

MANAGING THE CPPNE: A STRATEGY FOR PRIVATE LAND CONSOLIDATION

Prepared For:



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City of Cape Town, WWF-SA, Park Committee**

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3. THE WAY FORWARD

1. INTRODUCTION

1.1 Background

The Cape Peninsula is world renown for its unique flora and fauna, spectacular scenery, diverse recreational activities and deep cultural heritage. In 1984 large portions of conservation-worthy land within the Cape Peninsula were designated a "Nature Area", in terms of the Physical Planning Act. In 1989 the boundaries of this area were defined and it was proclaimed a "Protected Natural Environment", in terms of the Environmental Conservation Act. This area is officially known as the Cape Peninsula Protected Natural Environment (CPPNE).

Managing the CPPNE poses special challenges given multiple land ownership, and its situation within a thriving and populous metropolitan area. The sustainability of this unique but sensitive environment is dependent on its consistent and coordinated management. In the past a number of official enquiries have grappled with the vexed issue of how best to manage the CPPNE.

In February 1993 the then Administrator of the Cape appointed the Environmental Evaluation Unit at the University of Cape Town to "provide policy and management options for the future planning, development and management of the mountain chain, constituent nature reserves, forests, monuments and other land included in the CPPNE".

The UCT study recommended that South African National Parks (SANParks) should manage the Peninsula's conservation areas. Subsequently the Huntley Commission, which was appointed to implement the recommendations of the 1994 UCT study, endorsed the recommendation that SANParks be appointed to take over managerial custody of the area.

In May 1998, following negotiations between SANParks and public authorities with land holdings in the CPPNE, the Cape Peninsula National Park (CPNP) was formally established. SANParks was mandated to seek consolidation of public and private conservation worthy land in and around the CPPNE.

1.2 CPPNE Public Land Consolidation

Initial emphasis was placed on Park establishment and consolidating CPPNE public land under the Park's management.

In accordance with a Heads of Agreement with the former Cape Metropolitan Council, South Peninsula Municipality and Cape Town City Council, SANParks undertook to manage large portions of local authority land within the CPPNE while ensuring ongoing access by local authorities to essential services provided through the Park.

Besides municipal land, since 1998 other State and Provincial land within the CPPNE has also been consolidated under the Park's management. Currently over 21 000 hectares of the 29 000 hectares which make up the CPPNE are managed by the Park.

1.3 CPPNE Private Land Consolidation

In January 2000 the Peninsula Mountain Chain was devastated by wildfires, which heightened awareness of the importance of appropriately managing the whole of the mountain chain – particularly with respect to the control of invading alien plants and the holistic management of fires. In the aftermath of the fires national, provincial and local government, business, community, and NGO interest groups came together to establish the Ukuvuka Operation Firestop Campaign to ensure that such devastation does not happen again and that Cape Town is better prepared. In fulfillment of this mandate the Ukuvuka Operation Firestop Campaign has focused attention on the 5212 hectares of private land within the CPPNE.

With the CPPNE public land consolidation programme coming to an end, the Ukuvuka Campaign has thrown its weight behind the initiation of a new programme aimed at consolidating private landholdings in the CPPNE under Park management. The Ukuvuka Campaign endorse that the CPNP are best placed to serve as overall environmental managers of the CPPNE. To this end, the Ukuvuka Campaign is collaborating in partnership with SANParks, the City of Cape Town, the CPNP Park Committee and WWF-SA to build the capacity and expertise to extend SANParks environmental management services onto private land.

As part of its support to this private land consolidation initiative, the Ukuvuka Campaign have funded the compilation of a data base of all private landholdings in the CPPNE, the formulation of a strategy for private land consolidation, and the appointment of an independent Land Negotiator to interact with private landowners over the next 3 years.

