
GENERAL NOTICES

NOTICE 1146 OF 2007

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004 (ACT 10 OF 2004) DRAFT ALIEN AND INVASIVE SPECIES REGULATIONS, 2007

I, Marthinus Christoffel Johannes van Schalkwyk, Minister of Environmental Affairs and Tourism, hereby give notice of my intention to make regulations under section 97(1)(b), (c), (e), (f), (g) and (h), relating to alien species and listed invasive species. In terms of section 100 of the Act, I publish for public information and comment the following draft regulation in the schedule hereto..

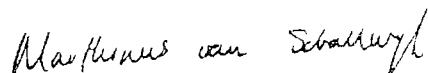
To ensure that all the relevant stakeholders are consulted and to streamline the consultation process, interested and affected stakeholders are invited to submit **written** comments to the department on or before **15 October 2007**. Comments received after the closing date may not be considered.

Please submit all written comments to:

The Director-General
Department of Environmental Affairs and Tourism
Private Bag X447
PRETORIA
0001

For Attention: Ms S Meintjes

By fax to 012-320-7026; and by e-mail to Smeintjes@deat.gov.za. Any enquiries should be directed to Ms S Meintjes at 012-310-3545.



MARTHINUS VAN SCHALKWYK
MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM

DATE: 05 SEP 2007

SCHEDULE

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CHAPTER 1 INTERPRETATION AND PURPOSE

Definitions

1. In these Regulations, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and –

"Act" means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

"applicant" means a person applying for a permit in terms of regulation 12 or the renewal of a permit in terms of regulation 24;

"Department" means the Department of Environmental Affairs and Tourism;

"captive breeding operation" means a facility where specimens of an alien or listed invasive species are bred in a controlled environment;

"commercial exhibition facility" means a facility, including zoological gardens, aquariums or travelling exhibitions that keeps alien or listed invasive species for display purposes;

"controlled environment" means an enclosure designed to hold specimens of an alien or listed invasive species in a way that –

- (a) prevents them from escaping;
- (b) facilitates intensive human intervention or manipulation in the form of the provision of –
 - (i) food or water;
 - (ii) artificial housing; or
 - (iii) health care; and

- (c) facilitates the intensive breeding or propagation of an alien or listed invasive species.

“Director-General” means the Director-General of the Department;

“exempted alien species” means an alien species exempted by Notice in the *Gazette* in terms of section 66 of the Act from the provisions of sections 65 of the Act;

“Institute” means the South African National Biodiversity established in terms of section 10 of the Act;

“invasion” means the establishment and subsequent spread of a species outside its distribution range to the extent that threat to biodiversity;

“listed invasive species” means a species listed in a Notice in the *Gazette* in terms of section 70(1) of the Act as an invasive species;

“MEC” means the Member of the Executive Committee of a province responsible for the conservation of biodiversity in that province;

“natural distribution range” as it relates to indigenous species means the ecological zones and geographical areas in which an alien species historically occurred and is the area indicated to be the natural distribution range, including the additional distribution range, in terms of Annexure 1 of these regulations;

“Notice” means the Government Notice published in terms of sections 66(1), 67(1) and 70(1)(a) of the Act;

“nursery” means a facility where an alien or listed invasive species is artificially propagated or multiplied for commercial purposes;

"pathway" means the route by which an alien or invasive species is introduced, dispersed or spread into or within the Republic whether by natural means, inadvertent vectoring, or deliberate acts of human intervention;

"peat" means renewable, natural, organic material of botanical origin and includes an accumulation of partially decayed vegetation material that formed in waterlogged, sterile, acidic and anaerobic (low oxygen) conditions;

"permit holder" means a person to whom a permit has been issued in terms of regulation 12;

"permit" means a permit issued in terms of these Regulations;

"prohibited alien species" means an alien species listed by Notice in the *Gazette* in terms of section 67 of the Act;

"provincial authority" means the provincial government department responsible for environmental affairs;

"restricted activity" in relation to a specimen of an alien species or a listed invasive species, means –

- (a) importing into the Republic, including introducing from the sea, any specimen of an alien or listed invasive species;
- (b) having in possession or exercising physical control over any specimen of an alien or listed invasive species;
- (c) growing, breeding or in any other way propagating any specimen of an alien or listed invasive species, or causing it to multiply;
- (d) conveying, moving or otherwise translocating any specimen of an alien species or listed invasive species;

- (e) selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any specimen of an alien or listed invasive species; or
- (f) any other activity prescribed in regulation 7;

"risk assessment" means a research-based evaluation of the threat or potential threat posed to biodiversity by a restricted activity involving a specimen of an alien or invasive species;

"sanctuary" means a facility in which a permanent captive home is provided in a controlled environment for specimens of an alien or listed invasive species that would be unable to sustain themselves if released and where no breeding of the species kept in captivity for these purposes are allowed;

"SANParks" means the South African National Parks established in terms of the repealed section 5 of the National Parks Act, 1976 (Act No. 57 of 1976) and which continues to exist under section 54 of the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);

"scientific institution" means a museum, research unit of a tertiary institution or an organ of state, or herbarium, where specimens of an alien or listed invasive species are kept for research or information or identification purposes;

"vector" means a living or dead organism that serves as a vehicle by means of which a specimen of an alien or invasive species is inadvertently or deliberately transported, dispersed or spread.

CHAPTER 2 DESIGNATION OF AUTHORITIES

Designation of issuing authorities

2. (1) The MEC of the province in which a restricted activity involving an alien species or listed invasive species is to take place, is designated as the issuing authority for issuing permits authorising the carrying out of that activity.

(2) Notwithstanding the provisions of subregulation (1) the Minister or his delegate remains the issuing authority for a permit to engage in a restricted activity involving an alien or listed invasive species if-

- (a) the species is a marine species; or
- (b) the applicant is an organ of state.

Designation of competent authorities

3. (1) The MEC of the province in which the restricted activity involving an alien species or listed invasive species is taking place is designated as a competent authority to implement and enforce provisions relating to permit requirements, adherence to permit conditions, the issuance and implementation of directives, the receipt of notifications involving alien species and listed invasive species.

(2) Notwithstanding the provisions in subregulation (1) the Minister or his delegate remains the competent authority to implement and enforce provisions relating to permit requirements, adherence to permit conditions, the issuance and implementation of directives, the receipt of notifications involving alien species and listed invasive species, if-

- (a) the alien and invasive species involved, is a marine species; or
- (b) the applicant or owner of land is an organ of state.

Integrated permits

4. A permit issued in terms of provincial legislation by a provincial department designated as an issuing authority in terms of regulation 2 of these regulations for a restricted activity involving an alien species or listed invasive species, will be regarded as a permit issued in terms of the Biodiversity Act and these regulations;

CHAPTER 3**PERMIT REQUIREMENTS, REGISTERS, NOTIFICATIONS AND
REPORTING REQUIREMENTS****Restricted activities requiring permits**

5. (1) No person may undertake a restricted activity involving a specimen of a prohibited alien species listed in the Notice published in the *Gazette* in terms of section 67 of the Act.

(2) A person may undertake a restricted activity involving a specimen of an exempted alien species listed in the Notice published in the *Gazette* in terms of section 66 of the Act without a permit.

(3) A person shall require a permit to undertake a restricted activity involving a specimen of an alien species not listed as exempted in the Notice referred to in subregulation (2) or a listed invasive species as reflected in the Notice published in the *Gazette* in terms of section 70(1) of the Act.

(4) A person shall require a permit to undertake a restricted activity involving a specimen of an indigenous alien species if the activity will be carried out outside the natural distribution range or between population ranges as indicated in Annexure 1.

(5) A person wishing to undertake an activity involving a specimen of an alien species falling into a category of alien species that is listed as an exempted alien species shall bear the onus of proving that the species falls within that category.

Prohibited activities

6. (1) No person may carry out a restricted activity involving a listed invasive plant species or a listed prohibited invasive species.

(2) A person who is an owner of land on which a listed invasive plant species occurs must control the species by means of methods that are appropriate for the species concerned and the environment in which it occurs, including the following methods:

- (a) Uprooting, felling, cutting or burning;
- (b) treatment with a weed killer that is registered for use in connection with such plants in accordance with the directions for the use of such a weed killer;
- (c) biological control carried out in accordance with the authorization in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- (d) any other method of treatment recognized by the competent authority; or
- (e) any combination of one or more of the methods prescribed in paragraph (a), (b), (c) and (d).

(2) Notwithstanding the provisions in subregulations (1) and (2) the issuing authority may authorize scientific institutions or commercial exhibition facilities to carry out a restricted activity with a permit.

Prescribed activities

7. (1) The following activities are prescribed as restricted activities involving a specimen of an alien or listed invasive species:

- (a) importing into the Republic, including introducing from the sea, any wooden packaging materials that does not comply with any determination made in terms of the Agricultural Pests Act, 1983 (Act No. 36 of 1983); or

- (b) importing into the Republic, including introducing from the sea, any peat or peat products; or
- (c) discharging ballast water from ships within fifty kilometers of the coast of the Republic; or
- (d) discharging or disposing into a waterway or the ocean, water from an aquarium, tank or other receptacle that has been used to keep an aquatic alien or listed invasive species.

(2) No person may carry out an activity prescribed in subregulation (1)(a) or (c).

(3) No person may carry out an activity prescribed in subregulation (1)(b) unless the peat or peat product has been treated in a manner intended to destroy any living specimens of alien or listed invasive species that may occur in the peat.

(4) No person may carry out an activity prescribed in subregulation (1)(d) unless the water has been treated in a manner intended to destroy any living specimens of alien or listed invasive species that may occur in the water.

Register of alien and listed invasive species

8. (1) An issuing authority must —
- (a) establish a register of all permits issued by that authority in terms of these regulations;
 - (b) record in the register —
 - (i) the scientific and common name of the species for which the permit was issued;
 - (ii) the restricted activity for which the permit was issued;
 - (iii) any conditions under which the permit was issued;
 - (iv) the date on which the permit was issued;
 - (v) the period of validity of the permit; and
 - (v) the location where the restricted activity is to be carried out.

(2) The issuing authority must, on an annual basis, provide to the Institute, a written report containing the following information:

- (a) A list of all permits; and
 - (b) the information recorded in terms of subregulation (1)(b) for each permit.
- (3) The Institute must establish and maintain a national register of:
- (a) All alien and listed invasive species legally imported into the Republic prior to the date of publication of these Regulations; and
 - (b) all alien and listed invasive species in respect of which a permit in terms of this Act has been issued.

Notifications

9. (1) A person who is the owner of land on which a listed invasive species occurs must notify the relevant competent authority, in writing, of the listed invasive species occurring on that land.

- (2) A notification in terms of subregulation (1) must —
- (a) be in the form set out in Schedule 1; and
 - (b) contain at least the following information:
 - (i) The full names of the owner of the land;
 - (ii) the address and contact details of the owner of the land;
 - (iii) the name and contact details of the person in control of the land;
 - (iv) the cadastral description of the land;
 - (v) the listed invasive species occurring on the land;
 - (vi) the extent of the infestation and densities of the listed invasive species occurring on the land;
 - (vii) a map of the land indicating the location of the listed invasive species on the land;
 - (viii) a description of measures adopted to monitor, control and eradicate such listed invasive species; and

(ix) measurable indicators of progress and indications of when control measures are likely to be completed.

(3) A competent authority receiving a notification in terms of subregulation (1) must every twelve months, provide to the Institute, a written report containing the following information —

- (a) a list of all notifications received in terms of subregulation (1); and
- (b) the information recorded in terms of subregulation (2)(b) for each notification.

