

Stakeholder Consultation: Questions and Answers

1. Background and Introduction

Grant Thornton was appointed by the National Off-Road Workgroup (“NOW”) to develop a self-regulation strategy and implementation framework for the off-road sector in South Africa. Grant Thornton in turn sub-contracted Felehetsa Environmental to assist with aspects of the project.

The Grant Thornton project involved the following 3 phases:

- **Phase 1:** Legal Scan and Benchmarking Report;
- **Phase 2:** Stakeholder Consultation; and
- **Phase 3:** Strategy and Implementation Framework Development.

Each of these phases culminated in reports, copies of which are available from NOW.

The *Stakeholder Consultation Report* details the process followed as well as the questions that emerged from the process.

This report details these questions with answers provided to each question.

2. Questions and Answers

Table 1 details the questions and answers that emerged as a result of the stakeholder consultation process.

Answers that have been provided are based on the final strategy and implementation framework. However, if any of the strategy activities are not implemented or are only partly implemented, the responses provided below may not always apply.

Table 1: Questions and Answers

Questions	Answers
Monitoring the Process	
<p>1. Who will monitor the self-regulation process? Who is the authority?</p>	<ul style="list-style-type: none"> Drivers & riders, trail & track owners/operators, off-road tourist guides and training providers/trainers/training facilities will require monitoring. It is proposed that NOW continue as the representative body, but with both representative and regulatory functions. The regulatory function of the representative body will handle amongst other things, monitoring. In addition, it is likely that certain monitoring activities will be conducted by relevant government departments and/or authorities as well as by the associations. Monitoring will also be conducted by off-road drivers, trail & track owners and operators, off-road tourist guides and training providers/trainers/ training facilities. These parties will be able to report any contraventions to the regulatory body for action.
<p>2. Issues of accreditation: If vehicles are not registered, how can their compliance to the rules be monitored?</p>	<ul style="list-style-type: none"> All vehicles, whether used on public roads, or exclusively off-road, are currently required to be registered with NaTIS. Roadworthy vehicles that are used on public roads are required to be licensed each year. In some cases off-road only vehicles (e.g. quads) are also licensed each year, although these appear to be isolated cases. The issue however is that despite the requirement, many off-road only vehicles are not registered, with many owners being unaware of the fact that they need to do so, and in any case there is no requirement to display registration. In addition, registration of vehicles used exclusively off-road is currently not monitored. The industry is aware of this issue, and although it is not being addressed directly in this strategy, it is being taken into consideration by industry stakeholders. It is however important to note that this strategy focuses on the drivers and riders of vehicles, and not the vehicles themselves. Drivers and riders will be required to provide various ID and other data (e.g. a driver or rider competency certificate) to drive/ride on trails in sensitive areas. Compliance of drivers with the rules can be monitored by other drivers & riders, trail & track owners/operators and off-road tourist guides. Driver and rider behaviour in contravention of any rules can be reported to the clubs or to the regulatory department of the representative body.

Questions	Answers
<p>3. How will resistance to the self-regulations be punished, and how will this punishment be enforced?</p>	<ul style="list-style-type: none"> • Although it was originally envisaged that the strategy would be a self-regulation strategy, as the strategy has been developed, it has evolved from self-regulation, to co-regulation. Co-regulation includes elements of self-regulation and regulation i.e. self-regulation within a regulatory framework. <i>“In co-regulation, the existing regulatory framework is used, possibly expanded and/or rationalised and government devolves certain compliance and other responsibilities to an industry regulatory body, in which industry plays an important and vital role”</i>. • It is proposed that Norms and Standards, aligned to the National Environmental Management Act (NEMA) be developed. The fact that these Norms and Standards will be aligned to NEMA, and will be signed off by the National Minister, provides for their legal application, and adherence to them will be required under law. This will provide the “legal teeth” required for monitoring and sanctioning. • A sanctioning framework will be developed. The sanctioning process will include various steps depending on the type of offender e.g. <ul style="list-style-type: none"> ○ Drivers & Riders – Steps will include initial informal steps, such as verbal feedback and reprimand letters, disciplinary committees etc, possibly finally resulting in the removal of competency and black-listing. Final formal steps will be recourse to the law through the Green Scorpions environmental policing, environmental management inspectors (“EMIs”) etc, which could result in prosecution. ○ Trail & Track Owners/Operators - The regulatory function of the representative body will not register, or will de-register contravening trails and tracks that do not comply with the environmental Norms and Standards. All such trails and tracks will be communicated to the representative function of the representative body for dissemination to the industry and users will be instructed not to use such trails and tracks. Environmental negligence and deviation will also be reported and the appropriate environmental policing mechanisms will be used e.g. Green Scorpions and EMIs.