1.4 Management of Land Negotiator

As illustrated in Figure 1 (overleaf), the Land Negotiator reports to and is guided by a Private Land Consolidation Working Group (referred to hereafter as the Working Group), on which is represented the Ukuvuka Campaign, SANParks, the City of Cape Town, the Park Committee and WWF-SA. The Working Group serves as a forum to co-ordinate and align all land consolidation initiatives and establishes the policy framework within which the Land Negotiator proceeds. The Working Group provides the Land Negotiator with his mandate, reviews and amends the land consolidation strategy periodically and members report back to their respective organisations when necessary.

In accordance with priorities set by the Working Group, the Land Negotiator engages directly with private landowners. He introduces the land consolidation programme, explores interest and concerns, and follows up on issues raised. Once he has a clear understanding of the landowner's needs and the requirements of the Working Group, he is in a position to make a formal proposal to the landowner and negotiate an agreement between the parties.

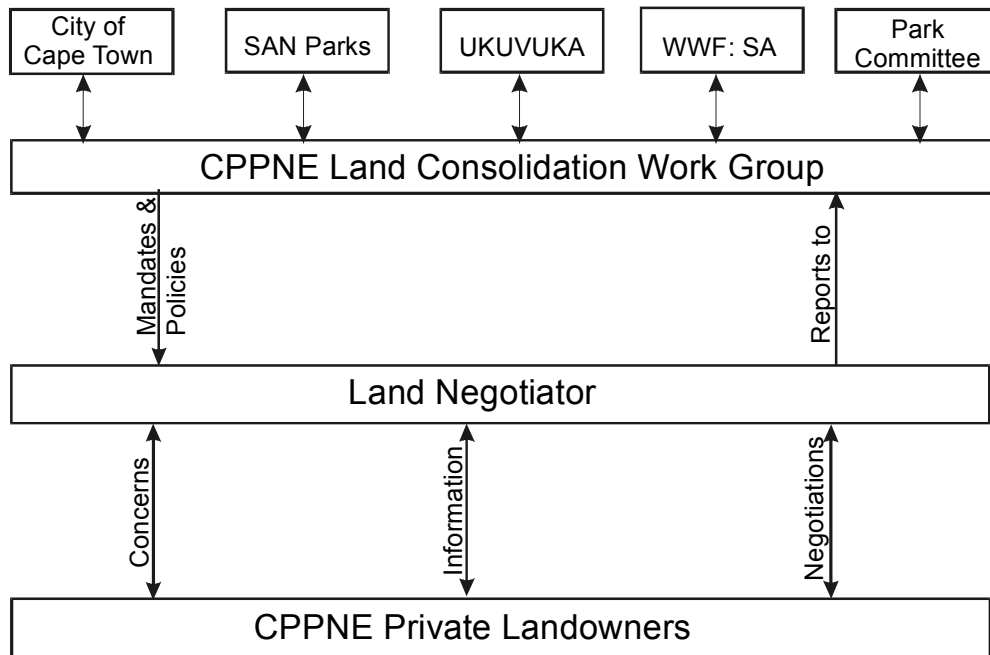


Figure 1: Management of Negotiator

1.5 Principles

With regard to private CPPNE landholdings, the following guiding principles underpinning the Park's Management Policy are of relevance to the negotiation of contractual agreements:

- ❑ Park management shall seek to conclude **mutually beneficial partnerships** with stakeholders.
- ❑ All action taken in management of the Park shall at all times adhere to and be subject to the principles of **accountability and transparency**.
- ❑ Based on the principle of **custodianship**, the Park and its environmental resources are held in public trust by SANParks and it is the duty of all involved with the Park to respect, protect and promote it in the public interest.
- ❑ In terms of the principle of **holism**, the Park and its surrounds form an indivisible system.
- ❑ In accordance with the principle of **common heritage**, Park management must serve the public interest by safeguarding the ecological, cultural and scenic resources of the Park as a common heritage and a national asset for all South Africans.

The Park's Management Policy for the period 2000-2004 has as its primary goal "to establish and consolidate the CPNP and ensure its long term ecological, economic and social sustainability". The various organizations represented on the Working Group align themselves with these principles and with this goal, and manage the Land Negotiator accordingly.

