BIODIVERSITY STEWARDSHIP
GUIDELINE 2018

environmental affairs
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REPUBLIC OF SOUTH AFRICA

SANBI
Biodiversity for Life
South African National Biodiversity Institute

2030 NDP

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Produced for the Department of Environmental Affairs by the
National Biodiversity Stewardship Technical Working Group

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EXECUTIVE SUMMARY
INTRODUCTION

The first National Biodiversity Stewardship Guideline was developed in 2009, to guide biodiversity stewardship implementation in South Africa. There have been a number of developments in the sector since 2009, and this revised guideline provides a comprehensive approach to implementing biodiversity stewardship across the country.

This revised guideline intends to serve as a best practice implementation guide for the community of practice. It now includes the significant role of NGOs in implementing biodiversity stewardship, through their support to conservation agencies, private landowners, Communal Property Associations (CPAs) and the occupiers of communal land; a focus on land reform and biodiversity stewardship; as well as incentives and considerations to be taken into account when working with CPAs and the occupiers of communal land. A revision of the categories has resulted in the inclusion of conservation servitudes and biodiversity partnership areas. The evolving work in the tax incentive arena now too forms part of the guideline.

Why a national Biodiversity Stewardship Guideline?

South Africa has a robust environmental legislation and policy framework. Environmental rights are enshrined in the country's progressive constitution, and the government has a duty to take reasonable steps to prevent environmental degradation, promote conservation and ensure sustainable development.

The conservation, management and sustainable use of South Africa's biodiversity depends on a range of strategies, including expanding and consolidating the protected area network, reducing loss and degradation of natural habitat in biodiversity priority areas, and in some cases restoring biodiversity priority areas.

> *"South Africa's goal is to have 17% of its land surface formally protected by 2020. This is to ensure the survival of the many animals and plants that live here, and maintain the important 'services' provided by different ecosystems: clean, reliable water flow; pollination services for agriculture; soil and grasslands for growing food and grazing livestock; a buffer against approaching climatic shifts; and the basis for a vibrant tourism and recreation industry" (SANBI 2015, p. 2).*

Biodiversity stewardship is a key tool contributing to each of these broad strategies, especially for expanding and consolidating the protected area network.

Between 2008 and 2016, 68% of all protected area expansion was achieved through biodiversity stewardship and the draft 2016 National Protected Areas Expansion Strategy identifies biodiversity stewardship as a key mechanism for implementation.

This guideline provides the community of practice with a structured, best practice approach to the implementation of the stewardship approach. The intended audience for the revised guideline document includes:

biodiversity stewardship and protected area expansion staff; managers and planners in conservation agencies within national and provincial government, as well as in conservation NGOs; environmental assessment practitioners; municipal spatial planners and private sector property developers.

What is biodiversity stewardship?

Biodiversity stewardship is an approach to securing land in biodiversity priority areas through entering into agreements with private landowners, CPAs and the occupiers of communal land, led by conservation authorities and supported by conservation NGOs. The objective of biodiversity stewardship is to conserve and manage biodiversity priority areas through voluntary agreements with landowners and communities. This may involve formal protection, management and restoration of terrestrial and aquatic ecosystems. Importantly, biodiversity stewardship contributes to several broader goals:

- Conserving a representative sample of biodiversity.
- Involving landowners and communities as stewards of biodiversity.
- Supporting the biodiversity economy, especially in rural areas.
- Rehabilitating and maintaining ecological infrastructure.
- Encouraging climate change adaptation and ecosystem-based mitigation.
- Supporting sustainable development.

Biodiversity Stewardship Principles

Biodiversity stewardship is founded on several principles that are key to successful implementation. These include: focusing on biodiversity priority areas to allow implementers to invest limited resources on the most important areas; requiring voluntary commitment from land owners, both private and communal; and fostering co-operative governance and the development of partnerships.

Biodiversity Stewardship Legal Framework and Categories

Investing limited state resources on private or communal land requires some guarantee of the persistence of biodiversity on that land, as well as a formalised management relationship between the landowners/users and government. The use of contractual agreements to secure land is made possible through the legislative framework of the National Environmental Management: Protected Areas Act (NEMPAA), the National Environmental Management: Biodiversity Act (NEMBA) and South African contract and property law. Key to implementation is the fundamental landowner focus with dedicated landowner extension support.

Biodiversity stewardship sites fall into three categories, viz. protected areas, conservation areas and biodiversity partnership areas.

The benefits of biodiversity stewardship

Stewardship does not displace people from land, but rather encourages sustainable economic activity, built on wise use of natural resources. It is particularly effective in multiple use landscapes where biodiversity priority areas are embedded in a matrix of agricultural and other livelihoods.

A significant benefit of adopting biodiversity stewardship is the cost saving to the state to meet biodiversity, protected areas and other environmental objectives. Stewardship approaches incur a fraction of the cost compared to acquiring and managing land as state owned protected areas. Biodiversity stewardship leverages private sector investment to achieve biodiversity, protected area and climate resilience objectives.

The long term benefit of biodiversity stewardship, particularly on communally owned land, includes guidance on and assistance for the sustainable use of natural resources on which communities depend for their livelihoods.

Biodiversity stewardship can also be used to develop, guide and monitor other programmes and policies in the biodiversity sector. For example biodiversity stewardship is able to complement and provide additional security to state investment in DEFF's Environmental Programmes, such as Working for Water and Working for Wetlands.

Biodiversity stewardship has the ability to stimulate and support the rural economy by diversifying rural livelihood options, creating nodes of rural development and stimulating job creation and skills development. Jobs are created directly on biodiversity stewardship sites though land management and restoration, as well as commercial activities that are complementary to biodiversity stewardship, such as game farming and ecotourism.

Institutional Frameworks and Partnerships

The implementation of biodiversity stewardship requires collaboration across the spheres of government and between the private sector and government. DEFF is responsible for setting national policy, implementation guidelines and providing strategic and implementation support to implementing agencies. Implementation is predominantly driven by provincial conservation authorities and SANParks.

Sites in rural and agricultural landscapes require close collaboration with other government departments and private sector enterprises. Affected Departments include Agriculture, Land Reform and Rural Development (DALRRD), Human Settlements, Water and Sanitation (HSWS), and Mineral Resources (DMR).

NGOs play an important implementation role and form a crucial part of provincial biodiversity stewardship programmes. They provide continuity and flexibility, innovation and training opportunities, as well as external funds and resources.

Table 1. Biodiversity stewardship categories

Increasing biodiversity importance

Increasing support from conservation authority

Increasing commitment to conservation

TYPE OF AGREEMENT	LEGAL MECHANISM	DESCRIPTION
BIODIVERSITY STEWARDSHIP CATEGORY 1: PROTECTED AREAS		
Nature Reserve or National Park	National Environmental Management: Protected Areas Act (Act 57 of 2003)	• Suitable for sites with highest biodiversity importance. • Binding on property: declaration of Nature Reserve, and a title deed restriction. • Binding on landowner: contract with landowner usually for 99 years/in perpetuity*. • Considered to be part of South Africa's protected area estate, and contributes to meeting protected area targets.
Protected Environment	National Environmental Management: Protected Areas Act (Act 57 of 2003)	• Suitable for declaration over multiple properties. • Less restrictive land use than Nature Reserve or National Park. • Binding on property: declaration of Protected Environment. Optional title deed restriction. • Binding on landowner. • Considered to be part of South Africa's protected area estate, and contributes to meeting protected area targets.
BIODIVERSITY STEWARDSHIP CATEGORY 2: CONSERVATION AREAS		
Biodiversity Management Agreement	National Environmental Management: Biodiversity Act (Act 10 of 2004)	• Less restrictive than protected area declaration. • Must have a Biodiversity Management Plan (in terms of Biodiversity Act) on all/part of the property. • Binding on landowner: contract with landowner for a minimum of 5 years, or longer in 5 year increments.
Biodiversity Agreement	Contract law	• Less restrictive than protected area declaration. • Binding on landowner: contract with landowner for a minimum of 5 years or longer.
Conservation Servitude	Property	• Less restrictive than protected area declaration. • Binding on landowner: notarial deed registered at the Deeds Registry for a minimum of 99 years or in perpetuity. • Binding on successor in title. • Provides management conditions particular to the area in question.
Business, Industry and Biodiversity initiatives		**Examples:** • Conservation Champions Programme. • Water Stewards. • Sustainable Farming.
Conservation agreements		• Offers direct incentives for conservation through a negotiated benefit package in return for conservation actions by communities. • Signed for a 3-year duration (with the option for renewal).
BIODIVERSITY STEWARDSHIP CATEGORY 3: PARTNERSHIP AREAS		
This is an informal category of biodiversity stewardship which involves a registration of a site within this category by the provincial conservation authority or conservation NGO. • No legal certainty, duration and intent. • Involves collective action by landowners or communities. • Biodiversity conservation management benefits without formal agreements or accountability. • Registration of mechanisms is advised.		**Examples of such include (but are not limited to):** • Conservancies. • Buffer Zones and Transition Zones of Biosphere Reserves. • Sites of Conservation Significance. • Community conservation areas.
* Eligibility for tax incentives requires a minimum of a 99 year or in perpetuity title deed restrictions.		

Biodiversity Stewardship on Land Reform, Communally Owned and Occupied Land

Biodiversity stewardship focusses on communally owned or occupied land to establish conservation initiatives that can benefit communities while protecting priority areas and ecological infrastructure. It aims to ensure that communities derive meaningful and durable socio-economic benefits from the sustainable use of their land. Realising these benefits for communities must be considered as part of the process of negotiating formal protection for these sites. This will mean integrating the biodiversity conservation initiative within existing beneficiation efforts or business plans, or developing a specific beneficiation plan for the biodiversity stewardship site.

Support Mechanisms for Biodiversity Stewardship

An advanced suite of support mechanisms and incentives are available to participants engaging in biodiversity stewardship programmes, which include both financial and non-financial components. These benefits focus on proactively supporting biodiversity conservation activities by private landowners and CPAs. The nature of the incentive or benefit is determined according to the landowner's needs as well as provincial and NGO capacity. It should be noted here that there is no one-size fits all approach to support mechanisms and each biodiversity stewardship site should be approached with discretion as to what is genuinely required and legitimately available for landowners or communities.

Extension services – this typically consists of assistance with developing an appropriate management plan for implementation as well as associated services such as veld assessments, biodiversity assessments and land, water and fire management information. Importantly, extension services also include and facilitate important relationships between landowners and communities and extension officers along with administrative support throughout the biodiversity stewardship process.

Support mechanisms for CPAs and the occupiers of communal land – This is largely centred around administrative support, such as translation of legal documents, operational capacity building and training, enabling funding opportunities but may also include benefits that provide greater access to basic services. Wildlife Economy training and assistance facilitated through biodiversity stewardship is also an important support mechanism for CPAs and the occupiers of communal land.

Fiscal Benefits – South Africa offers a global first in fiscal benefits with the only dedicated tax incentive for biodiversity conservation. Section 37D is lodged into the Income Tax Act (Act 58 of 1962) and allows landowners and communities declaring Nature Reserves and National Parks to deduct the full value of the land declared from their taxable income. This is a substantial and extraordinary incentive for qualifying sites.

Conclusion

Biodiversity stewardship programmes have achieved impressive gains with limited staff and constrained budgets. These programmes are capable of making a significant contribution to meeting protected area targets and contributing to the Biodiversity Economy in efficient, flexible and innovative ways. Biodiversity stewardship offers a mechanism for achieving national imperatives at a fraction of the cost associated with establishing or expanding traditional state-owned protected areas. Provinces with sufficiently resourced biodiversity stewardship programmes have the potential to meet their 20 year protected area targets almost entirely through biodiversity stewardship.

It is envisaged that this guideline will motivate stakeholders interested in pursuing biodiversity stewardship initiatives, while clarifying the associated processes and procedures. It is envisioned that this repository of critical technical information, best practice and case studies will increase the biodiversity stewardship footprint and lead to quicker attainment of government's objectives in the National Biodiversity Stewardship Action Plan. The action plan is a document developed by DEFF in collaboration with the TWG as an outcome of the 2017 National Biodiversity Stewardship Conference.

CHAPTER SUMMARIES

Chapter 1:
Context of the Biodiversity Stewardship Guideline

Biodiversity stewardship was initiated in South Africa in 2003 and the first biodiversity stewardship guideline was developed in 2009. With the implementation of biodiversity stewardship in various provinces throughout the country and the many new developments in the protected area expansion sector since the completion of the first guideline, a revised guideline was called for to guide the implementation of biodiversity stewardship going forward. With biodiversity stewardship being the main tool for protected area expansion in South Africa, this guideline aims to provide government and NGO practitioners with a comprehensive guide, using best practice principles, on how to best implement biodiversity stewardship programmes.

Chapter 2:
Background

Biodiversity stewardship is an approach to securing land in biodiversity priority areas through entering into agreements with private and communal landowners. It is led by conservation authorities and conservation NGOs often play a key supporting role. Biodiversity stewardship recognises landowners and land users as stewards of their land, including the biodiversity and natural resources and is making substantial contributions to meeting national protected area targets set out in the National Protected Area Expansion Strategy. What is more, the cost to state of biodiversity stewardship is a fraction of the cost of acquiring and managing state-owned protected areas. A few key principles of biodiversity stewardship include focusing on priority areas, voluntary commitment from landowners, working in partnerships and providing landowner extension support.

Chapter 3:
Legislative and Policy Framework

Various pieces of legislation provide the framework for implementation of biodiversity stewardship programmes. This chapter provides a brief overview of relevant provisions in the most directly relevant laws. The most important act is the National Environmental Management: Protected Areas Act (NEMPAA). It creates a framework for the declaration and management of protected areas, while providing for cooperative governance. NEMPAA further aims to provide a representative network of protected areas on state, private and communal lands.

Chapter 4:
Institutional Framework

This chapter proposes which institutional frameworks are required for successful biodiversity stewardship implementation on both the national and provincial sphere. The three principles highlighted include cooperative

governance, capacitated institutions and sustainable financing. It notes institutional objectives like minimising costs and maximising efficiency. An outline on the roles and responsibilities are described, where DEFF is expected to provide coordination to agencies managing sites of biodiversity importance, SANBI supports implementation through the development of appropriate tools and guidelines and provincial conservation agencies establish and implement biodiversity stewardship programmes.

Chapter 5:
Stewardship Procedural Framework

This chapter is geared to make the reader understand the biodiversity planning and protected area expansion strategy process, from national to provincial. In the planning space, best practice includes a situation analysis which has reviewed all viable protected area expansion mechanisms, including but not limited to biodiversity stewardship. Implementing biodiversity stewardship programmes includes engaging with the landowner, where the facilitator must have an excellent understanding of the biodiversity stewardship process to be able to address any questions or queries the landowner might have. Conducting biodiversity and socio-economic assessments ensure that biodiversity stewardship sites are located ideally in priority biodiversity areas, within a complex landscape made up of a matrix of land uses and role players. Site approval and cost analysis through a review process will ensure that the correct biodiversity stewardship category has been recommended, and that the decision is defensible. It is important that a biodiversity stewardship category allocation should be based on the biodiversity value of the property, using a standardised assessment process. This process is followed by the contract negotiation, as the formal categories of the biodiversity stewardship programme involve the adoption of legal agreements with landowners. The next step is management plan development. Management plans are required to ensure compliance with the NEMPAA and any other relevant legislation for biodiversity stewardship sites declared as protected areas. In addition, they provide tools for protected area management authorities and their partners in strategic planning and management of protected areas. This chapter also covers MEC submission, title deed endorsement and the formal declaration process.

Chapter 6:
Biodiversity Stewardship on Communally Owned and Occupied Land

One of the focuses of biodiversity stewardship is on working with communally owned land, in an effort to establish biodiversity conservation initiatives that can benefit communities while protecting important remnant biodiversity and ecosystem processes. This chapter addresses issues that must be considered in engaging in biodiversity stewardship on communally owned land. It highlights synergies with various government initiatives related to biodiversity conservation and natural resource management on communal land. Biodiversity stewardship on communally owned land aims to contribute to provincial, national and international protected area expansion and biodiversity targets, as well as develop partnerships and relationships with communities in support of key government initiatives aimed at poverty alleviation, job creation and rural economic development.

Chapter 7:
Support Mechanisms

This chapter looks at extension services which covers management plan implementation, annual plan of operation (APO) development and alignment with the management effectiveness tracking tool (METT). All of these elements of biodiversity stewardship implementation is to ensure that appropriate measures are being undertaken to protect, maintain and improve the site's biodiversity and ecological function, undertake identified management interventions in an organised and structured manner and enable technical support and advice to be provided to the biodiversity stewardship site by partners. This section also looks at the South African tax incentives related to biodiversity stewardship implementation. A tax incentive is an aspect of a country's tax code designed to incentivise, or encourage a particular economic activity. South Africa's biodiversity tax incentives are lodged within the Income Tax Act (Act 58 of 1962), and they are designed to provide income tax deductions for landowners declaring protected areas or biodiversity management agreements.

LIST OF ACRONYMS

APO	Annual Plan of Operation
BA	Biodiversity Agreement
BDS	Biodiversity Stewardship
BES	Biodiversity Economy Strategy
BMA	Biodiversity Management Agreement
BMP	Biodiversity Management Plan
CBAs	Critical Biodiversity Areas
CBD	Convention on Biological Diversity
CCA	Community Conservation Areas
CEO	Chief Executive Officer
COGTA	Department of Cooperative Governance and Traditional Affairs
CPA	Communal Property Association
CREW	Custodians of Rare and Endangered Wildflowers
CSA	Conservation South Africa
DALRRD	Department of Agriculture, Land Reform and Rural Development
DBSA	Development Bank of Southern Africa
DEFF	Department of Environment, Forestry and Fisheries
DENC	Northern Cape Department of Environment and Nature Conservation
DESTEA	Free State Department: Economic, Small Business Development, Tourism and Environmental Affairs
DMR	Department of Mineral Resources
DPWI	Department of Public Works and Infrastructure
ECPTA	Eastern Cape Parks and Tourism Agency
EKZNW	Ezemvelo KwaZulu-Natal Wildlife
EMP	Environmental Management Plan
ESAs	Ecological Support Areas
EWT	Endangered Wildlife Trust

[1] As contemplated in section 1 of the Communal Property Association Act 28 of 1996.

FICA	Financial Intelligence Centre Act
GEF	Global Environment Facility
GIS	Geographic Information System
Ha	Hectares
K2C	Kruger to Canyon Biosphere
KZN	KwaZulu-Natal
LEDET	Limpopo Department of Economic Development, Environment and Tourism
MEC	Member of the Executive Council
METT	Management Effectiveness Tracking Tool
MOU	Memorandum of Understanding
MPRA	Local Government: Municipal Property Rates Act
MTPA	Mpumalanga Tourism and Parks Agency
NBF	National Biodiversity Framework
NBSAP	National Biodiversity Strategy and Action Plan
NEMBA	National Environmental Management Biodiversity (Act No. 10 of 2004)
NEMPAA	National Environmental Management Protected Areas (Act No. 57 of 2003)
NGO	Non-governmental organisation
NPAES	National Protected Areas Expansion Strategy 2016
NRM	Natural Resource Management
NWPTB	North West Parks and Tourism Board
PACA	Protected Area and Conservation Area
PAMA	Protected Area Management Agreement
PATTT	Protected Area Technical Task Team
PCA	Provincial Conservation Agency
PRA	Participatory Rural Appraisal
SANBI	South African National Biodiversity Institute
SANParks	South African National Parks
SDF	Spatial Development Framework
SG	Surveyor General
STATS SA	Statistics South Africa
TMF	The Table Mountain Fund
TWG	National Biodiversity Stewardship Technical Working Group
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation
WHS	World Heritage Sites
WoF	Working on Fire
WWF-SA	World Wide Fund for Nature

LIST OF DEFINITIONS

AGRICULTURE
Includes extensive agriculture such as rangelands, and intensive agriculture such as cultivation.

BIODIVERSITY
The diversity of genes, species and ecosystems on Earth, and the ecological and evolutionary processes that maintain this diversity.

BIODIVERSITY AGREEMENT
One type of biodiversity stewardship agreement which falls under category 2 (Conservation Areas). A Biodiversity Agreement is concluded in terms of contract law and is not recognised in terms of either the Protected Areas Act (NEMPAA) or the Biodiversity Act (NEMBA). A Biodiversity Agreement is considered a conservation area and contributes to the conservation estate but not the protected area estate.

BIODIVERSITY ASSESSMENT
An assessment of the state of biodiversity, at the ecosystem, species or genetic level. The output of a biodiversity assessment could be, for example, a map of ecosystem threat status or ecosystem protection level.

BIODIVERSITY MANAGEMENT AGREEMENT
An agreement entered into in terms of the Biodiversity Act (NEMBA) between the Minister or MEC and the implementer of a Biodiversity Management Plan or an aspect of a Biodiversity Management Plan. Also one type of biodiversity stewardship agreement falling under category 2 (Conservation Areas), but not all BMAs are necessarily linked to biodiversity stewardship programmes. A BMA is considered a conservation area and contributes to the conservation estate but not the protected area estate.

BIODIVERSITY OFFSETS
Measurable conservation outcome resulting from actions to counterbalance residual negative impacts [of a development project] on biodiversity. Biodiversity offsets are the last option in the mitigation hierarchy (avoid/prevent; minimise; rehabilitate; offset), and should be considered only after options to avoid, prevent, minimise or rehabilitate impacts have been pursued.

BIODIVERSITY PARTNERSHIP AREA
One of five types of biodiversity stewardship agreement. A Biodiversity Partnership Area is a non-contractual agreement, and is not recognised in terms of contract law, the Biodiversity Act or the Protected Areas Act. A Biodiversity Partnership Area contributes to the conservation estate but not to the protected area estate.

BIODIVERSITY STEWARDSHIP
An approach to securing land in biodiversity priority areas through entering into agreements with private or communal landowners, led by conservation authorities. Different types of biodiversity stewardship agreements confer different benefits on landowners, and require different levels of restriction on land use. In all cases the landowner retains title to the land, and the primary responsibility for management remains with the landowner, with technical advice and assistance provided by the conservation authority.

There are different types of biodiversity stewardship agreements including:

- Nature Reserve
- Protected Environment
- Biodiversity Management Agreement
- Biodiversity Agreement
- Biodiversity Partnership Area

BIODIVERSITY THRESHOLDS
A series of thresholds used to assess ecosystem threat status, expressed as a percentage of the historical extent of an ecosystem type. The first threshold, for Critically Endangered ecosystems, is equal to the biodiversity target; the second threshold, for Endangered ecosystems, is equal to the biodiversity target plus 15%; and the third threshold, for Vulnerable ecosystems, is usually set at 60%.

COMMUNAL PROPERTY ASSOCIATION
An association registered in terms of the Communal Property Associations Act (Act 28 of 1996). CPAs are established for land that is owned by communities. Typically, CPAs are established for the administration of land that is restituted in terms of the Restitution of Land Rights Act (Act 22 of 1994) or redistributed.

COMMUNALLY OCCUPIED LAND
Land occupied by communities but the title to which is held by any organ of state, including the KwaZulu-Natal Ingonyama Trust.

COMMUNALLY OWNED LAND
Land that is owned communally and administered by a Communal Property Association established in terms of the Communal Property Associations Act (Act 28 of 1996).

CONSERVATION AREA
An area of land or sea that is not formally protected in terms of the Protected Areas Act (NEMPAA) but is nevertheless managed at least partly for biodiversity conservation. Because there is no long-term security associated with conservation areas they are not considered a strong form of protection. Conservation areas contribute towards the conservation estate but not the protected area estate.

CONSERVATION ESTATE
An inclusive term referring to all protected areas and all conservation areas.

CRITICAL BIODIVERSITY AREA
An area that must be maintained in a good ecological condition (natural or near natural state) in order to meet biodiversity targets. CBAs collectively meet biodiversity targets for all ecosystem types as well as for species and ecological processes that depend on natural or near-natural habitat, that have not already been met in the protected area network. CBAs are one of five broad categories on a CBA map, and a subset of biodiversity priority areas.

ECOLOGICAL SUPPORT AREA
An area that must be maintained in at least fair ecological condition (semi natural/moderately modified state) in order to support the ecological functioning of a CBA or protected area, or to generate or deliver ecosystem services, or to meet remaining biodiversity targets for ecosystem types or species when it is not possible or not necessary to meet them in natural or near-natural areas. ESAs are one of five broad categories on a CBA map, and a subset of biodiversity priority areas.

ECOSYSTEM
An assemblage of living organisms, the interactions between them and their physical environment.

NATIONAL PARK
One of four main categories of protected area defined in the Protected Areas Act. Also a biodiversity stewardship option which falls under category 1 (Protected Areas). Managed by South African National Parks or in terms of a co-management agreement between South African National Parks and another party.

NATURE RESERVE
One of four main categories of protected area defined in the Protected Areas Act. Also a biodiversity stewardship option which falls under category 1 (Protected Areas). Usually managed by provincial conservation authorities or by private landowners, CPAs or occupiers of communal land as part of biodiversity stewardship programmes.

PRIORITY BIODIVERSITY AREAS
Natural or semi-natural areas in the landscape or seascape that are important for conserving a representative sample of ecosystems and species, for maintaining ecological processes, or for the provision of ecosystem services.

PRIVATE LAND
Refers to land that is owned by a natural person or a juristic person, such as a company, close corporation or a trust. Land that is jointly owned by more than one natural or juristic person is also regarded as private land for the purposes of this guideline. This includes communally owned land.

PROTECTED AREA
An area of land or sea that is formally protected in terms of the Protected Areas Act (NEMPAA) and managed mainly for biodiversity conservation. Includes state owned protected areas and contract protected areas.

PROTECTED AREA ESTATE
All protected areas.

PROTECTED ENVIRONMENT
One of four main categories of protected area defined in the Protected Areas Act (NEMPAA). Also a biodiversity stewardship option which falls under category 1 (Protected Areas). Usually managed by a conservation authority or by private landowners, CPAs or occupiers of communal land as part of biodiversity stewardship programmes.

PROTECTION
Refers to formal protection in terms of the Protected Areas Act (NEMPAA), and involves the establishment of statutory protected areas that are managed primarily for biodiversity conservation purposes, with sustainable use options where appropriate. Implies long-term security.

RANGELAND
A form of extensive agriculture that can include livestock ranching and extensive game ranching.

FOR A COMPREHENSIVE LIST OF DEFINITIONS SEE:
SANBI. 2016. Lexicon of Biodiversity Planning in South Africa. Beta Version. Pretoria: South African National Biodiversity Institute. Available online: http://biodiversityadvisor.sanbi.org/planning-and-assessment/lexicon-of-biodiversity-planning-in-south-africa/

1 CONTEXT OF THE BIODIVERSITY STEWARDSHIP GUIDELINE

1.1 BACKGROUND

Biodiversity stewardship was initiated provincially in 2003 with the national Department of Environment, Forestry and Fisheries (DEFF) becoming active in biodiversity stewardship in 2007. By 2012, all nine provinces in South Africa had some form of biodiversity stewardship programme in development or operation, and between 2008 and 2016 biodiversity stewardship was the only mechanism for protected area expansion for five provinces. To date, this relatively new protected area and conservation area expansion tool has made significant progress, including influencing protected area legislation and tax legislation. More significantly, between 2008 and 2016, 564 000 hectares (ha) of land important for biodiversity conservation was declared as contracted and privately protected areas[2].

As the national authority, DEFF aims to coordinate biodiversity stewardship to standardise biodiversity stewardship implementation across provinces. DEFF commissioned the development of the first Biodiversity Stewardship Guideline in 2009.

1.1.1 Rationale for the revised guideline

There have been many new developments in the biodiversity stewardship sector since the completion of the first and only Biodiversity Stewardship Guideline in 2009. This can be attributed to the involvement of additional partners and increased implementation of biodiversity stewardship countrywide.

The biodiversity stewardship community of practice now has a better understanding of the practical workings of applicable legislation, i.e. National Environmental Management: Protected Areas Act, No. 57 of 2003 (NEMPAA), National Environmental Management: Biodiversity Act, No. 10 of 2004 (NEMBA) and the Income Tax Act, Act No. 58 of 1962 (Income Tax Act). There are valuable lessons learnt which need to be documented in an updated Biodiversity Stewardship Guideline to improve the national implementation of biodiversity stewardship. There is also now a greater uptake of biodiversity

[2] Privately protected areas are differentiated from state-owned protected areas and can be communally owned protected areas.

stewardship by multiple stakeholders than ever before, making it imperative to strive towards consistency across the implementation of biodiversity stewardship. The publication of this Biodiversity Stewardship Guideline presents a timely opportunity, to increase support and collaboration from the broader community of practice and from other sectors.

It is an absolute priority that biodiversity stewardship continues to succeed into the future, as a key vehicle through which to expand South Africa's estate of privately protected areas and conservation areas. Biodiversity stewardship has been noted as the key mechanism to expand protected areas in the latest National Protected Areas Expansion Strategy (DEFF 2016) and in the Business Case for Biodiversity Stewardship (SANBI 2015).

1.1.2 Aim and Objective

The aim of the Biodiversity Stewardship Guideline is to facilitate the successful implementation of biodiversity stewardship by providing biodiversity stewardship practitioners, both government and non-governmental organisations (NGOs), regardless of level of experience in implementing biodiversity stewardship, with a comprehensive guide describing best practice principles for the wide range of biodiversity stewardship topics. This is to ensure protected areas are declared in line with the necessary procedures, protocols and legislation. It draws on the experiences from the broader sector to show lessons learnt, document best-practice and show links back to applicable policy and legislation.

This Guideline also intends to ensure that conservation areas meet the necessary standards for achieving effective conservation outcomes. This Guideline therefore addresses process, protocol, best-practice, policy and related legislation.

The document has been designed to be accessible and user friendly in order to encourage frequent use by a broad spectrum of practitioners. This document will also be used to showcase the biodiversity stewardship approach to international audiences as an innovative and best-practice solution to expand protected areas onto privately owned lands (including commercial, individual or communally owned lands).

1.1.3 Target Audience

The intended audience for the revised Guideline document includes: biodiversity stewardship and protected area expansion staff; managers and planners in conservation agencies within national and provincial government, as well as in conservation NGOs; environmental assessment practitioners; and municipal spatial planners and private sector property developers.

1.1.4 Legislative, Policy and Strategic Links

Biodiversity stewardship is informed by a number of acts, which are referred to throughout the chapters. These include but are not limited to:

- National Environmental Management Act, No. 107 of 1998 (NEMA).
- National Environmental Management: Biodiversity Act, No. 10 of 2004 (NEMBA).
- National Environmental Management: Protected Areas Act, No. 57 of 2003 (NEMPAA).
- The Regulations for the Proper Administration of Nature Reserves published in terms of Section 86(1) of NEMPAA (2003).
- Norms and Standards for the Inclusion of Private Nature Reserves in the Register of Protected Areas of South Africa published in terms of Section 11 of NEMPAA (2003).
- Income Tax Act, No. 58 of 1962.
- National Protected Area Expansion Strategy of 2016 (NPAES).
- Municipal Property Rates Act, No. 6 of 2004.

It also addresses policies related to the effective management of protected areas in South Africa and the need to achieve minimum standards to meet the country's various obligations in terms of the Convention on Biological Diversity (CBD).

