

## TANZANIA INVESTMENT CENTRE

### DAR ES SALAAM

#### PROGRESS REPORT (31<sup>st</sup> December 2022)

(Information required for the project's progress report after every six month or for  
Amendment of certificate of incentives)

1. **Planned activities for the period:** (Since the application and registration with TIC for the last Certificate of Incentives No. 030713 issued 4<sup>th</sup> September 2006, **Appendix A**)
  - 1.1 Tanzania Conservation Limited ("**the Company**") acquired Sukenya Farm measuring 5,106 hectare (12,600 acres) under Certificate of Occupancy No. 18163 by way of purchase from Tanzania Breweries Limited (TBL) for an investment of USD\$ 1.2million for the purposes stated in the Certificate of Incentives, "EcoTourism";
  - 1.2 In the year 2008, the Company obtained an approval for change of the land use from the Ngorongoro District Council (**Appendix B**) changing the land use from agriculture to EcoTourism in line with the Certificate of Incentive. The Tanzania Investment Centre (TIC) then took an application to the Ministry of Lands the same year to effect the changes but, this application remained pending to date. Consequently, the investment project has been blocked from being fully implemented;
  - 1.3 Also, the implementation of the project has been blocked by a series of court cases launched by 3 surrounding villages, conceived, driven, funded and prolonged by some NGOs, against the Company, the Seller, and the Government, disputing the right of the Company to occupy the land. Below is a summary of the court cases and their status:
    - 1.3.1 **High Court of Tanzania at Arusha, Civil Appeal No. 18 of 1991**: this was an appeal against the decision of the Resident Magistrate Court of Arusha in Civil Case No. 74 of 1987. In this appeal, the High Court confirmed the decision of the Resident Magistrates Court of Arusha which declared TBL as the lawful owner of the Farm and it was never been appealed against;
    - 1.3.2 **High Court of Tanzania at Arusha, Land Case No. 26 of 2013**: in this case, three villages (Mondorosi Village Council, Sukenya Village Council and Soitsambu Village Council) sued Tanzania Breweries Limited, TCL, Ngorongoro District Council,

Commissioner for Land and the Attorney General claiming amongst other for 2,617 acres out of the Farm alleging that they were illegally acquired in that Sointsambu Village then allocated only 10,000 acres of land to TBL not 12,617 acres as appear in the Certificate of Title. As you will note from the judgment-**Appendix-C** and the decree-**Appendix-D** of the High Court, the court decreed that:

- (a) The 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> & 4<sup>th</sup> Defendants illegally confiscated 2617 acres of land from the Plaintiffs;
- (b) The Plaintiffs are the legal and rightful owners of the 2617 acres;
- (c) **The Certificate of Occupancy granted to the 1<sup>st</sup> Defendant and the 2<sup>nd</sup> Defendant be rectified. It should comprise 10,000 acres only. The rectification should involve both parties and relevant authorities.**

1.3.3 **Court of Appeal of Tanzania at Arusha, Civil Appeal No. 334 of 2020**: Aggrieved by the decision of the High Court of Tanzania at Arusha in Land Case No. 26 of 2013 above, the three Village Councils preferred an appeal to the Court of Appeal of the United Republic of Tanzania. On 18<sup>th</sup> February, 2022, the Court of Appeal of the United Republic of Tanzania issued an order marking the matter withdrawn with no orders as to costs following a prayer to that effect made by the Principal State Attorney on behalf of the three Village Councils (Appellants), the Ngorongoro District Council (3<sup>rd</sup> Respondent), the Commissioner for Land (4<sup>th</sup> Respondent) and the Attorney general (5<sup>th</sup> Respondent). A copy of the order is enclosed marked **Appendix-E**;

1.3.4 **Implementation of the Decree of the High Court by the Parties**: As a result of the order of the Court of Appeal referred to in paragraph 1.3.3 above, the decree of the High Court of the United Republic of Tanzania at Arusha in Land Case No. 26 of 2013 referred to in paragraph 1.3.2 above remained intact and as such, all the parties under the leadership of the office of the Solicitor General of the United Republic of Tanzania undertook all necessary consultative processes and steps to implement the decree of the High Court;

1.3.5 As it stands now, the re-survey of the land as directed by the High Court is completed resulting into an approved Plan No. 36775 now with 4,046.914Ha which is equivalent to 10,000 acres as ordered by the Court. TCL now requests for derivative right of ownership of the 10,000acres in the place of its right of occupancy ownership through the previous Certificate of Right of Occupancy No. 18163. The original Certificate of Title has been surrendered to enable processing of derivative right to the Company through TIC.