2. THE STRATEGY

2.1 Objectives

The Park's establishment and consolidation programme initially dealt with public land. With most public land in the CPPNE now under Park management, the Ukuvuka Campaign, City of Cape Town and WWF-SA are supporting the Park in their endeavors to consolidate the management of privately owned conservation worthy land.

To date the Park has sought to consolidate private land with varying degrees of success with acquisition and contracting private land into the CPNP. However, many contacts with private owners were not followed up due to a lack of capacity.

The limited funds available to purchase conservation worthy land will be used to purchase key properties and incorporate them into the Park. Land donations will be encouraged and only in exceptional circumstances expropriation will be used to acquire properties. The main thrust of the Park's private land consolidation programme, however, is to pursue an integrative (i.e. 'win-win') negotiation strategy with a view to obtaining CPPNE landowners consent to contracting land into the Park.

It is by voluntary agreement that landowners can contract all or portions of their land into the Park, and in return the Park will provide various environmental management services on their land. Both parties stand to gain from the arrangement.

The Land Negotiator appointed by the Ukuvuka Campaign will facilitate such agreements and ensure that the concerns of both parties are dealt with. The strategy is premised on the landowner and Park building a long term relationship, but recognizes that this will take time as the parties first need to establish a working relationship.

The objectives of the private land consolidation strategy are as follows:

- i. To open up channels of communication between the Park and private CPPNE landowners.
- ii. To engage the CPNP and landowners in exploring together how they can best collaborate in managing the environment.
- iii. To provide flexibility in the structuring of environmental management arrangements between landowners and the Park.
- iv. To allow for the phased introduction of formal management agreements.
- v. To consolidate private CPPNE land with the Park either by donation, acquisition or by contracting-in of the land, in accordance with management priorities and capacity.

2.2 Approach

The strategic approach to consolidating private CPPNE land under Park management is as follows:

i. Respond to Landowner Needs

The owners of the private properties within the CPPNE have different development and conservation objectives. Some question the motives of SANParks in concerning itself with private land, others question if the Park has the capacity to manage their land. Many are unsure about what it means to contract their land into a National Park. The approach being followed recognizes and responds to these fears and concerns, and is based on building relationships and pursuing voluntary associations.

The approach being followed respects the rights of CPPNE property owners and focuses on setting up co-operative land management arrangements between landowners and the Park. It is recognized that some CPPNE property owners take their environmental management responsibilities seriously, but that many do not. The approach is to raise awareness amongst landowners of the importance and cost of proper management of the CPPNE, and offer them the opportunity of having their land managed by SANParks if they agree to contract their land into the Park.

Using the CPPNE landowner data base, the strategy is for the Land Negotiator to get to know property owners, understand their needs and address their concerns. From this perspective, and taking into account CPNP requirements, the Land Negotiator will be in a position to facilitate management agreements that are tailored to the needs of the parties.

ii. Provide Environmental Management Incentives to Landowners

The approach being followed is to offer private landowners tangible benefits for contracting their land into the Park. These benefits relate primarily to the Park providing and funding environmental management services on private property, thereby releasing the private landowner of this responsibility and cost.

iii. Exclude Land that Owner's Intend Developing

No enhancement of landowners existing development rights are being offered as an incentive to have land contracted into the Park. Landowners who have development intentions will be informed by the Land Negotiator of the process to follow to get statutory approval for their plans. Those portions of private land on which the owner intends developing will not be contracted into the Park. Only those portions of land that the owner does not intend developing are eligible for contracting into the Park.

iv. Incremental Roll Out

It is recognized that the Park needs to expand their current capacity if they are to provide environmental management services on private land. Accordingly the approach is to phase the 'roll out' of the private land consolidation programme in line with the Park's available resources and management priorities.

The Land Negotiator started by following up on prior negotiations between Park officials and landowners, and then he responded to unsolicited enquiries from landowners. The Land Negotiator will subsequently move on to target priority properties, starting with key properties the contracting in of which will give the land consolidation programme momentum.

