

## 7 SUN INTERNATIONAL HOTEL DEVELOPMENT, VICTORIA FALLS, ZAMBIA

### 7.1 Introduction

#### 7.1.1 Overview

In this case study we reflect on public participation in the environmental assessment for the Sun International hotel development at the Victoria Falls near Livingstone in Zambia. The environmental assessment process was undertaken by an independent professional team led by South Africa’s Council for Scientific and Industrial Research working together with South African and Zambian specialists.

This case study is based on a review of project literature as well as interviews with a cross section of stakeholders involved in the process. It provides a description of the project and an overview of its policy and legislative context, a description of the environmental assessment and public participation process and an analysis of key aspects of the public participation process.

#### 7.1.2 Project Description

The hotel development is situated on the banks of the Zambezi River, close to the Eastern Cataract of the Victoria Falls. This site was identified by the Zambian Privatisation Agency (ZPA) as part of a nation-wide redevelopment programme. In 1998, Sun International submitted a bid to the ZPA to develop a resort consisting of three hotels including a day visitor’s centre and a small casino on a site where the former Musi-O-Tunya Inter-Continental Hotel and the Rainbow Lodge had been built. The three hotels comprised a family hotel, a five-star hotel and luxury villa. The villa concept subsequently fell away.

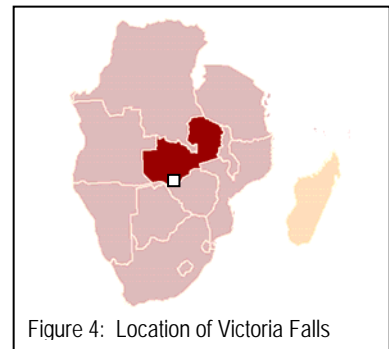
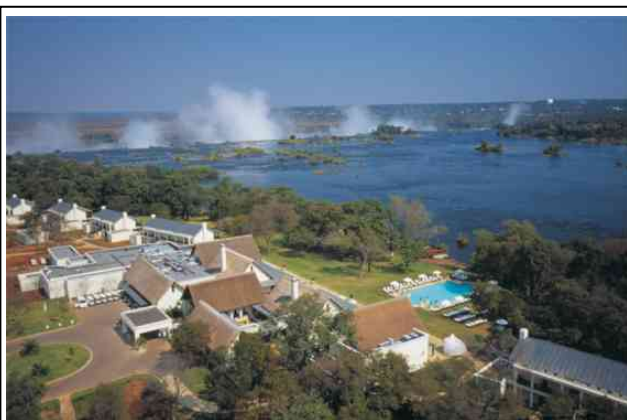


Figure 4: Location of Victoria Falls

Sun International considered the Victoria Falls to be a prime tourist destination and saw the lack of tourism development on the Zambian side of the Victoria Falls as a unique business opportunity which would provide a strong stimulus for Zambia’s tourism industry.



The Royal Livingstone Hotel on the banks of the Zambezi. Victoria Falls are visible in the background

The Victoria Falls area and adjacent environment is of international importance and is rich in archaeological resources from the Stone Age and Iron Age. The Musi-Oa-Tunya National Park and the Victoria Falls area also have a rich and diverse cultural history.

The area is culturally sensitive with respect to sites for traditions, ceremonies and rituals of the local communities. This underlying feature

of the local social context was a key aspect of the broader environment within which the process

occurred. Zambia has experienced a long period of economic decline over the past two decades with the consequence of increasing poverty, unemployment and lack of sustainable economic momentum. These characteristics were a feature of the local context within which the process occurred. Local stakeholders thus warmly welcomed the proposed investment in the hotel development. The extent of the investment associated with the proposed development was the largest yet experienced in the tourism and hospitality sector within the country. As indicated above the social and economic structure of the area is overlain by strong traditional characteristics, with significant importance given to local chiefs and their authority. National, provincial and local government institutions, while having authority, are greatly limited in their capacity.

### **7.1.3 Process and Procedural Context**

Sun International and the Government of Zambia had to conform to a number of legal requirements. These included both local Zambian regulations as well as provisions of international law. Since the site fell within a World Heritage Site, Sun International had to take cognisance of the various international policies that govern the protection and conservation of the Victoria Falls. A brief summary of the key requirements applicable to the development is set out below.