Invasive species monitoring, control and eradication plans

10. (1) Listed invasive species control and eradication plans or strategies to be developed by organs of state and management authorities of protected areas must include the following information:

- (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, as appropriate; and
- (f) measurable indicators of progress and success, and indications of when the control plan is to be completed.

(2) A copy of the control and eradication plan referred to in subregulation (1) must be lodged with the Institute.

- (3) The Institute may —
- (a) request such further information as it considers necessary;
 - (b) recommend to the organ of state submitting the plan, measures to eradicate or control the listed invasive species described in the plan;

- (c) report to the Minister on any matters detailed in the plan requiring intervention; and
- (d) establish and maintain a record of all invasive species control and eradication plans submitted to it in terms of subregulation (2);

Status reports

11. (1) The Institute must submit a report on the status of all listed invasive species to the Minister within two years after promulgation of these regulations and every two years thereafter.

- (2) A status report referred to in subregulation (1) must —
 - (a) contain the following information:
 - (i) Permits issued for listed invasive species;
 - (ii) notifications received from owners of land regarding listed invasive species occurring on that land;
 - (iii) control and eradication plans and strategies received from organs of state and management authorities of protected areas; and
 - (iii) directives involving listed invasive species issued by competent authorities.
 - (b) identify listed invasive species requiring comprehensive programmes for prevention, eradication or control;
 - (c) recommend a framework for the prevention, eradication or control of listed invasive species identified in subregulation (c);
 - (d) identify listed invasive species that require priority prevention, eradication or control;
 - (e) identify geographic areas that require priority attention;
 - (f) recommend programmes to be implemented to facilitate the prevention, eradication or control of listed invasive species identified in subregulation (f) and in areas identified in subregulation (h); and
 - (g) identify measures to rehabilitate invaded areas.

CHAPTER 4
PERMIT APPLICATIONS AND RISK ASSESSMENT

Permit application requirements

12. An application for a permit in terms of these Regulations must —
- (a) be in the form and contain the particulars set out in Schedule 2;
 - (b) be accompanied by the application fee prescribed in Schedule 3;
 - (c) be accompanied by the risk assessment report referred to in regulation 14(3);
 - (d) include additional information required by the issuing authority;
 - (e) be lodged —
 - (i) in duplicate with the issuing authority together with additional copies as may be required by the issuing authority;
 - (ii) electronically, if required by the issuing authority; and
 - (iii) with the original or certified documentation in support of the application required by the issuing authority.

Risk assessment

13. (1) Unless otherwise determined by the issuing authority, an assessment of risks and potential impacts on biodiversity, of a restricted activity involving a specimen of an alien species and listed invasive species, must consider the following:
- (a) information regarding the relevant alien and listed invasive species, including-
 - (i) the taxonomy of the species, including the class, order, family, scientific name, scientific synonyms and common names of the species;
 - (ii) the originating environment of the species, including climate, extent of geographic range and trends;
 - (iii) persistence attributes of the species, including reproductive potential, mode of reproduction, dispersal mechanisms and undesirable traits;
 - (iv) invasive tendencies of the species elsewhere and taxonomic predisposition;

- (v) the history of domestic propagation or cultivation of the species, introductions and the extent of naturalisation; and
 - (vi) nutritional or dietary requirements of the species and, where applicable, whether it enjoys a specialist or generalist diet; and
 - (b) information regarding the restricted activity in respect of which the permit is sought, including:
 - (i) The nature of the restricted activity;
 - (ii) the reason for the restricted activity;
 - (iii) the location where the restricted activity is to be carried out;
 - (iv) the number and, where applicable, the gender of the specimens of the species involved; and
 - (v) the intended destination of the specimens, if they are to be translocated; and
 - (c) information regarding the receiving environment, including —
 - (i) climate match;
 - (ii) habitat;
 - (iii) the presence of natural enemies, predators and competitors; and
 - (iv) the presence of potentially reproductive compatible species.
 - (d) any other information that the issuing authority may determine.
- (2) identify —
- (a) the probability that the species will naturalise in the area in which the restricted activity is to be undertaken or elsewhere in the Republic; and
 - (b) the probable impact of the species on the biodiversity and sustainable use of natural resources of-
 - (i) the area in which the restricted activity is to be undertaken; and
 - (ii) elsewhere in the Republic;
 - (c) the risks and potential impacts on biodiversity by the species to which the application relates;
 - (d) the risks of the specimen serving as a vector through which specimens of other alien species may be introduced;

- (e) the risks of the method by which a specimen is to be introduced or the restricted activity carried out serving as a pathway through which specimens of other alien species may be introduced; and
 - (f) any measures to manage the risks.
-
- (3) based on the information in subregulation (1) and (2), consider –
 - (a) the likelihood of the risks being realised;
 - (b) the severity of the risks and consequences of the realisation of the risks for other species, habitats and ecosystems;
 - (c) the potential costs associated with the control or eradication of the species to minimise harm to biodiversity;
 - (d) options for minimising the potential risks; and
 - (e) management of the potential risks.

Risk assessment report

14. (1) Unless otherwise determined by the issuing authority, a risk assessment referred to in regulation **13** must be undertaken —

- (a) by an environmental assessment practitioner; and
- (b) at the costs of the applicant.

(2) If the applicant is responsible for the appointment of the environmental assessment practitioner, the applicant must —

- (a) take all reasonable steps to verify whether the environmental assessment practitioner to be appointed complies with regulation **15**; and
- (b) provide the environmental assessment practitioner with access to all information at the disposal of the applicant regarding the application, whether or not such information is favourable to the applicant.

(3) The person carrying out the risk assessment must prepare a written report detailing -

- (a) the information required in terms of regulation **13**;

- (b) the risk of invasion as a result of the issuing of the permit;
- (c) any risk management measures that must be applied;
- (d) key economic, social and ecological considerations that have guided the outcome of the risk assessment; and
- (e) any conditions that must apply to the issuing of a permit.

General requirements for an environmental assessment practitioner

15. An environmental assessment practitioner referred to in regulation 14(1) must —
- (a) be independent; and
 - (b) have expertise in conducting risk assessments, including knowledge of the Act, these regulations and any guidelines that have relevance to the proposed application.

CHAPTER 5

ISSUING, AMENDMENT AND CANCELLATION OF PERMITS

Decision on application

16. (1) On receipt of an application for a permit in terms of regulation 12 and such further information as the issuing authority may require, the issuing authority must consider the application and reach a decision.

- (2) After reaching a decision on an application, the issuing authority must—
 - (a) notify the applicant of the decision, in writing;
 - (b) if the application was approved, issue a permit in the name of the applicant within 14 working days; and
 - (c) if requested, give reasons for the decision.

Conditions subject to which permit may be issued

17. (1) A permit may be issued —
- (a) for —
 - (i) multiple restricted activities;

- (ii) multiple specimens of a species; or
 - (iii) multiple species;
- (b) subject to the condition that the permit may be cancelled if the issuing authority obtain information indicating that the alien species or the listed invasive species or the restricted activity involving an alien species or listed invasive species for which the permit was issued, may be detrimental to biodiversity.

(2) Notwithstanding subregulation (1)(a) a permit for the import into the Republic, including introducing from the sea, an alien species or listed invasive species may only be valid for one consignment.

Form and contents of permits

18. (1) A permit shall be in the form as prescribed in Schedule 4.
- (2) A permit must —
- (a) contain a sequential permit number;
 - (b) be in writing;
 - (c) specify-
 - (i) the person to whom it applies and their identity or registration number;
 - (ii) the species to which it relates;
 - (iii) the restricted activities for which the permit is issued;
 - (iv) the period for which the permit remains valid.
 - (d) be signed by the issuing authority and certified by means of an official stamp;
 - (e) contain conditions, if any.

Period of validity of permits

19. (1) A permit authorising —
- (a) the possession of an alien or listed invasive species may not exceed five years.

(b) the undertaking of any other restricted activity may be issued for a period not exceeding twelve months.

(2) Notwithstanding the provisions of subregulation (1) a permit may be issued for a longer period under the following circumstances:

- (a) If the restricted activity will be carried out by a captive breeding operation, commercial exhibition facility, nursery, scientific institution or sanctuary; or
- (b) possession of an alien species or a listed invasive species for personal use.

Transferability of permits

20. A permit may not be transferred to any other person.

Automatic lapsing of permits

21. A permit shall automatically lapse if the alien species to which it relates is subsequently prohibited by the Minister, by notice in the Gazette, in terms of section 67 of the Act.

Cancellation of permits

22. (1) An issuing authority which issued a permit may cancel the permit if –

- (a) the permit was issued as a result of misleading or false representations by the applicant; or
- (b) the applicant or permit holder has contravened or failed to comply with –
 - (i) any condition of the permit; and
 - (ii) any provision of the Act or other law governing the permitted activity.
- (c) information is obtained by the issuing authority indicating that the alien species or listed invasive species or the restricted activity involving an alien species or listed invasive species for which the permit was issued is likely to have a detrimental impact to biodiversity.

(2) Before cancelling a permit in terms of subregulation (1) or amending the conditions to a permit, the issuing authority must notify a permit holder in writing of his

or her intention to do so and provide him or her with an opportunity to make representations as to why the permit should not be cancelled.

(3) The issuing authority must, if he or she decides to cancel a permit or amend conditions of a permit after consideration of any representations in terms of subsection (2), notify the permit holder in writing that —

- (a) the permit is cancelled or that the condition(s) have been amended; and
- (b) the date upon which the cancellation or amendment becomes effective.

Return of cancelled permits

23. A permit cancelled in terms of regulation 22, must be returned to the issuing authority within 30 days of the date of cancellation.

Renewal of permits

24. (1) A permit holder may apply to the issuing authority that issued the permit for the renewal of the permit.

- (2) An application referred to in subregulation (1) must be —
 - (a) made 60 days before the expiry of the period for which the permit was issued;
 - (b) in writing; and
 - (c) accompanied by —
 - (i) a written motivation setting out the reasons for the application; and
 - (ii) the applicable processing fee as set out in Schedule 3.

Consideration and decision of renewal applications

25. (1) On receipt of an application in terms of regulation 24, the issuing authority—

- (a) must consider the application; and
- (b) may require the permit holder to furnish additional information.

(2) After having reached a decision on an application for renewal, the issuing authority must —

- (a) notify the permit holder of the decision, in writing;
- (b) if the application was approved, issue a new permit in the name of the permit holder;
- (c) if the application was refused, draw the permit attention to the fact that an appeal may be lodged against the decision in terms of regulation 24; and
- (d) if requested, give reasons for the decision.

Lodging of appeals

26. (1) A person aggrieved by a decision of an issuing authority to issue a permit conditionally, refuse a permit, cancel a permit or refuse to renew a permit, may lodge an appeal within 30 days after being notified of a decision taken by the issuing authority, with the —

- (a) MEC of the relevant province, if the issuing authority is the provincial department; or
- (b) Minister, if the issuing authority is the Director-General.

(2) An appeal referred to in subregulation (1) must —

- (a) be in writing;
- (b) set out the grounds of appeal in the form of an affidavit attested to before a Commissioner of Oaths;
- (c) be accompanied by any supporting documentation referred to in the appeal and not in the Minister or MEC's possession;
- (d) be supported by original or certified documentation; and
- (e) be accompanied by the applicable processing fee as set out in Schedule 3;

(3) The original and one copy of the appeal documents must be lodged with the Minister or MEC and one copy must be lodged with the issuing authority.

