by the Joint Task Team (see annexure “G” to the founding affidavit), and until the non-existent provincial commissioner is appointed. The applicants know that a commissioner will not be appointed anytime soon.

86.7 This was therefore in substance a refusal to meet.

86.8 This is further evidence of the abusive and inappropriate nature of this application.

Ad “Urgency”

87 Ad paras 53 to 55

87.1 The applicants attempt to use the Joint Task Team’s 21 January 2026 letter as a springboard for urgency.

87.2 This is contrived. It was clear from the media statement issued on 20 November 2025 (attached as “AA1” to the City / CapeNature answering affidavit), that the Action Plan would be implemented, as well as in the correspondence that followed.

87.3 I have explained above why this is an abuse since the sole legal complaint in the case is about CapeNature’s conclusion of the MoA in 2023.

88 Ad para 56

88.1 I deny that the applicants have demonstrated any harm, and also deny that any harm would be irreparable.



88.2 SANParks (as well as the City and CapeNature) have lawful authority to manage baboons. The MoA and BSMP have clearly indicated that this management might have to include removals, relocations, fencing, sterilisation, and – as a matter of last resort – euthanasia.

88.3 The applicants prove no right to interdict the authorities from exercising their powers in law.

89 Ad para 57

89.1 I deny the assertion that the applicants have “*acted diligently*”.

89.2 At best for them, on their own version, they knew about the issues they now raise on 28 November 2025.

89.3 This case was then launched nearly 10-weeks later without any adequate explanation.

89.4 The applicants’ version is in any event flawed. The issues they raise now pertain to the MoA and BSMP – which were adopted years ago in 2023.

Ad “Summary of raised constitutional and other issues”

90 Ad para 60.1

90.1 The applicants here raise concerns about the non-appointment of a provincial commissioner.

90.2 Whether or not the applicants have a good case on that issue in Part B (which is denied), that does not entitle them to an interdict of the Action Plan in Part A.

91 Ad para 60.2

91.1 Here the applicants appear to be contending that SANParks, the City and CapeNature had no authority in law to conclude the MoA.

91.2 This patently incorrect. SANPark's authority is comprehensively addressed above.

91.3 This Court has already given the imprimatur to the MoA when making the settlement agreement an order of Court.

91.4 In any event, the applicants do not plead any basis on which SANParks' conclusion of the MoA or its subsequent conduct is unlawful. It is for the applicant to plead a ground of review. An applicant cannot merely contend that a decision is unlawful without pleading why that may be so, and expect the decisionmaker to defend the validity of their decision.

92 Ad para 60.4

92.1 As one of the issues, the applicants pose the question as to whether "*the implementation of the Final Action Plan, in the face of a pending constitutional complaint and without independent oversight is rational, reasonable, procedurally fair, and constitutionally permissible*".

92.2 The applicants do not appreciate the correct position in our public law.

92.3 A public decision that has been taken may be implemented, even if there is a review against that the decision pending in a Court, unless the Court grants an interdict against it (*City of Tshwane Metropolitan Municipality v Afriforum and Another* 2016 (6) SA 279 (CC) at para 74).

Ad “Legal status and authority of CapeNature” – paras 61-70

- 93 As adumbrated, the only true legal issue pleaded by the applicants concerns whether CapeNature has authority to conclude biodiversity agreements and to cooperate in the Action Plan.
- 94 CapeNature addresses this issue comprehensively in its answering affidavit.
- 95 The only legal complaint pleaded thus concerns matters that occurred more than two-and-a-half years ago.
- 96 This is this death knell of this urgent application.

Ad “Background”

- 97 Ad paras 71 to 74

I have provided the full and complete background to the adoption of the MoA, BSMP and Action Plan above.

- 98 Ad paras 75 and 76

98.1 The adopted Action Plan was announced in a joint statement by the authorities on 20 November 2025.

98.2 More than a week later, the applicants addressed a letter to the Joint Task Team.

98.3 There is no explanation for this delay.

- 99 Ad paras 77 and 78

The applicants do not adequately explain the contents of the correspondence referred to in the founding affidavit including the fact that the Joint Task Team sought to meet the applicants about their concerns.

