

Gauteng Biodiversity Stewardship Programme: Draft Operations Manual

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**Gauteng Department of Agriculture and Rural
Development**
South African National Biodiversity Institute

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Development
South African National Biodiversity Institute**

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Executive Summary

SRK Consulting was appointed to conduct a situational analysis for biodiversity stewardship in Gauteng and to develop an operational manual and business plan for the Gauteng Biodiversity Stewardship Programme. Following on from the situational analysis, which provided an overview of the current biodiversity stewardship in Gauteng, this report, the Operational Manual, aims to consider:

- The legislative and policy environment for biodiversity stewardship;
- The institutional framework for the implementation of biodiversity stewardship; and
- The tools and procedures required for the implementation of biodiversity stewardship.

The framework for biodiversity stewardship in Gauteng is aligned with the national guidelines and is an adaptation of the frameworks adopted by other provinces, particularly the Western Cape and KwaZulu-Natal.

List of Acronyms

BSSA	Biodiversity Stewardship South Africa
DEA	Department of Environmental Affairs
EIA	Environmental Impact Assessment
EWT	Endangered Wildlife Trust
GBSP	Gauteng Biodiversity Stewardship Programme
GCSA	Gauteng Conservancy and Stewardship Association
GDARD	Gauteng Department of Agriculture and Rural Development
GPAES	Gauteng Protected Area Expansion Strategy
IMP	Integrated Management Plan
NBF	National Biodiversity Framework, 2009
NEMA	National Environmental Management Act, No. 107 of 1998
NEM:BA	National Environmental Management Biodiversity Act, No. 10 of 2004
NEM:PAA	National Environmental Management: Protected Areas Act, No. 57 of 2003
NGO	Non-governmental organisation
NPAES	National Protected Areas Expansion Strategy
PNCO	Provincial Nature Conservation Ordinance, No. 12 of 1983
PoI	Plan of Implementation
SANBI	South African National Biodiversity Institute
SRM	Sustainable Resource Management
WWF	World Wide Fund for Nature

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Gauteng Biodiversity Stewardship Programme: Operations Manual

1 Introduction

1.1 Biodiversity of Gauteng

Gauteng has 11% of the known plant species occurring within South Africa and 71% of the province falls within the grassland biome, which is second in South Africa only to fynbos in terms of species richness.

The rapid expansion of urban areas within Gauteng, South Africa's smallest province, has placed pressure on this its biodiversity.

1.2 Biodiversity stewardship

Biodiversity stewardship is the practice of effective management of land use to ensure that natural systems, biodiversity and ecosystem services are maintained and enhanced for present and future generations.

In the past, approaches to nature conservation have largely focussed on the management of large areas of public land in statutory protected areas and on an informal system of non-statutory conservation areas on private lands.

However, previous approaches are inadequate because:

- The statutory protected area network is strongly biased towards certain types of geographies and habitats, and does not achieve the goal of comprehensively conserving biodiversity; and
- The previous system of off-reserve conservation offered no long-term security to biodiversity, no standards for the management of sites and no support to participating landowners.

In light of the adequacy of previous approaches, formal biodiversity stewardship programmes have developed as a new approach in forming partnerships between the state and landholders in order to conserve biodiversity. Biodiversity stewardship programmes differ from previous approaches to conservation on private lands in that:

- They are focussed on supporting conservation target achievement and are directed by the outputs of systematic conservation plans;
- They have categories that require formal commitment from landowners;
- These categories are backed by enabling provisions within national legislation;
- There are standards for how participating properties should be managed; and
- Landowners are assisted through the provision of tangible benefits and support.

A biodiversity stewardship programme has been developed for Gauteng, modelled on the approach that was pioneered in the Western Cape by CapeNature and later adopted and adapted in KwaZulu-Natal by Ezemvelo KZN Wildlife.

1.3 The Gauteng Biodiversity Stewardship Programme

The Gauteng Biodiversity Stewardship Programme (GBSP) is coordinated by the Gauteng Department of Agriculture and Rural Development (GDARD) and is driven by the following principles:

- It is landowner-focused – the programme aims to understand the perspective of participating landowners and attempts to support their needs;
- It is focused on biodiversity priorities – resources are focused on areas that have been identified as biodiversity priorities;
- It is unbiased and transparent – decisions are defensible and based on the biodiversity value of land rather than on ownership, political affiliation or economic status;
- It requires commitment from landowners – in order to guarantee ongoing conservation., Land with high biodiversity value is secured through legal agreements;
- Commitment is voluntary – landowners make the final decision on whether or not to participate in the programme or commit to conservation;
- It requires commitment from GDARD – agreements are backed up by resources to ensure that sites can be supported on an ongoing basis; and
- It is about co-operation – partnerships based on mutual trust are built between GDARD, landowners, and other agencies and organisations.

The GBSP's objectives are directed towards achieving a primary goal of securing the conservation of biodiversity priority sites, and include:

- Developing durable relationships with landowners, communities, local authorities and other government departments responsible for biodiversity priority areas;

- Equitable sharing of the costs of biodiversity conservation between the state, local municipalities, the landowner and any beneficiaries of the resources conserved;
- Providing recognition for voluntary commitment to biodiversity conservation within farming and other land use systems;
- Securing conservation investments through the provision of conservation options that are durable, legally sound and resilient to changing opinion on land use;
- Ensuring that conservation objectives are achieved on critical biodiversity sites through planning, judicious cooperative management and monitoring; and
- Ensuring the sustainability of conservation effort and funding.

Developing the GBSP required consideration of the legislative and policy environment for biodiversity stewardship, the institutional framework for its implementation and the tools and procedures required for implementation. These are discussed in the remainder of this document. The framework for biodiversity stewardship in Gauteng is aligned with the national guidelines and is an adaptation of the frameworks adopted by other provinces, particularly the Western Cape and KwaZulu-Natal.

2 Legislative Framework

The legal framework for implementing biodiversity stewardship is derived from a number of relatively recent developments in South African legislation. This section describes the most relevant national and provincial legislation and policy to the implementation of biodiversity stewardship.

2.1 National Legislation and Policy

The most significant pieces of legislation for biodiversity stewardship are two acts published in terms of the National Environmental Management Act (Act 107 of 1998): the National Environmental Management: Protected Areas Act and the National Environmental Management: Biodiversity Act. These acts were key developments for the biodiversity stewardship approach. They are discussed, together with supporting legislation and policy, below.

2.1.1 NEM: Protected Areas Act, 2003

The National Environmental Management: Protected Areas Act (Act 57 of 2003; NEM: PAA) establishes the platform for biodiversity stewardship by creating a legal framework cooperation between the state and landowners for the declaration and management of protected areas. The act aims to provide a representative network of protected areas on state, private and communal land, and promoted the sustainable utilisation of protected areas. The act encourages local community participation in the management of protected areas and balances the relationship between environmental biodiversity, human settlement and economic development.

The act defines categories of protected areas, as set out in Table 2-1.

Table 2-1: Categories of protected areas in the NEM:PAA

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	South African National Parks
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)		
Marine Protected Areas	Requirements as per Marine Living Resources Act (Act 18 of 1998)		
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)		

The GBSP works primarily with two categories of protected area in terms of the NEM: PAA – Nature Reserve and Protected Environment. Aspects relating to the declaration, administration and management of these two categories of protected area are governed by the NEM: PAA (see 4.1 Biodiversity Stewardship Categories).

2.1.2 NEM: Biodiversity Act, 2004

The National Environmental Management: Biodiversity Act (Act 10 of 2004; NEM: BA) provides a dedicated planning instrument for various aspects of biodiversity conservation. The planning tools provided for in the act are aimed at assisting provincial authorities and conservation agencies in identifying biodiversity priorities and addressing biodiversity threats. The identified tools include:

- National Biodiversity Framework – aims to coordinate and align the efforts of various governmental and non-governmental organisations to achieve the sustainable use and conservation of biodiversity;
- Bioregional plans – spatial plans that identify critical biodiversity areas at the local or district scale, and provide land-use planning and decision-making guidelines for these critical biodiversity areas. Biodiversity stewardship is an important tool for securing natural habitat in critical biodiversity areas;
- Biodiversity Management Plans – can be developed for ecosystems, indigenous species or migratory species;
- Biodiversity Management Agreements – an agreement entered into by the Minister and the responsible person, organisation or organ of state with regard to the implementation of a biodiversity management plan;
- Listing Threatened and Protected Species or Ecosystems – aims to provide protection to, and maintain integrity of, threatened or protected species or ecosystems;
- Control and enforcement of species and organisms posing a potential threat to biodiversity – to minimise the harm on biodiversity and ecosystems by alien and invasive species; and
- The provision in the act for Biodiversity Management Agreements, in particular, is a key development for biodiversity stewardship as it provides further legal status to one of the biodiversity stewardship categories.

2.1.3 Property Rates Act, 2004

The Property Rates Act (Act 6 of 2004) makes provision to partly compensate landowners who conserve their properties through participation in formal biodiversity stewardship programmes.

In terms of the act, Nature Reserves declared in terms of Section 23 of the NEM: PAA are excluded from attracting property rates (Section 17.1 (e) Municipal Property Rates Act, Act 6 of 2004), except for the portions of Nature Reserves that are under residential, commercial, agricultural or industrial use.

In addition, the act has provisions that allow for municipalities to consider rebates or exemptions for categories of landowners as set in their municipal rates policies. The principles of NEMA would endorse municipalities offering significant rebates for properties covered by a management agreement, such as the Biodiversity (Management) Agreement or Protected Environment categories under the GBSP. Municipalities would have to provide specifically for these categories in their policies.

2.1.4 Income Tax Act (Act 34 of 1953)

The Income Tax Act 58 of 1962, as amended by the Revenue Laws Amendment Act 60 of 2008, provides for tax incentives, of varying degrees, for landowners involved in statutory conservation (Nature Reserve, Protected Environment and Biodiversity Management Agreement). The degree of the benefit provided is dependent on the unique situation of the landowner and is based on income tax deductions.

2.1.5 National Biodiversity Framework

The National Biodiversity Framework (NBF; 2009) aims to coordinate and align the efforts of various governmental and non-governmental organisations in order to achieve the sustainable use and conservation of biodiversity.

The NBF identifies priority actions for conserving and managing South Africa's biodiversity. The establishment and strengthening of provincial biodiversity stewardship is highlighted as a top priority action for 2008 to 2013 in order to achieve the strategic objective of expanding South Africa's network of protected areas. The NBF sets a target of six provincial biodiversity stewardship programmes by 2013.

2.1.6 National Protected Areas Expansion Strategy

The National Protected Areas Expansion Strategy (NPAES) provides an overarching strategic framework for the establishment of a South African National Protected Areas System that conserves a comprehensive, representative and adequate sample of biodiversity and maintains key ecological processes across the landscape and seascape.

The NPAES aims to (Jackelman *et al.* 2007):

- Provide for an integrated, co-ordinated and uniform approach to the expansion of the formal protected area system that can be adopted and implemented by the respective protected area agencies;
- Develop a phased approach over a 20-year timeframe to reach explicit quantitative and spatial targets identified for the protected area system;
- Outline a toolbox of mechanisms for protected area establishment;
- Identify the institutional roles and responsibilities for protected area expansion; and
- Provide a template for the development of implementation plans for protected area expansion at the protected area agency level.

The NPAES identifies spatial focus areas for protected areas expansion where protected area expansion would contribute to meeting national biodiversity targets. The NPAES describes the range of mechanisms that could be used to consolidate or expand the National Protected Areas System within these spatial focus areas, and the strategic approach to the implementation of each of these mechanisms.

Implementation of the NPAES will rely on a range of mechanisms for expanding and consolidating the terrestrial protected area network, including declaration of public land available for

conservation, land acquisition (through donations, purchase or leasing) and negotiation of contractual arrangements with landowners through biodiversity stewardship programmes. The NPAES states that, for private land, contractual agreements with the affected landowners are one of the two preferred mechanisms for expanding the National Protected Areas System.

Priorities for protected area expansion are corridors between existing protected areas, parcels of land that can consolidate existing protected areas and the expansion around existing protected areas. In addition, the NPAES has incorporated a climate layer in order to identify those areas of the country that are believed to provide opportunity for species and systems to adapt to climate change. These areas represent important upland-lowland and climatic gradients along which species will have to move and also include refugia for those species that otherwise may not be able to adapt to rapid environmental change.

2.1.7 DEA Draft Management Plan Framework

The national Department of Environmental Affairs issued a draft national framework for the development of management plans in terms of the NEM: PAA. This framework provides guidelines for the development of management plans (including biodiversity management plans, zoning plans, procedures for public participation and invasive species control and eradication strategies).

2.1.8 DEA Proposed Regulations for the Proper Administration of Nature Reserves, 2009

The Proposed Regulations for the Proper Administration of Nature Reserves in terms of the NEM: PAA outline manner in which Nature Reserves should be managed. Aspects covered include the powers and responsibilities of the management authority, establishment of advisory committees, biodiversity management and use of resources.

2.2 Provincial Legislation and Policy

The provincial legislation and policy presented below predates the development of the GBSP. While certain provisions require updating, others remain relevant to the programme.

2.2.1 Provincial Nature Conservation Ordinance 12 of 1983

The Provincial Nature Conservation Ordinance (12 of 1983; PNCO) aims to consolidate and amend laws relating to nature conservation. Although the PNCO was promulgated before the division of the new provincial boundaries in South Africa, its administration within Gauteng has been assigned to Gauteng Provincial Government since March 1995.

The PNCO is relevant to biodiversity stewardship primarily because, in terms of section 14, it authorised the Premier to declare by notice in the Provincial Gazette any area (including private land) to be a Nature Reserve. Private Nature Reserves declared in terms of the PNCO have status because, in terms of Section 12 of the NEM: PAA, a protected area in terms of provincial legislation must be regarded to be a Nature Reserve or Protected Environment for the purpose of the NEM: PAA.

2.2.2 Policy in terms of the PNCO

This policy ensures that powers, functions and duties in terms of the PNCO are exercised in an orderly and uniform manner. Since Nature Reserves will now be declared under the GBSP and in terms of the NEM: PAA, the sections of the policy that relate to Private Nature Reserves declared in terms of the PNCO are replaced by the adoption of provincial policy on biodiversity stewardship.

2.2.3 Gauteng Protected Areas Expansion Strategy

A 20-year Protected Area Expansion Strategy for Gauteng Province (GPAES) is under development, stemming from a key recommendation of the NPAES, which was for each province to prepare its own protected areas expansion strategy.

The GPAES will describe and analyse the existing protected area expansion efforts in the province, including linkages to the GBSP. The Gauteng Biodiversity Stewardship Programme will provide one of the mechanisms for implementing the GPAES, while the GPAES will assist in directing biodiversity stewardship efforts.

2.2.4 Development Guidelines for Ridges, 2001

Ridges are important biodiversity features within Gauteng as they are characterised by high species diversity (74 % of Gauteng's threatened plant species, three threatened mammal species, three rare reptile species, several bird species of conservation concern, and Red Data butterflies occur on the ridges and hills of Gauteng; GDACE 2004). Accordingly a policy was developed to ensure that the ecological and socio-cultural value of ridges is conserved, the use of ridges is sustainable and that informed decisions are made with regard to development on ridges. In terms of the policy, all ridges in Gauteng were classified into four classes, based on the percentage of the ridge that has been transformed, and development guidelines were issued for each class.

2.2.5 Red List Plant Species Guidelines

The purpose of the Red Listed Plant Species Guidelines is to promote the conservation of Gauteng's Red Listed plant species. The guidelines provide a decision-making support tool to anyone responsible for areas where Red List Plant species grow, and hence need to be taken into account when biodiversity stewardship contain such species.

The guidelines state that anyone wishing to undertake any action that affects a population of a Red List Plant Species must have an Ecological Management Plan prepared by a suitably qualified ecologist. The implementation of this plan is the responsibility of an appropriate management authority vested with the authority to ensure the correct ecological management of the area where the Red List plant species population is growing. These guidelines must be consulted when considering the management of sites containing Red List plant species.

2.2.6 Wetlands Policy Guideline

The Wetlands Policy Guideline provides direction with regard to development and wetlands. Although the guidelines are related to the implementation of Environmental Impact Assessment (EIA) Regulations, the activities listed and associated guidelines (e.g. permissible and non-

permissible activities, buffer areas) are relevant for the management of biodiversity stewardship sites containing wetlands.

3 Institutional Framework for the GBSP

3.1 Gauteng Department of Agriculture and Rural Development

The GBSP is implemented by the Gauteng Department of Agriculture and Rural Development (GDARD). GDARD is mandated with a number of functions that are primarily focused on natural resource management and sustainable development. The major strategic priorities of GDARD are agriculture, veterinary services, natural resource management, conservation, environmental planning and impact assessment, and integrated waste management and pollution abatement.

In order to carry out these functions, GDARD’s capacity is organised into ten branches, each led by a Chief Director. The branches are composed of directorates / programmes, which in turn comprise a number of sub-programmes (see Figure 3-1).

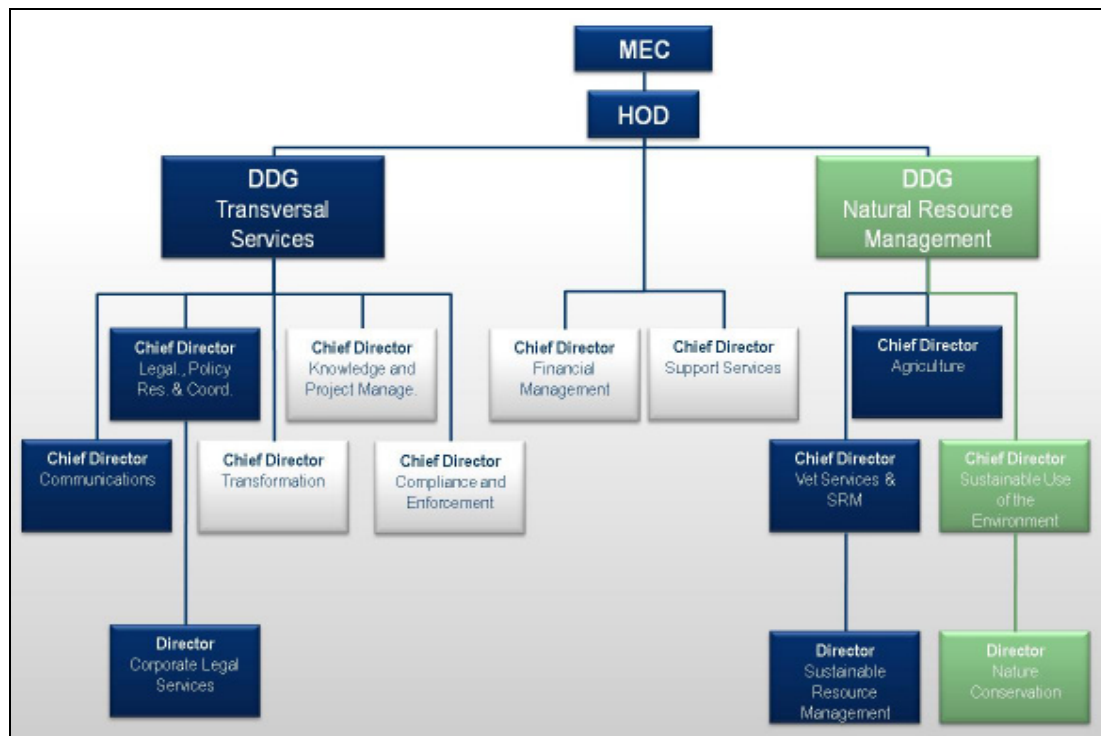


Figure 3-1: Current structure of GDARD

The directorate responsible for implementation of the GBSP is the Nature Conservation Directorate (Sustainable Use of the Environment Branch), which is closely supported by the Sustainable Resource Management Directorate (Veterinary Services and Sustainable Resource Management Branch) (see Figure 3-1). GDARD is not regionalised and all capacities report directly to head office in Johannesburg.

The Nature Conservation Directorate has four subcomponents, each headed by a Deputy Director who reports to the Director of Nature Conservation. The four subcomponents are:

- Resource Protection – involved with permitting and enforcement;

- Technological Services – the scientific services section which provides ecological input;
- Resource Management North; and
- Resource Management South.

The GBSP is currently housed within the Resource Management North subcomponent (see Figure 3-2).

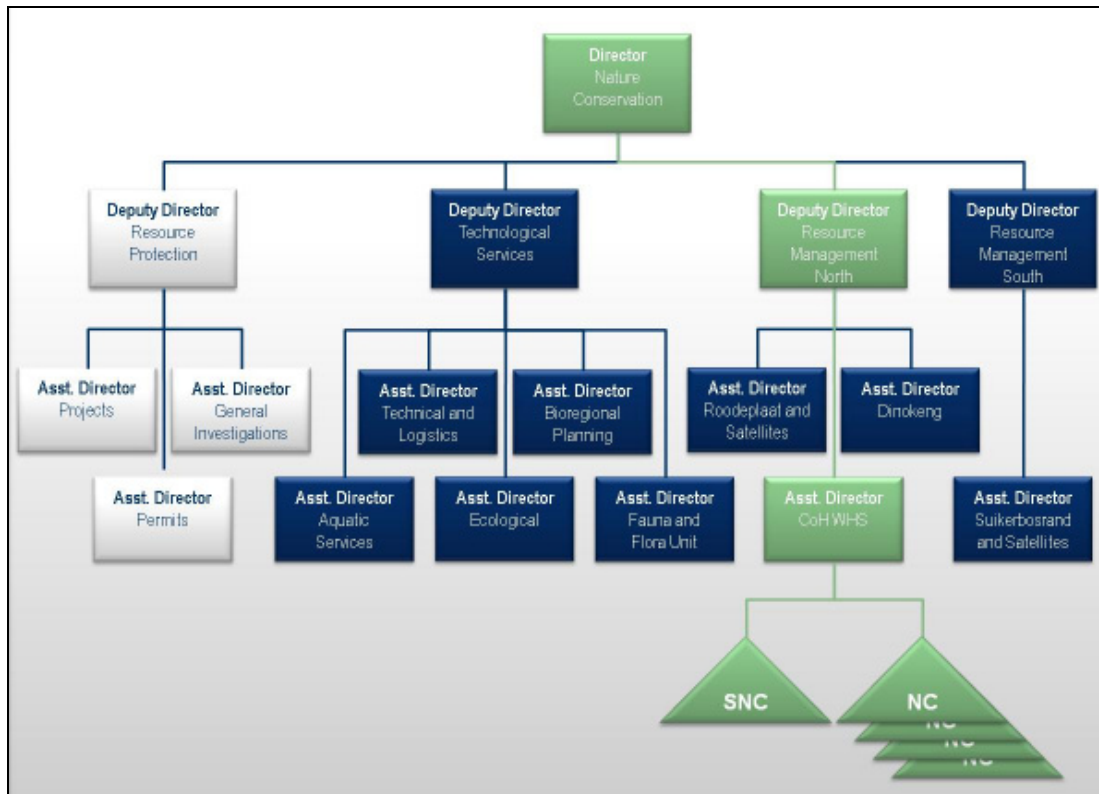


Figure 3-2: Structure of the Nature Conservation Directorate

3.1.1 Gauteng Biodiversity Stewardship Programme Unit

The GBSP Unit comprises staff dedicated to the implementation of biodiversity stewardship. The unit is led by the Assistant Director: Cradle of Humankind World Heritage Site and includes five Nature Conservators who act as Biodiversity Stewardship Facilitators.

The Facilitators are responsible for negotiating biodiversity stewardship agreements and act as the interface between the various capacities within GDARD (and supporting agencies) and the landowner.

3.1.2 Gauteng Biodiversity Stewardship Programme Working Group

The GBSP Working Group is the main decision-making body for biodiversity stewardship in Gauteng and is responsible for:

- Setting the policy and strategic direction of the programme;
- Positioning the programme in GDARD and Gauteng;
- Financial management oversight and resourcing requirements;
- Human resource issues;

- Developing key partnerships;
- Endorsing qualifying sites, and significant changes to procedures; and
- Endorsing the marketing and branding strategy for the programme.

The Working Group meets on a bimonthly basis and is composed of senior-level representatives from GDARD and other organisations that have direct stake in biodiversity stewardship.

3.1.3 Gauteng Biodiversity Stewardship Programme Review Panel

The primary purpose of the GBSP Review Panel is to review sites for qualification for the biodiversity stewardship categories. The panel is a small team of individuals with technical expertise in evaluating the biodiversity conservation merits of individual sites.

Responsibilities of the Review Panel include:

- Site review and qualification;
- Articulation of any specific conditions for participation by sites;
- Refinement of site selection protocols; and
- Refinement of biodiversity stewardship tools and procedures.

Decisions taken at the Review Panel meetings are endorsed by the GBSP Working Group.

3.1.4 Other support from within GDARD

In order to function effectively, the GBSP Unit is supported by other divisions of GDARD, especially those that can support the GBSP with legal input, scientific input, support to biodiversity stewardship sites and marketing assistance. The Sustainable Resource Management (SRM) Directorate, Corporate Legal Services Directorate, the Technological Services Sub-Directorate, the Knowledge and Project Management Branch and the Communications Directorate all are important in the successful implementation of the programme.

The Sustainable Resource Management (SRM) Directorate coordinates the Land Care and Expanded Public Works Programme projects. Activities are focussed on the development of best practice in natural resource management and the transfer of knowledge and skills. Activities include burning of firebreaks, removal of alien vegetation under the auspices of the Working for Water Programme, coordination of the Working on Fire and the Working on Waste Programmes, soil conservation measures to combat natural resource degradation, the protection and rehabilitation of wetlands and awareness and capacity building workshops. The SRM plays a key role in supporting biodiversity stewardship sites.

3.2 National Organs of State

Besides provincial conservation authorities, the lead agents identified for the implementation of biodiversity stewardship in the National Biodiversity Framework are the Department of Environmental Affairs (DEA), NGOs and the South African National Biodiversity Institute (SANBI).

3.2.1 South African National Biodiversity Institute

SANBI plays a key role in building spatial biodiversity planning capacity and expertise at national and provincial levels. SANBI's roles include to:

- Support implementation of biodiversity stewardship through the work of the bioregional programmes; and
- Support biodiversity stewardship through the development of appropriate tools.

3.2.2 Department of Environmental Affairs

The National Biodiversity Framework provides that DEA (Directorate: Biodiversity Conservation) will actively co-ordinate the biodiversity stewardship at a national level, with responsibility for implementation delegated to the provincial conservation authorities. As such, DEA established Biodiversity Stewardship South Africa (BSSA) to coordinate the biodiversity stewardship and assist national and provincial government in fulfilling its mandate to conserve biodiversity outside of state-owned protected areas. DEA (through BSSA) has inferred roles and responsibilities with regards to their position within the biodiversity stewardship programme.

