



Western Cape
Government

FOR YOU

Department of Environmental Affairs and
Development Planning

Western Cape Biodiversity Act

Development of Regulations

Venue: Virtual
Date: 6th September 2023
Time: 6pm to 7pm



CapeNature



Agenda

1. Welcome
2. WCBA & the process of drafting regulations
3. Stakeholder Feedback

Western Cape Biodiversity Act

Developing regulations to implement the Western Cape Biodiversity Act, 6 of 2021

The Western Cape Biodiversity Act was signed into law in 2021. It marks a key milestone in the rationalisation and modernisation of the regulatory framework for biodiversity governance in the Western Cape Province and supports alignment with national and international policy and strategic frameworks.

On 15 November 2022 several chapters and sections of the Western Cape Biodiversity Act came into **operation**, including the critical governance, planning and reporting sections.

The next phase is to enable key conservation and sustainable use of biodiversity through the development of appropriate regulation.

Once promulgated by the Provincial Minister, this will repeal and replace the Nature Conservation Ordinance and its regulations.

Process of Drafting Regulations

Through a series of stakeholder engagements, CapeNature and the Department of Environmental Affairs and Development Planning invite your participation:

- To provide inputs;
- To raise concerns;
- To voice expectations, and
- To engage with CapeNature

on the development of regulations, primarily focused on giving effect to and bringing into operation Sections **49** to **76** of the Act. These sections largely relate to plant and animal species in need of protection, or which pose a threat to the environment and related activities.

Why are you here?

- Input on drafting regulations
- Raise concerns

Background

- *The Western Cape Nature Conservation Board is established as a juristic entity in terms of the Western Cape Biodiversity Act, 6 of 2021*
- *CapeNature is governed by this Board, which is CapeNature's accounting authority*
- *One of CapeNature's primary functions is the management of nature conservation, not only within protected areas but within the entire Western Cape Province*
- *CapeNature and its staff carry out the day-to-day operation of nature conservation in the Western Cape Province*
- *The Nature Conservation Ordinance, and its regulations, is essentially the enabling legislation creating the legal framework, processes and structures necessary to carry out the above-mentioned nature conservation functions*
- *The Nature Conservation Ordinance prescribes the law relating to the protection and sustainable utilization of, amongst other aspects of biodiversity, wild flora and fauna*

Background

- The Nature Conservation Ordinance contains schedules of **endangered and protected indigenous animals and plants** and provides certain legal protections for the scheduled species to assist conservation officials in the **protection of biodiversity**
- The Nature Conservation Ordinance also deals with professional hunting and non-indigenous species and sets out a **system of permitting for certain activities**
- The Nature Conservation Ordinance also designates the powers of conservation officials and provides for the appointment of officers
- Until such time as new regulations necessary to supplement the Western Cape Biodiversity Act, 2021, are finalized, **which is the stakeholder process we are busy with right now**, the relevant administrative and law enforcement provisions are still dealt with by the current Nature Conservation Ordinance (1974) and regulations (1975)
- Once the Western Cape Biodiversity Act, 2021, **and its regulations** are fully put into operation the **Nature Conservation Ordinance (and its regulations) and will be entirely repealed**
- **Naturally, before we can repeal the current Ordinance and regulations, we need to have new regulations in place. And that is why we are all here**

The new Regulations and the blank slate, multiphase approach

- Regulations (i.e. subordinate or secondary legislation) are made by the Provincial Minister in terms of section 81 of the Western Cape Biodiversity Act (i.e. the original legislation)
- Ordinarily, and generally, during the drafting of regulations, **a draft set of regulations is written inhouse** (i.e. by CapeNature and DEA&DP), and **then formally published for comment and stakeholder consultation (i.e. a single phase)**
- A publication (in the Gazette and newspapers) and consultative process in terms of section 84 of the Act is followed
- To ensure greater inclusivity and engagement with **ALL stakeholders** to identify and address **ALL issues**, that a draft set of regulations should address, CapeNature and Department of Environmental Affairs and Development Planning are taking a **tabula rasa (blank / clean slate) approach** to drafting the regulations
- We are literally starting with an empty page **which you, the stakeholders, will help populate**, which will ultimately form a set of draft Regulations for formal publication