#### **a) International Requirements**

Of relevance is the Convention for the Protection of the World Cultural and Natural Heritage Site (the Convention). This convention refers to the Victoria Falls.

This policy states that countries party to this convention must ensure the Victoria Falls World Heritage Site's protection, conservation, presentation and transmission to future generations. Both Zambia and Zimbabwe are party to this Convention. The Convention requires that parties to it "would not take deliberate steps which might damage, directly or indirectly, sites which have been declared under the Convention and which are situated on the territory of another state which is party to the Convention."<sup>1</sup> In terms of the Convention, the Zambian government had the following two primary obligations with which it had to comply:

- To protect and conserve the site for future generations. This is an obligation that the Government of Zambia accepted when the Convention was signed. If Sun International's development would lead, either in the construction or operation phase, to a nett degradation of the site, then the development would be considered to contravene international law and any approval granted for the project by the Zambian government could be set aside; and,
- To ensure that neither the construction nor the operation of the proposed development would negatively affect Zimbabwe, since the World Heritage Site is a shared natural resource between Zambia and Zimbabwe.

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<sup>1</sup> The Convention 1999

## **b) National laws and Regulations**

### **Environmental Protection and Pollution Control Act**

The Act provides for the protection of the environment, establishes the Environmental Council of Zambia, and provides for its functions and powers. The Act also provides for the control of pollution, the control of general and hazardous waste, as well as environmental assessment. It includes powers of prosecution and arrest.

Environmental Impact Assessment regulations were promulgated in terms of the Act. The regulations list activities that require assessment and the responsibilities pertaining to them<sup>2</sup>. These activities include projects, which envisage tourist and recreational development in National Parks or similar reserves and projects located in or near environmentally sensitive areas<sup>3</sup>.

The developer is required to prepare an environmental impact statement in accordance with the provisions of the environmental impact assessment regulations. A comprehensive public participation process must be carried out. The process must involve all government authorities, interested and affected parties, community and non-government organisations and local authorities. These parties must be consulted to assist in determining the scope of work to be carried out in the environmental impact assessment.

The Environmental Protection and Pollution Control Act also makes provision for appeals against any decision issued by the relevant authority. In terms of the Regulations, appeals have to be lodged with the Minister of Tourism, Environment and Natural Resources in writing, within ten days of the issue of the decision letter by the Council<sup>4</sup>. If appellants are not satisfied with the decision of the Minister, they may then appeal to the High Court<sup>5</sup>.

### **National Parks and Wildlife Act**

This Act provides for the establishment, control and management of National Parks. Its main objectives are to conserve and protect wildlife and objects of interest in National Parks. Certain regulations within this Act applied to the Sun International development including a prohibition on building or any form of land operation or improvement without written consent<sup>6</sup>, as well as a prohibition on the destruction of vegetation and on littering.

Certain areas within National Parks can be leased for land uses other than conservation. The development site was leased by Sun International and the site occupies a portion of the Zambezi River that is owned by the National Park. Sun International was obliged to consequently promote the primary purposes of the National Parks and Wildlife Services who are the custodians of the land. These purposes include:

- The protection and conservation of the Victoria Falls and its associated processes, the Zambezi River, islands and riverine vegetation;

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<sup>2</sup> The Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997.

<sup>3</sup> Section 12 of the Second Schedule

<sup>4</sup> Regulation 24(1)

<sup>5</sup> Regulation 24(3)

<sup>6</sup> Regulation 14

- The promotion of eco-friendly tourism, conservation, education of local people and tourists, research into ecological systems, understanding of the unique geological processes and cultural activities of the local people; and,
- Ensuring sustainable utilisation of natural resources.

Other laws of relevance include:

- National Heritage Conservation Commission Policy;
- Town and Country Planning Act;
- The Local Government Act;
- The Interpretation Act;
- The Investment Act;
- Planning regulations;
- Zambia Wildlife Act;
- The Forests Act;
- The Water Act;
- The Tourism Act; and,
- The Zambezi River Authority Act.

