

Template for Stakeholder Comments per White Paper Section: Written comments to whitepaper@dfpe.gov.za by 10 Sep 2022.
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What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
General Comments		
<p><u>The primacy of ecologically sustainable development</u></p> <p>Section 24(b)(iii) of the Constitution refers to ecologically sustainable development and use. The context that the development and use must be ecologically sustainable is an important element and is lacking in this White Paper. We have provided detailed guidance on strengthening the approach to sustainable use below we submit that all references to sustainable use be preceded by the word “ecologically.”</p> <p><u>Cooperative governance</u></p> <p>One of the primary concerns we have with the White Paper is that it does not clearly outline how ministries or departments should cooperate with one another. Due to South Africa’s complex economy, all sectors must work together in a well-coordinated effort to conserve and protect biodiversity and facilitate its ecologically sustainable use. However, guiding principles and outcomes in relation to co-operative governance are lacking.</p>		

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<p>The principles of co-operative governance are set out in Chapter 3 of the Constitution. They include the principle that all spheres of government and all organs of state must co-operate with one another in mutual trust and good faith by— (i) fostering friendly relations; (ii) assisting and supporting one another; (iii) informing one another of, and consulting one another on, matters of common interest; (iv) coordinating their actions and legislation with one another; (v) adhering to agreed procedures; and (vi) avoiding legal proceedings against one another. Procedures for co-operative governance in terms of environmental matters are further set out in Chapter 3 of the National Environmental Management Act, Act 107 of 1998 (“NEMA”). Express reference to these provisions, and how the White Paper seeks to implement them, must be explained.</p> <p>While we recognise that purpose of the White Paper is to provide the overarching policy framework for the ecologically sustainable use and conservation of South Africa’s biodiversity, and includes principles relating to Governance (section 9.4.15 of the White Paper), this nevertheless requires clear articulation of how co-operative governance will be effected, particularly where there are potential policy conflicts between different State departments.</p> <p><u>Conflict resolution</u></p>		

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<p>The White Paper also does not provide for adequate conflict resolution mechanisms between the different State departments in instances where there are potential policy conflicts. For instance, the current policy approach adopted by the Department of Mineral Resources and Energy is to a large extent incompatible with the commitments announced by the government to combat climate change in its recent NDC commitments, and inconsistent with several of the goals and policy objectives outlined in the White Paper. It is not clear overall how policy conflicts will be resolved, and this is something that needs to be specifically addressed in the White Paper: Where the White Paper ranks in terms of other DFFE policies, and in terms of policies of other State departments must be clearly articulated Provisions relating to conflict resolution must be clearly articulated.</p> <p><u>Funding</u></p> <p>One of the key concerns with the White Paper as it currently stands is the absence of detail regarding how, both in terms of human and financial resources, it is going to be implemented. While we again commend Government for proposing truly forward-thinking and progressive policy goals and objectives that embrace transformation of the sector, we are concerned that insufficient attention has been given in the White Paper to how it is proposed to be implemented.</p>		

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General Editorial Comments		
The White Paper uses the words, rural, marginalised and previously disadvantaged communities. Notably, these cannot be used interchangeably, and cannot be used to refer to indigenous communities.		We propose clear definition of these words.
1. EXECUTIVE SUMMARY		
<p>We agree with stating upfront that South Africa is one of the most biodiverse countries in the world, as well as highlighting the threats it faces. We also support what the White Paper aims to achieve and agree that the approach to biodiversity conservation must be grounded in the Constitution, <i>Ubuntu</i> and giving prominence to gender equality, as well as achieve transformation.</p> <p>We agree with the impact statement “thriving people and nature.”</p>	Support	None
4. DEFINITIONS (Definitions that are not specifically dealt with below are supported)		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p><u>Conservation area</u></p> <p>The term “conservation area” is used throughout the White Paper, but no definition is included in the White Paper for the term (for example, Goal 3, Policy Objective 3.2, relates to “Establish[ing] a representative system of protected and <i>conservation areas</i> that are effectively and efficiently managed.” Given the liberal use of the term “conservation area”, it is not clear what is meant thereby, and a definition is required. Other Effective Based Conservation Measures are defined, as are “protected area”, albeit in a footnote on page 14 of the White Paper. A definition of “conservation area” as distinct from OECMs and protected areas is lacking.</p>		<p>Include definition of “conservation area”.</p>
<p><u>Integrative approach</u></p> <p>The impact statement makes mention of the idea of an integrative approach that will (a) form the primary framework for actions to address threats to biodiversity and (b) establish priorities for its conservation. What is not clear however is what is to be understood as an “integrative approach”. It would be worthwhile for the White Paper to define “integrative approach”. As it currently stands, an ‘integrative approach’ could mean:</p> <p>(a) the notion that an attitude of respect must be adopted towards individual animals that make up a species and the components of biodiversity. This conception of the integrative approach</p>		

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<p>places greater emphasis on the relationships between individual animals and the environment.¹ This understanding of the 'integrative approach' is consistent with recent jurisprudence. The Constitutional Court, Supreme Court of Appeal and High Court have all provided guidance on the framework to be adopted in interpreting the environmental right in relation to wild animals. Specifically, the courts have recognised the 'intrinsic value of animals as individuals' as well as the relationship between conservation and animal welfare, and relating welfare and protection of biodiversity to the constitutional right to have the "<i>environment protected ... through legislative and other means</i>" in section 24 of the Constitution.²</p> <p>(b) an approach as it relates to an understanding of biodiversity stewardship that is inclusive of alternative area-based conservation mechanisms/methods. Along these lines, a definition of 'integrative approach' could include setting out the different categorical mechanisms/practices that would be applicable within South Africa's biodiversity stewardship</p>		

¹ Bilchitz, David, Exploring the Relationship between the Environmental Right in the South African Constitution And Protection for the Interests of Animals (February 15, 2017). Available at SSRN: <https://ssrn.com/abstract=2942112> or <http://dx.doi.org/10.2139/ssrn.2942112>.

² *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* 2017 (4) BCLR 517 (CC); *Lemthongthai v S* 2015 (1) SACR 353 (SCA); *National Council of Societies for the Prevention of Cruelty to Animals v Openshaw* [2008] 4 All SA 225 (SCA) para 38.

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<p>framework and area-based conservation models. These could include: Biodiversity Partnership Areas which differ from traditional components of the conservation areas estate such as protected areas, in that they do not governed by any contractual agreement with provincial conservation authorities. They however offer diverse options and are able to achieve various goals as they allow for participation from landowner or user groups who would like to take collective action to manage their land. This approach therefore conceives of an “integrative approach” to conservation that incorporates community stewardship.</p> <p>Because two distinct interpretations (and possibly more) are viable, it is imperative that ‘integrative approach’ be defined in the White Paper.</p>		
<p><u>Wildlife</u></p> <p>The White Paper as it currently stands contains no definition of the term ‘wildlife’, despite the document being replete with uses of the term. It also appears in various places throughout the White Paper that ‘wildlife’ and ‘biodiversity’ have been used interchangeably, and we recommend harmonising the use of definitions across the policy, as well as including a definition of ‘wildlife.’</p>		<p>A definition of “wildlife” should be included in the White Paper.</p>

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<p>“Wildness” could be defined more specifically. It is unclear what the description of “more natural” entails. The White Paper considers both rehabilitation and restoration as means to recover ecosystems. It is unclear whether manual intervention is inconsistent with the description of “more natural”</p>		
<p>4.1. EXISTING LEGAL DEFINITIONS THAT INFORMED THE POLICY</p>		
<p>4.2. ADDITIONAL DEFINITIONS FOR THE PURPOSES OF THIS POLICY</p>		
<p><u>Conservation</u></p> <p>We on the whole support the current definition of “conservation,” however we are concerned that the definition of “conservation” includes “sustainable use”. This phrasing is inconsistent with section 24 of the Constitution (section 24(b)(ii) and (iii) refer to reasonable legislative and other measures that...(ii) promote conservation and (iii) secure ecologically sustainable use). Conservation is separate to and distinct from sustainable use (although we appreciate that there may be instances in which sustainable use and conservation objectives overlap.</p> <p>We support the linking of conservation with the improvement of well-being of people consistent with <i>Ubuntu</i>. We deal further below with recommended amendments to the definition of <i>Ubuntu</i> in order to ensure</p>	<p>Support, subject to amendments</p>	<p>Conservation: Under the imperative of protection of the Environment,</p> <p>(a) [sustained] protection, custodianship, care, maintenance, rehabilitation, restoration, and recovery, of biological diversity and its components;</p> <p>(b) in a manner that, where justifiable, secures equitable and ecologically sustainable use, access, and sacred appreciation;</p> <p>(c) of the benefits and values that present and future generations derive from nature’s contribution;</p> <p>[(d) recognising and respecting the role of indigenous people and local communities in conservation of biodiversity;]</p> <p>(e) [(e)] to improve the well-being of people consistent with Ubuntu.</p>

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<p>a more ecocentric conception of the term recognising the interrelatedness between people and Nature.</p> <p>The definition however fails to make express mention of the role of Indigenous People and Local Communities (IPLC) in biodiversity conservation. A large proportion of the world's biodiversity exists outside of government-established protected areas in forests, rangelands, mountain environments, wetlands, freshwater bodies, and coastal and marine environments within land or on water that is state-owned, under private property, or held in communal ownership.³ IPLC inhabiting these areas therefore have the greatest interest in the conservation and preservation of the land and its animals,⁴ about which they possess unique and invaluable knowledge, and means of ensuring that populations of all animals thrive for the benefit of current and future generations. The knowledge, innovations, practices, institutions and values of IPLC, and ensuring their inclusion and participation in environmental governance, often enhances their quality of life and the conservation, restoration and sustainable use of nature, which is relevant to broader society.⁵</p>		

³ Borrini-Feyerabend, G., Kothari, A. and Oviedo, G. (2004). *Indigenous and Local Communities and Protected Areas: Towards Equity and Enhanced Conservation*. IUCN, Gland, Switzerland and Cambridge, UK, 20.