Agreements will be entered into with private landowners where the Park has the capacity to deliver on its environmental management responsibilities. In accordance with the Park's integrated Environmental Management System, in its annual budget the Park will distinguish between conservation expenditure on public and private land and include details of work undertaken on contracted land in its annual report.

v. Target Priority Properties

As part of the incremental roll out of the private land consolidation programme, priority properties are being targeted. All of the private properties have been grouped into precincts and the relative desirability of consolidating each of these properties with the Park has been assessed. Criteria used to determine priorities were: ecological/cultural significance; visitor management potential; and environmental management requirements.

vi. Monitor, Evaluate and Learn Lessons

The appointed Land Negotiator reports to the Working Group on progress made in consolidating CPPNE private land under Park management. The Working Group gives the Land Negotiator his mandate, provides policy directives, and monitors and evaluates progress. Lessons learnt from the process serve as valuable informants to other related initiatives.

2.3 INCENTIVES

As part of the strategy a package of incentives has been developed to facilitate private landowners agreeing to contract their land into the Park. Incentives will only be offered for a limited period and the Working Group may change them from time to time. Not all incentives will be applicable to each landowner and additional incentives may be developed in response to landowner needs. The Land Negotiator is responsible for assessing landowner's requirements and offering appropriate incentives.

The package of incentives on offer is as follows:

i. Alien Vegetation Clearing

All CPPNE property owners are legally responsible for clearing their land of invasive alien vegetation. Public conservation funds (e.g. Working for Water, Ukuvuka Campaign, SANParks funds, etc) earmarked for alien vegetation clearing can only be used on private CPPNE land where a formal agreement to contract land into the Park is in place. For properties contracted into the CPNP, arrangements will be made with the landowner to clear alien vegetation in the most appropriate way.

Private CPPNE landowners who choose not to enter into an agreement to contract their land into the Park will retain responsibility for alien vegetation clearing. Landowners who fail to clear their land can be served notice to do so by the Department of Agriculture or local authority. Given an average alien vegetation clearing cost of R6000 per hectare, there is a significant financial benefit to landowners who contract their land into the Park.

ii. Fire Management

CPPNE property owners are by law obliged to make fire-breaks and have access to fire fighting equipment. Property owners who contract their land into the CPNP will enjoy automatic membership of the Cape Peninsula Fire Protection Association (FPA) that is being established. As a member of the FPA, private landowners who contract their land into the Park will enjoy the following benefits:

- ❑ annual FPA membership fees funded by the Park;
- ❑ assistance with the establishment and maintenance of fire breaks;
- ❑ improved surveillance;
- ❑ preferential access to fire fighting equipment and personnel at reduced costs; and
- ❑ reduced liability from damages claims in the event of a fire spreading.

Membership of a FPA is voluntary, but those declining to join remain responsible for implementing suitable measures for the management of fire risk. Private landowners who choose not to contract their land into the Park are free to join the Cape Peninsula FPA, but will be responsible for annual FPA membership and the costs of fire break establishment and maintenance.

iii. Erosion Control and Maintenance of Footpaths

SANParks, at their cost, will maintain designated public footpaths and provide assistance in the control of erosion on private land that is contracted into the Park.

iv. Possibility of Rates Relief

Currently CPPNE properties contracted into the Park are exempt from the payment of property rates, in accordance with section 18 of the National Parks Act. Properties within the CPPNE that are not contracted into the Park will be liable for rates.

A new rates dispensation is being introduced nationwide, through the Property Rates Bill. In terms of this Bill all properties are required to be valued and a rate fixed for different categories of land. In fixing a rate the Bill allows a municipality to determine different categories of land for differential rating, one such category being conservation land.