### **Civil Society Participation**

Various factors combine to create the environment within which civil society participates in governance processes in Zambia. These are considered below.

The Zambian Constitution aims to create an environment where people should have the “...freedom to receive ideas and information without interference, freedom to impart and communicate ideas and information without interference...”.

Access to information and access to participation is covered under the National Environmental Management Plan (NEAP) (1994) and the Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations (No 28 of 1997), which states in section III, No. 8 (2): “...the developer shall organise a public consultation process, involving Government agencies, local authorities, non-governmental and community based organisations and interested and affected parties...”

The EIA regulations indicate at which stages of the EIA process, public participation is most relevant. These include the following:

- Terms of reference; and
- Prior to completion of the EIA report and submitting the report, the proponent has to seek public opinion on the project through various methods.

Zambian environmental law and policies are still being formulated. Many of the environmental laws have been formulated in conjunction with international institutions. Certain issues have prevented effective implementation of regulations due to limited skills, as well as ill-equipped and insufficient staff.

Non-governmental organisations in Zambia are relatively small in number yet are proactive in advocating that industry be consistent with the regulations.

Major problems associated with civil society participation in Zambia are gender inequality, inconsistent access to information and the remoteness of rural communities in relation to towns.

The Zambian government is addressing these issues. Decisions are still largely made by men. In tribal communities, headmen tend to only consult with men.

## 7.2 Environmental Assessment And Public Participation Process

The objectives of the environmental assessment process were to:

- Aid decision makers in decision making through the provision of comprehensive, structured information on the proposed development;
- Address all concerns and recommend mitigation measures to reduce negative impacts and enhancement measures to increase beneficial impacts; and,
- Satisfy the requirements of relevant legislation.

The purpose of the public participation process was to:

- Inform all relevant stakeholders of the proposed development and assessment process;
- Identify stakeholders' issues and concerns;
- Develop a deeper understanding of particular stakeholder issues of direct consequence to the development; and,
- Respond to all issues and concerns raised by stakeholders.

The Environmental Impact Assessment process was directed by both the Zambian legislation as well as by the World Heritage Site guidelines (World Heritage Convention, 1999) for managing tourism in World Heritage sites. Both the regulations and guidelines required that an environmental impact assessment be undertaken as this was a tourism development within a nature conservation area<sup>7</sup> and located in a World Heritage Site. One of the measures prescribed by the guidelines is the requirement that a listed natural site should have a management plan.

The Environmental Council of Zambia administered the environmental impact assessment process.

In the Zambian environmental impact assessment regulations, the study team is required to identify key issues before consulting with stakeholders. A scoping exercise is conducted after key issues have been studied and impacts assessed. This implies that should any issue be raised by a stakeholder at the scoping stage, it would require further study. Drawing on its experience elsewhere, the environmental assessment team requested an amendment to the statutory process to change the sequence of activities. Consequently, approval was obtained from the Council for the team to perform the scoping exercise prior to conducting the environmental assessment phase. As a result, stakeholders could actively participate from the earliest stages of the environmental impact assessment process, prior to any detailed studies being undertaken.

A steering committee was established at the beginning of the project to guide and advise the project team. The committee was a significant body made up of a cross-section of representatives from statutory bodies, the developer and the environmental assessment team. It was chaired by the Chief Executive of the Zambian National Heritage Conservation Commission. It is important to note that there were no representatives of civil society bodies on the Committee.

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<sup>7</sup> Section 12 of the Second Schedule

The first stage of the process was a scoping exercise. The key activities undertaken during this stage were:

- Identifying the possible environmental impacts of the proposed development;
- Establishing which impacts required further specialist study in the next stage of the process;
- Establishing criteria for the specialist studies; and,
- Submitting the names and qualifications of specialists to the Environmental Council for their approval.

During the scoping stage a Background Information Document was produced to inform stakeholders about the proposed development, and meetings were held with individuals to obtain an improved understanding of their interests. Two formal public meetings were held in May 1998 in Livingstone and Lusaka to allow stakeholders to express their concerns. The project team also met with Zambian and Zimbabwean authorities at this time. Additional information was obtained from a range of documentary and oral sources. The outcome of the scoping exercise was the identification of thirteen aspects requiring specialist study. The Scoping Report drew together the results of the above activities, as well as terms of reference for the specialist studies.

