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**WILDLIFE AND  
ENVIRONMENT  
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## **Environmental ethics: Are we in dreaming?**

### **Presentation for the Symposium on Ethics of Urban Development in the Western Cape**

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A number of ethical issues plague development application processes in the Western Cape. The approach we have decided to take for this paper is to select a development application process that the Western Cape Region of the Wildlife and Environment Society of South Africa (WESSA Western Cape) has been dissatisfied with. Through unpacking this single process, a number of ethical issues emerge that are common to many other developments in the region.

### **Background**

The development we have chosen to look at is Dreamworld Film City and Residential Estate. The construction of this facility will result in the direct loss of over 21 hectares of unique wetlands and 4 hectares of irreplaceable Swartland Shale Renoseterveld.

The project was initiated in 2002 when, in order to support and grow the rapidly expanding film industry in the Western Cape, the Department of Economic Development and Tourism, in partnership with the City of Cape Town, the Cape Film Commission and Wesgro called for expressions of interest in establishing a world-class film studio in Cape Town. Initially 11 proposals were put forward for various sites in and around Cape Town. Eventually, after a lengthy process, the tender was awarded to Dreamworld Film Studios, for a site located near Faure, close to the Macassar.

Unfortunately, the site chosen is essentially a mosaic of seasonal wetlands and has been identified as a category A node in the City of Cape Town's Biodiversity Network, meaning it should be used primarily for conservation purposes.

### **Environmental issues were not adequately considered early on in the process**

We suggest that it would be ethical and responsible for proponents to ensure that the receiving environment is suitable for what they are proposing as early in the development process as possible. This is not to suggest that a detailed environmental assessment is necessary, but a simple baseline study should inform a proposal. Not doing so could result in unintentional, but misleading claims that may, for example, influence the tender process. During the selection process for the film studio, Dreamworld scored highly against the other potential sites, as the site, among other things, was believed to have potential for expansion. In reality the development cannot be expanded without causing significant damage to the environment.

We also suggest that the authorities fell short in that they did not adequately consult their own environmental departments, or give adequate weight to the environmental constraints when awarding the tender. A simple desktop study would have revealed that the site is unsuitable for development of this nature and scale. Failure to do so, we believe, resulted in the incorrect site being chosen, where other more suitable options existed.

Considering environmental constraints late in a process often puts environmentalists on the 'back foot', where we are often forced to oppose a development that we otherwise would have supported, had a more suitable site or a different kind of development been proposed. In the case of Dreamworld, it also meant that the development was slowed down as a result of a lengthy EIA process - resulting in a loss to the City of Cape Town and the developers.

### **Vocal political support for the development, before the EIA was initiated.**

With the potential income and employment that the development would generate for the region, there was much vocal support for the development by politicians. The Western Cape provincial government and the City of Cape Town committed to contributing R60-million towards the project and a team of officials was even dedicated to fast tracking the rezoning and environmental impact assessment (EIA) processes. All this gave the impression that this project was, for all intents and purposes, *a fait accompli*. This can be very disempowering for interested and affected parties, and does not create ideal conditions in which to conduct an environmental impact assessment.

### **Public Participation or going through the motions?**

According to legislation, the participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation. In reality this is rarely achieved in EIA processes. The Dreamworld EIA started out well in this respect and Background Information Documents were distributed in three official languages. Unfortunately, it went downhill from there. Little or no attempt was made to capacitate interested and affected parties. Open house meetings were held, rather than public meetings, stifling debate. Concerns were not adequately addressed and the public had little input into the development of layout alternatives. That written comments on the draft EIA were received from only four organisations (the City of Cape Town, DWAF, Cape Nature and ourselves), bearing in mind the nature and scale of the development, is indicative of a public participation process that was simply 'going through the motions'.

### **Attempts to fast-track the EIA process led to a flawed process**

Fast-tracking an EIA process on a sensitive site is bound to raise problems. In addition to the superficial public participation process, some of the specialist studies were inadequate, due, among other things, to them being conducted during the inappropriate season. Since the development was seen as a *fait accompli* there was little or no pro-active planning to implement the recommendations of the specialists, or address the concerns of interested and affected parties. The impression was that the EIA was merely a troublesome hoop that needed to be jumped through.

### **What is 'economically feasible'?**

An alternative that we believe, would have had environmental impacts within acceptable limits was considered during the Scoping process, but this was later retracted, as it was claimed that it was apparently not economically feasible. No definition of 'economically feasible' or proof of this was supplied. Given the potential value of this development to the region, WESSA Western Cape and other interested and affected parties were not opposed to the development, but merely sought to minimise the impacts. It was argued by the proponents that a housing component was needed to make the development viable, but this greatly increased the footprint and therefore the negative impacts of the development, while offering little socio-economic benefit to society. This raises a number of questions including: How does one argue against a statement regarding economic feasibility without any facts available? Should interested and affected parties have access to business plans to assess the validity of such claims? Should society bear the costs of ensuring that an otherwise acceptable development is economically viable? Do financial institutions and other financiers have a responsibility for ensuring that they do not promote or even encourage environmentally unsound development?