Questions	Answers
4. How will the tourist industry be monitored? How will these policies be enforced on non-South Africans?	<ul style="list-style-type: none"> • Non-South Africans (e.g. foreigners that rent vehicles) will be subject to the same rules that apply to South Africans, such as either a South African driver competency qualification, the use of a qualified off-road tourist drive guide or be represented/led by a person with a driver competency certificate, to go into sensitive areas. However sanctioning under any laws is an issue e.g. currently it is near impossible to get foreign drivers to pay speeding fines they incur in the country. Fortunately the number of these drivers will be limited in sensitive areas due to the guide/competency requirement. Unfortunately if they exhibit behaviour in contravention of the Norms and Standards, the recourse to both the clubs or regulatory function of the representative body sanctioning, or law, has no teeth as they leave the country. These drivers are however in the minority.
5. How will training be monitored and standardised?	<ul style="list-style-type: none"> • Training of drivers & riders and off-road tourist guides will be against Unit Standards that will be registered with the South African Qualification's Authority ("SAQA"). Any training against these Unit Standards can only be carried out by accredited training service providers (accredited by the appropriate sector education and training authority ("seta")). The enabling legislative framework in existence associated with SAQA, and the seta ensures that all training is standardised. Any non-accredited trainers or trainers delivering sub-standard training will be reported to the regulatory function of the representative body.
6. How will the self-regulation strategy be uniformly applied and enforced across South Africa?	<ul style="list-style-type: none"> • It is envisaged that the strategy will be endorsed by the industry and with the aim of achieving regulation of the industry by the industry. The regulatory body that will be established will be national and will focus on ensuring that the strategy is adhered to and applied and enforced uniformly across South Africa. Some of the activities required as part of the strategy fall within the provincial government's mandate. DEAT will encourage and promote consistency in application at the provincial level.
7. If an ombudsman is appointed to monitor the trails, who will pay for their services? And is this not contradicting the idea of "self-regulation"?	<ul style="list-style-type: none"> • Appointing an ombudsman has been suggested. An ombudsman can be industry appointed or government appointed, or the appointment done by a body on which both are represented. Funding will be required, but this is addressed in more detail in question 8.