The Department of Environmental Affairs responsibilities with regard to biodiversity stewardship include:

- 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; and
- To promote the provision of incentives for landowners to commit their property to a biodiversity stewardship category through the relevant conservation authority, including assistance with the development and implementation of a management plan for optimal natural resource productivity and ecosystem functioning.

3.3 Non-governmental Organisations

Non-governmental Organisations (NGOs) have a large role to play in the successful implementation of biodiversity stewardship. They are often able to be more adaptive and less risk-averse than statutory conservation agencies, and can raise additional funds to pursue biodiversity stewardship in priority areas.

In the foreseeable future, NGOs may play a significant gap-filling role where provincial agencies are under-resourced and under-staffed, and can continually motivate for greater political and financial investment in agencies, priority areas and biodiversity-sensitive decision-making. A key role unique to NGOs is that of being an honest broker of conservation agreements between agencies

and landowners, and an independent mediator of disagreements arising from the inevitably sensitive relationships between them.

There is scope for capacitated NGOs to implement the biodiversity stewardship procedure according to the provincial guidelines and standards. In such cases, the partnership between GDARD and the NGO must be formalised (e.g. through a Memorandum of Understanding) and the NGO staff acting as facilitators must receive training on the implementation of the GBSP procedure and the use of the tools.

3.3.1 Gauteng Conservancy and Stewardship Association

The Gauteng Conservancy and Stewardship Association (GCSA) was formed in 2003 to promote conservation on private property in Gauteng and to protect the province's fast-disappearing greenbelt area. It is an independent body that represents rural and urban conservancies in Gauteng. The association supports conservancies through the provision of resource material (including a Conservancy Manual and Guidelines for Conservancy Management Planning)

3.3.2 Endangered Wildlife Trust

The Endangered Wildlife Trust (EWT) has supported the development of biodiversity stewardship in South Africa through coordination of the Biodiversity Stewardship South Africa (BSSA). The programme establishes, on behalf of DEA, a consistent national approach to biodiversity stewardship and integrates innovations gleaned from implementing provincial agencies.

3.3.3 World Wide Fund for Nature

The World Wide Fund for Nature (WWF) works toward conserving South Africa's ecoregions through its Ecosystems Partnership approach, which is an alliance that the conservation organisation has established with the Botanical Society of South Africa. One of the strategic directions of WWF's Ecosystem Partnership approach is expanding protected areas, either through land purchase or through biodiversity stewardship options for land which is privately or communally owned.

WWF has been closely involved in the biodiversity stewardship approach through projects such as the Enkangala Grassland Project which was established to implement innovative mechanisms to secure the biodiversity and relevant ecosystems goods and services of the important high altitude grasslands.

3.3.4 Municipalities

Local authorities have a role to play in terms of developing property rates policies that accommodate the GBSP (i.e. rebates for Biodiversity Agreements and Protected Environments).

Similarly to NGOs, local municipalities with sufficient conservation capacity can also implement the biodiversity stewardship procedure according to the provincial guidelines and standards.

4 Implementation Framework for the GBSP

The implementation framework for biodiversity stewardship in Gauteng follows the national guidelines developed through the Biodiversity Stewardship South Africa initiative, but these guidelines have been adapted for the Gauteng context. The implementation framework includes the biodiversity stewardship categories, the procedure for implementation of biodiversity stewardship at the site level, and the tools used in the implementation of biodiversity stewardship.

4.1 Biodiversity Stewardship Categories

Four categories are available to landowners participating in the GBSP – Conservation Area, Biodiversity (Management) Agreement, Protected Environment and Nature Reserve. These categories differ principally in the level of commitment expected from landowners and the level of benefits and support provided by GDARD and other agencies.

4.1.1 Conservation Area

The Conservation Area category is an informal, flexible category for landowners who want to conserve biodiversity on their land. The category can apply to individual or multiple properties. Any natural or semi-natural land can qualify for Conservation Area status, provided that the landowner is prepared to maintain the natural character of the land.

The agreement between GDARD and the landowner for the Conservation Area category is not legally binding and the landowner is not committed to a defined period of participation. There are no legal restrictions placed upon the landowner but development and management of the site must be appropriate for the Conservation Area status to be retained.

Landowners participating at this level within the GBSP are eligible for basic support (especially management advice) from GDARD.

See Table 4-1 for an overview of the Conservation Area category.

Table 4-1: Overview of the Conservation Area category

Description	The Conservation Areas category is an informal, flexible category for landowners who want to conserve biodiversity on their land.
Inherent attributes/ characteristics	<p>Any natural or semi-natural area can qualify as a Conservation Area. Conservation Areas can consist of single or multiple properties. This category is not recommended for sites that are critically important for the conservation of species, habitats, ecological processes or ecosystem services, unless this is seen as part of a plan to progress to higher conservation security.</p> <p>This category can include conservancies, Natural Heritage Sites, Bird Sanctuaries and other non-statutory conservation areas.</p> <p>A Conservation Area must:</p> <ul style="list-style-type: none"> • Retain the essence of its natural character. • Be clear of alien species (plant or animal), or at least have a programme in place to control them. • Have a rehabilitation programme in place if necessary.

Legal status	No legal status, but the landowner signs an agreement with the conservation agency. The Conservation Area will be registered with the province and will be issued with a certificate. When the property is sold, the new owner is under no obligation to continue the designation.
Contractual arrangements	A signed agreement is entered into between the conservation agency and the landowner.
Duration	No defined period. The Conservation Area status is valid for as long as the landowner or community or conservation agency wishes the designation to be valid. Landowners may request in writing that the Conservation Area status of their properties be terminated at any stage and additionally the conservation agency has the right to terminate the status if required. Landowners must provide sixty days notice of their intention to terminate Conservation Area status.
Focal purpose of category	To provide a category to participate in the Biodiversity Stewardship Programme for landowners and communities: 1. Who have important biodiversity but who are reluctant to enter into a formalised agreement or to commit to a defined period 2. To take collective action to conserve and manage their combined properties and to manage common issues
Permissible and non-permissible use & activities	The area should be managed according to a set of management requirements and maintained according to the purpose for which it was declared. There are no legal limitations placed on the landowner or community, but the area should retain its natural character. The landowner or community would still need to comply with all relevant legislation.
Development nodes and restrictions	There are no legal restrictions placed on landowner or community, however effective sustainable management of the site is encouraged. Inappropriate development is grounds for termination of conservation area status. Furthermore, landowners and communities would still need to comply with all relevant legislation
Potential incentives / benefits	<ul style="list-style-type: none"> • Provincial recognition. • Professional advice and support from provincial conservation agency. • Basic habitat management guidelines and best practice advice. • Farm maps can be compiled and printed for the landowner. <p>Significant habitat management assistance and other costly assistance is reserved for categories with legal status.</p>

4.1.2 Biodiversity (Management) Agreement

This category covers two types of agreements: Biodiversity Agreements and Biodiversity Management Agreements. These agreements are identical except that the latter is recognised under the NEM: BA.

This category is intended to provide for a formalised partnership between a landowner and GDARD (and the MEC, in the case of Biodiversity Management Agreements) to meet certain agreed-upon conservation objectives on a site. The minimum duration of these agreements is five years, but the duration could be longer if the parties agree to this.

Biodiversity Management Agreements are only applicable where a Biodiversity Management Plan has been published for a biodiversity feature in terms of the NEM: BA whereas Biodiversity Agreements may be pursued for qualifying land where no such Biodiversity Management Plan in terms of NEM: BA exists.

Land under a Biodiversity (Management) Agreement must be managed in a way that supports the achievement of the agreed objectives. The agreement is supported by a management plan that provides for required actions, responsible parties and timeframes. Development and activities that are not consistent with the objectives for the land under the agreement is not permitted.

Landowners participating at this level are supported by more advanced extension services from GDARD and possible also by direct support for the ecological management of the area (e.g. through Extended Public Works Programmes such as the Working for Water Programme). Landowners participating in Biodiversity Management Agreements are eligible for fiscal incentives in terms of the Income Tax Act (Act 34 of 1953).

See Table 4-2 for an overview of the Biodiversity (Management) Agreement category.

Table 4-2: Overview of Biodiversity (Management) Agreement category

Description	Biodiversity (Management) Agreements are adaptable negotiated agreements for conserving biodiversity in the medium term.
Inherent attributes/ characteristics	<p>This category is suitable for conservation-worthy land which is in a relatively pristine condition, including small isolated fragments - the site must make an important (but not necessarily essential) contribution to the conservation of key vegetation types, species, ecological processes or ecosystem services. Alien plant infestation does not disqualify a property from receiving this status, provided the densities are such that they can still be managed and the habitat restored.</p> <p>Generally, a higher status should be considered for areas with particularly important or sensitive biodiversity.</p>
Contractual arrangements	<p>Biodiversity Agreement - a legal contract is entered into between the landowner and GDARD.</p> <p>Biodiversity Management Agreement - a legal contract is entered into between the landowner, GDARD and the MEC to implement a Biodiversity Management Plan in terms of the NEMA: BA.</p>
Legal status	<p>A Biodiversity Agreement has legal status by virtue of a legal contract entered into between the landowner and GDARD.</p> <p>A Biodiversity Management Agreements has legal status by virtue of a legal contract entered into between the landowner and GDARD and is recognised in terms of Section 44 of the NEMA: BA.</p> <p>Security is provided for the land by virtue of a legal agreement and a negotiated management plan. Should a situation arise where a landowner or GDARD fails to adhere to any of the terms in the contract or the Management Plan, then the offending party may be prosecuted for breach of contract and may take any necessary measures to remedy the breach and recover costs and damages from the offending party.</p>
Duration	Minimum period of 5 - 10 years (ideally 10 years or more), but may be in perpetuity if requested by the landowner.
Focal purpose of category	<p>To provide for a formalised partnership between a landowner and GDARD (and the MEC, in the case of Biodiversity Management Agreements) to meet certain agreed-upon conservation objectives on a site. The agreement is supported by a management plan that provides for required actions, responsible parties and timeframes.</p> <p>The purpose of each Biodiversity (Management) Agreement area depends on the agreed conservation objectives.</p>
Permissible use & activities	The landowner's access and residence rights are unrestricted. Permissible use and activities are agreed to by the landowner and conservation authority and are determined on a site-by-site basis.

Non-permissible use & activities	<p>The land must be managed in such a way that will conserve biodiversity and support natural processes, which generally excludes any activity that may adversely impact any indigenous fauna and flora or their habitats and the natural state and flow of any water resource.</p> <p>The restrictions set out in the Nature Reserve category apply, but these may amended or relaxed or negotiated to incorporate issues specific to the Biodiversity Agreement area and the needs of the landowner.</p>
Development nodes	<p>The landowner may choose to exclude future development nodes from the area designated for the Biodiversity (Management) Agreement area.</p>
Development restrictions	<p>Development consistent with the achievement of the conservation objectives may be permitted within the Biodiversity (Management) Agreement area, with effective sustainable management of the site encouraged. Development rights must be sought from the appropriate authority.</p>
Potential incentives / benefits	<ul style="list-style-type: none"> • Fiscal incentives are offered for Biodiversity Management Agreements through treasury in terms of the Income Tax Act (Act 34 of 1953). Conservation and management expenses in terms of the management plan may be deducted from the income generated from the land on which the Biodiversity Management Agreement is signed (with conditions). • Professional advice and support from the agency through more advanced extension services • GDARD will draw up a Management Plan for the property with the input and consent of the landowner to guide and schedule management actions. • Public works programmes (e.g. the Working for Water Programme) will be informed of the Biodiversity (Management) Agreement status of the site, which may be eligible for future support from these organisations.

4.1.3 Protected Environment

A Protected Environment is a flexible legal mechanism, recognised by the NEM: PAA, for controlling land use on single or multiple properties. Protected Environment designation is particularly useful where large landscapes require some form of conservation management, but where it is unnecessary or unsuitable to restrict other forms of extractive land use.

In terms of multiple properties, Protected Environments enable GDARD and landowners to co-operate and take collective action to conserve biodiversity and to establish a legal status for this combined action without having to forgo on ownership or other rights.

See Table 4-3 for an overview of the Protected Environment category.

Table 4-3: Overview of Protected Environment category

Description	<p>Protected Environments are flexible protected areas, recognised in terms of the NEM: Protected Areas Act (Act 57 of 2003). A Protected Environment is a legal mechanism for single or multiple landowners to control and direct land use on the properties concerned.</p>
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<p>Inherent attributes/ characteristics</p>	<p>The strengths of Protected Environments, as defined in Section 28 of the NEM: Protected Areas Act, are:</p> <ul style="list-style-type: none"> • Their flexibility in restricting those land use activities that may threaten the land-, coastal- or seascapes. • Their use to maintain or protect a sense of place, spiritual values or sense of solitude, by limiting visual (buildings, lights, etc) and auditory disturbances • They enable GDARD and private/communal landowners to co-operate and 'take collective action to conserve biodiversity' and to establish a legal status for this combined action (Section 28(b)). • They enable landowners to conserve and enhance the products of particular or critical entities within the landscape without having to forgo on ownership or other rights • They may be used for expansive areas of multiple determinants where there is uncertainty in terms of the sensitivities of the system, or where acute control measures are required. They thus serve as a platform on which conservation partnerships may be built. • They may be used to protect existing protected areas through buffering an existing nature reserve or world heritage site. • They may be used to safeguard components of habitat's or ecosystem's outputs which are vital for sustaining specialised habitats within the protected area.
<p>Legal status</p>	<p>Proclaimed as a Protected Environment in terms of Section 28 of NEM: Protected Areas Act</p>
<p>Contractual Arrangement</p>	<ol style="list-style-type: none"> 1. Agreement with the MEC, landowner/user and conservation agency - applicants for Protected Environment status enter into a contract (preferably notarial agreement) with the MEC and conservation agency that would augment and concretise the Protected Environment status for the stipulated duration. 2. Management agreement is signed between the management authority (usually landowner/user) and conservation agency to regulate the management of the protected environment. 3. No legal requirement for endorsing Title Deeds, however for the purposes of biodiversity stewardship, this would ideally be done to provide the sites more security by binding successors in title to the protected environment status of the site.
<p>Duration</p>	<p>Protected Environments in the biodiversity stewardship programme should be declared for a minimum period of 30 years to make them eligible for fiscal incentives, as well as to ensure the biodiversity is afforded sufficient security.</p>

<p>Focal purpose of category</p>	<p>The Protected Environment designation is useful to pursue where large landscapes require some form of conservation management, but where it is unnecessary or unsuitable to restrict other forms of extractive land use.</p> <p>In terms of Section 28 of NEM: Protected Areas Act, the purpose of a Protected Environment in terms of biodiversity stewardship is to:</p> <ol style="list-style-type: none"> a) Regulate the area as a buffer zone for the protection of a special nature reserve, national park, world heritage site or nature reserve; b) Enable landowners to take collective action to conserve biodiversity on their land and to seek legal recognition for such initiative; c) Protect the area if the area is sensitive to development due to its- <ol style="list-style-type: none"> 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) Protect a specific ecosystem outside of a special nature reserve, national park, world heritage site or nature reserve; e) Ensure that the use of natural resources in the area is sustainable.
<p>Permissible use & activities</p>	<p>There is no limitation on activities other than those specifically listed in the gazetting notice of the establishment of the Protected Environment. An agreement needs to be negotiated between GDARD and the land owner/s.</p>
<p>Non-permissible use & activities</p>	<p>Restrictions may be specifically listed in the gazetting notice of the establishment of the Protected Environment. In addition, the following are minimum restrictions in terms of the biodiversity stewardship programme:</p> <ul style="list-style-type: none"> • No transformation of natural vegetation; • No introduction of alien species (plants or animals); • No mining (conditions as per NEM:PAA, section 48); • No dumping of waste outside of appropriately zoned areas; and • No activities adversely affecting the natural state of water resources.
<p>Development nodes</p>	<p>May or may not apply, depending on negotiations.</p>
<p>Development restrictions</p>	<p>Only those specifically listed in the gazetting notice of the establishment of the Protected Environment. No subdivision of the Protected Environment is permitted, unless it is consistent with the purpose and objectives of the Protected Environment and approved by the management authority and GDARD.</p>
<p>Incentives / benefits</p>	<p>Incentives may include (but are not limited to) the following:</p> <ul style="list-style-type: none"> • Development of management plan; • Legal costs covered; • Technical advice; • Access to public works programmes (such as Working for Water or Working for Wetlands); • Alien plant clearing assistance; and • Conservation and management expenses in terms of the management plan may be deducted from the landowner's taxable income (with conditions).

4.1.4 Nature Reserve

Nature Reserves are proclaimed in terms of the NEM: PAA and are augmented by agreements between landowners, GDARD and the MEC in order to protect biodiversity in the long term.

This category is reserved for sites with exceptionally high biodiversity. Sites participating at this level must make an essential contribution to the conservation of vegetation types, species, ecological processes or ecosystem services, and in doing so make a meaningful contribution to South Africa’s protected area network.

The minimum duration of the agreement for Nature Reserve is 30 years, but certain fiscal incentives only become available to agreements of 99 years or more.

Nature Reserves are subject to restrictions in terms of permissible development and activities. Restrictions are made binding on successors in title by being lodged against the title deed of the property. In addition, an agreement is entered into between the landowner, GDARD and the MEC on the management of the site.

Substantial benefit and support is made available to landowners of Nature Reserves, including being excluded from paying property rates on the conserved area, income tax incentives and substantial support with ecological management.

See Table 4-4 for an overview of the Nature Reserve category.

Table 4-4: Overview of Nature Reserve category

Description	Nature Reserves, with respect to the Biodiversity Stewardship Programme, are proclaimed areas that are augmented with legally recognized contracts, or servitudes on private or communal land, aimed at protecting biodiversity in the long term.
Inherent attributes/ characteristics	<p>This category is advised for critically important sites (outstanding biodiversity features), especially those that contain examples of threatened ecosystems or contain unique and exceptional biodiversity features – the site must make an essential contribution to the conservation of key vegetation types, species, ecological processes or ecosystem services, and in doing so make a meaningful contribution to South Africa’s protected area network.</p> <p>Sites adjacent to statutory reserves (strategically important) and those contributing to corridors (significant contribution to process targets) within the landscape initiatives would also qualify for this status.</p> <p>Areas that have been previously disturbed (e.g. old agricultural fields) would generally not qualify for this status unless they played a key role in recovery of adjacent natural areas. As with Biodiversity (Management) Agreements, alien plant infestation does not necessarily disqualify a property from receiving this status, provided the densities are low and the habitat is restorable.</p>

<p>Legal status</p>	<p>This category has secure, legal status on a number of levels:</p> <ul style="list-style-type: none"> • Proclaimed by the MEC in terms of Section 23 of the Protected Areas Act (No. 57 of 2003) as a Nature Reserve. • A Notarial Deed is drawn up for the site detailing the restrictions which are registered on the title deed. This Notarial Deed must be signed by a Notary Public and lodged at the Deeds Office for registration against the title deed of the property. Any new owner is obliged to continue adhering to the restrictions in the notarial deed if and when the property is transferred. • An additional legal agreement, the Protected Area Management Agreement, is entered into between the landowner and GDARD to govern the management of the Nature Reserve. • A management authority must be assigned to the site. Depending on the circumstances, this could be the landowner, GDARD or a willing third party. There are several responsibilities placed on the management authority by the Act. <p>NB: There is no transfer of ownership in any of these agreements. The management agreement must therefore be resigned with any new owners. The restrictions placed on the title deed by the notarial deed will however be binding on any such new owner.</p>
<p>Contractual arrangements</p>	<ol style="list-style-type: none"> 1. Declaration Agreement - agreement to declare a nature reserve and consent to the assignment of the management authority. This agreement is signed between the landowner, GDARD, the MEC or Minister in the form of a Notarial Agreement to be executed by a Notary Public. 2. Protected Area Management Agreement: This contract is signed between the landowner and GDARD.
<p>Duration</p>	<p>These agreements are applicable from 30 years to agreements in perpetuity, however the owner will only be eligible for fiscal incentives for contracts of a minimum of 99 years. For the biodiversity stewardship programme, the minimum duration of a nature reserve should preferably be 50 years.</p>
<p>Focal purpose of category</p>	<p>To provide long-term protection and management to important biodiversity on private and communal land.</p> <p>According to Section 17 of NEM:PAA, the purposes of protected areas are to:</p> <ol style="list-style-type: none"> a) Protect ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes in a system of protected areas b) Reserve the ecological integrity of those areas c) Conserve biodiversity in those areas d) Protect areas representative of all ecosystems, habitats and species naturally occurring in South Africa e) Protect South Africa's threatened or rare species f) Protect an area which is vulnerable or ecologically sensitive g) Assist in ensuring the sustained supply of environmental goods and services h) Provide for the sustainable use of natural and biological resources i) Create or augment destinations for nature-based tourism j) Manage the interrelationship between natural environmental biodiversity, human settlement and economic development k) Contribute to human, social, cultural, spiritual and economic development l) Rehabilitate and restore degraded ecosystems and promote the recovery of endangered and vulnerable species.

<p>Permissible use & activities</p>	<p>There are specific limitations and restrictions on Nature Reserves:</p> <ul style="list-style-type: none"> • There must be a management authority (this could be the owner) and a management plan must be drawn up. Access to privately-owned land is determined through the negotiation process. • The restrictions are recorded on the title deed of the property; they bind future owners, and will be in force for a minimum period (usually not less than 30 years, but ideally 99 years – in perpetuity). <p>Any activity that is compatible with the purpose of the establishment of the Nature Reserve and the zonation plan shall be permitted, including:</p> <ol style="list-style-type: none"> 1. Sensitive ecotourism according to principles set out in the management plan. 2. Environmental education 3. Sustainable extractive resource use¹ that is appropriate to the protected area status of the Nature Reserve, agreed to by conservation agency and governed by the management plan. <p>(¹ This may include grazing, hunting, fishing, capture and sale of surplus game, controlled harvesting of medicinal plants or any other appropriate form of sustainable use)</p>
<p>Non-permissible use & activities</p>	<p>The land must be managed in such a way that will conserve biodiversity and support natural processes, which generally excludes any activity that may negatively impact on any indigenous fauna and flora or their habitats and the natural state and flow of any water resource, including:</p> <ol style="list-style-type: none"> 1. Dumping of refuse, rubble or other waste within the Nature Reserve 2. Introduction of alien species (plant or animal) within the Nature Reserve 3. Introduction of extra-limital species or genetically distinct sub-populations of species, except where prior written authorisation has been obtained from the management authority and GDARD. 4. Removal or destruction of indigenous fauna and flora except sustainable extractive natural resource use (except for seed collection for restoration projects or where prior authorisation has been obtained from the management authority and conservation agency). 5. Removal or destruction of any indigenous fauna within the Nature Reserve, except where this is agreed to by the management authority and conservation agency and is catered for in the management plan. 6. Removal of any natural products from the Nature Reserve, except where this is agreed to by the management authority and conservation agency and is catered for in the management plan. 7. Activities which may negatively affect the natural state, flow, supply, quantity or quality of any water resource located in the Nature Reserve. 8. Use of off-road vehicles in the Nature Reserve, unless their use is consistent with the purpose and objectives of the Nature Reserve and agreed to by the management authority and conservation agency. 9. Public access to the Nature Reserve, unless agreed to by the management authority and GDARD and catered for in the management plan.
<p>Development nodes</p>	<p>Nature Reserves require a zonation plan, which makes provision for recognition and establishment of development nodes.</p> <p>The landowner may choose to exclude future development nodes from the area designated for proclamation as a Nature Reserve, and zone these accordingly. In this instance, the landowner would be required to cover the costs of the surveying and re-zoning.</p>

Development restrictions	<p>Development consistent with the protected area status of the Nature Reserve may be permitted. Where necessary, development rights must be sought from the appropriate authority (e.g. Department of Agriculture & Environmental Affairs). Development restrictions include:</p> <ol style="list-style-type: none"> 1. No new infrastructure that is incompatible with the zonation plan 2. No ploughing, cutting, ripping or transformation of any indigenous vegetation, ecosystems or habitats is permitted within the Nature Reserve (see Section 50(5) NEMA: Protected Areas Act) except for any rehabilitative measures as provided for in the management plan. 3. No commercial mining and prospecting (See Section 48(1) NEMA: Protected Areas Act) is permitted within the Nature Reserve, unless required for meeting the purpose and objectives of the Nature Reserve and catered for in the management plan 4. No new placement of any transmission lines, telecommunication lines, cellular towers or public works in the Nature Reserve outside of areas zoned for such development. 5. No subdivision of the Nature Reserve is permitted, unless it is consistent with the purpose and objectives of the Nature Reserve and approved by the management authority and GDARD. 6. No operation of, any trade, industry or business in/on the Nature Reserve, unless provided for in the zonation and management plans.
Potential incentives / benefits	<ul style="list-style-type: none"> • Proclaimed area is exempt from attracting rates (Section 17.1 (e) Municipal Property Rates Act) • Substantial assistance from GDARD should be provided for specific habitat management interventions, such as alien plant clearing, fencing, and fire and game management, based on the resources available to GDARD. • These sites should also have preferential access to government land management programs, such as Working for Water. • Enhanced recognition and marketing exposure could be provided by the agency through the agencies marketing networks (e.g. website, magazine articles), should the landowner want any ecotourism assets marketed. • GDARD must compile and maintain a Management Plan for the property with the input and consent of the landowner to guide and schedule management actions. • Landowners become members of the national network of protected areas and contribute to global conservation as provided for by the Convention of Biodiversity. • Lobbied assistance from other organisations. • Conservation and management expenses in terms of the management plan may be deducted from the landowner's taxable income (with conditions). • The value of the land may be deducted from the landowner's income tax at a rate of 10% of the land value over 10 years (various conditions apply).

4.2 Implementation Procedure

The procedure for implementing biodiversity stewardship at the site-level involves pre-implementation actions and five sequential phases of site engagement (Table 4-5):

1. Initiation of landowner interactions;
2. Site assessment and review;
3. Contract negotiation, draft management plan development and internal approval;
4. Formal proclamation (Nature Reserve and Protected Environment only); and
5. Site support, monitoring and auditing.

These phases are described in the subsequent sections.