Currently there is no finality whether land contracted into a National Park will retain its exemption from rates in the new dispensation. Landowners

who contract their land into the Park will form part of a powerful group that is lobbying at national, provincial and local authority levels to secure protection of public conservation properties (including private property contracted into a Park) from a rates liability.

v. Access to SANParks Specialist Services

Landowners who contract their land into the CPNP will have access to SANParks specialist services (e.g. botanists, social ecologists, zoologists, etc).

vi. Information on Development Procedures

The Working Group has no interest in contracting in private land that the owner has or intends developing. Such land will be excluded from the area to be managed by the Park. The Working Group are also not interested in contracting-in private land for the purpose of it being developed by someone else. The Working Group are only interested in the Park managing private land for conservation purposes.

No enhancement of existing land use rights is being offered as an incentive to property owners to contract their land into the Park. What is offered, however, is assistance in sorting out the process to be followed by the owner if they want to exercise their existing land use rights or if they want to apply for additional land use rights.

vii. Legal Protection in terms of National Parks Act

Private land contracted into the Park automatically enjoys the statutory protection provided by the National Parks Act. Land contracted into the Park enjoys the benefit of law enforcement by the Park's field staff. This provides added protection to the improvements and natural resources of the property.

viii. Access to CPNP Facilities

Landowners who contract their land into the Park will annually receive the Park's 'Go Green' card which provides free access to CPNP pay points as well as discounts at other Cape Town tourist attractions.

2.4 Options for Managing CPPNE Private Land

In addition to offering a range of incentives to those considering contracting their land into the Park, the strategy is also to provide choice in the structuring of Park/landowner management arrangements. It is the responsibility of the Land Negotiator to assess the suitability of the different management options and make recommendations to the Working Group on the appropriate option to pursue. The management options available are as follows:

i. Land Acquisition Options:

- a) Land Donations

Where appropriate the Land Negotiator will encourage landowners to donate all or part of their land for conservation purposes. The land could be ceded directly to the Park, or alternatively placed in a Land Trust (e.g. SANParks Trust, WWF, etc) that will contract it into the Park. Subject to such a donation being deemed a declared public benefit activity by SARS, there are potentially significant tax benefits for the donor. It may be appropriate for the Land Negotiator to put forward this option to landowners who are concerned with estate planning matters.

b) Purchase of Land

Subject to the availability of funds, the purchase of private land for incorporation into the Park on a 'willing seller/buyer' basis is an option that is being pursued for strategic properties. The dearth of funds available for land acquisition means that this option has limited applicability. Where land is purchased it can be registered in the name of SANParks, or alternatively registered in the name of a Land Trust that will contract it into the Park.

c) Expropriation

Only in exceptional circumstances will the option of expropriating private land for incorporation into the Park be pursued (e.g. deceased estate with no apparent heirs).

ii. Contractual Management Options:

To familiarize all parties with the concept of contracting private land into a National Park, to allow transition arrangements, and to establish trust and a working relationship, the strategy is to provide a range of contractual options. This includes staged, partial and full contractual arrangements, all of which will be notarised.

a) Staged Contracting-In

Staging the contracting-in of private land into the Park involves the Park and landowner reaching agreement on a land management programme. In terms of the agreement both parties undertake to do defined tasks or to manage specific areas over set periods. It is possible to stage the undertaking of specific environmental management functions, or the geographic areas to be managed by the Park (i.e. functional or spatial staging of the contractual agreement). Once defined performance milestones are reached the parties agree to formalise their relationship by contracting the land into the Park.

Should the landowner not fulfill their obligations the Park should have recourse to either recoup funds invested in the property and withdraw from the relationship, or to take over responsibility for those tasks the landowner did not fulfill and proceed with the contracting-in of the property. Should the Park not fulfill their obligations, the landowner should have recourse to withdraw from the agreement.

The option of staging is complex and requires extensive negotiation. It will be appropriate for the Land Negotiator to pursue this option where the landowner is hesitant to sign a full contract, and prefers to establish a relationship with the Park first. It may also be appropriate where the landowner has development aspirations on part of his/her land, but is not averse to relinquishing management responsibility on the balance of the land.

b) Partial Contracting-In

The option of partial contracting-in is a variant of the staging option. It involves the landowner agreeing upfront to the contracting-in of their land, but that the landowner retains responsibility for certain environmental management functions (e.g. alien clearing) and SANParks takes on reduced functions.