1.4 We understand that the processes for TIC to issue a derivative title to the Company is subject to approval by the National Land Allocation Committee which is due to sit and consider the application any time from now, a process that we trust the TIC will offer its full support in your capacity as investments promotion and facilitation centre.

1.5 Once a derivative title is issued to the Company the project can be implemented fully, hopping there will be no other barriers in the future for safe and secure investment and operations as has been the case in the past.

1.6 The challenges expressed above have forced the Company to adapt and change its approach in order to operate and deliver revenues and benefits to the wider stakeholders, including but not limited to the government and surrounding communities. In this respect, its achievements have been nothing short of outstanding given the seemingly insurmountable challenges faced by this project, and investors generally in the Loliondo area.

**2. Achievements made on the project implementation to date (from the date the project was approved to the date of writing this report)**

Despite the delay in issuing land use change by the Ministry of Lands to enable the investment project from being implemented, and the repeated legal challenges brought about by NGOs profiting from their campaigns against the project and its mission to bring ecotourism benefits to the area, the Company together with its tourism partner, Thomson Safaris Ltd (Camp photos attached in **Appendix G**), and its development partner Focus on Tanzania Communities, has brought a combined investment into the property (**Table 1**) and surrounding communities (**Appendix F**) in excess of USD\$2.5 million, excluding the initial USD\$ 1.2m purchase of the property.

**Table 1: Social economic benefits (Pre Covid 19 pandemic levels)**

**Performance: Financial highlights ( 2018/19) (2018 exchange rates)**

<i>Investments (productive):</i>	USD\$	TZS	Period
Total tourism derived funds invested in fixed assets on farm and in surrounding communities	2,500,000	5,627,900,000	to date
Proportion of those funds invested directly in social/community developments:	1,200,000	2,701,392,000	to date

**Extraordinary investments (non-productive)**

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Legal & related sunk costs associated with the NGO driven campaigns against the project and its partners	900,000	2,026,044,000	to date
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**Portion of operating costs going to local conservation and economy:**

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Annual operating spend on wildlife and habitat conservation in Loliondo:	150,000	337,674,000	per year
Proportion of those funds going directly into local economy in Loliondo:	25,000	56,279,000	per year
Plus direct payments to local communities for tourism services:	25,000	56,279,000	per year
Plus WD payments of which 60% go to community :	30,000	67,534,800	per year
Plus tourist direct spend on curios from local community initiatives established for women's groups	30,000	67,534,800	per year

**Note:** Above is consolidated spending of **Tanzania Conservation Ltd**, tourism and development partners **Thomson Safaris Ltd** and **Focus on Tanzania Communities (FOTZC)** on the project.

**Social economic benefits (Post-Covid)****Outlook for 2023:**

Based on current arrivals not yet fully recovered from the covid 19 pandemic years, bookings are currently 70% of pre-covid levels and projected estimates are 80% for 2023.

**Outlook for 2024:**

Based on projections for 2024 we expect bookings to reach close to 100% of pre-covid levels subject to global security and economic situations settling, or at least not worsening.

**3. Provided updated information on the following's aspects.**

S/No	Information	Description	Current project status
1.	Shareholder's information	Current shareholders names, nationality, and percentage of ownership	WARWICK ELDRED THOMSON, New Zealand, 49.94% JUDITH ANN WINELAND, USA, 49.94% WARWICK ELDRED THOMSON AND JUDITH ANN WINELAND, TRUSTEES OR THEIR SUCCESSORS IN TRUST UNDER THE RICK, USA, 0.06%