1.1.5 Structure of the Guideline

The concise and uniform structure of the chapters make shared experiences easily accessible to biodiversity stewardship practitioners at all experience levels. A 'roadmap' is designed to facilitate easier access by readers to specific information by providing Chapter Summaries at the beginning, and Frequently Asked Questions at the end.

The technical chapters are structured as follows:

Introduction: Introduces the topic, provides background and purpose of the topic, and includes desired outcomes.

Principles: Provides pertinent principles to be followed during the implementation of the particular aspect of biodiversity stewardship.

Best Practice: Provides best practice information that needs to be followed to achieve the desired outcomes of the topic. This is the most important section of each topic. Best practice can be defined as ("Best practice," 2018) "*… a method or technique that has been generally accepted as superior to any alternatives because it produces results that are superior (or most desirable) to those achieved by other means or because it has become a standard way of doing things, e.g. a standard way of complying with legal or ethical requirements.*"

Case Study: Draws on an example from an existing or past project to illustrate best practice, principles, lessons learnt and, where relevant, red flags.

Red Flags: Highlights possible issues to look out for, particularly those that could prevent the achievement of objectives. These would include any challenges or obstacles encountered.

Policy Link: Makes the link between the topic and the legal, policy or strategic parameters.

Checklist: This is a list of considerations to bear in mind while implementing the various aspects of biodiversity stewardship, mainly a list of documents that are required to meet the legal and technical obligations of the specific process. This checklist could facilitate the completion of the process, or provides additional reading. This checklist makes the guidelines more interactive, and gives practitioners peace of mind that they have ticked all the boxes.

2 BACKGROUND

2.1 DEFINING BIODIVERSITY STEWARDSHIP

Biodiversity stewardship is an approach to securing land in biodiversity priority areas through entering into agreements with private and communal landowners, led by conservation authorities and supported by conservation NGOs. The objective of biodiversity stewardship is to conserve and manage biodiversity priority areas through voluntary agreements with landowners and communities. This may involve formal protection, management and restoration of terrestrial and aquatic ecosystems. Importantly, biodiversity stewardship contributes to several broader goals:

- Conserving a representative sample of biodiversity.
- Involving landowners and communities as stewards of biodiversity.
- Contributing to the rural economy.
- Investing in ecological infrastructure.
- Contributing to climate change adaptation and mitigation.
- Supporting sustainable development.

A suite of different biodiversity stewardship options exist, ranging from non-binding agreements to the establishment of formally declared protected areas in respect of private or communally owned or occupied land. Land formally declared in terms of NEMPAA is defined as protected areas and form part of South Africa's protected area network. They contribute towards meeting national protected area targets established in the National Protected Area Expansion Strategy (NPAES). Biodiversity stewardship agreements that do not lead to the formal declaration of land in terms of NEMPAA contribute to the conservation estate in terms of corridors, buffer zones, ecological infrastructure, etc.

2.2 BIODIVERSITY STEWARDSHIP IN SOUTH AFRICA

The conservation, management and sustainable use of South Africa's biodiversity depends on a range of strategies. They include expanding and consolidating the protected area network, reducing loss and degradation of natural habitat in biodiversity priority areas, and in some cases restoring biodiversity priority areas. Biodiversity stewardship is a key tool for contributing to each of these broad strategies, by expanding and consolidating the protected area network and further supporting connectivity within landscapes by establishing conservation areas. Biodiversity stewardship is complemented by a range of other tools, approaches and mechanisms. It often works hand in hand with mainstreaming initiatives and natural resource management programmes.

Biodiversity stewardship recognises landowners, communities and other land users as stewards of their land, including the biodiversity, natural resources, ecosystem services and sustainable economic activities on that land. It is a mechanism that promotes and supports the wise use and effective management of natural resources, biodiversity and ecological infrastructure, such as water, that underpin the South African economy; providing security for investments made by government and the private and civil society sectors. Biodiversity stewardship also provides the Biodiversity Economy with an established and effective tool with which to implement its strategy nationwide.

Key role players in biodiversity stewardship include: landowners (private landowners and CPAs), the occupiers of communal land, conservation authorities, DEFF, SANBI and conservation NGOs. SANBI, DEFF and some NGOs have been working alongside biodiversity stewardship programmes since 2003. SANBI convenes the Biodiversity Stewardship Technical Working Group which feeds into the Protected Area Technical Task Team convened by DEFF.

Biodiversity stewardship achievements

Biodiversity stewardship programmes have achieved impressive gains with limited staff and constrained budgets. Biodiversity stewardship programmes are capable of making a significant contribution to meeting protected area targets and contributing to the Biodiversity Economy in efficient and economic ways. Biodiversity stewardship offers a mechanism for achieving national imperatives at a fraction of the cost associated with establishing or expanding traditional state-owned protected areas. Provinces with sufficiently resourced biodiversity stewardship programmes

Box 1. The benefits of biodiversity stewardship

Biodiversity stewardship brings a great deal of value to both the conservation sector and South Africa, more broadly. Biodiversity stewardship is making substantial contributions to meeting national protected area targets set out in the National Protected Area Expansion Strategy.

The cost to the state of implementing biodiversity stewardship is a fraction of the cost of acquiring and managing state-owned protected areas.

Biodiversity stewardship leverages private sector investment in support of government's mandate to secure protected areas, which would otherwise have to be fully covered by government through costly land purchase and ongoing management by conservation authorities.

Biodiversity stewardship is particularly effective in multiple-use landscapes where biodiversity priority areas are embedded in a matrix of other land uses. A flexible range of biodiversity stewardship agreements is available which can combine biodiversity protection and sustainable production.

Biodiversity stewardship can be used to enable other programmes and policies. For example, biodiversity stewardship is able to complement and provide additional security to state investment in the landscape through programmes such as Working for Water and Working for Wetlands. It can also play an important role in enabling and supporting biodiversity offsets.

Biodiversity stewardship has the ability to support the stimulation of the rural economy by diversifying rural livelihood options, creating nodes of rural development and stimulating job creation and skills development.

Biodiversity stewardship agreements have been implemented on communal land thus integrating biodiversity conservation into broader land reform processes. Not all communal areas can benefit from biodiversity stewardship or are suitable for biodiversity stewardship but some are. There are opportunities for protected area expansion and biodiversity stewardship to support the land reform agenda, especially on marginal agricultural land.

have the potential to meet their 20 year protected area targets almost entirely through biodiversity stewardship.

Achievements in the National Protected Area Expansion Strategy Phase 1 (2008–2016) indicate that 68% (564 000 ha) of all land contributing to terrestrial protected area expansion was as a result of contract protected areas where almost all were biodiversity stewardship agreements.

2.3 BIODIVERSITY STEWARDSHIP PRINCIPLES

Biodiversity stewardship principles identified by the community of practice:

Biodiversity priority areas: Using systematic biodiversity planning products, the provincial biodiversity stewardship programme's efforts must focus only on high priority biodiversity areas, so as to ensure the best use of limited capacity and resources.

Voluntary commitment: Biodiversity stewardship agreements are voluntary commitments between landowners, land users and conservation agencies. Biodiversity stewardship can only be used when the landowner or land user is willing to enter into an agreement. Landowners and land users are stewards of the land and will continue to be the key users and managers of the land.

Cooperative governance and partnerships: It is important to adopt a landscape-scale approach when implementing biodiversity stewardship, where cooperation across properties is necessary for effective conservation management. In addition, the conservation authority will not be acting in isolation and, therefore, may need to forge partnerships or practice cooperation with various other governmental agencies, NGOs, landowners, companies, etc.

Contractual agreements: Formal agreements and legal contracts form the basis of the biodiversity stewardship approach. Not all biodiversity stewardship agreements result in formal protected areas but offer a range of legal agreements relative to the biodiversity value of the property. Every effort should be made to secure the highest possible protection category for a given site.

Landowner/land user focus: Landowners and land users include private landowners, CPAs and landowner extension support occupiers of communal land. The implementing agency must endeavour to understand the landowner's or occupier's needs, issues and motivations for conservation. During contract negotiations every effort should be made to accommodate these, while ensuring effective conservation management of the property in question. This must not compromise the resources of the programme or the integrity of the relevant biodiversity stewardship category.

Landowner/land user extension support: Once biodiversity stewardship agreements are in place, the conservation authorities and its programme partners must ensure that there is sufficient capacity and resources to provide ongoing support to the relevant landowners or occupiers.

2.4 BIODIVERSITY STEWARDSHIP CATEGORIES

The following section discusses the categories that fall under the provinical biodiversity stewardship programmes, and the various types of area-based conservation mechanisms that fall within each category. It also looks at how they fit into the national legislative and policy framework that defines South Africa's conservation estate. South Africa's conservation estate is made up of its protected areas and conservation areas. The different types of biodiversity stewardship mechanisms contribute to either the protected area estate or the broader conservation estate[3].

It should be noted that each biodiversity stewardship category and the various mechanisms within each category is discussed separately below. This is not an exhaustive list, but rather an overview of the most frequently used mechanisms within the biodiversity stewardship community of practice. The categories provide an overarching framework that outlines the general criteria and outcomes of each category. Should alternative mechanisms be utilised or developed in future, they may be attributed to one of the three categories should they align with the categories' defining characteristics and correspond with South Africa's legislative and policy framework defining the national conservation estate.

2.4.1 Category 1: Protected Areas

Protected areas are defined as an area of land or sea that is formally protected in terms of NEMPAA and managed mainly for biodiversity conservation. Protected areas

[3] Protected areas are required to be reported to DEA and be reported on the Protected Area and Conservation Area (PACA) database. These include all protected areas listed in section 9 of NEMPAA. Additionally, DEA records some conservation areas on the PACA database, which together with the reported protected areas represent South Africa's conservation estate. These figures are in turn reported to the World Commission on Protected Areas (WCPA) and reflected on the World Database of Protected Areas (WDPA) with reference to Biodiversity Aichi Target 11 (Target 11). However, there is currently no exhaustive list on which conservation areas are reported on. Biodiversity stewardship, therefore, contributes to the achievement of Target 11.

include state-owned protected areas and protected areas on communally or privately owned land (declared at the voluntary election of the landowner/community), all of which have the same legal representation under NEMPAA. The protected area estate consists of all protected areas listed in section 9 of NEMPAA and is often also referred to as the protected area network.

Three main types of protected areas are utilised within the provincial biodiversity stewardship programmes and are described below. It should be noted that this is not an exhaustive list as other protected areas are listed under section 9 of NEMPAA.

2.4.1.1 National Park

National parks are one of four main types of protected area as defined in NEMPAA. National parks can be declared on state, private or communal land and are managed by South African National Parks (SANParks) or involve co-management agreements with private landowners, CPAs or the occupiers of communal land. National Parks can also be declared in respect of private or communally owned or occupied land with the consent of the owners and occupiers.

2.4.1.2 Nature Reserve

Nature reserves are one of four main types of protected area defined in NEMPAA. Nature reserves are usually managed by provincial conservation authorities or by private landowners, CPAs or the occupiers of communal land. Nature reserves are geographic areas with the highest biodiversity value and ecological infrastructure. They are formally declared primarily for biodiversity conservation. The term of these declarations requires a minimum of 99 years or in perpetuity, requires a title deed endorsement and is binding on successor in title. This type of declaration involves more stringent management regulations and restricts unsustainable land use. Nature reserves also gain access to a dedicated biodiversity tax incentive through the Income Tax Act. Nature Reserves contribute to the protected area estate.

2.4.1.3 Protected Environment

Protected environments are one of four main types of protected area defined in NEMPAA. Protected environments are usually managed by a provincial conservation authority, or by private landowners, CPAs or the occupiers of communal land. Protected environments are protected areas that can be declared across multiple properties in areas with biodiversity value and landscape level ecological functioning and, due to its flexible nature, has reduced management restrictions, allowing for biodiversity conservation to take place in production landscapes. Protected environments contribute to the protected area estate.

2.4.2 **Category 2:** Conservation Areas

A conservation area is an area of land or sea that is not formally protected in terms of NEMPAA but has the following characteristics:

- It is a geographically defined area with biodiversity value.
- It is governed, and thereby is under the authority of a specific entity or individual.
- It is managed for its biodiversity values, either directly or as part of a broader landscape management system.
- A formal agreement provides the foundation of an intention to conserve the area over the long term.

It is recognised that there is a lower level of security associated with conservation areas which offer a reduced form of protection compared to protected areas. Conservation areas contribute towards the broader conservation estate but not the protected area estate.

It should be noted that this is not an exhaustive list but illustrates the most prominent mechanisms under category 2 and their characteristics which exhibit the criteria of conservation areas.

2.4.2.1 Biodiversity Management Agreement

A Biodiversity Management Agreement (BMA) is enabled by NEMBA and is an agreement entered into between the Environmental Minister or Member of the Executive Committee (MEC) and organisation, person or organ of state which is willing to be responsible for the implementation of a Biodiversity Management Plan (BMP). A BMA requires a BMP or an aspect of a BMP to be in place before it may be concluded. BMAs should be concluded for at least five years and may be renewed in five year increments per NEMBA.

BMAs fall within category 2 of biodiversity stewardship. An area relating BMA is considered a conservation area and contributes to the conservation estate but does not contribute to the protected area estate.

2.4.2.2 Biodiversity Agreement

A Biodiversity Agreement is concluded in terms of contract law and is not recognised in terms of either NEMPAA or NEMBA. These agreements are typically concluded for a defined period of between five and fifteen years, and can be concluded for longer durations at the voluntary election of the landowner or community. These contractual agreements are generally signed between landowners or communities and provincial conservation agencies, or possibly a NGO. They are more flexible in nature than the mechanisms listed under biodiversity

stewardship category 1. A Biodiversity Agreement is considered a conservation area and contributes to the conservation estate but not the protected area estate. A management plan is required.

2.4.2.3 Conservation Servitude

A conservation servitude is an agreement between a landholder and a third party, most typically a conservation NGO, in terms of which the landowner undertakes to set aside a section of their land for conservation purposes in favour of the third party. A conservation servitude differs from an ordinary biodiversity agreement in that the agreement is registered against the title deed of the relevant property and is, therefore, not only binding on the parties that entered into the agreement, but also on the landowner's successors in title.

Servitudes are not provided for in legislation, but founded in the South African common law. They are legally complex and it is recommended that they are drafted with the assistance of a notary public. Practitioners should also refer to any further guidance on the matter as provided by SANBI or the National Biodiversity Stewardship Technical Working Group.

Best Practice Principles

- NGO partners wishing to pursue the establishment of conservation servitudes should approach the relevant conservation authority with a view to reach an agreement on the nature of the servitude and the roles and responsibilities of each partner, preferably through the signing of a joint MOU.
- A site assessment should be undertaken by the relevant NGO in the manner prescribed or recommended for all biodiversity stewardships sites. The assessment should be presented to the relevant Provincial Review Committee for a recommendation and guidance regarding critical issues.
- The Review Committee should discuss the availability of resources from either government or NGO partners to facilitate and service the proposed conservation servitude for its duration.
- A decision to pursue a conservation servitude should be made in relation to the biodiversity value of the property, availability of resources to support the management of the site, capacity of the relevant institutions and landowner attitudes.
- The conservation servitude should be drafted with the assistance of a notary public.
- After signing, the relevant NGO must undertake annual reviews of the site in question to monitor progress against the approved environmental management plan and provide management support as required. An annual plan of operation can be drafted for this purpose and adjusted during review.
- The conservation servitude should provide that the environmental management plan be revised and updated every five years, as required for other mechanisms within the conservation areas category.
- Duration should aim at in perpetuity agreements as best practice, but at least a minimum of five years with the option for renewal and extension.
- A servitude may be registered over the entire property, with a zonation map indicating the conservation area, or over only a portion of the property. In the instance of registering a portion, approval must be sought from the Department of Agriculture, Land Reform and Rural Development if it is deemed a subdivision of agricultural land.
- **Conservation servitudes fall within Category 2.** Conservation Areas within the Biodiversity Stewardship Categories and once signed should be reported to the Conservation Authority for inclusion on the Protected Area and Conservation Area Register of South Africa and should contribute to the conservation estate.

2.4.2.4 Business / Industry and Biodiversity Initiatives

These are predominantly conservation initiatives within specific industries or sectors, such as the wine farming, sugar and dairy industries. Landowners in these industries voluntarily participate and commit to biodiversity-friendly farming practices, conserving specific natural areas within the agricultural landscape and continually improving their water and energy efficiencies. These initiatives are driven by specific conservation organisations, such as national conservation NGOs, supporting these farms in their environmental efforts by co-developing detailed environmental management plans, setting tangible targets and helping them to prioritise actions to address their most pressing environmental risks. Examples are the Conservation Champions programme and Sustainable Sugarcane Farming programme coordinated by WWF.

More information can be obtained at the following links:

- http://www.wwf.org.za/our_work/initiatives/conservation_champions.cfm
- http://www.sasa.org.za

2.4.2.5 Conservation Agreements

Conservation agreements offer direct incentives for conservation through a negotiated benefit package in return for conservation actions by communities. Thus, a conservation agreement, typically signed for a three-year duration (with the option for renewal), links conservation funders such as governments, bilateral agencies, private sector companies, foundations, individuals, etc. to people or communities who own and use natural resources. Benefits typically include investments in social services like health and education as well as investments in livelihoods, often in the agricultural or fisheries sectors. Benefits can also include direct payments and wages. The

size of these benefit packages depends on the cost of changes in resource use, as well as conservation performance. Rigorous monitoring verifies both conservation and socio-economic results. This mechanism has been championed by Conservation South Africa.

More information can be obtained at the following link:

- https://www.conservation.org/

2.4.3 Category 3: Biodiversity Partnership Area

A Biodiversity Partnership Area is an informal, catch-all for the lowest category of biodiversity stewardship and generally represents all other area-based conservation mechanisms that are not recognised in terms of contract law, property law or legislation such as NEMBA or NEMPAA, and do not require an agreement to be in place to specifically manage biodiversity, although this does not preclude agreements under this category. These mechanisms contribute to neither the conservation estate nor the protected area estate, but will continue to be the focus of extension work to bring them into the higher categories as required.

The purpose of the Biodiversity Partnership Area is to provide an opportunity for landowners and communities to participate in provincial Biodiversity Stewardship Programmes, who:

- Have important biodiversity and ecological infrastructure but who are reluctant to enter into a formalised agreement or to commit to a defined period, or
- Want to take collective action to conserve and manage their combined properties and to manage common issues.

This category consists of a range of different historic and existing options within which landowners and communities may participate. These options are relevant to a variety of landowners, including private landowners, CPAs or occupiers of communal land, and may involve single or multiple landowners or occupiers. The Biodiversity Partnership Area is an overarching category, and includes but is not limited to the following options:

2.4.3.1 Conservancies

These are voluntary associations of environmentally conscious landowners and land users who choose to cooperatively manage their natural resources in an environmentally sustainable manner without necessarily changing the land use of their properties. In order for a cooperative to constitute a conservancy, it must be registered with the provincial conservation authority and operate as a bona fide conservancy as per the requirements of the relevant provincial conservation agency. Many provincial conservancy associations have integrated with the provincial biodiversity stewardship programmes, such as in the Western Cape and Gauteng.

More information can be obtained at the following links:

- http://www.nacssa.co.za/
- www.conservancies.org/ conservancieskzn.org.za/
- www.conservationconnected.co.za/Conservancies.htm

2.4.3.2 Buffer Zones and Transition Zones of Biosphere Reserves

Biosphere Reserves are an internationally recognised mechanism for landscape-scale cooperative conservation efforts. The core areas of biospheres are formally declared protected areas (and would fit into Category 1), while the "buffer zone" (used for activities compatible with sound ecological practices that can reinforce scientific research, monitoring, training and education) and "transition area" (part of the reserve where the greatest activity is allowed, fostering economic and human development that is socio-culturally and ecologically sustainable) fit into Category 3.

More information can be obtained at the following link:

- http://www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/biosphere-reserves/

2.4.3.3 Sites of Conservation Significance / Natural Heritage Programme

These were programmes historically coordinated by DEFF, where sites on private or communal land were registered as either sites of conservation significance, or natural heritage sites. Although no longer functional, many landowners and communities still recognise these sites, and may become landowners or communities with whom further biodiversity stewardship engagements may be held.

2.4.3.4 Community conservation areas

Community conservation areas (CCAs) are natural and/or modified ecosystems containing significant biodiversity, providing ecological services or having cultural significance and which are voluntarily conserved by indigenous peoples and local communities, both sedentary and mobile, through customary laws or other effective means. CCAs can include ecosystems with minimum to substantial human influence as well as cases of continuation, revival or modification of traditional practices or new initiatives taken up by communities in the face of new threats or opportunities. Several of them are

inviolate zones ranging from very small to large stretches of land and waterscapes.

More information can be obtained at the following link:

- https://www.iucn.org/content/indigenous-and-community-conserved-areas-bold-new-frontier-conservation

The difference between Biodiversity Partnership Areas and the Conservation and Protected Areas is that the former do not entail any formal or legally binding agreement between the implementer and provincial conservation authority or conservation NGO, to manage biodiversity, and be accountable for such, in a specific or prescribed manner, and for a defined duration.

It is, however, recommended that there should be some sort of registration of the site or property in order to recognise the intentions of the owner to conserve its biodiversity. The area should be managed according to a set of management requirements and maintained according to the purpose for which it was registered. There are no legal limitations or restrictions placed on the landowner or community, but the area should retain its natural character and effective sustainable management of the site should be encouraged. Furthermore, the landowner or community would still need to comply with all relevant national environmental legislation.

Box 2. What are Pre-NEMPAA Nature Reserves?

Before the promulgation of the NEMPAA, individual provinces utilised provincial legislation to declare nature reserves. However, since NEMPAA came into effect it is considered best practice to use NEMPAA as the single piece of legislation to declare protected areas. The status of the existing protected areas under older legislation is dealt with under Section 12 of NEMPAA, which provides as follows: "A protected area which immediately before this section took effect was reserved or protected in terms of provincial legislation for any purpose for which an area could in terms of [NEMPAA] be declared as a nature reserve or protected environment, must be regarded to be a nature reserve or protected environment for the purpose of [NEMPAA]." Section 12 is commonly referred to as NEMPAA's "deeming provision".

Section 23 (5) of NEMPAA which deals with "Declaration of nature reserves" also states, "An area which was a nature reserve immediately before this section took effect must for purposes of this section be regarded as having been declared as such in terms of this section."

Section 1 of NEMPAA, the definition of "nature reserve" includes "an area which before or after the commencement of [NEMPAA] was or is declared or designated in terms of provincial legislation for a purpose for which that area could in terms of [NEMPAA] be declared as a nature reserve."

Despite enjoying protected areas status, nature reserves declared under pre-NEMPAA legislation often do not have the same management and accountability features as nature reserves declared under NEMPAA. Pre-NEMPAA nature reserves often do not have management authorities or management plans. It is important to ensure that those nature reserves are brought up to standard with nature reserves declared under NEMPAA, in order for them to be registered on the Register of Protected Areas (see the Norms and Standards for the Inclusion of Private Nature Reserves in the Register of Protected Areas published under Notice 731 in Government Gazette 41224 of 3 November 2017) and for the management authorities to benefit from income tax incentives and, in some cases, municipal property rates exclusions. The process of bringing pre-NEMPAA nature reserves up to standard with nature reserves is known as "regularisation".

3 LEGISLATIVE AND POLICY FRAMEWORK

Various pieces of legislation, policies and strategies provide the framework for implementation of provincial biodiversity stewardship programmes. This section provides a brief overview of relevant provisions in the most relevant laws and policies.

3.1 BACKGROUND POLICIES AND STRATEGIES

3.1.1 The National Development Plan

The National Development Plan (NDP) for South Africa aims to eliminate poverty and reduce inequality by 2030. The NDP identifies six pillars that represent the broad objectives of the plan and specifically recognises that South Africa needs to sustain its ecosystems and ensure efficient use of natural resources. To this end, the NDP identifies the implementation of the NPAES and promotes biodiversity stewardship as a means to meet protected area expansion targets.

3.1.2 The National Biodiversity Strategy and Action Plan (NBSAP)

The NBSAP is a requirement of contracting parties to the Convention on Biological Diversity (CBD). This document identifies the priorities for biodiversity management in South Africa between 2015 and 2025, aligning these with the priorities and targets in the global agenda, as well as national development imperatives. Biodiversity stewardship is identified as a mechanism to ensure that the network of protected areas and conservation areas includes a representative sample of ecosystems and species, and is coherently and effectively managed.

3.1.3 The National Protected Area Expansion Strategy (NPAES)

South Africa's protected area network currently falls far short of representing all ecosystems and maintaining ecological processes. As a result, the goal of the NPAES is to achieve cost effective protected area expansion for improved ecosystem representation, ecological sustainability and resilience to climate change. The NPAES highlights how to become more efficient and effective in allocating the scarce human and financial resources available for protected area expansion. It sets protected area targets, maps priority areas for protected area expansion, and makes recommendations on mechanisms to achieve this. The common set of targets and spatial priorities provided by the NPAES enables coordination between the many role players involved in protected area expansion. Biodiversity stewardship is identified as a key mechanism to implement the NPAES.

3.2 THE CONSTITUTION AND RELEVANT LEGISLATION

Section 24 of the the Constitution of the Republic of South Africa (Act 108 of 1996) (Constitution) provides that "[e]veryone has the right to an environment that is not harmful to their health or wellbeing; and to have the environment protected for the benefit of present and future generations through reasonable legislative and other measures that prevent pollution and ecological degradation, promote conservation and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development". The State has passed a suite of legislation and made a myriad of policies that purport to give effect to section 24, the most relevant of which is set out in the paragraphs that follow.

3.2.1 The National Environmental Management Act (Act 107 of 1998)

The National Environmental Management Act, Act No. 107 of 1998, (NEMA) was the first law to be enacted after the adoption of the Constitution. It is South Africa's framework environmental law that, inter alia, sets out the principles according to which all environmental decision-making must be made, as well as South Africa's environmental management system and compliance monitoring and enforcement structure for the environment sector and other general administrative matters. NEMA prepared the way for the enactment of specific environmental management Acts including the National Environmental Management: Protected Areas Act (Act No. 57 of 2003) (NEMPAA) and the National Environmental Management: Biodiversity Act (Act No. 10 of 2004) (NEMBA), which are key to implementing provincial biodiversity stewardship programmes.

3.2.2 The National Environmental Management: Biodiversity Act (Act 10 of 2004)

The National Environmental Management: Biodiversity Act (Act No. 10 of 2004) (NEMBA) purports to give effect to South Africa's obligations under the Convention on Biological Diversity (CBD) and is key to the implementation of South Africa's National Biodiversity Strategy and Action Plan (NBSAP) prepared for the CBD. NEMBA provides for, inter alia, the framework for biodiversity planning in South Africa. The planning tools provided for under NEMBA are both spatial and strategic in nature.

3.2.2.1 Planning tools provided for in the Biodiversity Act

Various biodiversity planning tools in NEMBA are aimed at assisting provincial authorities and conservation agencies with identifying biodiversity priorities and addressing possible threats to biodiversity. From a biodiversity stewardship perspective it is important to use these tools to get a clearer understanding of where the biodiversity priorities are situated. This enables the efficient allocation of limited resources. The following tools are identified:

National Biodiversity Framework (NBF): A framework published in terms of the Biodiversity Act to coordinate and align the efforts of the many organisations and individuals involved in conserving and managing South Africa's biodiversity, in support of sustainable development.

The NBF published in 2009 recognised the establishment and strengthening of provincial biodiversity stewardship programmes as one of 33 priority actions for the period 2008 to 2013. The NBF was under revision at time of print.

Bioregional plans: A map of Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) accompanied by contextual information, land and resource use guidelines and supporting GIS data for bioregions, or areas contain whole or several nested ecosytems and is characterised by its landforms, vegetation cover, human culture and history. Bioregional plans may be published by the Minister or MEC in terms of NEMBA, read with the guideline regarding the determination of bioregions and the preparation and publication of bioregional plans (2009). The map must be produced using the principles and methods of systematic biodiversity planning. Biodiversity stewardship is an important tool for securing

natural habitat in critical biodiversity areas identified in bioregional plans.

Biodiversity Management Plans (BMP): A plan developed and published in terms of NEMBA, aimed at ensuring the long-term survival of an indigenous species, a migratory species or an ecosystem in nature. A BMP may be developed by any person, organisation or organ of state desiring to contribute to biodiversity management. Norms and standards for BMPs for species and ecosystems have been gazetted.

Listing of Ecosystems that are Threatened or in Need of Protection: A list that identifies ecosystems that are threatened or in need of protection to enable action to be taken to provide protection to, and maintain the integrity of those ecosystems. Biodiversity stewardship is an important tool for securing remaining natural habitat in ecosystems that are threatened or in need of protection.

Listing of Threatened and Protected Species: A list that identifies threatened or protected species. The list is linked to a set of regulations regulating certain activities in relation to those species so as to ensure their protection and survival in the wild.

Control of species and organisms posing potential threats to biodiversity: Measures for minimising the harm on biodiversity and ecosystems by alien and invasive species, by identifying such species, restricting activities regarding them and enforcing duty of care for management of these species.

3.2.3 The National Environmental Management: Protected Areas Act (Act 57 of 2003)

The National Environmental Management: Protected Areas Act (Act 57 of 2003) (NEMPAA) creates a framework for the declaration and management of protected areas while providing for cooperative governance. NEMPAA further aims to provide a representative network of protected areas on state, private and communal land. NEMPAA promotes the sustainable utilisation of protected areas for human benefit without losing the ecological character of the area. This Act also encourages local community participation in the management of protected areas and aims to balance the relationships between biodiversity, human settlement and economic development. Thus, NEMPAA establishes the legal platform for biodiversity stewardship and is essential for achieving biodiversity objectives.

3.2.3.1 Categories of protected area in the Act

The table below sets out the different categories of protected areas under NEMPAA.

The two categories most applicable to biodiversity stewardship programmes are the "nature reserve" and "protected environment" categories as they allow for a landowner to be the management authority of a protected area. This is formally recognised in terms of NEMPAA.

NEMPAA provides requirements which an area should fulfil in order to be declared a nature reserve or a protected environment. These requirements are set out below and should be interpreted with the provisions of section 17, namely the Purpose of Protected Areas.

In terms of section 23 (2) of NEMPAA, an area may only be declared a nature reserve:

a. to supplement the system of national parks in South Africa;
b. to protect the area if the area:
   i. has significant natural features or biodiversity;
   ii. is of scientific, cultural, historical, or archaeological interest; or
   iii. is in need of long-term protection for the maintenance of its biodiversity or the provision of environmental goods and services.

Table 2. Protected areas in NEMPAA

Protected area type	Declared by	Level of management control	Management authority
Special Nature Reserve	Minister	Highest	Any suitable person, organisation or organ of state
National Park	Minister	High	SANParks
Marine Protected Area	Minister	High	Any suitable national organ of state
Nature Reserve	Minister or MEC	High	Any suitable person, organisation or organ of state
Protected Environment	Minister or MEC	Lowest – land use controlled	Any suitable person, organisation or organ of state
World Heritage Sites	Requirements as per World Heritage Convention Act (Act 49 of 1999)		
Protected Forest Area	Requirements as per National Forests Act (Act 84 of 1998)		
Mountain Catchment Areas	Requirements as per Mountain Catchment Areas Act (Act 63 of 1970)		

c. to provide for a sustainable flow of natural products and services to meet the needs of a local community;
d. to enable the continuation of such traditional consumptive uses as are sustainable; or
e. to provide for nature-based recreation and tourism opportunities.