100 Ad para 81

100.1 The applicants in this paragraph of the affidavit, claim that in their letter dated 9 December 2025 (annexure "G) they:

"reiterated their willingness to engage constructively with all relevant parties, including by way of meetings, consultations, or further submissions, provided that such engagement occurred under the auspices, or with the involvement, of the Commissioner, so as to ensure independent oversight, legality, and constitutional compliance"

100.2 This is not an accurate reflection of the letter.

100.3 What the letter said was that the applicant would only meet if the Joint Task Team as follows

"6. We further record that we **will participate in your proposed meeting via the Commissioner's office** (once appointed) **on the understanding that:**

6.1. **No irreversible decisions or measures under the current Baboon Action Plan will be implemented while the constitutional oversight process remains unresolved; and**

6.2. The complaint lodged with the Office of the Commissioner for the Environment stands as the appropriate independent referral of this dispute, consistent with the constitutional duties of the Western Cape Government." (emphasis added)

100.4 In other words, the applicants refused to meet unless the relief they seek in Part A was entirely acceded to and unless the Commissioner was appointed (which is the relief sought in Part B).

101 Ad para 82

101.1 The Action Plan has been implemented since it was adopted.

- 101.2 The measures which the notice of motion seeks to interdict were already present in the MoA and BSMP.

Ad “Obscuring of decision-making through the CPBMJTT”

102 Ad para 85

- 102.1 I deny the bald assertion that there has been “obscuring of decision-making authority” through the Joint Task Team.
- 102.2 The 20 November 2025 public statement records the approval and signature of the Action Plan by each of SANParks, the City and CapeNature.
- 102.3 The MoA itself sets out the basis on which the Joint Task Team was established.
- 102.4 What the applicants effectively complain about is the co-operative nature of South Africa’s government under the Constitution, and the diligent work of three separate spheres of government to manage a complex issue within the Cape Peninsula.

103 Ad paras 86 to 92

- 103.1 I deny these paragraphs. In particular, I deny that the issuing of statements by the Joint Task Team obscures the roles of each organ of state or shields them from accountability. I also deny that there has been violation of the law by SANParks, the City or CapeNature.
- 103.2 The arguments made in these paragraphs are so vague that they do not require any further response.

104 Ad para 93

104.1 While claiming not to review any decision, and premising their request for an interdict based on a complaint to a non-existence commissioner, the applicants indicate their intention to seek a review of various decisions which they believe have been taken.

104.2 That is inappropriate. All decision-making about the MoA, BSMP, and the Action Plan is public. If the applicants believe decisions are unlawful, they must challenge them.

104.3 Instead, what the applicants do (as I explain below), is seek relief directing the disclosure of such information in urgent court.

Ad “Public outcry against the Final Action Plan” – paras 94 and 95

105 The applicants claim there is an outcry against the Action Plan and attach a statement made by others. I deny there was a public outcry, which is not demonstrated by the applicants.

106 There was full public participation and expert consultation on the Action Plan before its adoption.

107 This allegation in any event takes the matter nowhere and does not justify any of the relief sought by the applicants.

Ad “Review, records, and the applicants' approach to rule 53”

108 Under this heading, the applicants deal with further final relief they seek urgently in Part A.

109 Prayer 7 of the notice of motion seeks an order directing SANParks, the City and CapeNature to

“deliver within 10 (ten) court days, their separate affidavits under oath, and providing their records, setting out:

- 7.1. every decision relied upon as lawful authority to implement Action Plan;
- 7.2. the identity and capacity of each decision-maker;
- 7.3. the date of each decision;
- 7.4. the reasons and record relied upon; and
- 7.5. all permits and/or authorisations obtained or applied for (including any CapeNature permitting process referred to in public statements”

110 There is no cause of action in law for this relief.

111 The applicants can request information from the authorities using the appropriate tools (such as PAIA). Or they could ascertain what decisions have been taken by considering the documents that are in the public record and then bring review proceedings under Rule 53, and obtain a record and reasons.

112 Instead, the applicants seek to circumvent the law.

113 This prayer – which is final relief – is unsustainable. I now address the paragraphs under the heading sequentially.

114 Ad para 96

114.1 The applicants do not invoke Rule 53.

114.2 There is no review of any decision pending, including the decisions known to the applicants – eg. the MoA, the adoption of the BSMP, the adoption of the Action Plan.

115 Ad paras 97 to 99

115.1 The applicants know that decisions were taken by each organ of state, yet have not sought to review those decisions.

115.2 They cannot elect not to utilise the procedures in law available to them and request an order from the Court outside the framework of the law.

116 Ad para 101

116.1 The applicants contend that “[t]he relief sought in this regard is not premature, irregular, or prejudicial.”

116.2 This contention is wrong for the reasons I have already set out.

116.3 Then they argue:

“Courts have repeatedly recognised that, where an organ of state asserts the existence of lawful authority but withholds the underlying record, a court may, in the interests of justice, direct the production of such records even in advance of, or ancillary to, formal review proceedings.”