⁴ J Hough and H Proesky "'But we don't spoil it, we protect it": Coleske residents' conceptualisations of the Bavianskloof Nature Reserve and its protection' (2010) 92(2) 160; R Ramutsindela, M Matose and T Mushonga 'Conservation and violence in Africa' in *The Violence of Conservation in Africa* (2022) 3.

⁵ IPBES Global Assessment Report Summary for Policy-makers, 2019, page 18.

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<p>In the case of <i>Gongqose and others v Minister of Agriculture, Forestry and Fisheries and others</i>,⁶ a case which concerned the criminalisation of fishing within the Dwesa-Cwebe marine protected area (MPA) by the Dwesa-Cwebe community who had been fishing sustainably in the MPA for generations, the Supreme Court of Appeal, in quoting the High Court, noted that:</p> <p style="padding-left: 40px;">[23] . . . (T)hey [the Dwesa-Cwebe community] understood that nature had a way of protecting itself and this is what regulated their harvesting; the tides and the weather did not allow them to go fishing every day; they also had their own way of making sure that there would be enough fish for the generations to come, having been taught by their fathers and elders not to take juveniles and to put the small fish back. These rights were never unregulated, and were always subject to some form of regulation either under customary and traditional practices.”</p> <p>The relationship between IPLC and Nature is often one of deep harmony and equilibrium with Nature. As one scholar describes it:</p> <p style="padding-left: 40px;">‘The delicate balance existing within the natural environment, between nature and society, and within society itself, constitutes</p>		

⁶ 2018 (5) SA 104 (SCA).

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<p>a series of systems in which disturbance, however slight, is bound to affect the whole.⁷</p> <p>‘Nature in their view is not a physical entity apart from man and, therefore, he cannot confront it or oppose it or harmonise with it as a separate entity. Occasionally man can unbalance it by his personal malfunctioning as a component, but he never stands apart from it.’⁸</p> <p>IPLC have been living with Nature for generations and have knowledge and customs regulating these relationships in an inherently sustainable manner. It is important that the White Paper recognises the role of IPLC in conserving and sustainably using the country’s biodiversity.</p>		
<p><u>Community</u></p> <p>The definition of community is inconsistent with the definition of “Traditional or Indigenous Knowledge” which refers specifically to practices of indigenous and local communities. It is therefore not clear how the definition of “community” as it currently stands is differentiated from what constitute ‘local and indigenous communities’, as the latter term is not defined. There needs to be consistency across the definitions with</p>		<p>We propose that the White Paper considers the United Nations definition of indigenous knowledge as unique cultures, innovations and practices informed by indigenous people connected to wildlife and ecological systems.</p> <p>The definition of “community” should consider the relationships not only between human beings, but also the relationship between human beings and Nature - all of which is</p>

⁷ G Reichel-Dolmatoff (ed) ‘Cosmology as an ecological analysis: a view from the rainforest’ in *Rainforest Shamans: Essays on the Tukano Indians of the Northwest Amazon* (1997) 16.

⁸ Reichel-Dolmatoff (n35) 20.

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<p>reference to 'community'.</p> <p>Furthermore, elsewhere in the White Paper, the term "indigenous peoples and indigenous communities" is used, but this is not defined. There needs to be consistency in the terminology used, or a separate definition included for "indigenous peoples and indigenous communities" to ensure policy certainty.</p>		<p>interrelated and interconnected.</p>
<p><u>Marine Spatial Planning</u></p> <p>Marine Spatial Planning is not defined in the Marine Spatial Planning Act, Act 16 of 2018. However, there is insufficient emphasis on conservation in the way the definition is phrased in the White Paper. The definition refers to "spatial and temporal distribution of human activities in marine areas". The focus should not only be on human activities, but areas set aside for conservation.</p>	<p>Support, subject to amendments</p>	<p>"A governance process of collaboratively assessing and managing the spatial and temporal distribution of human activities in marine areas, [and the designation of certain areas for conservation,] to achieve ecological, economic, and social objectives."</p>
<p><u>Rewilding</u></p> <p>The definition's components include 'restoration', 'rehabilitation' and 'reallocation'. The first two terms are further defined in the White Paper, but the third is not. A definition of 'reallocation' ought to be included for the sake of consistency and completeness.</p>	<p>Support, subject to further definition being included</p>	<p>A definition of "reallocation" must be included in the White Paper</p>
<p><u>Sustainable use</u></p> <p>Section 24 places ecological sustainability at the centre of its approach to how environmental policy should be designed. Ecological sustainability is,</p>	<p>Support, subject to amendments</p>	<p>In relation to the use of any component of biodiversity, means the use of such components in a responsible way, and that:</p> <p>(a) does not contribute [contributes] to its long-term decline [persistence] in the</p>

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<p>therefore, the key to realising this right. Development projects should support this key concept and development considerations must be weighed against this criterion, with a further emphasis on inter-generational equity.</p> <p>The term “sustainable use” is used throughout the White Paper. However, in order to correctly reflect constitutional values, it is critical that at all times “<u>ecological</u> sustainable use” is referred to. This grounds the definition in the constitutional imperative that all sustainable use must be ecological (in other words, the primacy of the ecological system is forefronted). The White Paper must be amended to include the word “ecologically” wherever the term “sustainable use” is used.</p> <p>The definition as it currently stands deviates from the comprehensive definition put forward in the Draft Policy Position on the Conservation and Sustainable Use of Elephant, Lion, Leopard and Rhino (“ELLR Policy”). We therefore recommend expanding the definition to include the elements thereof included that were included in the ELLR Policy, but which are omitted in the current definition in the White Paper.</p> <p>The definition as it currently stands contains two elements that are framed in the positive ((c) and (d)) and two that are framed in the negative ((a)</p>		<p>wild; or disrupt the genetic integrity of the population;</p> <p>(b) does not disrupt [promotes] the ecological integrity [and resilience] of the ecosystem in which it occurs;</p> <p>(c) ensures continued benefits to people that are fair, equitable and meet the needs and aspirations of present and future generations; and [in taking a systems approach, ensures continued benefits to people that are responsible, equitable, and meet the rights and needs of present and future generations;]</p> <p>(d) in the case of animals, is humane and does not compromise [ensures] their well-being;</p> <p>[(e) serves in, or is not detrimental to, the public interest; and]</p> <p>[(f) recognises and respects the role and practice of indigenous peoples and local communities in biodiversity stewardship and sustainable use.]</p>

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<p>and (b)). Framing elements in the negative means that instead of working towards a positive outcome for biodiversity, the lower benchmark of ensuring something potentially detrimental to biodiversity does not occur is the threshold, which is undesirable. Framing the elements of the definition positively also aligns with section 24 of the Constitution, which is framed in the positive. Further, by having all elements framed positively, there is consistency across the definition.</p> <p>In terms of the specific elements:</p> <p>(a) We do not support reference to “genetic” integrity of the population. This is because by the time one reaches the threshold of genetics, much damage to the population may already have occurred. The genetic integrity is likely to be the last aspect of a population that is negatively impacted. It is better to refer simply to the integrity of the population.</p> <p>Further, there should not be a negatively phrased duty to ensure that use ‘does not contribute to long term decline’. This is a very low threshold to meet in terms of use. Rather, there should be a positive obligation to ensure that the responsible use of the components of biodiversity promotes its long-term persistence in the wild.</p> <p>(b) There must be specific reference to “resilience” as well as ecological integrity, as contained in the ELLR Policy. “Integrity” refers to the</p>		

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<p>completeness and functionality of an ecosystem and its ecological processes, particularly in relation to its natural state⁹ while “resilience” means being able to survive, adapt and improve in the face of stress and change, to be able to withstand shocks, but reorganise and rebuild when necessary. The capacity to bounce back but ‘bounce forward’ to a better state if possible.¹⁰ “Integrity” and “resilience” therefore mean different things, but both terms are important in relation to persistent ecosystems. They should therefore both be included in the definition of sustainable use.</p> <p>Further, the definition should not be framed in the negative. There should not be a duty to ensure that use does not disrupt ecological integrity and resilience. Rather, there should be a positive obligation to promote ecological integrity and resilience in the context of sustainable use.</p> <p>(c) ©This element must include specific reference to the systems approach, as this was included in the definition of ‘sustainable use’ in the ELLR Policy, but has not been carried through to this definition of</p>		

⁹ Convention on Biological Diversity: FAQ: Ecosystem Integrity in the Post-2020 Global Biodiversity Framework Wildlife Conservation Society (WCS) (available at <https://www.cbd.int/api/v2013/documents/EF052A4A-8751-AB04-8208-F2CBDA387E24/attachments/212351/WCS-2.pdf>).

¹⁰ Mark Smith (2016). Collaboration for Resilience: How Collaboration among Business, Government and NGOs could be the Key to Living with Turbulence and Change in the 21st Century. Gland, Switzerland: IUCN. 16pp (available at <https://portals.iucn.org/library/sites/library/files/documents/2016-047.pdf>).

