

# 1 Procedure for Handling of Appeals against the Identification of Key Biodiversity Areas

## 2 *Introduction*

3 The identification and delineation of Key Biodiversity Areas (KBAs) presented in the *World*  
4 *Database of Key Biodiversity Areas<sup>TM</sup>* are open to challenge. Appeals may be made against KBAs  
5 identified and delineated based on application of *A Global Standard for the Identification of Key*  
6 *Biodiversity Areas* (IUCN 2016; hereafter the Global KBA Standard), and in accordance with  
7 the *Guidelines for using the Global Standard for the Identification of Key Biodiversity Areas* (IUCN  
8 2018; hereafter the KBA Guidelines). This does not include KBAs identified based on  
9 previous criteria (e.g. Langhammer *et al.* 2007, BirdLife International 2014) that have not been  
10 re-assessed under the Global KBA Standard or KBAs identified based on sub-global criteria.

11 The criteria, thresholds and delineation procedures themselves are not subject to appeal.  
12 Appeals may only concern the data that underpin the assessment or whether the criteria,  
13 thresholds, and delineation procedures have been applied in a way that is consistent with the  
14 Standard. Appeals for any other reason (subjective, political, economic, etc.) will not be  
15 entertained.

16 The Appeals process is coordinated by the KBA Secretariat. The KBA Standards and Appeals  
17 Committee (KBA SAC) is responsible for arbitrating over formal Appeals against the  
18 identification of particular sites as KBAs (Annex 3 of KBA Partnership Agreement signed 3  
19 Sept 2016). The timeline specified below indicates maximum time limits for each step; all  
20 parties are encouraged to complete each step expeditiously.

## 21 *Disagreements with Current Assessments*

22 Any individual or organization, hereafter the “Appellant”, may contact the KBA Secretariat  
23 at any time to express disagreement with (i) the identification or delineation of any confirmed  
24 global KBA included in the *World Database of Key Biodiversity Areas<sup>TM</sup>*, or (ii) nominated sites  
25 that were not confirmed as KBAs by the KBA Secretariat. In all cases, the preferred outcome  
26 is that disagreements are resolved equitably without recourse to a formal appeal.

27 If the disagreement is based on scientific, technical, or procedural grounds, the KBA  
28 Secretariat will put the Appellant in contact with the point of contact recorded in the World  
29 Database of Key Biodiversity Areas (e.g. independent Proposer or National KBA  
30 Coordination Group) or Regional Focal Point, as appropriate, with the intention of resolving  
31 the disagreement without entering a formal appeals process. If the disagreement concerns  
32 the identification or delineation of a KBA that is in the process of being reassessed, then the

33 Appellant should be included in the reassessment process, with the objective of reaching  
34 consensus on the new site assessment.

### 35 *The Formal Appeals Process*

36 If the above process is not successful in resolving the disagreement, a formal Appeal may be  
37 submitted. A separate Appeal should be submitted for each site. The attached flow diagram  
38 presents a summary of the formal appeals process. The steps to follow for filing Appeals are  
39 outlined below.

#### 40 *Appeal Submission*

41 1. Formal Appeals may be submitted to the KBA Secretariat at any time after 1<sup>st</sup> May 2018<sup>1</sup>.  
42 A formal Appeal should be very brief (maximum of 2 sides of A4 paper in 12-point font),  
43 summarizing the points of disagreement, with explicit reference to the KBA criteria,  
44 thresholds and/or delineation procedures established in the Global KBA Standard and  
45 further described in the KBA Guidelines, and their application to the relevant data. The KBA  
46 Secretariat will acknowledge receipt of the Appeal, informing the Appellant of the date on  
47 which the Appeal was received, and will simultaneously notify the KBA SAC Chair and the  
48 KBA Committee Chair of the receipt of the Appeal.