Table 4-5: An overview of the implementation procedure for the GBSP

PHASE	NAME	DESCRIPTION	RESPONSIBILITY
Pre-implementation	Identification of potential biodiversity stewardship sites	Identify potential biodiversity stewardship	GBSP Unit
		Captured site in the site database and determine its priority status for engagement by the programme	
PHASE 1	Initiation of landowner interactions	Initial visit: <ul style="list-style-type: none"> Introduce the programme Explain the categories Conduct a needs assessment Request biodiversity assessment 	GBSP Facilitator
PHASE 2	Site Assessment and Review	Perform biodiversity assessment of the site, including: <ul style="list-style-type: none"> Desktop assessment Field assessment 	GBSP Facilitator
		Conduct a due diligence audit	GBSP Facilitator
		Present findings to Review Panel	GBSP Facilitator
		Notify landowner of the outcomes of the review process	
PHASE 3a	Contract negotiation and draft management plan development (with landowner)	Agree on biodiversity stewardship category to be pursued	GBSP Facilitator
		Agree on management objectives	
		Develop draft contract agreement(s)	
		Consult legal expertise and finalise all the legal documents	GBSP Facilitator Legal Services
		Negotiate content of the Management Plan (Part 1)	GBSP Facilitator Technological Services
		Obtain landowner's signature on the agreements	GBSP Facilitator
PHASE 3b	Site approvals and cost analysis	Obtain an indication of the management costs of the site	GBSP Facilitator
		Follow internal procedures to obtain GDARD approval	GBSP Manager
PHASE 4	Proclamation (only for Nature Reserve and Protected Environment)	Submit notice of intention to declare to the MEC (and local municipality)	GBSP Facilitator
		Advertise notice of intention to declare	
		Consult with targeted stakeholders	
		Submit all relevant documentation and information to the MEC for approval	
		Publish notice of declaration in Government Gazette.	
		Produce survey diagram (Nature Reserve only - if required)	
		Register notarial restrictions against the site's title deed (Nature Reserve only)	
PHASE 5	Site support and annual audit	Establish an Advisory Committee (Nature Reserve only)	GBSP Facilitator
		Develop Management Plan – Part 2 (update annually)	
		Provide follow-up support and monitoring	
		Conduct an annual audit based on management activities in plan	
		Identify any additional support to be provided	

		Assess management effectiveness (5 yearly intervals)	
		Review Management Plan - Part 1 (5 yearly intervals)	

4.2.1 Pre-Implementation: Identification of biodiversity stewardship sites

Sites can be identified as potential biodiversity sites in four main ways: 1) by being identified in the Gauteng Protected Areas Expansion Plan, 2) through GDARD or NGO interaction with, or knowledge of, a site, 3) through landowners approaching the GBSP or 4) through the EIA process, where land must be set aside for conservation as a condition of the Record of Decision for a development.

Due to the limited capacity of GDARD to establish and support biodiversity stewardship sites, all identified sites must first undergo a prioritisation process before being scheduled for engagement by the programme. This prioritisation process takes issues into account such as the biodiversity value of the site, the urgency for the programme to engage with the site, proximity of the site to existing reserves and threat of development.

4.2.2 Phase 1: Initiation of landowner interactions

Initial visit with landowner

The first meaningful engagement between the landowner and the GBSP takes the form of an initial visit by the facilitator. The purpose of this visit is for the facilitator to introduce the programme and the biodiversity stewardship categories to the landowner. The facilitator will normally discuss the following with the landowner:

- A brief overview of the programme;
- How and why the site was selected for engagement by the programme;
- The categories that are available;
- The nature of commitment required according to each category;
- The general types of restrictions are applicable to each category;
- Qualification criteria for the categories; and
- The procedure for implementing stewardship and the way forward.

During the visit, the facilitator will attempt to develop an initial understanding of the individual needs of the landowner. This will assist in determining whether biodiversity stewardship is a viable option, understanding specific provisions that should be included in the agreements and developing a tailored support package.

If the landowner is interested in pursuing biodiversity stewardship, the facilitator will request that a site assessment be conducted.

4.2.3 Phase 2: Site Assessments and Review

The site assessment comprises a biodiversity assessment and a due diligence audit of the site.

Conduct a Biodiversity Assessment

Biodiversity stewardship agreements, especially at the higher levels, represent a substantial commitment from GDARD to landowners (i.e. a commitment to provide ongoing support to the site). Due to limitations in GDARD's capacity, there is a ceiling on the number of sites that can be serviced through the programme at its higher levels. In order to ensure that the programme achieves its goal of contributing to the province's biodiversity targets, qualification at the higher levels should be reserved for absolute biodiversity priority areas.

An assessment is therefore conducted for each site in order to determine its biodiversity value. This assessment consists of two stages: a desktop assessment and a field assessment.

The desktop assessment involves an analysis of the site against available spatial information on biodiversity value, while the field assessment is a ground-truthing exercise to verify the results of the desktop assessment and to capture any new or additional information.

The objectives of the biodiversity assessment are to:

- Determine the biodiversity value of the proposed biodiversity stewardship area;
- Based on the above, determine whether the proposed biodiversity stewardship area warrants incorporation in the GBSP;
- Establish the preferred biodiversity stewardship category;
- Determine the land use pressures and threats facing the proposed biodiversity stewardship area;
- Begin the process of developing a management plan for the proposed biodiversity stewardship area; and
- Establish a baseline for future monitoring of the proposed biodiversity stewardship area.
- The desktop and field assessment forms are attached as Appendix A: Biodiversity Assessment form.

The desktop assessment is conducted by the facilitator, while the field assessment is coordinated by the facilitator but also includes scientific staff and possibly also agricultural extension staff.

Due Diligence Audit

A due diligence audit is conducted by the facilitator in order to:

- Confirm ownership;
- Confirm the land claim status of the property;
- Determine if there are any tenants or occupants on the land;
- Determine if there are any restrictions or rights registered against the property;
- Determine if there are any leases on the land; and
- Consult with local municipality to determine how the site fits into the planning of the municipality (IDP / SDF).

Site Review and Qualification

The results of the site assessment are summarised and presented to the GBSP Review Panel where a decision is made on the qualifying category for each site. The Review Panel is guided in its decision-making by a set of site qualification criteria (see Appendix B: Site Qualification Criteria).

A decision is made on the qualifying category for the area in question, and any specific recommendations or conditions associated with the qualification status is specified (e.g. specific restrictions on activities or development or any specific provisions required of the agreements or management plans). The GBSP Working Group is then informed of the qualifying category for each site.

Landowner Feedback

After the Review Panel meeting, the facilitator will communicate the outcomes of the site review process to the landowner. In doing so, the facilitator will explain the rationale behind the decision taken. Since all biodiversity stewardship categories are entered into on a voluntary basis, the landowner can choose to accept the qualifying category or opt for a less stringent category (e.g. a landowner of a site that qualifies for Nature Reserve status can opt to instead pursue a Biodiversity Management Agreement).

4.2.4 Phase 3a: Contract negotiation and draft management plan development

Once the landowner has decided on the category that he would like to pursue, the process of developing the agreements begins.

Developing draft agreements

The types of agreements required depend on the category being pursued. For each category, *pro forma* agreements have been developed and these are used by the facilitator and the landowner as the basis for negotiations and then tailored to suit the individual objectives and requirements for the site.

Once the landowner and the facilitator are satisfied with the draft set of agreements, it is sent to GDARD's legal services branch for review and rewriting in appropriate legal language. Landowners are entitled to consult their own legal advisors during the negotiation process.

There are six main sections in the *pro forma* agreements for Nature Reserve, Protected Environment and Biodiversity Management Agreements which need to be individually negotiated:

6. Management objectives – the management objectives are a fundamental part of the agreement because they determine the aspects for which the site will be managed and are the first step in developing management programmes. They also serve as the basis for monitoring and auditing;
7. Restrictions (obligations) of the landowner – refer to activities that are not permitted in the conserved area (e.g. no further development, no destruction of any indigenous species, no dumping of waste). Most of the restrictions have a basis in legislation such as the Protected Areas Act, 2003 or the Biodiversity Act, 2004;
8. Rights of the landowner – the landowner should retain all rights of ownership of the conserved area and access to the conserved area (by landowner, family and permitted

- friends). Additional rights, such as access to a neighbouring provincial reserve, would need to be negotiated and included in the agreement;
9. Obligations of GDARD – these obligations can include aspects such as compliance with terms and conditions that refer to GDARD in the Management Plan, supervision and Technological support, notification of access and notification of the landowners eligibility for exemption from any other levies, duties or taxes. Other obligations could be negotiated;
 10. Rights of the GDARD – could include access to the conserved area to ensure compliance with the agreement and Management Plan and for research purposes. Other rights could be negotiated on a case by case basis; and
 11. Conservation Costs – the allocation of costs must be agreed upon between the landowner and GDARD and will largely be determined by the respective objectives prescribed for each party in terms of the Management Objectives section of the agreement.

Agreements relevant for Nature Reserves and Protected Environments

The following agreements apply to the establishment of Nature Reserves and Protected Environments:

- Notarial Agreement – this document is in the form of a power of attorney, which includes the agreement to declare a Nature Reserve or Protected Environment and notarises (i.e. publicly recognises) the restrictions to the title deed of the property, which binds all subsequent owners of the property for the length of the contract. This agreement also assigns the management authority. The agreement must be signed by the Minister or MEC, the landowner and GDARD. Furthermore, the contract must be executed by a Notary Public and lodged at the Deeds Office for registration against the title deed of the property;
- Protected Area Management Agreement – this is the contract that details the relationship between GDARD and the management authority; and
- Management Plan – this must accompany the management agreement and is regularly cross-referenced by the Notarial Agreement and the management agreement.

The *pro forma* agreements are attached in Appendix C.

Agreements for Biodiversity (Management) Agreements

The following agreements apply to Biodiversity (Management) Agreements:

- Protected Area Management Agreement – for Biodiversity Agreements this is the contract that details the relationship between GDARD and the landowner. In the case of Biodiversity Management Agreements, the same agreement applies but the Minister is included in this agreement; and
- Management Plan – this accompanies, and is referred to in, the management agreement.

Biodiversity Management Agreements have legal status by virtue of the fact that they are legal contracts entered into in terms of NEM: BAA. Restrictions are not placed on the title deeds.

The *pro forma* agreement is attached in Appendix C.

Agreements for Conservation Area

A landowner pursuing this category fills out an application form and agrees to abide by certain principles and objectives. The Conservation Area is then registered with GDARD and a certificate is issued.

The Conservation Area registration form is included in Appendix D.

Determination of Management Authority (for Nature Reserve only)

The proclamation process for Nature Reserves requires the designation of a management authority. The management authority is normally the landowner, but in some cases the management authority can also be GDARD or a willing and capable third party.

The management authority is responsible for the management of the Nature Reserve and has certain delegated authority and powers over the Nature Reserve in terms of the NEM: PAA and regulations issued in terms of this act.

Determining the Management Objectives

An initial step in the negotiation process is the determination of the management objectives for the site. The development of management objectives is the foundation for further contract negotiation because these will determine the aspects for which the site is managed. The management objectives provide focus to the key issues and assist in the prioritisation of resources.

The landowner and facilitator agree on the most important management objectives (normally four or five objectives), which will then form the framework for the management plan. The finer details of the management of the site are left for subsequent negotiation. The management objectives must be clear and unambiguous and should include responsible parties and, where possible and appropriate, targets and timeframes.

Management Plan Development

At the same time that the agreements are being negotiated, the process of developing a management plan for site begins. Management plans are important documents that provide a framework for meeting objectives and assigning responsibility for management actions.

Management plans are mandatory for all biodiversity stewardship categories except the Conservation Area category (additionally, management plans are a requirement of the NEM: PA for Nature Reserves).

- NEM: Protected Areas Act (2003) requires that a management plan must contain at least:
 - The terms and conditions of any applicable biodiversity management plan;
 - A co-ordinated policy framework;
 - Such planning measures, controls and performance criteria as may be prescribed;
 - A programme for the implementation of the plan and its costing;
 - Procedures for public participation, including participation by the owner (if applicable), any local community or other interested party;

- Where appropriate, the implementation of community-based natural resource management; and
- A zoning of the area indicating what activities may take place in different sections of the area, and the conservation objectives of those sections.

The management plan format used in the GBSP comprises of two sections: an Integrated Management Plan (IMP) and a Plan of Implementation (PoI). The IMP is a strategic document that outlines the overall policy framework of the biodiversity stewardship site and highlights the purpose, significance and management objectives. This plan is reviewed every 5 years and forms part of the submission to the MEC. The PoI is reviewed annually and details the daily management activities of the biodiversity stewardship site. The PoI forms the basis for the annual audit. It is not submitted to the MEC.

At this stage in the process, only the IMP is developed.

The GBSP management plan format is characterised by the following attributes:

- It is succinct and focussed on specific interventions;
- It has clear management objectives (as captured in the agreement);
- It indicates the conservation significance of the site (linked to the biodiversity assessment);
- It is S.M.A.R.T. (has Specific Measurable Actions and Results and Time-bound schedules) for each management objective or identified project (e.g. alien clearing, fire management or soil erosion control);
- It has cash flow predictions for the PoI and costs per intervention if available;
- It has a summary of management actions in beginning of plan (what action, by whom, by when);
- It has an indication of management priorities (by listing and addressing management issues in order of priority);
- It has an explicit policy framework and restrictions (in terms of national and provincial legislation and the agreement) that clarify a landowners restrictions and obligations;
- It has tables of responsibility, indicating costs for GDARD and the landowner;
- It has basic indicators to determine if objectives have been met and a monitoring process to verify these;
- The location of audit points or processes are specified; and
- It presents a threat analysis and response protocol (including significance, severity and likelihood of occurrence).
- A *pro forma* management plan for biodiversity stewardship sites is attached as Appendix E.

Zonation Plan

Zonation plans are required for Nature Reserves. The zones identified within the zonation plan are geographical areas with similar objectives, and within which similar management emphases are applied and similar levels of use are permitted. The zonation plan ensures that appropriate activities are undertaken within the protected area and these do not conflict with the purpose for its establishment.

Calculating management costs

Before the contract is signed, and GDARD and the landowner commit the provisions contained therein, the costs to manage the site according to the management objectives are estimated¹.

Once the costs have been determined, negotiations can commence around the respective contribution by GDARD and the landowner towards the costs. Where possible, other sources of support (outside of GDARD) are sought.

Developing incentives package and beneficiation agreement

The facilitator negotiates an incentive package that is tailored to the needs of the specific biodiversity stewardship site. The magnitude of support provided to the site will correlate to the site's biodiversity stewardship category. Nature Reserves will receive the most substantial benefits and support, followed by Protected Environments and Biodiversity (Management) Agreements.

Finalising agreements and documentation

The agreements, together with the management plan, are then finalised in preparation for the internal approval process.

4.2.5 Phase 3b: Internal approval process

Since biodiversity stewardship agreements have cost implications to GDARD, each site must be subjected to an internal approval process before the agreements are signed. This process is important in order to obtain internal support and approval and to ensure that budget and staff time are appropriately allocated.

The internal approval process begins with a presentation of the site to the Conservation Management Committee. Thereafter the agreements are routed for approval to the Head of Department (Biodiversity Agreement) or MEC (the other contractual categories).

Once the necessary internal approvals have been obtained, the landowner and GDARD sign the agreements.

4.2.6 Phase 4: Proclamation process (Nature Reserve and Protected Environment only)

Survey diagram (for Nature Reserve only)

The Minister or MEC must notify the Registrar of Deeds in writing whenever a protected area is declared, altered or withdrawn. The notification must include the terms and conditions of any notarial deed that has to be registered against the title deed and, in terms of the Land Surveys Act

¹ Although it is not feasible to calculate all management costs, the costs of key interventions that GDARD could support (such as alien clearing or implementing fire breaks) are calculated.

and the Deeds Registries Act, must also include a description of the land involved. This description is in the form of a survey diagram prepared by a registered land surveyor.

For Nature Reserve sites where the area to be declared does not correspond with cadastral boundaries, a process must be followed in order to obtain survey diagrams for the area to be declared.

Public Participation (for Nature Reserve and Protected Environment only)

A memorandum is sent to the MEC to request permission to proceed with the public participation and consultation process. Once the MEC agrees in writing, the public participation process can commence.

The public participation process is conducted in accordance with Section 33 of NEM: PAA and includes:

- Publication of a declaration notice in the Provincial Government Gazette;
- Publication of a declaration notice in more than one language in two national newspapers (with reference to the Provincial Gazette notice); and
- Consultation with national, provincial and local government departments, stakeholders and interested and affected parties, including neighbours, any lawful occupiers of the land and anyone holding rights on the land (e.g. Eskom, Telkom or the holders of prospecting rights). The consulted parties have a period of 60 days in which to respond.
- Examples of letters to interested and affected parties are presented in Appendix F.

MEC submission for declaration of Nature Reserve

After the public consultation process is complete and the survey diagram (where necessary) has been approved, the submission to the MEC is compiled. The following is included in the submission:

- Covering memorandum and GDARD recommendation;
- Notarial Agreement (including the declaration agreement, notarial deed and power of attorney);
- Protected Area Management Agreement;
- IMP (Part 1) component of the management plan; and
- Any comments or objections that may have been received during the Public Participation process.

On receipt of these, the MEC will evaluate public and local authority consultation undertaken, make a decision, and consult with the portfolio committee for additional information.

Following a positive decision, the MEC will sign the notarial deed, power of attorney and management plan and send notification to the deeds office. The proclamation notice is then published in the Government Gazette in accordance with Chapter 3 of NEM: PAA. The date of gazette publication constitutes the date of proclamation for the protected area.

The signed notarial deed and power of attorney are then registered with the Notary Public, who presents the notarial deed to the deeds office to register restrictions against the title deeds of the property. The costs of registering the notarial deed is covered either by GDARD or the landowner, depending on what was agreed upon during negotiations.

A checklist to ensure that all aspects of the process are completed is presented in Appendix G.

4.2.7 Phase 5: Supporting the protected area and annual auditing

Managing the biodiversity stewardship site

After the agreement and declaration processes have been concluded, the biodiversity stewardship site is managed according to the terms of the agreement. During this phase, the commitments of both GDARD and the landowner are delivered upon.

Advisory Committees (Nature Reserve only)

The Draft Regulations for the Proper Administration of Nature Reserves allow for the establishment of advisory committees for Nature Reserves. In the establishment of such advisory committees, the management authority must invite community organisations, non-governmental organisations and residents of neighbouring communities to nominate representatives for consideration on the advisory committee. The committee must include at least one employee of the management authority, in an *ex officio* capacity.

Monitoring within Nature Reserves

The management authority must monitor and report annually to the Minister or the MEC on large mammal counts, translocations into and from the Nature Reserve and the species and extent of alien and invasive species.

Annual auditing

As stipulated in the agreement, GDARD must convene a meeting with the landowner on an annual basis to formally review progress towards achieving the management objectives, through the actions set out in the management plan. This annual meeting is referred to as the annual audit. The management schedule contained in PoI (Part 2 of the management plan) is used to check which management actions have been completed and which are outstanding. The findings should be reported back to the landowner and GDARD, and any adjustments that are necessary should be made to the management plan to cater for adaptive management.

4.2.8 Withdrawal or breach of agreement

Conservation Area

GDARD retains the right to terminate the Conservation Area status of a site. Actions that may lead to the termination of the conservation area status include:

- Inappropriate development;
- Non-adherence to management objectives and requirements;
- Altering the natural character of the area; and
- Non-sustainable use of the land.

The landowner may also terminate the agreement at any time with the provision of 60 days written notice to GDARD. No legal or other remedy is sought by either party on termination of the agreement.

Biodiversity Management Agreement

Should any one of the parties to the agreement (either the landowner or GDARD) not adhere to any of the terms in the contract or the Management Plan, then the other party can be charged with breach of contract. The affected party may then take any necessary measures to remedy the breach and recover costs and any damages from the offending party. Furthermore, the fiscal incentives offered through treasury may also be reclaimed as per the Revenue Laws Amendment Act (Act 60 of 2008).

Fiscal incentives offered through treasury may also be reclaimed as per the Revenue Laws Amendment Act (Act 60 of 2008). Where damage is irreversible, GDARD should be able to seek mitigation from the landowner in the form of an offset or compensatory payment to provide such an offset. The landowner may also face prosecution under the Conservation of Agricultural Resources Act, or cancellation of Biodiversity (Management) Agreement status.

Protected Environment

If either party (GDARD or the landowner) commits a breach of contract, and remains in default for 30 days after written notice of the breach, the other party is entitled to take necessary measures to remedy the breach and recover costs from the defaulting party.

In the event this agreement is cancelled at the instance of the MEC due to breach of contract by the landowner, the landowner shall reimburse the Department for any expenditure reasonably incurred by it in giving effect to the terms of this agreement.

Nature Reserve

Where the declaration of private land as a Nature Reserve is withdrawn the landowner becomes liable for any rates that would have been payable on the property. The landowner only becomes liable if the declaration of a Nature Reserve was withdrawn because of:

- A decision by the landowner to withdraw from the agreement in terms of which the landowner consented to the declaration; and
- A decision by the State to withdraw from agreement because of a breach of the agreement by the landowner.

5 Benefits and Support

The GSBP provides benefit and support to participating landowners, including fiscal and non-fiscal incentives. A principle of the programme is that the magnitude of benefit and support provided is proportional to the commitment made by landowners to conservation. Thus Nature Reserves receive the most substantial support, followed by Protected Environments and Biodiversity (Management) Agreements.

Certain fiscal incentives are provided for statutory conservation areas (areas that are declared in terms of the NEM: PAA or NEM: BA, i.e. Nature Reserve, Protected Environment and Biodiversity

Management Agreement) in legislation. Other fiscal incentives are enabled through legislation but are applicable at the discretion of the authority concerned.

Non-fiscal incentives include emotive incentives (e.g. status and recognition), improved marketing opportunities) various forms of management support and advice from GDARD and other agencies.

While the statutory fiscal incentives are automatically available to landowners of statutory conservation areas, the remainder of the incentives are negotiated for individually with each biodiversity stewardship site. The sourcing and implementation of different incentives is an ongoing process, and since incentive needs differ between landowners, each site will have a unique incentive package developed for it.

5.1 Statutory fiscal incentives

In response to the commitments of landowners to secure biodiversity on their land, Treasury has recognised that:

1. Landowners have forgone use rights to their land, which have inherent value; and
2. Landowners often incur substantial costs in managing their land under these agreements.

As a result, a number of fiscal mechanisms have been developed to support what is essentially a cost carried by an individual for the public good (see Table 5-1). These mechanisms have been legislated in the Revenue Laws Amendment Act (Act 60 of 2008). Various scenarios are addressed by tax mechanisms, each providing a more secure conservation agreement, and demanding a higher level of commitment and cost from the landowner.

The act further provides for a situation of non-compliance or breach of agreement with the inclusion of a recoupment clause, whereby, if the taxpayer is in breach of the agreement, he will be subject to a recoupment of the deductions previously allowed in the five years preceding the contravention².

Table 5-1: Tax incentives per statutory conservation category

Statutory conservation category	Associated tax incentives
National Park or Nature Reserve (under NEM:PAA)	<ul style="list-style-type: none"> • 99 year agreement, with title deed restriction. • The cost to acquire the land is deemed to be an 18A deductible donation. • Landowner is eligible for conservation and management costs tax deductions. • Both conservation expenses and value of land deductions have a 10% cap. Because of 10% cap, SARS made the deduction of value of the land over 10 years. • The deductible amount does not include portions of the land over which the taxpayer has right of use. For example, the residential footprint of a house or commercial lodge included in the reserve or park.
National Park, Nature Reserve, Protected Environment (under NEM:PAA)	<ul style="list-style-type: none"> • 30 year agreement. • Expenses to conserve or manage the land are deemed to be 18A deductible donations. All 18A deductions have 10% cap. • This includes entire taxable income, not just what is generated from the land.
Biodiversity Management Agreement (under NEM:BA)	<ul style="list-style-type: none"> • 5 year agreement. • The taxpayer may deduct against income generated from the land. • Eligible for deduction of conservation and management cost as per the Agreement

² SARS would recover the money by including it in the amount owed to them in the following tax year.

Statutory conservation category	Associated tax incentives
	<ul style="list-style-type: none"> The taxpayer does not have to be the landowner.

5.1.1 Income tax incentives for Biodiversity Management Agreements

For the fiscal incentives to take effect, the Biodiversity Management Agreement must be signed in terms of the NEM: BA for a minimum duration of 5 years.

All conservation and maintenance expenses incurred in terms of a Biodiversity Management Agreement are to be treated as expenditure incurred in the production of income and for purposes of trade. Examples of these expenses could be rehabilitation expenses, alien clearing or burning fire breaks. However, expenses are only deductible if the activity is reflected in the management plan connected to the Biodiversity Management Agreement.

Important factors:

- The taxpayer may only make these deductions from income generated from the land subject to the Biodiversity Management Agreement, or land in the immediate proximity. The Act does not define ‘immediate proximity’, but it is taken to mean neighbouring, or within a few kilometres of the land under the Biodiversity Management Agreement; and
- The deduction may not exceed the income of the taxpayer derived in the year of assessment. However, the amount by which the deduction exceeds the income will be deemed to be expenditure incurred by the taxpayer in the following year of assessment. In other words, a roll-over of deductions into the next tax year is allowed.

Farmers entering into Biodiversity Management Agreements are subject to the same deductions, with the only difference being:

- The deductions are allowed for under paragraph 12(1A) of the First Schedule. This portion of the Income Tax Act (Act 58 of 1962) deals specifically with all allowable deductions made by farmers; and
- The deductions are limited to income derived by the taxpayer from farming activities on the land or within the immediate proximity of the land.

5.1.2 Income tax incentives for Protected Environments

For the fiscal incentives to take effect, the Protected Environment Agreement must be signed (with the relevant contract) stipulating a minimum duration of 30 years.

All conservation and maintenance expenses are deemed to be Section 18A deductible donations in terms of the Income Tax Act (Act 58 of 1962). This means that expenses related to the management of the land, as required by the Management Plan, can be deducted from the taxpayer’s taxable income³. Activities not required in the management plan are not deductible. Furthermore, an 18A deduction may not exceed 10% of the taxpayer’s taxable income.

³ Gross income – exemptions = Income Income – Deductions + Taxable Capital Gains = Taxable Income

5.1.3 Income tax incentives for Nature Reserves

Minimum contract of 30 years

Nature reserves and National Parks with contracts signed for a minimum duration of 30 years (30 years to in perpetuity) are subject to the same deductions as described under protected environments above. That is, all conservation and maintenance expenses as determined by the management plan are deemed to be Section 18A deductible donations in terms of the Income Tax Act (Act 58 of 1962).