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<p>'sustainable use'.</p> <p>(d) We support the inclusion of “well-being” in the case of animals in the context of sustainable use. This is consistent with the definition of “well-being” being included in the National Environmental Management: Biodiversity Act (inserted by the National Environmental Laws Amendment Act, Act 2 of 2022, which comes into force on a date fixed by the President by proclamation in the Gazette). However, there should not be a negative obligation to ensure that well-being is not compromised. Instead, the obligation should be positively framed, i.e. sustainable use ensures the well-being of animals.</p> <p>(e) The ELLR Policy includes in the definition of “sustainable use”, “serves in, or is not detrimental to, the public interest”. This component of the definition should be included in the definition of “sustainable use” in the White Paper.</p> <p>We have already noted the importance of including recognition of local and indigenous communities in the context of biodiversity conservation and ecologically sustainable use. Whilst the current definition of sustainable use recognizes the importance of preserving the value of biodiversity for present and future generations, the definition is constructed to narrowly apply to measures which are not reflective of the diverse social-ecological realities of human-environment interactions and</p>		

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<p>local and indigenous communities. Absent in the definition of sustainable use is the acknowledgement and promotion of the principle of local stewardship which envisages the role taken by local and indigenous communities to develop and implement actions, motivated and supported by customary values and principles, to protect and care for or responsibly use the environment in pursuit of environmental and/or social outcomes in diverse social-ecological contexts. The idea of stewardship is anchored in the promotion of human-environment interactions which are premised on a socio-ecological system which govern how the environment is sustained and constructively protected by local and indigenous communities and other resources users. We recommend that an additional ground be included within the current text, which would emphasize the centering of local and indigenous communities and resources users within the paradigms of sustainable use and conservation. This will ensure that the definition of sustainable use incorporates local stewardship thereby strengthening the role that communities and other resource users can play in sustainable use, which would result in clear community benefits (such as biodiversity protection for sustainable use) and community-led rule enforcement. The concept of sustainable use that is established on the ideals of environmental stewardship, can be a comprehensive idea for directing effective and long-lasting relationships with the environment that can result in solutions that are advantageous to both communities and</p>		

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conservation.		
<p><u>Systems approach</u></p> <p>The current definition does not include reference to economic systems, and is therefore not reflective of a true systems approach in which the economic system, socio-political system and ecosystem are embedded within each other, and integrated by the governance system that holds all the other systems together within the regulatory framework (White Paper, page 36). The definition should be amended to include reference to the economic system.</p>	Support, subject to amendments	Considering, holistically, components of socio-ecological [social, ecological and economic] systems as inter-related and interdependent, together with their interacting properties, instead of their elements separately.
<p><u>Ubuntu</u></p> <p>Including a definition of <i>Ubuntu</i> is commendable and demonstrates Government's commitment to a truly African conceptualisation of the sustainable use and conservation of biodiversity. However, the definition as it is currently phrased is too narrow, focussing only on the interrelatedness between humans and human society, rather than emphasising the relatedness between humans and Nature.</p> <p><i>Ubuntu</i> is concerned with <i>humanness</i> – how an individual or person is understood in relation to others.¹¹ The important distinguishing factor in relation to <i>Ubuntu</i> as compared with western ideologies (where humanness is understood in relation to the individual) is thus the idea of</p>	Support, subject to amendments proposed	“ <i>Ubuntu</i> is the compassionate, respectful, holistic, interdependent relationship that exists between humans, and natural and spiritual elements.”

¹¹ A Afolayan ‘Rethinking African philosophy in the age of globalisation’ in A Afolayan and T Falola (eds) *The Palgrave handbook of African philosophy* (2017) 634 and 635.

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<p>relatedness – that a person is a human being only in relation to other members of the community of which it is a part. This sense of ‘community’ extends beyond other human beings, and relates to the community of Nature.¹²</p> <p>The philosopher Munyaradzi Murove, has observed that:</p> <p>“... Africa yet possesses in its own traditional culture the roots of an ethical paradigm to solve the current environmental crisis. This is an ethic of an interdependence of individuals within the larger society to which they belong and to the environment on which they all depend. This ethic is based on the concepts of <i>Ukama</i> (Shona) and <i>Ubuntu/Botho</i> (Zulu, Xhosa, Sotho and Tswana).</p> <p>While the Shona word <i>Ukama</i> means relatedness, <i>Ubuntu</i> implies that humanness is derived from our relatedness with others, not only those currently living but also through past and future generations. When these two concepts are compounded, together they provide an ethical outlook that suggests that human well-being is indispensable from our dependence on,</p>		

¹² L Le Grange ‘Ubuntu/Botho as ecophilosophy and ecosophy’ (2015) (49(3) *Journal of Human Ecology* 301 and 304.

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<p>and interdependence with, all that exists and particularly with the immediate environment on which all humanity depends. Were this to be developed as an environmental ethic appropriate to the contemporary world it would inspire people north and south to combat threats of pollution and environmental degradation.”¹³</p> <p>In this manner, <i>ubuntu</i> must be understood as encompassing not just relatedness between people, but between people and the natural environment of which they are a part. In addition, the meaning of <i>Ukama</i> refers to not only people in relation to other people, but extends this relatedness to past and future generations.¹⁴ In this manner, ‘Ukama provides the ethical anchorage for human social, spiritual and ecological togetherness.’¹⁵</p> <p><i>Ubuntu</i> thus means a recognition of the interdependence and peaceful coexistence between earth, plants, nonhuman animals and humans. In this sense, Nature is seen as having intrinsic value as part of the</p>		

¹³ M Murove ‘An African Environmental Ethic based on the Concepts of Ukama and Ubuntu’ in Murove, Munyaradzi Felix (Eds) *African Ethics. An Anthology of Comparative and Applied Ethics* (2009) 315 to 316

¹⁴ L Le Grange ‘Ubuntu/Botho as ecophilosophy and ecosophy’ (2015) (49(3) *Journal of Human Ecology* 301 and 306.

¹⁵ Murove (2009) 317.

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<p>community of life, and it is this which sets <i>ubuntu</i> apart from western philosophies underpinned by a conception of nature as having only instrumental value to people. <i>Ubuntu</i> has informed the relationship between indigenous African people and local communities and the natural world for generations offers a framework within which we can reconfigure the way we relate to biodiversity and the way we interpret and develop our laws.</p> <p>Consequently, the definition of <i>Ubuntu</i> should be expanded in the White Paper to include reference to the relatedness between humans and Nature. While the definition as currently phrased notes that '<i>the very essence of Ubuntu hinges on consolidating the human, natural and spiritual tripartite</i>', in our view this statement does not go far enough to address our comment.</p>		
5. POLICY ISSUE IDENTIFICATION		
<p>"It represents a paradigm shift for the conservation and sustainable use of biodiversity. Most importantly, it provides a strong constitutional foundation for the conservation and sustainable use of biodiversity, and promotes the transformation of the biodiversity sector in an ecologically sustainable manner."</p>	<p>Support</p>	

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
We are very supportive of and commend Government for the paradigm shift embodied by the White Paper. It forefronts <u>ecologically</u> sustainable use, as well as the importance of transforming the biodiversity sector. We support the policy as the guiding tool for law reform in South Africa		
6.1. BACKGROUND		
<p>We are supportive of including a relatively detailed description of the South Africa’s biodiversity. We would however recommend placing the importance of South Africa’s biodiversity within the global context, with reference to recent important international studies, including the Global Biodiversity Outlook 5, and the Intergovernmental Science Policy Platform on Biodiversity and Ecosystem Services (IPBES) Global Assessment Report on Biodiversity and Ecosystem Services, 2019.</p> <p>There is also insufficient attention paid in the Background section to the role of indigenous peoples and local communities (IPLC) in the context of biodiversity stewardship. For the reasons we set out above under the definition of “conservation”, recognition and respect of the rights of IPLCS and their role in biodiversity stewardship is critical. The background should be amended to include express reference to this role The United Nations</p>	Support, subject to amendments	<p><u>IPBES GLOBAL ASSESSMENT REPORT, 2019</u></p> <p>Nature 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. Despite this, biodiversity and ecosystem services are being lost at an unprecedented rate.¹⁶</p> <p>Nature across most of the globe has now been significantly altered by multiple human drivers, with the great majority of indicators of ecosystems and biodiversity showing rapid decline. 75% per cent of the land surface is significantly altered, 66 per cent of the ocean area is experiencing increasing cumulative impacts, and over 85 per cent of wetlands (area) has been lost.¹⁷ Human actions also threaten more species with global extinction now than ever before. An average of around 25 per cent of species in assessed animal and plant groups are threatened, suggesting that around 1 million species already face extinction, many within decades, unless action is taken to reduce the intensity of drivers of biodiversity loss. Without such action, there will be a further acceleration in the global rate</p>

¹⁶ IPBES Global Assessment Report Summary for Policy-makers, 2019, page 11.

¹⁷ IPBES Global Assessment Report Summary for Policy-makers, 2019, page 11.

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>Declaration on the Rights of Indigenous Peoples, recognises that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests. Special attention should therefore be paid to indigenous people's rights to traditional knowledge, culture, heritage in the conservation and management of biodiversity. South Africa adopted the UNDRIP in 2016.</p>		<p>of species extinction, which is already at least tens to hundreds of times higher than it has averaged over the past 10 million years.¹⁸</p> <p>The direct drivers of this change in nature, which all have their origins in anthropogenic activity, have broadly been identified as: changes in land and sea use; direct exploitation of organisms; climate change; pollution; and invasion of alien species.¹⁹ The COVID-19 pandemic has further highlighted the importance of the relationship between people and nature, and it reminds us all of the profound consequences to our own well-being and survival that can result from continued biodiversity loss and the degradation of ecosystems, the underlying causes of pandemics being the same global environmental changes that drive biodiversity loss.²⁰</p> <p>Nature's contributions to people are often distributed unequally across space and time and among different segments of society. Further, there are often trade-offs in the production and use of nature's contributions. Benefits and burdens associated with the conservation and sustainable use of biodiversity are often unequally distributed, for example, giving priority to one of nature's contributions to people, such as food production, can result in ecological changes that reduce other contributions. Some of these changes may benefit some people at the expense of others, particularly the most vulnerable.²¹</p>

¹⁸ IPBES Global Assessment Report Summary for Policy-makers, 2019, page 11.

