



**Comments to the Portfolio Committee on Agriculture and Land Affairs
on the Land Use Management Bill (B27-2008)**

South African National Biodiversity Institute

18 July 2008

The South African National Biodiversity Institute (SANBI) would like to commend the Minister for Agriculture and Land Affairs on the publication of the Land Use Management Bill, and to thank the Portfolio Committee on Agriculture and Land Affairs for the opportunity to provide comment.

SANBI was established in terms of the National Environmental Management: Biodiversity Act (Act 10 of 2004) and is mandated to act as an advisory and consultative body on matters relating to biodiversity to organs of state and other biodiversity stakeholders (Subsection 11(1)(c)).

South Africa's globally exceptional biodiversity is under pressure from a range of sources, but particularly from conversion of natural habitat to other land uses which stands out as one of the major causes of biodiversity loss. Loss of biodiversity reduces the ability of ecosystems to provide goods and services such as reliable supplies of clean water, and reduces South Africa's resilience to the impacts of climate change. Land use management is thus a major determinant of ecological sustainability.

SANBI invests considerable effort in spatial biodiversity planning to determine geographic biodiversity priority areas where natural habitat should remain intact in order to conserve biodiversity and maintain ecosystem health. We have an emerging National Municipal Biodiversity Programme, in partnership with the Department of Provincial and Local Government and the Department of Environmental Affairs and Tourism, which includes a focus on supporting the integration of biodiversity considerations in municipal land use planning and decision-making.

In this context, SANBI has the following comments on the Land Use Management Bill:

- SANBI welcomes the reference in the Bill to the principle of sustainability and in particular to the need for protection of natural and environmental resources (Subsection 4(1)). Similarly, we welcome the requirement that municipal land use schemes must be consistent with the National Environmental Management Act (Section 50) and must give effect to NEMA (Section 52).

The Bill does not address how these principles and requirements would be given effect in the day-to-day practice of land use planning and management. SANBI would welcome the opportunity to engage further with the Department of Land Affairs on this issue, for example to explore how tools introduced by the Biodiversity Act can be used to support wise land use management consistent with the directive principles of the Bill. The Biodiversity Act provides for publishing bioregional plans, which are spatial plans that highlight critical biodiversity areas where further loss of natural habitat should be avoided. The Biodiversity Act also provides for listing of threatened or protected ecosystems, which are spatially defined.

- Section 37 of the Bill gives criteria for determining whether a land use application affects the national interest. These criteria include whether the outcome of the application “may be prejudicial to the economic, health or security interests of one or more provinces or the country as a whole” (subsection 37(b)(ii)(aa)). Consistent with the directive principles of the Bill, SANBI strongly recommends that this subsection is amended as follows to include environmental interests:
37(b)(ii)(aa) “may be prejudicial to the economic, environmental, health or security interests of one or more provinces or the country as a whole”.

SANBI has tools which could assist practically with how one would define the national interest in terms of biodiversity, for example the National Spatial Biodiversity Assessment 2004¹ (to be updated in 2010). We would welcome the opportunity to explore this further with the Department.

- Section 78 of the Bill deals with transitional provisions. It includes the provision that if a Land Use Regulator approves a change to the use, form or function of land before the municipality concerned has adopted a land use scheme, the municipality must amend any applicable town planning scheme to be consistent with the change. SANBI is concerned that this may create an unintended incentive to clear land for development before a land use scheme is in place, and that this may result in inappropriate loss of natural habitat. We suggest reconsideration of this provision.

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¹ Driver, A, Maze, K, Rouget, M, Lombard, AT, Nel, J, Turpie, JK, Cowling, RM, Desmet, P, Goodman, P, Harris, J, Jonas, Z, Reyers, B, Sink, K & Strauss, T. 2005. National Spatial Biodiversity Assessment 2004: Priorities for Biodiversity Conservation in South Africa. *Strelitzia* 17. Pretoria: South African National Biodiversity Institute. (Available at www.sanbi.org)