#### 49 *Discussion between Parties*

50 2. Within one month of the original receipt of the Appeal, the KBA Secretariat will request  
51 that the Appellant and Defendant (i.e. the independent Proposer, National KBA  
52 Coordination Group, or Regional Focal Point, as appropriate) discuss the Appeal with the  
53 objective of reaching an agreement between them. The Appellant and Defendant will be  
54 given four months to reach agreement from the date that the KBA Secretariat refers the  
55 Appeal to them. In seeking to reach agreement, the Appellant and Defendant should  
56 determine whether or not they are using the same underlying data. They should clarify  
57 whether or not the disagreements are due to factual discrepancies or differences in the  
58 application of the criteria, thresholds, or delineation procedures established in the Global  
59 KBA Standard.

60 3. If the Appellant and the Defendant come to agreement, both parties should inform the KBA  
61 Secretariat, outlining any modifications necessary to the site assessment. Any changes to the  
62 site assessment will be subject to the same review process as newly identified sites. Accepted  
63 changes will appear in the following update of the *World Database of Key Biodiversity Areas*<sup>TM</sup>.

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<sup>1</sup> Formal Appeals will not be accepted until 1<sup>st</sup> May 2018 to allow time for development of the *Guidelines for using the Global Standard for the Identification of Key Biodiversity Areas*.

64 If the Appellant and the Defendant are unable to agree within the time period set in step 2  
65 above, the Appeal will enter the next stage in the process.

66 *Justification Preparation and Submission*

67 4. At the end of the time period set in step 2 above, if no agreement has been reached, the  
68 KBA Secretariat will notify both the Appellant and the Defendant that each of them should  
69 submit Justifications for their case to the KBA SAC via the KBA Secretariat. If applicable, the  
70 KBA Secretariat will recommend relevant the Regional Focal Points, members of the KBA  
71 Committee, and/or members of the Technical Working Group, that the Appellant and/or  
72 Defendant could consult with in preparing their justification. The Justifications should reach  
73 the KBA Secretariat within four months from the date that the KBA Secretariat issues this  
74 notification. These Justifications should not be longer than eight sides of A4 paper in 12-point  
75 font (excluding references), and should provide the data to support their respective positions.  
76 The Justifications should include a brief statement of the reasons for the dispute, a synopsis  
77 of the unsuccessful negotiations, and a clarification of any factual discrepancies (e.g.,  
78 different sources of data or information used). All data used in these Justifications must be  
79 referenced to publications or data sources that are publicly available or available on request  
80 (unless otherwise indicated in the KBA Guidelines). The data provided should be clearly  
81 linked to the criteria, thresholds, or delineation procedures established in the Global KBA  
82 Standard and further described in the KBA Guidelines. If the Appellant fails to submit a  
83 Justification within the set time period and in the required format, the Appeal will be  
84 dropped and the KBA Secretariat will inform all parties. However, should the Appellant  
85 submit a proper Justification (in timing and format), the Appeal will go forward to step 5  
86 regardless of whether or not a Justification from the Defendant is received.

87 5. The KBA Secretariat will review the Justifications to ensure these are suitable for onward  
88 circulation to each party and, if so, send the Justifications of each party to the other within  
89 one week of the time period set out in step 4 above, or within one week of both Justifications  
90 having been received. Both parties shall have three weeks in which to provide a 1-page  
91 addendum to their Justifications, should they choose to do so. Any addenda received after  
92 the three-week period will not be considered. The parties may not make any changes to the  
93 original Justifications.

94 6. At the end of this three-week period, whether or not an addendum is received, the KBA  
95 Secretariat will send the Appeal and Justifications to the KBA SAC for review.

96 *Review by the KBA SAC*

97 7. The KBA SAC will first determine whether or not the Appeal has been filed on the basis of  
98 the criteria, thresholds, or delineation procedures established in the Global KBA Standard.

99 For example, an Appeal will be considered by the KBA SAC if:

- 100 • the Defendant did not adequately take into account relevant data that were publicly  
101 available or provided to the Defendant in a timely manner;
- 102 • the Defendant did not address the relevant criteria, thresholds, or delineation procedures  
103 set out in the Global KBA Standard or follow the KBA Guidelines<sup>2</sup>; or
- 104 • the Defendant did not provide a reasonable explanation showing how their conclusion  
105 was reached by applying the criteria, thresholds, and delineation procedures to the best  
106 available data in line with the Global KBA Standard and Guidelines.