This option may be appropriate for the Land Negotiator to pursue where the owner wants to remain 'hands on' in managing the land.

c) Full Contracting-In

The full contracting-in option is more straight forward than the above options. It involves CPNP taking over full environmental management responsibility for all or portion of a private landholding. It is a preferable option for the Land Negotiator to pursue given its simplicity and the clear division in functional responsibility.

The landowner may continue to exercise his/her rights pertaining to ongoing access to and residential occupation on the land.

iii. Co-operative Management Arrangements

In situations where landowners are reluctant to formally contract their land into the Park, but are amenable to work with the Park in managing the environment – then the Land Negotiator will explore the scope for setting up co-operative management arrangements. These voluntary schemes may range from in-formal arrangements between the landowner and the local Park Section Ranger, to the setting up of a conservancy.

A conservancy does not yet enjoy legal status in South Africa, but is currently a successful option for landowners and formal conservation bodies to interact over the management of common resources. The conservancy option could be explored as a logical extension of the Cape Peninsula Fire Protection Association that is currently being formed. It may also be of interest to the owners of private nature reserves within the CPPNE who want to retain their status, but work together with the CPNP.

2.5 Communication

The initiative to consolidate private CPPNE landholdings will be supported by a communication programme. The Working Group will oversee the communication

programme and ensure consistency between the members of the partnership in information transfer. The communication programme serves the following purposes:

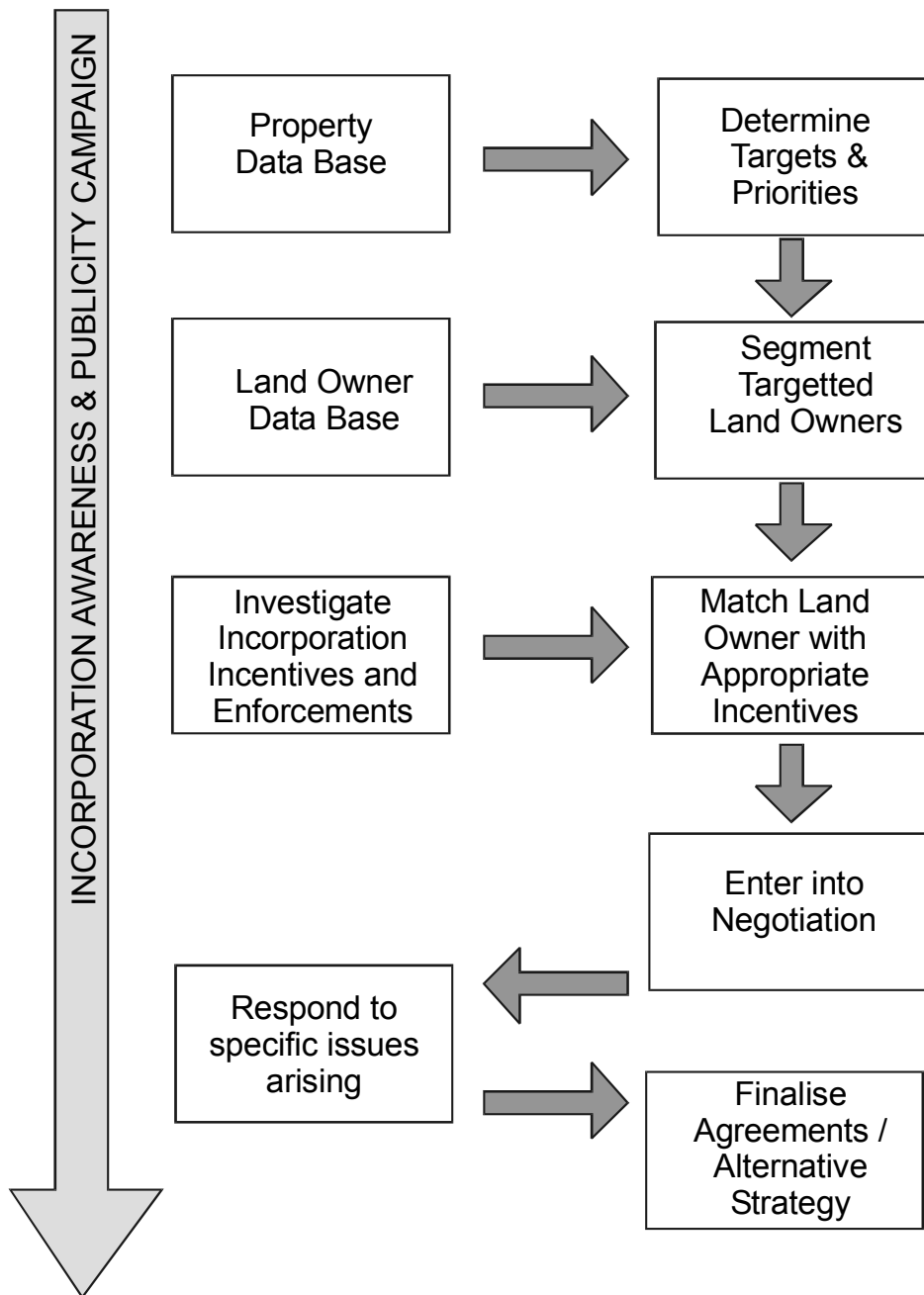
- ❑ To publicise that the Ukuvuka Campaign, the City of Cape Town, WWF-SA and SANParks have formed a partnership in support of consolidating private land in the CPPNE under the Park's management.
- ❑ To raise awareness of the necessity of co-ordinated management of the CPPNE, and the suitability of SANParks as management agents.
- ❑ To explain the significant benefits of contracting private land into the Park.
- ❑ To communicate progress in private land consolidation, highlighting significant achievements.
- ❑ To share lessons from the process.