The new Regulations and the blank slate, multiphase approach

- We have chosen a **multiphase approach to engage with stakeholders on the drafting of the regulations from the outset** and before the draft regulations enter the formal publication and consultation phase, as highlighted above
- The **first phase** is a series of **stakeholder engagements** facilitated by CapeNature and the Department of Environmental Affairs and Development Planning to gauge what it is that stakeholders in the Western Cape want from a set of biodiversity regulations (and what they don't want) **as they relate to certain sections of the Act** relating primarily to **matters regarding animals, plants and permits**
- Once feedback from this first round / phase of stakeholder engagements have been captured, a formal / official draft set of regulations will be written in terms of section 81 and published in terms of section 84 of the Act, as mentioned above, for formal comment and consultation and further focused rounds of stakeholder engagements will be held as part of this formal consultative process (**second phase**)
- It is envisaged that the final regulations will be promulgated towards the end of 2024 (**final phase**) and **further sections (mainly sections 47 – 76) of the Act will then (also) come into operation**
- It is envisaged that the Western Cape Biodiversity Act and its implementation through these regulations will enable a transformed biodiversity economy focusing on enabling access to critical resources in an equitable and sustainable manner

Stakeholder Engagements, Round One



The poster features a central photograph of a herd of reedbuck antelope in a grassy field. At the top left is the Western Cape Government logo with the text 'Western Cape Government FOR YOU'. At the top right is the CapeNature logo. A green banner at the bottom contains the text 'YOU ARE INVITED' and 'DEVELOPING REGULATIONS TO IMPLEMENT THE WESTERN CAPE BIODIVERSITY ACT, ACT 6 of 2021'. Below this banner, a white box contains the text: 'CapeNature and the Department of Environmental Affairs and Development Planning are facilitating stakeholder engagement toward the development of Draft Regulations for the Western Cape Biodiversity Act (WCBA)'.

Western Cape Government
FOR YOU

CapeNature

YOU ARE INVITED

**DEVELOPING REGULATIONS TO IMPLEMENT
THE WESTERN CAPE BIODIVERSITY ACT,
ACT 6 of 2021**

CapeNature and the Department of Environmental Affairs and Development Planning are facilitating stakeholder engagement toward the development of Draft Regulations for the Western Cape Biodiversity Act (WCBA).

Stakeholder Engagements Round One

Stakeholders are invited to participate in one of the following meetings.

[Click here to register](#)

29 AUGUST 2023

🕒 TIME:

📍 CITY OF CAPETOWN

SANRAL auditorium
8 Havenga Street, Oakdale, Bellville

10h00 to 12h00
or
14h00 to 16h00

30 AUGUST 2023

🕒 TIME:

📍 WEST COAST

Alan Boesak Community Hall
Zebra St, Piketberg

10h00 to 12h00
or
14h00 to 16h00

05 SEPTEMBER 2023

🕒 TIME:

📍 OVERBERG

Die Glaskasteel
9 South St, Bredasdorp

10h00 to 12h00
or
14h00 to 16h00

06 SEPTEMBER 2023

🕒 TIME:

📍 WINELANDS

Worcester Town Hall
93 High St, Worcester Central, Worcester

10h00 to 12h00
or
14h00 to 16h00

12 SEPTEMBER 2023

🕒 TIME:

📍 CENTRAL KAROO

Beaufort West Youth Hub
1 Ngesi Ave, Sidesaviwa, Beaufort West

10h00 to 12h00
or
14h00 to 16h00

13 SEPTEMBER 2023

🕒 TIME:

📍 OUDTSHOORN

Oudtshoorn Municipality Library Hall
3 Baron Van Reede St, Oudtshoorn

10h00 to 12h00
or
14h00 to 16h00

13 SEPTEMBER 2023

🕒 TIME:

📍 GARDENROUTE

George Civic Centre
Conference Room
771 York St, Dormehls Drift, George

10h00 to 12h00
or
14h00 to 16h00

ONLINE VIRTUAL MEETINGS

06 SEPTEMBER 2023

🕒 TIME:

🌐 VIRTUAL MEETING

18h00 to 19h00

13 SEPTEMBER 2023

🕒 TIME:

🌐 VIRTUAL MEETING

18h00 to 19h00

These engagements will primarily focus on Sections 49 to 76 of the WCBA. This largely relates to the protection of plant and animal species and compliance and enforcement thereto.

RSVP on <https://www.capenature.co.za/western-cape-biodiversity-act> | email: WCBAregulations@capenature.co.za

Please contact us on 087 087 9262 if you need more information or help with completing the registration form.

The new Regulations, what is expected?

- These regulations should ultimately reflect what **YOU** want and how they impact on **YOU/YOUR** industry/sector
- This is **NOT** a rewrite / redo / rehash of the old / current regulations (Provincial Notice 955 / 1975)
- We welcome **all questions** and **concerns**
- Identify what works for **YOU**
- Identify what doesn't work for **YOU**
- What can CapeNature **do better / more of / less of** for **YOU** and **YOUR** sector
- What species need **more** protection (regulation)
- Identify areas of / for self-administration (i.e., **less permits and red-tape reduction**)
- Comments / questions / concerns can be raised during any of the live stakeholder sessions, and can be submitted online or via email to: WCBAreulations@capenature.co.za
- At the end of these stakeholder engagements, all input acquired will be analyzed and used to inform the draft a set of regulations that will eventually be published for public comments and consultation
- **YOU WILL HAVE ANOTHER OPPORTUNITY TO COMMENT ON THE DRAFT REGULATIONS BEFORE THEY COME INTO OPERATION**

Regulations, which sections of the WC Biodiversity Act, 2021, will we be looking at for purposes of drafting these regulations?

