

9 September 2022

The Director-General  
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Dear Ms Nomfundo Tshabalala

**DRAFT WHITE PAPER ON THE CONSERVATION AND SUSTAINABLE USE OF SOUTH AFRICA'S BIODIVERSITY 2022**

WESSA (the Wildlife and Environment Society of South Africa) refers to Notice 2252 in Government Gazette 46687 inviting citizens to comment on the Draft White Paper (DWP) on the Conservation and Sustainable Use of South Africa's Biodiversity 2022. WESSA is a South African environmental organisation which aims to initiate and support high impact environmental and conservation projects that promote participation in caring for the Earth. For over 96 years we have proactively engaged with the challenges and opportunities presented by our country's unique natural heritage and the social and economic systems that depend on it.

South Africa is a country, with diverse cultures, remarkable geological wealth and exceptional biodiversity, much of which is unique to our part of the continent. The diversity and uniqueness of South Africa's species and ecosystems makes us one of the world's 17 megadiverse nations. We are ranked in the top three nations globally when it comes to plants (home to nearly 10% of Earth's plant species) and animals (7% of Earth's reptile, birds and mammal species) found nowhere else on earth. We also have a wide array of ecosystem types across our terrestrial and marine environments. This biodiversity wealth gives our people tangible benefits like food, clean water, medicine and materials; it supports agricultural and fisheries production, helps regulate the climate and protect us from natural hazards like floods and droughts. It also a key to a vibrant tourism industry while offering natural spaces for recreational and cultural activities. According to the 2018 WWF Living Planet report, biodiversity underpins the global economy to the tune of 125 trillion dollars. South Africa is a significant part of that.

With this rich endowment comes the responsibility and challenge of ensuring our species and ecosystems are conserved and used sustainably to the benefit of all South Africans and future generations. WESSA supports DFFE's proposal to create a new legal framework to define and direct South Africa's efforts in the conservation and sustainable use of biodiversity, aimed at achieving a South Africa where people live and thrive in harmony with nature.

We endorse the need for additional transformation with the conservation sector, an enhanced duty of care for wildlife, evidence-based decision-making, the need to include the spirit of Ubuntu in the management of biodiversity shared with affected communities, to generate livelihoods and equitable access to South Africa's biodiversity-derived wealth.

WESSA submits the following comments on this framework outlined in the DWP, and trusts that they will be taken into consideration in the compilation of the (final) White Paper on the path to formal enactment.

**WILDLIFE AND ENVIRONMENT SOCIETY OF SOUTH AFRICA**

Reg No. 1933/004658/08 (Non-Profit Company)

Registration Number in Terms of the Non-Profit Organisations Act 1997: 000-716NPO Tax Exemption Number: 18/11/13/1903

DIRECTORS: HW Mandlana (Chairperson), H Atkinson (Acting Chief Executive Officer), Dr L Pichegru, D Millar, EO Apelgren, Dr AJ Baxter, JP Davies, M Immerman, G Koekemoer, Dr DT Magome, A Steyn, JR Wesson.

WESSA supports the sustainable utilisation of natural resources where the use is backed by defensible and justifiable data which conclusively reflects that sustainability can be achieved. However, where there is scientific uncertainty, the Precautionary Principle must be applied. In order for a resource to be used, WESSA expects it to be acquired in a way that is humane, ethical, in accordance with best practice principles and relevant legislation. WESSA suggests that 'humane use of animals' be defined with the DWP, that will incorporate the recognition of the sentience of animals in order to inflict the minimal amount of pain and suffering as is reasonable within the circumstances and based on international best practice.

The intention of the DWP to recognise elements of traditional biodiversity knowledge and ensure that equitable benefits flow from such knowledge, is laudable. The recent benefit sharing agreement on rooibos tea between the National Khoisan and San Councils and the South African Rooibos Council provides a good example of equitable benefit sharing.