In terms of section 28 (2) of NEMPAA, an area may be only be declared a protected environment:

a. to regulate the area as a buffer zone for the protection of a special nature reserve, national park, world heritage site, or nature reserve;
b. to enable owners of land to take collective action to conserve biodiversity on their land and to seek legal recognition thereof;
c. to protect the area if the area is sensitive to development due to its:
   i. biological diversity;
   ii. natural characteristics
   iii. scientific, cultural, historical, archaeological or geological value;
   iv. scenic and landscape value; or
   v. provision of environmental goods and services.
d. to protect a specific ecosystem outside of a special nature reserve, national park, world heritage site or nature reserve;
e. to ensure that the use of natural resources in the area is sustainable; or
f. to control change in land use if the area is earmarked for declaration as, or inclusion in, a national park or nature reserve.

3.3 BEST PRACTICE

It is important to keep the above requirements in mind when identifying and contracting sites for biodiversity stewardship. Activity and development restrictions may apply to both, nature reserves and protected environments (as per sections 49, 50 and 51 of NEMPAA).

4 INSTITUTIONAL FRAMEWORK

Institutional frameworks refer to the formal organisational structures and rules adopted by an institution or organisation which are essential for successful implementation of its mandate or vision. This chapter proposes which institutional frameworks are required for successful biodiversity stewardship implementation on both the national and provincial sphere.

4.1 INSTITUTIONAL FRAMEWORK PRINCIPLES

Cooperative governance: Partnerships or cooperation between various governmental agencies, NGOs, landowners, companies, etc. is expected and often takes the form of memorandums of understanding or partnership agreements.

Capacitated institutions: Well-resourced and well capacitated organisations are required to implement biodiversity stewardship effectively.

Sustainable financing: Institutional priorities and arrangements need to consider the operational requirements for biodiversity stewardship implementation and mobilise towards sufficient funding for biodiversity stewardship programmes.

4.2 INSTITUTIONAL OBJECTIVES

For the purpose of achieving biodiversity stewardship with the primary goal of site security, the objectives during the process need to include the following (in order of priority):

- Conservation agencies are encouraged to develop durable relationships with landowners, communities, local authorities and other government departments that manage or own areas of biodiversity priority.

- The costs of conserving biodiversity should be shared between the public (through the state), the local municipality, the landowner/user and any specific direct beneficiaries of the resources conserved or the area protected, on a basis which is equitable in relation to the benefits accrued to each party.
- Conservation agencies must, if possible strive to minimise costs and maximise efficiency (in terms of resources and personnel) in conserving biodiversity outside of state-owned protected areas.
- Options should be provided to recognise commitment to and investment in voluntary biodiversity conservation within farming and other land use systems.
- Securing conservation investments should be of paramount importance, to ensure the sustainability of conservation effort. Any conservation status afforded to critical biodiversity sites must thus be well managed, durable, legally sound, resilient to changing opinion on land use, and easily audited.

Prerequisites for meeting the above objectives are as follows:

- Consideration needs to be given to investing in the skills needed to achieve the objectives. Encouraging conservation action is not an event, but a process that will require using specific skills over a long time.
- A systematic and defensible conservation planning process (with 5–20 year goals) for a specific region at a cadastral scale is very useful to build consensus on common objectives. This will not only greatly assist in focusing expenditure and conservation action, but is a ready means of determining capacity needs to meet the local challenges.
- Securing land for conservation requires a focused approach. Those agencies mandated to achieve biodiversity stewardship goals should have specifically appointed and dedicated staff. In addition, NGOs play an important supporting function, from site selection to post declaration support and partnerships with them are vital to the successful implementation of biodiversity stewardship across the country.

4.3 INSTITUTIONAL MODELS AND ARRANGEMENTS

The implementation of biodiversity stewardship requires collaboration across the spheres of government and between the private and government sector line. DEFF is responsible for setting national policy, implementation guidelines and providing strategic and implementation support to implementing agencies. The operational and geographic implementation for biodiversity stewardship takes place predominantly on the provincial scale primarily following provincial protected area expansion targets.

Rural and agricultural landscapes are often the receiving environment for implementation and, therefore, requires

Figure 1. Basic institutional model for a provincial biodiversity stewardship programme.

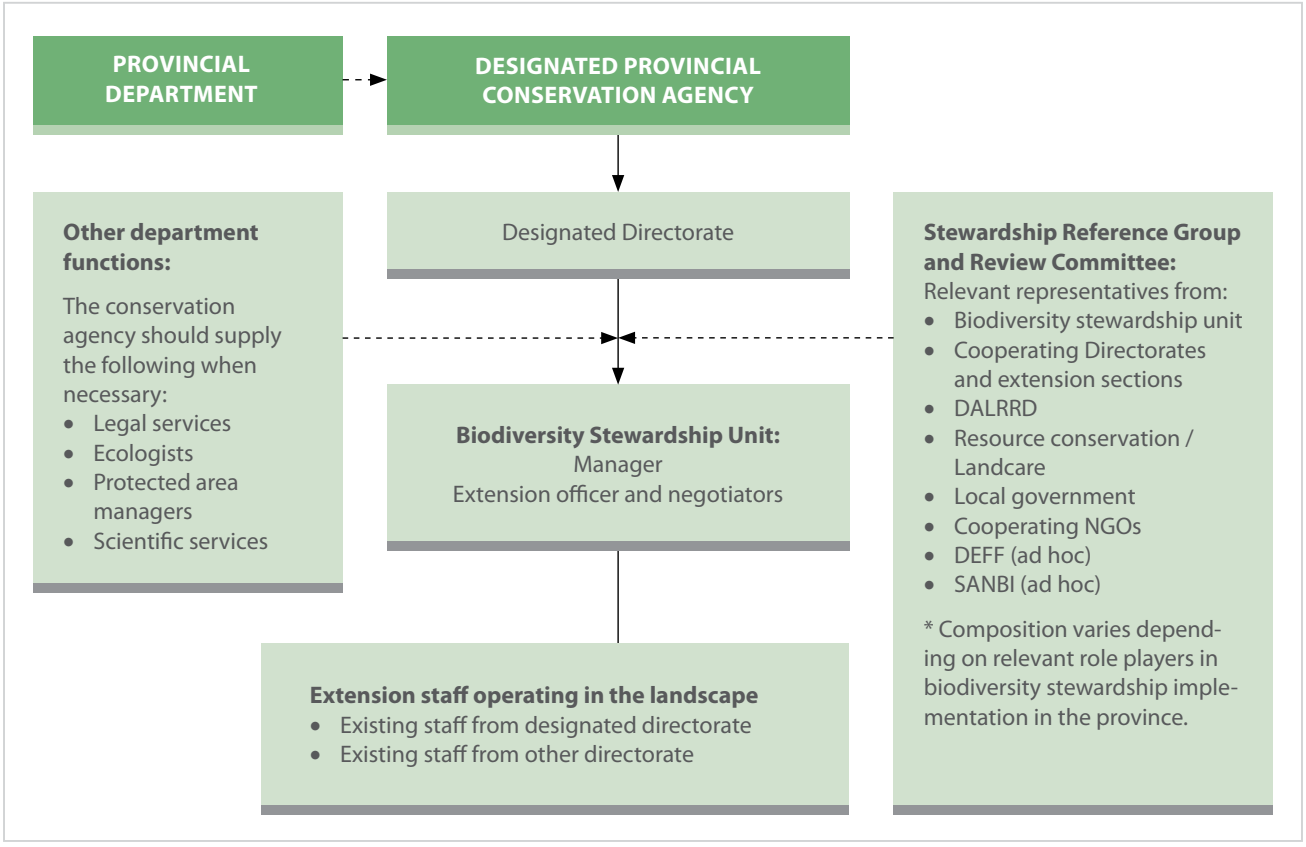
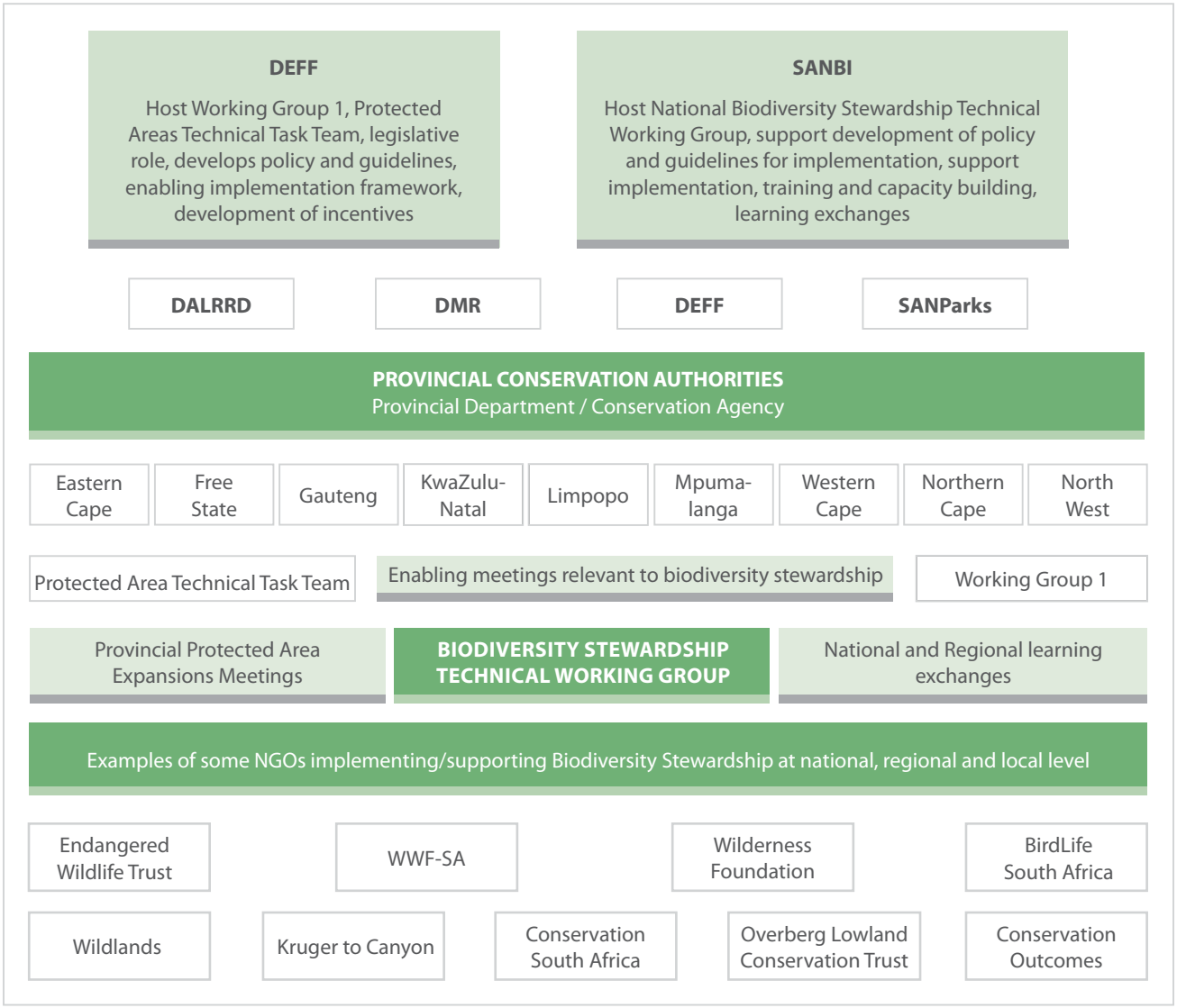


Figure 2. National institutional model for a biodiversity stewardship implementation.



collaboration with other government departments and private sector who are also active in these landscapes. These include the Department of Agriculture, Land Reform and Rural Development (DALRRD), the Department of Mineral Resources (DMR), etc. Private sector industries differ depending on the landscape but can include the following sectors: fruit, forestry, wine, sugar, beef and dairy.

Formal partnerships with these other departments (DAFF, DMR, DALRRD, etc.) have not yet been initiated. Collaboration and interaction takes place on a needs basis.

Figures 1 and 2 illustrate the ideal institutional structure to support optimal biodiversity stewardship implementation. The institutional structure will differ depending on the individual conservation agency's structure. The number of staff required will differ depending on the provincial protected area expansion targets identified through systematic conservation planning.

NGOs play an important implementation role across the country and form a crucial part of the various provincial biodiversity stewardship programmes and so form part of the institutional landscape for protected area expansion. NGOs provide additional capacity to support biodiversity stewardship functions within the conservation agencies as well as act as a catalyst for funding to augment conservation agency budgets. NGOs support provincial stewardship programmes with site selection, landowner negotiations (private and communal), provision of incentives, declarations as nature reserves, etc.

4.4 ROLES, RESPONSIBILITIES AND PARTNERSHIPS

Multiple role players are involved in implementing provincial biodiversity stewardship programmes. The NBF identifies the biodiversity stewardship lead agents as DEFF, provincial conservation authorities, NGOs and SANBI. Some of the key roles, institutional arrangements and actions are set out on the next page.

Table 3. Roles and responsibilities of the various role players (DEA, SANBI, SANParks, provincial departments, NGOs, private sector, private land owners, communal land owners, corporations)

ROLE PLAYER	ROLES AND RESPONSIBILITIES
DEA	• To provide guidance and coordination to agencies managing sites of biodiversity importance. • To ensure that natural systems, biodiversity and ecosystem services are maintained and enhanced for present and future generations, through the standard implementation of the biodiversity stewardship mechanism. • To support, motivate and coordinate provincial and other biodiversity stewardship initiatives within an enabling national framework, including enabling legislation and regulations, contributing effectively to achieving the various national, provincial and local biodiversity conservation targets outside of state-owned protected areas. • To promote the provision of incentives for landowners to commit their property to a biodiversity stewardship option through the relevant conservation authority. This includes assistance with the development and implementation of a management plan for optimal natural resource productivity and ecosystem functioning. • Set guidelines, with minimum norms and standards regarding biodiversity stewardship. • Formalise relationships with potential suppliers of incentives nationally (e.g. Working for Water, Working for Wetlands, etc.). • Develop appropriate legal tools and provide legal capacity to assist with implementation. • Liaise with South African Revenue Services (SARS) and Treasury on implementation of incentives. • Manage declaration process for SANParks and World Heritage Sites (WHS). • Assist with building capacity in provinces to draft, negotiate and finalise biodiversity stewardship agreements in terms of the Acts. • To unlock challenges with the implementation of protected area expansion.
SANBI	• Support DEFF in the facilitation of biodiversity stewardship implementation. • Support implementation of biodiversity stewardship through the work of the bioregional programmes. • Support biodiversity stewardship implementation through the development of appropriate tools and guidelines. • Provide science-based advice on biodiversity stewardship policy and implementation. • Facilitate learning networks and communities of practice. • Facilitate capacity building events.
Provincial authorities	• The provincial conservation agencies should be the implementing agencies of provincial biodiversity stewardship programmes. • Establish and implement provincial biodiversity stewardship programmes. • (Alternatively a province should ideally have a programme that coordinates conservation action outside of state managed protected areas to expand the network or secure priority sites.) • Secure and manage biodiversity stewardship agreements. • Streamline approval process for agreements and declarations. • Ensure provincial biodiversity stewardship programme is sufficiently staffed and supported. • Cooperate with other directorates to ensure sufficient suitably skilled extension staff. • Formalise relevant partnerships with NGOs and landowners and users to ensure biodiversity stewardship implementation. • Post-declaration and extension services support to biodiversity stewardship sites.
SANParks	• New emerging role in the biodiversity stewardship community of practice.
Local authorities	• Support the biodiversity stewardship programme of the provincial agency/ department. • Channel funding to biodiversity stewardship sites (e.g. some municipalities are Working for Water implementers and could conduct alien clearing operations on biodiversity stewardship sites). • Align biodiversity stewardship sites with Spatial Development Framework (SDF) initiatives. • Rezone nature reserves declared in perpetuity to the most appropriate conservation zone. • Facilitate implementation of the rates rebate / exemption applicable to nature reserves. • Municipalities should observe the exclusion clause for nature reserves in the Rates Act and should be encouraged to provide additional rates exemptions and rebates for all stewardship sites.
NGOs	NGOs play a range of different roles in biodiversity stewardship implementation. These include: • Provide auditing and extension support. • Act as biodiversity stewardship extension officers through agreement with the relevant provincial conservation agency. • Facilitate support to communal landowners and users regarding broader developmental objectives on the property for which a biodiversity stewardship agreement is in place.

Table 3. Roles and responsibilities of the various role players (DEA, SANBI, SANParks, provincial departments, NGOs, private sector, private land owners, communal land owners, corporations) (continued)

ROLE PLAYER	ROLES AND RESPONSIBILITIES
NGOs (continued)	• Pioneer new options and tools. • Provide training for stewardship implementation staff. • Explore the establishment and management of trust funds.
Private sector / business	• Engaged as required.
Landowner / land user	• Responsible for the management of the land. • Implement the management plan in partnership with the relevant provincial conservation agency and NGO. • Participate in learning and network opportunities. • Participate in capacity building events.

Further actions required for successful biodiversity stewardship implementation on the national scale:

- Support and coordinate the implementation of biodiversity stewardship by conservation agencies, through the establishment and management of a National Implementation Committee.
- Create a national enabling environment for the implementation of biodiversity stewardship.
- Source sustainable financial resources for biodiversity stewardship implementation.

NOTE: *To avoid administrative or bureaucratic blockages, there is a significant need for dedicated staff to be appointed at both national and provincial levels. They are required to process plans and agreements, as well as delegation of specific functions by the Minister and MEC to conservation agency personnel. This delegation must be well motivated and carefully controlled to ensure that norms and standards are maintained and that initiatives and agreements are processed speedily. Inaction has resulted in many landowners and communities around South Africa becoming frustrated and disillusioned with conservation and its agents.*

4.4.1 Roles and responsibilities of the various role players

Table 3 outlines the roles and responsibilities of the various role players involved in biodiversity stewardship implementation.

4.4.2 Operational Implementation Framework

Each province will need to focus on the following key elements for biodiversity stewardship programmes to be implemented successfully:

Political acceptance: High level buy-in and support from political principles to enable improved implementation and declaration processes.

Institutional arrangements: The conservation agency should ideally be supported by a dedicated biodiversity stewardship unit, in coordinating the implementation of the proposed programme with key staff in the relevant agency.

Reference group: A biodiversity stewardship reference group should be established. To be most effective the group should consist of the relevant managers from other provincial directorates and departments, local government, district officers, extension staff, national government (DEFF/SANBI) on an ad hoc basis and cooperating NGOs. This reference group aids the biodiversity stewardship unit by sharing resources and information. It provides input for decision making regarding proposed stewardship sites. The protected area review committee that makes the final decision on stewardship sites may be formed from this reference group.

Procedural framework: Development of the relevant tools and procedures for biodiversity stewardship to be effectively implemented within the province should be completed by the individual provinces or conservation agencies implementing biodiversity stewardship programmes. Biodiversity stewardship programme managers are responsible for outlining the procedural frameworks within their organisations to ensure efficient implementation.

Legal framework: Development of sound legal documents, based on the relevant national or provincial legislation. Where possible, a dedicated legal advisor should be assigned to oversee biodiversity stewardship contracts. Clear understanding of the legal procedures and costs involved in stewardship, including an established protocol in regard to the declaration of private nature reserves (including the role of the MEC in signing these into being) is required.

Expertise: Expertise of relevant internal and external staff and other agencies, so that they can ensure appropriate commitment. Of particular importance is extension expertise which is specific to biodiversity stewardship programme implementation.

Capacity building: Capacity building programme to ensure the availability of the abovementioned skills and expertise requirements.

Incentives: Develop and implement a realistic incentives framework (SANBI and DEFF).

Financial resources: Ensure budget for biodiversity stewardship is allocated proportionately.

Strategic implementation plan: This will address how best to apply the biodiversity stewardship categories to the various biodiversity priority areas across the province. This includes a spatial plan depicting the biodiversity priority areas in relation to the cadastres of the province and the level of agreement needed to secure each biodiversity priority area, in its context (be flexible in applying model on a case by case basis).

5 STEWARDSHIP PROCEDURAL FRAMEWORK

5.1 BIODIVERSITY STEWARDSHIP PRIORITY AREAS: NATIONAL AND PROVINCIAL PLANNING

5.1.1 Introduction

In South Africa, biodiversity planning is generally undertaken by provinces. They identify areas which require safeguarding to ensure the continued existence and functioning of the full array of indigenous biodiversity. This ranges from individual populations and species, to ecosystems, biomes, and the ecological processes that sustain them and deliver essential ecosystem services. These priority areas are known as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs). They inform land use and development planning, environmental assessment and regulation, and natural resource management; including the identification of priority areas for protected area expansion and biodiversity stewardship implementation.

The NPAES takes the approach that the national role is not to undertake the spatial planning, but rather to set targets, identify key underlying planning principles, collate provincial and sector priorities, and identify any remaining gaps. The strategy recognises that detailed planning, scheduling, and operational issues are best dealt with at the provincial and agency level. Provincial and agency protected area expansion plans are based on provincial systematic biodiversity plans, with additional consideration given to factors such as: importance, urgency, and the appropriateness of formal protection, or biodiversity stewardship specifically, as the conservation mechanism of choice.

The purpose of aligning biodiversity stewardship priority areas with provincial and national biodiversity planning efforts is to be more efficient and effective in using scarce conservation resources to secure a representative, ecologically sustainable and efficient protected area network.

The overall desired outcome is that protection efforts aim for a balanced portfolio of expansion activities which contribute to biodiversity conservation and ecological sustainability. They should avoid reinforcing existing biases in the

protected area network by not protecting more of the same ecosystems if conservation targets for a particular habitat have already been met. Priorities should be clearly defined through a robust systematic planning process.

5.1.2 Principles

Protected area expansion planning should:

- Be systematic and target driven. Spatial priorities should be aligned with provincial systematic conservation plans, and there should be a clear link between national and local planning targets.
- Improve the representation of all ecosystems, and strive to do so in an efficient manner.
- Plan for ecological persistence and ecological infrastructure. Priorities should secure areas critical for maintaining ecological processes and for delivering ecosystem services to people.
- Be integrated across ecosystem types and for threatened species.
- Seek alignment between provinces, agencies and other conservation partners where appropriate. Where ecosystems are shared between provinces, or where multiple agencies are active in a province, it is critical that clear communication lines exist and that planning processes are linked. Alignment should also be sought with conservation partners outside of state structures.
- Address receding opportunities and incorporate issues of opportunity cost. Where limited opportunities exist to secure the last remaining portions of underrepresented ecosystems it is critical that these are prioritised. However, the balance between securing critical or irreplaceable sites and other sites that may contribute more effectively to meeting targets should be carefully considered. In some cases, it may be better to secure these difficult areas through other conservation mechanisms such as development controls or zoning.
- Consider other operational and economic issues: Protected areas need to be manageable. Therefore, operational issues need to be taken into account. Similarly, protected areas should contribute to the national, regional and local economy, especially through tourism and job creation.

5.1.3 Best Practice

Best practice for identifying priority areas for biodiversity stewardship starts with two key components:

- A provincial or other systematic biodiversity or bioregional plan, i.e. a spatial planning product that has identified CBAs (and ESAs) using a systematic biodiversity planning approach; and
- A situation analysis which has reviewed all viable protected area expansion mechanisms, including but not limited to biodiversity stewardship. All key protected area expansion stakeholders, their roles and responsibilities, scope, and implementation opportunities and constraints have been identified.

From that spatial and contextual foundation further prioritisation should consider factors of importance and urgency. This should be done via a scoring or ranking system to highlight priority sites for meeting protection targets. Protection targets should be set for both desired long-term conservation outcomes (i.e. aligned with national biodiversity thresholds and international commitments [e.g. Aichi Target 11 under the CBD]) as well as for operational planning horizons (e.g. a five-year implementation outlook).

The importance factor should consider the relative importance of different sites to achieving targets and stated protected area expansion objectives. This includes protecting the best remaining examples of the most threatened or under-presented ecosystems, consolidating existing protected area boundaries, securing key corridors, or protecting essential habitat for focal species. Another way of looking at this factor is to ask, "What is the potential impact of successfully securing this site for conservation?"

The urgency factor should consider the extent to which spatial options for meeting targets (and optimal protected area design) still exist. This is often linked to the degree of competing land or resource uses in an area. Often this step includes a threat assessment where the extent and severity of direct threats are mapped and/or modelled. Another way of looking at this factor is to ask, "Will this opportunity (site) still exist in five years?"

In a best practice scenario, based on these factors, sites would then be further:

- Discussed with partners with an aim towards reaching consensus on geographic or functional areas of focus for each implementing partner.
- Assessed for their feasibility given any time, financial, staffing or other practical constraints.
- Grouped into short-, medium- and long-term priorities for scheduling purposes.
- Grouped according to lead negotiator.

5.1.4 Red Flags

Some of the challenges in identifying priority biodiversity stewardship sites include:

- The lack of conservation planning capacity in the provincial conservation agency.
- Lack of up to date biodiversity data.
- Outdated conservation planning tools (e.g. provincial conservation plan and provincial protected area expansion strategy).
- Highly fragmented landscape where all remaining intact biodiversity is important.

- Pursuing easy protected area sites (i.e. state or municipal land) to achieve targets which do not necessarily build biodiversity stewardship capacity or grow the conservation estate.
- Conflict with unobtainable information regarding mineral prospecting and mining rights.

5.2 IMPLEMENTATION PROCEDURE

5.2.1 Initiation of landowner/land user engagement

5.2.1.1 Introduction

Landowner participation in the biodiversity stewardship programme will either be through:

- A proactive approach from a conservation authority or NGO to a landowner; or
- A landowner approaching a conservation authority or NGO following them hearing about the programme; or
- A reactive approach, where a landowner is required to secure their property using the biodiversity stewardship approach, typically as a result of being required to do so in terms of a condition in an environmental authorisation for a development.

An extension officer's role in engaging with a landowner can be proactive or reactive. It is predominantly to provide the landowner with a full understanding of the biodiversity stewardship process, legal requirements, and implications based on their current and future land use and activities on the property. A key element of this is to understand the landowner's needs and to assist the landowner in achieving the most appropriate biodiversity security outcome.

5.2.1.2 Principles

- The extension officer must have an excellent understanding of the biodiversity stewardship process, to be able to address any questions or queries the landowner might have.
- Maintain good communication with the landowner, to be able to provide answers to all queries and questions during the process.
- Work at the landowners pace, as forcing the process could result in the landowner declining further participation.
- Focus on building good professional relationships with the landowner to ensure efficient progress.

5.2.1.3 Best Practice

The process of engaging with landowners, whether individuals, multiple landowners, corporates or structured communities is essentially the same. The intricacies and timeframes are likely to differ. Dealing with individual landowners is often simpler as negotiations take place with one decision maker (or a small family). Dealing with groups of people or corporates tends to be more intricate, as the decision-making processes are often complex. It can involve long delays due to approvals by higher committees or trustee meetings. This can be exacerbated when the group is less structured and lacks reliable and structured means of communication between themselves.

In all likelihood, the extension officer is aware of the biodiversity value of the property. So the first step should always be to gain a good understanding of the social structure of the potential landowners and users and to assess the primary needs of the landowners and users. This will determine how the conservation message can best be tailored to fulfil such needs or whether biodiversity stewardship is a viable option.

With individual or small groups of landowners the process is fairly simple, and may involve a couple of meetings. Multiple landowner engagements are more complex and will require an understanding of the decision-making processes that are required. The biodiversity stewardship extension officer should ensure they make themselves available to attend all appropriate meetings in order to provide the necessary information to enable the relevant structures to agree to proceed with the process. In all cases the extension officer would be required to gain relevant information from the landowner/s which can be gained through a series of directed questions during landowner visits, and as a minimum would include the following:

- How is the property owned – is it in the landowner's personal capacity, a trust, a company, etc.?
- What is the current land use on the property, and how does this relate to conserving the biodiversity value on the property?
- What are the landowner's intentions for the property in the future?
- What is the landowner's view of conservation and their understanding of the biodiversity value on their property?

This will provide clues on how to proceed with conservation interventions.

The extension officer should then provide details on the various biodiversity stewardship options relevant for the property. It is recommended that a professionally produced pamphlet be used to talk from, and left behind with the landowner after the visit. The landowner/user should be introduced to a brief outline of the background that has led to the existence of the provincial

biodiversity stewardship programme. This could include the limitations of other options such as conservancies and why there is a need for new options with greater legal security.

In explaining the biodiversity stewardship approach, the following should be taken into account:

- Landowner fears should be addressed upfront (such as future government expropriation or political instability). Although their fears must be acknowledged it is important to stress that stewardship is by no means a land expropriation strategy. Ownership rights will not have to be ceded to the conservancy agency and they can retain all their normal landowner rights. The landowner will retain all rights which have not been voluntarily given up in the stewardship agreement (such as development).
- Any limitations that the organisation may face in terms of capacity and resources must be fully explained in order to give them a realistic picture of the status quo. There should be no promises of a level of service or assistance that will not be possible to deliver on.
- The landowner/user should be made aware of the importance of thinking long-term and ensuring any area remains conserved beyond their lifetime. The possible risks that may exist should they want to sell the property one day must be highlighted. This includes the time and money invested in conservation could be wasted if the new owner decides to change land use and develop the conserved area, or if they neglect it. In this way, the landowner can be convinced of the usefulness of putting restrictions on the title deeds.
- It is important to ensure that an "incentives expectation" is not created, whereby landowners are only securing their properties due to the benefits or support they will be receiving. A "stewardship mindset" should rather be encouraged, whereby the landowner willingly wants to conserve their land, and the benefits and support complement their decision, rather than driving their decision.
- Stewardship option explanations should be kept simple and one option should not be promoted above the rest. The pros and cons of each should be explained in a non-biased manner. Placing emphasis on one option over the rest could raise expectations and, then lead to later disappointment when the property does not qualify for that status (e.g. it should not seem like nature reserve status is the only option worth aspiring to, and that if a site does not qualify for that, the property is second best).
- Any option can apply to a portion of the property or the entire property. A property could even include all biodiversity stewardship options on one farm, depending on the biodiversity value of the different areas.
- The voluntary nature of all the biodiversity stewardship options should be highlighted. Landowners should be advised that the contract conditions can be tailored to their individual needs. In this regard the negotiation process regarding what the landowner and agency will do or provide is flexible.
- If the landowner is interested in exploring the biodiversity stewardship options (described in chapter two) with legal status, it must be made clear that the land will have to meet certain criteria (see chapter two on the biodiversity stewardship categories) and that the next step would be to conduct a site assessment for biodiversity value. Only once the outcome of the site assessment has been reviewed and made known to the landowner can a final decision be made on which option to pursue.
- It should be explained who will be negotiating the contract and that a stewardship extension officer does not have the mandate to sign the contract, rather they play a facilitating role between the landowner, the conservation agency and any legal expertise that is required.
- Ensure the landowner understands the extension practitioner's role and level within their organisation.
- Make the roles and responsibilities of different organisational and institutional role players are apparent upfront (e.g. the provincial authority has the legal mandate, NGOs will play a facilitative role providing extension support, etc.).
- Follow up on all landowner meetings or telephonic conversations with a thank you e-mail summarising the discussion, noting any decisions and/or listing any actions.

Following the detailed engagements with the landowner, the extension officer should encourage the landowner to a point where they would be happy to proceed to the next step of the Biodiversity Assessment. The extension officer should then get the landowner to sign a Consent Form, giving the extension officer permission to proceed with the biodiversity assessment. It must be made clear to the landowner that signing this form does not commit them to any agreement.