			JUDITH ANN WINELAND AND WARWICK ELDRED THOMSON, TRUSTEES OR THEIR SUCCESSORS IN TRUST UNDER THE JUDI, USA, 0.06%
2.	Company communication information	Email address	Rick Thomson
		Mobile number	rick@thomsonsafaris.co.tz
		Land line telephone number	+1 617 319 2605
		Physical address (plot No, block No, street, district, and region)	Region Arusha, District Ngorongoro, Ward Ngorongoro, Postal code 23719, FARM 373, SUKENYA VILLAGE, CLOSE TO SUKENYA VILLAGE DISPENSARY, LOLIONDO
3.	Contact person	Name	Daniel Yamat
		Position	Project Manager
		Communication details (email, mobile and telephone)	+255 782 551 102
4.	Incorporation	Certificate of incorporation No	<b>56470</b>
5.	TIN information	TIN certificate No.	107-857-427
6.	Project objectives	Project core activity	6810 - Real estate activities with own or leased property, Lodge/Camp & EcoTourism
7.	Capacity	Project capacity per year	Approx 1,800 tourist bed nights per year re-covid 19 Pandemic.
8.	Direct employment	Foreigners	0
		Local	22
9.	Indirect employment	Estimated total No	220 (10:1 multiplier ratio)
		Type/area of indirect employment	Local purchases & tourism activities

#### 4. Project financial expenditure to date (USD).

	Foreign (USD)	Local (USD)	Total (USD)
Land and buildings	N/A	1,210,000	<b>1,210,000</b>
Machinery & generators	N/A	N/A	N/A
Vehicles/aircraft	N/A	N/A	N/A
Furniture	N/A	N/A	N/A
Office equipment / computer	N/A	N/A	N/A
Safari tool & equipment	N/A	N/A	N/A

Pre-operational express	N/A	N/A	N/A
Working sub-total capital	N/A	N/A	N/A
<b>GRAND TOTAL</b>		1,210,000	<b>1,210,000</b>

## 5. Project financing

Explaining how the project is being financed e.g., equity, loans, source of loans, conditions, etc. see the table below ( todate, further development pending)

	<b>Amount (USD)</b>	<b>Source country</b>
Local equity / Retained Earnings	N/A	N/A
Local loans	N/A	N/A
Foreign equity / Share Capital	1,210,000	United States of America
Foreign loans	N/A	N/A
<b>Total investment</b>	1,210,000	United States of America

## 6. Problems and solution

(Explain problems, which the management is encountering in executing the project and the steps being taken to solve them.)

### **Political challenges:**

The wider conflicts between the Maasai of Ngorongoro/Loliondo and the Government of Tanzania over land in the area has deeply affected all investors in the Loliondo area, and most acutely Tanzania Conservation Ltd and its tourism partner, Thomson Safaris Ltd, to this day. The close proximity to Kenya, cross border movements, the ease of use and international reach of social media has magnified the challenges.

Although costing us enormously in time and money in their impact on the operation and reputations of the company and its partners, these challenges are stemming from political issues beyond the control and responsibilities of the investor and must be resolved at government level.

In recent years, the government has improved security in the borderlands of Ngorongoro, demarcated park boundaries clearly, surveyed, and established village land boundaries. Resolving the remaining tensions between the various levels of government, community and NGOs, and investors and will take time.

### **Bureaucratic challenges:**

The delay in providing land use change since 2008 to date, has impeded the project from going ahead as originally intended. However, the solution to the problem is in the hands of the government, and we trust and count on the TIC to facilitate the smooth transition to derivative title.

## 7. Future plans

*(Explain future plan for the next coming six month and planned financial commitments.)*

**The next 6 months** is focussed on achieving the preconditions for implementing the investment project to enable the formalizing of trading and investment arrangements.

So long as the process to complete the process towards the issuing of derivative rights under TIC with land use change are effected, and the political, security and legal risks to investors of operating in the area are resolved, the company, together with its partners will be investing in a permanent tented camp on a business/risk model that the investors can accommodate in the Loliondo business/investment environment.

**The investment** will be for a 18 tent permanent tented camp with a capacity of 32 guests, common areas that include a lounge, restaurant and other amenities, a back of house service area that will include kitchens and storage, and staff accommodation facilities, approximately, USD\$1million, plus purchase of vehicles and equipment (approximately USD\$ 50,000 to \$100,000) and additional buildings (USD\$ 30,000) for conservation operations. Community development projects are ongoing and will continue their onward path.

## **8. Recommendations and any other comments.**

Tanzania has enormous potential for development, and private sector participation plays a major role in achieving the country's goals and aspirations, particularly foreign investment and what it brings to the economy's trajectory of economic and technical progress.