WESSA promotes public participation in caring for the Earth, so we welcome the White Paper's intention to achieve more extensive engagement between protected area (PA) managers with the communities living around PAs and to direct more benefit sharing flows from these PAs to the surrounding communities and society as a whole with due care that such approaches remain ecologically sustainable.

WESSA also suggests that the WP provides some definition regarding the make-up of affected 'surrounding/local communities'. This will provide guidance to conservation practitioners about who needs to be consulted and involved in biodiversity conservation activities.

In examining the series of outcomes of the Goals (pp 6) we note that the crucial concept of 'alignment with international best practice in biodiversity conservation and wildlife trade agreements,' is omitted. WESSA holds that it is important to list this outcome with those already listed on page 6, to ground this DWP within global biodiversity conservation concepts, goals and agreements.

The DWP definition of sustainable use (pp 12) includes "...and meets the needs and aspirations of present and future generations". This implies an imperative that peoples' needs must be met and that seemingly such human needs are of more importance than protecting ecological integrity. This is at odds with the concept outlined in the DWP that socio-economic needs should/can only be met within the limitations of ecological sustainability. We recognise that meeting humans' basic needs is a crucial ambition. WESSA proposes that this definition be framed so as to indicate that it aims to meet peoples' needs and aspirations.

In examining the list of international agreements in Section 7.1 (pp 15), WESSA sees no mention of crucial international conservation targets, that, even if they have no legally-binding standing currently, should still influence South Africa's biodiversity conservation goals. Of note are: 1) the United Nations Convention on Biological Diversity's 30x30 target: protecting 30 percent of the world's terrestrial and marine habitats by 2030; and 2) the IUCN Marine Protected Areas Resolution 17.38 (at least 10% of marine jurisdictions conserved).

Section 9.2 The Mission (pp 20): As can be seen from various international and national reports, including the State of the Environment Reports across all tiers of government and SANBI's recent assessment, South Africa's rich biodiversity is under significant and increasing threat, that has already had major negative impacts on species and biomes. The Mission therefore must include recognition of this fact and clearly state that practicable, remedial and measurable steps will be taken to address this problem.

Section 9.3 (b) Impact Statement: WESSA recommends that this thinking approach be extended to urban areas so that biodiversity corridors and restoration become part of town planning and culture of areas of denser human habitation as well, so that nature is not relegated to “somewhere else,” but becomes part of the fabric of society.

Section 9.4 WESSA agrees that decision-making should be consultative, but cautions that such decision-making should not put popular appeasement over sound, rational or scientific reasoning. The White Paper has an opportunity to improve on what constitutes fair and inclusive public consultation, with emphasis on empowerment, and allowing sufficient time for engagement. The recent court judgement against Shell’s plans to conduct seismic surveys off the Wild Coast, provides guidance for appropriate, meaningful public engagement and consultation.

Under 9.4.1 (pp 20), we suggest that in terms of constitutional supremacy, much has been learnt from numerous court cases to show how constitutional principles have been interpreted to link human wellbeing with environmental health and not just as a “one-or-the-other” dispute resolving mechanisms.

Section 9.4.2 People First: WESSA recommends reframing this clause to show that while human health, well-being, dignity and rights are of primary concern they are unachievable without functioning ecosystem services to support these reasonable expectations.

Under principle 9.4.11 Duty of Care (pp 21): WESSA recommends that this section be renamed “Collective Stewardship and Duty of Care”, and that “cautious approach” be replaced with “the Precautionary Principle”.

Sections 9.4.14.1-4 Sustainable Development (pp 22): These principles are contained in various other pieces of legislation, but unfortunately, they have not managed to arrest biodiversity decline and habitat loss. The White Paper should ideally propose ways of making them more efficacious.

Section 9.4.14.11 Full Cost-Benefit Accounting (pp 23): this accounting needs to include cumulative impacts of which there is little recognition in the draft White Paper.

Section 9.4.14.11 Responsible trade (pp 24): WESSA recommends that this be amended to read: “... and must be supportive of conservation, comply with international wildlife trade agreements and regulations, display ...”. WESSA commends efforts to promote non-lethal or non-consumptive use of wildlife, though we do not support wildlife petting and riding activities.