5.2.1.4 Red Flags

- Do not make promises that cannot be fulfilled.
- Be open, honest and transparent in regards to all aspects of the biodiversity stewardship options, especially regarding the legal contracts and restrictions.
- Do not pressurise the landowner to make a quick decision about which biodiversity stewardship option they want to explore – go at their pace.
- Clearly identify different roleplayers and describe their respective roles in the biodiversity stewardship process upfront.

5.2.1.5 Checklist

The biodiversity stewardship extension officer must obtain the following information through landowner engagements:

- An understanding of the landowner's intentions for the property.
- The landowner's knowledge of the conservation value of the property.
- The landowner's needs in terms of securing the biodiversity value on the property.
- The ownership structure of the land, and particularly who needs to finally sign any agreements.
- Clear knowledge of the property boundaries and extent, preferably from surveyor general (SG) diagrams.
- An approval by the landowner to proceed with the biodiversity assessment, by signing the Consent form.

5.2.2 Biodiversity and socio-economic institutional assessments

5.2.2.1 Introduction

Biodiversity stewardship focuses on creating long-term security for critical biodiversity in a landscape, often with the aim of securing new protected areas. Due to the limited capacity of the conservation sector to support new biodiversity stewardship sites, and the potential conflict between competing land uses (crop agriculture for food security versus conservation land in its natural state), it is essential that biodiversity stewardship sites are located ideally in priority biodiversity areas. This is not restricted to CBAs or protected area expansion areas, as identified through biodiversity conservation planning. This will be achieved by performing a standardised biodiversity assessment on each property, following the landowners signing of the Consent Form. Apart from ensuring the site consists of priority biodiversity, the assessment is also aimed at ensuring the correct biodiversity stewardship category is allocated to the site. In addition to the biodiversity assessment, it is recommended that a socio-economic assessment be performed on each site. The assessment takes into account the social constructs of the region and the landowner, as well as the economic viability of the site.

5.2.2.2 Principles

Using a standardised biodiversity assessment process, the assessed biodiversity value of the property will determine the highest biodiversity stewardship category for which a property qualifies.

The landowner may choose a lower biodiversity stewardship category, but not a higher category than recommended by the assessment team.

The biodiversity assessment allows the identification of management interventions required to secure the relevant biodiversity value of the property, and thereby fundamentally informs the management plan.

NOTE: *Legislation allows for a landowner to approach the MEC directly to declare their land. The conservation agency's assignment of a category is based on the biodiversity assessment and outcome of the reference group or review committees' deliberations.*

5.2.2.3 Best practice

A site assessment is conducted to determine the biodiversity value of each proposed biodiversity stewardship site. The site assessment consists of two components, a desktop assessment and a field assessment. The desktop assessment involves an analysis of the property against a number of spatial biodiversity and planning tools which include the critical biodiversity areas, national freshwater ecosystem priority areas, climate change adaptation layers, municipal spatial development frameworks, rare and endangered species lists, etc. The field assessment is a ground-truthing exercise that involves verification of the results of the desktop assessment and capturing of any new information.

Biodiversity Assessment

A standardised biodiversity assessment form is used for all biodiversity stewardship sites. A site is assessed based on its habitat, species value and contribution to biodiversity targets, as well as its ecological process and ecosystem goods and services value. It uses a set of standard geographic information system (GIS) layers for the assessment. A quantifiable scoring system is used to determine a justifiable biodiversity stewardship category.

The team involved in the field assessment normally comprises:

- Biodiversity stewardship extension officer.
- The landowner.
- Relevant conservation agency staff such as district services and ecologists and any other government department representatives (e.g. DAFF).
- Other biodiversity specialists (e.g. SANBI's Custodians of Rare and Endangered Wildflowers [CREW] coordinators).
- If any local partners have links with amateur botanists who are familiar with the locality of Red Listed plants in the area, invite them to join the ecological assessments.

The overall objectives of the biodiversity assessment are to:

- Determine the biodiversity value of the proposed biodiversity stewardship area.
- Determine the specific contributions to provincial and national biodiversity targets, especially vegetation types and species.
- Determine land use pressures and threats to the proposed biodiversity stewardship area.
- Establish the preferred biodiversity stewardship category based on the biodiversity value.

- Begin the process of identifying the required management interventions for the proposed biodiversity stewardship area.
- Establish a baseline for evaluation of management effectiveness.

Socio-economic Assessment

The socio-economic assessment is critical for understanding the long-term viability of the site in securing the biodiversity value on the property. It needs to be established whether the landowner has the necessary motivation, knowledge and economic resources to appropriately manage the biodiversity resources. This obviously relates not only to the viability of the site, but to the necessary institutional structures that may be required, and the support the landowner or management authority requires to manage the biodiversity on the site. The socio-economic assessment therefore focuses on the following:

- Developing an economic profile of the landowner.
- Identifying opportunities and impacts of the proposed biodiversity stewardship category.
- Developing a basic social profile of the landowner or community owners, including an understanding of the current institutional and management structure.

No standard method is suggested, although a number of different tools for a rapid socio-economic assessment may be used, based on the organisational resources available and the complexity of the site:

- Desktop analysis (study of existing information and literature from key stakeholders – in land reform cases include the contract file).
- Stakeholder interviews (semi-structured interviews or questionnaires).
- Participatory rural appraisal (PRA) techniques (include historic timelines, seasonal calendars, daily activity charts, venn diagrams, transect walks, community mapping, needs analysis using goal ranking and pairwise ranking, institutional study).
- Institutional and relation mapping.
- Targeted behaviour survey (questionnaire based).

5.2.2.4 Checklist

- Completed biodiversity assessment form, with recommended biodiversity stewardship category.
- Socio-economic assessment report.

5.2.3 Site approval and cost analysis

5.2.3.1 Introduction

It is important for the completed biodiversity and socio-economic assessment information to be independently reviewed. A review will confirm that the correct biodiversity stewardship category has been recommended and that the decision is defensible.

Once agreement has been reached on the biodiversity stewardship category, the management structure is then decided upon (from the socio-economic assessment), management objectives are developed and the management actions required to achieve them are costed. The process then moves into the contract and management plan negotiation phases.

5.2.3.2 Principles

- The biodiversity stewardship category allocation should be based on the biodiversity value of the property, using a standardised assessment process.
- A consistent membership of the biodiversity and socio-economic assessment Review Panel should be maintained, to ensure consistency in biodiversity stewardship category allocations.

5.2.3.3 Best Practice

Only once the outcomes of the biodiversity and socio-economic assessments have been peer reviewed can a decision be made on which biodiversity stewardship category is most appropriate for the property. It is recommended that each province establishes its own Biodiversity Stewardship Review Panel, with a standard set of panel members to enable a consistent approach to approving biodiversity stewardship categories. For each property that is reviewed, the biodiversity stewardship extension officer responsible for the biodiversity and socio-economic assessments should present to the review panel the following information:

- A map of the locality of the property.
- The current management or institutional structure.
- Photos of the property and any biodiversity features of interest.
- A summary of the biodiversity assessment, highlighting why the property should have the recommended biodiversity stewardship status.
- A summary of the management interventions required to secure the biodiversity value.
- The economic viability of managing the biodiversity.

The review panel members then have an opportunity to interrogate the biodiversity and socio-economic assessment findings. This ensures that the biodiversity stewardship option decided upon is defensible and based primarily on the biodiversity value of the property, and not political or personal reasons. Defensibility is particularly important should any benefits and/or incentives become available. Property rates exclusion for nature reserves is one such incentive. It must be justified to the administering local authorities. The outcome of the review panel meeting should be captured and minuted.

The outcome of the review panel meeting is then drafted into a letter to the landowner, outlining the decision

of the review panel and the recommended biodiversity stewardship category. At this point, the landowner has the option of accepting the suggested category and moving forward with negotiations or opting for a less stringent option, as this is a voluntary process. There could therefore be a difference between the desired status (e.g. nature reserve) and the actual status (e.g. biodiversity agreement). It must be remembered that all biodiversity stewardship options are entered into purely on a voluntary basis. It is very important to get the landowner's agreement to a specific category in writing, and keep this letter on file for future record.

Management objectives and costing

Once agreement has been reached with the landowner regarding the biodiversity stewardship category, the next important step is to meet with the landowner and determine the key management objectives for the property. All subsequent negotiations, cost calculations and management plan aspects will centre around these objectives. Generally, the key management objectives will be those issues of greatest threat to the integrity of the biodiversity on the property (e.g. alien infestations, fire management, overgrazing, erosion, etc.). The landowner and extension officer should agree on the four or five most fundamental management objectives which will form the framework of the management plan.

Before proceeding to the contract and management plan negotiations, it is important to determine the magnitude of the cost burden for managing the property. The aim would be to determine the costs of specific management actions relating to achieving the management objectives. This then forms the basis of the negotiations in respect of the benefits to the landowner.

5.2.3.4 Checklist

- Standard Review Panel presentation format.
- Landowner feedback letter template.
- Management action costing template.

5.2.4 Contract negotiation

5.2.4.1 Introduction

The formal categories of the biodiversity stewardship programme involve the adoption of legal agreements with landowners. This applies where the biodiversity stewardship site is to be secured as a protected area, through a BMA or a biodiversity agreement. As the contracts make reference to the biodiversity stewardship site's management, their negotiation is undertaken in a parallel process with the preparation of the management plan. The purpose of the contract negotiation process is to:

- Secure the biodiversity and ecological processes at the biodiversity stewardship site through a formal legal commitment on behalf of the landowner.
- Formally set out the obligations of the landowner to protect the biodiversity on their land.
- Formally set out the obligations of the conservation authority (as the Minister or MEC's representative) to support the landowner in protecting the biodiversity on their land.
- In the case of nature reserves or national parks, enable the process of having the biodiversity stewardship site's title deeds endorsed to reflect their protected area status and ensure that it is binding on successors in title of the landowner.

5.2.4.2 Principles

- Contract negotiation requires the cooperative facilitation of a legal agreement between the landowner, the conservation authority and the Minister or MEC.
- As a negotiated process, the preparation of biodiversity stewardship contracts must allow flexibility to enable the landowner to include or exclude provisions that they do not accept but the non-negotiable items must be stipulated and agreed to upfront.
- Contracts must reflect and address the requirements of the legislation that underpin them whether they are for protected areas, biodiversity management agreements or biodiversity agreements.

5.2.4.3 Best Practice

Contract negotiation will differ somewhat depending on the category adopted for the biodiversity stewardship site. Accordingly, it is important to consider the categories and to adapt the process accordingly. The contract negotiation process will also differ somewhat depending on whether there are single or multiple landowners and based on the land tenure, i.e. whether privately owned, communally owned or owned by the state (e.g. on behalf of a traditional authority). This section will address the types of legal agreements that are required for the different biodiversity stewardship categories, including:

- Declaration agreements for protected areas.
- Biodiversity management agreements.
- Biodiversity agreements.

Note that most provincial biodiversity stewardship programmes have developed pro forma legal templates, which are largely the same across provinces. These templates have a consistent structure, which reduces legal costs and enables the conservation authority and MEC's legal advisors to become familiar with their layout and contents. The template documents will be tailored to suit the requirements for the landowners and conditions of each biodiversity stewardship site.

Nature reserves

The NEMPAA, requires the following for nature reserves:

- A notice to declare a nature reserve on private land may only be published if the owner has consented to the declaration by way of a written agreement with

the Minister or MEC in terms of Section 23(3) of the NEMPAA.
- The terms of the written agreement referred to in Section 23(3) are binding on successors in title of the landowner in terms of Section 35(3)(a) of the NEMPAA.
- The terms of the agreement must be recorded in a notarial deed and registered against the title deeds of the property in terms of Section 35(3)(b) of the NEMPAA.

The agreement that is prepared must thus be in the form of a notarial deed agreement and must include the following:

- A detailed description of the properties involved.
- The purpose of the protected area in relation to Section 17 of the NEMPAA.
- An agreement to declare the properties as a nature reserve or part of an existing nature reserve.
- The name of the nature reserve.
- The assignment of a suitable entity as the management authority by the Minister or MEC (with landowner consent).
- The selected entity's acceptance of the appointment as the management authority.
- An acknowledgement by the parties (landowner and the Minister or SANParks) that the agreement is to be endorsed against the title deeds of the properties and shall be binding on all successors in title to the properties.

In terms of best practice, it is recommended that a protected area management agreement between the management authority and the provincial conservation authority be adopted. This agreement should be in a similar format to a biodiversity agreement. It should stipulate the obligations of the landowner and the conservation authority in managing specific aspects of the biodiversity of the property. It should also be strongly related to the nature reserve's management plan. This agreement is important as it commits the conservation authority to a formal relationship with the biodiversity stewardship site. Through this agreement the conservation authority can provide technical support and ensure that the nature reserve is being managed for the purpose for which it was established.

In the case of nature reserves that consist of multiple landowners, the management authority should be an entity that represents all of the landowners, which they have formally acceded to. In this case, the notarial deed agreement may be between each landowner and the MEC or a combined agreement may be prepared between the management authority and the MEC. It is recommended that appropriate legal advice be sought in determining the best option for the declaration of such nature reserves in an effort to facilitate the title deed endorsement process.

In the case where communal land is to be declared a nature reserve, a notarial deed agreement is not required, as the land is not privately owned. In this instance, a similar process should be followed to that outlined above but the declaration agreement can be in the same format as that used for protected environments, as it does not need to be endorsed against the title deeds of the property.

National parks

The NEMPAA, requires the following for national parks:

- A notice to declare a national park on private land may only be published if the owner has consented to the declaration by way of a written agreement with SANParks or the Minister in terms of Sections 20(3).
- The terms of the written agreement referred to in Sections 20(3) are binding on successors in title of the landowner in terms of Section 35(3)(a) of the NEMPAA.
- As such, the terms of the agreement must be recorded in a notarial deed and registered against the title deed of the property in terms of Section 35(3)(b) of the NEMPAA.
- In terms of Section 38(1)(a) of the NEMPAA, the Minister must assign the management of a national park to SANParks.

Accordingly, the declaration of a national park or an addition to a national park may include a co-management agreement, which addresses the issues outlined in Section 42(2) of the NEMPAA.

The agreement that is prepared must be in the form of a notarial deed agreement and must include the following:

- A detailed description of the properties involved
- The purpose of the protected area in relation to Section 17 of the NEMPAA.
- An agreement to declare the properties as a national park or part of an existing national park
- The name of the national park.
- The assignment of SANParks as the management authority of the national park.
- SANParks acceptance of the appointment as the management authority.
- An acknowledgement by the parties (landowner and the Minister or SANParks) that the agreement is to be endorsed against the title deeds of the properties and shall be binding on all successors in title to the properties.

Although the landowner is required to cede the management of their land to SANParks if it is to be declared as a national park, Section 42 of the NEMPAA allows the establishment of co-management agreements between the management authority, another organ of state, a local community, an individual or other party. Importantly, such co-management may not lead to fragmentation or duplication of management functions (Section 42(b)) but in terms of Section 42(2) it may enable:

a. The delegation of powers by the management authority to the other party to the agreement.
b. The apportionment of any income generated from the management of the protected area or any other form of benefit sharing between the parties.

c. The use of biological resources in the area.
d. Access to the area.
e. Occupation of the protected area or portions thereof.
f. Development of economic opportunities within and adjacent to the protected area.
g. Development of local management capacity and knowledge exchange.
h. Financial and other support to ensure effective administration and implementation of the co-management agreement.
i. Any other relevant matter.

Protected environments

The NEMPAA requires the following for protected environments:

- A notice to declare a protected environment on private land may only be published if the landowner has consented to the declaration in terms of Section 28(3).

It is not required in terms of NEMPAA for a written agreement to be entered into between the landowner and an MEC, but in terms of best practice, it is recommended that such an agreement is drawn up and signed by both parties, setting out at least the following:

- A detailed description of the properties involved.
- The purpose of the protected area in relation to Section 17 of the NEMPAA.
- An agreement to declare the properties as a protected environment.
- The name of the protected environment.
- The assignment of a suitable entity selected by the landowner as the management authority.
- The selected entity's acceptance of the appointment as the management authority

In terms of best practice, it is also recommended that a protected area management agreement between the management authority and the provincial conservation authority be adopted. This agreement, which should be in a similar format to a biodiversity agreement should stipulate the obligations of the landowner and the conservation authority in managing specific aspects of the biodiversity of the property. It should also be strongly related to the protected environment's management plan. This agreement is important as it commits the conservation authority to a formal relationship with the biodiversity stewardship site through which it can provide technical support and ensure that the protected environment is being managed for the purpose for which it was established.

In the case of protected environments that consist of multiple landowners, the management authority should be an entity that represents all of the landowners, which they have formally acceded to. In this case, the declaration agreement would be between the management authority and the MEC.

Biodiversity management agreements

BMAs are prepared in accordance with the NEMBA. As such, they have clear legal stipulations:

- A BMA may only be prepared for an ecosystem or species, for which a BMP has been prepared in accordance with Section 43 of the NEMBA.
- In terms of Section 43(2) of the NEMBA, before the Minister may approve a draft BMP, a suitable person, organisation or organ of state who is willing to be responsible for the implementation of the plan must be identified.
- In terms of Section 44 of the NEMBA, a BMA is entered into between the Minister and the entity identified in Section 43(2) regarding the implementation of the biodiversity management plan or any aspect of it.

Many BMPs for species have been developed, while no BMP for an ecosystem has been developed in South Africa. To date, no BMA has been entered into with the Minister as the NEMBA provision is not mandatory. Furthermore, the need for a BMA for BMPs will only be required where there are significant implementation challenges identified with the associated BMP. Nevertheless, if such an agreement is to be formulated it may follow a process that is largely consistent with that for biodiversity agreements for biodiversity stewardship sites. This would involve preparing the contract and BMP in a parallel process and stipulating the obligations of the landowner and the Minister, or his or her representatives, in implementing the plan.

Biodiversity agreements

Biodiversity agreements are legally binding, and therefore enforceable, between the contracting parties, typically a landowner and a conservation authority. It stipulates the obligations of the landowner and the conservation authority in managing specific aspects of the biodiversity on the relevant property. There is a strong interrelationship between the biodiversity agreement and the management plan prepared for the property.

An agreement should contain the following key components:

1. The management objectives for the biodiversity stewardship site.
2. The rights and obligations of the landowner, which relate primarily to compliance with the management plan and include restrictions on development, sustainable resource use and commercial activities, except if the activities are in compliance with the management plan.
3. The rights and obligations of the conservation authority, which include monitoring and review of the management plan, the provision of technical assistance to the landowner in the management of the biodiversity stewardship site, and the protection of its biodiversity.

Note on private land ownership issues

In most instances, privately owned land is not owned by a person but is owned by an entity like a trust or company. For a corporate entity to take a valid decision, such as entering into an agreement with the MEC for the declaration of protected area in respect of the property registered in

its name, it needs to follow the decision-making procedure in its constituting document, such as the Memorandum of Incorporation of a company or the trust deed of a trust. Typically a decision will be taken by resolution, which authorises one of its representatives to enter into an agreement on behalf of an entity.

In the event that multiple landowners enter into a single agreement with the Minister or an MEC, each landowning entity would need to pass a resolution authorising one of its representatives to sign a power of attorney, which in turn, authorises a specific person (not necessarily its representative) to enter into an agreement with the Minister or an MEC on its behalf.

A resolution passed by an entity should ideally address the following:

- The name of the trust or company and details of the properties that it owns.
- The wish of the trust or company to have the land declared as a protected area, and related to this, the need to endorse the protected area status against the title deeds of the properties.
- An endorsement of the decision to appoint a suitable entity as the management authority for the protected area.
- An endorsement of the name of the protected area.
- A delegation of responsibility of a representative of the trust or company to complete the administrative process of declaring the properties as a protected area or part of a protected area, which includes the power to sign any relevant documents on behalf of the trust or company.

5.2.4.4 Red Flags

- Contract negotiation should be undertaken in the spirit of cooperation and transparency, in which both parties work towards mutually agreed upon biodiversity conservation outcomes.
- It must be determined if the properties that make up an area to be declared as a protected area are subject to a loan arrangement with a bank. If they are, bondholder consent will be required prior to the endorsement of the protected area status against the title deeds of the property.

5.2.4.5 Policy Link

The contract negotiation process outlined above entails a best practice approach to implementing key national legislation, in particular:

- The National Environmental Management: Protected Areas Act, No. 57 of 2003.
- The National Environmental Management: Biodiversity Act, No.10 of 2004.

As a best practice approach, it addresses the requirements of the regulations and norms and standards published in terms of NEMPAA, including:

- The Regulations for the Proper Administration of Nature Reserves published in terms of Section 86(1) of the NEMPAA.
- Norms and Standards for the Management of Protected Areas in South Africa published in terms of Section 11 of the NEMPAA.
- Draft Norms and Standards for the Inclusion of Private Nature Reserves in the Register of Protected Areas of South Africa.

5.2.4.6 Checklist

The actions required to complete the contract negotiation process include:

- Submission of the draft pro forma contracts to the landowner for their initial review.
- In the case of a new protected area that involves multiple landowners, the establishment of a suitable entity that can act as the management authority. This may be undertaken through the establishment of an appropriately constituted landowners' association, of which all of the landowners are formal members.
- Negotiation with the landowner on specific aspects of the contracts in an effort to come to an agreement on its final contents.
- If possible, review and input from a lawyer on the contracts, which may be particularly important in facilitating the final title deed endorsement process for nature reserves and national parks.
- Landowners may often opt to get independent legal advice prior to finalising the contracts.
- Submission to the conservation authority for internal review, including scrutiny by its legal department.
- Finalisation of the legal contracts and appropriate signing by the landowner.
- Following internal approval processes, submission to the Minister, SANParks or the MEC for approval and signing, prior to declaration of the protected area.
- In the case of a biodiversity agreement, final signing of the agreement by an appropriately delegated representative of the provincial conservation authority.

Documents that need to be signed as part of this process, depending on the biodiversity stewardship category adopted, include the following:

- Biodiversity agreements.
- Biodiversity management agreements.
- Some provinces submit a draft Environmental Management Plan (EMP) (signed by the landowner) as part of the declaration process.

Protected environments

- Landowner trust or company resolutions.
- A declaration agreement between the landowner and the MEC.
- A protected area management agreement between the landowner and the conservation authority.

Nature reserves

- Landowner trust or company resolutions.

- In the case of a single agreement between multiple landowners and the Minister or MEC, powers of attorney empowering an individual to sign on behalf of all landowners.
- A declaration agreement between the landowner and the Minister or MEC, in the form of a notarial deed agreement.
- A protected area management agreement between the landowner and the conservation authority.

National parks

- Landowner trust or company resolutions.
- In the case of a single agreement between multiple landowners and SANParks or the Minister, powers of attorney empowering an individual to sign on behalf of all landowners.
- A declaration agreement between the landowner and SANParks or the Minister, in the form of a notarial deed agreement.
- If necessary, a co-management agreement between SANParks and the landowner.

5.2.5 Management plan development

5.2.5.1 Introduction

Management plans are required to ensure compliance with the NEMPAA and any other relevant legislation for biodiversity stewardship sites declared as protected areas. In addition, they provide tools for protected area management authorities and their partners in strategic planning and management of protected areas. If such plans are to be effective they should be designed with the key users in mind and they should be simple to read and follow. It should only focus on information that relates to management of the protected area.

The purpose of management plans:

- The primary tool to assist management authorities (landowners) and partners in strategic planning and management of a biodiversity stewardship site.
- Identify costs and motivate for finances for management interventions.
- Build accountability into management.
- Provide for capacity building, continuity in management and future thinking.

5.2.5.2 Principles

Management plans are the primary tool for the management of a biodiversity stewardship site. They must be developed collaboratively with the management authority and landowner of the biodiversity stewardship site so that there is strong buy-in and a commitment to implementing the management plan.

Effective management plans

- Are a repository of historical, ecological and cultural knowledge about the biodiversity stewardship site that is relevant to its management.
- Have a clear flow from vision to objectives to management actions.
- Have an ability to translate into clearly actionable management interventions.
- Include mechanisms for monitoring the implementation of the plan and its effectiveness.
- Have a degree of flexibility that allows the management plan to change and adapt as conditions in the biodiversity stewardship site change.

5.2.5.3 Best Practice

In developing management plans, it is important to consider its structure and, as far as possible, adopt a standardised approach to developing the management plan in close collaboration with the biodiversity stewardship site's management authorities, landowner and other partners. Most provincial biodiversity stewardship programmes have developed pro forma plan templates, which are largely the same across provinces. These templates have a consistent structure, which enables partners, particularly provincial conservation authorities, to become familiar with their layout and contents, and how they are implemented. The template documents will be tailored to suit the requirements for the landowners and conditions of each biodiversity stewardship site.

Structure of management plans

Management plans must address the requirements of NEMPAA. A management plan is comprised of two sections, Section A is a Five Year Strategic Plan and Section B is the Annual Plan of Operation (APO). The APO should be updated annually through an ongoing adaptive management process and the strategic plan must be updated every five years.

Management plans must be designed to provide a clear flow in which management issues, challenges and opportunities associated with a protected area are first identified. The plans can lead to the development of a strategic management framework (Section A), which in turn informs an operational management framework (Section B) (See Figure 1). The strategic outcomes respond directly to the management issues, challenges and opportunities, as they are the key matters that must be addressed through the management plan.

The management targets are intended to be measurable and to form the basis for the monitoring and reporting section that follows. Monitoring is intended to facilitate adaptive management, as it allows performance in the achievement of the targets to be measured, and if necessary, for management interventions to be modified to enable better attainment.

The framework for the development of annual plans of operation has been aligned with the requirements for

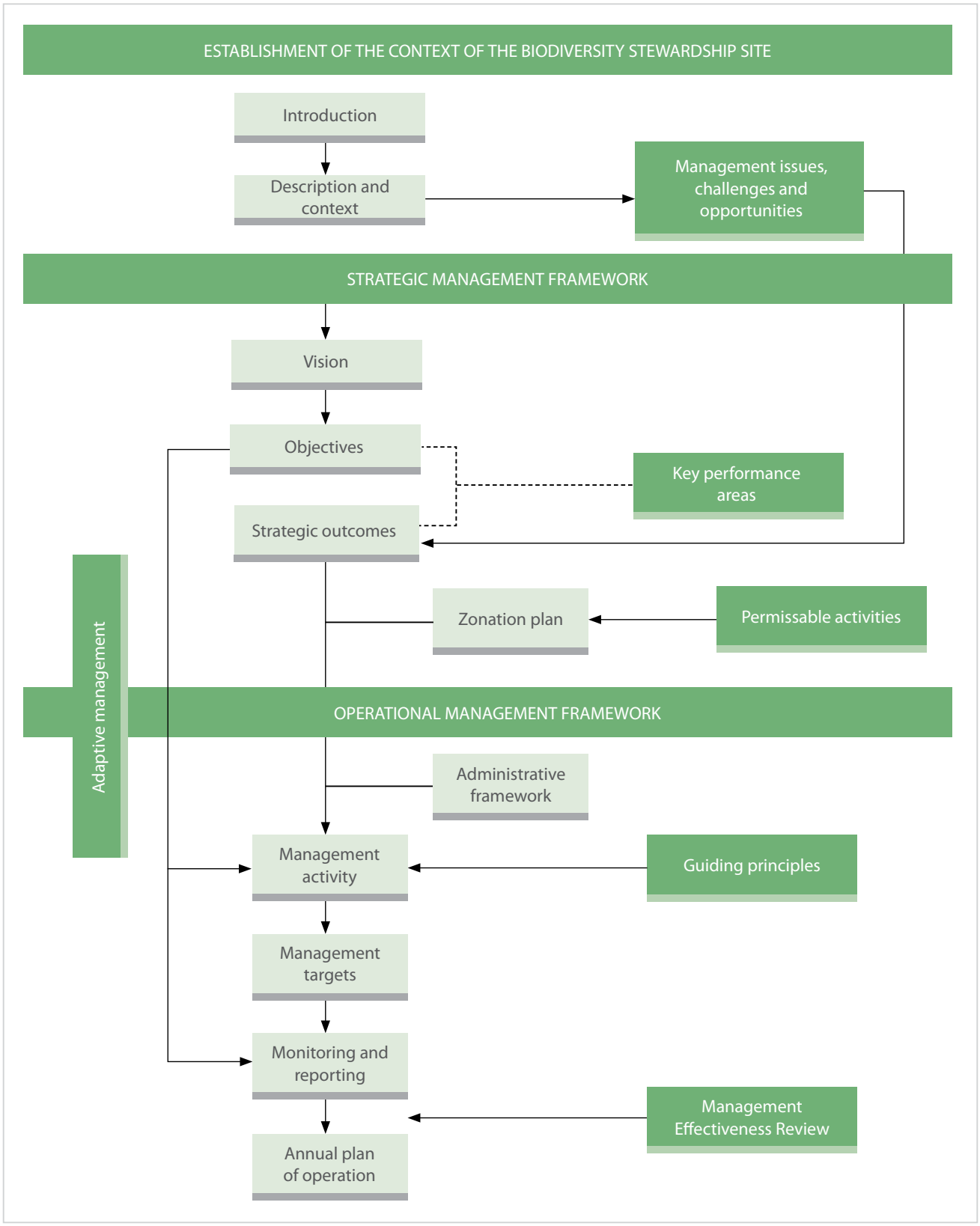
advisory forums. As such an annual management meeting and goal setting exercise is held for each biodiversity stewardship site. Through this process, the management activities may be expanded upon and implemented in an effort to achieve the management targets.

(Refer to Appendix 4 – Management Plan Table of Contents)

Process for the development of management plans

The preparation of a biodiversity stewardship management plan should be undertaken through a process in which information is compiled and management interventions are developed in close consultation and collaboration with management authorities, landowner and other partners (Figure 3).

Figure 3. Structure of biodiversity stewardship management plans.