Processing of appeals

27. (1) After receipt of an appeal, the Minister or MEC must —
- (a) within 14 days acknowledge receipt of the appeal;
 - (b) advise the appellant and other persons who have responded to the appeal if further information is required;
 - (c) request from the issuing authority—
 - (i) reasons for the decision against which the appeal is lodged; and
 - (ii) all relevant documentation in the possession of the issuing authority that was taken into account when the decision was made.

(2) Any further information that the Minister or MEC may require, must be submitted to the Minister or MEC, within 14 days of it being requested.

(3) If the Minister or MEC decides to appoint an appeal panel, the appeal and all the documentation in connection with the appeal must be submitted to that appeal panel.

Appeal panels

28. (1) If an appeal panel consists of —
- (a) two members, a decision of the panel must be unanimous; or
 - (b) more than two members, the decision of the majority of the members of the panel prevails.
- (2) An appeal panel must —
- (a) consider an appeal within 30 days of its designation for the relevant appeal in terms of the Act; and
 - (b) inform the Minister or MEC in writing of its recommendation.

Decision on appeals

29. A decision of the Minister or MEC must —
- (a) indicate the extent to which the decision being appealed against is upheld or overturned;

- (b) give reasons for the decision; and
- (c) be conveyed to the appellant in writing within 14 days of the decision.

CHAPTER 6 COMPLIANCE AND ENFORCEMENT

Non-compliance with permit conditions

- 30.** (1) A permit holder must notify the issuing authority of any incident that may affect compliance with the conditions of the permit.
- (2) Notification in terms of subregulation (1) must —
- (a) be made as soon as possible after the permit holder became aware of the incident; and
 - (b) must be in writing, unless the incident is likely to result in the loss of biodiversity it must be done verbally and in writing.

Requests for directives

- 31.** (1) A competent authority may of its own accord or at the request of any person issue a directive if —
- (a) a person carries out a restricted activity involving an alien species or a listed invasive species without a permit;
 - (b) a person authorised by a permit to carry out a restricted activity involving an alien species or a listed invasive species does not comply to the conditions of the permit; or
 - (c) a person, who is the owner of land on which listed invasive species occur, fails to -
 - (i) notify the competent authority of the listed invasive species occurring on that land;
 - (ii) take steps to control and eradicate the listed invasive species and the prevent it from spreading; and
 - (iii) take all the required steps to prevent or minimize harm to biodiversity.

(2) The request to issue a directive in terms of subregulation (1) must be in the format set out in Schedule 6.

(3) The request to issue a directive in terms of subregulation (1) must contain the following information:

- (a) The full names of the person making the request, if applicable;
 - (b) the address and contact telephone number of the person making the request;
 - (c) the name of the person who owns or is in control of the area to which the request relates;
 - (d) the contact details of the person who owns or is in control of the area to which the request relates;
 - (e) a detailed description of the area to which the request relates including, where the request relates to land, the cadastral description of the property;
 - (f) a description of the listed invasive species to which the request relates; and
 - (g) details of all steps taken by the person making the request to address the problem with the person who owns or is in control of the area to which the request relates (if applicable).
- (4) A competent authority may waive any of the requirements of subregulation (3).

Format of directives

32. A directive issued by a competent authority in terms of section 69(2) or 73(3) of the Act-

- (a) must be issued to a person;
- (b) must contain the following information:
 - (i) The name, or identities of the persons to whom it is directed;
 - (ii) the area to which the directive applies;
 - (iii) the scientific and common names of the alien or listed invasive species to which the directive relates;

- (iv) the restricted activity to which the directive relates;
 - (v) the measures to be adopted to ensure compliance with the Act;
 - (vi) the date by when the measures must be adopted;
 - (vii) the full names and designation of the official representing the competent authority;
 - (viii) the date of issue of the directive; and
 - (ix) any other information or requirements considered necessary for the proper application of these Regulations; and
- (c) may indicate the manner in which the listed invasive species are to be controlled and the period within which the measures to control the listed invasive species must be implemented;
- (d) must state that it is a criminal offence not to comply with the directive; and
- (e) must be in the format set out in Schedule 5.

Service of directives

33. (1) A directive issued in terms of section 69(2) or 73(3) of the Act may be served on a person by –

- (a) delivering it to the person or to his or her authorised representative;
- (b) delivering it to the person in control of the area to which the directive applies;
- (c) in the case of a juristic person, delivering it to the registered office of the juristic person; or
- (d) forwarding it by registered post to the person.

(2) When a directive is served —

- (a) in terms of subregulation (1)(a), (b), (c) or (d) the person by whom it was delivered must after delivery thereof, record in writing the manner in which, the person to whom, the place at which and the date on and approximate time at which the directive concerned was thus delivered; and
- (b) a copy of the directive must be made available to the issuing authority.

- (3) If a directive has been served —
- (a) in terms of subregulation (1)(d), the competent authority must obtain and retain as evidence, proof of posting; and
 - (b) in terms of subregulation (1)(a), (b), (c) or (d), the competent authority must retain the copy of the directive as evidence of the service thereof.
- (4) The documentation referred to in subregulation (3) is proof of service in any legal proceedings relating to that directive.

Monitoring of compliance

34. A competent authority may —

- (a) at the time of issuing a directive identify-
 - (i) the steps that the competent authority will take to monitor compliance with the directive and the provisions of the Act; and
 - (ii) the dates upon which such steps will be taken.
- (b) on the dates referred to in subregulation (a)(ii), carry out the steps identified in terms of subregulation (a)(i).

Record of directives

35. A competent authority must —

- (a) keep a record of all directives issued;
- (b) state in the record-
 - (i) the person to whom the directive was issued;
 - (ii) the scientific and common name of the species for which the directive was issued;
 - (iii) the restricted activity for which the directive was issued;
 - (iv) the location where the restricted activity was undertaken;
 - (v) the measures to be adopted in terms of the directive;
 - (vi) the date by when the measures must be adopted;

- (vii) the steps that the competent authority will take to monitor compliance with the directive and the dates upon which such steps will be taken.
- (viii) pursuant to subregulation (vii)-
 - (aa) the steps taken by the competent authority;
 - (bb) the dates upon which the steps were taken; and
 - (cc) the extent of compliance with the directive by those dates.
- (c) within three months of the end of each calendar year submit to the Institute a written report containing the following information-
 - (i) a list of all directives;
 - (ii) the information recorded in terms of subregulation (b) for each directive; and
 - (iii) any other information required by the Institute for the proper application of these Regulations;

Withdrawal of directives

36. A directive issued in terms of these Regulations may be withdrawn in writing by the competent authority when the circumstances giving rise to the issue of the directive no longer exist.

Presumptions

37. In any legal proceedings, a person alleging that a specimen of an alien species is an exempted alien species shall bear the onus of proving that the specimen is so exempted.

Offences

38. A person is guilty of an offence if that person –
- (a) carries out a restricted activity or a prohibited activity involving an alien species or a listed invasive species without a permit issued by an issuing authority;
 - (b) fails to comply with the conditions under which a permit has been issued;

- (c) fabricates or forges any document for the purpose of passing it as a permit or certificate of registration;
- (d) knowingly makes any false statement or report for the purpose of obtaining a permit or certificate of registration;
- (e) fails to notify a competent authority regarding the occurrence of listed invasive species on its land, if he or she is the owner of that land; or
- (f) fails to implement a directive issued by a competent authority.

Penalties

39. (1) A person convicted of an offence in terms of regulation 38, involving an alien species or listed invasive species is liable to —

- (a) a fine;
- (b) to imprisonment for a period not exceeding five years; or
- (c) to both a fine and such imprisonment.

(2) A fine in terms of subregulation (1) may not exceed an amount prescribed in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991)

Name and commencement date

40. These Regulations are called the Alien and Invasive Species Regulations, 2007 and take effect on a date determined by the Minister by Notice in the Government Gazette.

SCHEDULE 1

Listed Invasive Species Notification Form

Explanatory Note:

In terms of section 73(2)(a) of the Act the owner of land on which a listed invasive species occur must notify any relevant Competent Authority in writing, of the listed invasive species occurring on that land.

For official use:

Reference number:

Date:

1. LAND OWNERS DETAILS:

Full Name:.....

Identity

Number:.....

Postal Address:.....

.....

.....

Postal Code:.....

Telephone Number: (Code:.....).....

Fax Number: (Code:.....).....

Cellular Number:.....

E-mail Address:

2. SITE AND SPECIES DETAILS:

1. Name (if applicable), province/magisterial district, erf number:

.....

.....

.....

- 2. Listed invasive species occurring on land (Attach list if space is insufficient):
 Scientific name:
 Common name:

- 3. Extent of the infestation of each species (estimated number of specimens/area infested) and density of infestation (e.g. isolated specimens, small groups, large groups; sparse, dense, very dense) (**Provide information relating to each species in an Annex to the form**)

- 4. If appropriate, please provide details on the location of the listed invasive species on the property. Please mark on a separate 1:50,000 map or aerial photo.

- 5. What measures have been adopted to monitor, control and/or eradicate the invasive species listed in 2(2) above?

I, the undersigned, [FULL NAME:]

.....

confirm that the above information is correct and complete to the best of my knowledge.

SIGNED: DATE:

SCHEDULE 2

Permit Application Form

Explanatory Note:

In terms of section 65(1) and 71(1) a person may not carry out a restricted activity involving an alien species or a listed invasive species without a permit.

For official use:

Reference number:

Date:

Permit approved

Permit refused

Reason:

1. Personal details:

Name of Applicant:.....

Identity Number:.....

Company (if applicable):.....

Physical address:.....

.....

.....

Postal code:.....

Postal address:.....

.....

.....

Postal code:.....

Telephone Number: (Code:)

Fax Number: (Code:)

Cellular Number:.....

E-mail address:.....

2. Species information:

Scientific Name	Common Name	Description	Quantity (number / mass)
-----------------	-------------	-------------	-----------------------------

3. Restricted activity for which permit is required:

Tick the appropriate box/-es; encircle the relevant activity and complete the appropriate sections

- 3.1 Import into the Republic (complete section 4)
- 3.3 Possession (complete section 5)
- 3.4 Growing / Breeding / Propagating (complete section 6)
- 3.5 Conveying / Moving / Translocating (complete section 7)
- 3.6 Selling / Trading / Buying (complete section 8)
- 3.7 Receiving / Giving / Donating (complete section 9)
- 3.8 Disposal / Acquisition (complete section 10)

4. Details required for import into the Republic:

4.1 Full name and address of foreign supplier / exporter

.....

.....

.....

.....

4.2 Full Name and address of importer & final destination

.....
.....
.....
.....
.....

4.3 Port of Entry:

.....

4.4 Expected Date of Arrival:

.....

5. Details required for possession

5.1 Name and address of person taking possession of specimen/s (if different from applicant):

.....
.....
.....
.....

5.2 Premises (address) where specimen will be kept:

.....
.....
.....

6. Details required for growing/breeding/propagating

6.1 Name:

.....

6.2 Type of facility:

Tick appropriate box/-es:

Nursery – Wholesale

Nursery – Retail

- Museum
- Zoo
- Captive breeding operation
- Game farm
- Other (specify):

6.3 Address of the facility where this restricted activity is to be carried out:

.....

.....

.....

.....

6.4 Date of establishment:.....

7. Details required for conveying/moving/translocating

7.1 Conveyed/Moved/Translocated from (name & address):

.....

.....

.....