Questions	Answers
8. Is it going to require ongoing financial support?	<ul style="list-style-type: none"> • Implementation of the strategy is going to require ongoing financial support, which is likely to come from a variety of sources. A lump sum (seed funding) will be required upfront to kick-start the process (e.g. establish the regulatory function, develop appropriate frameworks etc.), and funding will be required in the initial years for activities associated with strategy implementation. In time however, it is hoped that ongoing activities will become self-sustaining. In developing the strategy, many potential sources of funding have been identified however obtaining and securing this funding will be part of the strategy implementation. Two key sources have been identified, namely DEAT and a proposed eco-levy imposed on the sale of every quad bike and off-road motor bike. An eco-levy is the preferred source as it is the most straightforward and simple means of raising money.
Trails	
9. If trails are audited, how often will this happen and how much cost will the trail owner incur themselves?	<ul style="list-style-type: none"> • The exact frequency and nature of trail audits will be decided as part of the Norms and Standards development. The strategy proposes trail auditing be conducted using a mixture of auditing tools e.g. self-audit, compliance auditing by an accredited agency etc. Examples of audit types and frequencies include: <ul style="list-style-type: none"> ○ Self-audits in non-sensitive areas e.g. every 2 or 4 years; ○ Inspection audits every 2 years and self-audits or peer audits every year in moderately sensitive areas; and ○ Inspection audits every year in highly sensitive areas. • It is currently not known how much this will cost the trail owners themselves, but it should be noted that NOW acknowledges that trail owners may need to incur high costs in complying with the strategy, and the facilitation of support, including financial, has been included in the strategy.
Registration and Certification	
10. Will registered tour-guides have to re-apply to become off-road tour guides, or will certain credits be carried forward?	<ul style="list-style-type: none"> • Off-road tourist guiding-specific Unit Standards are currently under development. Once developed and registered, off-road tourist guides will be required to complete training programmes associated with these. Appropriate credits, providing they are Unit Standards based, will be able to be carried forward.

Questions	Answers
11. Will all off-road vehicles be subject to the same regulations, or will there be specified self-regulation measures for each type of off-road vehicle?	<ul style="list-style-type: none"> • Yes, all off-road vehicles will be subject to the same regulations. The only difference, based on vehicle type, is that some trails and tracks will only be appropriate for certain vehicle types i.e. access to trails and tracks will depend on vehicle capability, including but not limited to 4-wheel drive, low-range, diff lock or traction control and the presence of specified recovery equipment. Trail owners will be encouraged to monitor vehicle access according to the difficulty level of their trail.
12. How will a self-regulation strategy deal with un-licensed vehicles? Are the importers involved in rectifying this process?	<ul style="list-style-type: none"> • As indicated in question 2, this strategy will not directly address the licensing of off-road vehicles. However relevant industry players e.g. the importers, are dealing with the issue under a separate
13. Will new licenses be required to drive off-road? If so, the process will become cumbersome and probably lead to illegal activities.	<ul style="list-style-type: none"> • A new driver's licence will not be required. However, a driver competency certificate (DCC) will be required to access sensitive areas. This will be based on drivers and riders undergoing an accredited training programme, and then demonstrate that they are able to carry out certain off-road vehicle operations and other activities. Training is expected to be of 1 to 3 days in duration depending on previous experience, with training available as a 1-3 day course, or as separate shorter sessions over several days. Drivers and riders that carry out illegal activities (e.g. driving without a competency certificate in sensitive areas) will be punished.
14. Will insurance companies recognise off-road qualifications and certification?	<ul style="list-style-type: none"> • Some insurance companies currently provide lower premiums based on off-road specific training that drivers and riders have obtained. The representative body may liaise with the insurance companies in this regard.
Sensitive Areas	
15. Isn't the intrigue of off-roading based on exploring 'uncharted territory'? How then will the industry deal with restrictions based on environmentally sensitive areas?	<ul style="list-style-type: none"> • Largely yes, however we need to acknowledge that protecting the environment for future generations is a crucial need. In addition, there are likely to be levels of sensitivity, which should make it possible to still explore uncharted territory, albeit in an environmentally considerate manner.
16. Are the sensitive areas defined? Will non-sensitive areas be subjected to the same regulations?	<ul style="list-style-type: none"> • Sensitive areas are not yet defined, but will be identified through a national DEAT project and equivalent provincial projects and processes. All sensitive areas will be gazetted by DEAT. This strategy focus is on sensitive areas, however, it is envisaged that while some actions will be focused on sensitive areas only, others will be focused on all areas. Driver competency is required for sensitive areas only, while trail registration will be required for all trails.