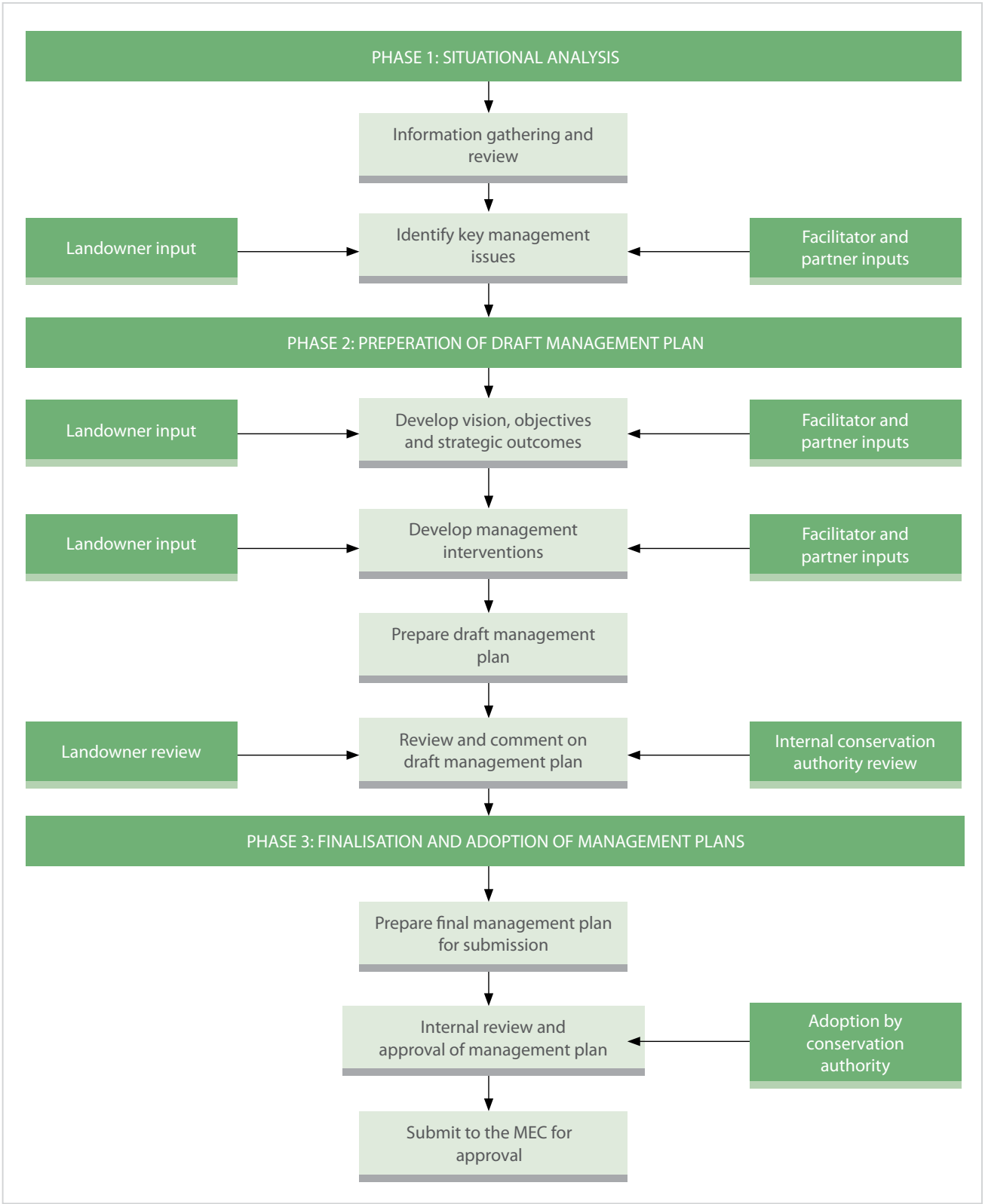


When developing the management plan, it is important that the aspirations of both the management authority and landowner are addressed. This is because the contract agreements stipulate that use of the biodiversity stewardship site, development and the activities undertaken on it, can only take place if they are in accordance with the management plan. Therefore it is important to have an understanding of primary uses of the biodiversity stewardship site (e.g. livestock grazing, hunting, tourism, etc.) and identify existing and proposed development and capture them in the zonation plan.

Presentation of management plans

Maps should be widely used and included in the text, including:

Figure 4. Process for the development of a biodiversity stewardship management plan.



- Locality maps.
- National and provincial protected area expansion priorities.
- Vegetation maps.
- Soil maps.
- Invasive plant species maps.
- Maps depicting all facilities and infrastructure.

Figures and tables should be widely used in an effort to present information in a coherent manner. Much of the information that is not relevant to day-to-day management should be captured in appendices and supporting documents, for example:

- Definitions of terms.
- Lists of legislation.
- Species lists.

Alignment with Management Effectiveness Tracking Tool (METT)

The Management Effectiveness Tracking Tool (METT-SA Version 3) has become the standardised tool for measuring protected area management effectiveness in South Africa. It is important that the development of a protected area's management plan consider the findings of any previous METT assessments and that the protected area be reassessed periodically.

The assessment of management effectiveness using the METT-SA Version 3 has been widely adopted for protected areas in South Africa. The purpose of METT assessments is to identify areas in which management effectiveness can be improved within a protected area and within the organisation managing the protected area. As far as possible, management plans should consider the METT, which focuses on six elements of protected area management:

- Understanding the context of existing values and threats.
- Protected area planning and design.
- The allocation of resources to the protected area.
- The processes that are implemented in managing a protected area.
- The outputs of management actions.
- The outcomes or impacts of management actions.

It must be understood that not all aspects of the METT will necessarily be relevant to a biodiversity stewardship site. However, the METT is able to identify areas on which to focus management activities in an effort to address deficiencies and improve management. It provides a baseline upon which future management effectiveness can be measured and improved.

5.2.5.4 Policy Link

The management plan development process outlined above entails a best practice approach to implementing the NEMPAA. As a best practice approach, it addresses the requirements of the regulations and norms and standards published in terms of NEMPAA, including:

- The Regulations for the Proper Administration of Nature Reserves published in terms of Section 86(1) of the NEMPAA.
- Norms and Standards for the Management of Protected Areas in South Africa published in terms of Section 11 of the NEMPAA.
- Draft Norms and Standards for the Inclusion of Private Nature Reserves in the Register of Protected Areas of South Africa.

5.2.5.5 Checklist

The actions required to complete the management plan are set out in Figure 2. The final management plan must be signed by the landowner, the conservation authority and the MEC for it to be a valid, approved management plan.

5.2.6 MEC submission and formal declaration (Western Cape perspective)

5.2.6.1 Introduction

This section sets out the procedures for the declaration of nature reserves and protected environments; the process of consultation with the MEC for the public participation process, declaration of nature reserves or protected environments and approval of the protected area management plan are emphasised.

This section also explains the procedure for withdrawal of declaration of a nature reserve or a protected environment as well as the exclusion of areas from a nature reserve or protected environment, including the process of withdrawal or exclusion in the case of private and local authority nature reserves proclaimed in terms of the Cape Nature Conservation Ordinance, 19 of 1974 ("the Ordinance"). There is a dual compliance requirement as private and local authority nature reserves are deemed to be nature reserves under the NEMPAA by virtue of Section 12 of that Act.

5.2.6.2 Principles

- The MEC submission and formal declaration process is only legally applicable to the nature reserve and protected environment biodiversity stewardship categories.
- Develop a relationship with the Department of the Premier: Legal Services in your province to ensure a consistent approach to the MEC submission process as the MEC submission must be vetted by the Premier's Legal Services.

Box 3. Withdrawal of declaration or exclusion of part of a nature reserve

1. A declaration under Section 23(1) may only be withdrawn:
   a. In the case of a declaration by the Minister, by resolution of the national Assembly;
   b. In the case of a declaration by an MEC, by resolution of the legislature of the relevant province; or
   c. In terms of subsection (2).

2. If the Minister or MEC, or the other party to an agreement, withdraws from an agreement referred to in section 23(3), the Minister or MEC must withdraw the notice in terms of which the land in question was declared a nature reserve or part of an existing nature reserve.

In addition the processes pertaining to consultation by the Minister and public participation as set out in sections 31, 32 and 33 of the NEMPAA must be complied with. The processes are:

- Formally request in writing the Provincial Conservation Agency to assist with an application for the withdrawal or exclusion of a part of a Nature Reserve in terms of the NEMPAA.
- Present the request for withdrawal or exclusion to the Protected Area Expansion and Stewardship Review Committee. The request must provide reasons for the alteration and exclusion. The loss to the protected area network must be quantified. This must be captured in the minutes.
- Make a first submission to the MEC via the Department of Premier: Legal Services requesting resolution of the provincial legislature. The process to obtain the said resolution is undertaken via the MEC's office and tabled at a sitting of the Provincial Legislature.
- Once the resolution has been obtained a second submission to the MEC requesting the withdrawal of part of the nature reserve in terms of section 24 of the Act.

Note: *Should a nature reserve or part thereof be the subject of a withdrawal, and a biodiversity tax incentive has been appropriated by the landowner or community, a tax penalty per the Income Tax Act will be triggered. Furthermore the landowner becomes liable to the municipality in which jurisdiction it falls for any rates that, had it not been for the rates exclusion in the Local Government: Municipal Property Rates Act 6 of 2004, would have been payable on the property.*

- Ensure that all documents are correctly approved and signed.
- Strict document control should be maintained at all times, as this is a legal process which requires correctly administered documents.

5.2.6.3 Best Practice

Section 23 Nature Reserves and Section 28 Protected Environments

- Extension officer to verify type of ownership of property, i.e. natural or juristic (close corporation, trust, company, home owners association [Section 28]).

Resolution and Memorandum of Understanding (MOU)

- If the owner is a juristic person, a draft resolution is to be signed by members/trustees/directors.
- Send draft resolution and MOU to the Provincial Conservation Agency Legal Services.
- Legal Services to verify property information and vet agreements.
- Legal services to send documents back to extension officer with comments and/or amendments.
- Once both parties are happy with the content of the agreement, it can be signed by the landowner.
- The relevant official to submit the agreement through the various approval channels for sign off by the Chief Executive Officer (CEO) or delegated official.

Protected Area Management Agreement

- Extension officer to draft Protected Area Management Agreement.
- Send draft management agreement to the Provincial Conservation Agency Legal Services.
- Legal Services to verify property information and vet agreements.
- Legal services to send documents back to extension officer with comments and/or amendments.
- Once both parties are happy with the content of the agreement, it can be signed by the landowner.

- Extension officer to forward agreement for signature to the CEO.

Public Participation, Consultation and MEC Submissions

In the case of declaration of protected areas and approval of protected area management plans, there is a requirement to consult with affected parties who may have an interest in the protected area in terms of Section 31, 32, 33, 34 and 39(3) of NEMPAA:

- Although there are more stringent requirements for state owned protected areas, it is important that consultation is addressed.
- Public participation and consultation for protected area management plans may be undertaken at the same time that the intention to declare notice is advertised in newspapers and Government Gazette notices.
- In this regard, the advertisements and Government Gazette notice can include a statement that the draft management plan for the proposed protected area has been prepared and is available for review.
- The public participation and consultation process is further dealt with in the MEC submission sections below.

First MEC Submission

- The Provincial Conservation Agency Legal Services to draft a submission to the MEC requesting authorisation to proceed with the public participation process as prescribed by Section 32 and 33 of the NEMPAA.
- Submission sent to the MEC via Department of the Premier: Legal Services.
- Once the MEC has signed, a notice is published in the Provincial Gazette and two national newspapers inviting members of the public to submit to the Minister

Box 4. Withdrawal of declaration or exclusion of part of a protected environment

The Minister or the MEC may by notice in the Gazette:

a. Withdraw the declaration, issued under Section 28, of an area as a protected environment or as part of an existing protected environment; or
b. Exclude any part of a protected environment from the area.

In addition the processes pertaining to consultation by the Minister and public participation as set out in Sections 31, 32 and 33 of the NEMPAA must be complied with.

Note: *Should a protected environment or part thereof be the subject of a withdrawal, and a biodiversity tax incentive has been appropriated by the landowner or community, a tax penalty per the Income Tax Act will be triggered.*

Box 5. Withdrawal of declaration or exclusion of part of a private or local authority nature reserve

Private and Local Authority Nature Reserves proclaimed in terms of the Western Cape Nature Conservation Ordinance, 19 of 1974 ("the Ordinance") have a dual compliance requirement as they are also deemed to be Nature Reserves under the NEMPAA by virtue of Section 12.

This means that the boundary alteration and abolishment processes as set out in Section 7(7) of the Ordinance as well as the withdrawal of declaration or exclusion of part of nature reserve in terms of Section 24 of the National Environmental Management: Protected Areas Act, 57 of 2003 must be complied with.

In addition, the processes pertaining to consultation by the Minister and public participation as set out in Sections 31 and 33 of the NEMPAA must be complied with.

The dual process is as follows:

- Formally request in writing the Provincial Conservation Agency to assist with an application for the alteration of the nature reserve boundary in terms of the ordinance and exclusion of a part of Nature Reserve in terms of the NEMPAA.
- Present the request for alteration and exclusion to the Protected Area Expansion and Stewardship Review Committee together, with reasons for the alteration and exclusion to be captured in the minutes and to quantify the loss to the Protected Area network.
- Provincial Conservation Agency drafts submission to the MEC via Department of Premier: Legal Services for approval to proceed with public participation process in terms of the Ordinance.
- Proceed with Public Participation Process (the Ordinance requires the publication of the relevant notice in a local newspaper circulating in the area where the provincial nature reserve shall be proclaimed, shall be abolished or the boundary thereof altered, and such notice shall be published once a week for two consecutive weeks with an interval of not less than seven days).
- If a SG diagram is required to make a boundary adjustment then a Professional Land Surveyor should be instructed to prepare a diagram and submit to the Surveyor General for approval.
- Second submission to MEC via Department of Premier: Legal Services requesting resolution of the provincial legislature. The process to obtain the said resolution is undertaken via the MEC's office and tabled at a sitting of the Provincial Legislature.
- Once the resolution has been obtained a third submission to the MEC requesting the withdrawal of part of the nature reserve in terms of Section 24 of the Act.

or MEC written representations on or objections to the proposed notice within 60 days from the date of publication in the Gazette.

National Minister and other organs of state consultation

- During the 60-day period the National Minister of the DEFF, other organs of state, the municipality in the area where it is proposed to establish the protected area, as well as any lawful occupiers on the property of the owner (tenants, workers, etc.) are consulted.
- Consultation is undertaken by way of sending notices to the Minister and other parties.

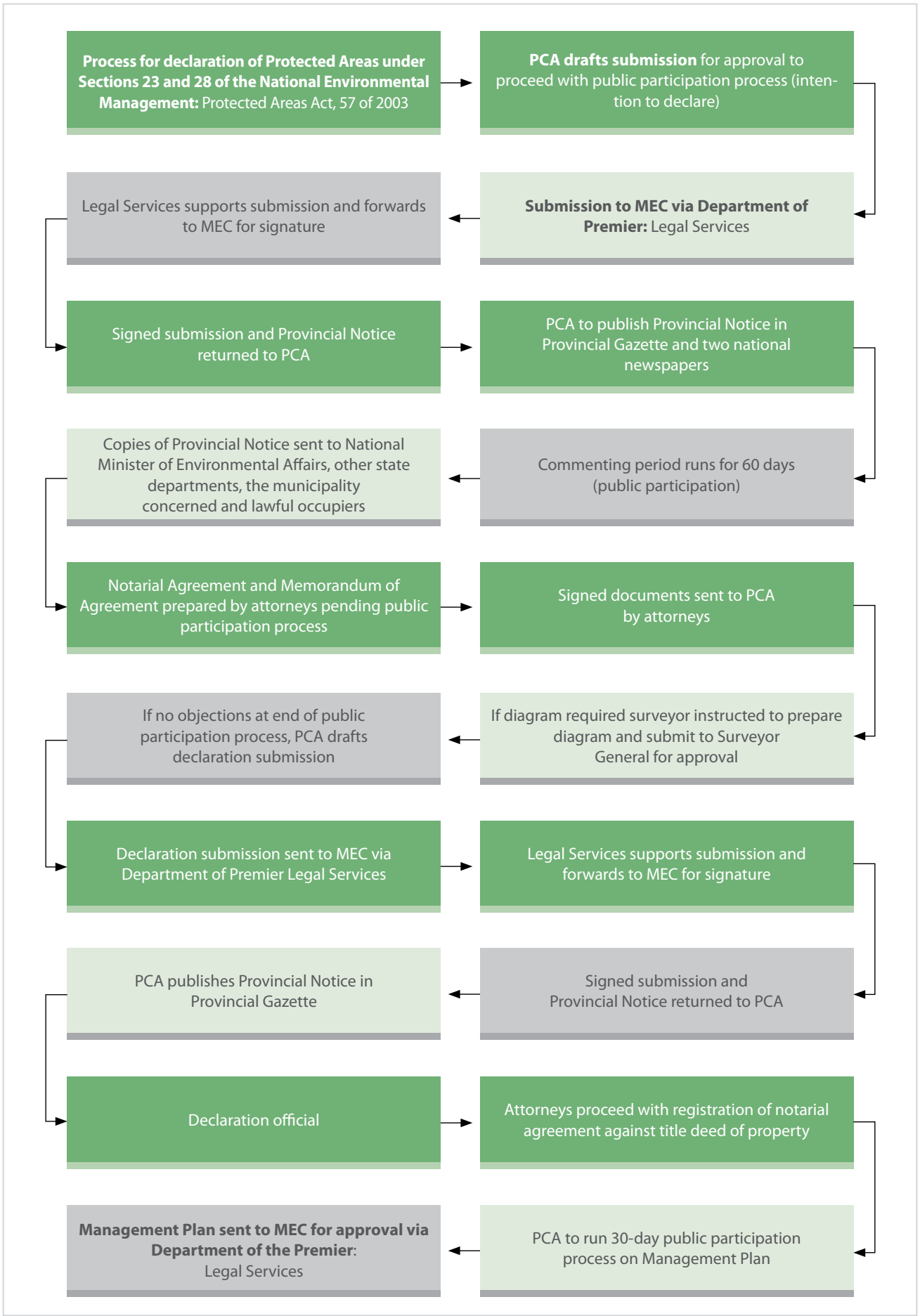
Notarial Agreements and Memorandum of Agreement (MOA)

- During the 60-day public participation and consultation period the Provincial Conservation Agency Legal Services gives instruction to attorneys to prepare a notarial agreement and a Memorandum of Agreement (MOA).
- If only a part of a property is declared, a surveyor general (SG) diagram (declaration diagram) is required in order for the nature reserve to be notarised on the title deeds of the property.
- If the 60-day commenting period expires with no objections, the MEC may proceed with declaration.

Second MEC Submission

- To proceed with the declaration, a signed notarial agreement and MOA must be obtained from attorneys.
- The Provincial Conservation Agency Legal services drafts a declaration submission to the MEC and attaches the notarial agreement and MOA together with other relevant information.
- The Provincial Conservation Agency Legal services sends the declaration submission to the Department of the Premier: Legal Services for final vetting and for the MEC's approval.
- Once the MEC signs the submission, a notice is published in the Provincial Gazette on which date the declaration of the protected area is official.

Figure 5. Flow diagram outlining the process for declaration of Protected Areas under Sections 23 and 28 of the NEMPAA in the Provincial Conservation Agency (PCA).



Protected Area Management Plan and rezoning

- The property owner is responsible for rezoning the nature reserve to the applicable municipal zoning scheme for nature reserves.
- Once the management plan is finalised by the extension officer it is submitted to the Provincial Conservation Agency Legal services to run a 30-day public participation process.

Third MEC Submission

- If no objections are received during the 30-day period, the management plan is to be sent to MEC for approval.
- The Provincial Conservation Agency Legal services drafts a submission to the MEC and forwards it together with the management plan to the Department of the Premier: Legal Services for vetting.
- Once the submission is vetted by the Department of the Premier: Legal Services, it is then sent to the MEC to sign.

5.2.6.4 Red Flags

The Conservation Agency and the Department of the Premier's Legal Advisors need to have an agreed, legally sound protocol for MEC submissions.

5.2.6.5 Policy Link

The declaration of a nature reserve and protected environment is undertaken in terms of Section 23 and Section 28 of the NEMPAA respectively.

The withdrawal of declaration, or exclusion of part of a nature reserve and protected environment is undertaken in terms of Section 24 and Section 29 of the NEMPAA respectively.

The process of consultation by the MEC is undertaken in terms of Section 32 of the NEMPAA.

The public participation process is undertaken in terms of Sections 33 and 34 of the NEMPAA.

5.2.6.6 Checklist

- Resolution.
- Memorandum of Understanding.
- Protected Area Management Agreement.
- MEC Submission to commence Public participation.
- Special Power of Attorney.
- Notarial Deed.
- MEC Submission to declare a nature reserve or protected environment.
- Protected Area Management Plan.
- MEC Submission to approve the Protected Area Management Plan.

5.2.7 Title Deed Endorsement

5.2.7.1 Introduction

The title deed endorsement ensures that a property with high biodiversity value receives long-term security. In terms of the legislation this is only relevant to the nature reserve category. The written agreement between the landowner and the MEC (as highlighted in section 5.2.4) is required to be endorsed on the title deeds of the property (according to Section 35[3] of the NEMPAA). Title deed endorsement gives it long-term security by ensuring it is binding on successors in title. This means that if someone purchases a property declared as a nature reserve, the conditions of it being a nature reserve are binding on the new owner, because of the title deed endorsement.

5.2.7.2 Principles

- The title deed endorsement is only legally applicable to the nature reserve category.
- The duration of the protected area declaration should be clearly stipulated (i.e. 99 years if in perpetuity). This is important to access the tax incentive and should be stated regardless for legal certainty.
- Although only legally applicable to the nature reserve category, any biodiversity stewardship agreement (be it a Protected Environment or Biodiversity Agreement) may in fact be endorsed on the title deeds of the land if this is what the landowner desires.
- Develop a relationship with a conveyance attorney or notary public in your province to ensure a consistent approach to the title deed endorsement process.
- Strict document control should be maintained at all times, as this is a legal process which requires correctly administered documents.
- Ensure that all documents are correctly approved and signed.

5.2.7.3 Best Practice

The declaration of a nature reserve is undertaken in terms of Section 23 of NEMPAA. Nature reserves are required to comply with several aspects of the NEMPAA, including:

- Section 23(3) requires that a nature reserve may only be declared in respect of private land if the landowner has consented by way of a written agreement with the Minister or MEC.
- Section 35(3) requires that the terms of the written agreement referred to in Section 23(3) are binding on successors in title of the landowner and as such must be recorded in a notarial deed and registered against the title deeds of the property.
- Section 36(1) requires that the Minister or the MEC, as the case may be, must in writing notify the Registrar of Deeds whenever an area is declared as a special nature reserve, nature reserve or protected

environment, or as part thereof, or whenever a declaration in respect thereof is withdrawn or altered.
- Section 36(2) requires that the notification must include a description of the land involved and the terms and conditions of any notarial deed.

Once the property has been formally declared through the publishing of the Government Gazette notice, the written agreement between the landowner and the Minister / MEC can then be translated into a notarial agreement (a template notarial agreement has been developed). This should ideally be done by a conveyance attorney.

It must be noted that achieving a title deed endorsement requires all parties to the original agreement to present themselves in front of a notary, who then finalises and signs the notarial agreement. In this situation, it is highly unlikely that all parties (landowner, conservation authority board chairperson and MEC) will be in a position to do this. Therefore, as part of the final set of declaration documents, each party to the agreement signs a "Special Power of Attorney," each giving authority to a single person to act on their behalf to enable the title deed endorsement.

Declaration of a "whole property" versus a "portion of a property"

Where an entire property (cadastre) is being declared as a nature reserve, the declaration and conditions of the title deed apply to the entire property, whereby the original surveyors diagram can be attached as a "description of the land".

However, if a landowner only wants to declare a portion of their property (by possibly excluding any agricultural or transformed areas), then it is important to geographically define the area to which the declaration applies. This would be relevant where one would need to survey out commercial activities such as industry, agriculture, tourism facilities such as lodges and cottages which may have property rates implications.

The Registrar of Deeds insists that this diagram has to be a surveyor's diagram which implies that it is approved by the Surveyor General's office. It requires a new diagram, surveyed and drafted by a land surveyor. This "Declaration diagram" is then submitted by the land surveyor to the SG office for approval. Once approved, the notarial agreement can be endorsed on the title deed, with reference to the approved SG diagram, providing reference to the defined geographic area of the property to which the declaration applies.

Once all parties have signed the Special Power of Attorney and initialled the notarial agreement, the authorised "representative" takes the documents to a notary where they are presented. The notary then completes and signs the final notarial agreement, which is then submitted to the Registrar of Deeds for title deed endorsement.

It is also important to note the clear designation of the property or portion thereof that is being declared, is essential to allowing access to the biodiversity tax incentives.

5.2.7.4 Case Studies

Case Study 1: Oosterbeek Nature Reserve

In Mpumalanga, Mpumalanga Tourism and Parks Agency have been working with SAPPI (forestry company) to declare unplanted, natural areas as protected areas, predominantly natural grassland and wetland habitats. In order to declare these areas, it was important to survey them out from the commercial timber plantation, as it would be inappropriate to include these in a nature reserve declaration. A land surveyor was appointed, who surveyed out the natural areas, drafted a "Declaration Diagram" and submitted it to the SG office for approval (Figure 6). Please note that it is important to be aware that the approval of this diagram by the SG Office does not constitute a sub-division or a servitude, it is simply defining the geographic area over a cadastre to which the declaration applies, hence it being a "Declaration diagram". Once the SG diagram has been approved, the notarial agreement is drafted and signed by a notary, and submitted to the Registrar of Deeds for endorsement on the title deed.

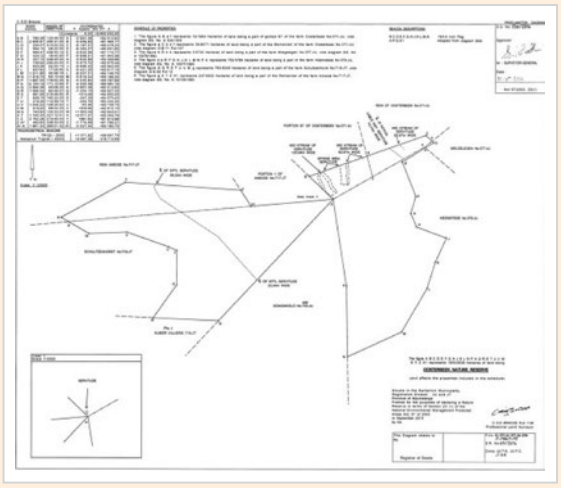


Figure 6. An example Declaration Diagram defining a geographic area over a cadastre.

Case Study 2: Western Cape Nature Reserve

Due to the highly transformed nature of the Western Cape Province, most of the properties with whom CapeNature is engaging requires a declaration of only a portion of their property. CapeNature has developed a good working relationship with the Western Cape SG Office, and has an agreed upon protocol for enabling declaration diagrams.

Most instances require the areas of commercial agriculture to be excluded from the declaration, and hence a "Declaration diagram" is produced through a combination of CapeNature staff, mapping the nature reserve area and being verified by a land surveyor. This diagram (Figure 7) is then submitted to the SG Office for approval, with the endorsement of the title deeds by a notary shortly thereafter.

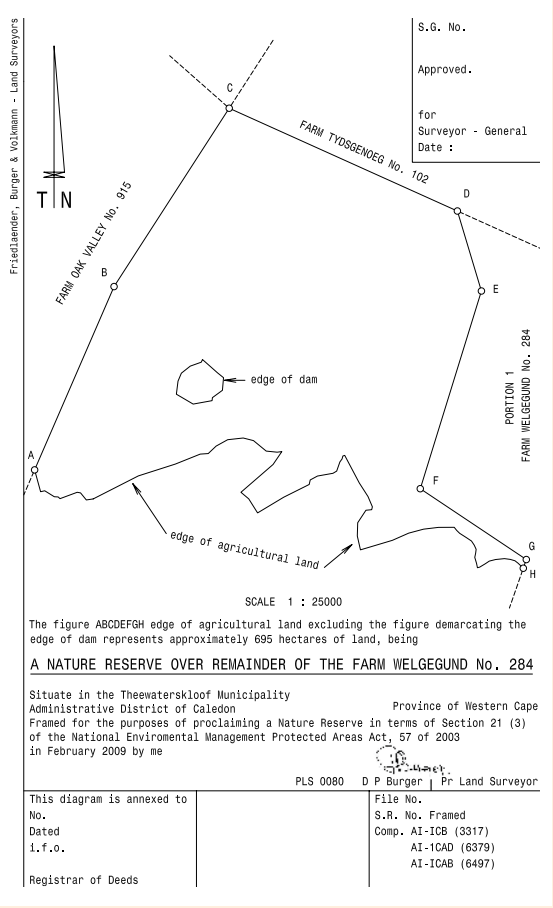


Figure 7. An example of the Declaration Diagram submitted to the Western Cape Surveyor General by CapeNature.

5.2.7.5 Red Flags

- Ensure all parties to the agreement are happy with the content before proceeding with the signing.
- Negotiate upfront who will be responsible for covering the costs of this process.
- The cost of surveying can be prohibitive if the area being defined is very complicated, i.e. delineating a wetland between transformed agricultural lands of forestry blocks. The survey costs would increase as the number of survey points increase.
- Delays in the approval of the SG diagram would delay the final step in the declaration process (i.e. title deed endorsement). This would delay the landowner's ability to receive the fiscal benefits if applicable.

5.2.7.6 Checklist

- Resolution template.
- Special Power of Attorney template.
- Draft notarial agreement template.
- Declaration diagram example.

5.2.8 Protected Area and Conservation Area (PACA) Database

5.2.8.1 Introduction

Section 10 of NEMPAA provides that the Minister must maintain a register called the Register of Protected Areas, which is required to contain a list of all protected areas, including those declared by MECs. The Register of Protected Areas set up and maintained by the Minister in accordance with that section is a publicly accessible web based system. Conservation authorities are encouraged to assist the Minister to comply with the requirement of the NEMPAA to maintain the Register of Protected Areas by submitting their lists of provincial protected areas to him or her, together with relevant information including the types of the various protected areas. The data for the Protected Area Register is contained in a database called the Protected Area Conservation Area (PACA) database.

The PACA database has been verified by Statistics South Africa (STATS SA) as the only database for protected areas in South Africa. For data to be included in this register, there are specific requirements that must be adhered to. According to the NEMPAA it is a requirement that all areas declared as protected areas must be provided to the Minister for inclusion into PACA database and the register.

To cater for areas declared through the stewardship process, the register was designed with a specific ability to identify these areas.

The register of protected areas can be accessed through the DEFF's website available online at https://egis.environment.gov.za/protected_areas_database.

5.2.8.2 Principles

Requirements for data to be included in PACA and the Register:

- Proof of area declared e.g. legal document such as a gazette.
- Area described in gazette with the size of the area.
- Property description as described on the SG's cadastre of properties.
- Document proof of biodiversity stewardship process followed.
- Management authority details.
- Ownership information.

6 BIODIVERSITY STEWARDSHIP ON **COMMUNALLY OWNED AND OCCUPIED LAND**

6.1 INTRODUCTION

One of the focuses of biodiversity stewardship is on working with communally owned and occupied land, in an effort to establish biodiversity conservation initiatives that can benefit communities while protecting important remnant biodiversity and ecosystem processes.

CPAs are juristic entities provided for in the Communal Property Associations Act 28 of 1996. They are typically set up by communities to whom land has been conferred, land pursuant to land restitution and redistribution processes. The process of declaring communally owned land is largely the same as that followed for private land. Issues such as the implementation of the management plan and reporting for protected areas are the same.

Communally occupied land on the other hand is unique. It is owned by the state but occupied by communities who have rights of occupation recognised and protected in terms of the Interim Protection of Informal Land Rights Act 31 of 1996. Some communities who occupy communal land are recognised traditional communities in terms of the Traditional Leadership and Governance Framework Act 41 of 2003. Traditional communities adhere to traditional custom, which usually determine communities' engagement protocols and decision-making procedures. Many of the requirements relating to the declaration of protected areas in respect of private land (and communally owned land) will, therefore, not be applicable to the declaration on communally occupied land, but the explicit consent of the relevant community is required.

This chapter addresses issues that should be considered when engaging in biodiversity stewardship on communally owned and occupied land. It highlights synergies with various government initiatives related to biodiversity conservation and natural resource management on communal land. It is particularly important to consider the role and context of biodiversity stewardship on communally owned and occupied land. As an example, over 3.1 million hectares of land, or over 33% of KwaZulu-Natal, is owned by the Ingonyama Trust and administered by the Ingonyama and the KwaZulu-Natal Ingonyama Trust Board in accordance with the KwaZulu-Natal Ingonyama Trust Act, No. 3KZ of 1994.