7.2 Conveyed/Moved/Translocated to (name & address):

.....

.....

.....

7.3 Expected date & duration of activity:

.....

7.4 Method:

.....

.....

.....

.....

8. Details required for selling/trading/buying

8.1 Address of premises from where the restricted activity is to be carried out:

.....

.....

.....
8.2 Name and address of buyer / purchaser / trader

.....
.....
.....

9. Details required for receiving/giving/donating

9.1 Name and address of giver/donor

.....
.....
.....

9.2 Name and address of recipient

.....
.....
.....

10. Details required for disposal/acquisition

10.1 Address of premises where activity is to be carried out:

.....
.....
.....

10.2 Proposed method of disposal / acquisition

.....
.....

10.3 Reason/s for disposal / acquisition

.....
.....

I, the undersigned, [FULL NAME:]

.....

confirm that the above information is correct and complete to the best of my knowledge.

SIGNED: DATE:

SCHEDULE 3

Prescribed Permit Application Fees for Alien species and Listed Invasive Species

Explanatory Note:

In terms of section 97(1)(f)(ii) of the Act the Minister may prescribe the fees to be paid in connection with the lodging and consideration of applications for permits.

	Activity	Fee
	Import into the Republic	R200.00
	Possession	R50.00
	Growing / Breeding / Propagating	R50.00
Alien & listed Invasive species	Conveying / Moving / Translocating	R50.00
	Selling / Trading / Buying	R50.00
	Receiving / Giving / Donating	R50.00
	Disposal / Acquisition	R50.00
	Renewal of permit	R50.00

SCHEDULE 4**Permit**

This permit is issued in terms of Chapter 7 of the National Environmental Management: Biodiversity Act.

Permit number:

Date Issued:

Valid until:

Address of Issuing Authority:**Permit Holder Details:**Name:Address:**Exporter/Purchaser/Seller/Trader details:****Premises where restricted activity will be carried out:**Name:Address:Address:**Restricted activity for which permit is issued:** (Tick the appropriate box & encircle relevant activity)

Import into the Republic
 Possession
 Growing / Breeding / Propagating
 Conveying / Moving / Translocating

Selling / Trading / Buying
 Receiving / Giving / Donating
 Disposal / Acquisition

Species:

Scientific Name

Common Name

Description of the
specimens

Quantity

This permit issued by:

Place

Official stamp

SCHEDULE 5

**Directive in terms of section 69(2) or 73(3) of the Act
Duty of care relating to alien species OR listed invasive species**

Explanatory Notes:

- *In terms of section 69(2) of the Act a competent authority may in writing, direct any person who has failed to comply with permit requirements and conditions to take such steps as may be necessary to remedy any harm to biodiversity caused by the actions of that person as may be specified in the directive.*
- *In terms of section 73(3) of the Act a competent authority may in writing, direct any person who has failed to comply with permit requirements and conditions and/or notification requirements to take such steps as may be necessary to remedy any harm to biodiversity caused by the actions of that person as may be specified in the directive.*

For official use:

Directive number:

Date:

1. DIRECTIVE ISSUED TO:

Full Name:.....

Identity

Number:.....

Physical Address:.....

.....

.....

Postal Code:.....

Postal Address:.....

.....

Postal Code:.....

Telephone Number: (Code:.....).....

Fax Number: (Code:.....).....

Cellular Number:.....

E-mail Address:.....

2. SITE AND SPECIES DETAILS:

2.1 Name (if applicable), province/magisterial district, erf number:

.....
.....

2.2 Alien / Listed invasive species involved (Attach list if space is insufficient):

Scientific name:

.....

Common name:

.....

3. Permit number (if applicable):.....

4. Conditions of the permit (If applicable) (Attach Annex if space is insufficient):

.....
.....
.....
.....

3. DIRECTIVE SPECIFICATIONS

Remedial actions to be taken by responsible person (Attach Annex if space is insufficient):

.....
.....
.....
.....
.....

ISSUED BY:

RECEIVED BY:

DATE:

OFFICIAL STAMP

SCHEDULE 6

Request to issue a Directive in terms of section 74(1) of the Act for a listed invasive species

Explanatory Note:

In terms of section 74(1) of the Act any person may request a competent authority in writing to issue a directive in terms of section 73(3) of the Act.

For official use:

Reference number:

Date:

1. DIRECTIVE REQUESTED BY:

Full Name:.....

Identity

Number:.....

Physical Address:.....

.....

.....

Postal Code:.....

Postal Address:.....

.....

Postal Code:.....

Telephone Number:(Code:.....)

Fax Number: (Code:)

Cellular Number:.....

E-mail Address:.....

2. DIRECTIVE TO BE ISSUED TO

Name:

.....

2.1 SITE AND SPECIES DETAILS:

2.1.1 Name (if applicable), province/magisterial district, erf number or physical address:

.....
.....
.....

2.1.2 Listed invasive species involved (Attach list if space is insufficient):

Scientific name:

.....

Common name:

.....

2.2 REASONS FOR REQUEST

2.2.1 Contravention of permit requirements in terms of section 71(1) and/or associated permit conditions?

Yes

No

If yes, substantiate:

.....
.....

2.2.2 Contravention of notification requirements in terms of section 73(2)(a)?

Yes

No

If yes, substantiate:

.....
.....

2.2.3 Contravention of measure to prevent spreading / control / eradicate in terms of section 73(2)(b)?

Yes

No

If yes, substantiate:

.....
.....

2.2.4 Previous directives not implemented?

Yes

No

If yes, substantiate:

.....
.....

I, the undersigned, [FULL NAME:]

.....

confirm that the above information is correct and complete to the best of my knowledge.

SIGNED: DATE:

ANNEXURE 1

NATURAL DISTRIBUTION RANGES OF INDIGENOUS SPECIES

Artiodactyla / Perissodactyla

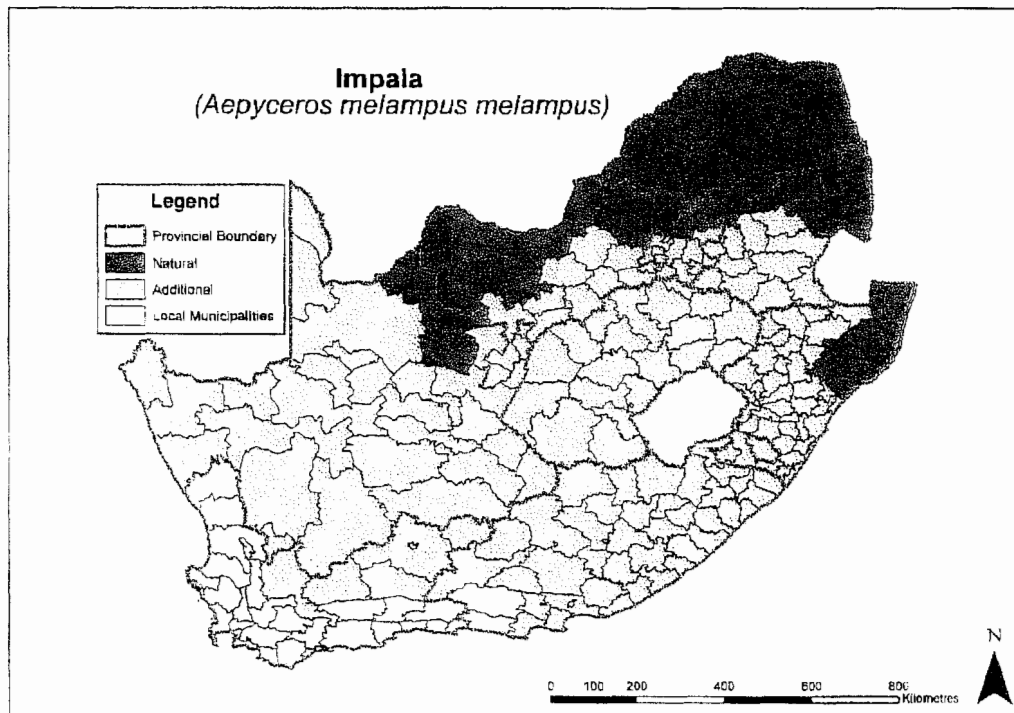
Annexure	Scientific name	Common name
1a	<i>Aepyceros melampus</i>	Impala
1b	<i>Alcelaphus buselaphus</i>	Red hartebeest
1c	<i>Antidorcas marsupialis</i>	Springbok
1c	<i>Cephalophus natalensis</i>	Red duiker
1d	<i>Ceratotherium simum</i>	White rhinoceros
1e	<i>Connochaetes gnou</i>	Black wildebeest
1f	<i>Connochaetes taurinus taurinus</i>	Blue wildebeest
1g	<i>Damaliscus lunatus lunatus</i>	Tsessebe
1h	<i>Damaliscus pygargus phillipsi</i>	Blesbok
1i	<i>Damaliscus pygargus pygargus</i>	Bontebok
1j	<i>Diceros bicornis bicornis</i>	Black rhinoceros – arid ecotype
1k	<i>Diceros bicornis minor</i>	Black rhinoceros
1l	<i>Equus burchellii</i>	Plains zebra
1m	<i>Equus zebra hartmannae</i>	Hartmann's Mountain zebra
1n	<i>Equus zebra zebra</i>	Cape Mountain zebra
1o	<i>Giraffa camelopardalis</i>	Giraffe
1p	<i>Hippopotamus amphibius</i>	Hippopotamus
1q	<i>Hippotragus equinus</i>	Roan antelope
1r	<i>Hippotragus niger niger</i>	Sable antelope
1s	<i>Kobus ellipsiprymnus ellipsiprymnus</i>	Waterbuck
1t	<i>Loxodonta africana</i>	African elephant
1u	<i>Neotragus moschatus zuluensis</i>	Suni
1v	<i>Oreotragus oreotragus</i>	Klipspringer
1w	<i>Oryx gazella</i>	Gemsbok

1x	<i>Ourebia ourebi</i>	Oribi
1y	<i>Palea capreolus</i>	Grey rhebok
1z	<i>Phacochoerus africanus</i>	Warthog
1aa	<i>Philantomba monticola</i>	Blue duiker
1bb	<i>Potamochoerus porcus koiropotamus</i>	Bushpig
1cc	<i>Raphicerus campestris</i>	Steenbok
1dd	<i>Raphicerus melanotis</i>	Cape grysbok
1ee	<i>Raphicerus sharpei</i>	Sharp's grysbok
1ff	<i>Redunca arundinum</i>	Reedbuck
1gg	<i>Redunca fulvorufula</i>	Mountain reedbuck
1hh	<i>Simoceros lichtensteinii</i>	Lichtenstein's hartebees
1ii	<i>Sylvicapra grimmia</i>	Grey duiker
1jj	<i>Syncerus caffer</i>	Cape buffalo
1kk	<i>Taurotragus oryx</i>	Eland
1ll	<i>Tragelaphus angasii</i>	Nyala
1mm	<i>Tragelaphus scriptus</i>	Bushbuck
1nn	<i>Tragelaphus strepsiceros</i>	Kudu