Minimum contract of 99 years

In addition to the 18A deductions for expenses described above, Nature Reserves and National Parks with contracts signed for a minimum duration of 99 years (in perpetuity) and endorsed as such on the title deeds, may further deduct the value of the land from their income tax. This deduction is also considered an 18A deduction.

The deduction for the value of the land must comply with the following guidelines:

- The landowner may deduct 10% of the value of the land each year for ten years, starting in the year of declaration.
- The deductible amount is equal to 10% of the lesser of:
 - The cost to purchase/acquire the land, or
 - The current market value of the land.
- The deductible amount does not include portions of the land over which the taxpayer has right of use (for example, the residential footprint of a house or commercial lodge included in the reserve or park).
- To calculate the deduction when a right of use is retained, the deductible amount determined above is then multiplied by the quotient of the market value of the declared land and the market value of the land as if it had been donated in full (i.e. market value of the donated land including the value of the portion where rights have been retained). This may be depicted as the formula below:

$$\text{Deemed donation} = 10\% \times \left(\begin{array}{l} \text{Lesser of cost or} \\ \text{market value of} \\ \text{the land} \end{array} \right) \times \frac{\text{Market value of declared land subject to the} \\ \text{right of use}}{\text{Market value of declared land if there had been} \\ \text{no right of use retained}}$$

It is important to note that this amount and the management expenses amount to be deducted in a given year cannot exceed the 10% cap of the 18A deductions for income of that year.

5.1.4 Property rates exclusions for Nature Reserves

In terms of the Municipal Property Rates (Act 6 of 2004), Nature Reserves are excluded from attracting property rates, except for the portions of Nature Reserves that are under residential, commercial, agricultural or industrial use.

5.2 Discretionary incentives

5.2.1 Rates rebates

The Municipal Property Rates Act has provisions for municipalities to consider rebates or exemptions for categories of landowners as set out in their municipal rates policies. The principles of NEMA would endorse municipalities offering significant rebates for properties covered by a management agreement, such as the Biodiversity (Management) Agreement or Protected Environment categories under the GBSP.

In order for this incentive to be secured, municipalities must provide specifically for these categories in their rates policies. The GBSP will lobby the relevant municipalities on behalf of participating landowners for this to occur.

5.2.2 Other incentives

The Department, and other government agencies and organisations, may provide various forms of benefit and support to biodiversity stewardship signatories. Incentives that could be offered may include (but are not limited to) the following:

- Technical and extension assistance can be provided through compiling information, maps, management plans and detailed alien species control plans;
- Landowners implementing the agreements should receive priority funds from any relevant government land management or poverty relief programmes (such as Working for Water and LandCare), provided other criteria are met or safeguards complied with;
- The biodiversity benefits of the agreement can be included in any marketing or certification schemes for produce or services flowing from a property subject to a contract with a biodiversity management plan;
- The landowner may have access to provincial training facilities (such as field ranger training) or the landowner staff may be training in specific management requirements (alien plant clearing, etc.);
- Investigate compensating or paying landholders for land management resulting in improved ecosystem services e.g. water production, flood mitigation. The potential benefits should be emphasised to the rural poor, i.e. many of which are suppliers of ecosystem services and could be compensated for improved land use in catchments which will benefit the remaining rural poor through improved water quality, flood mitigation, wastewater treatment (through wetland conservation efforts);
- Fiscal and other economic incentives may be required that would be proactive in encouraging enterprises and authorities in the rural poor communities to become

increasingly responsible for undertaking programmes that would allow for improved land management practices, including conservation (e.g. Community Conservation Areas), in these areas;

- Conservation authorities may provide matching funding for private landowner biodiversity investments, for example the costs related to alien species clearing, training of staff or capacity building; and
- Investigate the feasibility of implementing tradable rights-based systems, which are definable, defensible and divestible. For example, farmers in the USA are allocated “water rights” which are able to be traded. This has enabled rights to be bought from users for the function of restoring river biodiversity, fish stocks etc. Furthermore, carbon trading may be applicable.
- In terms of discretionary incentives, an incentive package will be developed for each site, based on its category, the needs of individual landowners and available resources.

5.3 Beneficiation agreement

Where financial support is provided to the management authority of a biodiversity stewardship site for specific purposes (e.g. provision of specific funding by a donor agency for alien plant clearing), this incentive should be formalised into a beneficiation agreement. The beneficiation agreement should clearly state the support that the management authority will receive and the obligations of the management authority with regard to the support provided.

6 Conclusions and Recommendations

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Environmental Scientist

Dalit Magid M.Sc.
Environmental Scientist

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7 References

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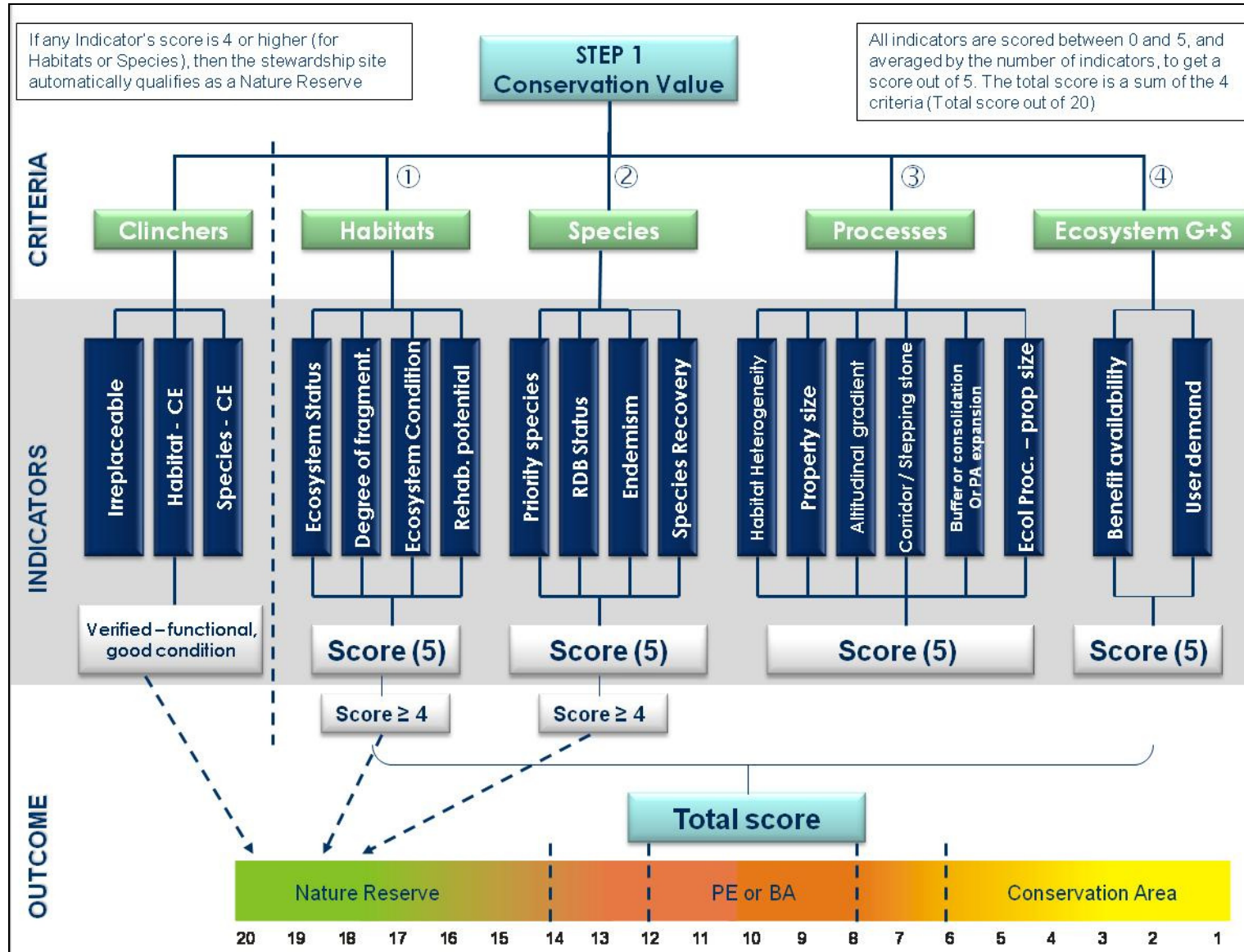
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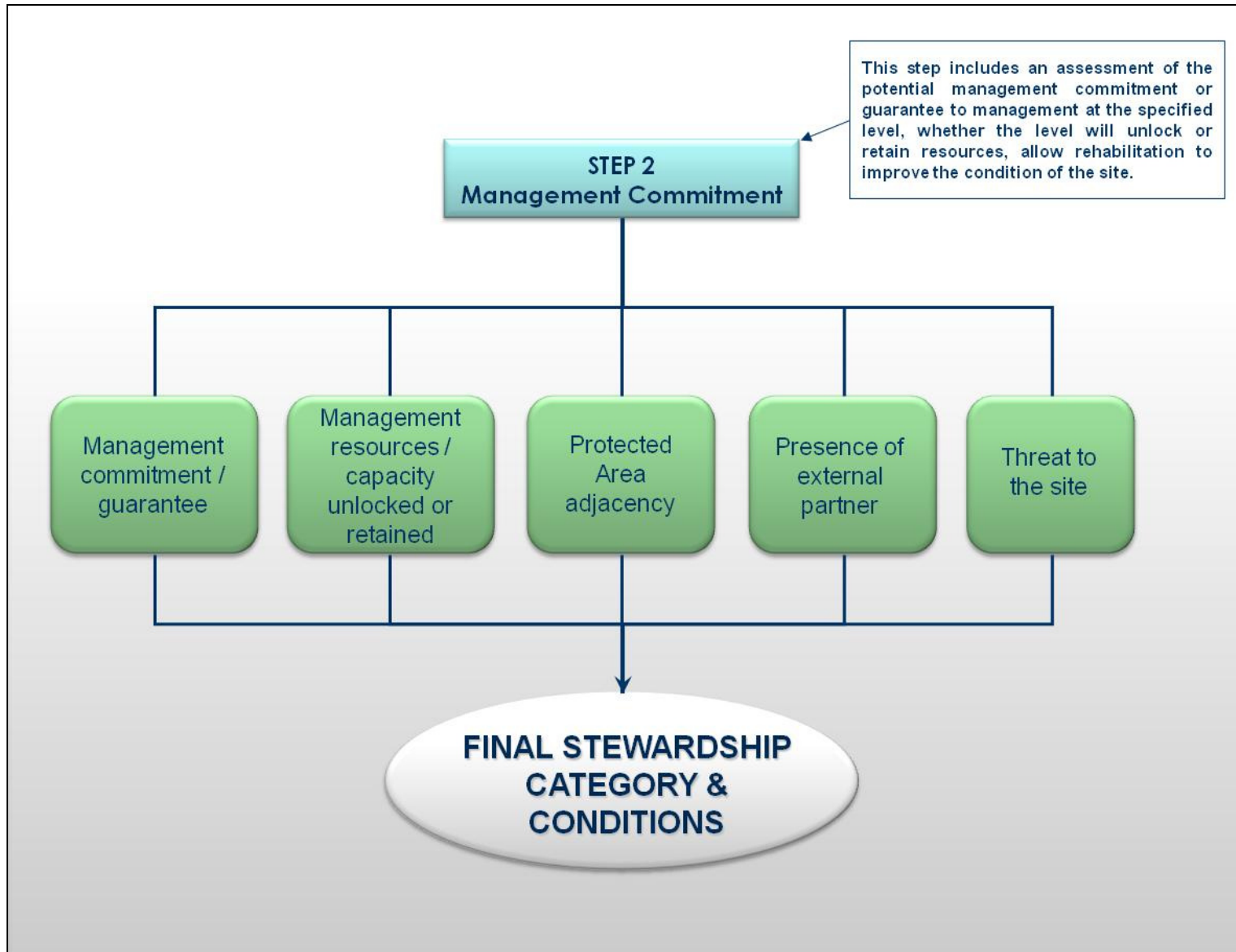
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8 Appendices

Appendix A: Biodiversity Assessment Form

Appendix B: Site Qualification Criteria





Appendix C: *Pro forma* Agreements

Appendix C1 – Biodiversity Management Agreements

Appendix C2 – Notarial Deed Nature Reserve (Whole Property)

Appendix C3 – Notarial Deed Nature Reserve (Portion Property)

Appendix C4 – Notarial Deed Protected Environment

Appendix C5 – Management Agreement Nature Reserve (Whole Property)

Appendix C6 – Management Agreement Nature Reserve (Portion Property)

Appendix C7 – Management Agreement Protected Environment

Appendix C1 – Biodiversity Management Agreements

[Require template for BMA in terms of NEM:BA]

Appendix C2 – Nature Reserves (Whole Property)

**AGREEMENT FOR HAVING A PROPERTY DECLARED AS A
NATURE RESERVE UNDER SECTION 23(3) OF THE NATIONAL
ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT 57 OF
2003 (“THE ACT”)**

INCLUDING:

POWER OF ATTORNEY TO EXECUTE NOTARIAL AGREEMENT
UNDER SECTION 23(3) READ WITH SECTION 35(3) OF THE ACT

NOTARIAL AGREEMENT UNDER SECTION 23(3) READ WITH
SECTION 35(3) OF THE ACT

- Consent to declare a nature reserve
- Appointment of a management authority

MANAGEMENT AGREEMENT

DRAFT MANAGEMENT PLAN FOR THE NATURE RESERVE

SPECIAL POWER OF ATTORNEY

TO ENTER INTO AN AGREEMENT FOR THE PURPOSE OF HAVING A PROPERTY DECLARED AS A NATURE RESERVE UNDER SECTION 23(3) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT 57 OF 2003

I / We the undersigned

[Name of Owner]

do hereby nominate, constitute and appoint

[Name of Relevant Attorney or Conservation Agency Official]

with power of substitution, to be my/our lawful Attorney(s) and/or Agent(s) in my/our name, place and stead, to appear before a Notary Public and then and there on my/our behalf to sign and execute a Notarial Agreement under Section 23(3) read with Section 35(3) of the National Environmental Management: Protected Areas Act 57 of 2003, as hereto attached, and initialled by me/us, and generally for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, for all intents and purposes, as I/we might or could do if personally present and acting herein – hereby ratifying, allowing and confirming and promising and agreeing to ratify, allow and confirm all and whatsoever my/our said Attorney(s) and Agent(s) shall lawfully do, or cause to be done, by virtue of these presents.

Signed: -----

At _____ this _____ day of _____, 20__ in the presence of the undersigned witnesses.

As Witnesses:

1. _____

2. _____

PROTOCOL NUMBER _____

**NOTARIAL AGREEMENT IN TERMS OF SECTION 23(3) READ WITH
SECTION 35(3) OF THE NATIONAL ENVIRONMENTAL
MANAGEMENT: PROTECTED AREAS ACT 57 OF 2003**

KNOW ALL MEN WHOM IT MAY CONCERN

That on the _____ day of _____ in the year Two Thousand and Nine (2009)
at _____, before me

[Full Names and Surname of Notary Public]

Notary Public, by lawful authority and practising as such at _____,
in the Province of _____ came and appeared

[Attorney or Conservation Agency Official]

In his/her capacity as duly authorised agent of:

1. [Full Names and Surname of Owner]
(hereafter referred to as "the Owner")

By virtue of a Special Power of Attorney granted at _____
on the _____ day of _____ 2009, such Power of Attorney remains filed in
my Protocol;

and

2. [Full Names and Surname of MEC]
In his/her capacity as Member of the Provincial Executive Council for
[Portfolio Name],
duly authorised hereto

(hereafter referred to as "the MEC")

By virtue of a Special Power of Attorney granted at _____
on the _____ day of _____ 2009, such Power of Attorney remains filed in
my Protocol;
and

3. [Full Names and surname of HOD / CEO]

In his/her capacity as Accounting Officer of the

[Conservation Authority],

duly authorised hereto

(hereafter referred to as "the Department")

By virtue of a Special Power of Attorney granted at _____
on the _____ day of _____ 2009, such Power of Attorney remains filed in
my Protocol;

AND the aforementioned Appearer declared that:

A. WHEREAS the Owner is the registered owner of the following immovable
properties, namely:

- 1. The Farm [NAME] [FARM NUMBER], Situated in the [Municipality],
[Division], [Province];
In extent: [Value] Hectares;
Held by Title Deed No. [Title Deed number];**

(‘the Property’)

B. AND WHEREAS the MEC is authorised in terms of section 23(1) of the National
Environmental Management: Protected Areas Act 57 of 2003, as amended (“the Act”), by
notice in the Provincial Gazette, to declare an area as a Nature Reserve or part of an existing
Nature Reserve, provided that such declaration meets some of the objectives set by section
23 (2) of the Act;

C. AND WHEREAS the Property has been identified as an area worthy of being declared as a Nature Reserve, considering that the Property complies with some of the objectives set by section 23(2) of the Act, namely:

[List features of property which characterise it as being of high conservation value- obtain from Management Plan]

D. AND WHEREAS the Owner and the MEC wish to conclude a written Agreement under section 23(3) of the Act in terms of which the Owner consents to the declaration of the Property as a Nature Reserve under section 23(1) of the Act;

E. AND WHEREAS in terms of section 35(3) of the Act, the terms of an Agreement entered into between the Owner and the MEC under 23(3) read with Section 35(3) of the Act must be recorded in a Notarial Deed and registered against the Title Deed of the Property; and that such an Agreement will be binding on the successors in title of the Owner;

F. AND WHEREAS the MEC wishes to assign the management of the Property as a Nature Reserve, in terms of section 38(2) of the Act, to the Owner;

G. AND WHEREAS the Owner is prepared to accept the assignation of the management in terms of section 38(2) of the Act;

H. AND WHEREAS the Department wishes to assist the Owner with the management of the Nature Reserve;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION AND PRELIMINARY

The headings of the clauses in the Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof.

In this Agreement, unless a contrary intention clearly appears:

1.1. Words importing:

1.1.1. any one gender include the other two genders;

- 1.1.2. the singular include the plural and vice versa; and
- 1.1.3. natural persons include created entities (with or without legal personality) and *vice versa*;
- 1.2. The following terms will have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:
 - 1.2.1. "the Act" means the National Environmental Management: Protected Areas Act 57 of 2003;
 - 1.2.2. "Conservation Area/s" means the area/s depicted by the figure/s [*Number of figures*] on Diagram S.G. No. [*Number*], which area/s form part of the Property;
 - 1.2.3. "Department" means the [*relevant Conservation Authority*];
 - 1.2.4. "Effective Date" means the date of the Provincial Gazette under which the Property is declared as Nature Reserve in terms of section 23(1) of the Act;
 - 1.2.5. "Management Authority" means the person or entity responsible for the management of the Nature Reserve as defined in the Act;
 - 1.2.6. "Management Plan" means the plan as drawn up by the Management Authority for approval by the MEC (in terms of section 39 of the Act) in order to ensure that the Nature Reserve is protected, conserved and managed in a manner which is consistent with the objectives of the Act and for the purpose it was declared for (as defined in section 41 of the Act);
 - 1.2.7. "MEC" means Member of the Executive Council for [*Portfolio Name in Province*];
 - 1.2.8. "Nature Reserve" means an area declared as such under section 23(1) of the Act;
 - 1.2.9. "Owner" means [*Owner's Full Names*];
 - 1.2.10. "Property" means [*Property Name*]; and
 - 1.2.11. "Title Deed" means Title Deed No. [*Number*], registered in the name of the Owner;

2. CONSENT TO DECLARATION

The Owner hereby consents to the declaration of the Property as a Nature Reserve, under section 23(1) of the Act, for a period as defined in clause 8 of this Agreement.

3. DECLARATION OF THE PROPERTY AS A NATURE RESERVE

Upon fulfilment of all suspensive conditions (if applicable) and subject to the provisions of the Act, the MEC shall take all necessary steps to have the Property declared as a Nature Reserve under section 23(1) of the Act.

4. NAME OF THE NATURE RESERVE

The Parties agree that the Property shall be known as [*Name of Nature Reserve*] Nature Reserve, further, that the MEC shall award this name to the Nature Reserve by notice thereof in the Provincial Gazette under section 23(1) of the Act.

5. APPOINTMENT OF THE MANAGEMENT AUTHORITY

- 5.1. The MEC hereby assigns the management of the Property as Nature Reserve to the Owner in terms of section 38(2) of the Act.
- 5.2. The Owner hereby accepts the assignment as Management Authority of the Nature Reserve.
- 5.3. The assignment as Management Authority in terms of this clause 6 takes effect on the Effective Date.

6. MANAGEMENT AGREEMENT AND MANAGEMENT PLAN OF THE NATURE RESERVE

- 6.1. The Owner and the Department shall, not later than 6 months after this Agreement is concluded, enter into a further agreement in terms of which the Nature Reserve is to be managed. This clause is not a suspensive condition and the non – fulfillment thereof will not affect the legality or existence of this Agreement.
- 6.2. The Agreement referred to in clause 6.1 above, will be known as the Management Agreement and will include a draft Management Plan for the Nature Reserve.
- 6.3. The Owner as Management Authority must, within a period of 12 (twelve) months from the Effective Date, submit a Management Plan for the Nature Reserve to the MEC for approval by the MEC.

- 6.4. The Department undertakes to assist the Owner with the preparation of the Management Plan, including:
- 6.4.1. Providing assistance with the compilation, reviewing and auditing of the Management Plan; and
 - 6.4.2. Sourcing and providing of technical information, when needed, for the effective management of the biodiversity of the Nature Reserve.
- 6.5. The Parties hereby record that the terms and conditions of the Management Plan (upon approval thereof by the MEC), will form part of the terms and conditions of this Agreement.

7. DURATION OF THE AGREEMENT

This Agreement will commence on the Effective Date and will continue for a period of _____ years from that date.

8. REGISTRATION OF AGREEMENT AND THE ENDORSEMENT THEREOF AGAINST THE TITLE DEED OF THE PROPERTY

- 8.1. The Owner hereby confirms that he/she is aware of the fact that this Agreement must be recorded in a Notarial Deed and that in terms of section 35 of the Act this Agreement must be registered and endorsed against the Title Deed of the Property.
- 8.2. The Owner confirms further that he/she is also aware of the fact that the terms and conditions of this Agreement will be binding on the successors in title of the Owner.
- 8.3. The Owner undertakes to sign all further documents and to provide all information to the Department on request, in order to effect the registration and endorsement of the Agreement against the Title Deed of the Property.
- 8.4. Registration and endorsement of the Agreement against the Title Deed of the Property shall be effect by the Department's Attorneys.
- 8.5. The Department will be responsible for all costs related to the registration and endorsement of the Agreement against the Title Deed of the Property.

9. BREACH OF CONTRACT

In the event either party commits a breach of any of the conditions hereof, and remain in default for 30 (thirty) days after dispatch of a written notice by registered post by the other Party (as the case may be), requiring the defaulting party to remedy such breach, the other Party shall be entitled to, and without prejudice to any other rights available at law:

- 9.1. take the necessary measures himself/herself/itself to remedy the breach or appoint a third party to do so, and recover his/her/its costs in doing so from the offending party; and/or
- 9.2. immediately demand due performance of the terms of this Agreement, in addition to damages that such party is legally entitled to; or
- 9.3. immediately cancel the Agreement by means of a written notice addressed to the offending party, in addition to damages that such party is legally entitled to.

10. WITHDRAWAL OF DECLARATION OR EXCLUSION OF PART OF NATURE RESERVE

In the event this Agreement is cancelled under clause 9, the MEC must withdraw the notice in terms of which the Property was declared a Nature Reserve or as part of an existing Nature Reserve, as determined in terms of section 24(2) of the Act.

11. RECOVERY OF EXPENDITURE ON TERMINATION

In the event this Agreement is cancelled at the instance of the MEC in terms of clause 9, the Owner shall reimburse the Department for any expenditure reasonably incurred by it in giving effect to the terms of this Agreement.

12. RIGHT OF FIRST REFUSAL

In the event the Owner wishes to sell the Property, or any portion thereof, during the duration of the Agreement, then and in such event the Owner undertakes to first offer the Property, or any portion thereof, for sale to the Department on the same terms and conditions as would be offered to/by any third party. The Department will, however, be obliged to exercise the right of first refusal within 30 (thirty) days after the said offer has been made by the Owner, failing which the Owner will be entitled to sell the Property, or any portion thereof (as the case may be), to the third party on the same terms and conditions as was offered to the Department.

13. DISPUTE RESOLUTION

The Parties agree that they will be bound by the provisions contained in Chapter 4 of the National Environmental Management Act 107 of 1998 (“the NEMA”) and that any disputes of any nature which may arise at any time from this Agreement will be dealt with in accordance with the said Chapter.

14. DOMICILIA AND NOTICES

14.1 The Parties choose the addresses set out below as their *domicilia citandi et executandi* for all purposes of this Agreement and as their respective addresses for the service of any notice required to be served on them in terms of this Agreement.

MEC:

Physical Address: *[insert address]*

Postal Address: *[insert address]*

Owner:

Physical Address: *[insert address]*

Postal Address: *[insert address]*

The Department:

Physical Address: *[insert address]*

Postal Address: *[insert address]*

14.2 Notices in terms of this Agreement must be in writing and will take effect from receipt at the stated *domicilium* address of each party. Such notice may be given by registered mail or by hand against written confirmation of receipt.

14.3 Notices given by registered mail shall be deemed to have been received by the addressee on the 7th (seventh) day after posting.

14.4 Notices given by hand shall be deemed to have been received by the addressee on the day of such delivery.

15. VARIATION OF AGREEMENT

No variation, amendment or suspension of any of the terms of this Agreement shall be valid, and no further agreement which may conflict in any way with the terms of this Agreement

shall be binding on the Parties unless the variation, amendment, suspension or conflicting Agreement has been recorded in writing and signed by the Parties.

16. COSTS OF AGREEMENT

All costs associated with the preparation and registration of this Agreement shall be borne by the Department.

17. NO COMPENSATION

No compensation is payable by either party to any of the other parties in respect of this Notarial Agreement, and the Parties agree that the nominal value of this servitude shall be R100.00 (One Hundred Rand) for purposes of transfer duty.

ALL THIS DONE AND SIGNED on the place, day, month and year abovementioned in the presence of the undersigned witnesses and before myself, the Notary Public.

