



10 September 2022

The Director-General
Department of Forestry, Fisheries and the Environment
PRETORIA

Attention: Ms Tsepang Makholela [whitepaper@dffe.gov.za]

Dear Ms Makholela

COMMENTS TO THE DRAFT WHITE PAPER FOR CONSERVATION AND SUSTAINABLE USE OF SOUTH AFRICA'S BIODIVERSITY 2022, PUBLISHED IN GOVERNMENT GAZETTE 46687 ON 8 JULY 2022

CPHC-SA thank the Minister and the DFFE for the opportunity to comment on the proposed White Paper, which to our understanding, will inform legislation in future.

Our organisation has attended an online, as well as a physical workshop in Pretoria as part of the Department's public participation process and we appreciate government's efforts to have as wide participation as possible. These workshops were also attended by individuals and/or groups who are known to be anti-sustainable utilisation and legal trade in wildlife and it was clear during the workshops, that many of their comments were not evidence-based or scientific, but rather based on emotions.

1. INTRODUCTION:

1.1. Time constraints

1.1.1. The White Paper references a vast body of legislation, scientific papers and international agreements and conventions. Proper consideration of the White Paper in the context of this body of material requires more time than the time granted for submissions, particularly for stakeholders with limited means and capacity.

1.1.2. We urge government to extend the period for submissions.

1.1.3. We reserve the right to make further submissions should such an extension be forthcoming.

1.2. The White Paper:



- 1.2.1. invokes our Constitution, correctly in our view, as the departure point for policies to guide future legislation;
- 1.2.2. incorporates guiding principles (§ 9.4);
- 1.2.3. brings in new and revised definitions (§ 4.2);
- 1.2.4. has a strong focus on transformation (Goals 1, 5 and 7)
- 1.2.5. a strong focus on equitable sharing of and access to biodiversity and its benefits (again, Goals 1, 5 and 7). However:

1.3. As the White Paper will in future inform all legislation related to biodiversity, we urge the Department to:

- 1.3.1. Ensure that information included in the White Paper will be evidence-based and scientific and that it can never be interpreted as emotional;
- 1.3.2. Ensure that the stipulations contained in the White Paper will be practical to the extent that it can in future inform legislation and /or be enforced;
- 1.3.3. Use the White Paper as an opportunity for the South African government to actively support and promote the sustainable use of renewable resources, including the hunting of wildlife.

Proposal:

CPHC-SA would like to propose that government's Public Relations Department starts a specific initiative in this regard. We have experienced the negative effect of international legislation, or intended legislation, the hunting industry in South Africa. We believe that the PR Department can now use the White Paper to actively promote the economic, socio-economic and biodiversity benefits of a responsible hunting industry.

1.4. The guiding principles

We urge against the use of concepts being used as guiding principles that do not have clear-cut and objective definitions, particularly legislative definitions. We submit that this may create more uncertainty than certainty. For instance, Ubuntu (§ 9.4.5). Whilst we support the values of Ubuntu, a cursory study of resources on the topic reveals a myriad of definitions and interpretations.

Proposal:

Sustainable use is one of the cornerstones of the White Paper. Responsible hunting is one of the most common forms of sustainable use. We submit that guiding principles that may be detrimental to responsible hunting as a legitimate form of sustainable use be carefully considered for the sake of policy clarity. For instance, Animal Well-being (§ 9.4.12). We support animal welfare. As an



association, we actively oppose the captive-bred predator industry for instance. Our opposition is in part based on animal welfare considerations. We however

submit that any references to animal welfare and animal well-being should be explicitly made subject to the recognition of legitimate and responsible hunting. (We submit that the definition in § 4.1 is probably as far as this principle should go.)

See also our further detailed submissions below with regard to the abovementioned.

1.5. Transformation, equitable access and benefit sharing

1.5.1. *We fully support transformation, equitable access and benefit sharing and will actively work with all stakeholders to achieve this. This is imperative.*

1.5.2. We submit that these goals should however be pursued with full awareness of any potential unintended consequences for our country and its people. To elaborate:

1.5.2.1. Our field of expertise is the wildlife sector, of which the hunting industry forms the cornerstone. We have intimate knowledge of the market forces that drive this important industry and also of the rural economies that benefit from it.