Furthermore, through land reform and rural development processes, government is actively implementing programmes to redress the injustices of the past and transfer land ownership back to communities who were previously dispossessed of it. Therefore, communally owned and occupied land forms a large proportion of South Africa's surface area. Such land often has important remnant biodiversity, including threatened species and habitat types, and supports vital ecological processes. The purpose of biodiversity stewardship on communally owned and occupied land is to:

- Contribute to provincial, national and international protected area expansion and biodiversity targets.
- Arrest current levels of land degradation, protect biodiversity and critical ecological processes, and enable climate change adaptation whilst ensuring that communities derive meaningful socio-economic benefits from the sustainable use of their land.
- Develop partnerships and relationships with communities in support of key government initiatives aimed at poverty alleviation, job creation and rural economic development, in particular government's natural resource management and biodiversity economy programmes.

6.2 PRINCIPLES

- Biodiversity stewardship and any conservation related activities on communally owned and occupied land should be designed and implemented based on an understanding of, and in support of, the community members' needs and desires for their land.
- Undertaking biodiversity stewardship on communally owned and occupied land and developing relationships with the beneficiaries and community members that own the land, requires a long-term commitment from conservation authorities and their NGO partners.
- Biodiversity stewardship and any conservation related activities should strive to ensure equity in the distribution of opportunities and benefits, and an overall improvement in the livelihoods of community members associated with the biodiversity stewardship site.

6.3 BEST PRACTICE

In general, the biodiversity stewardship process for communally owned and occupied land, including contract negotiation and the development of the management plan, will be the same as that for privately owned land. There are, however, some differences that should be considered and an approach that focuses specifically on community beneficiation, must be adopted.

Declaration of communally owned land as a protected area

Communally owned land successfully obtained through the land claims process, or transferred to a community trust or communal property association, in which the community holds the title deeds to the properties that make up the biodiversity stewardship site is equivalent to any other privately owned land. This means that declaration of a nature reserve on such land requires a written agreement between the landowners and the MEC or Minister in terms of Section 23(3) of NEMPAA. The process followed for this land is exactly the same as that for any other private land. It requires a notarial deed agreement and the endorsement of the biodiversity stewardship site's title deeds.

In the case of communally occupied land, the process followed is not the same as that for privately owned land. It must be noted that in many instances title deeds do not exist on such land, as it has not been surveyed and laid out in a cadastral diagram. It does not require the endorsement of the biodiversity stewardship site's title deeds. Section 34 of NEMPAA addresses this issue and importantly includes the following

- Section 34(2) requires that if it is proposed to declare a nature reserve or protected environment on land:
  - Owned by the state, the Minister or MEC may make the declaration only with the concurrence of the cabinet member or MEC responsible for the administration of that land.
  - That is held in trust by the state or an organ of state for a community or other beneficiary, the Minister or MEC may declare that area only with the concurrence of the trustees and the community involved.

The title to communally occupied land is most often held by the Government of the Republic of South Africa, and vested in the Department of Agriculture, Land Reform and Rural Development (DALRRD). Declarations of nature reserves and protected environments in respect of communally occupied land, therefore, requires the concurrence of the Minister responsible for rural development and land reform, as well as the community occupying the land. As already stated, community concurrence can only lawfully be given in accordance with applicable customary law when land is occupied by a recognised traditional community.

In KwaZulu-Natal most communally occupied land is owned by the Ingonyama Trust. Land owned by the Ingonyama Trust is administered in accordance with the KwaZulu-Natal Ingonyama Trust Act, No. 3 of 1994, which provides that land owned by the Ingonyama Trust may not be encumbered in any way without the prior written consent of the "traditional authority" or "community authority" concerned. In practice this means that the traditional or community authority concerned must formally endorse the declaration of the site and complete certain Ingonyama Trust forms that specifically state this. The Ingonyama Trust must then formally

endorse the declaration of the site before it can be declared as a protected area.

It is important to note that land that is not laid out in a cadastral diagram must be surveyed and appropriately depicted in a SG diagram if it is to be declared as a protected area. The SG diagram must be published together with the declaration notice (and the notice of intention to declare) and should also be sent to the Minister for the Register of Protected Areas to be updated to include the relevant protected area. It also constitutes a valid description of property for the purposes of Section 36(2) of NEMPAA, which requires a description of property declared as a protected area to be submitted to the Registrar of Deeds for recording.

Development of a long-term beneficiation plan for communally owned biodiversity stewardship sites

Long-term beneficiation of a communally owned and occupied biodiversity stewardship site must be considered as part of the process of negotiating its formal protection. This will mean integrating the biodiversity conservation initiative within existing beneficiation efforts or business plans, or developing a specific beneficiation plan for the biodiversity stewardship site. Ideally, a long-term business plan that identifies beneficiation activities should be developed for the biodiversity stewardship site. The types of issues that should be considered in such a plan include:

- The primary land use and types of activities envisaged for the site.
- Training and capacity development, which will depend on the types of land uses envisaged for the site. This may include training and capacity development for:
  - Business development, governance and oversight required for the running and management of businesses.
  - Field rangers, hunting, tourism and hospitality staff for wildlife related ventures.
  - Rangeland management and animal husbandry on sites used for livestock grazing.
  - General land management including fire management, invasive alien plant control, erosion control, etc.
  - Ancillary activities that may support the development of the site (e.g. crop management for areas surrounding the biodiversity stewardship site).
- Enterprise development, focused on the primary land use for the site, (e.g. tourism, hunting, venison production, livestock animal production, etc.).
- Support required to implement the management plan by other government departments and NGO partners (e.g. DAFF, Department of Cooperative Governance and Traditional Affairs [COGTA], etc.).
- The role of government programmes that may be implemented on the biodiversity stewardship site (e.g. Natural Resource Management and Biodiversity Economy Programmes).
- The capital costs required to establish the enterprises envisaged for the site (e.g. fencing, roads, water infrastructure, buildings, livestock, wildlife purchases, and equipment, including vehicles).
- The ongoing operational costs to protect and manage the site in the long term (this must include staff and maintenance costs).
- An income projection for the site based on the enterprises envisaged for it, which should show when the site will begin to derive an income.

The value of such a plan is that it enables thought to be dedicated towards the types of activities that can be undertaken at the site, the likely costs and time involved in establishing it, and the likely benefits and income that can be derived from it. This also means that when potential funding opportunities arise, there will be a clear understanding of what is required for the site and the likely benefits that will arise from its development.

6.4 CASE STUDIES

Case Study 1: Nambiti Private Game Reserve

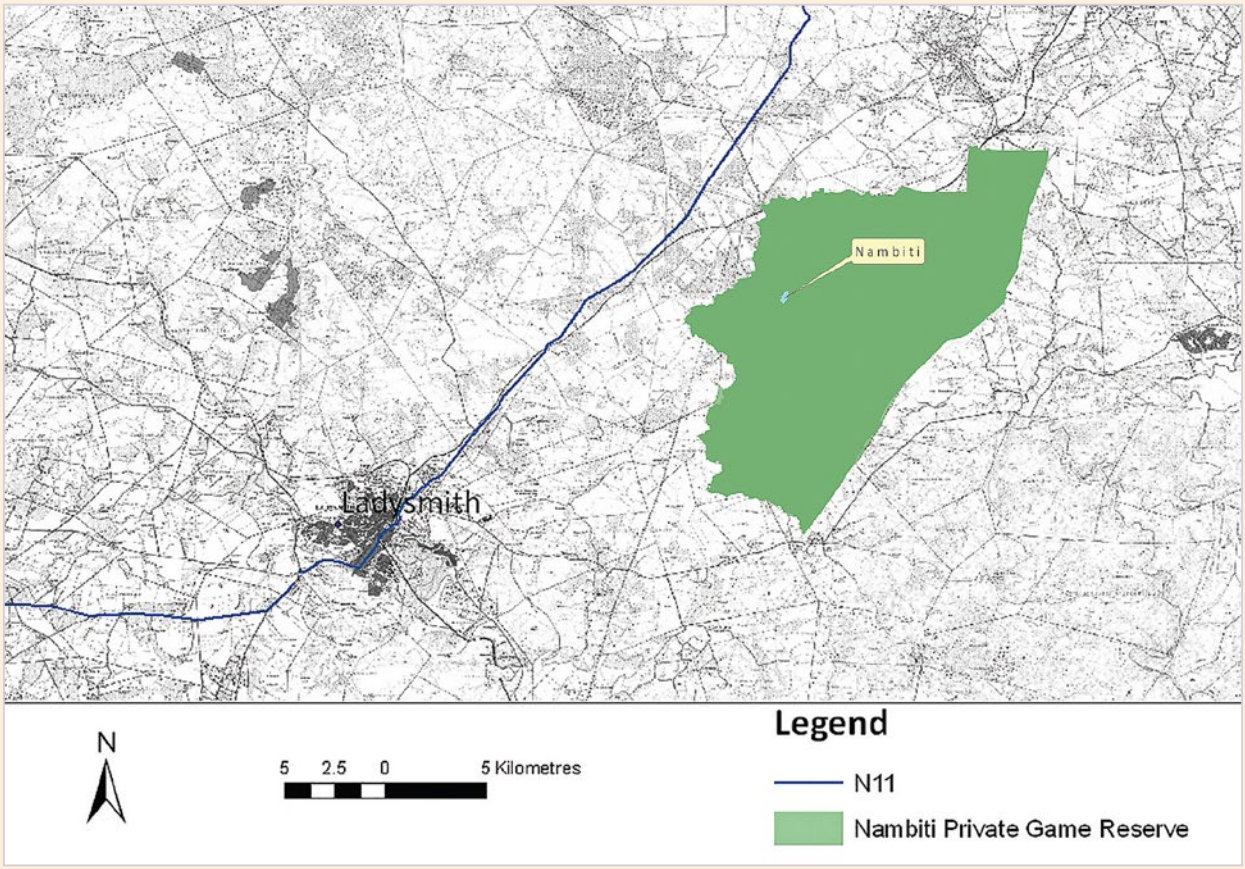
Nambiti Private Game Reserve is a "Big 5" reserve situated in the northern region of the Tugela basin close to Ladysmith in KZN (Figure 8). The reserve was established in 2000 on old cattle and maize farms that were combined to form a property extending over 8 000 hectares. Following this more farms were purchased, bringing the reserve to an extent of 9 859 hectares. Subsequently, the reserve was subject to a successful land claim and is now owned by the Senzo'kuhle Nkos'uNodada Communal Trust.

Operations at Nambiti Private Game Reserve are multi-faceted. There are ten luxury game lodges catering for local and international tourists. There is also limited hunting, live capture and sale of game and more recently, the production of venison from a recently constructed abattoir and butchery. Nambiti Private Game Reserve was proclaimed as a nature reserve, through the KZN Biodiversity Stewardship Programme, in terms of Section 23 of the NEMPAA.

The Senzo'kuhle Nkos'uNodada Communal Trust and its beneficiaries benefit from Nambiti Private Game Reserve in a number of ways, including:

- Through payment of the lease fee by Nambiti Private Game Reserve (Pty) Ltd, which is paid individually into the bank account of each beneficiary twice a year (the community trust is a 30% shareholder in the management company).
- Ownership and operation of Springbok Lodge, which can sleep up to 60 people and turns over in excess of R1 million per month.

Figure 8. Location of Nambiti Game Reserve.



- Sharing in the profits earned by the operation of the reserve – i.e. hunting, live off-takes and sale of venison.
- Preferential employment within the reserve for community members. If there are no community members who qualify for positions, options for the provision of training are explored.

Nambiti Private Game Reserve is a successful wildlife ranching venture with significant biodiversity value that focuses on nature-based tourism. This is supplemented by limited hunting, live capture of game and the production of venison. The role that the reserve plays in the regional economy should not be underestimated. Ladysmith, the nearest local town, benefits from the reserve's economic activities and its employment of people. The reserve employs a far greater number of people than would be the case if the land were still used for conventional agriculture and, in general, at far higher salaries than minimum agricultural wages. The role that the reserve plays from a biodiversity conservation and socio-economic perspective can be summarised as follows:

- Contribution to biodiversity and protected area expansion targets through declaration as a nature reserve.
- The protection of habitat that is under-represented in the protected area system and protection of a number of rare and threatened species.
- Generating a monthly turnover in excess of R4 million, which has significant implications for the local and regional economy.
- Employment of 54 people in reserve operation and management, and over 170 people in the reserve's lodges. This means that over 220 people are employed at the reserve in comparison to the 19 people employed (at agricultural minimum wage) at the time that the reserve was established.
- Revenue generation through live game sales and limited trophy hunting.
- Sustainable production of game meat for commercial sale, including the provision of an important local source of affordable meat to the communities living around the reserve.
- Nambiti Private Game Reserve demonstrates the value and sustainability of a well-run wildlife ranching venture that integrates biodiversity conservation with significant socio-economic value. The benefits of the reserve include job creation, economic development and improved food security. This is in an area with substantial poor rural communities, that suffer from high levels of unemployment and limited economic opportunities.

Case Study 2: The Mgundeni Community Protected Environment

In 1999, the Mgundeni Community (under the leadership of Nkosi J.Z. Mabaso) submitted a letter to Ezemvelo KZN Wildlife (EKZNW) requesting assistance with the conservation of the land that they had recently acquired. They stated that that they wanted to explore ecotourism opportunities and cattle farming on their land. In 2004 WWF-SA's Enkangala Grassland Project became involved in the initiative and a MOU was drawn up between the community, EKZNW and WWF-SA to pursue the following:

- An assessment of the socio-economic situation within the community and a participatory rural appraisal (PRA).
- An ecological assessment of the site.
- The establishment of an advisory forum.
- The facilitation of practical relationships, with government departments and surrounding farmers.
- The establishment of a biodiversity stewardship arrangement (the exact type to be determined after the ecological assessment and merits of the various categories had been fully understood.

Over the course of a three-year period, the deliverables of the MOU were implemented and a good working relationship was established between all parties. Key to a full understanding of all documentation and concepts was for them to be translated into isiZulu. This was a prerequisite for any discussion and although time consuming, was fulfilled as requested. Following on from this period, negotiations began to establish a biodiversity agreement between EKZNW and the Mgundeni community. By this stage, support from then KZN Department of Agriculture and Environment was good but no involvement from COGTA or the DALRRD. Challenges in concluding the biodiversity agreement were largely around translation and the understanding of some of the terminology, as well as the level of commitment that would be required from the community. WWF-SA together with a consultant conducted an economic feasibility study with the community, to determine the viability of various income generating activities the community had identified during the PRA process. The results showed that cattle farming (although high risk) would generate the best income with all other activities being the focal points for entrepreneurs to pursue (i.e. they would only benefit a few or single individuals and not the entire community). This outcome was favoured by the community who desired to pursue cattle farming while managing their land in a sustainable way. SANBI's grassland programme partnered with WWF-SA to fund various capacity building processes with the community, after they committed to signing the biodiversity agreement with EKZNW.

The community was trained and fully equipped in fire management and invasive alien plant control. Apart from enabling the community to implement their management plan for their biodiversity stewardship site, the training created jobs locally with the Amajuba District Municipality. Community members were employed during fire season to assist with fire management and control.

On the request of the community, COGTA became involved in the Advisory Forum and initially assisted immensely with decision making but this changed over time. After the biodiversity agreement was signed and the management plan collaboratively developed, WWF-SA facilitated additional support from the UNDP for a sustainable cattle farming project with the community. The key outcomes of this were:

- To lay the grazing area out in proper camps, to enable a rotational grazing system, as recommended by the KZN Department of Agriculture. This complemented the biodiversity agreement management plan (in that a proper cattle grazing plan was developed).
- The herd was consolidated and managed as a collective.
- A qualified mentor was appointed to guide and assist the community with herd management.
- The community gained access to the commercial cattle market.
- The community upgraded their biodiversity agreement to a protected environment and increased the size of the area under such protection.

Within the course of 2015 and 2016 the community implemented the recommended management measures with their mentor. They successfully accessed the commercial cattle farming market. They sold 70 oxen in their first year and were able to reduce herd mortality to below 1%. In addition, surrounding farmers donated a bull to the community to improve the genetic vigour of the herd.

Key learnings from the Mgundeni Community Protected Environment case study:

- Long-term timelines are critical in regard to community biodiversity stewardship work. This particular community has benefitted from over a decade of support, to realise their current success. Much of this relates to developing trust between all parties. Trust between partners is critical and takes time to establish. Whatever is committed to must be delivered upon.
- Partnerships are critical to ensuring success (KZN Department of Agriculture and Environment, EKZNW, WWF-SA, COGTA, etc.).

- Learning exchanges are useful for encouraging other communities to participate in the biodiversity stewardship programmes in their province. The Mgundeni community has assisted in this way with four other community sites.
- All documentation for signing must be translated into the language of choice in order for accountability and effective commitment to take place.
- The establishment of an advisory forum was a key step to ensuring collaborative and transparent decision making. All meetings included formal minutes, which were translated into isiZulu. This ensured comprehensive record-keeping and accountability.
- Incentives differ for different biodiversity stewardship sites and in the community context, biodiversity stewardship has unlocked access to a range of government departments and private funding opportunities that have directly benefitted the community in tangible ways. This has all been achieved under the umbrella of biodiversity stewardship, with clear biodiversity gains throughout.
- Biodiversity conservation needs to remain the key mandate. Because the needs of communities are so diverse, it is important to assist and facilitate wherever possible but not to lose sight of the biodiversity stewardship focus.

6.5 RED FLAGS

- It is essential that biodiversity stewardship on communally owned land takes place through a long-term commitment that works at a pace that suits the community. In this regard, it may be better to opt for a lower biodiversity stewardship commitment, such as a biodiversity agreement, at the outset rather than committing the community to a protected area that does not suit their needs and creates obligations that they cannot meet.
- Biodiversity stewardship on communally owned land should respond to the community's needs and not be seen to be dictating to them. Biodiversity stewardship should always be seen to be a mechanism to unlock sustainable development and meaningful beneficiation for communities.

6.6 POLICY LINK

The policy links for biodiversity stewardship on communally owned land are the same as those for other forms of biodiversity stewardship on privately owned land. They relate to protected area expansion and the implementation of NEMPAA, and its regulations and norms and standards. In addition, biodiversity stewardship on communally owned land contributes to various key government priorities and policies linked to:

- Rural development and land reform, with a particular focus on ensuring the socio-economic viability and sustainable use of communally owned land.
- Government programmes and initiatives focused on rural poverty alleviation, economic development and various aspects of service delivery.
- Specific programmes that seek to address job creation and socio-economic transformation of the agricultural and wildlife industries such as the Natural Resource Management (NRM) and Biodiversity Economy Programmes.

6.7 CHECKLIST

The actions required to implement biodiversity stewardship on communally owned land are largely the same as those for biodiversity stewardship conducted on privately owned land. In addition, in the case of biodiversity stewardship sites on state owned land, the following is required:

- Formal consent from the traditional authority, community trust or communal property association that administers the land to be declared as a protected area.
- Formal consent from the department or trust that is responsible for the administration of the land to be declared as a nature reserve.

A process to ensure meaningful beneficiation on communally owned biodiversity stewardship sites should be undertaken. Ideally this will include the development of a comprehensive business plan for the site, which identifies the types of activities, costs and benefits that may be derived from its development. This business plan will also form the basis for any funding or investment applications for the site.

7 SUPPORT MECHANISMS

7.1 EXTENSION SERVICES

7.1.1 Management Plan implementation

7.1.1.1 Introduction

Following the declaration of a biodiversity stewardship site as a protected area or the adoption of a biodiversity agreement, the implementation of the management plan is required. This is to ensure that the site is properly protected and managed. It is essential, as effective implementation of the management plan ensures that there are active measures being undertaken to ensure it is being protected for the purpose for which it was established. An annual plan of operation (APO) and a management effectiveness assessment (using the METT-SA Version 3) are developed. The APO and METT allow the management plan to be translated into clear management interventions and to determine how well the biodiversity stewardship site is being protected and managed. The purpose of management plan implementation, APO development and alignment with METT is to:

- Ensure that appropriate measures are being undertaken to protect, maintain and improve the site's biodiversity and ecological function.
- Undertake identified management interventions in an organised and structured manner that enable interventions to be monitored and facilitates adaptive management.
- Enable technical support and advice to be provided to the biodiversity stewardship site by partners, including the provincial conservation authority and NGOs.

7.1.1.2 Principles

- Management plan implementation should be undertaken in a spirit of cooperation in which the conservation authority and partner NGOs work to assist the biodiversity stewardship site's management authority to implement key management interventions.
- Implementation of the management plan should be flexible, allowing it to be adapted and modified in response to changing conditions in the biodiversity stewardship site.
- Implementation of the management plan should not be onerous for the biodiversity stewardship site's management authority, landowners and communities. Efforts must be undertaken to streamline its implementation and provide support, where required.
- METT assessments should not be seen as a measure of performance in managing a biodiversity stewardship site but should be used as a tool to determine and target areas in which management effectiveness can be improved.

7.1.1.3 Best Practice

The structure of management plans developed for biodiversity stewardship sites has been designed to allow for the development of APOs which translate the management targets set out in the management plan into practical, implementable management interventions (Figure 9).

Not all conservation agencies implement the METT system on their biodiversity stewardship sites. Some conservation agencies conduct an annual audit to ensure that the activities of the APO are being implemented and that planning for the following year's APO is conducted. An audit form is completed and an audit report is filed. The annual audit is done with the landowner.

Development of the Annual Plan of Operation (APO)

The biodiversity stewardship site management plan template includes an appendix that sets out a pro forma set of minutes that address each of the management targets contained in the management plan. These minutes include a column to allow for reporting on the previous year's progress towards the achievement of the individual management targets. There is another column that allows for goals to be set for the coming year. The intention of the pro forma set of minutes is to enable an annual management meeting. The meeting is attended by the management authority, landowners, ecologists, biodiversity stewardship and district conservation staff from the state conservation authority, NGO partners and any other interested parties that the management authority and partners believe can contribute to the meeting. The process of completing the minutes enables the management authority and all partners to review progress in implementing the management plan and to set goals for its implementation in the coming year. This process enables an efficient means of reviewing and reporting on progress in implementing the management plan, and in developing a simple practical annual plan of operation (APO) for the following year.

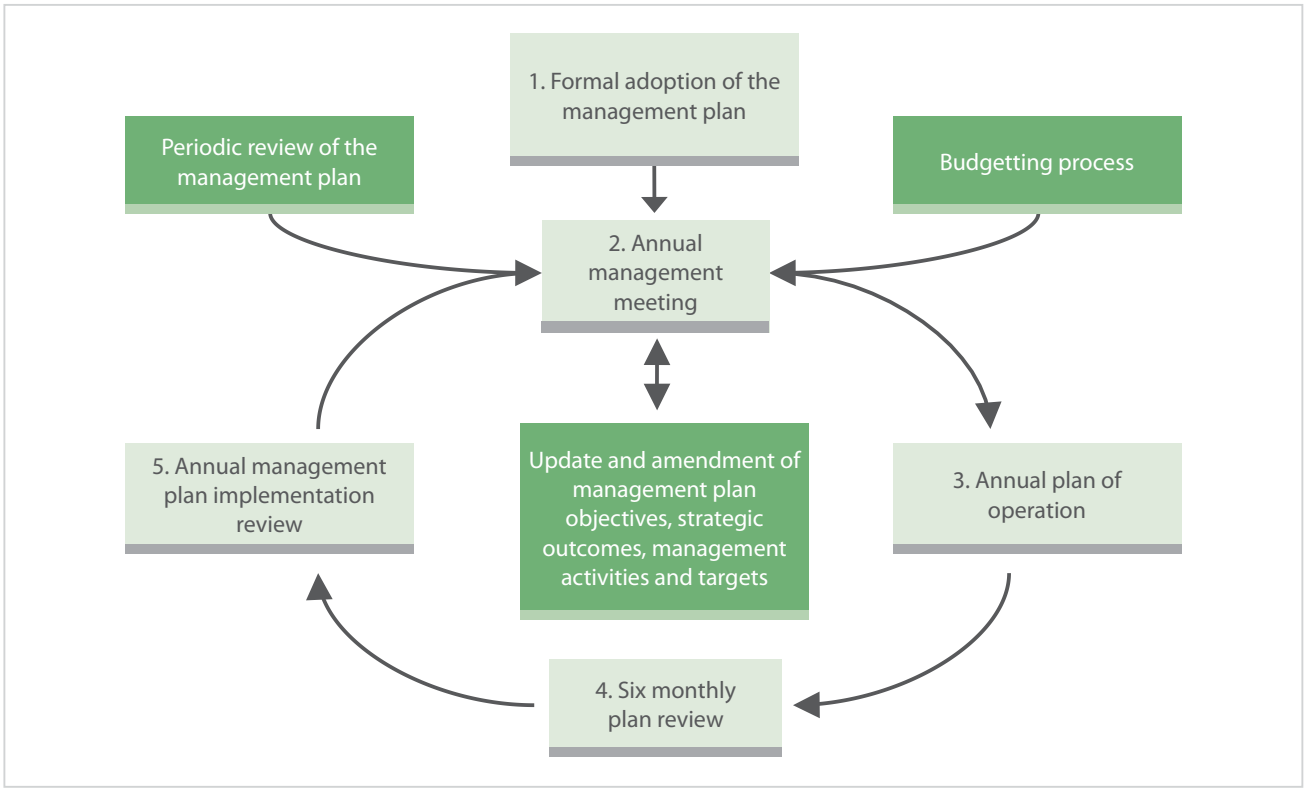
In undertaking the review of the previous year, it is important that any supporting documentation, related to the management plan's monitoring section, be included. This may include brief reports, photographs or any other data and information identified in the monitoring section. This will enable an effective review of the implementation of the management plan. It will allow the biodiversity stewardship site's management authority to identify any deficiencies in the management of the site and where the partners may play a role in supporting it. It will also identify areas in which targets may have been achieved or may need to be modified. In turn this may inform a periodic formal review of the management plan.

Part of the process of setting goals for the coming year will be to identify the technical assistance and resources required to achieve the goals that are set. This will involve the development of a programme of key management interventions to be implemented at particular times throughout the year. It will also include the identification of the roles that partners will play in these interventions. Through this process, an understanding may be developed of when partners need to be at the site to provide technical assistance and expertise, and what type of support is required. An important aspect of this will be to consider the costs required to implement key management interventions and how the state conservation authority or NGO partners may assist with these. Examples of the types of assistance that have been effectively provided in this regard include training of staff in invasive alien plant control and fire

Box 6. Key management interventions

- Seasonal invasive alien plant control.
- Pre-burn inspections, the application of firebreaks and controlled burning.
- The implementation of ecological restoration measures (e.g. wetland rehabilitation).
  Vegetation monitoring such as rangeland condition assessments.
- Species specific monitoring.
- Annual game counts.

Figure 9. Process for the implementation of management plans.



management, provision of herbicide assistance and mobilising programmes like Working for Water to assist biodiversity stewardship sites. The greatest value of this is the support that is provided to a site's management authority and the provision of valuable technical advice and expertise in ecological management issues that the management authority does not have.

Alignment with the Management Effectiveness Tracking Tool (METT)

It is important that there is a close link between the biodiversity stewardship site's management plan, its APO and the findings of any METT assessments done for a site, which is highlighted in the section of this guideline dealing with the preparation of management plans. A METT assessment should be undertaken periodically for sites that have been declared as protected areas, particularly nature reserves. It is discretionary and should only be done as often as it adds value, which may be annually, biennially or every five years. This will allow key management issues to be identified and prioritised. Some of the issues contained in a METT assessment may not always be relevant (e.g. it may not be possible to alter the design or further expand the footprint of a protected area) but where they are, they can add great value and can further inform the development of the site's APOs.

METT assessments are often effectively undertaken as a collaborative process involving multiple biodiversity stewardship sites. This assists in identifying issues of joint concern including issues with local government planning, catchment management, etc. It encourages collaboration on common issues such as ecological monitoring, security, etc.

Review of management plans

It will be necessary to undertake a periodic review of all biodiversity stewardship site management plans to ensure that they remain up to date and relevant. NEMPAA does not stipulate the duration or review periods for management plans but best practice dictates that a periodic review should ideally be undertaken, every five years. In undertaking periodic reviews of management plans, the following process is recommended:

- A formal internal review of management plans should be conducted at least every five years.
- The purpose of the review should be to determine the relevance of the management plan and the extent of amendments required.
- As part of this process, recommended changes and updates emerging from the annual review should be incorporated.

The review process can be conducted internally if the proposed changes are minor in nature and require update and amendment to the management activities and targets. If the proposed changes to the management plan are more significant, a more formal process involving approval of the revised plan by the Minister or MEC may be required. Examples of significant changes are identified below:

- Changes to the values and purpose of the protected area.

- Changes to the vision and objectives.
- Substantial changes to the zonation plan.
- The identification of significant additional capital projects, particularly those related to tourism development.

Where significant changes to the management plan are required, the revised management plan should be submitted through the state conservation authority's internal approval processes to the Minister or MEC for approval and adoption. In the case of minor changes it is recommended that the revised management plan be endorsed by the advisory committee at its annual management meeting.

7.1.1.4 Case Study

Management effectiveness assessments have been undertaken collaboratively for a group of biodiversity stewardship sites in northern Zululand since 2012. These sites are listed below:

- Somkhanda Game Reserve.
- Zululand Rhino Reserve.
- Thanda Game Reserve and Mduna Royal Reserve.
- Mun-Ya-Wana Game Reserve (Phinda).

Immense value has been derived from the process, including:

- Consistent improvement in METT assessment scores, following efforts to address deficiencies in management effectiveness.
- Identification of areas which require resources to improve management effectiveness. This has been particularly useful for the communally owned Somkhanda Game Reserve. The METT has identified areas in which NGO partners can focus resources.
- Changes in attitude around site's that had not been declared. The METT has been instrumental in convincing their management and landowner of the need for formal protected area status.
- Improved relations, cooperation and collaboration amongst contiguous sites.

7.1.1.5 Red Flags

- Ideally, a functional advisory forum should be established for each biodiversity stewardship site. Without this, the ability to review implementation of the management plan, develop the APO and provide resources and technical advice and expertise will be significantly hindered.
- Convening of the annual management meeting and completion of the pro forma set of minutes contained in the management plan is vital. It provides a record of implementation of the management plan, which is needed for oversight and reporting.

7.1.1.6 Policy Link

The process for the implementation of management plans outlined above entails a best practice approach to implementing the NEMPAA. As a best practice approach, it addresses the requirements of the regulations and norms and standards published in terms of NEMPAA, including:

- The Regulations for the Proper Administration of Nature Reserves published in terms of Section 86(1) of the Act.
- Norms and Standards for the Management of Protected Areas in South Africa published in terms of Section 11 of the Act.

It also addresses policies related to the management effectiveness of protected areas in South Africa and the need to achieve minimum standards to meet the country's obligations in terms of the CBD.

7.1.1.7 Checklist

The actions required to ensure effective implementation of the management plan, development of the APO and alignment with METT include:

- Convening of an annual management meeting in which the pro forma set of minutes set out in the management plan are completed for a biodiversity stewardship site.
- Emerging from the annual management meeting:
  - A review of progress in implementing the management plan and achievement of targets in the previous year.
  - Setting of goals for the achievement of the management plan's targets in the coming year, as part of the development of the site's APO.
  - Development of a programme of work that outlines when management interventions must be undertaken, and the role of partners in supporting the site in terms of resources, technical expertise and advice.
- Periodic completion of a METT assessment for each site. Ideally this should be part of a collaborative process involving multiple sites, which can further inform the development of the site's APO.
- Five-yearly formal review of the management plan and updating it, using information emerging from the previous annual management meetings.