As Witnesses:

1. _____

2. _____

QUOD ATTESTOR

NOTARY PUBLIC

Appendix C3 – Nature Reserves (Portion Property)

**AN AGREEMENT FOR THE PURPOSE OF HAVING A PORTION OF
A PROPERTY DECLARED AS A NATURE RESERVE IN TERMS OF
SECTION 23(3) OF THE NATIONAL ENVIRONMENTAL
MANAGEMENT: PROTECTED AREAS ACT, NO. 57 OF 2003**

INCLUDING:

POWER OF ATTORNEY TO EXECUTE NOTARIAL AGREEMENT
IN TERMS OF SECTION 23(3) OF THE ACT

NOTARIAL AGREEMENT IN TERMS OF SECTION 23(3) OF THE
ACT

- Consent to declare a nature reserve
- Appointment of a management authority

MANAGEMENT AGREEMENT

DRAFT MANAGEMENT PLAN FOR THE NATURE RESERVE

SPECIAL POWER OF ATTORNEY

TO ENTER INTO AN AGREEMENT FOR THE PURPOSE OF HAVING A PORTION OF A PROPERTY DECLARED AS A NATURE RESERVE IN TERMS OF SECTION 23(3) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT, NO. 57 OF 2003

I / We the undersigned

[Name of Owner]

do hereby nominate, constitute and appoint

[Name of relevant Attorney or conservation agency official]

with power of substitution, to be my/our lawful Attorney(s) and Agent(s) in my/our name, place and stead, to appear before a Notary Public and then and there on my/our behalf to sign and execute a Notarial Agreement in terms of Section 23(3) of the National Environmental Management: Protected Areas Act, No. 57 of 2003, as hereto attached, and initialled by me/us, and generally for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, for all intents and purposes, as I/we might or could do if personally present and acting herein – hereby ratifying, allowing and confirming and promising and agreeing to ratify, allow and confirm all and whatsoever my/our said Attorney(s) and Agent(s) shall lawfully do, or cause to be done, by virtue of these presents.

Signed at _____ this _____ day of _____, 20__ in the presence of the undersigned witnesses.

As Witnesses:

1. _____

2. _____

PROTOCOL NUMBER _____

**NOTARIAL AGREEMENT IN TERMS OF SECTION 23(3) OF THE
NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED
AREAS ACT, NO 57 OF 2003**

TO WHOM IT MAY CONCERN

That on the _____ day of _____ in the year 2009 (Two Thousand and Nine)
at _____, before me

[Notary Public]

Notary Public, by lawful authority and practising as such at _____,
in the Province of _____ came and appeared

[Attorney/Conservation Agency Official]

in his capacity as duly authorised Agent of:

1. *[Owner]*
(hereafter referred to as "the Owner")

By virtue of a Special Power of Attorney granted at _____
on the _____ day of _____ 2009, such power of attorney remain filed in my
Protocol;
and

2. *[MEC]*
In his capacity as Member of the Provincial Executive Council for the
[Provincial conservation agency],
duly authorised hereto
(hereafter referred to as "the MEC")

By virtue of a Special Power of Attorney granted at _____

on the _____ day of _____ 2009, such power of attorney remain filed in my Protocol;

and

3. *[HOD / CEO]*

In his capacity as Director of the

[Conservation Authority],

duly authorised hereto

(hereafter referred to as “the Department”)

By virtue of a Special Power of Attorney granted at _____

on the _____ day of _____ 2009, such power of attorney remain filed in my Protocol;

AND the aforementioned appearer declared that:

A. WHEREAS the Owner is the registered owner of the following immovable properties, namely:

1. **The Farm** *[NAME]* *[FARM NUMBER]*, **Situated in the** *[Municipality]*, *[Division]*, *[Province]*;
In extent: *[Value]* Hectares;
Held by Title Deed No. *[Title Deed Number]*;

(“the property”)

B. AND WHEREAS the MEC is authorised in terms of section 23(1) of the National Environmental Management: Protected Areas Act, No. 57 of 2003, as amended (“the Act”), by notice in the Provincial Gazette, to declare an area as a Nature Reserve or part of an existing Nature Reserve, provided that such an area complies with the requirements of section 23 (2) of the Act;

C. AND WHEREAS the property or certain portions thereof has been identified as an area worthy of being declared as a Nature Reserve, considering that the property complies with the requirements of section 23(2) of the Act, namely:

[List features of property which characterise it as being of high conservation value- obtain from Management Plan]

D. AND WHEREAS the Owner and the MEC wish to conclude a written Agreement in terms of section 23(3) of the Act in terms of which the Owner consents to the declaration of a portion of the property as a Nature Reserve in terms of section 23(1) of the Act;

E. AND WHEREAS in terms of section 35(3) of the Act, an Agreement entered into between the Owner and the MEC in terms of section 23(3) of the Act must be a Notarial Deed and registered against the Title Deed of the property; and that such an Agreement will be binding on the successors in title of the Owner;

F. AND WHEREAS the MEC wishes to assign the management of a portion of the property as a Nature Reserve, in terms of section 38(2) of the Act, to the Owner

G. AND WHEREAS the Owner is prepared to accept the appointment in terms of section 38(2) of the Act;

H. AND WHEREAS the Department wishes to assist the Owner with the management of the Nature Reserve.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION AND PRELIMINARY

The headings of the clauses in the agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof. In this Agreement, unless a contrary intention clearly appears:

1.1. Words importing:

1.1.1. any one gender include the other two genders

1.1.2. the singular include the plural and vice versa; and

1.1.3. natural persons include created entities (with or without legal personality) and
visa versa;

1.2. The following terms will have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:

- 1.2.1. "Act" means the National Environmental Management: Protected Areas Act, 57 of 2003, as amended;
- 1.2.2. "Conservation Area/s" means the area/s depicted by the figure/s [*Number of Figures*] on Diagram S.G. No. [*Number*], which area/s form part of the property;
- 1.2.3. "Department" means the [*relevant Conservation Authority and Province*];
- 1.2.4. "effective date" means the date of publication of the Provincial Gazette in terms of which the conservation area is declared as Nature Reserve in terms of section 23(1) of the Act;
- 1.2.5. "Management Authority" means the person or entity that is responsible for the management of the Nature Reserve as defined in the Act;
- 1.2.6. "Management Plan" means the plan as drawn up by the Management Authority for approval by the MEC (in terms of section 39 of the Act) in order to ensure that the Nature Reserve is protected, conserved and managed in a manner which is consistent with the objectives of the Act and for the purpose it was declared for (as defined in section 41 of the Act);
- 1.2.7. "MEC" means Member of the Provincial Executive Council for the [*relevant Conservation Authority and Province*];
- 1.2.8. "Nature Reserve" means an area declared as such in terms of section 23(1) of the Act;
- 1.2.9. "Owner" means [*Owner Name*];
- 1.2.10. "Property" means [*Property Name*];
- 1.2.11. "Title Deed" means Title Deed No. [*Number*], registered in the name of the Owner;

2. DESCRIPTION OF THE CONSERVATION AREA AND THE PROPERTY

- 2.1. The correct description of the conservation area is as follows:
[Follow the exact description as per the surveyor's diagram, with specific reference to the area, the extent thereof and diagram number]
- 2.2. The correct description of the property is as follows:
[Copy and paste section "A" above]

3. CONSENT TO DECLARATION

The Owner hereby consents to the declaration of the conservation area as a Nature Reserve, in terms of section 23(1) of the Act, for a period as defined in clause 8 of this Agreement.

4. DECLARATION OF THE CONSERVATION AREA AS A NATURE RESERVE

Upon fulfilment of all suspensive conditions (if applicable) and subject to the provisions and requirement as contained in the Act, the MEC shall take all necessary steps to have the conservation area declared as a Nature Reserve in terms of section 23(1) of the Act.

5. NAME OF THE NATURE RESERVE

The parties agree that the conservation area shall be known as [*Name of Nature Reserve*] Nature Reserve, further, that the MEC shall award this name to the Nature Reserve by notice thereof in the Provincial Gazette in terms of section 23(1) of the Act.

6. APPOINTMENT OF THE MANAGEMENT AUTHORITY

- 6.1. The MEC hereby assigns the management of the conservation area as Nature Reserve to the Owner in terms of section 38(2) of the Act.
- 6.2. The Owner hereby accepts the appointment as Management Authority of the Nature Reserve.
- 6.3. The appointment as Management Authority in terms of this clause 6 takes effect on the effective date.

7. MANAGEMENT AGREEMENT AND MANAGEMENT PLAN OF THE NATURE RESERVE

- 7.1. The Owner and the Department shall, not later than 6 months after this agreement is concluded, enter into a further agreement in terms of which the conservation area is to be managed. This clause 7.1 is not a suspensive condition and the non – fulfillment thereof will not affect the legality or existence of this agreement.
- 7.2. The agreement referred to in clause 7.1 above, will be known as the Management Agreement and will include a draft Management Plan for the conservation area.
- 7.3. The Owner as Management Authority must, within a period of 12 (twelve) months from the effective date, submit a Management Plan for the Nature Reserve to the MEC for approval by the MEC.

- 7.4. The Department undertakes to assist the Owner with the preparation of the Management Plan, including:
- 7.4.1. Providing assistance with the compilation, reviewing and auditing of the Management Plan; and
 - 7.4.2. Sourcing and providing of technical information, when needed, for the effective management of the biodiversity of the Nature Reserve.
- 7.5. The Parties hereby record that the terms and conditions of the Management Plan (upon approval thereof by the MEC), will form part of the terms and conditions of this Agreement.

8. DURATION OF THE AGREEMENT

This Agreement will commence on the effective date and will continue for a period of _____ years from that date.

9. REGISTRATION OF AGREEMENT AND THE ENDORSEMENT THEREOF AGAINST THE TITLE DEED OF THE PROPERTY

- 9.1. The Owner hereby confirms that he is aware of the fact that this Agreement is entered into in the form of a Notarial Deed and that in terms of section 36 of the Act this Agreement must be registered and endorsed against the Title Deed of the property.
- 9.2. The Owner confirms further that he is also aware of the fact that the terms and conditions of this Agreement will be binding on the successors in title of the Owner.
- 9.3. The Owner undertakes to sign all further documents and to provide all information to the Department on request, in order to effect the registration of and endorsement of the agreement against the Title Deed of the property.
- 9.4. Registration of and endorsement of the Agreement against the Title Deed of the property shall be effect by the Department's Attorneys.
- 9.5. The Department will be responsible for all costs related to the registration of and endorsement of the Agreement against the Title Deed of the property.

10. BREACH OF CONTRACT

In the event either party commits a breach of any of the conditions hereof, and remain in default for 30 (thirty) days after dispatch of a written notice by registered post by the other party (as the case may be), requiring the defaulting party to remedy such breach, the other party shall be entitled to, and without prejudice to any other rights available at law:

- 10.1. take the necessary measures himself to remedy the breach or appoint a third party to do so, and recover his costs in doing so from the offending party; and/or
- 10.2. immediately demand due performance of the terms of this Agreement, in addition to damages that such party is legally entitled to; or
- 10.3. immediately cancel the Agreement by means of a registered notice addressed to the offending party, in addition to damages that such party is legally entitled to.

11. WITHDRAWAL OF DECLARATION OR EXCLUSION OF PART OF NATURE RESERVE

In the event this Agreement is cancelled in terms of clause 10, the MEC must withdraw the notice in terms of which the conservation area was declared a Nature Reserve or as part of an existing Nature Reserve, as prescribed in section 24(2) of the Act.

12. RECOVERY OF EXPENDITURE ON TERMINATION

In the event this Agreement is cancelled at the instance of the MEC in terms of clause 10, the Owner shall reimburse the Department for any expenditure reasonably incurred by it in giving effect to the terms of this Agreement.

13. RIGHT OF FIRST REFUSAL

In the event the Owner wishes to sell the property, or any portion thereof, during the duration of the Agreement, then and in such event the Owner undertakes to first offer the property, or any portion thereof, for sale to the Department on the same terms and conditions as offered to/by any third party. The Department will, however, be obliged to exercise the right of first refusal within 30 (thirty) days after the said offer has been made by the Owner, failing which the Owner will be entitled to sell the property, or any portion thereof (as the case may be), to the third party on the same terms and conditions as offered to the Department.

14. DISPUTE RESOLUTION

The Parties agree that they will be bound by the provisions contained in Chapter 4 of the National Environmental Management Act 107 of 1998 (“the NEMA”) (as amended) and that any disputes of any nature which may arise at any time from this Agreement will be dealt with in accordance with the said Chapter.

15. DOMICILIUM AND NOTICES

The parties choose the addresses set out below as their *domicilia citandi et executandi* for all purposes of this agreement and as their respective addresses for the service of any notice required to be served on them in terms of this Agreement.

MEC:

Physical Address: [insert address]

Postal Address: [insert address]

Owner:

Physical Address: [insert address]

Postal Address: [insert address]

The Department:

Physical Address: [insert address]

Postal Address: [insert address]

16. VARIATION OF AGREEMENT

No variation, amendment or suspension of any of the terms of this agreement shall be valid, and no further agreement which may conflict in any way with the terms of this Agreement shall be binding on the parties unless the variation, amendment, suspension or conflicting agreement has been recorded in writing and signed by the Parties.

17. COSTS OF AGREEMENT

All costs associated with the preparation and registration of this Agreement shall be borne by the Department.

18. NO COMPENSATION

No compensation is payable by either party to any of the other parties in respect of this Notarial Agreement, and the Parties agree that the nominal value of this servitude shall be R100.00 (One Hundred Rand) for purposes of transfer duty.

ALL THIS DONE AND SIGNED on the place, day, month and year abovementioned in the presence of the undersigned witnesses and before myself, the Notary Public.

As Witnesses:

1. _____

2. _____

QUOD ATTESTOR

NOTARY PUBLIC

Appendix C4 – Notarial Agreement Protected Environments

**AN AGREEMENT FOR HAVING A PROPERTY DECLARED AS A
PROTECTED ENVIRONMENT UNDER SECTION 28(3) OF THE
NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED
AREAS ACT 57 OF 2003 (“THE ACT”)**

INCLUDING:

POWER OF ATTORNEY TO EXECUTE NOTARIAL AGREEMENT
UNDER SECTION 28(3) READ WITH SECTION 35(3) OF THE ACT

NOTARIAL AGREEMENT UNDER SECTION 28(3) READ WITH
SECTION 35(3) OF THE ACT

- Consent to declare a protected environment
- Appointment of a management authority

MANAGEMENT AGREEMENT

DRAFT MANAGEMENT PLAN FOR THE PROTECTED
ENVIRONMENT

SPECIAL POWER OF ATTORNEY

TO ENTER INTO AN AGREEMENT FOR HAVING A PROPERTY DECLARED AS A PROTECTED ENVIRONMENT IN TERMS OF SECTION 28(3) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT, NO. 57 OF 2003

I / We the undersigned

[Name of Owner]

do hereby nominate, constitute and appoint

[Name of relevant Attorney or Conservation Agency Official]

with power of substitution, to be my/our lawful Attorney(s) and Agent(s) in my/our name, place and stead, to appear before a Notary Public and then and there on my/our behalf to sign and execute a Notarial Agreement under Section 28(3) read with Section 35(3) of the National Environmental Management: Protected Areas Act 57 of 2003, as hereto attached, and initialled by me/us, and generally for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, for all intents and purposes, as I/we might or could do if personally present and acting herein – hereby ratifying, allowing and confirming and promising and agreeing to ratify, allow and confirm all and whatsoever my/our said Attorney(s) and Agent(s) shall lawfully do, or cause to be done, by virtue of these presents.

Signed:

at _____ this _____ day of _____, 20__ in the presence of the undersigned witnesses.

As Witnesses:

1. _____

2. _____

PROTOCOL NUMBER _____

**NOTARIAL AGREEMENT UNDER SECTION 28(3) READ WITH
SECTION 35(3) OF THE NATIONAL ENVIRONMENTAL
MANAGEMENT: PROTECTED AREAS ACT 57 OF 2003**

KNOW ALL MEN WHOM IT MAY CONCERN

That on the _____ day of _____ in the year Two Thousand and Nine (2009)
at _____, before me

[Notary Public]

Notary Public, by lawful authority and practising as such at _____,
in the Province of _____ came and appeared

[Attorney or Conservation Agency Official]

in his/her capacity as duly authorised agent of:

1. *[Owner]*
(hereafter referred to as "the Owner")

By virtue of a Special Power of Attorney granted at _____
on the _____ day of _____ 2009, such power of attorney remains filed in
my Protocol;
and

2. *[MEC]*
In his/her capacity as Member of the Provincial Executive Council for
[Portfolio Name] in the [Province],
duly authorised hereto
(hereafter referred to as "the MEC")

By virtue of a Special Power of Attorney granted at _____
on the _____ day of _____ 2009, such Power of Attorney remains filed in
my Protocol;
and

3. *[HOD / CEO]*
In his/her capacity as Accounting Officer of the
[Conservation Authority],
duly authorised hereto
(hereafter referred to as “the Department”)

By virtue of a Special Power of Attorney granted at _____
on the _____ day of _____ 2009, such Power of Attorney remains filed in
my Protocol;

AND the aforementioned Appearer declared that:

A. WHEREAS the Owner is the registered owner of the following immovable property,
namely:

1. **The Farm** *[NAME] [FARM NUMBER], Situated in the [Municipality],
[Division], [Province];*
In extent: *[value] Hectares;*
Held by Title Deed No. *[Title Deed Number];*

(“the Property”)

B. AND WHEREAS the MEC is authorised under section 28(1) of the National
Environmental Management: Protected Areas Act 57 of 2003 (“the Act”), by notice in the
Provincial Gazette, to declare an area as a Protected Environment or part of an existing
Protected Environment, provided that such declaration meets some of the objectives set by
section 28 (2) of the Act;

C. AND WHEREAS the Property has been identified as an area worthy of being declared as a Protected Environment, considering that the Property meets some of the objectives set by section 28(2) of the Act, namely:

[List features of property which characterise it as being of high conservation value- obtain from Management Plan]

D. AND WHEREAS the Owner and the MEC wish to conclude a written agreement in terms of section 28(3) of the Act in terms of which the Owner consents to the declaration of the Property as a Protected Environment under section 28(1) of the Act;

E. AND WHEREAS the Parties agreed to conclude the written agreement in terms of section 28(3) of the Act in the form of a Notarial Deed and register same against the Title Deed of the property; and that such an agreement will be binding on the successors in title of the Owner;

F. AND WHEREAS the MEC wishes to assign the management of the property as a protected environment, in terms of section 38(2) of the Act, to the Owner

G. AND WHEREAS the Owner is prepared to accept the appointment in terms of section 38(2) of the Act;

H. AND WHEREAS the Department wishes to assist the Owner with the management of the Protected Environment.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION AND PRELIMINARY

The headings of the clauses in the Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof. In this Agreement, unless a contrary intention clearly appears:

1.1. Words importing:

1.1.1. any one gender include the other two genders

1.1.2. the singular include the plural and *vice versa*; and

- 1.1.3. natural persons include created entities (with or without legal personality) and *vice versa*;
- 1.2. The following terms will have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:
 - 1.2.1. "Act" means the National Environmental Management: Protected Areas Act, 57 of 2003;
 - 1.2.2. "Department" means the *[relevant Conservation Agency and Province]*;
 - 1.2.3. "Effective Date" means the date of the Provincial Gazette in terms of which the Property is declared as Protected Environment under section 28(1) of the Act;
 - 1.2.4. "Management Authority" means the person or entity responsible for the management of the Protected Environment as defined in the Act;
 - 1.2.5. "Management Plan" means the plan as drawn up by the Management Authority for approval by the MEC (in terms of section 39 of the Act) in order to ensure that the Protected Environment is protected, conserved and managed in a manner which is consistent with the objectives of the Act and for the purpose it was declared for (as defined in section 41 of the Act);
 - 1.2.6. "MEC" means Member of the Provincial Executive Council for *[portfolio name]* in the *[province]*;
 - 1.2.7. "Protected Environment" means an area declared as such under section 28(1) of the Act;
 - 1.2.8. "Owner" means *[Owner Name]*;
 - 1.2.9. "Property" means *[Property Name]*;
 - 1.2.10. "Title Deed" means Title Deed No. *[Number]*, registered in the name of the Owner;

2. DESCRIPTION OF THE PROPERTY

The correct description of the property is as follows:

[Copy and paste section "A" above]

3. CONSENT TO DECLARATION

The Owner hereby consents to the declaration of the Property as a Protected Environment, under section 28(1) of the Act, for a period as defined in clause 8 of this Agreement.

4. DECLARATION OF THE PROPERTY AS A PROTECTED ENVIRONMENT

Upon fulfilment of all suspensive conditions (if applicable) and subject to the provisions of the Act, the MEC shall take all necessary steps to have the property declared as a Protected Environment under section 28(1) of the Act.

5. NAME OF THE PROTECTED ENVIRONMENT

The Parties agree that the Protected Environment shall be known as *[Name of Protected Environment]*, further, that the MEC shall award this name to the Protected Environment by notice thereof in the Provincial Gazette under section 28(1) of the Act.

6. APPOINTMENT OF THE MANAGEMENT AUTHORITY

- 6.1. The MEC hereby assigns the management of the Property as Protected Environment to the Owner in terms of section 38(2) of the Act.
- 6.2. The Owner hereby accepts the assignment as Management Authority of the Protected Environment.
- 6.3. The assignment as Management Authority in terms of this clause takes effect on the Effective Date.

7. MANAGEMENT AGREEMENT AND MANAGEMENT PLAN OF THE PROTECTED ENVIRONMENT

- 7.1. The Owner and the Department shall, not later than 6 (six) months after this Agreement is concluded, enter into a further agreement in terms of which the Property is to be managed.
- 7.2. The Agreement referred to in clause 7.1 above, will be known as the Management Agreement and will include a draft Management Plan for the Property.
- 7.3. The Owner as Management Authority must, within a period of 12 (twelve) months from the Effective Date, submit a Management Plan for the Protected Environment to the MEC for approval by the MEC.
- 7.4. The Department undertakes to assist the Owner with the preparation of the Management Plan, including:
 - 7.4.1. Providing assistance with the compilation, reviewing and auditing of the Management Plan; and
 - 7.4.2. Sourcing and providing of technical information, when needed, for the effective management of the biodiversity of the Protected Environment.

- 7.5. The Parties hereby record that the terms and conditions of the Management Plan (upon approval thereof by the MEC), will form part of the terms and conditions of this Agreement.

8. DURATION OF THE AGREEMENT

This Agreement will commence on the Effective Date and will continue for a period of _____ years from that date.

9. REGISTRATION OF AGREEMENT AND THE ENDORSEMENT THEREOF AGAINST THE TITLE DEED OF THE PROPERTY

- 9.1. The Owner hereby confirms that he is aware of the fact that this Agreement must be recorded in a Notarial Deed and that in terms of section 36 of the Act this Agreement must be registered and endorsed against the Title Deed of the Property.
- 9.2. The Owner confirms further that he/she is also aware of the fact that the terms and conditions of this Agreement will be binding on the successors in title of the Owner.
- 9.3. The Owner undertakes to sign all further documents and to provide all information to the Department on request, in order to effect the registration of and endorsement of the agreement against the Title Deed of the property.
- 9.4. Registration and endorsement of the Agreement against the Title Deed of the Property shall be effect by the Department's Attorneys.
- 9.5. The Department will be responsible for all costs related to the registration and endorsement of the Agreement against the Title Teed of the Property.

10. BREACH OF CONTRACT

In the event either party commits a breach of any of the conditions hereof, and remain in default for 30 (thirty) days after dispatch of a written notice by registered post by the other party (as the case may be), requiring the defaulting party to remedy such breach, the other party shall be entitled to, and without prejudice to any other rights available at law:

- 10.1. take the necessary measures himself/herself/itself to remedy the breach or appoint a third party to do so, and recover his/her/its costs in doing so from the offending party; and/or
- 10.2. immediately demand due performance of the terms of this Agreement, in addition to damages that such party is legally entitled to; or

10.3. immediately cancel the Agreement by means of a written notice addressed to the offending party, in addition to damages that such party is legally entitled to.

11. WITHDRAWAL OF DECLARATION OR EXCLUSION OF PART OF PROTECTED ENVIRONMENT

In the event this Agreement is cancelled in terms of clause 10, the MEC must withdraw the notice in terms of which the Property was declared a Protected Environment or as part of an existing Protected Environment, as determined by section 29 of the Act.

12. RECOVERY OF EXPENDITURE ON TERMINATION

In the event this Agreement is cancelled at the instance of the MEC in terms of clause 10, the Owner shall reimburse the Department for any expenditure reasonably incurred by it in giving effect to the terms of this Agreement.

13. RIGHT OF FIRST REFUSAL

In the event the Owner wishes to sell the property, or any portion thereof, during the duration of the Agreement, then and in such event the Owner undertakes to first offer the Property, or any portion thereof, for sale to the Department on the same terms and conditions as offered to/by any third party. The Department will, however, be obliged to exercise the right of first refusal within 30 (thirty) days after the said offer has been made by the Owner, failing which the Owner will be entitled to sell the Property, or any portion thereof (as the case may be), to the third party on the same terms and conditions as offered to the Department.

14. DISPUTE RESOLUTION

The Parties agree that they will be bound by the provisions contained in Chapter 4 of the National Environmental Management Act 107 of 1998 ('the NEMA') and that any disputes of any nature which may arise at any time from this Agreement will be dealt with in accordance with the said Chapter.

15. DOMICILIA AND NOTICES

15.1 The Parties choose the addresses set out below as their *domicilia citandi et executandi* for all purposes of this Agreement and as their respective addresses for the service of any notice required to be served on them in terms of this Agreement.

MEC:

Physical Address: [insert address]

Postal Address: [insert address]

Owner:

Physical Address: [insert address]

Postal Address: [insert address]

The Department:

Physical Address: [insert address]

Postal Address: [insert address]

15.2 Notices in terms of this Agreement must be in writing and will take effect from receipt at the stated *domicilium* address of each party. Such notice may be given by registered mail or by hand against written confirmation of receipt.

15.3 Notices given by registered mail shall be deemed to have been received by the addressee on the 7th (seventh) day after posting.

15.4 Notices given by hand shall be deemed to have been received by the addressee on the day of such delivery.

16. VARIATION OF AGREEMENT

No variation, amendment or suspension of any of the terms of this Agreement shall be valid, and no further agreement which may conflict in any way with the terms of this Agreement shall be binding on the Parties unless the variation, amendment, suspension or conflicting agreement has been recorded in writing and signed by the Parties.

17. COSTS OF AGREEMENT

All costs associated with the preparation and registration of this Agreement shall be borne by the Department.