¹⁹ IPBES Global Assessment Report.

²⁰ Global Biodiversity Outlook 5; IPBES (2020) Workshop Report on Biodiversity and Pandemics of the Intergovernmental Platform on Biodiversity and Ecosystem Services.

²¹ IPBES Global Assessment Report Summary for Policy-makers, 2019, page 10.

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
		<p>Fewer and fewer varieties and breeds of plants and animals are being cultivated, raised, traded and maintained around the world, despite many local efforts, which include those by indigenous peoples and local communities. This loss of diversity, including genetic diversity, poses a serious risk to global food security by undermining the resilience of many agricultural systems to threats such as pests, pathogens and climate change.²²</p> <p><u>Global Biodiversity Outlook 5</u></p> <p>The Global Biodiversity Outlook (GBO 5) 5 similarly recognises that biodiversity is declining at an unprecedented rate, the pressures driving this decline intensifying, and that humanity stands at a crossroads with regard to the legacy it leaves to future generations.</p> <p>The Strategic Plan for Biodiversity 2011-2020, including the Aichi Targets, was formally adopted by Governments through the Convention on Biological Diversity and was intended as a global framework for all sections of society – and its success would depend on bringing about change among a wide range of sectors and stakeholders whose decisions and actions have an impact on biodiversity. However, globally none of the Aichi Targets have been fully achieved, while only 6 have been partially achieved.²³</p> <p>In terms of the outlook for the future, GBO 5 paints a grim picture. It notes that on our current trajectory, biodiversity and the services it provides will continue to decline, jeopardizing the achievement of the Sustainable Development Goals. In ‘business as usual’</p>

²² IPBES Global Assessment Report Summary for Policy-makers, 2019, page 12.

²³ GBO 5 Summary for Policy-makers, page 4.

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
		<p>scenarios, this trend is projected to continue until 2050 and beyond, due to the increasing impacts of land and sea use change, overexploitation, climate change, pollution and invasive alien species. The GBO 5 notes further that these changes are being driven by unsustainable patterns of production and consumption, population growth and technology developments. The projected decline in biodiversity will affect all people, but it will have a particularly detrimental effect on IPLC, and the world's poor and vulnerable, given their reliance on biodiversity for their wellbeing.²⁴</p> <p>The GBO 5 notes, however, that it is not too late to slow, halt and eventually reverse current trends in biodiversity decline. In summary, realising the 2050 Vision for Biodiversity (“living in harmony with Nature”) requires:</p> <ul style="list-style-type: none"> • The scaling up of efforts to conserve and restore biodiversity using approaches that depend on local context (which, in the case of the White Paper, is consistent with its modern approach to conservation of biodiversity that is uniquely South African and founded on principles of Ubuntu). • Efforts to keep climate change well below 2 degrees C and close to 1.5 degrees C above pre-industrial levels to prevent climate impacts from overwhelming all other actions in support of biodiversity. • Effective steps need to be taken to address the other threats to biodiversity. • Transformations need to be achieved in the production of goods and services,

²⁴ GBO 5 Summary for Policy-makers, page 12.

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
		<p>especially food.</p> <p>The background of the White Paper should embrace the language of Article 24,25 and 26 of the UNDRIP and give legal recognition of the rights provided under these articles.</p>
6.2. STATUS OF BIODIVERSITY		
<p>Important facts and figures relating to the status of South Africa's biodiversity appear to have been included in the 'status' section. We are therefore supportive of this section.</p>	<p>Support</p>	<p>Important facts and figures relating to the status of South Africa's biodiversity appear to have been included in the 'status' section. We are therefore supportive of this section.</p>
6.3. PRESSURES AND DRIVERS		
<p>The main pressures on biodiversity and drivers of biodiversity loss have been discussed. We are therefore broadly supportive of this section.</p> <p>However, we object to the reference to wildlife ranching being a "vitaly important land use for both socio-economic development and biodiversity conservation". While wildlife ranching may have positive implications for conservation (increase in wildlife numbers, along with other environmental improvements that often go hand in hand with converting livestock farms to wildlife ranches)²⁵ the practice if conducted intensively will have</p>	<p>Support, subject to amendments.</p>	<p>Both wildlife ranching [excluding the intensive management of wildlife, which is deemed contrary to biodiversity conservation objectives] and livestock farming are vitally important land uses for both socio-economic development and biodiversity conservation, but can have negative impacts if conducted too intensively, or inappropriately</p> <p>A measured and phased approach to wildlife ranching would allow for collection of data on impacts of such industry on biodiversity conservation objectives.</p>

²⁵ <https://endangeredwildlifetrust.wordpress.com/2016/02/11/the-role-of-the-wildlife-ranching-industry-in-south-africas-green-economy/>.

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>negative impacts on conservation (wild animals no longer considered wild because they are generally kept in breeding camps, fed supplemental food to stay alive, protected from predators and given veterinary care, and 'wild' generally implying the animal can fend for itself).²⁶ Although the inclusion is qualified by reference to this practice having negative impacts if conducted too intensively, or inappropriately, wildlife ranching (broadly defined as a privately owned wildlife enterprise that generates some form of commercial benefit from wildlife)²⁷ should be further qualified, as per the suggested amendment. This would bring reference to wildlife ranching back in line with other draft policy (in particular, the ELLR policy, which identified intensive breeding as a reputational risk to South Africa, as well as resulting in habitat degradation. The ELLR Policy further recognised that intensive management compromises conservation, and particularly in the case of rhino, recommends that wildlife be moved out of captive breeding facilities and intensive management and back into the wild).</p> <p>We note that the Department has also published the Game Meat Strategy. Our observations are that this strategy is a departure from the positive and progressive provisions proposed in the White Paper. We therefore urge that a reconciliation be done on the White Paper and the Game Meat</p>		

²⁶ *Ibid.*

²⁷ *Ibid.*

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
Strategy to ensure that there is no compromise on wildlife conservation and protection.		
6.4. BENEFITS DERIVED FROM SOUTH AFRICA'S BIODIVERSITY		
Important benefits derived from South Africa's biodiversity have been discussed. We are therefore broadly supportive of this section, subject to one addition.	Support	We propose an addition: Recognize that intact ecosystems are essential human health as well. This White Paper, at 10.1.3 also points to the fact that green spaces significantly reduces the probability of depression in South Africa. Therefore, human health should be included as a benefit from South Africa's biodiversity.
7.1. INTERNATIONAL POLICY CONTEXT		
We agree with the international policy context, as identified, subject to the inclusion of certain relevant international multilateral agreements which have been excluded, including: <ul style="list-style-type: none"> • Convention on the Conservation of Migratory Species of Wild Animals • Convention for the Protection, Management, and Development of the Marine and Coastal Environment of the Eastern African Region • United Nations Declaration on the Rights of Indigenous Peoples 	Support, subject to amendments	Include: <ul style="list-style-type: none"> • Convention on the Conservation of Migratory Species of Wild Animals • Convention for the Protection, Management, and Development of the Marine and Coastal Environment of the Eastern African Region • United Nations Declaration on the Rights of Indigenous Peoples
7.2. NATIONAL POLICY AND LEGISLATIVE CONTEXT		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>The Conservation of Agricultural Resources Act, Act 43 of 1983 needs to be included under national legislation.</p> <p>Although the 1997 White Paper was never formally adopted, there should be more detail in the current Draft White Paper regarding how it departs from the 1997 White Paper, how it proposes a more workable and transformative vision for biodiversity conservation and sustainable use, and how the 1997 White Paper failed in its objectives. We have broadly identified four areas in terms of which the draft White Paper differs from the 1997 White Paper. These include:</p> <ul style="list-style-type: none"> • The White Paper presents a much more Afrocentric approach to conservation and sustainable use with strong transformation agenda. • The White Paper emphasises definitions much more strongly (especially in relation to conservation and sustainable use). • The White Paper includes the one welfare approach (highlighting the interconnections between animal welfare, human wellbeing and the environment), which is not included in the 1997 White Paper. • The White Paper adopts an integrative approach, which demonstrates how conservation has evolved. <p>More attention needs to be given to the 1997 White Paper in the White Paper.</p>	<p>Support, subject to amendment</p>	<p>Include the Conservation of Agricultural Resources Act, Act 43 of 1983.</p> <p>Include more detail in the current Draft White Paper regarding how it departs from the 1997 White Paper, how it proposes a more workable and transformative vision for biodiversity conservation and sustainable use, and how the 1997 White Paper failed in its objectives.</p>

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
7.3. PROVINCIAL AND MUNICIPAL LAWS AND POLICIES		
Sufficient information regarding provincial and municipal laws has been provided, without overburdening the White Paper with a comprehensive list of all relevant laws.	Support	
8. PROBLEM STATEMENT		
<p>While the problem statement importantly identifies that “despite having a range of biodiversity and sustainable use legislation and policies, biodiversity loss continues to threaten the health of ecosystems and survival of species, and results in negative impacts for livelihoods and the economy.”</p> <p>However, there are certain respects in which the problem statement does not go far enough in addressing the problem and its elements. Additions are necessary to ensure that the problem is comprehensively and holistically addressed.</p> <p><u>Climate change</u></p> <p>Climate change and biodiversity are the two most pressing issues of our time. Despite this, they are often addressed separately, for example, each is governed by a separate international convention (the Convention on</p>	Support, subject to amendments	Make express reference to and mandate the need to use the Biodiversity Offset Guidelines and the Biodiversity Action Plan to resolve biodiversity loss.