WESSA argues that a fundamental point missing from the Guiding Principles is that the current biodiversity we aim to conserve and utilise, is not in a pristine or virgin state, but already a degraded, polluted one with many species threatened, endangered and/or already utilised at or beyond sustainable rates. State of Environment and IPBES reports record a painful tally of how negatively impacted the South African environment is, and how little of it and its biodiversity is effectively conserved. Nevertheless, the state is calling for additional use.

The collapsed or seriously diminished condition of many fish stocks globally is a glaring example of humanity’s history of wildlife overuse. Acknowledgment of this should temper our decision-making around continued and/or additional exploitation of our biodiversity heritage.

Goal 1 (Section 10.1.1, pp 23): It must be stressed that preventing harm to human health is inherently linked with the integrity of the natural environment. The White Paper’s reference to the nested model of sustainable development alludes to this and could be referred to in this paragraph.

WESSA endorses the creation of mega reserves and conservancies where the main objective is to conserve habitat and species and increase the range for the latter (Section 10.1.2 Goal 3, pp 25). We acknowledge that in the Western conservation model approach of fenced-in protected area management, this restricts the natural dispersal and migration of several species and, that as a consequence, culling (ideally informed by baseline vegetation studies) is sometimes unavoidable as a last option.

WESSA commends the affirmation of the need to consider animal well-being (Section 10.4.3) in any decision-making or action that impacts on any animal. This will give further emphasis and effect to the amendments to sections 1, 2(a) “(iiA) and 9A of the National Environmental Management: Biodiversity Act of 2004, that requires the consideration of the well-being of animals in the management, conservation and sustainable use thereof.

The DWP calls for more harvesting of wildlife resources. This harvesting will need to be conducted with the well-being of animals foremost in mind (difficult though the monitoring of this may be), if South Africa is not to continue to be severely tainted with the odour of canned hunting and the inhumane practices of the lion-bone trade.

With more evidence coming out of its negative consequences for biodiversity, land management, community benefit and tourism reputation, trophy hunting needs to be thoroughly re-assessed as a sustainable use practice in South Africa. In addition, the role that nature and wild places play in contributing to human well-being could also be expounded on in the final draft of the White Paper.

Goal 2.4 Output 8 (pp 47): WESSA cautions against the promotion of biodiversity offsets and offset banking, that are traded to permit activities that should not occur in any case. Where it is allowed, it should be for comparable ‘like-for-like’ situations, so that the environment and our nation does not suffer net losses.

Goal 3.1 (pp 47): WESSA proposes an additional output that recognises the Precautionary Principle approach, especially with regard to uncertainty concerning climate change impacts. This would link with Goal 3.8.

Goals 3 and 4 point to a clear need to get biodiversity conservation mainstreamed into local and provincial planning and decision-making. WESSA recommends raising the importance of the biodiversity sector and regional plans. The development of these plans requires extensive public consultation, which brings to the fore local, current and indigenous knowledge. These spatial plans include climate change mitigation and adaptation strategies. Once incorporated into Integrated Development Plans (IDPs) and Spatial Development Frameworks (SDFs) they provide clear guidance for sustainable development. Too often, however, these crucial conservation and risk management plans are ignored in land-use decision-making processes. WESSA recommends that the White Paper gives more legislative strength to the biodiversity sector and regional plans, that will thwart short-term opportunism and override it.

Goal 3.7 (pp 50): About GMOs: In the absence of global scientific consensus around GMOs and the multiplicity of issues from the complexity of gene functioning to resistance to pesticides, to fossil fuel use, WESSA maintains its stance on such DNA impacting technologies and advises extreme caution when it comes to their use. The issue of cross-breeding species, particularly within the hunting industry, needs to be addressed.