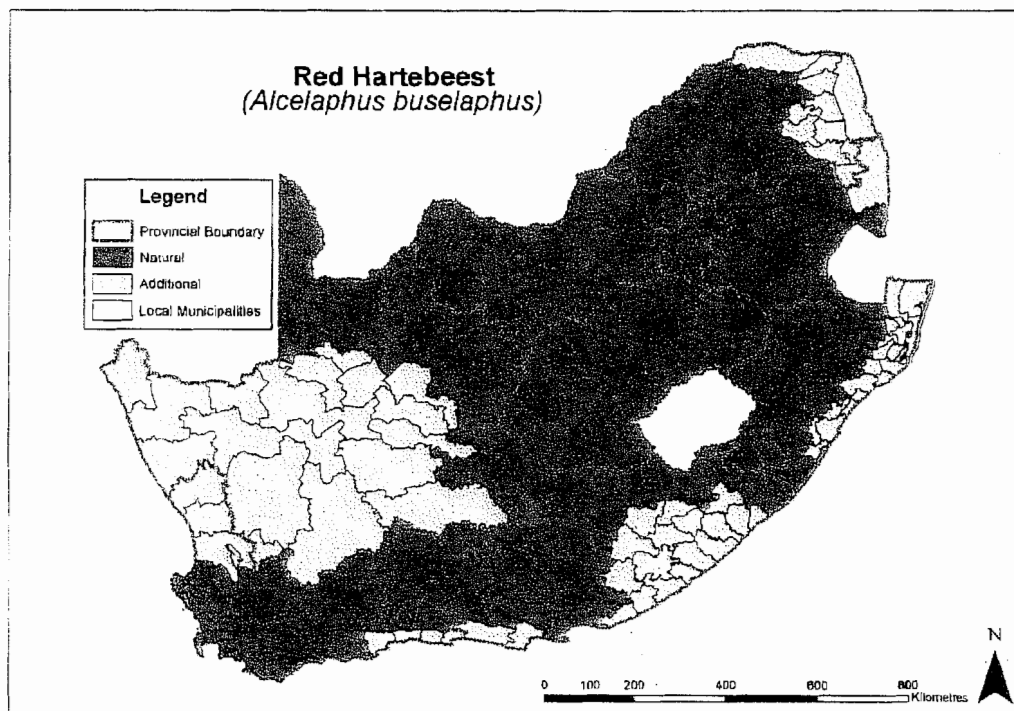
Primata

Annexure	Scientific name	Common name
1oo	<i>Cercopithecus aethiops pygerythrus</i>	Vervet monkey
1pp	<i>Cercopithecus mitis</i>	Samango monkey
1qq	<i>Galago moholi</i>	Southern lesser galago
1rr	<i>Otolemur crassicaudatus</i>	Thick-tailed bushbaby
1ss	<i>Papio ursinus</i>	Chacma baboon

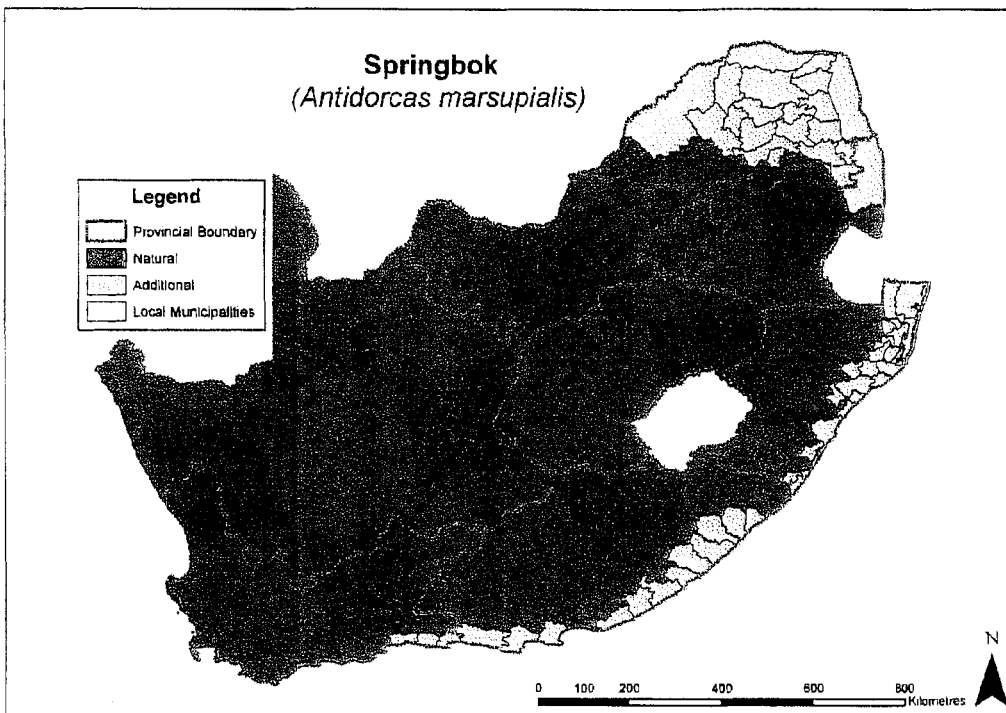
1a *Aepyceros melampus* (Impala)



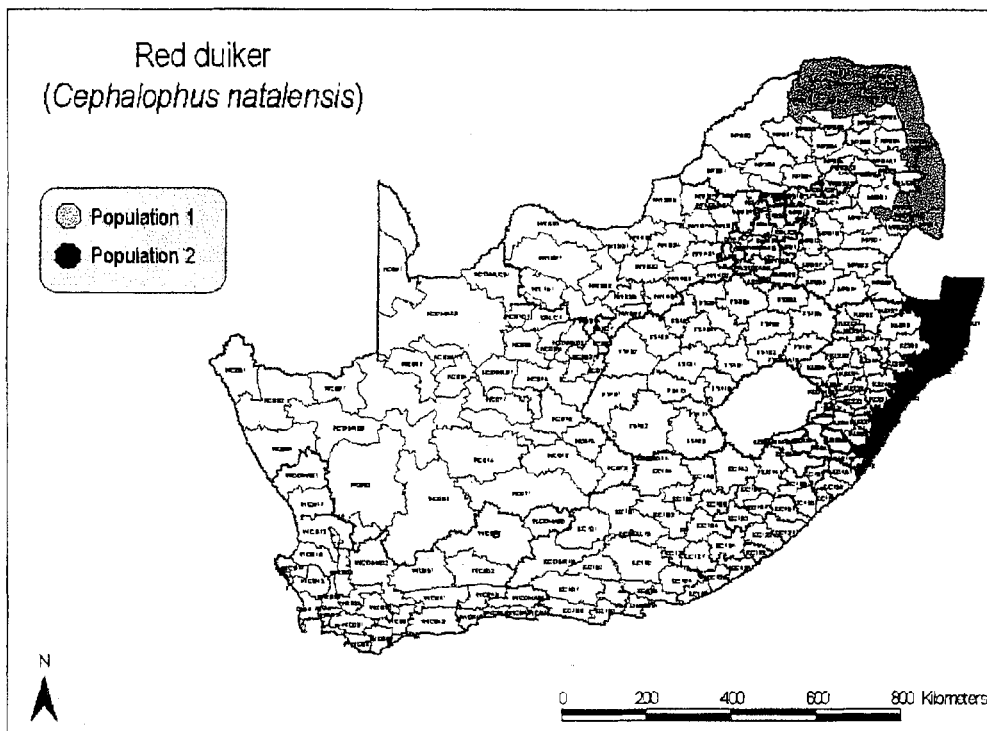
1b *Alcelaphus buselaphus* (Red hartebeest)



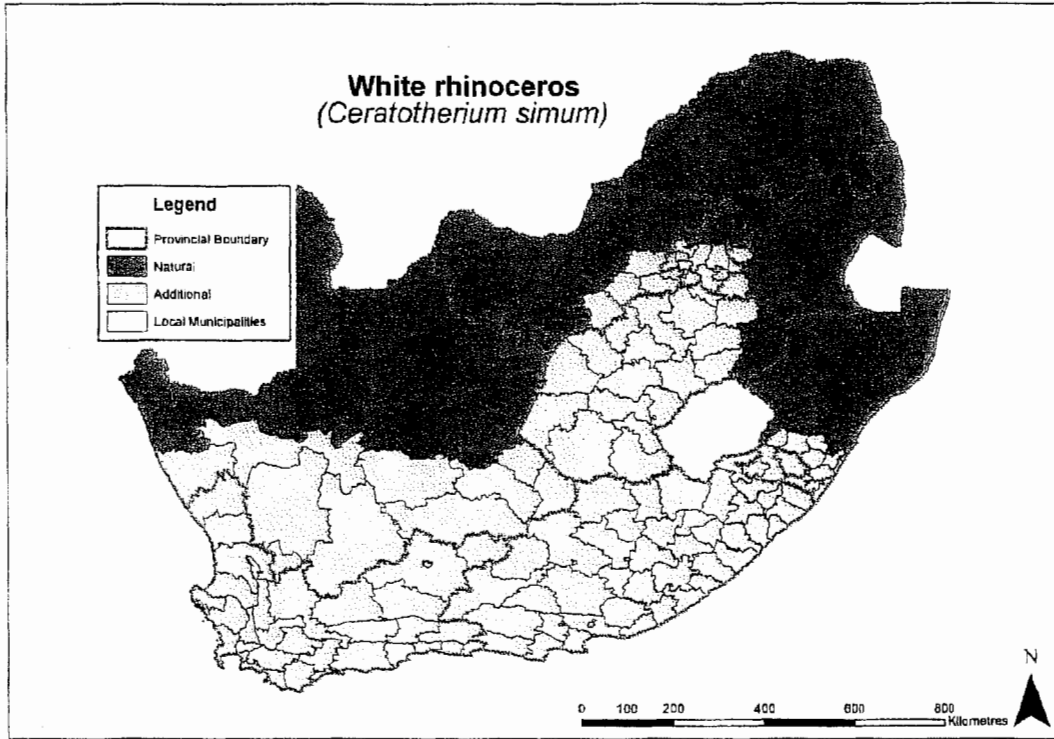
1c *Antidorcas marsupialis* (Springbok)



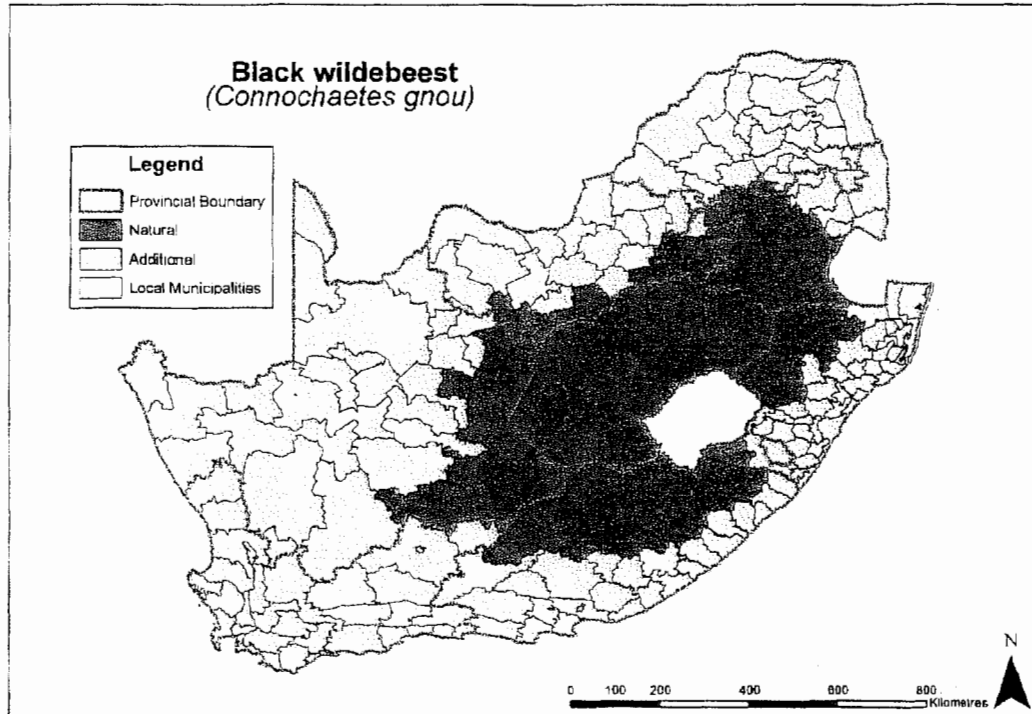
1c *Cephalophus natalensis* (Red duiker)