1.5.2.2. It is trite that the success of the South African conservation model, that brought many species back from the brink of extinction and rehabilitated large tracts of land, was and continues to be largely driven by private sector investment. See § 11.3.4.5 of the White Paper.

1.5.2.3. The wildlife and hunting industries are significant contributors to the economy and therefor the tax base. See for instance § 6.4. of the White Paper and the numbers quoted there. These industries contribute directly to government's financial ability to serve and improve the lives of our people.

1.5.2.4. The wildlife and hunting industries are significant creators of rural jobs. See for instance § 6.4. of the White Paper.

1.5.2.5. There are suggestions in the White Paper that measures and/or legislation may be implemented that may result in disinvestment in the wildlife economy, for instance:
§ 11.3.2.4 and § 11.3.4.5 – which summarize and affirm the potential for “deprivation” of property rights (that presumably include property rights in wildlife as recognized by our law), without compensation; ;these are not the only paragraphs dealing with this aspect, it is potentially implied throughout the White Paper; and
11.5.3.(a) – the introduction of potentially new taxes, levies and charges in already heavily taxed environment.



- 1.5.3.** We submit that disinvestment will have catastrophic consequences for the economy, the fiscus, job creation and the gains made in biodiversity conservation.
- 1.5.4.** We submit that the White Paper lacks sufficient particularity with regard to the intended legislation, manner and mechanisms through which equitable access and beneficiation will be achieved, particularly with reference to the wildlife sector and hunting industry. This again may lead to uncertainty which is not conducive to investment in the sector.
- 1.5.5.** We submit that ownership of wildlife, as a component of biodiversity, is inextricably linked with ownership of the land on which it occurs, whether such ownership is in private, state or communal hands. Together with the ownership comes the responsibility to maintain and invest in the land.
- 1.5.6.** We submit that, for the sake of policy certainty, the proper vehicle to address ownership of biodiversity components (and in the case of our industry in particular, wildlife), or the deprivation thereof, is South Africa's Land Restitution and Land Redistribution program.

1.6. STATE RUN CONSERVATION AREAS / PRIVATE SECTOR.:

Please see further detailed comments on the proposed White Paper below, based on our understanding that the White Paper:

- a. incorporates guiding principles (§ 9.4);
- b. brings in new and revised definitions (§ 4.2);
- c. has a strong focus on transformation (Goals 1, 5 and 7); and
- d. a strong focus on equitable sharing of and access to biodiversity and its benefits (again, Goals 1, 5 and 7).

1.6.1 The draft fails to distinguish between state run conservation areas whose mandate it is to protect and promote wildlife and biodiversity of those areas and whose goal is not profit as these state areas are protected by legislation. There needs to be a clear distinction from these areas from the private sector which has the goal of making a profit and is dependent on profit making for their continued existence and expansion. This is an essential difference to acknowledge in the draft as the successful private model is based on economic returns from the land that can successfully compete with other private land uses.



1.6.2 Furthermore, the private sector has a record of expanding wildlife considerable and has the incentive to continue to do so, while the government has greater risks of mismanagement and other financial priorities which could undermine future management of state reserves. Many of the provincial reserves are already underfunded and poorly managed. Therefore it is essential to incentivize further privately the expansion of private wildlife areas as an insurance or backup to the poorly managed state reserves.

1.7. ROLE OF HUNTING

The draft is very unclear on the role of hunting and international (trophy) hunting which is the backbone of the private wildlife sector. The language used is ambiguous and subject to different interpretations by different interest groups. Custodians would like the draft paper to enable and promote hunting as a vital economic activity in the private sector as well as the associated economic activities of game meat sales and culling. Custodians would like to see the unambiguous support of hunting in the draft paper. The wording and definitions are problematic in this regard and may enable the anti -sustainable use groups to challenge legislation in courts to the detriment of the private conservation efforts.