18. NO COMPENSATION

No compensation is payable by either party to any of the other parties in respect of this Notarial Agreement, and the Parties agree that the nominal value of this servitude shall be R100.00 (One Hundred Rand) for purposes of transfer duty.

ALL THIS DONE AND SIGNED on the place, day, month and year abovementioned in the presence of the undersigned witnesses and before myself, the Notary Public.

As Witnesses:

1. _____

2. _____

QUOD ATTESTOR

NOTARY PUBLIC

Appendix C5 – Management Agreement Nature Reserve (Whole Property)

NATURE RESERVE MANAGEMENT AGREEMENT

Between

[Conservation Authority]
of the *[Province]*

herein represented by *[HOD/CEO]*

In his/her capacity as Director, duly authorised hereto

(hereafter referred to as “the Department”)

And

[Name of Owner]

(hereafter referred to as “the Owner”)

PREAMBLE

A. WHEREAS the Owner is the registered owner of the following immovable property, namely:

**The Farm *[Name]* No. *[number]*, Situated in the *[Municipality]*, *[Division]*,
[Province];**

In Extent: *[value]* Hectares;

Held by Title Deed No. *[number]*;

("the Property")

B. AND WHEREAS the property or certain portions thereof has been identified as an area worthy of being declared as a Nature Reserve, considering that the Property meets some of the objectives set by section 23(2) of the Act, namely:

[List features of property which characterise it as being of high conservation value- obtain from Management Plan]

C. AND WHEREAS the Owner and the MEC concluded a written agreement under section 23(3) of the Act in terms of which the Owner consented to the declaration of the Property as a Nature Reserve in terms of section 23(1) of the Act;

D. AND WHEREAS the Owner was appointed as the Management Authority of the Property as a Nature Reserve, in terms of section 38(2) of the Act;

E. AND WHEREAS under clause 7.1 of the Agreement concluded under section 23(3) of the Act, the Owner and the Department agreed to conclude a Management Agreement to ensure the conservation of the biodiversity on the Property; and the Department, in terms of clause 7.4 of the same Agreement, undertook to assist the Owner with the preparation of the Management Plan;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION AND PRELIMINARY

The headings of the clauses in the Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof. In this Agreement, unless a contrary intention clearly appears:

1.1. Words importing:

1.1.1. any one gender include the other two genders;

1.1.2. the singular include the plural and *vice versa*; and

1.1.3. natural persons include created entities (with or without legal personality) and *vice versa*;

1.2. The following terms will have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:

1.2.1. "the Act" means the National Environmental Management: Protected Areas Act, 57 of 2003;

- 1.2.2. "Department" means the *[conservation Authority]* of the *[Province]*;
- 1.2.3. "Effective Date" means the date of the Provincial Gazette in terms of which the Property is declared as Nature Reserve in terms of section 23(1) of the Act;
- 1.2.4. "Management Authority" means the person or entity that is responsible for the management of the Nature Reserve as defined in the Act;
- 1.2.5. "Management Plan" means the plan as drawn up by the Management Authority for approval by the MEC (in terms of section 39 of the Act) in order to ensure that the Nature Reserve is protected, conserved and managed in a manner which is consistent with the objectives of the Act and for the purpose it was declared for (as defined in section 41 of the Act);
- 1.2.6. "MEC" means Member of the Provincial Executive Council for *[portfolio name]* of the *[Province]*;
- 1.2.7. "Nature Reserve" means an area declared as such under section 23(1) of the Act;
- 1.2.8. "Owner" means *[Owner Name]*;
- 1.2.9. "Property" means *[Property Name]*;

2. MANAGEMENT OF PROPERTY

2.1. Objectives

The Parties agree to the following management objectives in relation to the Property:

- 2.1.1. *[Insert the 5-6 most fundamental management objectives agreed to by owner and conservation agency after initial discussions - obtain from the management plan]*
- 2.1.2. ###;
- 2.1.3. ###;
- 2.1.4. ###;
- 2.1.5. ###;
- 2.1.6. ###.

2.2. Management Plan

- 2.2.1. The Owner as Management Authority must, within a period of 12 (twelve) months from the Effective Date, submit a Management Plan for the Nature Reserve to the MEC for approval by the MEC, which Management Plan must comply with the minimum requirements as specified in section 41 of the Act.

- 2.2.2. The Department undertakes to assist the Owner with the preparation of the Management Plan, including:
 - 2.2.2.1. Providing assistance with the compilation, reviewing and auditing of the Management Plan; and
 - 2.2.2.2. Sourcing and providing of technical information, when needed, for the effective management of the biodiversity of the Nature Reserve.
- 2.2.3. The Owner agrees to manage the Property exclusively for the purpose for which it was declared and in accordance with the Management Plan and any applicable national – and provincial legislation, policies, plans or municipal by-laws.

2.3. Monitoring and Review of the Management Plan

- 2.3.1. The Department shall convene a meeting with the Owner on an annual basis, or at such earlier time should either of the Parties deem it necessary, to formally review the annual progress towards achieving the management objectives specified in clause 2.1 above and the Management Plan.
- 2.3.2. The Department will present the following information to the Owner at this meeting:
 - 2.3.2.1. the extent to which the current Management Plan has achieved the stated objectives of this Agreement;
 - 2.3.2.2. the extent to which the Parties have complied with their respective rights and obligations under the current Management Plan;
 - 2.3.2.3. current and future challenges to the conservation, management and status of the Property; and
 - 2.3.2.4. proposed amendments to the Management Plan.
- 2.3.3. The Parties shall, by mutual agreement and with the MEC's consent, amend the Management Plan when necessary, which amendments shall be reduced to writing and signed by both Parties for approval by the MEC.

3. RIGHTS OF OWNER IN RESPECT OF THE PROPERTY

3.1. Ownership

- 3.1.1. The Owner retains all rights of ownership in respect of the property.
- 3.1.2. The Owner warrants that the exercise of such ownership shall be consistent with the provisions of this Agreement, any regulations made by the MEC

under section 87 of the Act, municipal by-laws, the Management Plan or the Act in general.

3.2. Access

- 3.2.1. The Owner and his/her family and permitted friends can access the property provided that the access is consistent with the provisions of this Agreement, any regulations made by the MEC under section 87 of the Act, municipal by-laws, the Management Plan or the Act in general.

4. OBLIGATIONS OF OWNER IN RESPECT OF PROPERTY

4.1. Compliance with the Management Plan

The Owner shall comply with all the terms and conditions contained in the Management Plan.

4.2. Development

- 4.2.1. The Owner shall not construct, erect or upgrade, or allow the construction, erection or upgrading, of any buildings, roads or structures on the Property, except as expressly provided for in the Management Plan (and subject to any regulations published by the MEC in terms of section 87 of the Act) to further the conservation of biodiversity on the Property.
- 4.2.2. The Owner must obtain all necessary prior approvals, permissions or exemptions required in order to undertake any development contemplated in the Management Plan.

4.3. Biodiversity

- 4.3.1. The Owner shall not remove or destroy, or permit the destruction or removal of any indigenous *fauna* or *flora* species on the Property, save as expressly authorised and/or required in the Management Plan.
- 4.3.2. The Owner shall not plant, or permit the planting of, any *flora* other than local non-invasive indigenous *flora* on the Property.
- 4.3.3. The Owner shall not introduce, or permit the introduction of, any non-local non-indigenous *fauna* onto the Property, save as expressly authorised in the Management Plan.
- 4.3.4. The Owner shall not do, or permit any act that may adversely affect any local indigenous *fauna and flora*, or their habitats, on the Property.

4.4. Water

- 4.4.1. The Owner shall not do, or permit, any act that may adversely affect the natural state, flow, supply, quantity or quality of any water resource located on the Property, subject to the provisions of the National Water Act 36 of 1998.
- 4.4.2. Any other person that may have a right to water in a public stream on the Property shall do so on such conditions as may be prescribed by the Minister of Water and Environmental Affairs.

4.5. Commercial Activity

- 4.5.1. The Owner shall not permit or consent to any prospecting, exploration, mining or production of gas, petroleum, mineral or other substances on the Property.
- 4.5.2. The Owner shall not permit or consent to, unless required by law, the placement of any transmission lines, telecommunication lines, cellular towers or public works on the Property.
- 4.5.3. The Owner shall not subdivide, or permit the subdivision of the Property.
- 4.5.4. The Owner shall not operate, or permit the operation of, any trade, industry or business on the Property, unless such activities are authorised in the Management Plan.

4.6. Other Human Activities

- 4.6.1. The Owner shall not use, or permit the use of, motorcycles or four-wheel drive vehicles on the Property unless its use is necessary for the proper management and/or protection of the Property and/or is authorised under the Management Plan.
- 4.6.2. The Owner shall not dump, or permit the dumping of any waste material on the Property.
- 4.6.3. The Owner shall not hunt, or permit hunting to take place on the Property unless it is necessary for the proper management of the *fauna* located on the Property and/or specifically provided for in the Management Plan; and the necessary permit/s have been obtained and restrictions are adhered to as required by law. In the event of conflict with predators on the Property, the Owner undertakes to deal with such animals in consultation with the

Department and in accordance with the provisions of the Management Plan and/or any relevant legislation.

- 4.6.4. The Owner shall only permit the general public to access the Property as provided for in the Management Plan.

5. RIGHTS OF THE DEPARTMENT IN RESPECT OF THE PROPERTY

5.1. Access to the Property

The Owner shall allow the Department, its employees and consultants access to the Property to fulfill its obligations under the Management Plan, which will include access to undertake scientific research and to ensure proper management and compliance with the provisions of the Act and the Management Plan, as well as the terms and conditions of this Agreement, on condition the Department arrange such access with the Owner by prior notice.

5.2. Ownership of Wildlife

Ownership of all wildlife and progeny on the property will be negotiated depending on their source, population status and conservation objectives and the outcome of such negotiation will be captured in the Management Plan. All introductions or removals of wildlife will be catered for in the Management Plan or by agreement between the Parties.

6. OBLIGATIONS OF THE DEPARTMENT IN RESPECT OF THE PROPERTY

6.1. Compliance with the Management Plan

The Department shall comply with all the terms and conditions set out in the Management Plan.

6.2. Supervision and Technical Support

The Department shall provide any technical assistance, information and management advice that may be required to ensure the effective conservation of the Property.

6.3. Conservation Costs

The Department shall only be responsible for such costs associated with the establishment and management of the Property as a Nature Reserve, as provided for in this Agreement and/or the Management Plan.

7. DELEGATION OF RIGHTS AND RESPONSIBILITIES

- 7.1.** A Party to this Agreement may not delegate, cede or assign any of its rights or obligations under this Agreement unless:
- 7.1.1. the written consent of the other Party to this Agreement has first being obtained, which consent shall not be unreasonably withheld; and
 - 7.1.2. the third party to whom the rights and/or obligations must be delegated, ceded or assigned to, has acknowledged its acceptance of the delegation, cession or assignment in writing to both parties to this Agreement.

8. BREACH OF CONTRACT

- 8.1.** In the event either Party commits a breach of any of the conditions hereof, and remain in default for 30 (thirty) days after dispatch of a written notice by registered post by the other party (as the case may be), requiring the defaulting party to remedy such breach, the other party shall be entitled to, and without prejudice to any other rights available at law:
- 8.1.1. take the necessary measures himself/herself/itself to remedy the breach or appoint a third party to do so, and recover his/her/its costs in doing so from the offending party; and/or
 - 8.1.2. immediately demand due performance of the terms of this Agreement, in addition to damages that such party is legally entitled to; or
 - 8.1.3. immediately cancel the Agreement by means of a written notice addressed to the offending party, in addition to damages that such party is legally entitled to.
- 8.2.** The cancellation of this Agreement for whatever reason, shall have no force or effect on the legality and/or existence of the Agreement concluded between the MEC, the Department and the Owner in terms of section 23(3) of the Act, namely the declaration of the Property as a Nature Reserve.

9. RECOVERY OF EXPENDITURE ON TERMINATION

In the event this Agreement is terminated at the instance of the Department in terms of clause 8, the Owner shall reimburse the Department for any expenditure reasonably incurred by it in giving effect to the terms of this Agreement.

10. DISPUTE RESOLUTION

The Parties agree that they will be bound by the provisions contained in Chapter 4 of the National Environmental Management Act 107 of 1998 (“the NEMA”) and that any disputes

of any nature which may arise at any time from this Agreement will be dealt with in accordance with the said Chapter.

11. DOMICILIUM AND NOTICES

11.1 The Parties choose the addresses set out below as their domicilia citandi et executandi for all purposes of this Agreement and as their respective addresses for the service of any notice required to be served on them in terms of this Agreement.

Owner:

Physical Address: *[insert address]*

Postal Address: *[insert address]*

The Department:

Physical Address: *[insert address]*

Postal Address: *[insert address]*

11.2 Notices in terms of this Agreement must be in writing and will take effect from receipt at the stated *domicilium* address of each party. Such notice may be given by registered mail or by hand against written confirmation of receipt.

11.3 Notices given by registered mail shall be deemed to have been received by the addressee on the 7th (seventh) day after posting.

11.4 Notices given by hand shall be deemed to have been received by the addressee on the day of such delivery.

12. VARIATION OF AGREEMENT

No variation, amendment or suspension of any of the terms of this Agreement shall be valid, and no further Agreement which may conflict in any way with the terms of this Agreement shall be binding on the Parties unless the variation, amendment, suspension or conflicting agreement has been recorded in writing and signed by the Parties.

13. COSTS OF AGREEMENT

All costs associated with the preparation and/or signing of this Agreement shall be borne by the Department.

14. DURATION

14.1. This Agreement shall come into effect on the Effective Date and shall remain in force for a period of _____ years, subject to the following:

14.1.1. In the event the Agreement concluded between the MEC, the Department and the Owner in terms of section 23(3) of the Act, namely the declaration of the Property as a Nature Reserve, is cancelled for any reason whatsoever; and the declaration of the Property is withdrawn in terms of section 24 of the Act, prior to the Expiry Date hereof, this Agreement shall automatically terminate on the date of withdrawal, as provided for in section 24 of the Act; or

14.1.2. In the event the Owner elects to sell the Property prior to the Expiry Date hereof, this Agreement shall automatically terminate on the date of registration of transfer of the Property into the name of such purchaser.

14.2. The Parties acknowledge that the expiry or automatic cancellation of this Agreement in terms of clause 14.1, shall have no force or effect on the Agreement concluded between the MEC, the Department and the Owner in terms of section 23(3) of the Act, namely the Agreement on the declaration of the Property as a Nature Reserve.

SIGNED AT _____ ON THIS _____ DAY OF
_____ 200__.

AS WITNESSES

1. _____

2. _____

OWNER

SIGNED AT _____ ON THIS _____ DAY OF
_____ 200__.

AS WITNESSES

1. _____

2. _____

DEPARTMENT

Appendix C6 – Management Agreement Nature Reserve (Portion Property)

PROTECTED AREA MANAGEMENT AGREEMENT

(portion of property declared as Nature Reserve)

Between

[Conservation Agency]
of the *[Province]*

herein represented by *[HOD/CEO]*

In his capacity as Director, duly authorised hereto

(hereafter referred to as “the Department”)

And

[Name of Owner]

(hereafter referred to as “the Owner”)

PREAMBLE

WHEREAS

A. WHEREAS the Owner is the registered owner of the following immovable property, namely:

**The Farm *[Name]* No. *[number]*, Situated in the *[Municipality]*, *[Division]*,
[Province];**

In extent: *[value]* Hectares;

Held by Title Deed No. *[number]*;

("the property")

B. AND WHEREAS the property or certain portions thereof has been identified as an area worthy of being declared as a Nature Reserve, considering that the property complies with the requirements of section 23(2) of the Act, namely:

[List features of property which characterise it as being of high conservation value- obtain from Management Plan]

C. AND WHEREAS the Owner and the MEC concluded a written agreement in terms of section 23(3) of the Act in terms of which the Owner consented to the declaration of the conservation area as a Nature Reserve in terms of section 23(1) of the Act;

D. AND WHEREAS the Owner was appointed as the Management Authority of the conservation area as a Nature Reserve, in terms of section 38(2) of the Act;

E. AND WHEREAS in terms of clause 7.1 of the Agreement concluded in terms of section 23(3) of the Act, the Owner and the Department agreed to conclude a Management Agreement to ensure the conservation of the biodiversity on the conservation area; and the Department, in terms of clause 7.4 of the same Agreement, undertook to assist the Owner with the preparation of the Management Plan;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION AND PRELIMINARY

The headings of the clauses in the Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof. In this Agreement, unless a contrary intention clearly appears:

1.1. Words importing:

1.1.1. any one gender include the other two genders;

1.1.2. the singular include the plural and vice versa; and

1.1.3. natural persons include created entities (with or without legal personality) and visa versa;

1.2. The following terms will have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:

- 1.2.1. "Act" means the National Environmental Management: Protected Areas Act, 57 of 2003, (as amended);
- 1.2.2. "Department" means the *[conservation Authority]* of the *[Province]*;
- 1.2.3. "conservation area" means the area/s depicted by the figure/s *[Number of Figures]* on Diagram S.G. No. *[Number]*, which area/s form part of the property;
- 1.2.4. "effective date" means the date of publication of the Provincial Gazette in terms of which the conservation area is declared as Nature Reserve in terms of section 23(1) of the Act;
- 1.2.5. "Management Authority" means the person or entity that is responsible for the management of the Nature Reserve as defined in the Act;
- 1.2.6. "Management Plan" means the plan as drawn up by the Management Authority for approval by the MEC (in terms of section 39 of the Act) in order to ensure that the Nature Reserve is protected, conserved and managed in a manner which is consistent with the objectives of the Act and for the purpose it was declared for (as defined in section 41 of the Act);
- 1.2.7. "MEC" means Member of the Provincial Executive Council for the *[Conservation Authority]* of the *[Province]*;
- 1.2.8. "Nature Reserve" means an area declared as such in terms of section 23(1) of the Act;
- 1.2.9. "Owner" means *[Owner Name]*;
- 1.2.10. "property" means *[Property Name]*;

2. MANAGEMENT OF PROPERTY

2.1. Objectives

The parties agree to the following management objectives in relation to the property:

- 2.1.1. *[Insert the 5-6 most fundamental management objectives agreed to by owner and conservation agency after initial discussions- obtain from the management plan]*
- 2.1.2. ###;
- 2.1.3. ###;
- 2.1.4. ###;
- 2.1.5. ###;
- 2.1.6. ###.

2.2. Management Plan

- 2.2.1. The Owner as Management Authority must, within a period of 12 (twelve) months from the effective date, submit a Management Plan for the Nature Reserve to the MEC for approval by the MEC, which Management Plan must comply with the minimum requirements as specified in section 41 of the Act.
- 2.2.2. The Department undertakes to assist the Owner with the preparation of the Management Plan, including:
 - 2.2.2.1. Providing assistance with the compilation, reviewing and auditing of the Management Plan;
 - 2.2.2.2. Sourcing and providing of technical information, when needed, for the effective management of the biodiversity of the Nature Reserve.
- 2.2.3. The Owner agrees to manage the conservation area exclusively for the purpose for which it was declared and in accordance with the Management Plan and any applicable national – and provincial legislation, policies, plans or municipal by-laws.

2.3. Monitoring and Review of the Management Plan

- 2.3.1. The Department shall convene a meeting with the Owner on an annual basis, or at such earlier time should either of the Parties deem it necessary, to formally review the annual progress towards achieving the management objectives specified in clause 2.1 above and the Management Plan.
- 2.3.2. The Department will present the following information to the Owner at this meeting:
 - 2.3.2.1. the extent to which the current Management Plan has achieved the stated objectives of this agreement;
 - 2.3.2.2. the extent to which the parties have complied with their respective rights and obligations under the current Management Plan;
 - 2.3.2.3. current and future challenges to the conservation, management and status of the conservation area; and
 - 2.3.2.4. proposed amendments to the Management Plan.
- 2.3.3. The Parties shall, by mutual agreement and with the MEC's consent, amend the Management Plan when necessary, which amendments shall be reduced to writing and signed by both Parties for approval by the MEC.

3. RIGHTS OF OWNER IN RESPECT OF THE CONSERVATION AREA

3.1. Ownership

- 3.1.1. The Owner retains all rights of ownership in respect of the conservation area.
- 3.1.2. The Owner warrants that the exercise of such ownership shall be consistent with the provisions of this agreement, any regulations made by the MEC under section 87 of the Act, municipal by-laws, the Management Plan or the Act in general.

3.2. Access

- 3.2.1. The Owner and his or her family and permitted friends can access the conservation area provided that the access is consistent with the provisions of this Agreement, any regulations made by the MEC under section 87 of the Act, municipal by-laws, the Management Plan or the Act in general.

4. OBLIGATIONS OF OWNER IN RESPECT OF CONSERVATION AREA

4.1. Compliance with the Management Plan

The Owner shall comply with all the terms and conditions contained in the Management Plan.

4.2. Development

- 4.2.1. The Owner shall not construct, erect or upgrade, or allow the construction, erection or upgrading, of any buildings, roads or structures on the conservation area, except as expressly provided for in the Management Plan (and subject to any regulations published by the MEC in terms of section 87 of the Act) to further the conservation of biodiversity on the conservation area.
- 4.2.2. The Owner must obtain all necessary prior approval, permission or exemption required in order to undertake any development contemplated in the Management Plan.

4.3. Biodiversity

- 4.3.1. The Owner shall not remove or destroy, or permit the destruction or removal of, any indigenous species on the conservation area, save as expressly authorised and/or required in the Management Plan.

- 4.3.2. The Owner shall not plant, or permit the planting of, any flora other than local non-invasive indigenous flora on the conservation area.
- 4.3.3. The Owner shall not introduce, or permit the introduction of, any non-indigenous fauna onto the conservation area, save as expressly authorised in the Management Plan.
- 4.3.4. The Owner shall not do, or permit, any act that may adversely affect any indigenous flora and fauna, or their habitats, on the conservation area.

4.4. Water

- 4.4.1. The Owner shall not do, or permit, any act that may adversely affect the natural state, flow, supply, quantity or quality of any water resource located on the conservation area, subject to the provisions of the National Water Act, 36 of 1998.
- 4.4.2. Any other person that may have a right to water in a public stream on the conservation area shall do so on such conditions prescribed by the Minister of Environmental Affairs with the concurrence of the Minister of Water Affairs.

4.5. Commercial Activity

- 4.5.1. The Owner shall not permit or consent to any prospecting, exploration, mining or production of gas, petroleum, mineral or other substances on the conservation area.
- 4.5.2. The Owner shall not permit or consent to, unless required by law, the placement of any transmission lines, telecommunication lines, cellular towers or public works on the conservation area.
- 4.5.3. The Owner shall not subdivide, or permit the subdivision of the conservation area.
- 4.5.4. The Owner shall not operate, or permit the operation of, any trade, industry or business on the conservation area, unless such activities are authorised in the Management Plan.

4.6. Other Human Activities

- 4.6.1. The Owner shall not use, or permit the use of, motorcycles or four-wheel drive vehicles on the conservation area unless its use is necessary for the proper management and/or protection of the property and/or authorised in terms of the Management Plan.

- 4.6.2. The Owner shall not dump, or permit the dumping of, any waste material on the conservation area.
- 4.6.3. The Owner shall not hunt, or permit hunting, to take place on the conservation area unless it is necessary for the proper management of the fauna located on the conserved area and/or specifically provided for in the Management Plan; and the necessary permit/s have been obtained and restrictions adhered to as required by law. In the event of conflict with predators on the conservation area, the Owner undertakes to deal with such problem animals in consultation with the Department and in accordance with the provisions of the Management Plan and/or any relevant legislation.
- 4.6.4. The Owner shall only permit the general public to access the conservation area as provided for in the Management Plan.

5. RIGHTS OF THE DEPARTMENT IN RESPECT OF THE CONSERVATION AREA

5.1. Access to the conservation area

The Owner shall allow the Department, its employees and consultants access to the conservation area to fulfill its obligations under the Management Plan, which will include access to undertake scientific research and to ensure proper management and compliance with the provisions of the Act and the Management Plan, as well as the terms and conditions of this Agreement, on condition the Department arrange such access with the Owner by prior notice.

5.2. Ownership of wildlife

Ownership of all wildlife and progeny on the conservation area will be negotiated depending on their source, population status and conservation objectives and captured in the Management Plan. All introductions or removals of wildlife will be catered for in the Management Plan or by agreement between the Parties.

6. OBLIGATIONS OF THE DEPARTMENT IN RESPECT OF THE CONSERVATION AREA

6.1. Compliance with the Management Plan

The Department shall comply with all the terms and conditions set out in the Management Plan.

6.2. Supervision and Technical Support

The Department shall provide any technical assistance, information and management advice that may be required to ensure the effective conservation of the conservation area.

6.3. Conservation Costs

The Department shall only be responsible for such costs associated with the establishment and management of the conservation area as a Nature Reserve, as provided for in this Agreement and/or the Management Plan.

7. RIGHTS OF OWNER IN RESPECT OF THE PRIVATE AREA

The Owner shall retain the exclusive right to occupy, use, enjoy and develop the private area and warrants that such occupation, use, enjoyment and/or development shall be exercised in accordance with the spirit and support of this Agreement and all applicable legislation.

8. OBLIGATIONS OF OWNER IN RESPECT OF PRIVATE AREA

8.1 Development:

The Owner shall not construct or erect any buildings or other structures in the private area without obtaining a prior written recommendation from the Board for these buildings or structures regarding possible impacts on the conservation area and subject to all applicable legislation.

8.2 Minimum Impact of Activities:

The Owner shall ensure that any occupation, use, enjoyment, and/or development on the private area shall take place in a manner that minimizes any potential disturbance to, and adverse impacts on the conservation area.

9. DELEGATION OF RIGHTS AND RESPONSIBILITIES

9.1. A party to this agreement may not delegate, cede or assign any of its rights or obligations under this agreement unless:

- 9.1.1. the written consent of the other Party to this Agreement has first being obtained, which consent shall not be unreasonably withheld; and

- 9.1.2. the third party to whom the rights and/or obligations must be delegated, ceded or assigned to, has acknowledged its acceptance of the delegation, cession or assignment in writing to both Parties to this Agreement.

10. BREACH OF CONTRACT

10.1. In the event either Party commits a breach of any of the conditions hereof, and remain in default for 30 (thirty) days after dispatch of a written notice by registered post by the other Party (as the case may be), requiring the defaulting party to remedy such breach, the other party shall be entitled to, and without prejudice to any other rights available at law:

10.1.1. take the necessary measures himself to remedy the breach or appoint a third party to do so, and recover his costs in doing so from the offending Party; and/or

10.1.2. immediately demand due performance of the terms of this Agreement, in addition to damages that such Party is legally entitled to; or

10.1.3. immediately cancel the agreement by means of a registered notice addressed to the offending Party, in addition to damages that such party is legally entitled to.