In line with the strategy of incrementally rolling out the land consolidation programme, a low key communication programme will be followed. Initially the Land Negotiator will send an introductory letter to all private landowners in which the consolidation programme will be introduced, the benefits explained and a request made for further discussion. In addition a press release will be issued explaining the private land consolidation programme that is being supported by the partnership. Follow-up correspondence and press releases will be issued when necessary.

2.7 Negotiation Process

As illustrated in the process diagram overleaf, using the data base of private CPPNE properties as a source of background information, the *modus operandi* involves the Land Negotiator engaging with landowners in accordance with the priorities determined by the Working Group. The Working Group provides policy directives on which management options to pursue and what incentives to offer. The negotiation process involves the following sequential activities:

- ❑ Land Negotiator determines the needs, preferences and concerns of landowners and introduces appropriate options and incentives for consideration by the landowner.
- ❑ Land Negotiator, in liaison with Park officials and other role-players, follows up on issues raised by landowner and reverts to landowner with responses.
- ❑ Land Negotiator, with mandate of Working Group, submits formal proposal to landowner and clarifies questions and concerns.
- ❑ Where landowner agrees in principle with the proposal, Land Negotiator enters into detailed negotiations to formalise management arrangements.
- ❑ Where proposal rejected by landowner, Land Negotiator explores alternative options with them.



3. THE WAY FORWARD

The data-base of CPPNE landholdings is in place, the independent Land Negotiator has started his work and a strategy for the consolidation of private landholdings under the Park's management has been formulated. In addition, the endorsement of the Working Group, Park Committee and Ukuvuka Steering Committee for the Land Negotiator to proceed with the private land consolidation programme in accordance with the strategic approach set out in this report has been obtained.

It is recognized that the approach will need to be refined and amended as the process gets underway.

Given the broad based support of the various partners backing the private land consolidation initiative and an attractive suite of incentives on offer, private CPPNE landowners have a unique opportunity to benefit significantly from the programme and contribute towards conservation.

To find out more contact the Land Negotiator, Jannie Roux, on 082-921 5003.