1.8. IN CONCLUSION

Lastly, CPHC-SA would appreciate further engagement with refining the white paper and with the subsequent drawing up of legislation to enact the stated objectives of the white paper. Currently it is very academic and vague on certain critical issues.

2. DETAILED COMMENTS:

Further to the above, CPHC-SA herewith submits the following detailed comments, whilst reserving our rights, to in future, still comment on, or enquire about, any stipulations in legislation flowing from the White Paper, which might not have been included in these comments.

	<p>EXECUTIVE SUMMARY: VISION (refer to clause 9.1 of the White Paper) The vision currently reads as follows: 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><u>CPHC-SA Proposal:</u> To include the word “inclusive”, to read as follows: An inclusive, prosperous nation, living in harmony.....</p>
	<p>EXECUTIVE SUMMARY: Paragraph 3: The approach identifies the path, out of</p>	<p><u>Proposal:</u></p>



	unsustainable practices, towards a world where all people have a high quality of life, a voice, and a nurturing earth supporting them,	To delete the negative sentence and replace it with positive: The approach identifies the path towards sustainable practices and a world where....
	EXECUTIVE SUMMARY: Paragraph 4: The vision and impact are based on by a set of principles which: (a) Derive directly from the Constitution and give clear effect to all the components of environmental rights in the context of biodiversity conservation and sustainable use;	Clarification needed: What exactly does environmental rights mean and entail? It is important to prevent any loopholes for anti-sustainable use groups to misinterpret. The White Paper’s purpose is to inform biodiversity legislation and any terminology that can be misinterpreted should be avoided, e.g., the word “Rights”
	EXECUTIVE SUMMARY: Paragraph 5: Ubuntu The police objectives and outcomes give direction for the future of the sector and the country, promoting a new approach that underpins a progressive understanding of biodiversity conservation and sustainable use, with a strong localised context through adopting the principles of Ubuntu.	Clarification: Reference is being made to Ubuntu through-out document. CPHC-SA supports the principle of Ubuntu. However, as the White Paper will inform any future legislation, how will it inform legislation? Proposal: It is important to not include terminology which cannot inform / be measured in any future legislation.
	EXECUTIVE SUMMARY: Second-last paragraph: This White Paper will set South Africa on a strong path of sustainable development based on rich biodiversity and the valuable eco-system services provided. It emphasizes the importance of the biodiversity sector to the South African economy, and to people’s livelihoods and well-being. This is underpinned by the strengthened conservation of biodiversity heritage, the restoration, rehabilitation, and rewilding of our natural landscapes, and a robust evidence base for effective decisions on, and responsible practices for, sustainable use.	Note: CPHC-SA appreciates government’s initiative to draft a document to be used in future to inform evidence-based legislation. Furthermore, the White Paper should also in future remove any doubts there might be about our government acknowledging and supporting responsible sustainable use.
4.2	ADDITIONAL DEFINITIONS:	
	Alien Species: The White Paper incorporates the definition of “Alien Species”. We submit that a narrow interpretation of this definition, and the application thereof in the White Paper, may not recognize the reality of the wildlife sector. This holds true particularly for species/wildlife that	Clarification Needed: How will the incorporation of this definition be applied going forward?