The specialist studies were subsequently undertaken between August and September 1998. These focussed on a range of issues and called on the specialists to analyse the nature and extent of possible impacts. They also proposed mitigation measures. Of particular importance was the specialist study on archeological and cultural-history issues which was undertaken using a participatory methodology discussed in greater detail below. Independent external experts reviewed the work of the specialists.

A public meeting was convened in Livingstone in October 1998 where the results of the specialist studies were explained to stakeholders.

Consequently an Environmental Impact Statement and Environmental Management Plan were produced. These products were reviewed by the Steering Committee and submitted for approval to the Environmental Council.

In summary, the key techniques used in the public participation process were:

- Individual and group meetings;
- *Ad hoc* telephone and personal contact;
- Structured interviews;
- Public meetings;
- Workshops;
- Participatory research methods, such as surveys and interviews;
- Steering Committee meetings; and,
- Formal written comment and correspondence.

## 7.3 Case Analysis

### 7.3.1 Stakeholders and Stakeholder Interests

There was keen and extensive participation from a broad set of stakeholders in this process. They represented a cross-section of local interest groups, national government departments and other national stakeholders, as well as international interests. In the latter case, the international non-governmental organisation community was represented through the IUCN, and there was participation from local interests in Zimbabwe.

Stakeholders were identified through a variety of means, including: drawing on the knowledge of local consultants, obtaining input from the Steering Committee which included the participation of key stakeholder groups, advertising in the local media for participants, and maintaining a database of contacts made during the course of the process.

Local stakeholders were largely represented by the leaders and prominent spokespeople of different groups. One of the interviewees explained that the local pattern is for a few individuals to speak on behalf of great numbers of people. A key example of this was the involvement of Chief Mukuni who represents the Mukuni people, the major indigenous group.

Local interests were able to express their views through the process. For examples, the Mukuni people articulated their interests in the area under investigation, and engaged in an ongoing dialogue about it. The Mukuni people had a core concern with the land in question, which had ancestral value and ongoing significance in the life of the community. The local people had always lived around the area of the Victoria Falls, with the locality playing a significant religious and ritualistic role in their lives. As a consequence, the Mukuni people, through their hierarchy, were very actively involved in the process.

An interviewee expressed the concern that certain key groups were not sufficiently represented in the process, such as curio traders and representatives of the performing arts community. The groups and individuals who tended to participate in the events convened as part of the exercise, were largely drawn from the more affluent sections of the local community. An interviewee indicated that unlike most local community development processes, poor people were not actively sought out.

There was widespread support for the principle informing the proposed development, namely that of promoting economic development. Certain stakeholders, however, had concerns with the impact of the development. The more assertive among them felt ostracised by political interest groups and the developer at times. It must be stressed that the consulting team conducting the environmental assessment treated all stakeholders with equal respect.

The client for the environmental assessment process, Sun International, actively promoted the development amongst local stakeholders at the same time as the process of assessment was underway. This included conducting numerous meetings with local stakeholders. A concern was expressed by an interviewee that the developer had a significantly influential role in effecting the course and outcome of the assessment process.

A significant institutional structure associated with the process was the Steering Committee for the environmental assessment. This body, made up of nine individuals, brought together some of the key stakeholders, including the Zambian National Heritage Council, the Livingstone City Council, the Zambian National Parks and Wildlife Services, the client and the consultants. The

committee was chaired by the Chief Executive of the Zambian National Heritage Conservation Commission. It served an important role in the process, although a concern was expressed that it met infrequently. One of the members of the Committee was of the view that its meetings were not infrequent, and that it met whenever required. In reviewing the exercise, the lead consultant felt that the Steering Committee played an important role to the extent of advising on appropriate processes for involving stakeholders. This function may have benefited from civil society participation in the Committee.

### **7.3.2 Political Context**

The process was a very high profile one within the Zambian context. While initially there were concerns within the Zambian political hierarchy about the proposed development, the subsequent endorsement from the presidential level down served to promote the development. Several of the interviewees consulted indicated that there had been high-level intervention into the process from the political establishment.