116.4 SANParks calls on the applicants to disclose any authority to support this contention.

117 Ad para 103

117.1 I deny this paragraph.

117.2 The applicants keep claiming that there is secrecy, which is simply not the case.

117.3 There is total transparency about the Joint Task Team and the role of each of the authorities in it.

118 Ad para 104

118.1 The applicants contend they are entitled to relief under prayer 7 because:

“To hold otherwise would enable organs of state to defeat review and accountability by simply withholding records while pressing ahead with implementation, thereby undermining the rule of law, access to courts, and the right to just administrative action.”

118.2 These arguments are incorrect.

118.3 The applicants are aware of various decisions but have decided not to seek their review.

Ad “Interests of justice”

119 Ad para 105

119.1 I deny the applicants’ bald assertion that the case is brought in the “*interests of justice, constitutional accountability, and environmental governance.*”

119.2 There is not one iota of evidence contained in the founding affidavit to sustain an allegation of any unconstitutional or unlawful behaviour by SANParks, the City or CapeNature.

120 Ad para 106

120.1 The applicants claim that “[t]he relief sought is narrowly tailored to prevent irreparable harm, to uphold constitutional obligations, and to ensure that decisions affecting biodiversity and wildlife are taken lawfully and under appropriate oversight.”

120.2 The MoA, BSMP and Action Plan are all lawful. The applicants do not have any basis to contend otherwise.

120.3 I reject the contention that the “*relief sought is narrowly tailored*”. As explained elsewhere, the interdict sought will precluded the Joint Task Team,



SANParks, the City and CapeNature from managing baboons in the Cape Peninsula, and will halt the implementation of policy decisions taken by all three spheres of government after extensive consultation and expert input.

121 Ad para 107

121.1 The applicants may believe in the justice of their cause. But that does not stop the case from being vexatious or manifestly inappropriate and does not justify abuse of process.

121.2 I deny the argument that the applicants "*have attempted to resolve the matter without litigation*".

121.3 The applicants, as I have explained, refused to meet as the Joint Task Team had suggested, unless (i) they received an undertaking they sought and (ii) until a commissioner is appointed, knowing that they will not happen anytime soon.

121.4 I also deny the contention that the applicants "*approached this Court only when it became clear that implementation would proceed regardless of legality concerns*".

121.5 The full chronology shows that the applicants waited for months to come to Court, after the Joint Task Team refused to give any undertaking.

121.6 That delay is not explained.

Ad "Costs"

122 Ad paras 108 to 111

122.1 I deny that this case is “a *paradigmatic case of public-interest constitutional litigation.*” I furthermore deny that the applicants have raised any genuine constitutional or legality issues.

122.2 But even if this case did raise constitutional issues, the manner in which the case has been litigated is inappropriate and the applicants have no protection against adverse costs orders.

TIMING OF THIS AFFIDAVIT

123 In terms of the notice of motion, this affidavit was due on Tuesday 10 February 2026 at 12h00. That was less than three court days after the application was issued.

124 It was not possible for SANParks to meet this severely truncated deadline. SANParks had to instruct attorneys. Counsel who were previously involved in litigation about the MoA were SANParks’ preferred counsel for this matter. Neither were however available, so new counsel had to be appointed. Once this was done, this affidavit was prepared and a consultation was held.

125 The affidavit will be filed by no later than Thursday 12 February 2026.

126 To the extent necessary, SANParks seeks condonation for the filing of the affidavit. It is plainly in the interests of justice that SANParks be permitted to oppose the relief. Its delay is due to the applicants’ approach in the matter, , the short periods provided in the notice of motion, and the applicants’ refusal to agree to practical timelines for the parties’ exchange of processes in this application unless the implementation of the Action Plan is halted.



PRAYER

127 For these reasons SANParks asks for an order that:

- 127.1 Part A of the application is dismissed alternatively struck from the roll, with attorney and client costs including the costs of counsel.
- 127.2 The second applicant is ordered to pay the costs of the application personally.
- 127.3 The applicants are not permitted to proceed with Part B of the application, until the costs order of Part A has been fully satisfied by them.



DELSEY PAMLAZA MONALEDI

I certify that the deponent has acknowledged that she knows and understands the contents of this affidavit, which was signed and sworn to before me at Pretoria on this the 12 day of February 2026 the regulations contained in Government Notice No. 1258 of 21 July 1972, as amended by Government Notice No. 1648 of 17 August 1977, as amended having been complied with.



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DESIGNATION**

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