	<p>were lawfully translocated, outside their natural habitat and in large numbers, over the last decades. There is a presumption against legislation being applied retrospectively.</p>	
	<p>Conservation: Under the imperative of the Environment, (a) Protection, custodianship, care, maintenance, rehabilitation, restoration and recovery, of biological diversity and its components; (b) in a manner that, where justifiable, secures equitable and ecologically sustainable use, access and sacred appreciation; (c) of the benefits and values that present and future generations derive from nature’s contribution; (d) to improve the well-being of people consistent with Ubuntu.</p>	<p>Proposal:</p> <p>(b) This comment also refers to clause 7.2 of the White Paper. To remove the word “justifiable”. The DDG responded to our query during a workshop held in Pretoria on 25 August, that the word justifiable links with Section 24 of the Constitution, which reads as follows: “...securing ecologically sustainable development and use of natural resources while promoting justifiable economic and social development”.</p> <p>As the White Paper informs legislation, we believe that the addition of the word “justifiable” related to sustainable use, might lead to different interpretations when issuing authorities must decide about the issuing of permits for certain activities, e.g. hunting, culling, etc.</p> <p>Our understanding of Section 24 is that the word justifiable refers to sustainable development and not sustainable use, as such.</p> <p>(d) Ubuntu. CPHC-SA supports the principle of Ubuntu. However, we have our reservations as to how this will inform legislation in the sense of measurability, etc.</p>
	<p>The White Paper refers to “Protected Areas” and “Conservation Areas” throughout, without giving explicit definitions. We assume that, by implication, the definitions from NEMBA and the Protected Areas Act apply.</p>	<p>Proposal:</p> <p>CPHC-SA submits that clarification is required regarding the definitions.</p>
	<p>Sustainable Use: In relation to the use of any component of biodiversity, means the use of such component in a responsible way, and that; (a) does not contribute to its long-term decline in</p>	<p>Proposal:</p> <p>To delete the word “humane”. (d) to read: in the case of animals, does not compromise their well-being.</p>



	<p>the wild; or disrupt the genetic integrity of the population;</p> <p>(b) does not disrupt the ecological integrity of the eco-system in which it occurs;</p> <p>(c) ensures continued benefits to people that are fair, equitable and meets the needs and aspirations and present and future generations; and</p> <p>(d) in the case of animals, as humane and does not compromise their well-being.</p>	
	<p>Ubuntu: Refers to a unifying vision of community built upon compassionate, respectful, interdependent relationships and that serves as a “rule of conduct, a social ethic, which underpins the moral and spiritual foundation for African societies.” The very essence of Ubuntu hinges on consolidating the human, natural, and spiritual tripartite.</p>	<p>Clarification needed:</p> <p>Also refers to 9.4.5 and many other clauses in the document.</p> <p>Referring to our previous comments regarding Ubuntu and the White Paper informing legislation, we would like to know how this will inform legislation and how it will be enforced.</p>
	<p>Wildness: Characteristics of eco-systems, on a spectrum of controlled environments to intact fully functional wilderness, and where wilder landscapes are more natural, and increase human wellbeing, and are promoted by rewilding.</p>	<p>Note:</p> <p>CPHC-SA understands this as an acknowledgement of the current South African wildlife model through private ownership</p>
<p>8</p>	<p>PROBLEM STATEMENT</p> <p>Note: CPHC supports the summary in the last paragraph.</p> <p>This White Paper therefore:</p> <p>(a) provide policy certainty and a stable base for conservation, growth, and sustainable development;</p> <p>(b) reposition South Africa as a leader in conservation and responsible use of biodiversity;</p> <p>(c) re-imagines the role of protected areas, both state and other, in contributing to ecologically sustainable use and to rural development; and</p> <p>(d) proposes transformation of the sector, with</p>	<p>Note:</p> <p>This is extremely important to take this industry forward. Alignment of the 9+1 system is of the utmost importance, and we hope that the White Paper will inform legislation as such.</p> <p>CPHC-SA appreciates this initiative and looks forward to the SA government, in future, openly supporting responsible hunting as a method of sustainable use of wildlife and reacting to international outcries based on emotions and not facts, to ban hunting.</p> <p>Agree</p>