Documents that should be prepared as part of this process include:

- An annual set of minutes and supporting documents that provides a review of the implementation of the management plan and an annual plan of operation (APO) for the following year.
- A periodic METT assessment report, documenting the findings of the METT assessment undertaken for the biodiversity stewardship site.

- A formally reviewed management plan that is current and relevant to the biodiversity stewardship site.

7.1.2 Oversight and Reporting

7.1.2.1 Introduction

An important aspect of ensuring a biodiversity stewardship site is properly protected and managed lies in undertaking oversight and reporting. This process should not be onerous either for the site's management authority, its landowner or its partners, including the state conservation authority. Accordingly, it should be streamlined and integrated with other processes such as the development of the APO. The purpose of oversight and reporting is to:

- Ensure that appropriate measures are being undertaken to protect, maintain and improve the site's biodiversity and ecological function.
- Ensure that all legal and regulatory obligations in terms of relevant legislation, particularly the NEMPAA are being met.
- Maintain a historical record of the protection and management of the biodiversity stewardship site, which can be used to inform future management approaches and interventions.

7.1.2.2 Principles

- Oversight and reporting should be a process of working with landowners to ensure that the site is properly protected and managed.
- Oversight and reporting should identify how challenges and deficiencies in management can be collectively addressed.

7.1.2.3 Best Practice

In undertaking oversight and reporting, it is important to first consider the legislative and regulatory obligations. This is particularly for biodiversity stewardship sites formally declared as protected areas. A streamlined and efficient process to meet these obligations should then be implemented.

Nature reserve regulations

In 2012, the Minister of Environmental Affairs published Regulations for the Proper Administration of Nature Reserves in terms of Section 86(1) of NEMPAA. The Regulations set out the obligations and functions of management authorities of nature reserves. It expands on the provisions contained in NEMPAA. Regulation 15 of the regulations requires the management authority of a nature reserve to monitor and report annually, before the end of June each year on the status of the implementation of the management plan. In practice, state conservation authorities who are partners to biodiversity stewardship sites and who have assisted in the establishment of such nature reserves on private land should play a role in assisting such management authorities to report annually to the MEC or Minister.

Norms and standards for protected area management

In 2016, the Minister of Environmental Affairs published Norms and Standards for the Management of Protected Areas in South Africa in terms of Section 11 of NEMPAA. The purpose of the norms and standards are to:

- Ensure that protected areas fulfill the purpose for which they were declared as set out in Section 17 of the Act.
- Ensure that human-induced disturbance within or originating outside of protected areas is avoided, and where it cannot be avoided, is minimised and the impacts remedied.
- Provide goals for protected area management authorities to strive to when managing their protected areas.
- Ensure protected areas are managed efficiently and effectively.

Section 24 of the norms and standards recognises that certain norms and standards may not be applicable to management authorities which are not organs of state. They are responsible for protected areas on private land. The implication of this is that some of the norms and standards may not apply to protected areas declared on privately owned land in which private entities, such as the landowner or a landowner association, have been appointed as the management authority. Section 24 does however require that such management authorities are to report annually to the MEC, by the end of May each year on their progress towards meeting and maintaining the norms and standards.

Section 4 identifies the norms, standards and indicators for the relative importance of the protected area established. In this regard, the norm is:

- The protected area is assessed for its role and/or importance in the South African system of protected areas.
- The standards and related indicators include:
  - The protected area contributes to the achievement of national biodiversity targets.
  - The protected area contributes to the conservation of biodiversity.

Linked to these standards, there are a number of indicators that relate to how the protected area contributes to the achievement of the national biodiversity targets and to the conservation of biodiversity. This means that a protected area must have clear biodiversity and ecological conservation values. A defensible process must have

been undertaken to determine whether an area qualifies to be declared as a protected area and what category of protected area it qualifies for. The process undertaken to assess a biodiversity stewardship site to determine the category of biodiversity stewardship that it qualifies for, will form the basis to meet the requirements of this aspect of the norms and standards.

The remaining norms and standards, and their associated indicators, are closely linked to the issues addressed in assessing management effectiveness of protected areas using techniques such as the METT. Accordingly, the completion of a periodic METT assessment and the preparation of a report thereafter will meet the requirements of this aspect of the norms and standards.

Process for undertaking oversight and reporting

In the previous section on management plan implementation, the process for the development of the APO was described. This process involves an annual management meeting and completion of a pro forma set of minutes that includes a review of progress in implementing the management plan and the achievement of goals in the previous year. If this process is followed as described in the previous section, it will meet the reporting requirements of the Regulations for the Proper Administration of Nature Reserves.

Box 7. Annual Management Meetings

There may be instances in which biodiversity stewardship site management authorities and/or landowner are not implementing key aspects of the management plan. They may be inadequately protecting, maintaining or improving the site's biodiversity and ecological function. The annual management meeting enables the conservation authority and the site's NGO partners to determine if this is due to a lack of resources, insufficient knowledge, or if the site is simply not being adequately managed. This will then enable the conservation authority to determine an appropriate response. The response may involve working with the landowner and NGO partners to rectify such issues.

In extreme cases it may involve instituting the dispute resolution clauses of the declaration agreement. This may ultimately result in the deproclamation of the biodiversity stewardship site. The annual management meeting and other engagements with biodiversity stewardship sites during the year form the primary means of oversight and provide the means to engage with and address key management issues with the landowner.

The completion of a periodic METT assessment, as described in previous sections, and the development of a report from this process will ensure that the requirements for reporting in terms of the Norms and Standards for the Management of Protected Areas in South Africa are met. These reports should also be captured as part of the records of the state conservation authority as part of its oversight and reporting functions.

7.1.2.4 Red Flags

- The establishment of the advisory forum, the convening of the annual management meeting and other engagements through the year are vital to ensuring adequate oversight and reporting. It is essential that a functional advisory forum be established and convened as required.
- The conservation authority that facilitated the agreement between the landowners and the MEC for the creation of biodiversity stewardship protected areas must play a central role in supporting the sites to meet their reporting obligations in terms of NEMPAA and its regulations, norms and standards.

7.1.2.5 Policy Link

The process for oversight and reporting outlined above entails a best practice approach to implementing the NEMPAA. As a best practice approach, it addresses the requirements of the regulations and norms and standards published in terms of NEMPAA, including:

- The Regulations for the Proper Administration of Nature Reserves published in terms of Section 86(1) of the Act.
- Norms and Standards for the Management of Protected Areas in South Africa published in terms of Section 11 of the Act.

7.1.2.6 Checklist

The actions required to ensure effective oversight and reporting include:

- Convening of annual management meeting for each biodiversity stewardship site in which the pro forma set of minutes set out in the management plan are completed.
- Emerging from the annual management meeting:
  - A review of progress in implementing the management plan and achievement of targets in the previous year.
- Periodic completion of a METT assessment for each biodiversity stewardship site.
- The state conservation authority maintaining a reporting archive for each biodiversity stewardship site. This is to ensure that the requirements of NEMPAA, its regulations, norms and standards are met.

Documents that should be prepared as part of this process include:

- An annual set of minutes and supporting documents that provide a report on the implementation of the management plan.
- A periodic METT assessment report, documenting the findings of the METT assessment undertaken for the biodiversity stewardship site.

7.1.3 Accessing Resources

7.1.3.1 Introduction

When providing support and incentives to landowners participating in biodiversity stewardship, it is important to consider what resources they may gain access to, that may assist them in their management activities. Such resources may supplement existing management activities or, in the case of communally owned biodiversity stewardship sites, they may form the basis for capital investment and development of the site to enable the flow of benefits to the community.

The purpose of accessing resources includes:

- Alleviating the costs of protecting and managing a biodiversity stewardship site's biodiversity and ecological function.
- Providing incentives and benefits to landowners who have formally committed to the conservation of biodiversity on their land, particularly through protected area declaration.
- Catalysing the development of a site to enable business development and job creation, particularly for communally owned biodiversity stewardship sites.

7.1.3.2 Principles

- Landowners who participate in biodiversity stewardship must be able to continue to derive benefits from their land and must not be overly burdened with the costs of protecting and managing their biodiversity and ecological functions.
- Resources should be sought to assist landowners with key management interventions that protect, maintain or improve their site's biodiversity and its ecological function.
- Biodiversity stewardship provides a strong mechanism to secure government investments in other programmes and initiatives that fund the protection of biodiversity and rehabilitation or restoration of ecological infrastructure.

7.1.3.3 Best Practice

Here are a number of government programmes and initiatives that provide opportunities to access resources to assist landowners of biodiversity stewardship sites. There are strong synergies between a number of these programmes and initiatives, and biodiversity stewardship. Landowners of biodiversity stewardship sites benefit from such programmes through:

- Benefits and incentives in terms of ecological rehabilitation and restoration.
- Benefits and incentives in terms of business development and job creation.

Such government benefit programmes and initiatives are also more likely to secure public investments made through focusing efforts and resources on biodiversity stewardship sites.

This is because:

- Landowners of biodiversity stewardship sites have shown a strong commitment towards biodiversity conservation and the maintenance of ecological processes.
- Biodiversity stewardship includes the provision of technical expertise and assistance from partners, including state conservation authorities and NGOs.
- Many NGO partners are able to leverage additional funding to supplement that being provided through the government programmes and initiatives. This means that joint investments in such ventures may be maximised.
- Biodiversity stewardship sites have formally structured management plans and the inclusion of existing checks and oversight mechanisms.
- Therefore, it is important that partners to biodiversity stewardship sites, including state conservation authorities and NGOs, seek opportunities to provide benefits and incentives to biodiversity stewardship sites, through such programmes and initiatives.

Natural Resource Management (NRM) programmes

The NRM Programme falls under the DEA. It uses the Expanded Public Works Programme (EPWP) model to address unemployment in the environment sector. NRM comprises the "Working For" programmes, including:

- Working for Water, which focuses primarily on the clearing of alien vegetation to recover degraded and unusable land, and improve water flow in river catchments.
- Working for Wetlands, which focuses on the rehabilitation and restoration of wetlands.
- Working for Ecosystems and Working for Land, which aims to reverse ecological degradation through ecological restoration and maintenance programmes.
- Working on Fire, which implements integrated fire management practices.

A large focus of the NRM Programme is on job creation, training and skills development. It operates through two different contracting models:

- Direct contracting which involves:
  - Micro contractors competing for small contracts that may last up to one year.
- Land User Incentives, which involve:
  - Community based and NGO contracting with government on behalf of community land users.
  - Usually, the development of a relationship with a traditional authority, community trust or communal property association.
  - The duration of the contracts is up to three years.

Both options offer opportunities for biodiversity stewardship sites either through the engagement of micro contracts to undertake specific activities on a site or through Land User Incentives focused on communally owned land. There is a strong focus on community business development and job creation.

The Biodiversity Economy Strategy

The Biodiversity Economy Strategy aims to increase the biodiversity contribution to the country's Gross Domestic Product while conserving the country's ecosystems. It further aims to guide the sustainable growth of the wildlife and bioprospecting industries. Relevant to the biodiversity stewardship community of practice, it endeavours to undertake the socio-economic transformation of South Africa's wildlife sector. It has a strong focus on nature-based tourism, the domestic and international hunting markets, the retail and export venison markets and ancillary activities such as taxidermy and tannery services. It aims to contribute to the South African socio-economic and development imperative of job creation, poverty alleviation, improved quality of life and sustainable livelihoods. Development and growth of the biodiversity economy will be focused on markets and activities, which address these national socio-economic imperatives, especially in rural areas. It has set ambitious targets for the wildlife sector including:

- Jobs: 60 000 jobs created across the value chain.
- Conservation area expansion: 2 million hectares of communal land restored and developed for conservation and commercial game ranching.
- R7 billion equity: R3 billion on game and R4 billion on fixed assets and infrastructure resulting in improved rural income, skills development, institutional capacity building, entrepreneurship and food and environmental security.
- Empowerment and ownership: 300 000 head of wildlife under Black empowered and owned ranches.

There is a particularly strong synergy between the Biodiversity Economy Strategy and biodiversity stewardship, especially in areas that are suitable for wildlife ranching. It provides a significant opportunity to develop meaningful benefits for communally owned biodiversity stewardship sites while contributing towards the achievement of the targets for the wildlife sector. Biodiversity stewardship provides a strong mechanism to secure the significant investment that government will have to make in establishing communally owned wildlife ranching ventures. This is through both, the legal protection offered through protected area declaration and through the management and oversight mechanisms association with biodiversity stewardship.

The Groen Sebenza Jobs Fund

The Groen Sebenza Jobs Fund was established in 2012 to provide job opportunities, skills and experience to 800 unemployed individuals. The people trained and employed through the programme have worked in all levels of government and in the private sector. This included the employment of field rangers, rhino monitors and cycad monitors in various biodiversity stewardship sites. Groen Sebenza provided an opportunity for people to perform important management functions in biodiversity stewardship sites at no cost to the landowners.

The Green Fund

Although no longer operational, the Green Fund made R800 million available to enable a resource efficient and climate resilient growth path, that delivered high impact economic, environmental and social benefits. The Development Bank of Southern Africa (DBSA) implemented the Green Fund on behalf of DEFF.

Other opportunities

It is important to note that funding and resources are not only available through government funding ventures. Funding can be sourced for biodiversity stewardship programmes and sites through various local and international funding mechanisms. Furthermore, opportunities in the private sector through Corporate Social Investment, Enterprise Development and Socio-economic Development are areas of potential funding that should be explored for the provision of resources and support to biodiversity stewardship sites.

7.1.3.4 Policy Link

The government resourcing programmes and initiatives are linked to a number of government policies that focus on poverty alleviation, rural development and other aspects of service delivery.

7.1.3.5 Checklist

The actions required to access resources for biodiversity stewardship sites include:

- Identifying the needs of a biodiversity stewardship site in terms of biodiversity conservation and ecological support.
- Determining whether there are opportunities to support the biodiversity stewardship site through securing funding from a particular government, NGO or private sector fund.
- Preparing and submitting an application for funding and support through the identified programme.

7.1.4 Land Owner Satisfaction

7.1.4.1 Introduction

A major challenge faced by private land conservation programmes such as biodiversity stewardship is maintaining the commitment of landowners (Knight et al. 2010). Often the success of such programmes is measured based on management effectiveness in meeting biodiversity driven objectives and targets, without measuring the underlying drivers of programme effectiveness, such as the motivation and satisfaction of participating individuals. The benefits that landowners receive from biodiversity stewardship should not only address the management objectives of the site, but should also speak to the motivation and satisfaction of landowners. Landowner motivation to participate in biodiversity stewardship, and their satisfaction from being involved in biodiversity stewardship will influence the programme's ability to retain landowners for the duration of the agreement and beyond.

Extensive literature speaks to benefits and incentives for landowners engaging in biodiversity stewardship type programmes. However, little is known about the interplay of socio-economic-ecological type drivers that influence landowner participation in biodiversity stewardship. Historically, this aspect of landowner engagement has not been given the level of attention it deserves. This section is informed mostly by the study by Selinske et al. (2014) as published in Understanding the Motivations, Satisfaction, and Retention of Landowners in Private Land Conservation Programs.

Box 8. Landowner satisfaction

Selinske et al. (2014) surveyed 75 biodiversity stewardship participating landowners in the Western Cape. It was found that the drivers of satisfaction were:

- Social learning between extension officers (sharing their land management knowledge) and the landowner (sharing the local ecological knowledge).
- Active partnerships with the government authority and NGO, manifested through the landowners' relationship with the extension officer. This importantly includes face-to- face time with an extension officer, at least three times a year.
- Ability of the contract partners to meet their contract commitments.

The primary causes of dissatisfaction were:

- Lack of communication.
- Lack of management support.

7.1.4.2 Principles

- "Understanding the relationship between motivations, satisfaction and commitment is necessary for a successful retention strategy in any conservation program, especially on private lands where success depends on landowner commitment" (Selinske et al. 2014, p. 1).
- Landowners often participate in biodiversity stewardship to fulfil a motivation or set of motivations, however, their satisfaction and long-term commitment to the process may hinge on more subtle motivations or factors (Selinske et al. 2014).
- To ensure retention of landowners in biodiversity stewardship, it is important to attain a comprehensive and holistic understanding of the landowner motivations and measures of satisfaction.
- Understand the difference between the drivers for landowner participation (e.g. shared goals and collaboration with conservation authorities, or mitigating threats from mining), and the landowners motivation for remaining involved (e.g. social learning, sense of place, etc.).

7.1.4.3 Best Practice

Selinske et al. (2014) point out that landowner satisfaction is dynamic and can change over time. It can change according to the landowner's circumstances, or in relation to the conservation authority's ability to deliver on its contractual obligations or benefits. Biodiversity stewardship agreements are time bound, i.e. not always into perpetuity, and these landowners will eventually be faced with the decision to extend, or not extend their biodiversity stewardship agreement. Dissatisfied landowners may even go so far as to withdraw from the agreement if they perceive the costs to be unreasonably higher than the benefits. Therefore, the biodiversity stewardship sector must "…broaden our definitions of the principles defining effective [BDS] programs, and protected area networks more generally, to holistically address the drivers of effectively managed social–ecological systems." (Selinske et al. 2014, p. 6). Best practice must, therefore, include periodic effective monitoring of landowner's motivations and levels of satisfaction. Incentives or benefits should be adapted to retain their commitment to biodiversity stewardship.

The biodiversity stewardship landowners in the Western Cape indicated that they wanted more interaction with the biodiversity stewardship extension officers, and more social learning (Selinske et al. 2014). While social learning can take place between the landowner and extension officer, other effective exchanges are between biodiversity stewardship sites. Learning exchanges between landowners or management authorities specifically, from different biodiversity stewardship sites, have proven very effective in sharing lessons learnt. It makes biodiversity stewardship more "real" to participants (especially from new sites), and ultimately motivates landowners. This tool is especially effective for community sites.

Engaging landowner forums is an effective way to keep biodiversity stewardship landowners motivated, and perhaps entice new landowners to join biodiversity stewardship. Often there are existing forums such as farmers unions. Otherwise a biodiversity stewardship forum, which meets twice a year could be established. Presentations could be made to the forum on achievements in the management plan, or on specific environment topics presented by the extension officer, or external expert. Representatives from neighbouring biodiversity stewardship sites could also be invited to speak.

7.1.4.4 Red Flags

- If a learning exchange is arranged between two sites, ensure that these are purpose and agenda driven. For instance a new site goes to learn from an established successful site, or a site struggling with specific challenges goes to learn from a site that has overcome these challenges successfully. A broad, general exchange between sites may allow landowners who have had a negative experience or have negative opinions to influence other landowners in a deconstructive manner.
- Landowners, especially commercial farmers, are often very busy. Therefore, a learning exchange may need to be arranged well in advance, and during a quiet period for the landowners. Landowners should ensure that they honour the scheduled site visit.

7.1.4.5 Checklist

- Use a questionnaire and scoring tool, such as the Stewardship Functions Inventory (Selinske et al. 2014) to understand landowner's initial drivers and motivations for participating in biodiversity stewardship. Use this as benchmark data for later monitoring.
- Undertake this survey on a biennial cycle to assess landowner satisfaction.
- Adapt benefits, incentives and landowner engagement to improve levels of satisfaction.

7.2 SUPPORT MECHANISMS FOR COMMUNITIES

7.2.1 Introduction

Governance structures within community contexts often require strengthening to ensure improved coordination and revitalization in collaboration with relevant departments. As an example, community conflict resolution is an issue that often requires support and guidance from government departments that specialise in such matters, such as COGTA. The linking of communities and their traditional structures to formal government structures (including municipalities) is important to achieve levels of meaningful cooperation between them.

Accurate translation of all legal documentation into home languages is vital for communities to fully understand their commitments. A translation support mechanism is therefore foundational to success.

The establishment of advisory forums to ensure all relevant parties have a platform to identify, guide and develop governance structures and processes is a critical step to improving governance at the outset.

An important support mechanism through the advisory forum involves the identification and accessing of funding streams for communities to enable capacity development and the implementation of various studies, development and management initiatives. Interestingly, in some instances communities that are committed to biodiversity stewardship are prioritised by government departments for allocation of resources due to the partnerships and established governance structures that exist. Accessing funding through DALRRD RECAP (recapitalisation and development programme) as well as direct support from DAFF are examples of the types of funding that can be accessed for communities, through partnerships catalysed through biodiversity stewardship.

Support in the form of capacity building and training (e.g. firefighting and alien clearing) is fundamental for the implementation of management plans that are required to be implemented via the community. As such, investment in this area of support is vital to create an enabling environment for community members to meaningfully implement management plans and attendant annual plans of operation (APO). In this regard the development of management plans, APO's and detailed maps by extension officers is a support mechanism in its own right. Most communities lack the resources to contribute towards the formal development of such plans and require substantial support in this regard.

The following incentives and support mechanisms are often unlocked at community level due to the support as mentioned above:

- Expert support for ecological assessments, to develop management plans (including carrying capacity and burning regimes).
- Grazing plan development to ensure sustainable livestock farming.
- Economic feasibility studies to determine the most viable economic ventures.
- Socio-economic studies to gain insight into the community's social issues.
- PRAs to determine the aspirations of the community.
- Support from the PCA for all matters pertaining to conservation of community land.
- Facilitation of access to innovative incentives and support mechanisms (e.g. hippo rollers, solar lights, etc.).

- Research to support management of land and also in regard to socio-economic development.
- Access to and influence over implementation of government agricultural programmes such as, Masibuyele emasimini and Masibuyele esibayeni.
- Access to NRM programmes and government sponsored herbicide assistance.
- Job creation opportunities.
- Soil erosion control and wetland rehabilitation through Landcare and "Working For" programmes.
- Law enforcement support in some contexts.
- Introduction of game and tourism development on specific sites.
- Annual auditing and monitoring processes.
- Marketing and promotion of community initiatives.
- Support for interventions that prevent unsustainable land use activities.

7.2.2 Red Flags

- While biodiversity stewardship needs to be adaptive in the community context, it cannot be used to address all issues that are raised by communities. Biodiversity stewardship practitioners, therefore, need to be careful not to create expectations that exceed the mandate of their parent organisation and partners.
- A cooperative approach towards mandates of various government departments, NGOs and traditional authorities is critical to a successful collaboration in the biodiversity stewardship context – this will affect the type and level of support forthcoming.
- Language usage and translation of all documentation is fundamental to proper understanding.

7.3 FISCAL BENEFITS

The following outlines specific fiscal benefits available to landowners and communities engaging in biodiversity stewardship nationwide. This section provides high level summaries of the fiscal benefits available and provides biodiversity stewardship implementers with a tool set for discussing appropriate fiscal benefits with landowners and communities.

Fiscal benefits involve the granting of financial rewards for the provision of public services, in this instance to achieve sustainable environmental goals. South African biodiversity fiscal benefits can either take the form of national or discretionary incentives. National financial incentives are found in national legislation, and are automatically applicable nationwide, provided all stipulated criteria are met. National fiscal benefits include biodiversity tax incentives and municipal property rates exclusions, for certain statutory conservation categories recognised in national legislation. Discretionary fiscal benefits are applied at the discretion of the implementing agent and cannot be applied nationwide. They include municipal property rates rebates and exemptions.

7.3.1 Tax Incentives

7.3.1.1 Introduction

A tax incentive is an aspect of a country's tax code designed to incentivise, or encourage a particular economic activity. South Africa's biodiversity tax incentives are lodged within the Income Tax Act as Section 37C and Section 37D. They are designed to provide income tax deductions for landowners and communities declaring protected areas listed under biodiversity stewardship category 1, and Biodiversity Management Agreements listed under biodiversity stewardship category 2, if all requirements are met.

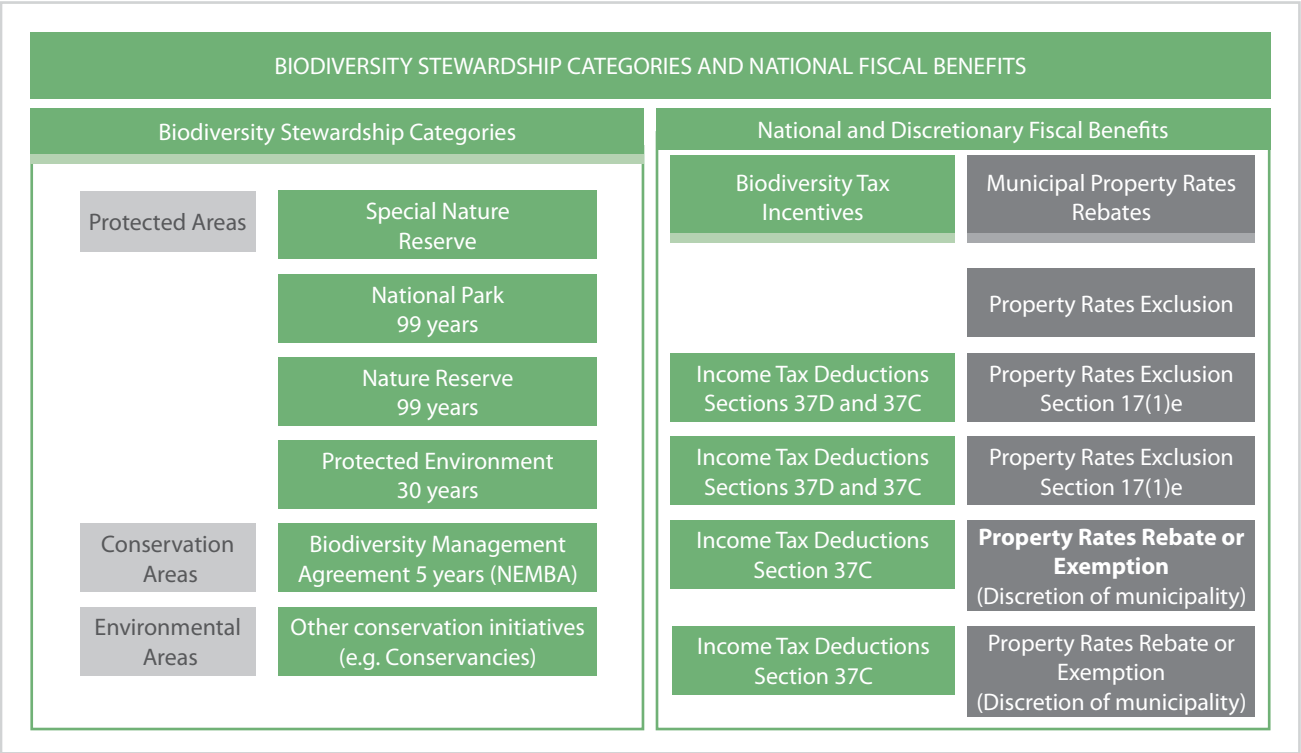
Historically, Section 37C was introduced into legislation, effective as of 2009. The original Section 37C did not fulfil its mandate due to legal interpretative issues and practical constraints. The interpretative issues relate to the technical structuring of Section 37C which passes through the Donations Schedule in the Income Tax Act and historically attracted requests from the South African Revenue Service (SARS) for donations certificates, which Section 37C does not require. The practical constraints pertain to landowners and communities being able to deduct more effective tax deductions rather than utilise Section 37C. Section 37C has subsequently been amended and partially replaced with Section 37D, effective 1 March 2015. However, additional work needs to be done on Section 37C to fully address these historical issues.

The two biodiversity tax incentives have now been tested practically at national pilot sites. The first successful biodiversity tax incentive has been lodged in a landowner's tax return in 2016. The testing of Section 37C and D has confirmed that Section 37D offers an effective fiscal benefit to landowners.

7.3.1.2 Principles

- Biodiversity tax incentives may only be claimed by a landowner or community if all tax requirements are met.
- Section 37C applies to Biodiversity Management Agreements, Protected Environments, Nature Reserves and National Parks.
- Section 37D applies to National Parks and Nature Reserves.
- All declaration requirements must be met in full accordance with NEMPAA or NEMBA to access the tax benefits.
- Biodiversity stewardship implementers are required to discuss tax incentives with landowners but not to appropriate them. A tax practitioner, accountant,

Figure 10. Illustrates the relationship between biodiversity stewardship categories and national fiscal benefits.



financial advisor, or similar registered professional is required to access any tax incentive on behalf of a landowner.

7.3.1.3 Best Practice

Section 37D: Allowance in respect of land conservation in respect of Nature Reserves or National Parks.

Section 37D allows a taxpayer to deduct the value of the land declared from taxable income.

The requirements of Section 37D:

- A landowner who declares their land as a Nature Reserve or National Park may deduct the value of the declared land from their taxable income.
- The land must be declared as a Nature Reserve or National Park in terms of Section 20 or 23 of NEMPAA.
- Section 37D can only accrue to the title deed holder of the land, the title deed holder may be any legal entity recognised in South Africa.
- The deduction becomes effective in the year the land is declared and in each subsequent year of assessment.
- An endorsement must be reflected on the title deed of the land for a minimum period of 99 years or in perpetuity.
- This straight line deduction only applies to land declared on or after 1 March 2015.
- The value of the deduction is calculated per Section 37D and is apportioned to 4% per annum for 25 years.
- If the landowner maintains a right of use of the land then the deduction is apportioned accordingly.
- Should the biodiversity stewardship agreement or protected area status be terminated, the landowner will be liable for tax penalties.
- The landowner's responsibilities in terms of the declaration agreement are defined by NEMPAA and the gazetted management plan.
- The section applies to taxpayers in profit making or loss positions and has benefits for both scenarios.

Determination of the value of the land

The value of the land is based on one of two possible calculations:

- The cost of acquiring the land and its improvements, or
- A prescribed formula. This calculation is detailed and requires knowledge of the application.