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>Biological Diversity and the UN Framework Convention on Climate Change). This functional separation creates a risk of incompletely identifying, understanding and dealing with the connections between the two. It is necessary to look at climate change and biodiversity as parts of the same complex problem in order to develop solutions that avoid maladaptation and maximize the beneficial outcomes.²⁸ Policies often tackle the problems of climate change and biodiversity loss independently. Given the interconnectedness between climate change and biodiversity, policies <u>and laws</u>, including the White Paper, should simultaneously address synergies between mitigating biodiversity loss and climate change, while also considering their societal impacts, offer the opportunity to maximize co-benefits and help meet development aspirations for all.²⁹ The White Paper must create synergies between natural resource exploitation, the Biodiversity Action Plan and the National Biodiversity Offset Guidelines. For example, the Minister has acknowledged³⁰ that biodiversity offsetting is an important tool in ensuring biodiversity conservation, yet this tool is not consistently and effectively implemented in environmental impact assessments. Legislation such as the Upstream Petroleum Resources Development Bill, which provide for an accelerated exploitation of petroleum resources, and the Proposed Regulations to the Exploration and Production of onshore oil and gas Requiring Hydraulic Fracturing, need to be aligned with the purposes of this Draft White Paper,</p>		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>the Biodiversity Action Plan and the Biodiversity Offset Guidelines. Research studies conducted in other jurisdictions have shown that activities such hydraulic fracturing deplete animal and plant species, and cause losses to aquatic biodiversity.³¹</p> <p>Climate change is one of the main drivers of biodiversity loss and exacerbates risks to natural and managed habitats. Increased concentrations of greenhouse gases lead to increased temperatures, changes to rainfall patterns and increased frequency of extreme weather events all have the capacity to lead to loss of biodiversity. At the same time, natural and managed ecosystems and their biodiversity play a key role in mitigating greenhouse gases, as well as in supporting climate adaptation.³² Nature's ability to attenuate climate change is being compromised by ecosystem degradation, and maintaining biodiversity relies on well-targeted conservation efforts. Climate change and biodiversity loss pose significant threats for human livelihoods, food security and public health, and such negative impacts are disproportionately felt by communities that are socially, politically, geographically and/or economically marginalized. Therefore limiting global warming to ensure a habitable climate and protecting biodiversity are mutually supporting goals.</p>		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>South Africa has ratified the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, which impose obligations to set and pursue nationally-determined greenhouse gas (GHG) reduction targets, as well as to increase investment in climate adaptation programmes. Implementing land- and ocean-based actions to protect, sustainably manage and restore ecosystems has co-benefits for climate mitigation, climate adaptation and biodiversity objectives and can help to contain temperature rise within the limits envisaged by the Paris Agreement.³³</p> <p>Despite the important linkages between climate change and biodiversity, climate change is only mentioned in the White Paper under Goal 2: Biodiversity conservation is promoted, and policy objective 3.8: Adopt climate resilient approaches to biodiversity conservation and management to restore and maintain ecosystem goods and services. Climate change should be expressly mentioned in the problem statement and in other goals and policy objectives.</p> <p>In addition to the above, the current language in the White Paper must require as an obligation that decision-makers stay abreast of the ever-evolving scientific knowledge related to climate change and the effects of greenhouse emissions on reducing vulnerability and resilience of the</p>		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>environment and related biodiversity. Decision makers must be obligated to ensure that all decisions made pursuant to this White Paper and corresponding legislation and regulations, are grounded in and supported by the best available climate science. The policy paper must also explicitly incorporate the obligation (in empowering legislation to follow) to give effect to the precautionary principle which requires decision-makers to adopt a cautious and risk-averse approach to decision-making, and which dictates that lack of scientific certainty does not absolve government officials from their duty to act against climate change.</p> <p>All adaptation and mitigation efforts must be anchored in the best available science, evidence and information, all of which chart realistic as well as cost- or resource-optimized and efficient transition pathways to a future without the use of fossil fuels which categorically damage the environment and its biodiversity. In the coming years, South Africa will need to continue to adopt stricter nationally determined contributions (NDCs) with respect to greenhouse gas emission reductions pursuant to the requirements of the Paris Agreement. These increasingly stringent targets must be aligned with the principles of fairly shared contributions to climate change mitigation and adaptation efforts.</p> <p><u>Contribution of the biodiversity sector to GDP</u></p>		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>We oppose measuring the contribution of biodiversity to the country's Gross Domestic Product, as using contribution to GDP as a metric for biodiversity is at odds with conservation objectives (by using biodiversity unsustainably in pursuit of contributing to GDP, 'impact inequality' arises where demand exceeds nature's ability to supply, and biodiversity is eroded).³⁴ GDP does not account for the depreciation of assets, including the natural environment. As our primary measure of economic success, it therefore encourages us to pursue unsustainable economic growth and development.³⁵ While we support the reference to the biodiversity sector contributing to the country's economy, we disagree with using GDP as a metric of biodiversity. GDP is a monetary measure of the market value of all the final goods and services produced in a specific time period. However, the true value of the goods and services biodiversity provides to society aren't reflected in market prices and cannot be measured in terms of GDP.³⁶</p> <p>Finally, the problem statement should make express mention of the principles contained in section 2 of NEMA, as NEMA provides the broad basis for environmental management and mention of the principles in the White Paper is conspicuously lacking.</p>		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
9.1. A VISION		
<p>In general, we support the vision. We are however concerned that referring to a “prosperous nation” in the context of a White Paper on the conservation and sustainable use of biodiversity is too ambitious. It suggests that the biodiversity sector is solely responsible for the prosperity of the nation, which is unrealistic. Furthermore, it is implicit in ‘living in harmony with nature’ that a nation would be prosperous. It is consequently not necessary to expressly refer to a ‘prosperous’ nation.</p>	<p>Support, subject to amendments.</p>	<p>A prosperous nation, living in harmony with nature, where biodiversity is conserved for present and future generations, and secures equitable livelihoods and improved human well-being.</p> <p>[Present and future generations living in harmony with nature, where biodiversity is conserved, equitable livelihoods secured, and wellbeing of people and wildlife improved]</p>
9.2. THE MISSION		
<p>We are broadly supportive of the mission as currently framed. There should however be greater recognition in the mission statement of the dependence of livelihoods on flourishing biodiversity.</p>		<p>To conserve South Africa’s biodiversity, and maintain and/or restore ecological integrity, connectivity, processes, and systems, [recognising that biodiversity underpins all life and livelihoods] with resulting ecosystem services providing transformative socio-economic development benefits to the nation, through justifiable, responsible, and ecologically sustainable, and socially equitable, use of components of biodiversity.</p>
9.3. IMPACT STATEMENT		
<p>We are broadly supportive of the impact statement, subject to the following:</p> <ul style="list-style-type: none"> • What is meant by the ‘integrative approach’ is unclear. This term 		<p>Thriving people and nature.</p> <p>This statement recognises that:</p>

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>should be defined upfront to avoid uncertainty (we have addressed this in the definitions section above).</p> <ul style="list-style-type: none"> • There is nothing in the impact statement which refers to our relationship with the natural world • There is also nothing in the impact statement about climate change. We have highlighted above the critical importance of including explicit references to climate change and biodiversity in the context of the White Paper, and express reference to climate change <p>We disagree with the use of the terms “GDP” in the context of biodiversity conservation and use. For reasons discussed above, GDP is an inappropriate metric</p>		<p>(a) [We, as a nation, are dependent on biodiversity, as it underpins all life and livelihoods;]</p> <p>(b) [Biodiversity loss and climate change are inextricably linked, and efforts to keep climate change well below 2 degrees C and close to 1.5 degrees C above pre-industrial levels are needed to prevent climate impacts from overwhelming all other actions in support of biodiversity, while the conservation and restoration of ecosystems can play a substantial role in climate change mitigation and adaptation;]²⁸</p> <p>(a) An integrative approach will be the primary framework for action to address threats to biological diversity, and to establish priorities for its conservation;</p> <p>(b) Conservation efforts will focus not only upon relatively “natural” landscapes, but will include abandoned crop fields, near natural areas, and wilderness that provides ecosystem goods and services that sustain human health, fuel [underpin] the economy, prevent environmental degradation, and promote conservation of wildlife heritage, including water source areas;</p> <p>(c) Biodiversity and conservation will provide a competitive advantage for the wildlife-based economy to make a significant contribution to the Gross Domestic Product (GDP);</p>

²⁸ GBO 5 Summary for Policy-makers, page 12.