10.2. The cancellation of this Agreement for whatever reason, shall have no force or effect on the legality and/or existence of the Agreement concluded between the MEC, the Department and the Owner in terms of section 23(3) of the Act, namely the declaration of the conservation area as a Nature Reserve.

11. RECOVERY OF EXPENDITURE ON TERMINATION

In the event this Agreement is terminated at the instance of the Department in terms of clause 8, the Owner shall reimburse the Department for any expenditure reasonably incurred by it in giving effect to the terms of this Agreement.

12. DISPUTE RESOLUTION

The Parties agree that they will be bound by the provisions contained in Chapter 4 of the National Environmental Management Act 107 of 1998 (“the NEMA”) (as amended) and that any disputes of any nature which may arise at any time from this Agreement will be dealt with in accordance with the said Chapter.

DOMICILIA AND NOTICES

The Parties choose the addresses set out below as their domicilia citandi et executandi for all purposes of this agreement and as their respective addresses for the service of any notice required to be served on them in terms of this Agreement.

Owner:

Physical Address: *[insert address]*

Postal Address: *[insert address]*

The Department:

Physical Address: *[insert address]*

Postal Address: *[insert address]*

13. VARIATION OF AGREEMENT

No variation, amendment or suspension of any of the terms of this Agreement shall be valid, and no further agreement which may conflict in any way with the terms of this agreement shall be binding on the Parties unless the variation, amendment, suspension or conflicting agreement has been recorded in writing and signed by the Parties.

14. COSTS OF AGREEMENT

All costs associated with the preparation and/or signing of this agreement shall be borne by the Department.

15. DURATION

15.1. This Agreement shall come into effect on the effective date and shall remain in force for a period of _____ years, subject to the following:

15.1.1. In the event the Agreement concluded between the MEC, the Department and the Owner in terms of section 23(3) of the Act, namely the declaration of the conservation area as a Nature Reserve, is cancelled for any reason whatsoever;

and the declaration of the conservation area is withdrawn in terms of section 24 of the Act, prior to the expiry date hereof, this agreement shall automatically terminate on the date of withdrawal, as provided for in section 24 of the Act;

15.1.2. In the event the Owner elects to sell the property prior to the expiry date hereof, this agreement shall automatically terminate on the date of registration of transfer of the conservation area into the name of such purchaser.

15.2. The Parties acknowledge that the expiry or automatic cancellation of this agreement in terms of clause 16.1 shall have no force or effect on the agreement concluded between the MEC, the Department and the Owner in terms of section 23(3) of the Act, namely the declaration of the conservation area as a Nature Reserve.

SIGNED AT _____ ON THIS _____ DAY OF
_____ 200__.

AS WITNESSES

1. _____

2. _____

OWNER

SIGNED AT _____ ON THIS _____ DAY OF
_____ 200__.

AS WITNESSES

1. _____

2. _____

DEPARTMENT

ANNEXURE “A”

DIAGRAM OF “CONSERVATION AREA”

Appendix C7 – Management Agreement Protected Environment

PROTECTED AREA MANAGEMENT AGREEMENT

Between

[Conservation Authority]

of the *[Province]*

herein represented by *[HOD/CEO]*

In his capacity as Director, duly authorised hereto

(hereafter referred to as “the Department”)

And

[Name of Owner]

(hereafter referred to as “the Owner”)

PREAMBLE

WHEREAS

A. **WHEREAS** the Owner is the registered owner of the following immovable property, namely:

The Farm *[Name]* No. *[Number]*, Situated in the *[Municipality]*, *[Division]*, *[Province]*;

In extent: *[Value]* Hectares;

Held by Title Deed No. *[Number]*;

("the property")

B. AND WHEREAS the property or certain portions thereof has been identified as an area worthy of being declared as a Protected Environment, considering that the property complies with the requirements of section 28(2) of the Act, namely:

[List features of property which characterise it as being of high conservation value- obtain from Management Plan]

C. AND WHEREAS the Owner and the MEC concluded a written Agreement in terms of section 28(3) of the Act in terms of which the Owner consented to the declaration of the property as a Protected Environment in terms of section 28(1) of the Act;

D. AND WHEREAS the Owner was appointed as the Management Authority of the property as a Protected Environment, in terms of section 38(2) of the Act;

E. AND WHEREAS in terms of clause 7.1 of the Agreement concluded in terms of section 28(3) of the Act, the Owner and the Department agreed to conclude a Management Agreement to ensure the conservation of the biodiversity on the property; and the Department, in terms of clause 7.4 of the same Agreement, undertook to assist the Owner with the preparation of the Management Plan;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION AND PRELIMINARY

The headings of the clauses in the Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof. In this Agreement, unless a contrary intention clearly appears:

1.1. Words importing:

1.1.1. any one gender include the other two genders;

1.1.2. the singular include the plural and vice versa; and

1.1.3. natural persons include created entities (with or without legal personality) and visa versa;

1.2. The following terms will have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:

1.2.1. "Act" means the National Environmental Management: Protected Areas Act, 57 of 2003, as amended;

1.2.2. "Department" means the *[Conservation Authority]* of the *[Province]*;

-
- 1.2.3. "Effective Date" means the date of publication of the Provincial Gazette in terms of which the property is declared as Protected Environment in terms of section 28(1) of the Act;
 - 1.2.4. "Management Authority" means the person or entity that is responsible for the management of the Protected Environment as defined in the Act;
 - 1.2.5. "Management Plan" means the plan as drawn up by the Management Authority for approval by the MEC (in terms of section 39 of the Act) in order to ensure that the Protected Environment is protected, conserved and managed in a manner which is consistent with the objectives of the Act and for the purpose it was declared for (as defined in section 41 of the Act);
 - 1.2.6. "MEC" means Member of the Provincial Executive Council for the [*Conservation Authority*] of the [*Province*];
 - 1.2.7. " Protected Environment " means an area declared as such in terms of section 28(1) of the Act;
 - 1.2.8. "Owner" means [*Owner Name*];
 - 1.2.9. "property" means [*Property Name*];

2. MANAGEMENT OF PROPERTY

2.1. Objectives

The Parties agree to the following management objectives in relation to the property:

- 2.1.1. [*Insert the 5-6 most fundamental management objectives agreed to by owner and conservation agency after initial discussions- obtain from the management plan*]
- 2.1.2. ###;
- 2.1.3. ###;
- 2.1.4. ###;
- 2.1.5. ###;
- 2.1.6. ###.

2.2. Management Plan

- 2.2.1. The Owner as Management Authority must, within a period of 12 (twelve) months from the effective date, submit a Management Plan for the Protected Environment to the MEC for approval by the MEC, which Management Plan must comply with the minimum requirements as specified in section 41 of the Act.
 - 2.2.2. The Department undertakes to assist the Owner with the preparation of the Management Plan, including:
-

-
- 2.2.2.1. Providing assistance with the compilation, reviewing and auditing of the Management Plan;
 - 2.2.2.2. Sourcing and providing of technical information, when needed, for the effective management of the biodiversity of the Protected Environment.
 - 2.2.3. The Owner agrees to manage the property exclusively for the purpose for which it was declared and in accordance with the Management Plan and any applicable national – and provincial legislation, policies, plans or municipal by-laws.

2.3. Monitoring and Review of the Management Plan

- 2.3.1. The Department shall convene a meeting with the Owner on an annual basis, or at such earlier time should either of the Parties deem it necessary, to formally review the annual progress towards achieving the management objectives specified in clause 2.1 above and the Management Plan.
- 2.3.2. The Department will present the following information to the Owner at this meeting:
 - 2.3.2.1. the extent to which the current Management Plan has achieved the stated objectives of this agreement;
 - 2.3.2.2. the extent to which the Parties have complied with their respective rights and obligations under the current Management Plan;
 - 2.3.2.3. current and future challenges to the conservation, management and status of the property; and
 - 2.3.2.4. proposed amendments to the Management Plan.
- 2.3.3. The Parties shall, by mutual agreement and with the MEC's consent, amend the Management Plan when necessary, which amendments shall be reduced to writing and signed by both Parties for approval by the MEC.

3. RIGHTS OF OWNER IN RESPECT OF THE PROPERTY

3.1. Ownership

- 3.1.1. The Owner retains all rights of ownership in respect of the property.
- 3.1.2. The Owner warrants that the exercise of such ownership shall be consistent with the provisions of this agreement, any regulations made by the MEC under section 87 of the Act, municipal by-laws, the Management Plan or the Act in general.

3.2. Access

The Owner and his or her family and permitted friends can access the property provided that the access is consistent with the provisions of this agreement, any regulations made by the

MEC under section 87 of the Act, municipal by-laws, the Management Plan or the Act in general.

4. OBLIGATIONS OF OWNER IN RESPECT OF PROPERTY

4.1. Compliance with the Management Plan

The Owner shall comply with all the terms and conditions contained in the Management Plan.

4.2. Development

4.2.1. The Owner shall not construct, erect or upgrade, or allow the construction, erection or upgrading, of any buildings, roads or structures on the property, except as expressly provided for in the Management Plan (and subject to any regulations published by the MEC in terms of section 87 of the Act) to further the conservation of biodiversity on the property.

4.2.2. The Owner must obtain all necessary prior approval, permission or exemption required in order to undertake any development contemplated in the Management Plan.

4.3. Biodiversity

4.3.1. The Owner shall not remove or destroy, or permit the destruction or removal of, any indigenous species on the property, save as expressly authorised and/or required in the Management Plan.

4.3.2. The Owner shall not plant, or permit the planting of, any flora other than local non-invasive indigenous flora on the property.

4.3.3. The Owner shall not introduce, or permit the introduction of, any non-indigenous fauna onto the property, save as expressly authorised in the Management Plan.

4.3.4. The Owner shall not do, or permit, any act that may adversely affect any indigenous flora and fauna, or their habitats, on the property.

4.4. Water

4.4.1. The Owner shall not do, or permit, any act that may adversely affect the natural state, flow, supply, quantity or quality of any water resource located on the property, subject to the provisions of the National Water Act, 36 of 1998.

4.4.2. Any other person that may have a right to water in a public stream on the property shall do so on such conditions prescribed by the Minister of Environmental Affairs with the concurrence of the Minister of Water Affairs.

4.5. Commercial Activity

- 4.5.1. Subject to the provisions of section 48 of the Act, the Owner shall not permit or consent to any prospecting, exploration, mining or production of gas, petroleum, mineral or other substances on the property.
- 4.5.2. The Owner shall not permit or consent to, unless required by law, the placement of any transmission lines, telecommunication lines, cellular towers or public works on the property.
- 4.5.3. The Owner shall not subdivide, or permit the subdivision of the property.
- 4.5.4. The Owner shall not operate, or permit the operation of, any trade, industry or business on the property, unless such activities are authorised in the Management Plan.

4.6. Other Human Activities

- 4.6.1. The Owner shall not use, or permit the use of, motorcycles or four-wheel drive vehicles on the property unless its use is necessary for the proper management and/or protection of the property and/or authorised in terms of the Management Plan.
- 4.6.2. The Owner shall not dump, or permit the dumping of, any waste material on the property.
- 4.6.3. The Owner shall not hunt, or permit hunting, to take place on the property unless it is necessary for the proper management of the fauna located on the conserved area and/or specifically provided for in the Management Plan; and the necessary permit/s have been obtained and restrictions adhered to as required by law. In the event of conflict with predators on the property, the Owner undertakes to deal with such problem animals in consultation with the Department and in accordance with the provisions of the Management Plan and/or any relevant legislation.
- 4.6.4. The Owner shall only permit the general public to access the property as provided for in the Management Plan.

5. RIGHTS OF THE DEPARTMENT IN RESPECT OF THE PROPERTY

5.1. Access to the property

The Owner shall allow the Department, its employees and consultants access to the property to fulfill its obligations under the Management Plan, which will include access to undertake scientific research and to ensure proper management and compliance with the provisions of the Act and the Management Plan, as well as the terms and conditions of this Agreement, on condition the Department arrange such access with the Owner by prior notice.

5.2. Ownership of wildlife

Ownership of all wildlife and progeny on the property will be negotiated depending on their source, population status and conservation objectives and captured in the Management Plan. All introductions or removals of wildlife will be catered for in the Management Plan or by agreement between the Parties.

6. OBLIGATIONS OF THE DEPARTMENT IN RESPECT OF THE PROPERTY

6.1. Compliance with the Management Plan

The Department shall comply with all the terms and conditions set out in the Management Plan.

6.2. Supervision and Technical Support

The Department shall provide any technical assistance, information and management advice that may be required to ensure the effective conservation of the property.

6.3. Conservation Costs

The Department shall only be responsible for such costs associated with the establishment and management of the property as a Protected Environment, as provided for in this Agreement and/or the Management Plan.

7. DELEGATION OF RIGHTS AND RESPONSIBILITIES

7.1. A party to this agreement may not delegate, cede or assign any of its rights or obligations under this Agreement unless:

7.1.1. the written consent of the other party to this Agreement has first being obtained, which consent shall not be unreasonably withheld; and

7.1.2. the third party to whom the rights and/or obligations must be delegated, ceded or assigned to, has acknowledged its acceptance of the delegation, cession or assignment in writing to both parties to this Agreement.

8. BREACH OF CONTRACT

8.1. In the event either party commits a breach of any of the conditions hereof, and remain in default for 30 (thirty) days after dispatch of a written notice by registered post by the other party (as the case may be), requiring the defaulting party to remedy such breach, the other party shall be entitled to, and without prejudice to any other rights available at law:

-
- 8.1.1. take the necessary measures himself to remedy the breach or appoint a third party to do so, and recover his costs in doing so from the offending party; and/or
 - 8.1.2. immediately demand due performance of the terms of this Agreement, in addition to damages that such party is legally entitled to; or
 - 8.1.3. immediately cancel the Agreement by means of a registered notice addressed to the offending party, in addition to damages that such party is legally entitled to.

8.2. The cancellation of this Agreement for whatever reason, shall have no force or effect on the legality and/or existence of the Agreement concluded between the MEC, the Department and the Owner in terms of section 28(3) of the Act, namely the declaration of the property as a Protected Environment.

9. RECOVERY OF EXPENDITURE ON TERMINATION

In the event this Agreement is terminated at the instance of the Department in terms of clause 8, the Owner shall reimburse the Department for any expenditure reasonably incurred by it in giving effect to the terms of this Agreement.

10. DISPUTE RESOLUTION

The Parties agree that they will be bound by the provisions contained in Chapter 4 of the National Environmental Management Act 107 of 1998 (“the NEMA”) (as amended) and that any disputes of any nature which may arise at any time from this Agreement will be dealt with in accordance with the said Chapter.

11. DOMICILIUM AND NOTICES

The Parties choose the addresses set out below as their domicilia citandi et executandi for all purposes of this Agreement and as their respective addresses for the service of any notice required to be served on them in terms of this Agreement.

Owner:

Physical Address: *[insert address]*

Postal Address: *[insert address]*

The Department:

Physical Address: *[insert address]*

Postal Address: *[insert address]*

12. VARIATION OF AGREEMENT

No variation, amendment or suspension of any of the terms of this Agreement shall be valid, and no further Agreement which may conflict in any way with the terms of this Agreement shall be binding on the Parties unless the variation, amendment, suspension or conflicting Agreement has been recorded in writing and signed by the Parties.

13. COSTS OF AGREEMENT

All costs associated with the preparation and/or signing of this Agreement shall be borne by the Department.

14. DURATION

14.1. This Agreement shall come into effect on the effective date and shall remain in force for a period of _____ years, subject to the following:

14.1.1. In the event the Agreement concluded between the MEC, the Department and the Owner in terms of section 28(3) of the Act, namely the declaration of the property as a Protected Environment, is cancelled for any reason whatsoever; and the declaration of the property is withdrawn in terms of section 29 of the Act, prior to the expiry date hereof, this Agreement shall automatically terminate on the date of withdrawal, as provided for in section 29 of the Act;

14.1.2. In the event the Owner elects to sell the property prior to the expiry date hereof, this Agreement shall automatically terminate on the date of registration of transfer of the property into the name of such purchaser.

14.2. The Parties acknowledge that the expiry or automatic cancellation of this Agreement in terms of clause 14.1, shall have no force or effect on the Agreement concluded between the MEC, the Department and the Owner in terms of section 28(3) of the Act, namely the declaration of the property as a Protected Environment.

SIGNED AT _____ ON THIS _____ DAY OF
_____ 200__.

AS WITNESSES

1. _____

2. _____

OWNER

SIGNED AT _____ ON THIS _____ DAY OF
_____ 200__.

AS WITNESSES

1. _____

2. _____

DEPARTMENT

Appendix D: Conservation Area registration form and certificate



APPLICATION TO REGISTER A SINGLE PROPERTY (OR PART THEREOF) AS A BIODIVERSITY STEWARDSHIP CONSERVATION AREA

INTRODUCTION

A Biodiversity Stewardship Conservation Area is an informally protected area, where the affected land owner is voluntarily committed to the prescribed Stewardship Program Criteria and registered with the Provincial Conservation Authority, the Gauteng Department of Agriculture and Rural Development (GDARD). GDARD acknowledges the need for support to informally protected areas but also that there are currently limited resources to support sites that do not have formal conservation status.

DEFINITION

A Biodiversity Stewardship Conservation Area is a selected portion of a property, or an entire property that is voluntarily conserved and managed by its owner/s (and/or user groups), in respect of which registration is granted by the GDARD.

REGISTRATION CRITERIA, OBJECTIVES AND CODE OF CONDUCT

To qualify, the site should:

1. retain the essence of its natural character;
2. be clear of alien species (plant and/or animal) or have a programme in place to control them; and
3. have a rehabilitation programme in place if necessary.

The Biodiversity Stewardship Conservation Area objectives and management requirements must be agreed to be the landowner and adhered to in order for the site to be officially registered as a Biodiversity Stewardship Conservation Area.

A landowner must be committed to the conservation of biodiversity, by:

- a. Striving to maintain the integrity of the natural environment, by not participating in or permitting any act that may adversely affect any indigenous flora and fauna, or other natural systems in the conservation site.
- b. Utilising natural resources sustainably (i.e. in a way that does not compromise the ability of future generations to benefit from those resources).
- c. Striving to promote the ecological processes that sustain the natural environment and its biodiversity or remove/ mitigate impediments thereto.
- d. Co-operating with the relevant authorities in respect of the management of the conservation site, including the implementation of any legislation applicable to the whole or part of the conservation site.
- e. Abiding by legislation and policies aimed at protecting biodiversity and the natural environment.

GDARD retains the right to terminate the Biodiversity Stewardship Conservation Area status of a site if the principles mentioned above are not maintained.

The landowner must inform GDARD of any changes to the status of the site such as ownership or management changes. Furthermore, the landowner must provide the GDARD 60 (sixty) days written notice of the intent to terminate the Biodiversity Stewardship Conservation Area status of the site.

DETAILS OF CONSERVATION SITE (if necessary, to be completed with assistance from GDARD)

- Attach 1:10 000 (or 1:50 000 if appropriate) maps showing where each of the sites on the property are located.
- List and describe the areas as follows:

Area describe	Vegetation type (according to latest SA vegetation type map)	Size (ha)	GPS co-ordinate of centre of site
Area 1:			
Area 2:			
Area 3:			
Area 4:			

- Is the proposed site a locality for any rare or endangered species?

Yes No

- Are there any important concentrations of plants and animals present?

Yes No

- Does the site contribute to ecosystem services?

Yes No

APPLICATION BY LANDOWNER

I _____ (name of landowner),
_____ (ID number) hereby apply for registration of a
Biodiversity Stewardship Conservation Area on a total of _____ hectares of land, in respect of the
Farm⁴ _____, referred to as
_____ (current farm name).

I declare that I will to the best of my ability, ensure that the above principles are adhered to.

Signature

Date

CONTACT DETAILS

Landowner:

Name:	Telephone:
Physical Address:	Cell:
Postal Address:	Email:

Property Manager (if applicable):

Name:	Telephone:
Physical Address:	Cell:
Postal Address:	Email:

GDARD wishes to acknowledge their partners in the Biodiversity Stewardship Conservation initiatives and a certificate will be issued should this application be successful.

⁴ Property name and erf number as it appears on title deed

For official use only

Recommended for registration

Signature

GBSP Extension Officer

Date

Signature

GBSP Manager

Date

Signature

DD Resource Management North

Date

Signature

HOC: Nature Conservation

Date





This is to certify that

[Property Description]

or parts thereof has been registered by the Gauteng Department of Agriculture and Rural Development as a Biodiversity Stewardship Conservation Area

[Registration Number]

Upon the application of

[Insert name of Applicant]

Who has committed to the conservation of biodiversity, by means of the following:

- f. Strive to maintain the integrity of the natural environment, by not participating in or permitting any act that may adversely affect any indigenous flora and fauna, or other natural systems in the conservation site.
- g. Utilise natural resources sustainably (i.e. in a way that does not compromise the ability of future generations to benefit from those resources).
- h. Strive to promote the ecological processes that sustain the natural environment and its biodiversity or remove / mitigate impediments thereto.
- i. Co-operate with the relevant authorities in respect of the management of the conservation site, including the implementation of any legislation applicable to the whole or part of the conservation site.
- j. Abide by various laws, regulations and policies laid down by competent authorities in the province to protect biodiversity and the natural environment.

HOC: Nature Conservation

Date



Appendix E: Conservation Area registration form and certificate

MEMORANDUM OF UNDERSTANDING

Entered into and Between

THE GAUTENG DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT

(hereafter referred to as “the GDARD”)

And

####

(hereafter referred to as “the Owner”)

WHEREAS

- A. **WHEREAS** the GDARD is currently assisting the Owner with an application in terms of section 23 of the National Environmental Management: Protected Areas Act, 57 of 2003, as amended (“the Act”), to request the MEC of the Province of Gauteng to declare the under mentioned property or a portion thereof as a Nature Reserve, the property being:

The Farm # No. #, Situated in the ## Municipality, Division of ##,

Gauteng Province;

In extent: # (# comma #) Hectares;

Held by Title Deed No. T#;

("the property")

- B. **AND WHEREAS** the Owner is aware of the fact that the process of declaring the property or a certain portion thereof as a Nature Reserve in terms of the Act is time consuming and expensive;
- C. **AND WHEREAS** the Owner undertakes not to withdraw the power of attorney to conclude a notarial agreement to have the property or a portion thereof declared as a Nature Reserve; and further undertakes to manage the property (from the date of signature hereof) in accordance with the provisions of the Management Agreement concluded with the GDARD;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. In the event the Owner withdraws from the process to declare the property or a portion thereof as a Nature Reserve in terms of the Act, the Owner shall reimburse the GDARD for any expenditure reasonably incurred by it from the date of signature hereof until the date of such withdrawal by the Owner, which costs may include but are not limited to: surveying costs of the property, legal costs to prepare the notarial agreement, power of attorney, management agreement and all advertisement costs.
2. Pending the declaration of the property or a portion thereof as a Nature Reserve in terms of the Act, the Owner undertakes to manage the property (from the date of signature hereof) in accordance with the provisions of the Management Agreement concluded with the GDARD.
3. Each of the Parties to this MOU shall act with the utmost good faith and use all reasonable endeavours to procure the fulfillment of the declaration of the property or a portion thereof as a Nature Reserve in terms of the Act.

SIGNED AT _____ ON THIS _____ DAY OF
 _____ 200__.

AS WITNESSES

1. _____
 2. _____
- OWNER**

SIGNED AT _____ ON THIS _____ DAY OF
 _____ 200__.

AS WITNESSES

1. _____
 2. _____
- GDARD**

Appendix F: Management Plan guidelines and pro forma

Gauteng Biodiversity Stewardship Programme MANAGEMENT PLANS FOR PROTECTED AREAS ON PRIVATE AND COMMUNAL LANDS

PROFORMA AND GUIDELINES

INTRODUCTION

Where does this document apply and not apply?

This document outlines a proposed format for the development of an Integrated Management Plan for Biodiversity Stewardship sites. The focus is on Nature Reserves and Protected Environments, key protected area categories of the biodiversity stewardship framework. For Biodiversity Management Agreements, it is proposed that these guidelines will apply UNTIL specific, separate guidelines are produced for Biodiversity Management Agreements, into the NEM: Biodiversity Act. However, the biodiversity stewardship practitioner must ensure that the requirements for Biodiversity Management Agreements contained in the NEM:BA are also addressed, where they are in addition to the requirements for protected areas.

This document does NOT address the management planning requirements for World Heritage Sites, National Parks and Special Nature Reserves. This is more than adequately addressed in the DEAT guidelines (Cowan/DEAT 2006). In addition, this document does NOT address the situation where private or communal landowners are contracted in the expansion of World Heritage Sites, National Parks and Special Nature Reserves, in terms of the totally different management plan requirements from such contractual arrangements. In addition, it does NOT address any management plan requirements for Co-management. Please refer to the relevant section in DEAT for these requirements.

Relationship with DEAT's Guideline on Management Plans

The mandatory and other requirements for Management Plans, as stated in the NEM:PAA and NEM:BA, are important to address. However, it is suggested that the "*Guideline for the Development of Management Plans*" (Cowan/DEAT, 2006) appears to be applicable for the management of State Protected Areas. It is further proposed that these DEAT Guidelines are a good starting point for managing complex, large-scale State Protected Areas, and where the State as the management authority are directly accountable for spending of public funds. These Guidelines are very detailed and they would, in all likelihood, intimidate landowners if they were subjected to the same requirements or if they had to work their way through such detail to determine what is

applicable to them. This could have negative implications for securing biodiversity stewardship agreements with private and communal landowners, including increased costs in producing management plans to meet these requirements, and the risk of landowners not entering into biodiversity stewardship agreements due to the perceived burdensome administrative requirements.

These guidelines, as a proposed supplementary document to the Cowan/DEAT 2006 document, therefore contain a focused, simple management plan proforma, with an emphasis on the absolute minimum legal, policy and best practice requirements for management plans. This proforma and guidelines document ensures that all relevant legislative requirements are met, that the biodiversity is secured (to the core objectives of the biodiversity stewardship site in question) and that the incentives from Treasury / SARS can be secured and maintained (with the obvious links to a good monitoring and auditing system for each declared protected area). In this way, this simple and focused proforma document can be used as the starting point for developing management plans with landowners. If needed, the management plans can become more complex if the context is complex (e.g. large scale, multiple landowners, multiple biodiversity features, multiple threats), or if the proposed landowner is going to be part of a contractual national park arrangements, World Heritage Site expansion or provincial state nature reserve expansion exercise.