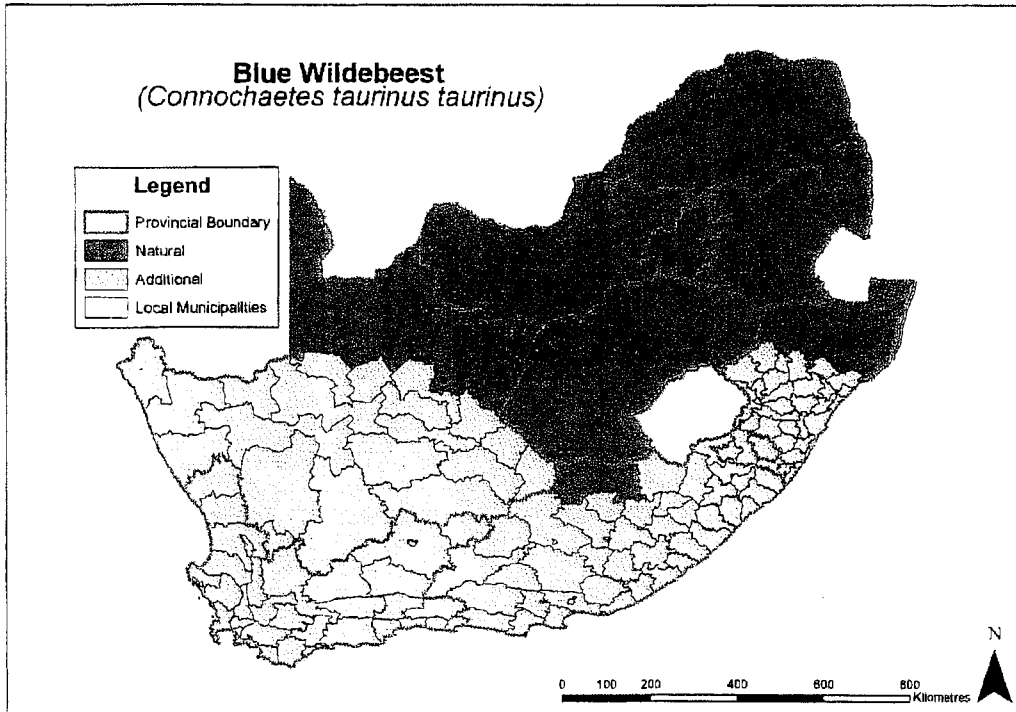
1d *Ceratotherium simum* (White rhinoceros)



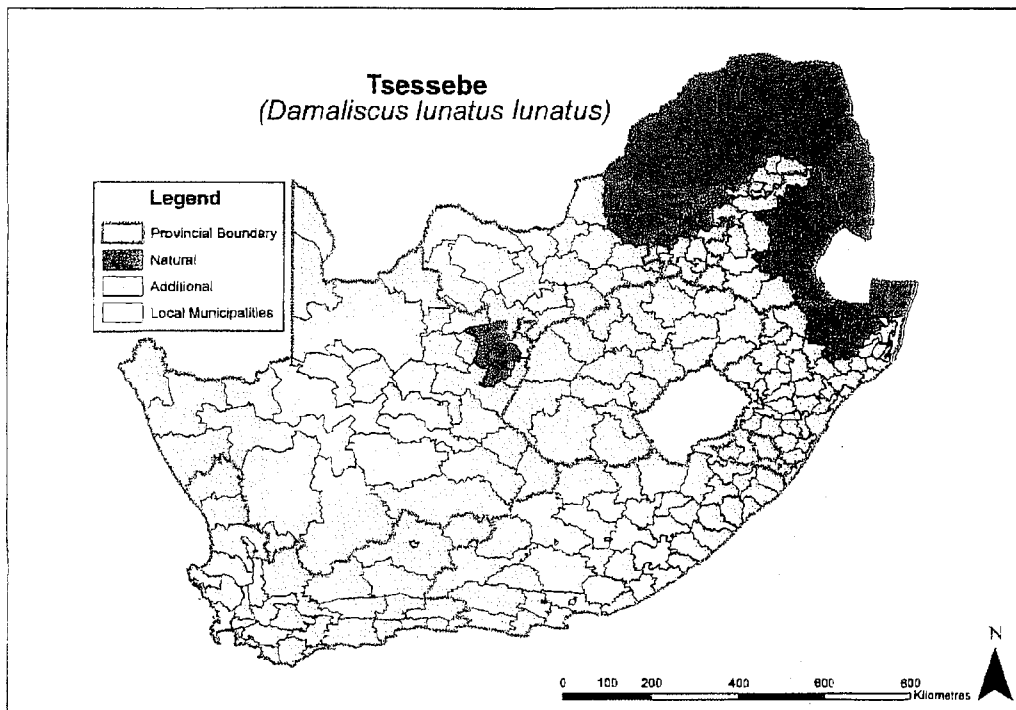
1e *Connochaetes gnou* (Black wildebeest)



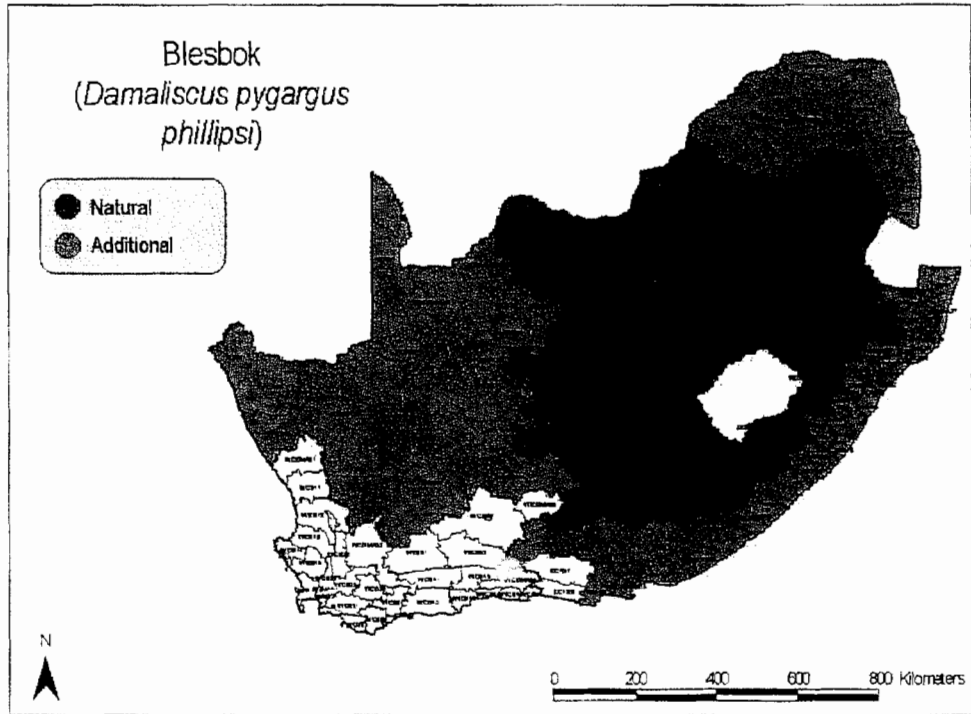
1f *Connochaetes taurinus taurinus* (Blue wildebeest)



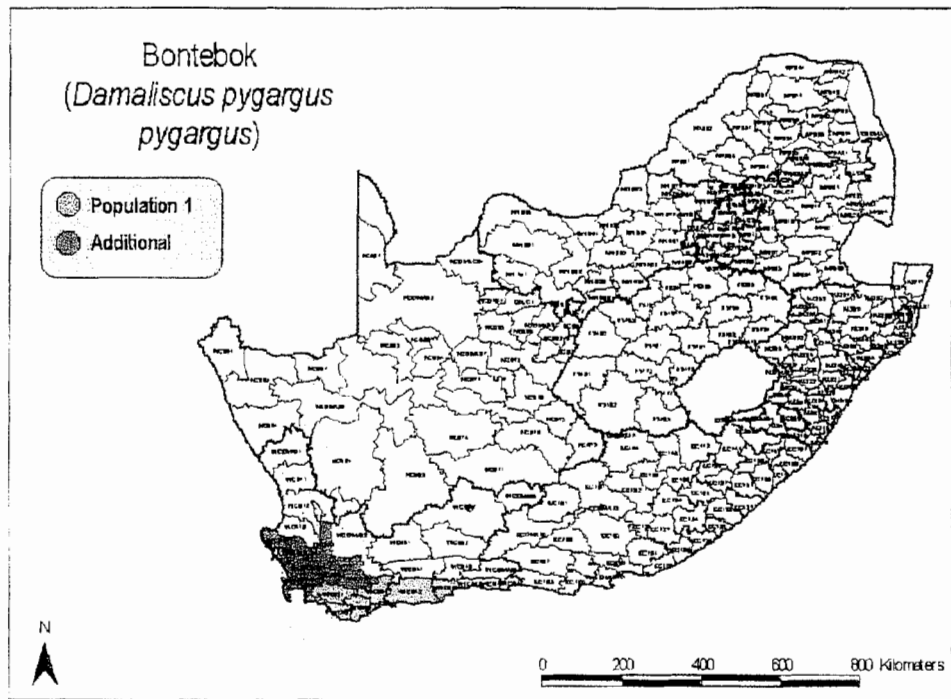
1g *Damaliscus lunatus lunatus* (Tsessebe)



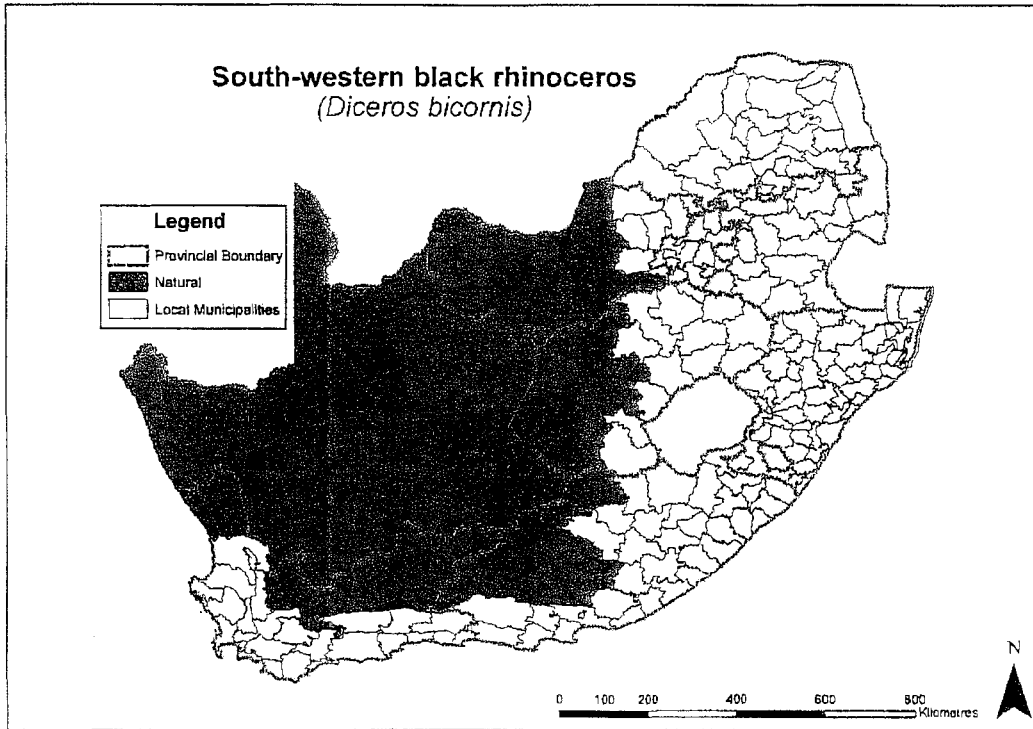
1h *Damaliscus pygargus phillipsi* (Blesbok)