An interviewee described this intervention as “creating a sham” of the process, and that the process had been “hijacked”. Another interviewee said that “the President says and then the people do”, and that the political intervention was like a “sledgehammer from State House”.

It was reported that there were fears during the process amongst government officials that they might lose jobs if they opposed the development too strongly. As a result, it was stated, they were reluctant to be too assertive or confrontational in their response to the proposed development.

It is important to note that the developer did not feel at any time particularly favoured by the political hierarchy during the time of the environmental assessment process. Rather, it was said, the developer had to “work hard” for all of the concessions and agreements reached with Government.

### **7.3.3 Communication and Dialogue**

There were a limited number of formal public events in the process. During the initial phase of scoping of issues, there were public meetings in Livingstone and Lusaka. At the end of the process, there was a report-back meeting in Livingstone where detailed inputs were provided by the consultants on the issues investigated. While few in number, these were important events in promoting dialogue and debate.

An important aspect of the process is that it allowed for extensive debate about the proposed development. It was reported that this happened to a large extent within the public events. The process was described as being very open, with “a high level of free expression”. The transparent way in which the process was conducted, as well as the explicit activities by the consultants in showing concern and providing feedback on stakeholder concerns were noted.

The high level of debate was such that at one point in the process, there was a publicly stated concern on the part of the developer about whether it wished to remain committed to the investment process.

The primary language within which the process was conducted was English. This was a language appropriate to the specific group of stakeholders who became involved. A concern was

raised by a number of interviewees that this could have had the effect of precluding the participation of groups not easily conversant in the language. The co-ordinating consultant also raised the concern that nuances with respect to stakeholders concerns when expressed by second language speakers could be lost in the process. Technical jargon also proved to be a challenge in this process, with key terms being translated at the final public meeting for those not familiar with them.

There was a relatively significant media interest in the process given its high profile nature. The broadcast media became involved and conducted interviews with members of the project steering committee. Local newspapers were used for the placing of adverts notifying the public of meetings and the availability of reports. The newspapers also ran stories on the process extensively quoting stakeholders. A local journalist expressed a concern that the environmental impact assessment team were not sufficiently pro-active in using the media.

An important factor of the communication in this process was the work and role of the consultants. They were commended by those interviewed for being easy to deal with, taking stakeholder input seriously, and being keen to understand the concerns and interests of those involved. They were considered to be objective in their work by most interviewed. One stakeholder was concerned that the consultants were biased in their work and not sufficiently respectful of local interests. This view would appear to be at odds with most views expressed.

#### **7.3.4 Specialist Studies**

A significant component of stakeholder participation was achieved through one of the specialist studies commissioned as part of the environmental assessment. This study on archaeology and cultural history issues included a range of interviews with local traditional authorities as well as traditional councillors, headmen, spiritual leaders and villagers. This served to significantly deepen participation in the process and was described by the co-ordinating consultant as “tapping into the indigenous value systems and knowledge base of the area”.

#### **7.3.5 Budgets and Time Constraints**

It was noted that there was a limited budget available for engaging with stakeholders. One of the consultants said that it had been necessary to weigh up the extent of possible consultation in relation to the resources available.

It was noted also that there was pressure from the developer to accelerate the process. This point was made by several of the stakeholders interviewed. The co-ordinating consultant said that the process for the environmental assessment as a whole should normally have been conducted within an 18 month period, but was concluded within 10.5 months. Various statements about the pressure that was applied to speed up the process were made including that the pressure was a result of government seeking foreign direct investment and not wanting to undermine the potential for new development. In general, the time pressures were attributed to government’s insistence on speeding up the process.

### **7.3.6 Outcomes**

The key issues raised by stakeholder during the course of the process related to traditional, ancestral and ritual land uses, impacts on flora and fauna, and broader economic development impacts.

In reflecting on the process, the developer was of the view that the environmental impact assessment had contributed significant value to the ultimate development. He said that it had been a worthwhile exercise as it not only led to the protection of the environment, but also gave rise to opportunities to identify improvements to the development. Without an environmental assessment, he said, there would have been inappropriate development.