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
		(d) Sustainable conservation of biological resources is centred around the participation and involvement of all members of society; (e) Biological diversity is best conserved in the wild (in-situ), through the conservation and restoration of ecosystems and natural habitats, and the maintenance and recovery of viable populations of species in these managed and natural ecosystems; (f) Ex-situ measures will be implemented primarily for the purpose of complementing in-situ conservation measures;
9.4. GUIDING PRINCIPLES		
<p>We are very supportive of a principled approach, and that the principles be considered in applicable activities and practices, and in the development of legislation and policy, subject to the amendments suggested, namely:</p> <ul style="list-style-type: none"> • “One welfare” must be included as principle. • “Public trust” is not an economic principle, it should rather be included under “decision-making principles” • The “Governance” principles need to be expanded to include a 	Support, subject to amendments	<p>[9.4.13. One Welfare: The welfare of wild animals must be seen in relation to its interconnection with human well-being and the environment, and that adopting this approach requires humane and responsible standards and practices to be incorporated into the ethos and regulation of wildlife management]²⁹</p> <p>9.4.13.6. Living with Biodiversity: In recognizing and acknowledging their sacrifices, people living with biodiversity, for the public good, should be prioritized in terms of [that certain people are at risk from living alongside biodiversity and therefore their] access [to]</p>

²⁹ This is consistent with the ELLR Policy, which advocates the adoption of a One Welfare approach.

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>principle (consistent with evidence-based decision-making) that the burden of proof that the conduct in question is consistent with the principles set out in the White Paper is with the person who wants to use biodiversity (before a decision is made, the person who wants to use a component of biodiversity must demonstrate responsibility in relation to such use).</p> <p>Guiding principles should incorporate references to the principles of decentralization, participation, transparency, and accountability, particularly when they must be considered in all matters pertaining to the mutual interests of protected areas and indigenous and other traditional peoples. These principles will provide justiciable grounds- at least in reference to indigenous and traditional peoples- for a human rights-based approach to conservation and sustainable use development.</p> <p>[9.4.16] Agreed that scientific, traditional, and other forms of reliable knowledge should underpin biodiversity conservation but they should be used by all legislative, executive and judicial branches of the government. It must be made clear that such evidence would be considered by policy makers, administrative decision makers, and judges in their respective forums.</p>		<p>and flow of benefits from biodiversity, and mitigation of negative impacts incurred, [must be prioritised];</p> <p>9.4.13.4. Improved performance: Law, policies, decisions and interventions in the biodiversity sector, given effect by sufficient human and financial capital, should improve efficiencies in governance, collective buy-in of affected role players, enhance uniformity [responsiveness] across South Africa and reduce financial and biodiversity and ecosystem vulnerabilities.</p> <p>[9.4.15] Environmental education must extend beyond community workshops. Educational curriculums should incorporate environmental education as well.</p> <p>[9.4.16.7. That the burden of proof that an activity is consistent with the principles set out in the White Paper lies with the person or organisation wanting to use the component of biodiversity.]</p>

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
10.1. The Rationale for goals and objectives.		
Goal 1		
<p>Traditional approaches to conservation have generally involved the declaration of protected areas with little regard for IPLC inhabiting those areas. The exclusion of human activities from protected areas has historically been viewed as fundamental to conservation.³⁰ Such so called “fortress” or “fences and fines” approaches have tended to see people and nature as separate from each other and the concerns and practices of IPLC as incompatible with conservation.³¹ This exclusionist approach to conservation strongly conflicts with social and economic realities at the local level, and has resulted in marginalization of IPLC from the ecosystems of which they have historically been a part and in which they have been living sustainably for generations. This is not only deeply problematic from a livelihood perspective, but severs cultural and spiritual ties people have with their land and the non-human animals alongside which they have been living.³²</p>	<p>Support, subject to amendments</p>	<p>10.1.1.6. Create large, contiguous, connected terrestrial [and marine] conservation landscapes [and seascapes] that enhance naturalness and wildness</p> <p>Goal should make clear reference to women and youth in the pursuit of transformation/transformational change</p> <p>Goal should also further make clear that to transform biodiversity conservation in an African context, is to establish long term conservation objectives grounded in an appreciation of ecological, historical, social and cultural complexities of the local area in which biodiversity and communities exist. One way in which the challenges outlined in this goal could be addressed in line with the policy objective of this goal, could be the referral to a new conservation concept known as community conserved areas.</p>

³⁰R Summers ‘Legal and institutional aspects of community-based wildlife conservation in South Africa, Zimbabwe and Namibia (1999) *Acta Juridica* 188.

³¹ Borrini-Feyerabend, G., Kothari, A. and Oviedo, G. (2004). *Indigenous and Local Communities and Protected Areas: Towards Equity and Enhanced Conservation*. IUCN, Gland, Switzerland and Cambridge, UK xiv; S Watts and H Faasen ‘Community-based conflict resolution strategies for sustainable management of the Tsitsikamma National Park, South Africa’ (2009) 91(1) 25 at 26.

³² Borrini-Feyerabend, G., Kothari, A. and Oviedo, G. (2004). *Indigenous and Local Communities and Protected Areas: Towards Equity and Enhanced Conservation*. IUCN, Gland, Switzerland and Cambridge, UK xiv.

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>The exclusion of IPLC from protected areas has also been marred with violence in the form of evictions and the criminalization of harvesting of wild plants and animals for the sustenance of livelihoods and cultural practices.³³ An increase in poaching practices (the motivations for which are complex from a socio-economic perspective) within protected areas has also seen a rise in the ‘militarisation of conservation’ as conservation authorities endeavour to protect wildlife from poaching. Communities living alongside protected areas are viewed as problematic illegal poachers, blamed for depletion of wild plants and animals in protected areas.</p> <p>Such conventional exclusionary approaches have provoked significant social costs.³⁴ Under the colonial conception of conservation (which sought to preserve wildlife for sports hunting, and later declare nature reserves as sanctuaries for wildlife ‘free from human intervention’) the declaration of protected areas ignored indigenous property and hunting rights, and peoples’ links to the land from a cultural and religious</p>		

³³ Matose and T Mushonga ‘Conservation and violence in Africa’ in *The Violence of Conservation in Africa* (2022) 13; T Mushonga and F Matose ‘Dimensions and corollaries of violence in Zimbabwe’s protected forests’(2020) 117 *Geoforum* 216 at 222.

³⁴ Borrini-Feyerabend, G., Kothari, A. and Oviedo, G. (2004). *Indigenous and Local Communities and Protected Areas: Towards Equity and Enhanced Conservation*. IUCN, Gland, Switzerland and Cambridge, UK xiv; H Jonas, A Kothari and H Shrumm ‘Legal and institutional aspects of recognizing and supporting conservation by indigenous peoples and local communities’ (2012) *Natural Justice* 9.

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>perspective.³⁵ This Western, preservationist approach advocates for conservation of nature on the basis of forceable exclusion from protected areas of IPLC that traditionally rely on such areas for their livelihoods, ignoring a more ecocentric approach which views people as part of the landscape and environment.</p> <p>In light of the problematic approach described above, we fully support Goal 1, biodiversity conservation and sustainable use is transformative, including local and indigenous communities that have historically been excluded from conservation efforts and the biodiversity sector in general. We do however have a few proposed amendments:</p> <ul style="list-style-type: none"> • 10.1.1.3. It is not clear what is meant by 'Conservation Philosophy'. This should be more clearly explained, as well as the word 'integrated' in relation to 'Conservation Philosophy.' <p>10.1.1.6. This policy objective should also include the marine environment, not just the terrestrial environment.</p>		
Goal 2		
We broadly support this goal. We are however concerned that the White	Support	

³⁵ A Hubschle 'The social economy of rhino poaching: Of economic freedom fighters, professional hunters and marginalized local people' (2016) 65(3) *Current Sociology* 427 at 431

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>Paper does not expressly state where it ranks in relation to other policy, and how conflicts between policies of different government departments (for example, conflicts between the mandate of the Department of Minerals and Energy in relation to promoting mining and related activities, and the mandate of DFFE to promote conservation) are to be resolved. The White Paper laudably calls for ‘mainstreaming’ of biodiversity considerations across all sectors, and notes that co-operative governance is essential, but does not clearly articulate how policy conflicts will be resolved besides stating in principle 9.4.15.2. that “actual or potential conflicts of interest between organs of state should be resolved through conflict resolution procedures.”</p> <p>In our view, this does not go far enough in addressing potential conflicts, and the White Paper should clearly articulate where it ranks in relation to other, potentially conflicting, policies.</p>		
Goal 3		
<p>We broadly support Goal 3 and its policy objectives. However, what is starkly missing is a policy objective pertaining to resourced and capacitated protected and conservation areas (again, the latter term needs to be defined). It is important that the White Paper makes provision for Government’s responsibility to proclaim and resource protected areas</p>	<p>Support, subject to amendments</p>	<p>10.1.2.2. Establish a representative [and rationalised] system of protected and conservation areas that are effectively and efficiently managed [and resourced]</p>

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
and conservation areas. The issue of resources and capacity in the context of protected areas is a key issue, and policy needs to address this.		
Goal 4		
<p>We broadly support Goal 4 and its policy objectives. However, the Goal currently lacks a policy objective in terms of which unregulated use is brought within the regulatory ambit. This use pertains particularly to the ecologically sustainable use of components of biodiversity for cultural and traditional use in accordance with customary practices. In this regard, it is important to note that legislation and policy cannot simply extinguish a customary right. This was confirmed by the Supreme Court of Appeal in <i>Gongqose v Minister of Agriculture, Forestry and Fisheries</i>.³⁶ In this case, the SCA held that: “<i>there were two requirements to extinguish a customary right: ‘first, ... a customary right can only be extinguished by legislation specifically dealing with customary law; and secondly, that such legislation must do so either expressly or by necessary implication’.</i>”</p> <p>The implication of the <i>Gongqose</i> judgment is that “<i>customary law can only be altered by legislation if the legislature has considered the content of customary law. Even then, legislation must be read to avoid or limit any alteration or extinguishment of customary law. If interference is inevitable,</i></p>	Support, subject to amendments	[10.1.3.10. Ensure that the ecologically sustainable use of biodiversity for the exercise of a cultural right or practice is respected and managed]

³⁶ 2018 (5) SA 104 (SCA).