	real meaningful access to nature-based development opportunities and benefit flows to marginalised communities.	Agree
9.4	GUIDING PRINCIPLES:	CPHC-SA urges against the use of concepts being used as guiding principles that do not have clear-cut and objective definitions, particularly legislative definitions. We submit that this may create more uncertainty than certainty.
9.4.12	Animal Well-being: The well-being of wild animals must form an integral part of all wildlife-based practices, recognising wild animals as capable of suffering and of experiencing pain, and that sentience requires a higher level of consideration of the impact of actions on the well-being of wild animals.	CPHC-SA supports animal welfare. As an association, we actively oppose the captive-bred predator industry for instance. Our opposition is in part based on animal welfare considerations. We however submit that any references to animal welfare and animal well-being should be explicitly made subject to the recognition of legitimate and responsible hunting. (We submit that the definition in § 4.1 is probably as far as this principle should go Proposal: To add a full-stop after the word practices and delete the rest of the sentence. The definition for sentience is: <i>Feeling of sensation as distinguished from perception and thought.</i> Once again, this is left open to interpretation to anti-Sustainable Use groups and governments, criticising South Africa for our sustainable use policies. E.g., someone who can perceive how others are feeling, is an example of someone who would be described as sentient. This gap cannot be allowed in the White Paper, which must inform future legislation.
	Responsible Trade: National and international trade of all biological resources must not be detrimental to the survival of species and associated habitats, adversely affect the broader biodiversity sector, and must be supportive of conservation, display sensitivity towards traditional, cultural values of people, and mitigate wildlife crime.	Proposal: To include reference to the importance of scientific and evidence-based information, to prevent parties to Conventions to prescribe (based on emotions) to South Africa what we should do to conserve and protect our wildlife; rhinos as a good example.
9.4.15	Governance: Barriers to effective and efficient	Comment:



	<p>biodiversity conservation and sustainable use must be removed. In order to correct this an integrated approach is required, including:</p> <p>9.4.15.1: There must be an inter-governmental co-ordination and harmonisation of policies, legislation and actions relating to the biodiversity;</p>	<p>CPHC-SA supports this whole-heartedly, as we have experienced over the last couple of years the chaos caused due to non-communication between the departments of Environmental Affairs and the department of Agriculture (e.g., Game Meat Regulations and Animal Improvement Act).</p>
9.4.15.3	<p>Global and international responsibilities relating to the environment must be discharged in the national interest;</p>	<p>Clarification needed: What does this mean?</p>
9.4.16	<p>Evidence Based decision-making: Scientific, traditional and other forms of reliable knowledge, understanding, and practice should underpin biodiversity conservation and sustainable use, including monitoring and evaluation, with adaptive management and learning where knowledge gaps or assumptions make this necessary.</p>	<p>Proposal: To include reference to the Scientific Authority, who to our understanding must advise the Minister with scientific evidence in order for our government to make certain decisions, etc. proposals to CITES.</p>
10.1.2	<p>GOAL 3: The following objective is included under this goal:</p> <p>10.1.2.1: Evidence-based conservation priorities;</p>	<p>Proposal: To include the role of the Scientific Authority</p>
10.4	<p>POLICY OBJECTIVES AND EXPECTED OUTCOMES:</p>	
10.4.2	<p>Placing Sustainable Use in Context: a progressive definition for use in Policy and Legislation: A number of challenges have been identified in current processes and practices within the wildlife sector. These include identification of process and practices that: (1) are not ecologically sustainable; (2) promote short-term economic gain for select few, and may lead to the degradation of environment; (3) exacerbate poverty and inequality and undermine human dignity; (4) are often not socially or culturally sensitive given the significance of this species in the wild; (5) do not take into account the costs and risks of communities living with dangerous animals; and (6) relate to governance and institutional arrangements that hamper effective implementation of required interventions. These threaten South-Africa’s reputation as a conservation leader and undermine competitiveness as a global eco-tourism destination. Importantly, they highlight the undermining of ecological sustainability and</p>	<p>Clarification needed: CPHC-SA hereby requests to receive copies of the reports in which the above have been identified.</p>