Goal 3.9 (pp 52): The Covid-19 pandemic has taught us the value of understanding and mitigating the risk of zoonotic diseases; with their increasing risk due to global warming and global trade, bringing novel combinations of biological vectors and pathogens together. This Goal could be strengthened to be much more cautious in permitting trade in live wildlife species and products derived from them.

Goal 4.6 (pp 55): WESSA suggests adding an Outcome 5: Prosecution authorities and Protected Area staff involvement in enforcement, compliance and wildlife crime investigations are bolstered through biodiversity and sustainable resource harvesting training and other supportive measures, to more effectively prosecute poaching cases. This will support Goal 6.6 (pp 61).

Goal 4.7 (pp 56): The EIA procedures of Output 4 should manage for the increasing risks associated by climate change.

Goal 4.8 (pp 56) promotes a trans-African collaborative approach to wildlife trade. Trade in specific species needs to consider the net effect of trade on those species and not just costs and benefits that it might accrue to South Africa or a collective of African range-states. For instance, it is known that governments of South Africa and other SADC countries would like to be able to trade in elephant ivory and rhino horn, on the basis of managed populations of these animals in these states; but such trade could be harmful to these species at the global scale; hence the CITES ban on trading in such items. WESSA acknowledges the track record of some state and many private reserves in maintaining species diversity and habitat integrity, and successfully protecting species typically targeted by criminal poaching cartels.

Goal 7.1 (61): WESSA recommends that Output 2 is amended from “tools that provide meaningful participation” to: “tools that incentivise meaningful participation”; with concurrent Outcome 3 revised to “Willing partnerships drive meaningful community participation, influence and benefit sharing”. Willing cooperation and genuine participation are more likely to be achieved through ‘pull’ incentives than by ‘push’ requirements.

Goal 8.1 (pp 62): WESSA is concerned that this goal appears to place narrow national socio-economic interests ahead of global ecological sustainability concerns, and that it frames South African socio-economic interests alongside, instead of nested within, global ecological sustainability. South Africa may have pressing local economic issues but how these are addressed should not be at the expense of broader, trans-national conservation goals. The reality is that our biodiversity needs to be managed in the planetary context.

In Section 11.1 Implementation Introduction, there is a statement that biodiversity and ecosystem resources should no longer be seen as inviolable green zones on a map, but rather as what use they can be for socio-economic development. The goals stated in this section make it worryingly clear to WESSA that this DWP regards the ‘conservation of biodiversity’ as of inferior importance to the ‘use of biodiversity’. This approach could well simplify habitats and reduce our natural landscapes and biodiversity to mere assets to be utilised for the satisfaction of human needs and aspirations; with no mention of those wild resources existing for their own sake. This interpretation would suggest that human needs trump all other considerations and that we are entitled to use all biodiversity for human needs or wants.

Some conservation areas (such as baseline research reserves or those of particular cultural value) or populations of biodiversity such as marine protected areas, may well prove to be indispensable, and should not be disturbed or utilised. Key wilderness areas should be allowed to remain wild for their own sake, allowing wildlife the right to live undisturbed by human actions. It should not always be necessary to derive any, or even minimal, non-consumptive economic value from them.

A key aspect of biodiversity/bioregional planning is to protect core biodiversity areas, with no-take or limited non-consumptive use, with buffer zones of increased use around them. Regarding all conservation areas now as usage zones could accelerate the loss of biodiversity through a ‘thousand small cuts’.

As the human population grows and gradually utilises all the natural resources outside of game reserves, there will be increasing pressure to access and utilise what is left inside the 'green zones'. If the concept that no areas are inviolate becomes generally accepted, then these crucial areas certainly will not remain wild or pristine. Such a scenario could represent a massive environmental and economic loss to the country, adding to its existing problems.

WESSA certainly supports the goals of rewilding places, along with restoring wildlife populations where they have been harvested to critically low or locally extinct levels. The White paper should also caution that in some cases wild resources need to be harvested at rates lower than maximum sustainable use levels, to allow rebuilding of stocks above current levels. This is particularly true for several fish species.