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p><i>there will ordinarily be a limitation of rights that the state must justify. Justifications sourced in conservation must be carefully scrutinised, and justified by scientific evidence, not assumptions. Environment-based justifications must also be evaluated through a lens that sees people as part of the environment, not separate from it, and that recognises the need for equitable access to resources.”³⁷</i></p> <p>In the context of the White Paper, this means that there needs to be a policy objective which creates the enabling environment to sustainably use biodiversity for the purposes of exercising a cultural practice or right.</p>		
<p>Goal 5</p>		
<p>We broadly support this Goal. However, we propose that this goal be further revised to embrace the rights of indigenous and local communities to identify the rightful holders of their traditional knowledge associated with genetic resources, within their communities.</p> <p>The goal to control access to genetic resources by the State should not diminish or extinguish the existing rights of indigenous and local communities protected in the UNDRIP; i.e the rights of indigenous communities to give free, prior and informed consent to any Biotrade agreements affecting their lands and territories and to benefit from such Biotrade.</p>	<p>Support, subject to amendments</p>	<p>Propose amendment of the goal to include protection of the rights of IPLCs to give free, informed and prior consent, to access benefits from Biotrade of genetic resources and recognition as rightful holders of traditional knowledge associated with genetic resources within their communities.</p>

³⁷ M Bishop ‘Asserting customary fishing rights in South Africa’ (2021) *Journal of Southern African Studies* 47(2), page 1.

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
In enacting Article 15 of the Convention on Biodiversity, the Bonn Guidelines on Access to genetic resources and Fair and Equitable Sharing of the Benefits Arising Out of Their Utilization are valuable to protecting the rights of IPLCs in this regard.		
Goal 6		
<p>We are broadly supportive of this Goal, but what is critically lacking is a reference to resource capacity. The White Paper includes highly transformative, aspirational goals, but none of these will be achieved if adequate resources are not mobilised. It is very important that resources (both human and financial) are explicitly addressed in the White Paper, and we recommend including an additional policy objective to address this.</p> <p>We therefore propose that the name of the Goal be changed to accommodate an objective that relates to enhanced</p>	Support, subject to amendments	<p>10.1.5 GOAL 6: ENHANCED CAPACITY [AND RESOURCES]</p> <p>[10.1.5.7. Sufficient human and financial resources are allocated to the conservation of biodiversity]</p>
Goal 7		
<p>We support Goal 7</p> <p>We support developing inclusive economic opportunities that are compatible with and which complement the conservation and sustainable use of biodiversity. As a way to achieve the common goal among different</p>	Support	<p>Identify the specific projects and departments with which the Department of Forestry, Fisheries, and the Environment can collaborate. The 5th Bio Convention 2022 and the</p>

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>departments, the Department of Forestry, Fisheries, and the Environment should collaborate closely with the Department of Higher Education, Science and Innovation. Minister Blade Nzimande has made comments on the 5th Bio Convention 2022 on 29/AUG/2022 (https://www.gov.za/speeches/minister-blade-nzimande-5th-bio-africa-convention-2022-29-aug-2022-0000). Minister Nzimande recognized the importance of Bio-economy and sustainable management, which is in line with this White Paper's goal to develop biodiversity economy in South Africa.</p>		<p>Department of Higher Education, Science and Innovation are good opportunities for inter-departments collaboration to achieve Bio-economy.</p>
<p>Goal 8</p>		
<p>We are broadly supportive of Goal 8. However, the Goal and policy objectives under the goal must be expanded to refer not only to multilateral agreements, but the implementation of global responsibilities in relation to those agreements as well as obligations in relation to shared resources.</p> <p>Further, the reference to multilateral agreements should not be limited to agreements pertaining to biodiversity and sustainable use. There may be a range of other agreements that don't deal specifically with the conservation and sustainable use of biodiversity, but which may have an impact on biodiversity (for example, agreements related to trade).</p>	<p>Support, subject to amendments</p>	<p>10.1.7.1. Develop an integrated, coordinated, [inclusive] and effective approach to international and multilateral engagements [and implementation of global responsibilities] on biodiversity and [ecologically] sustainable use [including agreements that may impact biodiversity which do not have, as a specific objective, the conservation and ecologically sustainable use of biodiversity] and equitable benefit sharing.</p> <p>[10.1.7.2. Implement international obligations in relation to shared resources].</p>

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
South Africa is also a party to several conventions (such as the Convention on Migratory Species) in terms of which it must manage shared resources. Express recognition must be given in a policy objective to South Africa's obligations in this regard.		
10.2. Strategic Linkages and impact		
Support.	Support	
10.3. Theory of Change (Figure 1)		
We support the Theory of Change, subject to the amendments to the policy objectives detailed above.	Support, subject to amendments	
10.4. Policy Objectives and expected outcomes		
10.4.1 Placing Conservation in Context: a progressive definition of Conservation for use in Policy and Legislation		
We support the definition of “conservation”, subject to the amendments we proposed under the definition of “conservation” in these comments	Support	
10.4.1.1 More detailed elaboration of the basis of each component of the definition		
Support	Support	

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
10.4.2 Placing Sustainable Use in Context: a progressive definition for use in Policy and Legislation		
We agree that the current definition of “sustainable use” as contained in NEMBA has become too narrow, and we support the definition of “sustainable use” put forward in the White Paper, subject to the amendments we proposed under the definition of “sustainable use” in these comments.	Support	
10.4.2.1 Sustainable Use of components of biodiversity		
Support	Support	
10.4.3 Placing animal well-being in context		
Support	Support	
10.5. POLICY OBJECTIVES AND EXPECTED OUTCOMES (TABLE 1)		
GOAL 1: BIODIVERSITY CONSERVATION AND SUSTAINABLE USE IS TRANSFORMATIVE:		
Support, subject to recommendations and amendments detailed above.		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
1.1. Enable transformation of biodiversity conservation in an African context.		
Support	Support	
The best way to understand ecosystem management is as an adaptive process that is highly reliant on the context and biological history of the local area. We support this narrative as has been adopted in the current policy language.		
1.2. Enable sustainable use for ecological sustainability and inclusive socio-economic development.		
We object to using GDP as a metric for biodiversity for the reasons highlighted above. We recommend amending Expected Outcome 4. The bar of “substantially” is also too high, and places too high an obligation on the biodiversity sector to contribute to alleviating the triple challenges of poverty, unemployment and inequality. This could lead to degradation of biodiversity if the emphasis is on its contribution to addressing these problems in a substantial way.	Support, subject to amendments	4. Biodiversity contributes substantially to National GDP and to addressing SA's triple challenges of poverty, unemployment and inequality.
1.3. Adopt an integrated Conservation Philosophy that is in line with the principles of Ubuntu.		
We have already indicated that a “Conservation Philosophy” needs to be clearly articulated	Support, subject to amendments	

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do you propose?
1.4. Adopt practices that do not harm biodiversity.		
Support	Support	
1.5. Promote participation and influence of previously disadvantaged individuals in biodiversity conservation and sustainable use.		
Support	Support	
1.6. Create large, contiguous, connected terrestrial conservation landscapes that enhance naturalness and wildness.		
Support, subject to amendments proposed.	Support	1.6. Create large, contiguous, connected terrestrial [and marine] conservation landscapes [and seascapes] that enhance naturalness and wildness
1.7. Ensure protected areas as effective drivers of inclusive socio-economic development.		
Support	Support	
1.8. Secure socio-economic interventions that drive equitable sustainable development.		
Support	Support	

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
GOAL 2: INTEGRATED, MAINSTREAMED AND EFFECTIVE BIODIVERSITY CONSERVATION AND SUSTAINABLE USE		
Support, subject to recommendations and amendments detailed above.	Support	
2.1. Enhance co-operative governance across spheres of government.		
We support this policy objective, but in relation to Expected Output 3(c), critically missing is mention of the Department of Mineral Resources and Energy. As progressive as the Goals and Policy Objectives contained in the White Paper are, these stand to be significantly undermined by the mandate and policies of the Department of Mineral Resources and Energy. It is fundamental that any co-operative governance mechanisms contemplated in the White Paper take into account DMRE and potential conflicts which may arise between the relevant mandates of DMRE and DFFE in particular. We have already detailed how, in our view, the White Paper does not go far enough in addressing how co-operation and co-ordination between various State Departments and organs of state is to take place, but it is essential that under this Policy Objective, DMRE is included	Support	(c) Terrestrial Biodiversity (historical DFFE), Marine, Forestry, Agriculture, Rural Development, Land Reform, Water Affairs, Tourism, Small Business Development, and Social Development, [and Minerals and Energy]

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
2.2. Integrate and mainstream the conservation and sustainable use of biological diversity into all sectoral and cross-sectoral work at all levels of government and in society.		
Support	Support	
2.3. Strengthen arrangements to conserve biodiversity, both inside and outside of protected areas.		
Support	Support	
2.4. Identify and implement resource mobilisation, with innovative financial solutions to fund transformation and promote financial sustainability.		
Support	Support	
GOAL 3: BIODIVERSITY CONSERVATION PROMOTED:		
We support Goal 3, subject to the proposed amendments detailed above	Support	
3.1. Evidence-based conservation priorities.		
Support	Support	