107 If the KBA SAC finds that the Appeal was not made on the basis of the criteria, thresholds,  
108 or delineation procedures established in the Global KBA Standard, it will be returned to the  
109 Appellant by the KBA Secretariat with an explanation as to why the Appeal cannot be  
110 considered. This response will be sent to the Appellant within one month of the receipt of the  
111 Appeal and Justifications by the KBA SAC. Appeals that concern matters of governance (such  
112 as the degree of openness and participation in the proposal process) will be referred to the  
113 KBA Committee.

114 *Deliberation and Ruling*

115 8. If the KBA SAC finds that the Appeal was made on the basis of the criteria, thresholds, or  
116 delineation procedures established in the Global KBA Standard, the KBA SAC will accept the  
117 Appeal for formal review (with a copy to the KBA Committee Chair, who will forward to the  
118 KBA Committee and its Technical Working Group). The KBA SAC may choose to circulate  
119 the Justifications to other independent expert reviewers for confidential comments. (An  
120 independent reviewer may not be an employee of the Appellant or Defendant or closely-  
121 related organization, or of any organization (KBA Partner or otherwise) associated with the  
122 identification and delineation of the KBA in question, and may not have a financial or other  
123 conflict of interest related to the identification or delineation of the KBA in question.) The  
124 KBA Committee and its Technical Working Group may also submit comments pertaining to  
125 precedents relevant to the Appeal, and the implications of any decision for practical  
126 application of the Global KBA Standard in the future, for consideration by the KBA SAC. The  
127 KBA SAC Chair should receive any and all comments within three months of the date of  
128 receipt of the Justifications. If needed, the KBA SAC may seek clarification of particular issues

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<sup>2</sup> Formal Appeals will not be accepted until 1<sup>st</sup> May 2018 to allow time for development of the Guidelines.

129 from the Appellant or Defendant. In instances in which the Defendant failed to submit a  
130 Justification, the KBA SAC will make every effort to obtain a balanced set of confidential  
131 comments from reviewers.

132 The KBA SAC will consider the Justifications, the confidential reviews, and comments from  
133 the KBA Committee and its Technical Working Group, and make a Ruling on each Appeal  
134 within five months from the time that the Appeal and Justifications were submitted to the  
135 KBA SAC by the KBA Secretariat. In the case of multiple Appeals, a longer period may be  
136 granted, at the discretion of the KBA SAC Chair. The KBA SAC Chair will issue a notification  
137 that will include a full rationale and explanation of each Ruling, but will not include a record  
138 of the deliberations that the KBA SAC made to reach its decision, and the names of any  
139 independent reviewers will be kept confidential. The KBA SAC will send this notification to  
140 the KBA Secretariat.

#### 141 *Notification and Publication of Final Ruling*

142 9. The KBA Secretariat will send the KBA SAC's notification to the Appellant, the Defendant  
143 and the KBA Committee. Any changes contingent upon the Ruling will appear in the next  
144 update of the *World Database of Key Biodiversity Areas*<sup>TM</sup>. The notification of the Ruling on any  
145 Appeal, and any resulting change in assessment, will be posted on the KBA Website.

#### 146 ***General Principles***

147 *Acknowledgement of Communications.* During the formal Appeals process, the Appellant, the  
148 Defendant, the KBA Secretariat, the KBA SAC Chair, and the KBA Committee Chair should  
149 acknowledge the receipt of all correspondence among them as soon as possible after arrival,  
150 so that any failure in delivery is detected as early as possible.

151 *Confidentiality.* While an Appeal is being considered, the associated documents (including  
152 Justifications made by the Appellant and the Defendant) are confidential documents that will  
153 be shared only with the named entities listed in steps 1-8. The KBA SAC will circulate the  
154 Justifications only to independent expert reviewers who agree to adhere to the confidentiality  
155 of the process and accept that their reviews will eventually be made public, but not attributed.  
156 Final Rulings on Appeals made by the KBA SAC will include both Justifications and the  
157 reviews (without the names or affiliations of the reviewers) in the documentation posted on  
158 the KBA Website.