Section 11.3.3.4 Ineffective Enforcement: WESSA recommends a thorough review process of the fines and penalties for the various pieces of environmental legislation, so that these are updated to 'fit the crime'. Additionally, the observations about budgetary constraints in Sections 11.1 and 11.5 need to be addressed, with particular consideration for budget increases for compliance monitoring and enforcement.

Section 11.3.5 (g) (pp 70) Criteria and Guidelines: while acknowledging that those who bear the costs of conserving biodiversity should be able to derive some value for doing so, WESSA cautions against confirming this as an overarching legal right, as global, spatial or temporal reasons, such as international treaties, may preclude this.

Section 11.4.6: (pp 71): the next steps only speak explicitly of consulting national and provincial governments, with no mention on the broader consultation of stakeholders nor the general public. This is an omission, considering the many references in the Goals to the principles of and need for consultation and participation of the public, community and custodians of traditional knowledge.

Section 11.5.3 (c) (pp 73) makes mention of a Biodiversity Trust Fund, but there is no information elsewhere in the DWP of the purpose of this fund, who will administer it and who will fund it?

WESSA suggests the inclusion of a new section providing for conflict resolution and that it be guided by Ubuntu, which encourages negotiation, mediation and or arbitration before court/legal recourses. This would link with the alternate dispute resolution mechanisms outlined in NEMA.

WESSA also argues that the management and protection of Endangered/Red Data listed species need specialised priority over human activity and economic profit. This concerns the nested approach espoused by this DWP that human socio-economic needs are embedded in ecological sustainability. Species' survival before peoples' profit.

In this sense, the development of this biodiversity conservation and sustainable use framework provides a world-leading opportunity of conferring legal status on a suite of species and special habitats, to give them greater protection and *locus standii*. For example, New Zealand has conferred legal standing on rivers as a means of boosting ecological water allocations.

WESSA seeks to educate, advocate and act for environmental justice through policy, legislation and media engagement, sustainability education, strategic partnerships, compliance monitoring and conservation programmes, that will drive climate action, protect and restore biodiversity, and reduce pollution. As the organisation that campaigned for the creation of South Africa's early National Parks Act, at the time when conservation was thought of as something done behind protective fences, WESSA has evolved over the years to promote biodiversity conservation as a holistic practice that all humans are responsible for.

This White Paper proposes substantial and necessary paradigm changes in conserving and utilising South Africa's biodiversity. This process needs to be seen in global contexts of biodiversity conservation and the severe risks to it, such as climate change and international wildlife trade.

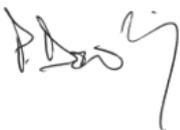
WESSA appreciates the opportunity to comment on such a far-reaching and potentially restorative process. However, biodiversity conservation cannot be treated as an issue on its own, but needs to be integrated in a broader array of environmental issues including damaging agricultural practices, industrial effluents, unsustainable water allocations, inefficient transport systems, climate-disruptive support for new fossil fuel exploitation, over packaging and externalised waste disposal, dust and other air polluting activities.

In compiling this response we have consulted with several experts on the topic and referred extensively to relevant national and international texts including the Sustainable Development Goals (SDGs), especially Goal 15 (Life on Land) which puts emphasis on restoration; the SANBI National Biodiversity Assessment of 2019, which notes that "With this rich endowment comes the responsibility and challenge of ensuring our species and ecosystems are conserved and used sustainably to the benefit of all South Africans and future generations," and the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) report that stresses the negative effects of overexploitation and habitat loss.

EIA processes that often attend applications related to the above would need to take the bigger picture of biodiversity and cumulative impact into consideration - a broad notion of care that proponents and authorities are often reluctant to address. WESSA recommends that these contextual issues are referred to in the next edition of the White Paper.

WESSA invites the DFFE to contact us should the department require any explanation of our comments or wish to discuss them with us. Our organisation may also be of assistance in creating general public awareness of the tenets of the published White Paper.

Yours faithfully



**Wildlife and Environment Society of South Africa**  
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