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**NATURAL JUSTICE AND THE BIODIVERSITY LAW CENTRE COMMENTARY ON THE DRAFT WHITE PAPER
ON CONSERVATION AND SUSTAINABLE USE OF SOUTH AFRICA'S BIODIVERSITY 2022**

INTRODUCTION

The National Biodiversity Assessment (NBA, 2018) recognises that South Africa has exceptional biodiversity, characterised by high species richness, high levels of species endemism and a wide variety of ecosystems. As the White Paper recognises, South Africa's diversity is not only limited to biodiversity, but also cultures and languages, and exceptional geological and climatic diversity.

Biodiversity is essential for human existence and good quality of life. Most of nature's contributions to people are not fully replaceable, and some are irreplaceable. The most important role of conservation is

to protect life in all its forms. This requires protecting both wild species and the integrity and functioning of the ecological communities that enable all life to flourish and evolve. This is beneficial to humanity, because we are also part of Nature and everything that we need to live well is derived, directly or indirectly, from Nature (including food, air, water, medicines, clothing and shelter). Access to wild and natural places is also important to human psychological health and well being.

Our biodiversity consequently provides an important point for economic growth and development. Despite having a range of biodiversity and sustainable use legislation and policies already in place in South Africa, biodiversity loss continues to threaten the health of ecosystems and the survival of species, and results in the negative impacts for livelihoods and for the economy. Global change and habitat loss and degradation, invasive alien species, overharvesting and illegal harvesting of species all threaten South Africa's biodiversity and have been identified as the main drivers of biodiversity loss. Further, it is 25 years into democracy, and unfortunately our biodiversity sector remains largely untransformed and there is inequality to access benefits arising from biodiversity and associated to ecosystem services.

The White Paper recognises that protecting life, and the ecological systems that sustain life, is of vital importance to humanity. The accelerating loss of biological diversity and habitats, both globally and in South Africa, mean that it is of the utmost importance that we prioritise implementing forms of conservation that enable people to co-exist harmoniously with other species within Nature. Wild species can make important contributions to the South African economy but we must not lose sight of the reality that their real value far exceeds their economic value.

This policy promotes the transformation of society is urgently necessary to protect biological diversity, both for its intrinsic value and for the benefit of humanity. It recognises that while the ecologically sustainable use of wild species will be permitted in appropriate circumstances, economic considerations must not undermine the priority of protecting and enhancing biodiversity.

Natural Justice and the Biodiversity Law Centre are therefore very supportive of the White Paper and commend Government for developing policy that:

1. recognises the shortcomings of a conservation model founded on historical colonial practices – entrenched by apartheid – of over-exploitation of nature and the exclusion of the indigenous and local communities;

2. includes, as an overarching vision for biodiversity governance, a vision of Living in Harmony with Nature. This approach represents a paradigmatic shift, and has placed South Africa in line with the United Nations and the Convention on Biodiversity, both of which have articulated a vision of Living in Harmony with Nature;
3. recognises the integrated well-being of humans and Nature, as is recognised within the One Health and One Welfare approaches;
4. recognises the intrinsic value of Nature, not just conceiving of it as part of the economy (assets and resources to be managed and exploited);
5. recognises the importance of indigenous knowledge and foregrounds the philosophy of Ubuntu built on the concepts of interrelatedness, interdependence and interconnectedness. This is centrally articulated in the White Paper;
6. reflects on and examines the lack of transformation within the conservation sector in South Africa, including its colonial history entrenched by Apartheid. Without addressing this past, and its ongoing legacy, South Africa will never be able to develop a future of well-being for its people and other beings;
7. recognises the importance of the biodiversity sector in contributing to the economy, including its capacity to catalyse rural economies (community land has high potential for wildlife-based enterprises that potentially can contribute to the conservation estate);
8. shows an appreciation for, and advocacy of, 'wildness', recognising that restriction of animals by fences and breakdown of natural and ecological processes reduces a sense of wildness (and the cultural heritage and stewardship of the environment). It is important to protect this wildness and freedom, avoid unnecessary interventions such as domestication of wildlife, and redress past harm through restoration, rehabilitation and rewilding of natural landscapes;
9. proposes a focus on maintaining and restoring ecological integrity, connectivity, processes, and systems (including the recognition that conservation areas are fragmented in terms of governance, operations and resource allocation).; and
10. emphasises the ethics of animal welfare and well-being. By prioritising animal welfare within conservation and recognising the need to harmonise conservation and animal ethics, we are one step closer towards Living in Harmony with Nature, and ensuring the integrated welfare and health of all animals, including humans.

Given the importance of the Draft White Paper, also within the context of biodiversity loss and environmental degradation, Natural Justice and the Biodiversity Law Centre wish to submit comments to the Department of Forestry, Fisheries, and the Environment (the Department). We further express our request to make a verbal submission or participate in any meaningful engagements with the Department when an opportunity arises.

NATURAL JUSTICE

Natural Justice: Lawyers for Communities and the Environment is a non-profit organisation, registered in South Africa in 2007. Our vision is the conservation and sustainable use of biodiversity through the self-determination of indigenous peoples and local communities.

Our mission is to facilitate the full and effective participation of indigenous peoples and local communities in the development and implementation of laws and policies that relate to the conservation and customary uses of biodiversity and the protection of associated cultural heritage.

Natural Justice works at the local, national, regional, and international levels with a wide range of partners. We strive to ensure that community rights and responsibilities are represented and respected on a broader scale and that gains made in international fora are fully upheld at lower levels.

THE BIODIVERSITY LAW CENTRE

The Biodiversity Law Centre is a non-profit organisation and law clinic, registered in 2021. Our vision is flourishing indigenous species and ecosystems that support sustainable livelihoods in Southern Africa. Our mission is to use the law to protect, restore and preserve indigenous ecosystems and species in Southern Africa. By supporting civil society organisations, and local and indigenous communities in their efforts to safeguard their environments, the Centre seeks to advance its vision of flourishing indigenous species and ecosystems that support sustainable livelihoods in Southern Africa.

NATURAL JUSTICE

THE BIODIVERSITY LAW CENTRE NPC

8 September 2022