159 *Repeated Appeals.* In order to prevent continuing Appeals on the same site, whether from the  
160 same Appellant or others, the KBA SAC will not accept an Appeal, subsequent to the first  
161 Appeal, if it is not based on substantial new information.

162 *Reassessment of Sites Following an Appeal.* The first time that a site is reassessed following an  
163 Appeal, the KBA Secretariat will inform the KBA SAC and the reassessment will be reviewed  
164 by the KBA SAC.

165 *Impartiality.* The KBA SAC Chair is appointed by the Chairs of the IUCN Species Survival  
166 Commission (SSC) and World Commission on Protected Areas (WCPA) Steering  
167 Committees, who are responsible for ensuring that Appeals are handled professionally and  
168 impartially. Prior to publishing the Ruling on an Appeal, the KBA SAC Chair will send a brief  
169 report to the SSC and WCPA Chairs, with a copy to the KBA Committee Chair, confirming  
170 that the above process was followed to reach the decision, or outlining any deviations from  
171 the process that had to be made. Under no circumstances will the KBA Committee or the SSC  
172 or WCPA Steering Committees involve themselves in the substance of any Appeals, except  
173 as specified in step 8 above.

#### 174 ***Special Cases***

175 *Deviations from the Process.* Every effort will be made to avoid deviations from the process as  
176 laid out above. In the event that this becomes necessary, these will be clearly communicated  
177 to all parties.

178 *Complaints about the Appeals Process.* If there is an assertion that the above procedure has been  
179 violated, then a formal and documented complaint may be submitted to the SSC and WCPA  
180 Chairs.

#### 181 ***References***

182 BirdLife International (2014) *Important Bird and Biodiversity Areas: A global network for*  
183 *conserving nature and benefiting people.* Cambridge, UK: BirdLife International.

184 IUCN (2016) *A Global Standard for the Identification of Key Biodiversity Areas, Version 1.0.* Gland,  
185 Switzerland: IUCN.

186 Langhammer, P.F., Bakarr, M.I., Bennun, L.A., Brooks, T.M., Clay, R.P., et al. (2007)  
187 *Identification and Gap Analysis of Key Biodiversity Areas: Targets for Comprehensive Protected*  
188 *Area Systems.* IUCN World Commission on Protected Areas Best Practice Protected Area  
189 Guidelines Series No. 15. Gland, Switzerland: IUCN.

## Appeal submission

1. Formal Appeal submitted to KBA Secretariat. KBA Secretariat acknowledges receipt of Appeal and confirms date of receipt (**start date**).

## Discussion between parties

1 month after start date

2. KBA Secretariat refers the issue to the Defendant and requests both parties to enter discussion with the objective of reaching agreement within four months

Agreement reached

3. Both parties inform KBA Secretariat, outlining any modifications necessary to assessment.

Any modifications to assessment appear in the next update of the World Database of KBAs.

5 months after start date

No agreement reached

## Justification preparation & submission

4. KBA Secretariat requests the Appellant and Defendant to submit Justifications for their case within four months.

No Justification submitted by Appellant

Appeal is dropped.

5. KBA Secretariat copies submitted Justifications to both parties; addenda added if necessary.

Appeal continues

No Justification submitted by Defendant

10 months after start date

6. KBA Secretariat sends Justifications to KBA SAC for review.

## Validation

7. KBA SAC determines whether the Appeal is based on application of the Global KBA Standard.

Appeal rejected by KBA SAC

KBA Secretariat returns Appeal to Appellant with an explanation of reasons for rejection.

11 months after start date

Appeal accepted for consideration by KBA SAC

## Deliberation & Ruling

If necessary, KBA SAC circulates Justifications to independent expert reviewers for comment

Comments received from reviewers

8. KBA SAC considers Justifications and independent reviews and makes Ruling

16 months after start date

KBA Secretariat receives Ruling from KBA SAC

## Notification & publication of final Ruling

9. KBA Secretariat notifies Appellant and Defendant of Ruling.

Any modifications to assessment appear in the next update of the World Database of KBAs, and notification of Ruling is published on the KBA Website.