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do you propose?
3.2. Establish a representative system of protected and conservation areas that are effectively and efficiently managed.		
Support, subject to proposed amendment	Support	Establish a representative [and rationalised] system of protected and conservation areas that are effectively and efficiently managed [and resourced]
3.3. Conservation areas better integrated into broader ecological and social landscapes.		
Support, subject to a definition of “conservation areas” being included	Support	
3.4. Rehabilitate and restore degraded ecosystems, and strengthen and promote threatened species recovery where practical.		
Support	Support	
3.5. Prevent the introduction, establishment, and spread of potentially harmful alien species, and control and eradicate, where feasible, invasive species which threaten ecosystems, habitats and species		
Support	Support	
3.6. Minimise the potential risks associated with the release of genetically modified organisms into the environment, taking into account risks to human health.		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
Support	Support	
3.7. Support, complement, and enhance in-situ biodiversity conservation and ecologically sustainable use, through ex-situ practices.		
Support	Support	
3.8. Adopt climate resilient approaches to biodiversity conservation and management to restore and maintain ecosystem goods and services.		
Support	Support	
3.9. Prevent where possible, or minimise risk of animal-human transmission, and further evolution, of Zoonotic diseases associated with wild animals.		
Support	Support	
GOAL 4: RESPONSIBLE SUSTAINABLE USE:		
We support Goal 4, subject to the inclusion of the additional Policy Objective 4.10.	Support	[4.10 Ensure that the ecologically sustainable use of biodiversity for the exercise of a cultural right or practice is respected and managed]

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
4.1. Prevent ecological degradation, through enhancing ecological integrity and resilience.		
Support	Support	
4.2. Avoid and/or minimise adverse impacts of development and use on biodiversity and ecosystem services.		
Support	Support	
4.3. Enhance sustainable use of biological resources in terrestrial, freshwater, marine and coastal ecosystems.		
Support	Support	
4.4. Multisectoral plans, approaches and practices promote biodiversity conservation and enhance ecological integrity.		
Support	Support	
4.5. Promote the conservation, wise use, and prevent further loss and degradation of wetlands, strategic water source areas, and other ecological infrastructure.		
Support	Support	

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
4.6. Ensure the protection, conservation, and sustainable use of marine, estuaries, and coastal ecosystems and their natural resources.		
Support	Support	
4.7. Integrate biodiversity conservation and ecological integrity into landuse planning and implementation.		
Support	Support	
4.8. International trade in biodiversity promotes biodiversity conservation, equitable socio-economic development and protects biodiversity heritage.		
Support	Support	
4.9. Sustainable lifestyles promote socially and ecologically sustainable development.		
Support	Support	
GOAL 5: EQUITABLE ACCESS AND BENEFIT SHARING:		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
5.1. Regulate access to, and benefit sharing from, the use and development of South Africa's indigenous genetic and biological resources, their information and data.		
Support	Support	
5.2. Use and development of genetic and biological material for agriculture promote biodiversity-based food security.		
Support	Support	
GOAL 6: ENHANCED CAPACITY:		
We broadly support Goal 6, subject to the proposed amendments	Support	GOAL 6: ENHANCED CAPACITY [AND RESOURCES] [6.7. Sufficient human and financial resources are allocated to the conservation of biodiversity]
6.1. Increase public education, awareness and stewardship of the value and importance of biodiversity, and public involvement in its conservation and sustainable use.		
Support	Support	
6.2. Data and information forms the basis of decision making and practice.		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support</u> or <u>oppose</u> the <u>proposal?</u>	What <u>amendments</u> do you propose?
Support	Support	
6.3 Knowledge and understanding of South Africa's biodiversity informs effective decision-making and practice.		
Support	Support	
6.4. Monitoring and evaluation informs biodiversity conservation, management, and sustainable use.		
Support	Support	
6.5. Indigenous/ Traditional knowledge and practice provides localised solutions to biodiversity conservation and sustainable use.		
Support	Support	
6.6. Enhance the capacity necessary to conserve and use South Africa's biological diversity sustainably.		
Support	Support	
GOAL 7: BIODIVERSITY ECONOMY TRANSFORMED:		
Support	Support	

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
7.1. Promote and develop inclusive economic opportunities that are compatible with and which complement the conservation and sustainable use of biodiversity.		
Support	Support	
7.2. Create and implement mechanisms that support the conservation and sustainable use of biodiversity.		
Support	Support	
GOAL 8: PROMOTE THE CONSERVATION AND SUSTAINABLE USE OF BIODIVERSITY GLOBALLY		
We support Goal 8, subject to the proposed amendments	Support	[8.2. Implement international obligations in relation to shared resources].
8.1. Develop an integrated, coordinated, and effective approach to international and multilateral engagements on biodiversity conservation, sustainable use, and equitable benefit sharing.		
Support, subject to proposed amendments	Support	8.1. Develop an integrated, coordinated, [inclusive] and effective approach to international and multilateral engagements [and implementation of global responsibilities] on biodiversity and [ecologically] sustainable use [including agreements that may impact

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
		biodiversity which do not have, as a specific objective, the conservation and ecologically sustainable use of biodiversity] and equitable benefit sharing.
IMPLEMENTING THE POLICY		
11.1. INTRODUCTION		
<p><u>Cooperative governance</u></p> <p>The White Paper notes that “<i>cooperative governance within national, provincial and local spheres is necessary for the effective implementation of this policy. Cross-sectoral cooperation within each sphere of government will also be crucial, given that biodiversity issues are of relevance to virtually every government institution.</i>”</p> <p>While we are supportive of this statement, we have already set out our concern that the White Paper does not go far enough in addressing how cooperation between government departments and cross-sectoral cooperation is to occur. We have advised that guiding principles and outcomes in relation to co-operative governance are lacking, and need to be included in the White Paper.</p> <p><u>Funding</u></p> <p>The White Paper states that “[<i>it</i>] is essential that close and urgent attention and planning be given to financing and implementing the policy</p>	Support	

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p><i>objectives...Innovations will be required to develop new funding models, including an emphasis on public-private partnership that incorporate local rural communities in meaningful ways as leaders and full beneficiaries.”</i></p> <p>We agree that financing is going to be a critical factor in the White Paper’s successful implementation. However, the White Paper must provide more detail on how such funding is going to be obtained. Without a funding plan, the White Paper will remain an ambitious and aspirational document that is incapable of implementation.</p> <p><u>Conflict resolution</u></p> <p>We have already highlighted that the White Paper also does not provide for adequate conflict resolution mechanisms between the different State departments in instances where there are potential policy conflicts. It is not clear overall how policy conflicts will be resolved, and this is something that needs to be specifically addressed in the White Paper: Where the White Paper ranks in terms of other DFFE policies, and in terms of policies of other State departments must be clearly articulated Provisions relating to conflict resolution must be clearly articulated.</p>		
11.2. ROLES OF THE KEY PLAYERS		
11.2.1 THE ROLE OF GOVERNMENT		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>Again, we have already highlighted our concerns regarding the lack of detailed description of how co-operative governance is to occur in relation to implementing the White Paper, and in relation to the absence of a suitable conflict resolution mechanism in terms of which potential policy and / or Government mandate conflicts are to be resolved. We reiterate these concerns here.</p> <p>We also note the role of National DFFE in implementing the White Paper but recommend that the list of actions that comprise this 'proactive role' be expanded to include "reviewing existing legislation."</p>	<p>Support, subject to inclusion of detailed provisions regarding co-operative governance and conflict resolution mechanism</p>	<p>[(g) reviewing existing legislation.]</p>
11.2.2 THE ROLE OF OTHER KEY PLAYERS		
Support	Support	
11.3. LEGISLATION		
Support	Support	
11.3.1 INTERNATIONAL FRAMEWORK		
Support	Support	
11.3.2 CONSTITUTIONAL IMPLICATIONS		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the <u>proposal?</u>	What <u>amendments</u> do you propose?
Support	Support	
11.3.3 LIMITATIONS OF EXISTING LEGISLATION		
We agree with the limitations identified	Support	
11.3.4 GAPS WITHIN EXISTING LEGISLATION		
We agree with the gaps identified	Support	
11.3.5 CRITERIA AND GUIDELINES		
Support	Support	
11.3.6 NATIONAL LEGISLATIVE STEPS		
We support the steps proposed. We note however that the steps proposed are very ambitious, and Government is going to need to act fast in order to prevent further degradation of South Africa's biodiversity	Support	
11.4. INSTITUTIONAL CHANGES REQUIRED		
Support	Support	
11.5. FUNDING		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
<p>One of the key concerns with the White Paper as it currently stands is the absence of detail regarding how, both in terms of human and financial resources, it is going to be implemented. While we again commend Government for proposing truly forward-thinking and progressive policy goals and objectives that embrace transformation of the sector, we are concerned that insufficient attention has been given in the White Paper to how it is proposed to be implemented.</p> <p>The White Paper recognises that <i>“it is essential that close and urgent attention and planning be given to financing and implementing the policy objectives,”</i> it also recognises under a very short paragraph headed “Funding” that <i>“the full and effective implementation of the policy will clearly not be possible without additional financial investments.”</i> While we agree entirely with this statement, in our view a clear articulation of potential avenues for funding needs to be detailed in the White Paper, as well as further detail (beyond just outlining the roles of the relevant stakeholders and government departments) regarding how the White Paper will be implemented. Without access to adequate funding, the White Paper will remain purely aspirational, and many of the transformational policy goals and objectives, unobtainable.</p>	<p>Support, but subject to amendments</p>	<p>Much more detail is required in terms of how Government plans on unlocking the necessary funding to achieve the Goals and policy objectives contained in the White Paper.</p>
<p>11.6. PRIORITY ACTION</p>		

What do you see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do you <u>support or oppose</u> the proposal?	What <u>amendments</u> do you propose?
Support	Support	