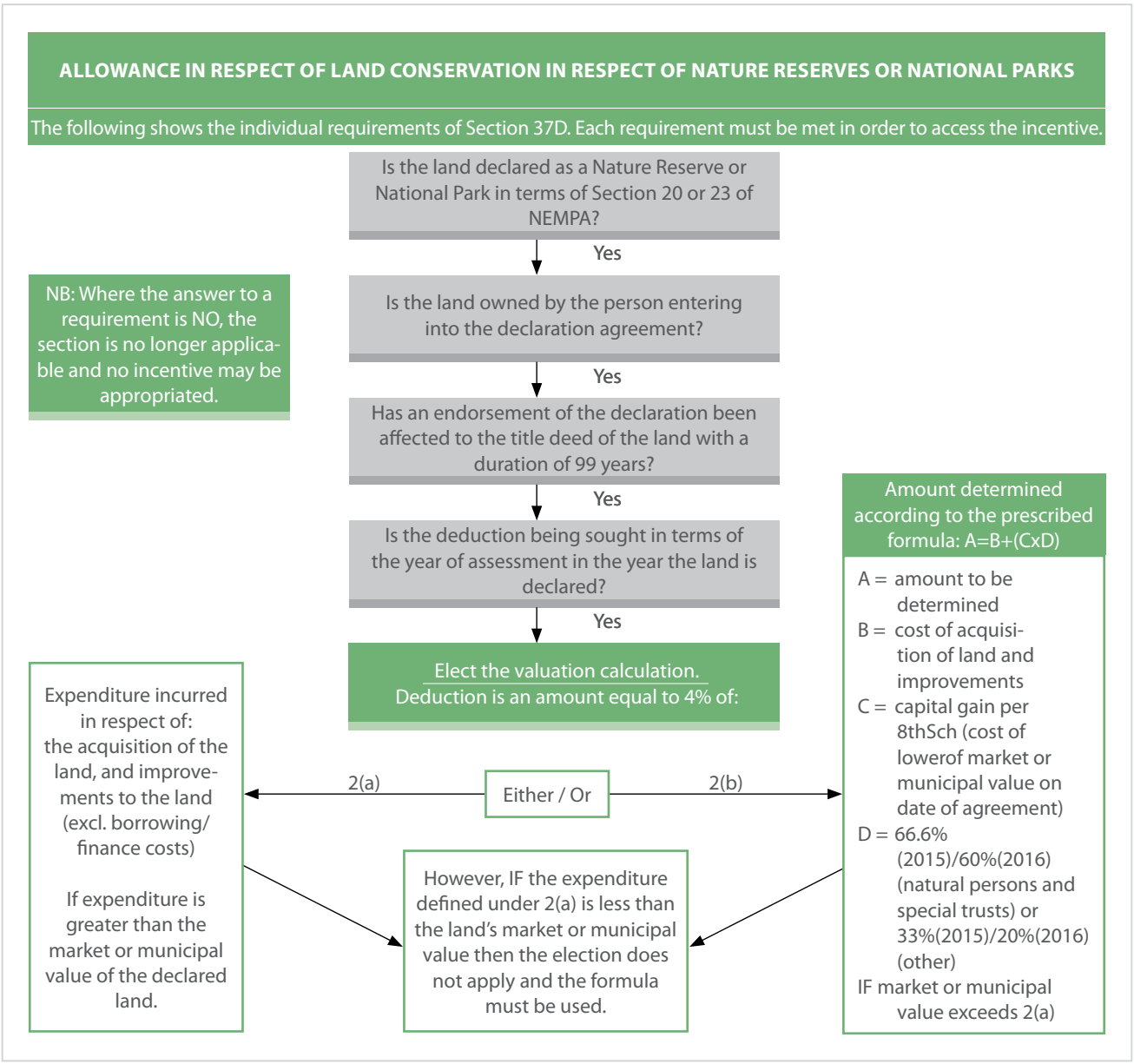
Impact for the landowner

Ordinarily, taxpayers are not entitled to tax deductions based on the value of land. To be able to deduct the value of land, formally declared for conservation, from taxable income is often hugely beneficial to taxpayers. The reduction in tax owing, allows for increased liquidity or the increase of an assessed loss, financial sustainability and better business practice.

Section 37C: Deduction in respect of environmental conservation and maintenance

Section 37C provides for an expense deduction relating to the expenditure incurred to manage and maintain an area declared as a protected area or subject to a biodiversity management agreement.

Figure 11. Flow Diagram of Section 37D requirements.



The requirements of Section 37C:

- Section 37C (1) allows for an expense deduction relating to costs incurred to declare and maintain land under a BMA (Section 44 of NEMBA), if declared for a minimum of five years. The land must be used to generate income or be near land used for this purpose.
- Section 37C (3) allows for expenditure incurred to conserve or maintain land declared as a National Park, Nature Reserve or Protected Environment (Sections 20, 23, 28 of NEMPAA) to be deducted as a deemed donation, subject to the limitations within Section 18A of the Income Tax Act. The land must be owned by the taxpayer and the agreement must be for a minimum of 30 years. Examples of expenses relating to conservation and management (e.g. clearing of alien invasive species) may be seen in the corresponding management plan.
- The value of the expenditure calculated under Section 37C (3) is linked to the donations cap of 10%, as per the rules governing Section 18A.

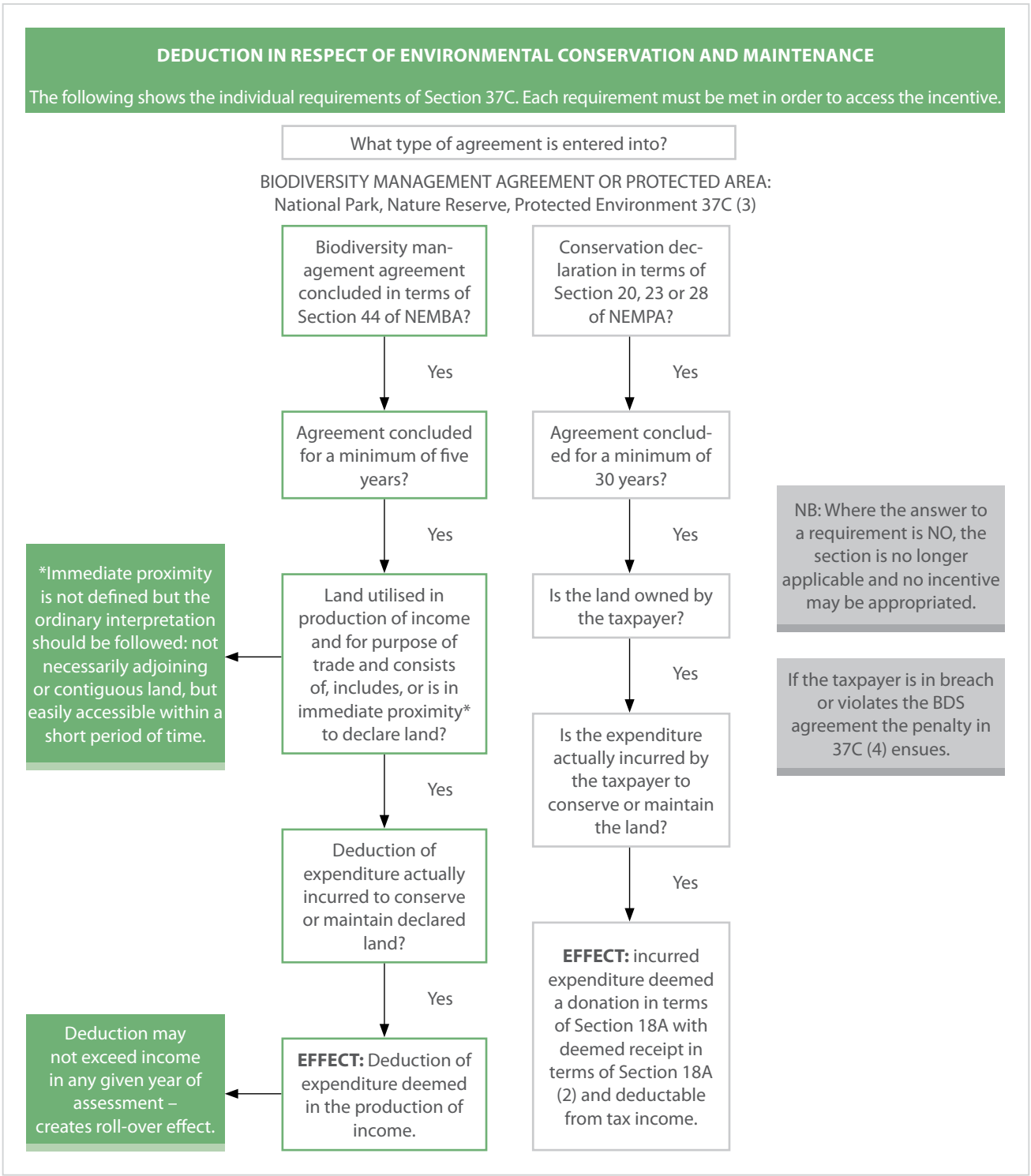
What does this mean for the landowner?

The landowner can reduce the amount of tax owing in a given year by deducting all costs relating to the declaration and maintenance of a protected area or land under a biodiversity management agreement from income generated. The deductions are capped according to the rules governing donations, and where applicable, may provide increased cash flow as a result of decreasing the amount of tax paid each year. Deductions relate to costs that would be incurred as a result of activities listed in the signed and approved management plan.

Shortcomings of Section 37C

- Section 37C (1) – (4) has one major shortfall, as a result of the practical context within which the section is being applied. The majority of landowners and communities being engaged to declare

Figure 12. Flow Diagram of Section 37C requirements.



protected areas through biodiversity stewardship fall within the agricultural sector, who traditionally deduct related expenditure through agricultural rebates set out in Schedule 1 of the Income Tax Act. It offers a limited deduction, through the donations mechanism. As an alternative for expenditure that may be deducted in full, through effective agricultural rebates, it provides no tangible benefit.

- Additionally, most landowners maintain low taxable income levels reducing the value of the benefit allowed by the legal tax framework of Section 37C in association with Section 18A.
- Furthermore, the technical interpretation of Section 37C has historically come under dispute (refer to SARS Binding General Ruling No. 24).
- In regards to Section 37C (1), it must be noted that the tax incentive pertaining to BMAs has not been tested or utilised as no BMAs currently exist.

These shortcomings are being addressed through the Fiscal Benefits Project.

7.3.1.4 Incentive scenarios

Incentive scenario 1: Section 37D

TOURISM SECTOR	A private tourism operation, Big 5 Lodge (Pty) Ltd, has declared a Nature Reserve. Big 5 Lodge operates a commercial tourism operation on 10 000 ha of high biodiversity land.
	The property declared as a nature reserve has received considerable capital investment to get its operations off the ground.
	The site is a strategic water source area and job creation hub in a rural area.
	Its effective management conserves biodiversity, creates jobs, secures a water source area and provides a feasible commercial tourism operation.
	Obtaining a tax incentive will decrease the company's tax liability.

The value of the tax break is based on the value of the nature reserve itself = The entire property and its commercial operations have a book value of R100 million (approx. $7.1 million). Big 5 Lodge gets this value back at 4% pa for 25 years.

Paying less tax boosts the business cash flow enhancing growth to profitability.

Incentive scenario 2: Section 37D 1

INDIVIDUAL	Mrs Rose owns a small piece of critically important land that she has declared as a 100 ha Nature Reserve. Mrs Rose operates a small indigenous nursery from the front of the property.
	The property holds the last remnant populations of some endemic succulent karoo vegetation. Mrs Rose has looked after this biodiversity on her own for years. Her indigenous nursery employs 10 people from the local community and provides for her family's needs and covers the management costs of the nature reserve. She owns the land in her personal capacity.
	As she has got older it has become increasingly difficult to manage the property but she would still like to protect the succulent plants. Obtaining the Section 37D tax incentive will help her to do this by decreasing her tax liability and increasing her liquidity.

The value of the tax break is based on the value of the nature reserve itself = The declared property is valued at R180 000. Mrs Rose gets this value back at 4% pa for 25 years = R7 200 from her personal income tax.

7.3.1.5 Red Flags

- Section 37D is effective and may be utilised by landowners.
- Section 37C is problematic and testing has shown that it provides limited tangible benefit to landowners engaged in agriculture and is open to misinterpretation.
- Biodiversity stewardship implementers are required to be able to convey sufficient information to landowners regarding Sections 37C and D and to make use of the available biodiversity tax resources.
- Biodiversity stewardship implementers are not required to access or appropriate any biodiversity tax incentive on behalf of a landowner.

7.3.1.6 Policy Link

The following legislation and policy documents are referenced as the legal and policy framework for biodiversity tax incentives:

Income Tax Act (1962), Sections 37C, 37D, 18A; Binding General Ruling No. 24 (2015), SARS Draft Interpretation Note Sections 37D and C (2017 draft version); NEMPAA (2003), Sections 20, 23, 28; NEMBA (2004), Section 44; National Biodiversity Framework (2009), Priority Action 2; NPAES (2008); National Treasury draft policy paper (2006), Constitution (1994), Section 24.

What is required from the biodiversity stewardship implementer:

- Requires a tax practitioner or financial advisor to process the tax incentive.
- Biodiversity stewardship implementer is not required to do tax work.
- Biodiversity stewardship implementer is required to provide basic information to a landowner on the biodiversity tax incentives.
- Biodiversity stewardship implementer is required to give clear, basic and accurate information to landowners.
- Biodiversity stewardship implementer is required to inform landowners with nature reserves or national parks that they have the potential to get a tax deduction (Section 37D), if all requirements are met.

7.3.1.7 Checklist

Supporting documentation needed for landowners and communities wishing to access the biodiversity tax incentives:

- Declaration notice given in the Government Gazette.
- Title deed endorsement indicating the duration of the nature reserve or national park as being 99 years or in perpetuity.
- Proof of submission of the Management Plan.
- Proof of ownership of the land, title deeds.
- Financial Intelligence Centre Act (FICA) documents.
- Proof of land valuation per SARS requirements.
- Intention to declare notice given in the Government Gazette.

- Contractual agreement between the landowner or community and the conservation agency.

7.3.2 Municipal Property Rates Exclusions, Exemptions, Reductions and Rebates

7.3.2.1 Introduction

The Constitution affords municipalities the power to impose rates on property within their respective jurisdictions. The Constitution also provides that the power of a municipality to impose rates on property may be regulated by national legislation. The Local Government: Municipal Property Rates Act 6 of 2004 (MPRA) was enacted to regulate the power of municipalities to impose rates on property. One of the key purposes of the MPRA is to ensure that municipalities exercise their Constitutional powers to impose rates on property within a statutory framework that enhances certainty, uniformity and simplicity across the nation.

The MPRA imposes some limitations on the levying of rates on property. One such limitation is the impermissibility of municipalities to levy rates in respect of specified classes of properties, or parts of properties. Section 17(1)(e) of the MPRA, for instance, provides that it is impermissible for municipalities to levy rates in respect of those parts of, inter alia, special nature reserves, national parks and nature reserves "… which are not developed, or used for commercial, business, agricultural or residential purposes." Section 17(1)(e) of the MPRA is an example of a rates exclusion.

In terms of Section 15 of the MPRA, municipalities may, in their respective rates policies, provide for rates exemptions, reductions and rebates in respect of, inter alia, specified categories of property. It is conceivable that a municipality can identify protected areas, for instance, as a category of property that qualifies for rates exemptions, reductions or exclusions. Rates exemptions, reductions and rebates are classified as discretionary incentives.

Both exclusions and discretionary incentives are discussed in the note box below.

Note: *The interpretation and correct application of Section 17(1)(e) of the MPRA is the subject of debate between municipalities and management authorities. Some municipalities impose rates on the full extent of properties that constitute national parks and nature reserves notwithstanding the provisions of Section 17(1)(e) of the MPRA. Those municipalities typically argue that, if a national park or nature reserve levies an entrance fee on visitors at its gates, the national park or nature reserve is used for business or commercial purposes in its entirety. Such interpretation of Section 17(1)(e) is not aligned with the purpose of Section 17(1)(e), which is to exempt natural areas in special nature reserves, national parks and nature reserves from the payment of rates to municipalities. The dispute is now being addressed at a national level.*

7.3.2.2 Principles

- Property rates have the potential to significantly affect land use decisions and habitat loss that may occur as a result of prohibitively high rates for areas without agricultural rate rebates.
- Property rates provide an opportunity to incentivise sustainable land use, sound land use behavior, and to encourage landowners to formally declare protected areas and conserve biodiversity.
- Municipal rates policies may not be inconsistent with the MPRA, including Section 17(1)(e) of the MPRA, which provides for rates exclusions.

7.3.2.3 Best Practice

National Fiscal Benefits: Property Rates Exclusions Section 17(1)(e) of the MPRA

Section 17(1)(e) of the MPRA sets out that a municipality may not levy a rate in respect of those parts of a property that has been declared as a special nature reserve, national park or nature reserve that are not developed or used for business, commercial, agricultural or residential purposes.

As already noted, there is a dispute between municipalities and management authorities on the correct interpretation and application of Section 17(1)(e) of the MPRA. Until the dispute is resolved, it is recommended that biodiversity stewardship implementers bring Section 17(1)(e) of the MPRA to relevant municipalities' attention and present them with relevant documentation relating to the protected area status of the relevant properties as well as proof as to size of the area that is developed or used for business, commercial, agricultural or residential purposes.

It should be noted here, that in some provinces, developed areas and those earmarked for future development, are removed up front from the area set aside for declaration. This is done in order for the rates exclusion to be attributable to the declared protected area. However, this may not work in instances where tourism activities take place in the form of a game area or similar situations. Additionally, the interaction with the biodiversity tax incentives needs to be taken into account in this regard, and more careful planning is required in these instances.

In terms of Section 18(1) of the MPRA, a municipality may apply to the Minister responsible for cooperative goverance and traditional affairs for an exemption from

the provisions of Section 17(1)(e) of the MPRA, if "… *it can demonstrate an exclusion… is compromising or impeding its ability or right to exercise its powers or to perform its functions…*"

It is, therefore, imperative for biodiversity stewardship implementers to provide municipalities with sufficient information to correctly apply Section 17(1)(e) of the MPRA. As already mentioned, this may well entail providing municipalities with detailed maps of national parks or nature reserves clearly depicting developed areas and areas used for business, commercial, agricultural or residential purposes.

Municipalities are obliged in terms of Section 30(2) of the MPRA to value all properties in their respective jurisdictions. However, Section 30(2)(b) of the MPRA provides that the Minister responsible for cooperative governance and traditional affairs may fully or partially exempt a municipality from the obligation to value properties excluded from rates in terms of Section 17(1)(e) if the municipality can demonstrate that the valuation of those properties is too onerous for it, given its financial and administrative capacity. Biodiversity stewardship implementers are, therefore, encouraged to alert municipalities that have limited financial and administrative capacity to that section of the Act.

Discretionary Fiscal Benefits: Property Rates Exemptions and Rebates Section 15

Section 15(1) of the MPRA provides that a municipality may in terms of criteria set out in its rates policy, exempt a specific category of owners of properties, or the owners of a specific category of properties, from payment of a rate levied on their property; or (b) grant to a specific category of owners of properties, or to the owners of a specific category of properties, a rebate on or a reduction in the rates payable in respect of their properties.

There is, therefore, scope for municipalities to exempt the owners of land that is the subject of a biodiversity stewardship programme from the obligation to pay rates, or to grant such landowners rates rebates or reductions. The complexity and degree of the agreements between landowners or communities and a municipality will determine the land use restrictions and responsibilities.

The City of Cape Town, for example, in its rates policy of May 2018, municipal rates rebates for property owners who are contracted into the Table Mountain National Park or own properties warranting nature reserve status and are in the process of proclaiming them or portions thereof as well as property owners who have "in perpetuity" conservation agreements of over 10 hectares. It inpsects every property receiving a rebate in terms of that paragraph annually to certify that the conservation agreement is being honoured. The City of Cape Town's rationale for this rebate policy is as follows:

> *"Private land owners who conserve land through voluntary conservation stewardship ease the burden on the City and other conservation organisations as the land is added to the overall conservation estate but it need not be purchased. In addition, the costly ecological management of these sites, in particular alien and fire management are conducted by the landowner as per an approved Environmental Management Plan."*

Advocated process

- Biodiversity stewardship implementers are advised to approach local municipalities regarding Section 15 during the declaration process, in order to begin negotiating for the implementation of the rates exemptions or rebates upon declaration.
- It is advisable that a relationship with local municipality representatives is built in order to clearly advocate for discretionary fiscal benefits.
- Biodiversity stewardship implementers should aim to ascertain crucial information from the local municipality, e.g. regarding their capacity constraints, objectives, internal zonation structures, procedural ratings mechanism, etc.
- Biodiversity stewardship implementers should aim to determine the type of criteria to be used to obtain a rates exemption or rebate, e.g. land use responsibilities and restrictions, management criteria and audit processes, biodiversity conservation goals; spatial planning; etc.; as well as to provide input on the supporting documentation that should be used by the local municipality to provide evidence of the criteria.

7.3.2.4 Red Flags

- Some municipalities interpret the proviso in Section 17(1)(e) to exclude entire national parks or nature reserve from the scope of the restriction if any commercial or business activity is conducted in such national park or nature reserve. Building up a good relationship with a municipality is encouraged to avoid disputes over the interpretation of that section.
- Biodiversity stewardship implementers are encouraged to approach and potentially negotiate with local municipalities for rates exemptions, reductions or rebates. The rationale given for the City of Cape Town's rates rebates in respect of certain biodiversity stewardship areas is a good starting point for negotiations.
- Biodiversity stewardship implementers must be cognisant of the financial and administrative capacity constraints faced by municipalities and should make every effort to accommodate and assist municipalities to implement the MPRA to incentivise biodiversity stewardship in their respective jurisdictions.

Note: *There is a difference between property rates exclusions, which apply automatically nationwide, and property rates exemptions and rebates which apply locally at the discretion of the implementing agent.*

7.3.2.5 Policy Link

The following legislation and policy documents are referenced as the legal and policy framework for municipal property rates exclusions, exemptions, reductions and rebates:

- MPRA (2004), Sections 8, 15, 17; City of Cape Town Rates Policy 2018/19 (Policy Number 21144B) ; NEMPAA; National Biodiversity Framework (2009), Priority Action 2; NPAES (2008); National Treasury draft policy paper (2006), Constitution (1994), Sections 24, 229 and 151(4).

7.3.2.6 Checklist

When approaching an individual municipality on behalf of a landowner, whether seeking a property rates exclusion for a Special Nature Reserve, National Park, or Nature Reserve, or seeking a property rates exemption, reduction or rebate for another form of statutory conservation area, or biodiversity conservation initiative, biodiversity stewardship implementers will need the following at their disposal (please note that this is not an exhaustive list):

- A copy of the MPRA, highlighting Sections 17 or 15, depending on the fiscal benefit being sought.
- A copy of the appropriate protected area declaration gazette notice.
- A map designating the area and clear indication of developed and undeveloped areas within the property seeking the benefit.
- A clear strategy for negotiating with the local municipality, viz. for Section 17, highlighting the intention of the MRPA in terms of the interpretation and application of Section 17, and for Section 15 criteria for the implementation of discretionary fiscal benefits.
- A list of suggested supporting documentation, that the municipality should require from landowners and communities, seeking to access any form of property rates benefit.

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BIODIVERSITY STEWARDSHIP
FREQUENTLY ASKED QUESTIONS

LANDOWNER BENEFITS

What do basic extension services include?
- Section 7.1.1.3 and Box 6

Will the provincial conservation authority (e.g. CapeNature, EKZNW) have unlimited access to my property if it becomes a contract nature reserve?
- Section 7.1.2 and Box 7

What kind of extension support will I receive from the province or NGO partner?
- Section 7.1.1.3 and Box 6

What communications will be provided by the provincial conservation authority and/or NGO partner?
- Section 7.1.1.3

How often is the management plan reviewed?
- Section 7.1.1.3 – No. 3

How often are the management activities audited?
- Section 7.1.2

Will landowners be assisted to remain legally compliant with legislation and regulations?
- Section 7.1.2.3

Will biodiversity stewardship secure ecosystem services provided by soil and water?
- Section 5.2.2.3

Will biodiversity stewardship support ecotourism to generate funding for land management?
- Section 7.1.3

LANDOWNER RESPONSIBILITIES

Who bears the costs for implementing the management plan?
- Section 7.1.1

MANAGEMENT REQUIREMENTS

What management assistance for biodiversity is available to landowners (e.g. clearing invasive alien plants, erosion control, fire planning)?
- (Section 7)

Will landowners be provided any support for completing management plans?
- Section 7.1.3

What input will the provincial conservation authority have in the management of my protected area?
- Section 7.1.1 and 7.1.2

LAND CLAIMS

What impact does a land claim have on proceeding with a Biodiversity Stewardship option?
- (Section 6)

PUBLIC PARTICIPATION

What is involved in the public participation process?
- (Section 5.2.5 and 5.2.6)

PRE-NEMPAA NATURE RESERVES

Principles

1. A protected area which immediately before NEMPAA took effect, was reserved or protected in terms of provincial legislation for any purpose for which an area could in terms of this Act be declared as a nature reserve or protected environment, must be regarded to be a nature reserve or protected environment.
2. Protected areas are also required to comply with other provisions of NEMPAA. The protected area must have 1) a formally appointed management authority as contemplated in Section 38 (3) of the Act. 2) the management authority must submit a management plan to the Minister or MEC for approval in terms of Section 39 of the Act. 3) the required title deed endorsement as set out in Section 36 of the Act. 4) A copy of a written agreement between the private landowner and the Minister or the MEC, which is required in terms of Section 23 (3) of the Act, must be submitted to the Minister.
3. The Provincial Authorities must submit a list of verified private nature reserves to the Minister one month after the end of each financial year (Norms and Standards for the inclusion of Private Nature Reserve in the Register of Protected Areas of South Africa).

Best Practice

Best Practice guidelines for ensuring that protected areas on private land are recognised and are complying with NEMPAA are suggested below:

The legal paperwork process could be simplified by signing a Protected Area Management Agreement with the private landowner. In other words an agreement between the MEC and the landowner including a formal description of the property i.e. a Surveyor's Diagram. In this protected area management agreement, the MEC can appoint the management authority and this document can be in the format of a Notarial Deed, so that it can be registered in the Title Deeds of the property/properties. A copy of this document can then be sent to the National Minister and comply with the requirement of NEMPAA and the Norms and Standards of submitting a copy of a written agreement, between private landowner, and MEC to the Minister.

The submission of a management plan by the management authority to the MEC can be facilitated by the provincial agency assisting the landowner in submitting a *second, separate submission with the management plan attached and supported by the conservation agency. It is up to the conservation agency whether they assist in writing the management plan for the landowner or require the landowner to do this themselves. (*This submission has to be done after the first submission of the protected area management agreement for signature by the MEC as the MEC first has to appoint the management authority before the same management authority can submit a management plan).

However, before the formal paperwork can be attended to, the property needs to be assessed by the Provincial Conservation Agency to verify the existence of private nature reserves in practice, not only in name.

The first step in the process entails a formal "Assessment" of the current biodiversity present on the property. This will also comply with the verification requirements of the Norms and Standards requiring a site visit. This assessment could be presented to the Provincial Protected Area Expansion and Stewardship Review Committee (or similar body with mandated authority) to decide whether the property is still fulfilling the purpose for which it was declared. This will help ensure that the province provides assistance to those landowners whose properties meet the biodiversity thresholds worthy of conservation.

The cost associated with the drafting and approval of the management plan and the drafting and registering of the notarial deed could be for the account of the conservation agency or the landowner. This can be decided on a case by case basis as often the previously declared private nature reserves are top priorities for biodiversity stewardship programmes.

If the "Assessment" process determines that the ecological integrity of the property has not been maintained (Chapter 4 section 11 of the Norms and Standards speaks to this), and if the Provincial Conservation Authority determines through their processes that the nature reserve no longer performs its primary purpose (see Section 17 of NEMPAA), the conservation agency can enter into discussions with the landowner to have the property de-proclaimed.

According to the Norms and Standards, any known private nature reserve that fails to comply with the norms and standards may be withdrawn by the MEC in terms of Section 24(2), and will be removed from the register but kept on the list of conservation areas maintained by DEFF until otherwise determined.

According to the Norms and Standards, the Provincial Conservation Authority must submit a list of verified private nature reserves to the Minister one month after the end of each financial year.

Relevant Documents:

- Provincial Site Assessment forms.
- Protected Area Management Agreement in a Notarial Format.

Checklist

- Site Assess and Review all Protected Areas on Private Land.
- Ensure all Private Nature Reserves which still qualify for the status go through the four steps to ensure compliance:
  1. Management Authority appointed.
  2. Management Plan submitted to the MEC for approval.
  3. The Nature Reserve is fixed on the Title Deeds of the property.
  4. The National Minister is sent a copy of the agreement.
- Ensure all Private Nature Reserves which do not comply with the norms and standards, have been transformed or no longer carry out their primary function go through the appropriate legal processes for de-proclamation.
- Submit a list of verified private nature reserves to the Minister one month after the end of each financial year.

LANDOWNER SURVEY

Questions to assess landowner motivations for engaging in biodiversity stewardship

Developed by: Prof. Andrew Knight, Dale Wright and Daniel Marnewick

Background

The purpose of this questionnaire is to better understand and define the motivations for why the respective landowner gets involved in biodiversity stewardship. The answers can be used to gauge the landowner's level of satisfaction once they have been involved in biodiversity stewardship for a period of time (e.g. during the annual audits). The questions interrogate the drivers of motivation, and finally categorises these into short-, medium-, and long-term outcomes.

It is recommended that this survey be undertaken in an informal setting between the biodiversity stewardship extension officer and the landowner, and may be completed over a number of initial meetings with the landowner. The landowner should be encouraged to be as forthcoming as possible, to ensure their views are understood. The extension officer should compile a report to summarise the finding from this questionnaire, which could be used during the annual audit to reassess whether the process has met the expectations of the landowner. The report should also be presented to senior management and decision makers within the provincial stewardship programme to inform financial budgeting and incentive planning.

Questions on motivation

1. What would be your potential reasons for participating in biodiversity stewardship? Please list them in **order of importance** to you, with the first being the most important.

2. How do you feel you will benefit from being involved in biodiversity stewardship?

3. What do you expect from the biodiversity stewardship programme?

4. Would you like to have contact with other biodiversity stewardship participants and how often?

   ☐ None ☐ 1 every three years ☐ 1 per year ☐ 3 per year ☐ 8 per year ☐ Other (Please specify)

5. What is your preferred number of visits from a biodiversity stewardship representative (e.g. extension officer, program managers)?

   ☐ None ☐ 1 every three years ☐ 1 per year ☐ 3 per year ☐ 8 per year ☐ Other (Please specify)

6. What type of information would you like to be provided by the Program Representative?

7. What kind of support would you like to receive from the Program Representative?

8. Do you know of any benefits available to landowners joining biodiversity stewardship?

9. What benefits would be useful in encouraging your long-term participation in a voluntary conservation agreement?

10. Please rank the following potential benefits in order of importance.

"Access to eco-tourism" support	
"Tax Rebate"	
"Access to a support network of like-minded landowners"	
"Extension officer support"	
"Alien plant removal by Working for Water"	
"Rates rebate"	
"Access to scientific information and support"	
"Signage for your participation"	
"Ecological services, e.g. water provision"	

11. Who are your local landowners or community members in your area driving conservation?

12. Do you know any other landowners in your area who may be interested in the stewardship initiative?

13. Based on the above discussion, please rate the short-term, medium-term, and long-term outcomes on the overleaf as they relate to your vision for conserving your land.

Outcomes	Not important	Haven't considered	Very Important
Short-term Outcome			
Direct intensive engagement with biodiversity stewardship extension staff			
Rapid completion of contractual arrangements			
Management assistance for biodiversity (e.g. erosion control, fire planning)			
Management assistance: clearing invasive alien plants			
Management information on biodiversity (e.g. species lists and localities)			
Management assistance for business planning (e.g. EIA, legislation for extralimital species)			
Support for completing management plans			
Recognition (e.g. signage, awards)			
Other:			
Medium-term Outcomes			
Regular continuous contact with biodiversity stewardship extension staff			
Strong communications with provincial environmental government department			
Securing financial benefits (e.g. tax deductions, rates rebate)			
Capacitated for effective land management			
Regular auditing to check biodiversity is improving			
Advocate for the biodiversity stewardship programme			
Legally compliant with legislation and regulations			
Business planning for ecotourism			
Other:			
Long-term Outcomes			
Protecting biodiversity for future generations			
Securing ecosystem services provided by soil and water			
Ecotourism generating funding for land management			
Protecting land from unsustainable development			
Other:			

MANAGEMENT PLAN TABLE OF CONTENTS

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