Questions	Answers
17. How will off-road users be able to identify especially sensitive areas of the environment?	<ul style="list-style-type: none"> Whether or not a trail or track is in a sensitive area will be made known through marketing collateral at the entrance to trails, on relevant websites etc.
Clubs and Associations	
18. What is the role and function of 4 x 4 clubs?	<ul style="list-style-type: none"> 4x4 Clubs are formed by any group of 4x4 owners that share the same passion and enthusiasm for using their 4x4's, generally in a specific geographic area. Clubs that are affiliated with the Association of Four Wheel Drive Clubs of Southern Africa (AAWDC) have received, on a monthly basis, information from the AAWDC on NOW progress and members of those clubs should have been informed by their clubs. The AAWDC have also asked for suggestions from affiliated clubs and those have been incorporated into the Strategy. AAWDC affiliated clubs also had the opportunity to nominate Driver Trainers and a number of driver trainers have received the generic assessor training for free. This is part of a process to have a number of affiliated club driver trainers in place that would be able to offer the DCC to its members, the detail there-of still to follow. Affiliated clubs will play a major role in future to assist their members to obtain the DCCs that would enable them to have access to Eco-Sensitive areas.
19. How can you encourage self-regulation among the vast majority of drivers who will never join an organized club?	<ul style="list-style-type: none"> The success of the strategy is not dependent on drivers and riders joining organised clubs because the strategy will apply to all drivers and riders, irrespective of whether or not they are club members. Club membership is however beneficial, as indicated in question 18 above. The regulatory body will maintain a register of competent drivers and riders and together with training service providers, will be involved in issuing competency certification.
20. How will my input be incorporated into the formulation of the self-regulation strategy?	<ul style="list-style-type: none"> All questions received during the consultation process have been collated and compiled into this list. Each question is being responded to, indicating that all feedback is being considered. However, although all comments are noted, they may not all result in changes or specific strategic actions.

Questions	Answers
21. What if I personally don't agree with some aspect of the strategy? Surely it can not cater to every one's particular interests?	<ul style="list-style-type: none"> No strategy will ever be able to cater to everyone's interests. However, everyone has been given the opportunity to comment on the strategy indicating what they may not agree with, through the consultation process. It is also important to remember that we are attempting to create a strategy that will best fit the industry, comply with government requirements, be environmentally sound and considerate, and be sustainable. It is important that this "bigger picture" be kept in mind.
22. How can I encourage participation in this process, for those who are adamant about remaining indifferent?	<ul style="list-style-type: none"> Once the strategy has been finalised and presented to the Minister,, the focus of NOW would be on implementing the strategy. Although NOW would be open for suggestions along the implementation way, it would be unfair to expect NOW to go back revisiting the strategy, other than for implementation reasons. People who have elected to be indifferent should then accept that they had a fair chance on strategy input.
23. How will the negative public image of off-roaders be rectified?	<ul style="list-style-type: none"> This will probably happen in a variety of ways. Firstly, the strategy is being driven by the sector itself, making it apparent that they are interested in regulating the industry in an environmentally conscious way. Secondly, one of the strategy actions will be to develop and implement an awareness creation / marketing campaign, an aim of which will be to change the negative image of the sector through positive messages of the off-road sector making a difference to people and the environment. The principle of "Responsible Tourism", and the show-casing of accounts of positive contributions to people and the environment will be encouraged. Off-road website and magazines, off-road organisations & suppliers and advertising agencies will be approached to assist in this regard. The sector's negative image is due to the irresponsible behaviour of its users. The strategy should eradicate this behaviour, and in doing so, improve the sector's image. It must also be remembered that it is probably a very small portion of the off-road fraternity that gives the entire industry a bad name. It is recognised that many off-roaders are environment lovers and will see the value of supporting the strategy.