## **Promises of jobs and economic gains**

That the 'preferred' alternative would have high environmental impacts was never disputed. Despite this it was deemed by the independent EIA consultant to be the most balanced solution, due to the apparent socio-economic benefits of the development. Surprisingly, no independent socio-economic assessment was undertaken to verify this claim. This is not uncommon. In the current climate, it is an unpopular move to raise questions and concerns that may slow down or stop a development that promises jobs and economic gains. However, the true economic costs of a development (i.e. the hidden costs of losing environmental goods and services) are almost never accounted for, even when economic impact studies are conducted. Furthermore, developers are rarely held accountable for these promises.

## **What is sustainable development anyway?**

There are many definitions and different interpretations of what sustainable development is. As a result there is often little agreement among stakeholders as to whether a development is sustainable or not. Is trading off environmental goods and services for economic gain sustainable development? If so, what currency should we be using to ensure fair tradeoffs? How many jobs is a wetland worth? NEMA refers to securing ecologically sustainable development and use of natural resources while promoting justifiable economic and social development. What is 'justifiable'?

## **Offsets: Is our environment up for sale?**

The final record of decision approving Dreamworld after the appeals were considered, included a condition that, on completion of a certain number of houses, a sum of just over R1.8 million should be donated to a fund to be managed by CapeNature and DEA&DP and used for 'conservation and environmental management purposes'. This, we believe, was intended to offset the environmental damage caused by the development. The use of biodiversity offsets raises a whole suite of ethical issues. We believe that this decision and the offset chosen effectively puts a price tag on our environmental resources (and not a very high one at that).

## **Are our policies and guidelines worth the paper they are written on?**

In order to promote more certainty and provide consistency in decision-making, government spends a large amount of time and money developing policies and guidelines, and the public spends a lot of time contributing towards the development of these documents. These are meant to provide some minimum standards regarding to what is acceptable and what is not. However, too often these guidelines are dismissed, by consultants and decision-makers alike, as they are 'not legally binding'. They are implemented only when and were convenient. In the case of Dreamworld, policies regarding the protection of wetlands could not be more clear, from local policies, including the City of Cape Town Biodiversity Strategy, provincial policies, including the recently published Western Cape Provincial Spatial Development Framework, to international agreements, for example the Ramsar Convention. These policies were largely ignored.

## **Cooperative what?**

The idea of cooperative governance is enshrined in the Constitution. It also makes sense for all decision-makers to communicate and come to some sort of agreement before issuing environmental authorizations. In this way, all potential concerns can be addressed and no authority is pressurised to issue a permit or approval. However, too often there is little or no consultation between various government departments. In the case of Dreamworld the EIA process was flawed in that there was little cooperation and consultation with other relevant authorities. DWAF, CapeNature and even the City of Cape Town's Environmental Planning Unit, all raised serious concerns with the 'preferred' alternative. These concerns were not addressed, making a mockery of cooperative governance. Most concerning of all is that DWAF, mandated to protect our water resources, needs to issue a permit before the infilling of wetlands can take place. Although DWAF expressed concerns regarding the proposed development and the lack of consultation during the EIA process, these concerns were not heeded and as a result, in an almost unprecedented move, DWAF lodged an appeal against the decision to approve the

development, in terms of the Environmental Conservation Act. Despite this, the development was approved and DWAF is now left to decide whether to issue the permits or not. The pressure to do so is obviously enormous.

### **Politicians decide on appeals**

Due to our dissatisfaction with the EIA process and unacceptably high environmental impacts CapeNature, DWAF and ourselves, WESSA Western Cape, all lodged appeals against the decision to approve Dreamworld. The MEC for Environmental Affairs and Development Planning, a political appointment, decides on such appeals. While we are fortunate to have an MEC in the Western Cape whom we believe is competent and ethical, the concern remains: Should a politician decide on the outcome of an appeal? If a development proposal is in response to a state tender, is there not inherent bias on the behalf of the state, who is then called upon to decide on such matters? This is especially relevant when the Premier has supported the development vocally and the City of Cape Town and the Western Cape Province will be dedicating funds to the development. Perhaps it would be more appropriate if an independent party or arbitrator ruled on such matters.

### **Environmental Justice? Only if you can afford it!**

Ultimately the MEC decided to approve Dreamworld, with a few amendments to the original record of decision. The development will now result in the loss of over 21 hectares of wetlands and 4 hectares of irreplaceable vegetation. The future of the remaining wetland is far from certain. WESSA Western Cape does not believe that this destruction is justifiable. Unfortunately, our only recourse would be to take the decision on judicial review. This is an extremely costly exercise, running into hundreds of thousands of Rands. Even if the case is won, we would not be able to recoup the full costs.

Although environmental rights are protected in law, exercising them is only an avenue available to those with financial resources to do so.

### **Conclusion**

Does all of the above mean that the Dreamworld development application process was unethical? Perhaps not, if compared with the status quo. Besides the vocal political support, this development application process was not very different from hundreds of others in the Western Cape. Environmental considerations are rarely considered upfront when planning a development, often resulting in conflict situations that need not have arisen. Public participation is seen a hurdle that needs to be overcome, rather than an opportunity to create a shared vision, and our environment is sold off on the promise of jobs and economic growth that cannot be sustained.

The question we ask is: If everyone is doing something does it make it right?