	ignoring social imperatives associated with transformation of the sector.	
10.4.2.1	<p>Sustainable Use of components of biodiversity. This clause provides clarity for the interpretation and implementation for the definition. “Sustainable Use” in relation to the use of any component of biodiversity, means the use of such component in a responsible way, and that:</p> <p>(a) does not contribute to the long-term decline in the wild or disrupt the genetic integrity of the population.... (b) does not disrupt the ecological integrity of the ecosystem of which occurs.... (c) ensures continued benefits to people that are fair, equitable and meet the needs of aspirations of present and the future generation... (d) In the case of animals, is humane and does not compromise their well-being.,</p>	<p>Proposal:</p> <p>CPHC-SA supports and agrees with (a) to (c) above but proposes that the word “humane” be deleted as proposed earlier in this document.</p>
10.4.3	Placing Animal well-being in context	<p>This paragraph is of particular importance to the wildlife sector and hunting industry. Whilst the concept of animal welfare is accepted and supported, we submit that this paragraph must be clarified to make provision for responsible hunting as a legitimate form of sustainable use and a cultural, socio-economic right. One that does not infringe on the concept of animal well-being or animal welfare.</p>
10.5	POLICY OBJECTIVES AND EXPECTED OUTCOMES:	
	<p>GOAL 1 Section 1.4: Adopt practices that do not harm biodiversity: Item 2: Humane and responsible standard practices.....</p>	<p>Proposal: To remove reference to “humane”</p>
	<p>GOAL 4: Section 4.8: International Trade: Item 3. Strategic positioning and engagement by South Africa at CITES promotes and enhances cohesive trans-Africa approach to international trade in Africa’s biodiversity.</p>	<p>Proposal: To include a reference to the Scientific Authority to provide the Minister and department with scientific and evidence-based information for our proposals to be taken to CITES.</p>



11	IMPLEMENTING THE POLICY	
11.1	<p>Introduction</p> <p>Paragraph 5: By implementing this White Paper, Government commits itself to a biodiversity policy and strategy that will promote the development, growth, systemic of transformation through.....</p>	<p>Note: CPHC-SA conveys our appreciation to the Department to this extremely important commitment</p>
11.2	Role of Key Players	
11.2.1.1	<p>National Government:</p> <p>Paragraph 2: Other national government departments:</p> <p>Paragraph 3: National statutory bodies:</p>	<p>Proposal: To add the Department of Justice (NPA).</p> <p>Proposal: To include the Scientific Authority in this section or another applicable section.</p>
11.2.1.2	Provincial Government:	<p>Proposal: To include the goal for provincial government departments and national, to align.</p>
11.3	LEGISLATION	
11.3.5	<p>Criteria and Guidelines:</p> <p>In considering the amendments of existing or introduction of new legislation to meet the goals and objectives of this policy, Government will be guided by the following criteria and guidelines which require:</p> <p>(a) Legislation to emphasise the importance of the national government as the custodian of South Africa’s biological diversity, and to adopt necessary measures to emphasise this role;</p> <p>(b) uniform norms and standards to be established;</p> <p>(c) legislation to be reasonable and easily implementable;</p> <p>(d) effective conflict resolution mechanisms to be established to address conflict at all levels of governance;</p> <p>(e) new legislation to complete existing legislation;</p> <p>(f) socio-economic aspects of biodiversity (e.g., Benefit sharing, compensation for all local knowledge, biodiversity-driven ecosystem services as a basis for future sustainability) to be a crucial component of legislation;</p> <p>(g) legislation to recognise that those who conserve biodiversity should derive value from such actions;</p>	<p>Note: CPHC-SA supports.</p>



	(h) legislation to be used to implement the development of incentives and effective deterrents; (i) legislation to be considered in conjunction with other tools; (j) clarification to be given with regard to the roles and responsibilities of different agencies, and the problem of fragmentation of public institutions; and (k) an integrated and holistic approach to be adopted which focuses predominantly on the maintenance and the recovery of viable populations of species in their natural surroundings.	
11.4	INSTITUTIONAL CHANGES REQUIRED	
11.4.1	(d) the tendency of government departments to keep functions exclusive, and operate in siloed approach, has thwarted many efforts to integrate biodiversity and environmental considerations cross-sectorally;	Comment: CPHC-SA fully agrees.

3. IN CLOSING:

We would once again like to tender our appreciation to the Department for the opportunity to comment on the document. We trust that, once the document is finalised, it will provide the South African Government with an official position on sustainable use, in order to promote, advocate, defend and stand up for responsible hunting practices in South Africa.

Should you need any further information or clarity on our submission, please feel free to contact our consultant Mrs Adri Kitshoff-Botha on 083-650-0442, who will gladly assist.

Kind regards

CPHC-SA Chairman:

Sean Kelly