Questions	Answers
24. Is the National Off-road Workgroup truly representative? For example, if SAROOF has a membership of 20 from a field of 400 trail owners, is this 5% truly representing the interests of all?	<ul style="list-style-type: none"> Although NOW may not seem to be representative in terms of the membership of the 7 associations that constitute NOW, others stakeholders that are not members of the associations have been provided with numerous opportunities to provide their input. This includes the 2-day workshop in George in 2005, the NOW Forum on the website and the consultation process recently conducted. The associations have also identified a need to increase membership, and ways of achieving this will be considered. The strategy proposes funding be made available to increase the capacity and in turn representivity of NOW. It should also be noted that SAROOF in fact has 94 members of the estimated 430 trails, 22%.
Self-Regulation	
25. How does the strategy propose to deal with work related off-roading versus leisure based off-road use?	<ul style="list-style-type: none"> Although the strategy focuses on recreational use, any drivers and drivers, including commercial and government, that wish to access sensitive areas will be subject to the same “rules” that apply to recreational off-road vehicle use e.g. driver competency certification.
26. Why should this sector be self-regulated and not simply regulated by existing legislation?	<ul style="list-style-type: none"> Existing legislation is not sufficient to regulate the sector. Although additional legislation could be considered (i.e. regulation of the sector through law), this is likely to result in very strict controls, which could have a detrimental effect on the industry – at worst case off-road driving in sensitive areas could be banned. It is believed that the industry can manage itself and need very little interference by means of legislation in order to achieve responsible environmental behaviour while driving off-road. Rather, control can be achieved through co-regulation, a route preferred by the Minister as well as sector stakeholders. Co-regulation, or self-regulation within a legal framework is fairly common and can serve to provide more efficient and fair processes, while achieving the same goals.
27. How do you know the self-regulation strategy is actually going to work?	<ul style="list-style-type: none"> There are obviously no guarantees, but there are two key reasons why we are positive that the strategy should succeed. Firstly, it has been developed over two years, and is based on extensive research, and consultation with the sector. The proposed focus areas and activities have been widely agreed to and accepted by the sector. Secondly, NOW and other stakeholders are very passionate about the strategy and about making it work. No-one wants it to fail, because that may result in the Minister regulating the sector through legislation – the beach ban all over again!

Questions	Answers
28. Is this self-regulation strategy only for South Africa? Or will it be applied to the SADC countries and perhaps even internationally?	<ul style="list-style-type: none"> • At this stage the strategy is only being developed for South Africa. However it is ultimately envisaged that the strategy, or elements thereof, will be applied to the SADC countries and internationally. The extent of activities included in the strategy is not replicated in any other international off-road sectors or other sectors in South Africa. It is hoped that its successful implementation will be seen as a benchmark for other countries, both in Africa and internationally. It is however vital that we get it right, before trying to apply it elsewhere.
29. Will the implementation of this self-regulation strategy be phased, or will it be enforced all at once?	<ul style="list-style-type: none"> • Implementation of the strategy will be phased over time, and it is envisaged that it may in fact take anywhere from 3 to 5 years to achieve what needs to be done. There are 4 proposed stages of implementation, viz: <ul style="list-style-type: none"> ○ Pre-planning (Year 1, from April 2008 to March 2009); ○ Set-up (Years 1-2, from April 2009 to March 2011); ○ Roll-out (Years 3-5, from April 2011 to March 2014); and ○ Ongoing (Year 6 onwards, from April 2014). • In addition, transitional periods will be applied to the requirements, allowing industry time to comply with the strategy. Priorities will be applied to strategy actions, and those activities with the highest priority will be phased in first. The strategy is very ambitious in what it wants to achieve and thus prioritising key actions is vital to its success by ensuring that resources and efforts are concentrated appropriately.
30. How simple is this process going to be?	<ul style="list-style-type: none"> • At this stage it is difficult to say, however, in developing the strategy, there is a focus on making the strategy actions and implementation as simple as possible.
31. Is the importance of tourism being highlighted?	<ul style="list-style-type: none"> • Yes, definitely. Tourism development was identified at the George workshop in 2005 as a key focus area, and one of the five strategy objectives is currently aimed at tourism development i.e. “<i>To stimulate off-road tourism</i>”. It has also been included as a separate focus area in the strategy and implementation framework. Many of the activities that form part of the strategy will stimulate tourism development.