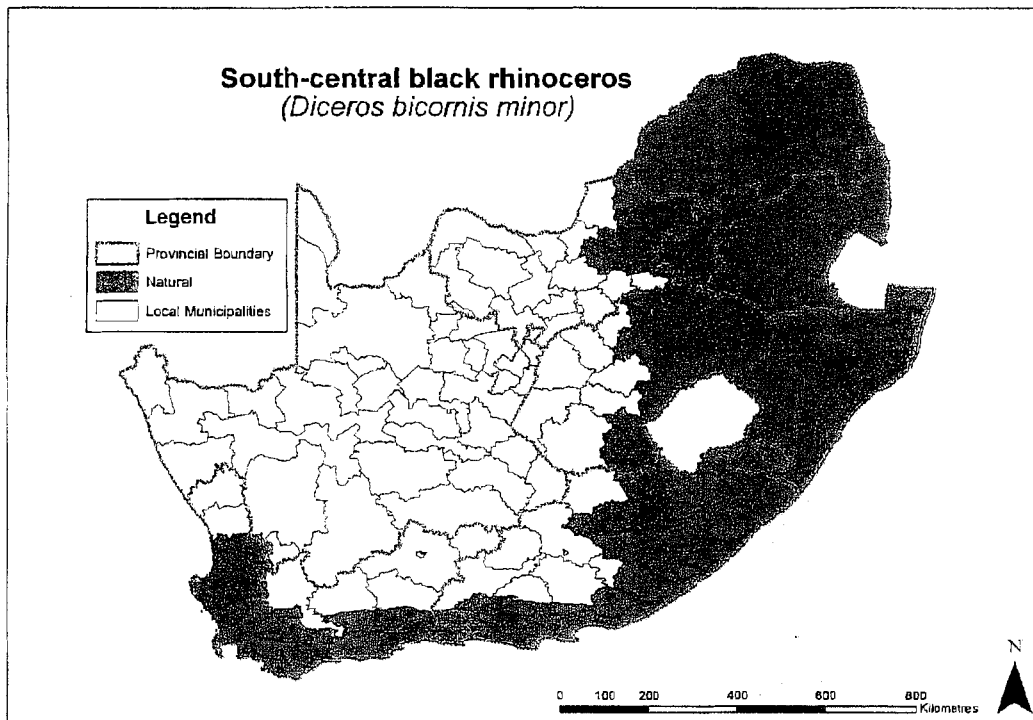
1i *Damaliscus pygargus pygargus* (Bontebok)



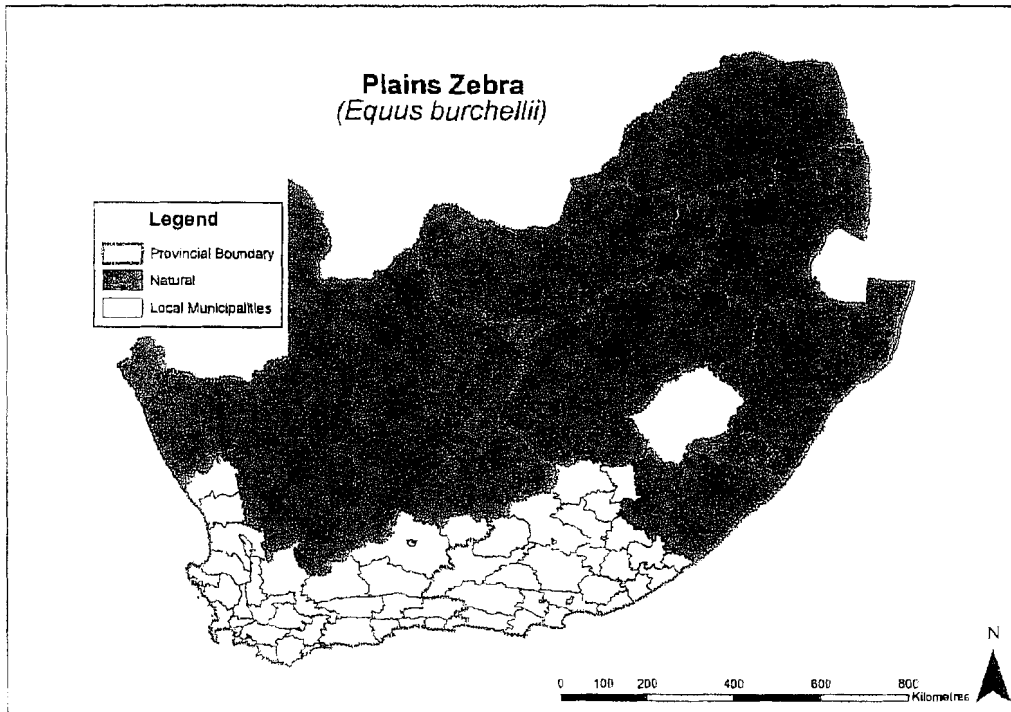
1j *Diceros bicornis bicornis*(Black rhinoceros – arid ecotype)



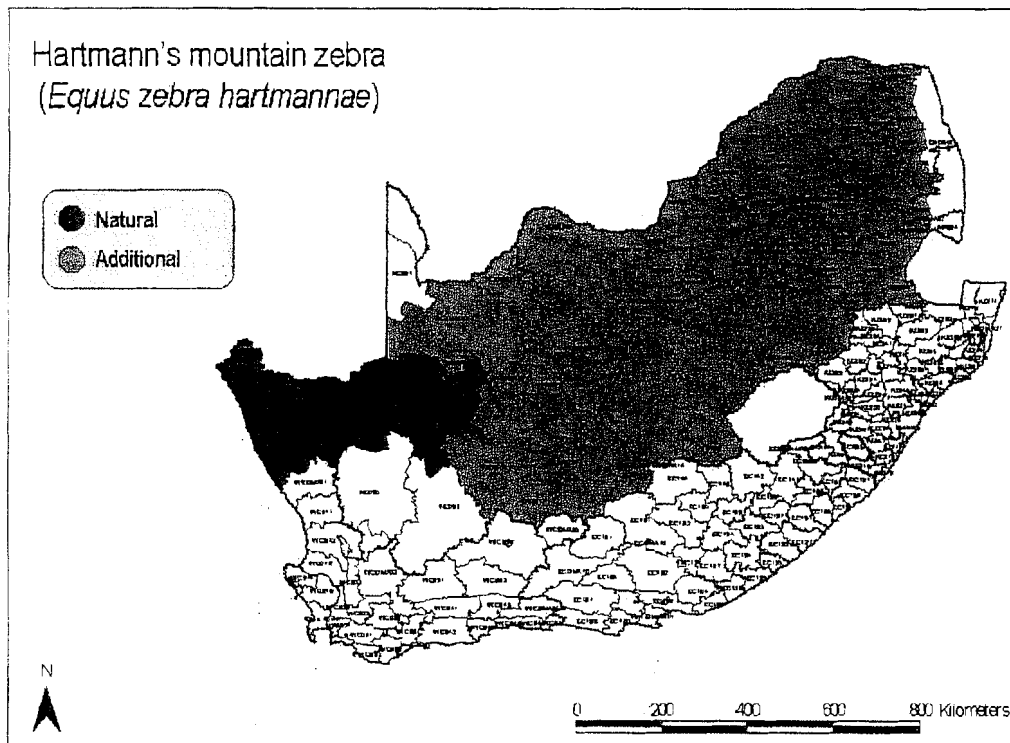
1k *Diceros bicornis minor* (Black rhinoceros)



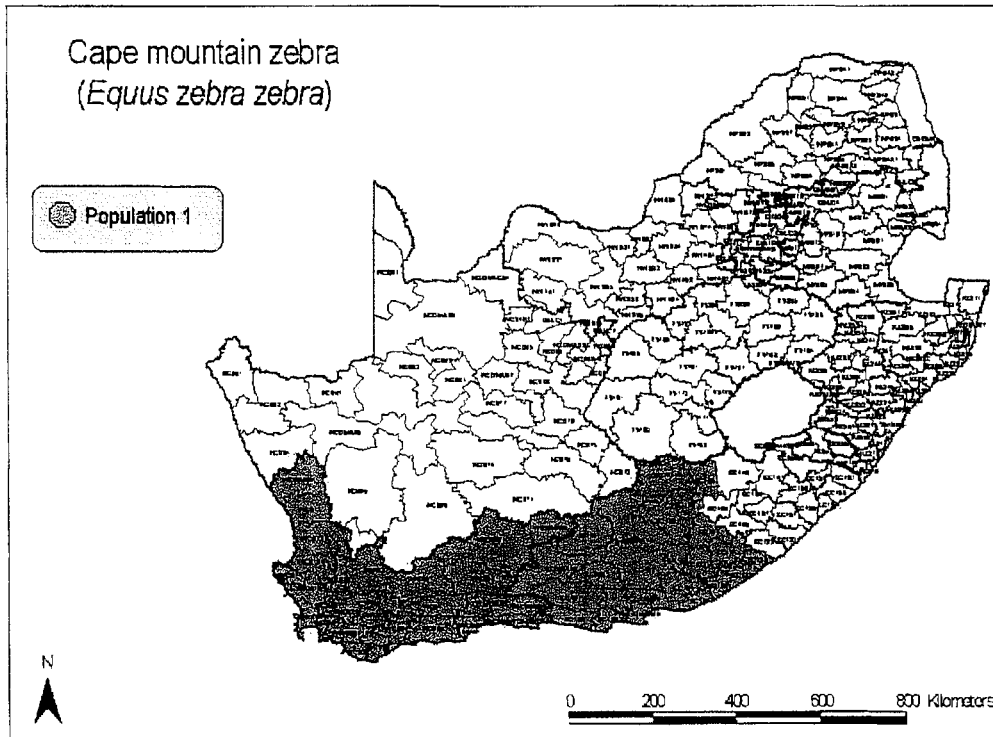
11 *Equus burchellii* (Plains zebra)