A local heritage specialist said that a very significant point to arise out of the process was that it helped local communities to develop an understanding of the value of their heritage, as well as their contribution to tourism. It left them with a broader understanding of the area, and defined their role within it. Subsequent processes of implementation, however, have not led to the increased benefits that local people had anticipated and the process was consequently perceived as incomplete. The view was expressed by interviewees that the full extent of the anticipated economic benefits had not transpired subsequent to implementation.

This concern with incomplete implementation was raised by interviewees with allegations being made that certain of the recommendations contained in the environmental impact report were not implemented. The developer was accused of having undertaken activities not agreed to within the environmental assessment. The initial enthusiasm generated by the environmental assessment process consequently become “clouded”.

The developer believes that the implementation has been consistent with the outcome of the process. Any departures from the recommendations and plans drawn up, it is reported, have been discussed with the relevant authorities and committees.

## **7.4 Conclusion and Lessons Learned**

The main challenge faced in this process was to ensure sufficient participation by stakeholders within the context of budgetary and resource constraints confronting the project. A combination of appropriate process design in which care was taken to involve stakeholders at an early stage of the process, as well as parallel participatory activities contained within a key specialist study sought in part to address the challenge. In addition, the professional team was vigilant in pursuing a high level of ethical practice by striving to achieve best practice principles in public participation under the particular constraints of the process.

The participation process added significantly to the substantive form and content of the proposed development. More broadly it contributed to an ongoing process of building civil society. This is discussed further in the section below.

### **7.4.1 Benefits to Stakeholder Groups**

Among the range of benefits for stakeholder as a result of their participation in this process, one stood out. This related to the role of this exercise in promoting the process of democratisation within Zambia. The exercise took place at a time of an opening in the political environment within that country. It presented an opportunity for a broad cross-section of societal actors to

become engaged in a key set of debates about development and conservation. In this context, the considerable debate that took place was significant and noted by stakeholders. The process can thus be seen as promoting the development of civil society in Zambia, and the processes of democratic discourse. Notwithstanding this, the concerns raised about political interventions in the process tend to detract from this significant benefit.

#### **7.4.2 Lessons about Techniques Used**

The following lessons about techniques can be identified from a reflection on the process:

- Recognise appropriate channels of communication in traditional communities and be aware of their limitations;
- Ensure the language used during participation activities is appropriate for stakeholder groups
- Specialist studies can assist with significant aspects of the public participation process in the environmental assessment; and,
- Project steering committees comprising local stakeholder groups, proponent, government officials and consultants can give important insights and direction to a process.

#### **7.4.3 General Lessons**

The Sun International process highlights a number of additional lessons for public participation in environmental assessment, including:

- A conscious effort is required to involve traditional communities and identify their issues of importance;
- Provide opportunity for debate and free expression, which reinforces the legitimacy of the outcome;
- Environmental assessment processes run the risk of including mainly affluent people to the exclusion of the poor;
- Undue political and client influence can have a detrimental impact on the credibility of the participation process; and,
- Well-planned and implemented participation processes can build relationships and social capital.

### **7.5 List of Interviewees**

(in alphabetical order)

Ashton, Peter  
Principal Scientist – CSIR  
5 August 2004

Boyd, Mark  
Executive, Sun International  
Telephonic  
2 August 2004

Chikumbi, Donald  
Chief Executive – National Heritage  
Conservation Commission (NHCC)  
Livingstone, Zambia  
19 July 2004

Hitching, Martyn  
Livingstone Ratepayers Association  
Livingstone, Zambia  
20 July 2004

Kataneke, Nicholas  
Retired Chief Executive of the National  
Heritage Conservation Commission (NHCC)  
Livingstone, Zambia  
19 July 2004

Mweebo, Evans  
Project Development Officer – Zambia National Tourist  
Board  
29 July 2004

Mwiinga, Lisa  
Ranger of Research – Zambian Wildlife  
Authority (ZAWA)  
Livingstone, Zambia  
20 July 2004

Mwiya, Felix  
Deputy Director Planning – Livingstone City  
Council  
Livingstone, Zambia  
20 July 2004

Ntambale, Kinny  
Journalist  
Ministry of Information and Broadcasting -  
Zambia Information Services  
Livingstone, Zambia  
20 July 2004