What Parts of the IMP should be submitted to the MEC?

What should go to the MEC for a management plan?

- The IMP is a high-level, 5-year document, outlining the overall policy framework for the protected area, highlighting the Purpose, Significance and Management Objectives.
- In terms of the Proforma template, this is Part A.
- Part 5 is the Plan of Implementation, which is the detailed activity plan, which details the daily management activities of the protected area. This should be reviewed annually, and therefore is not submitted to the MEC. The annual audit is carried out on this part of the Management Plan.

Purpose of Management Plan & Protected Areas

According to the **National Environmental Management: Protected Areas Act (no. 57 of 2003)** management authorities of protected areas are required, in terms of **section 39**, to submit a management plan to the Minister or MEC for approval within 12 months of the assignment.

In requiring management plans from management authorities for the Minister's / MEC's approval the purpose of the **National Environmental Management: Protected Areas Act, 2003** is primarily:

- To ensure the protected area is managed according to the reason it was declared;
- To provide a tool for assessing the success of that management;
- To provide a mechanism for determining budgets for the protected area; and
- To provide a mechanism to review periodically the plan in terms of the assessment.

This document provides guidance for the development of management plans for protected areas in terms of the **National Environmental Management: Protected Areas Act, 2003**, as it relates to **Stewardship sites, i.e. private or communally-owned properties that are being declared nature reserves, or protected environments**. In so doing, this management plan framework provides guidelines for the development of management plans for protected areas in terms of **sections 41, 42, 46, 47, 48 and 50** of the **National Environmental Management: Protected Areas Act (Act 57 of 2003)** as well as **sections 45 and 76** of the **National Environmental Management: Biodiversity Act (Act 10 of 2004)**.

The **Purpose of a Management Plan** is as follows:

- Provide a tool to guide the management of a protected area at all levels, from the ground level to the Minister / MEC. In this way, it will ensure consistency of management, even when key members of a management team do change;
- To provide a policy framework and an appropriate programme of action to ensure effective management of the protected area;
- To provide a sound motivation and justification for budgets required to ensure the effective management of the protected area;
- To build accountability into the management of protected areas, through an effective monitoring and auditing approach based on measurable and meaningful indicators. This would include a performance management system for staff and for the biodiversity stewardship contractual arrangements;
- To provide for capacity building and future thinking;
- To enable the management authority to meet the requirements of **Section 40** of NEM:PAA
 - (1) *The management authority must manage the area-*
 - (a) *exclusively for the purpose for which it was declared; and*
 - (b) *in accordance with-*
 - (i) *the management plan for the area;*
 - (ii) *this Act, the Biodiversity Act, the National Environmental Management Act and any other applicable national legislation;*
 - (iii) *any applicable provincial legislation, in the case of a provincial protected area; and*
 - (iv) *any applicable municipal by-laws, in the case of a local protected area.*

The **Object of a Management Plan** is to ensure the protection, conservation and management of the protected area ... in a manner which is consistent with the objectives of the Act and for the purpose for which it was declared (**section 41 (1)**).

The purpose of declaring protected areas are set out in **section 17** of the Act as follows:

- (a) *to protect ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes in a system of protected areas;*
- (b) *to preserve the ecological integrity of those areas;*
- (c) *to conserve biodiversity in those areas;*
- (d) *to protect areas representative of all ecosystems, habitats and species naturally occurring in South Africa;*
- (e) *to protect South Africa's threatened or rare species;*
- (f) *to protect an area which is vulnerable or ecologically sensitive;*
- (g) *to assist in ensuring the sustained supply of environmental goods and services;*
- (h) *to provide for the sustainable use of natural and biological resources;*
- (i) *to create or augment destinations for nature-based tourism;*
- (j) *to manage the interrelationship between natural environmental biodiversity, human settlement and economic development;*
- (k) *generally, to contribute to human, social, cultural, spiritual and economic development; or*
- (l) *to rehabilitate and restore degraded ecosystems and promote the recovery of endangered and vulnerable species.*

Other Legislative Requirements

The Legislative Framework for the management of protected areas has several other requirements in terms of the preparation and implementation of management plans for protected areas. These requirements are interpreted in the context of protected areas developed on private and communal land, managing the balance between meeting the minimum requirements and meeting national and international best practice for protected area management.

The crucial difference is ultimately the public accountability of state protected areas, in their use of public / government funding for protected area establishment and management. This is directly in contrast to the important need to protect the rights of the private and communal landowners, in terms of retaining their independence of decision-making around land use management, obviously subject to general environmental, developmental and other legislative requirements. Of course, it must be stated that if public funds are spent on these private and communal lands, then it must be accompanied by relevant contractual requirements for effective monitoring of how these funds are spent, and their catalytic impact.

Management Authorities

The Minister or MEC assigns in writing the management of a special nature reserve, national park or nature reserve to a management authority, in terms of **section 38** of the Act. It should be noted

that in terms of **Section 38(4)** – *Marine and terrestrial protected areas with common boundaries must be managed as an integrated protected area by a single management authority.*

As the Minister is responsible for both the **National Environmental Management: Protected Areas Act, 2003** and the **Marine Living Resources Act, 1998**, the appointment of one authority will be done in terms of both Acts.

It is proposed, for the purposes of ensuring an effective Biodiversity Stewardship Programme that both Nature Reserves and Protected Environments must have a Management Authority assigned. At present, the legislation makes this a mandatory requirement for Nature Reserves only (**Section 38(2)**), but only a requirement that needs to be considered for Protected Environments.

It is therefore proposed, as part of the Best Practice Guidelines for Biodiversity Stewardship Programmes, that a Management Authority is assigned to Protected Environments. Preferably, this should be done by the relevant MEC or Minister, but if needed, it should form part of the relevant contractual arrangements with the landowner where, by the content of the agreement, there is a recognised Management Authority for the relevant Protected Environment.

Preparation of a Management Plan – Section 39

The management authority is obliged to develop and submit a management plan for approval.

In terms of **Section 39** –

(2) The management authority ... must, within 12 months of the assignment, submit a management plan for the protected area to the Minister or MEC for approval.

Once the management plan has been approved by the Minister or MEC, management of the protected area will be measured against that management plan.

Consultation is important. However it should be noted that consultation should not develop expectations that any group may have final say or control of issues that are decided on at a different level. Consultation is aimed at getting support for activities of the management authority, especially those which may have a direct effect on the group being consulted. The consultation process must not hold the planning process to ransom, therefore consultation must be controlled, and issues which are for information only must be identified versus those issues for comment or for discussion. Note **Section 47B** of the **National Environmental Management Act, 1998** provides for consultation by the Minister or the MEC. Consultation will provide the basis for developing the section in the management plan required by **Section 41(2)(e)**.

Section 39 (3) When preparing a management plan for a protected area, the management authority concerned must consult municipalities, other organs of state, local communities and other affected parties which have an interest in the area.

Section 41 (2) A management plan must contain at least -

(e) procedures for public participation, including participation by the owner (if applicable), any local community or other interested party;

The **Local Government: Municipal Systems Act (Act 32 of 2000)** requires that each municipality prepares an integrated development plan (IDP) for their area of jurisdiction including a spatial development framework (SDF) for the whole municipality. The management plan must both be informed by, and in turn inform both the IDP and the SDF. If these are not ready, the management plan will have to acknowledge that this is a process to be completed and ideally contribute towards its completion.

Section 39 (4) A management plan must take into account any applicable aspects of the integrated development plan of the municipality in which the protected area is situated.

Content of a Management Plan (Mandatory and Optional sections)

The following indicates the components that **MUST** be included in the Management Plan:

In terms of **section 41 (2)** of the Act, a management plan **MUST** contain at least –

- (a) *the terms and conditions of any applicable biodiversity management plan;*
- (b) *a coordinated policy framework*
- (c) *such planning measures, controls and performance criteria as may be prescribed;*
- (d) *a programme for the implementation of the plan and its costing*
- (e) *procedures for public participation by the owner (if applicable), any local community or other interested party;*
- (f) *where appropriate, the implementation of community based natural resource management; and*
- (g) *a zoning of the area, indicating what activities may take place in different sections of the area, and the conservation objectives of those sections.*

Additional aspects –

1.2.3.1.1 Monitoring -

Monitoring (Section 43) -

43. Performance indicators.—

(1) The Minister may establish indicators for monitoring performance with regard to the management of national protected areas and the conservation of biodiversity in those areas.

(2) The MEC may establish indicators for monitoring performance with regard to the management of provincial and local protected areas and the conservation of biodiversity in those areas.

(3) The management authority of a protected area **MUST** —

- (a) *monitor the area against the indicators set in terms of subsection (1) or (2); and*

- (b) *annually report its findings to the Minister or MEC, as the case may be, or a person designated by the Minister or MEC.*

RECOMMENDATION – each Management Plan must have a monitoring programme with linkages to auditing requirements.

1.2.3.1.2 Invasive species plan -

In addition, in terms of **Section 76(1)** of the **National Environmental Management: Biodiversity Act** the management authority *must incorporate into the management plan an invasive species control and eradication strategy.*

Invasive species control plans of organs of state

76. (1) *The management authority of a protected area preparing a management plan for the area in terms of the Protected Areas Act **must** incorporate into the management plan an invasive species control and eradication strategy.*

The following indicates the components that MAY be included in the Management Plan:

In terms of **Section 41 (3)** of the Act, *a management plan may contain –*

1. *Development of economic opportunities within and adjacent to the protected area in terms of the integrated development plan framework;*
2. *Development of local management capacity and knowledge exchange,*
3. *Financial and other support to ensure effective administration and implementation of the co-management agreement, and;*
4. *Any other relevant matter.*

Management Plan Format

The purpose of this section is to unpack the legislative and relevant best practice requirements into a Management Plan Template or Proforma. It is proposed that all biodiversity stewardship management plans should adhere to the relevant legislative requirements, but should also ensure context specific application of these requirements.

In summary, the Management Plan should be focused and simple to develop and implement. In this regard, the following Proforma is suggested.

PART NUMBER	SECTION AND SUBSECTIONS	Best Practice	Protected Areas		BAs
			Must have	May have	

PART A					
Part 1 Description	• Introduction	Optional			√
	• Description of landholdings and ownership	Compulsory			√
	– General description property (title deed information), landscape context, physical and biological environment, and socio-political context	Compulsory			√
	• Purpose , Vision / Mission, Significance / Value	Compulsory	S.40 (&17)		√
Part 2 Management policy framework	• Administrative and Legal Framework for the Management Authority	Compulsory	S38		√
	– Administration Framework/Structure focused on Management Authority,	Compulsory	S38		√
	– Legal/policy framework, – linkages to IDPs & SDFs,	Compulsory	S.41(2)	S.41(3)	
	– Procedures for public participation with I&APs	Compulsory	S. 41(2)		
	• Protected Area Policy Framework & guiding management principles	Compulsory	S.41(2)		√
	– Management Objectives	Compulsory	S.41(2)		√
	– Threats analysis	Optional			
	– Quantitative Biodiversity goals	Optional			√
	– Protected Area management policy framework	Compulsory	S.41(2)		
	– Details of any Biodiversity Management Plan	Compulsory	S.41(2)		√
	– CBNRM	Compulsory	S.41(2)		
	– Invasive species control strategy (meet requirements of S.76 of NEM:BA)	Compulsory	S.41(2)		√
	– Development of local management capacity & knowledge exchange	Optional		S.41(3)	
	– Strategic Research and Monitoring	Compulsory			
	– Zonation plan (including permissible and non-permissible activities)	Compulsory	S.41(2)		√
• Development Plan	Optional		S.41(3)		
• Costing Plan					
– Business Plan with costings, budgets, etc	Compulsory	S.41(2)	S.41(3)	√	
– Development of economic activities					
Part 3 Monitoring & Auditing	• Monitoring & Auditing – controls and performance criteria – Audit procedure (Monitor with indicators) – Annual Reporting – 5-year review – Biodiversity monitoring	Compulsory	S.41(2) S.43 S.43		√
Part 4 Appendices	• Appendices – maps, species lists, supporting docs.	Compulsory	S.41(2)		√
PART B					
Part 5 Management Schedule	• Programme of Implementation – Management Programmes - Annual Plans of Operation – Annual Management Schedule – Annual Audit Procedure	Compulsory	S.43(3)		√

PART A (this is the section of the Management Plan which gets submitted to the MEC)**Part 1 - description****1. Introduction**

This should include a background to the protected area, a general description of context (1 page max., be brief, detail in appendices where needed, bioregional / landscape context, farm description and landowner details).

This section and its subsections can range from simple descriptions that are just enough to satisfy management requirements, through to exhaustive descriptions that can serve other purposes, such as staff training and suchlike.

2. Description of landholdings and ownership**2.1 Property details and title deed information**

This section should provide details of the property involved, including:

- Property description (according to title deed description);
- Title deed reference number;
- Survey General diagram number – a copy of the SG diagram should appear in an appendix.

2.2 Landscape perspective – this should include a description of the properties importance in terms of its landscape position, how it links to other Protected Areas, any relevant Protected Area expansion plan, proximity to conservancies, relevance as a corridor, buffer to a Protected Area, etc.

2.3 Physical environment – a short description of the relevant physical environment, using the following headings

2.3.1 Climate

2.3.2 Topography and terrain morphology

2.3.3 Geology, geomorphology, soils and land types

2.3.4 Hydrology and aquatic systems

2.4 Biological environment – a short description of the relevant biological environment of the property. For each heading the following should be included where relevant – description, conservation status, current area / population size, conservation target.

2.4.1 *Vegetation*

2.4.2 *Mammals*

2.4.3 *Birds*

2.4.4 *Amphibians and reptiles*

2.4.5 *Invertebrates*

2.4.6 *Aquatic organisms*

2.5 **Socio-political context**

2.5.1 *History – where relevant, a short background to the property, giving political or socio-economic context.*

3. **Purpose, Vision and Significance / Value**

3.1 **Purpose of the Protected Area**

This section should be exactly the same as in the Declaration Agreement contract.

This should be a brief statement outlining why the Protected Area has been set aside or proclaimed. Some examples:

- The protection and maintenance of a viable breeding population of Oribi antelope.
- The protection of Mistbelt Grassland.
- The protection and maintenance of a full suite of historically occurring herbivores and predators and the ecosystems on which they rely for their survival.
- For the protection of a landscape of unique beauty and cultural heritage resources.

The purposes of a protected area are described in Chapter 3, section 17 of the **National Environmental Management: Protected Areas Act**. The Management Plan must state the relevant criteria in Section 17 that are used to establish the purpose of this Protected Area.

3.2 **Vision and Mission**

The vision should take the form of a long-term inspirational and aspirational statement. The Mission is a more objective statement of what needs to be achieved in the 5-year lifespan of the Management Plan. In this section, the management philosophy should also be outlined so that it sets the tone for the Management Plan.

3.3 **Significance of property (biodiversity, heritage & social)**

This section will be completed primarily by stewardship staff, in consultation with regional ecologists and, where applicable relevant stakeholders. This will primarily be the section

that describes why the property is important to the Biodiversity Stewardship Programme, and should be taken from the Biodiversity Stewardship assessment form.

Part 2 – Management policy framework

4. Administrative and legal framework for the Management Authority

- 4.1 Legal Framework - this section should contain a brief description of any policies, laws, etc., that may be relevant to the Protected Area. Only policies / laws that are directly applicable should be included here, and not a complete exposé of every policy and law that has any vague connection with Protected Area management.
- 4.2 Administrative Framework – this section outlines the administrative structure of the Management Authority, the reporting structure and the process taken to make management decisions. This section should also highlight the role of the conservation agency, i.e. any advisory forum that is established.

5. Protected Area Management Policy Framework

This section includes the following:

- Management Objectives
- A Threats analysis to achieving these objectives
- Quantitative biodiversity goals
- Management Policies and Principles (of the Management Authority and protected area)
- Zonation (of the protected area)

5.1 Management objectives

In this section, the Vision and Mission is translated into individual objectives. The management objectives should be listed in priority order and should correspond to those listed in the Declaration Agreement contract. Care must be taken when setting management objectives that these objectives do not conflict with the Vision. The objectives should be listed succinctly and in priority order. They should:

- Be precise and specific.
- Be achievable and realistic.
- Be time-related.
- Be measurable.

- Reflect the purpose, significance and values.
- Spell out ends, not means.
- Adequately address the issues.
- Give the rationale behind them.
- Should not be written in “flowery”, wordy language that is designed to impress.

5.2 Threat analysis

It is important that any factors that may frustrate the achievement of objectives are identified so that specific actions may be taken to mitigate those threats. These are not the specific threats that face the Protected Area, which are dealt with in the management programme section. They are rather larger socio-economic, political and infrastructural issues that are out of the direct control of the landowner.

Only those threats that are specific to the Protected Area need to be included and described, some of which may include the following:

- a) Institutional
- b) Political
- c) Crime/corruption
- d) Lack of leadership

5.3 Quantitative biodiversity goals

This section should focus on the identification and setting of quantitative biodiversity goals for the key biodiversity features (*identified in the Significance / Value section*) on the property (this should be restricted to those features for which realistic goals can be set over the 5-year period).

5.4 Protected Area policy framework and guiding management principles

This section must focus on the identification and explanation of the specific management programmes, developing policy statements for each. These should include:

- Financial and Human Resources
- Community Participation
- Security and safety
- Biodiversity Conservation Management

Describe the management policy of the Protected Area, and should include the following aspects as an example:

- Community based natural resource management
- Any applicable Biodiversity Management Plan
- Fire Management
- Catchment management
- Soil erosion and control
- Alien species management – an Invasive Species Control and Eradication Strategy must be developed here (according to section 76 of the NEMBA)
- Species introductions
- Strategic Research

Note: Section 76 of the NEM:BA refers to the need for an Invasive Species Control and Eradication Strategy:-

In terms of **section 76** of the **National Environmental Management: Biodiversity Act -**

(1) The management authority of a protected area preparing a management plan for the area in terms of the Protected Areas Act must incorporate into the management plan an invasive species control and eradication strategy.

The definition of invasive species should be noted. An invasive species means any species whose establishment and spread outside of its natural distribution range

(4) An invasive species monitoring, control and eradication plan must include-

(a) a detailed list and description of any listed invasive species occurring on the relevant land;

(b) a description of the parts of that land that are infested with such listed invasive species;

(c) an assessment of the extent of such infestation;

(d) a status report on the efficacy of previous control and eradication measures;

(e) the current measures to monitor, control and eradicate such invasive species; and

(f) measurable indicators of progress and success, and indications of when the control plan is to be completed

For each of the above-mentioned sections, the following must be included – a policy statement (i.e. how the activity will be used to achieve a management objective), the context of this issue in relation to the Protected Area, and what management programmes will be implemented.

5.5 Zonation of the Protected Area

5.5.1 Zonation

The Zonation of the protected area must relate directly to the purpose of that protected area. In most cases, the primary zone is for the conservation and protection of the area's biological diversity and the integrity of its landscapes. Any development for recreation or tourism must be located in terms of this zoning. It should not drive the zoning.

Why zone?

- Informs development plan
- Informs management programme
- Different approaches and products per zone
- Provides for the management of types of access (*inter alia* the use of aircraft)
- Provides for the management of controlled activities within a protected area (e.g. mining)
- Provides for the management of commercial and community activities

A zoning plan plays an important role in minimizing user conflicts by separating potentially conflicting activities whilst ensuring that legitimate land uses can continue.

General rules that should be applied when establishing zones:

- zonation should be established with the full involvement of stakeholders, including local communities;
- a concise description of the functions and/or restrictions applied within each zone must be prepared as part of the management plan;
- a map showing the boundaries of all zones must be included in the management plan;
- where possible zone boundaries should be easily recognizable and clearly identifiable on the ground; and
- zones should be simple and clear for management purposes.

What system to use?

There is no recommendation as to what zonation system to use, as several different systems are currently being utilized throughout South Africa. However, irrespective of the system used, for each zone the specific objective, desired state, permissible infrastructure development and permissible / non-permissible activities should be listed.

NOTE:- 2 zonation maps should be produced

a) the first being a map indicating the "Conserved" and "Private" areas on the property, i.e. those areas relating to the protected area, and those areas being allocated to the private or communal landowner for their private use (e.g. the private residence).

b) the second map is then the specific zonation plan for the protected area portion.

5.5.2 Permissible and non-permissible activities

This section should highlight those permissible and non-permissible activities (per zone identified in the above zonation plan), as it relates to the restricted activities in the Declaration and Protected Area Management Agreement contracts.

6. Development plan

NOTE – This is not a requirement according to the NEM: Protected Areas Act, although it is important to include a plan dealing with any future development activities

This part of the document is essentially a broad five year development plan. The development must relate to the complete protected area. Zoning of the existing area as part of the proposed final area precedes a master plan for development (showing development nodes, with type of development and circulation plans).

BY PRODUCING A DEVELOPMENT PLAN IT IS IMPORTANT TO NOTE THAT IT IS NOT AN APPROVAL OF THAT DEVELOPMENT AND THAT ALL RELEVANT APPROVALS MUST STILL BE SOUGHT AND OTHER LEGISLATION ABIDED BY. EVEN IF A LANDOWNER INDICATES THEY HAVE NO INTENTION OF DEVELOPING, THERE SHOULD STILL BE A NOTE THAT DISCLAIMS THE FACT THAT OTHER LEGISLATION MUST BE ABIDED BY.

7. Costing Plan (Business Plan)

The Costing Plan component should outline information in the following sections:

- Purpose of Costing plan
- Objectives of the Costing Plan
- Economic importance of the Protected Area (e.g. ecosystem services, resource utilization)
- Financial requirements
 - Past income and expenditure
 - What are the current needs? (based on management programmes identified)
 - Income generation – funding opportunities
- Annual budget (5 year projection)

Part 3 – Monitoring and Auditing

8. Monitoring & Auditing

8.1 Annual audit procedure

A detailed auditing process must be developed for each protected area, which is based on the annual programme and activities laid out in this plan. The focus of this audit should be on assisting the management authority in achieving the management objectives and improving the management effectiveness of the protected area.

In terms of **section 43** of the Act:

(1) The Minister may establish indicators for monitoring performance with regard to the management of national protected areas and the conservation of biological diversity in those areas.

(2) The MEC may establish indicators for monitoring performance with regard to the management of provincial and local protected areas and the conservation of biodiversity in those areas.

(3) The management authority of a protected area must-

(a) monitor the area against the indicators set in terms of subsection (1) or (2); and

(b) annually report its findings to the Minister, or a person designated by the Minister.

(4) The Minister may appoint external auditors to monitor the management authority's compliance with the overall objectives of the management plan.

It is suggested that the Biodiversity Stewardship team or representative spend a day with the Protected Area manager/s / Management Authority and go through each action item in the Management Plan, asking the following questions:

- What was the goal of this management “prescription”?
- Was the goal achieved – completely / in part / not at all?
- What were the factors that frustrated achievement of the goal?
- What can be done to overcome that hindrance?
- What assistance can the Biodiversity Stewardships Programme offer to overcome hurdles?
- Are there any Government or statutory bodies that can assist?

8.2 Management Plan review

On a 5-yearly basis, this Management Plan should be reviewed and adjusted where necessary. To achieve this, the following questions (and others as needed) should be addressed:

- Did this Management Plan make a meaningful contribution to management of the Protected Area?
- Were individual management “prescriptions” realistic and achievable? Were they written unambiguously or was there room for misunderstanding?
- Were budgets for each management activity realistic? Were the allocated budgets too much or too little?
- Were sufficient staff members of the right qualifications allocated to each management activity?

There will be some overlap between the review and the audit and they should therefore be done on the same day, by the same team.

8.3 Biodiversity Monitoring

This refers to ongoing assessment and performance monitoring of the biodiversity features on the property.

Many scientific monitoring activities require too much effort and are simply too costly in relation to the benefits that they offer. The issue of monitoring will, therefore, have to be dealt with on a case-by-case basis, with the proviso that the simplest, least expensive and most practical method of monitoring should be implemented for each important biodiversity asset in question, providing that the monitoring method used is scientifically and statistically rigorous and defensible. Some commonly used methods are listed below, but care must be taken not to launch into a monitoring programme that is too complex, time consuming and expensive to keep going.

- Species census (road strip counts, game counts, etc.)
- Fixed point photography

Part 4 - Appendices

9. Appendices

- **Maps** - Maps can either be kept together in separate appendices, or they can be imbedded in the body of the text, within the relevant sections. Any of the following list can be included:
 - Location map
 - Topographic map of the Protected Area (description map)
 - Vegetation map
 - Zonation map

- Development Plan map (proposed infrastructure)
- Landscape context map
- **Legal agreements**
- **Species checklists** - This is an optional section that depends on the level of detail that the landowner requires.
- **Other documents as required :**
 - Constitutions
 - Shareholders agreements
 - Servitude documents
 - Landowner property guidelines

PART B – this section deals with the annual management activities, which are audited each year. This section is not submitted to the MEC as this may change annually and would then have to be approved by the MEC each year.

Part 5 – MANAGEMENT SCHEDULE

10. Programme of Implementation

10.1 Management Programmes - Annual Plan of Operation (APO)

10.1.1 Specific management programmes

Each of the management programmes listed in PART A, section 5.4 will be expanded upon in this section. Essentially this will deal with the day-to-day activities of the protected area, outlining responsibilities and management activities for each of the management programmes.

This section provides the basis for budgets and annual business plans, cost estimates and operational plans in terms of staff and projects. Support required should be set out in such a way that if the budget is not met, which actions will be cut/held over. Objectives should be specific, measurable, time limited and practical. A list of actions (what, how, when, who and where they will be done) should all lead to the objectives.

Use of tables for each Management Programme is recommended.

Sections of the Table:

- Objective (linked to a Management Objective)
- Actions
- Responsible party
- Resources required
- Time frame (during the year)
- Costing

10.2 Annual Management schedule

The summary of these programmes should be laid out with specific management actions that need to be implemented in each month of the year. The actual details or methods of each action will be developed in section 10.1. Some management actions cannot be tied to a specific month and so a section described as “triggered events” should be included. For example, implementation of a burning programme depends on the purpose of burning, grass sward biomass (related to both rainfall during the year and herbivore utilisation), rainfall timing, prevailing weather and other factors that cannot be tied to specific months.

This will be a single page highlighting the management required each month of the year.

10.3 Annual Audit procedure

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