Primary focus for this session of stakeholder engagements

CHAPTER 7: PROTECTION OF ECOSYSTEMS, ECOLOGICAL INFRASTRUCTURE AND SPECIES

47. Ecosystems or ecological infrastructure in need of special protection

48. Biodiversity offsets and other mitigation measures

49. Species in need of protection or posing threat to the environment

Primary focus for this session of stakeholder engagements

EXISTING PROVISION IN THE ACT

Species in need of protection or posing threat to environment

49. (1) The Provincial Minister may, by notice in the *Provincial Gazette*, publish a list of restricted activities or restricted methods in respect of any species or any species listed in terms of subsection (2).

(2) The Provincial Minister may, by notice in the *Provincial Gazette*, publish lists of the following species or categories of species:

(a) species which are extinct in the wild;

(b) critically endangered species;

(c) endangered species;

(d) vulnerable species;

(e) species that require protection and are not listed in terms of paragraph (a), (b), (c) or (d), including species listed—

(i) by the IUCN as Near Threatened, Data Deficient or Not Evaluated; or

(ii) in appendices I, II and III of CITES;

(f) any other indigenous species not listed in terms of paragraph (a), (b), (c), (d) or (e);

(g) extra-limital species;

(h) alien species other than extra-limital species;

(i) species that require special management measures; and

(j) domesticated species.

(3) The Provincial Minister must at least every five years review the lists contemplated in subsections (1), (2) and (7).

(4) The Provincial Minister must prescribe the special management measures required for species listed in terms of subsection (2)(i).

(5) No person may carry out a restricted activity or restricted method involving a species listed in terms of subsection (2), unless authorised to do so in terms of section 51(1)(a).

(6) Subsection (5) does not apply to a listed species conveyed from outside the Province in transit through the Province to a destination outside the Province, provided that the transit through the Province takes place in terms of an applicable authorization in terms of any law.

(7) The Provincial Minister may, by notice in the *Provincial Gazette*, publish—

(a) a list of species; and

(b) the list of restricted activities or restricted methods contemplated in subsection (1) involving a species contemplated in paragraph (a), in respect of which an authorisation may not be issued in terms of this Act.

(8) No person may carry out a restricted activity or restricted method involving a species listed in terms of subsection (7).

Secondary focus for this session of stakeholder engagements

CHAPTER 8: AUTHORISATION

- 50. Application for authorisation
- 51. Decision on application for authorisation
- 52. Risk assessments and expert evidence
- 53. Proof of legal possession
- 54. Integrated authorisation
- 55. Review, suspension, withdrawal and amendment of authorisation

CHAPTER 9: COMPLIANCE AND ENFORCEMENT

Part I Compliance and enforcement officials and judicial matters

- 56. Designation of nature conservation officers, nature conservation rangers and honorary nature conservation officers
- 57. Declaration of nature conservation officers and nature conservation rangers as peace officers
- 58. Mandate of nature conservation officers and nature conservation rangers
- 59. Honorary nature conservation officers
- 60. Functions of nature conservation officers and nature conservation rangers
- 61. Identity card and letter of designation
- 62. General powers of nature conservation officers and nature conservation rangers

- 63. Routine inspections
- 64. Warrants
- 65. Powers to stop, enter and search vehicles, vessels, aircraft and other conveyance
- 66. Duty to produce documents
- 67. Treatment of seized specimen or item
- 68. Security for release of vehicles, vessels, aircraft or other conveyance

Part 2 Administrative enforcement mechanisms and penalties

- 69. Administrative enforcement
- 70. Failure to comply with directive
- 71. Administrative penalties

CHAPTER 10: OFFENCES AND PENALTIES

- 72. Offences
- 73. Penalties
- 74. Cancellation of authorisations
- 75. Award of costs
- 76. Forfeiture

Primary focus, let's talk about species

(Species in need of protection or posing threat to environment)



Primary focus for this session of stakeholder engagements

- **The regulation of what species do you feel can be less restrictive?**
- **The regulation for what species do you feel should be more restrictive?**
- **What permitted activities do you feel should be lessened or even exempted?**
- **Do you feel there is room in your industry to be more self-regulated?**



For queries:
wcbaregulations@capenature.co.za

Thank you.