However, foreign investors struggle greatly doing business in Tanzania where the political, fiscal, regulatory and legal risks are complex and difficult.

Because of the lack of authority and power invested in TIC to see projects through effectively and efficiently, we feel that existing investors, Tanzania Conservation Ltd in this case, may be abandoned and left to their own devices before the job is done, before the preconditions for implementation and operations have been settled and completed. Such projects risk either failure or fall into a state of painful and costly paralysis for lack of follow through on the Government's commitments to reliably help those projects along the challenging journey to establishment.

Generally we would like the TIC to be empowered to be able to adequately facilitate projects; to assist existing investors facing lack of cooperation from other ministries and state gate keepers in delivering project implementation pre-requisites as well as ongoing requirements, to guard against and defend investors from changes in laws and regulation that threaten or render their investment projects viability or existence in contravention to the substance and spirit of the Investment Act.

We would like to see an increase of incentives to new investment from old and new investors alike, not forgetting the current and long term value and importance of looking after existing investors.

We would like to see a reduction in the government's burden on business by streamlining and reducing the range, volume, scale, multiplicity and complexity of taxes, fees, regulation, fines and penalties, and provide a more friendly, enabling and actively cooperative business enabling environment that is more predictable, target based, measurable on deliverables and commitments, accountable and results orientated.

Having said that, we find the TIC empathetic, helpful within the limits of their authority, responsive to our communication and we count them as our partners.

## **Accompanying Appendices:**

**Appendix A:** Certificate of Incentives No. 030713 issued 4<sup>th</sup> September 2006

**Appendix B** (page 1 & 2): Approval for change of the land use from the Ngorongoro District Council

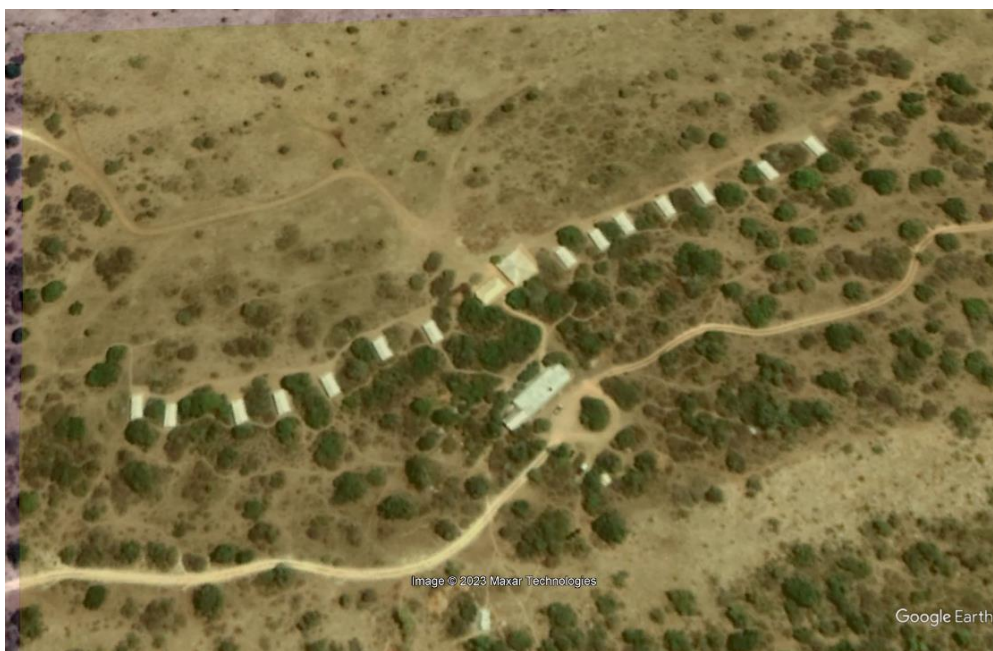
**Appendix-C:** High Court Judgment

**Appendix-D:** High Court Decree

**Appendix-E:** Order of the High Court

**Appendix F:** Focus on Tanzania Communities (FOTZC) list of projects in surrounding communities

**Appendix G:** Photos of Camp



**Layout of existing mobile camp (Google Earth satellite image)**



**Tanzania Conservation offices, accommodation, and facilities (Google Earth satellite image)**



**Camp photos: Lounge & accommodations**