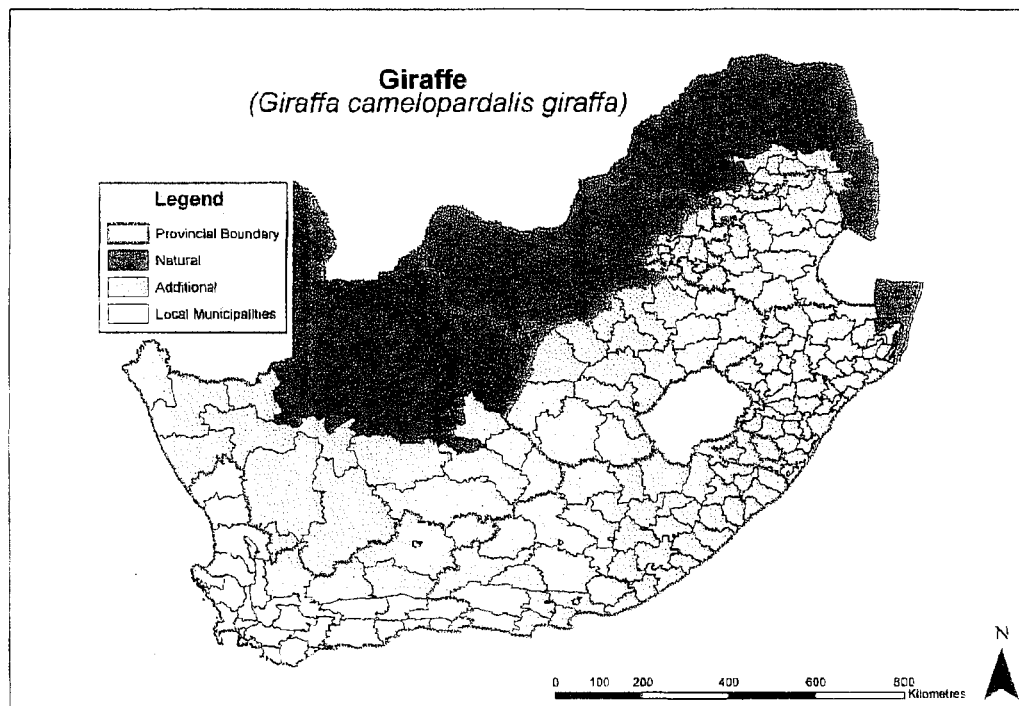
1m *Equus zebra hartmannae* (Hartmann's Mountain zebra)



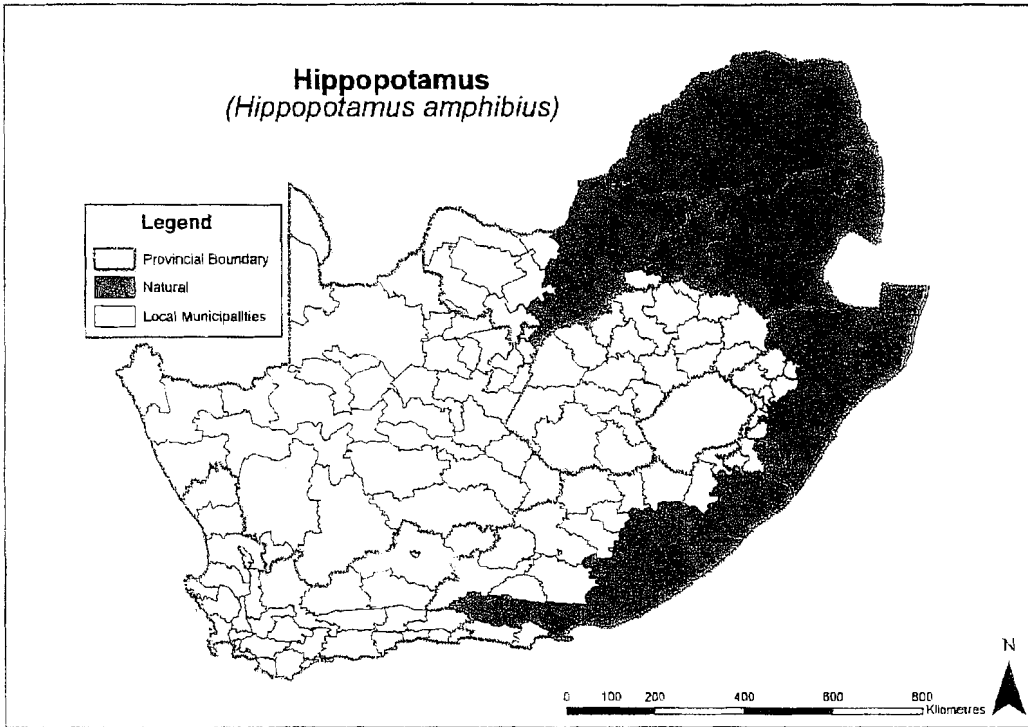
1n *Equus zebra zebra* (Cape Mountain zebra)



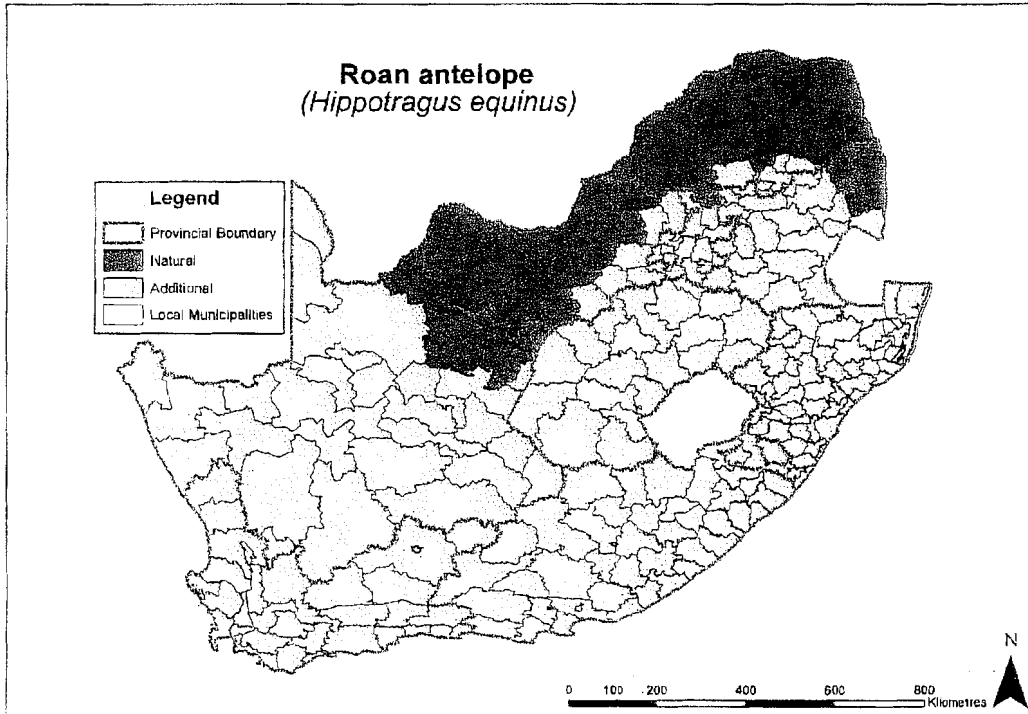
1o *Giraffa camelopardalis* (Giraffe)



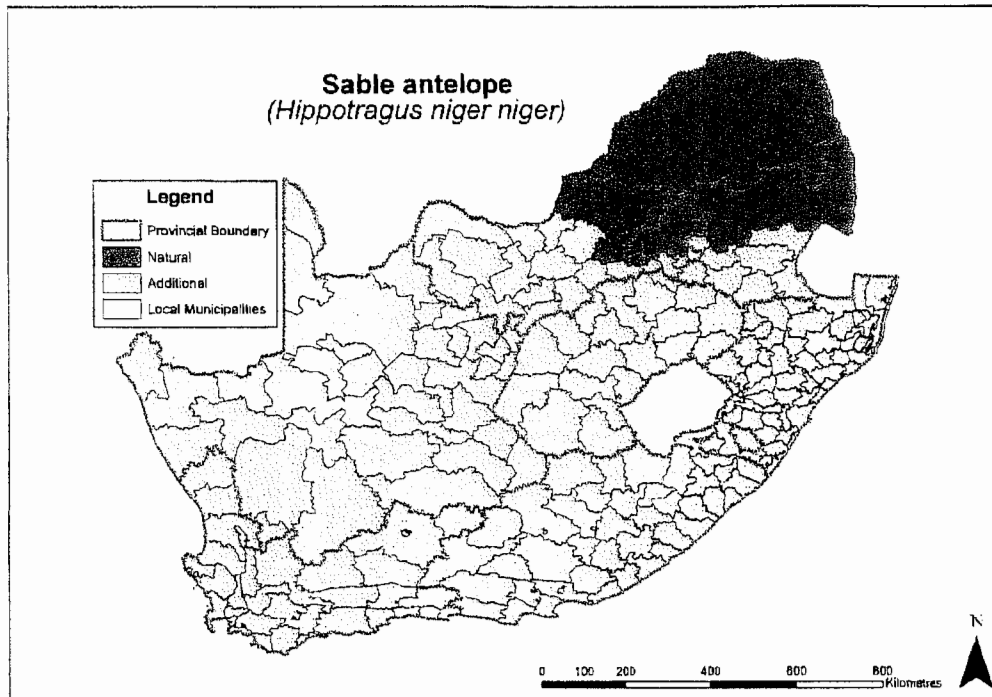
1p *Hippopotamus amphibius* (Hippopotamus)



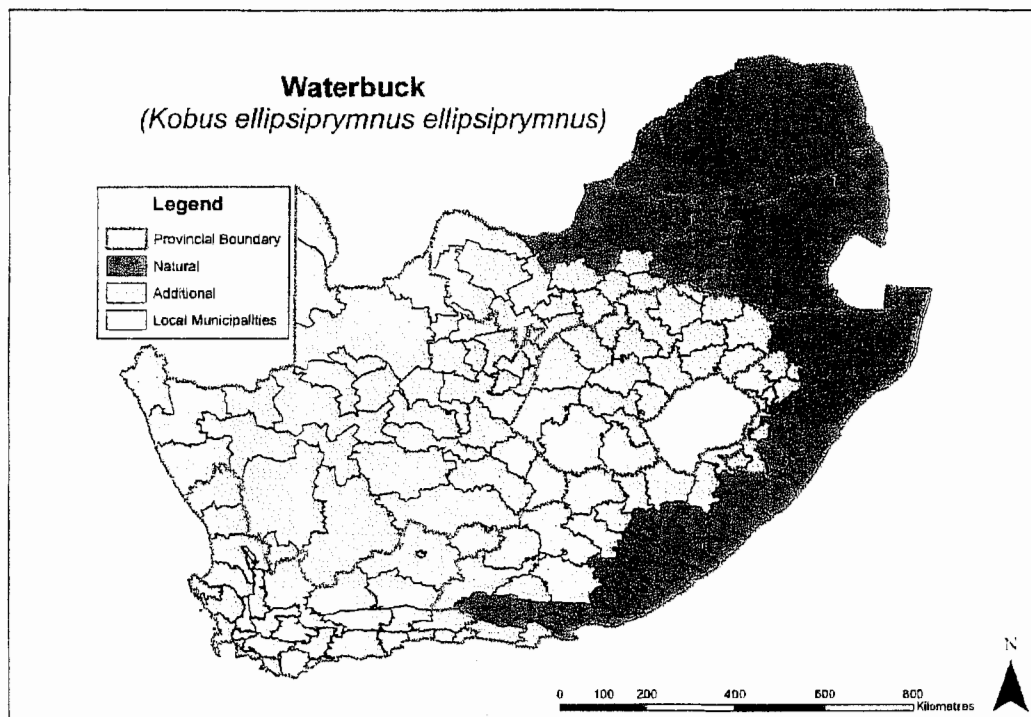
1q *Hippotragus equines* (Roan antelope)



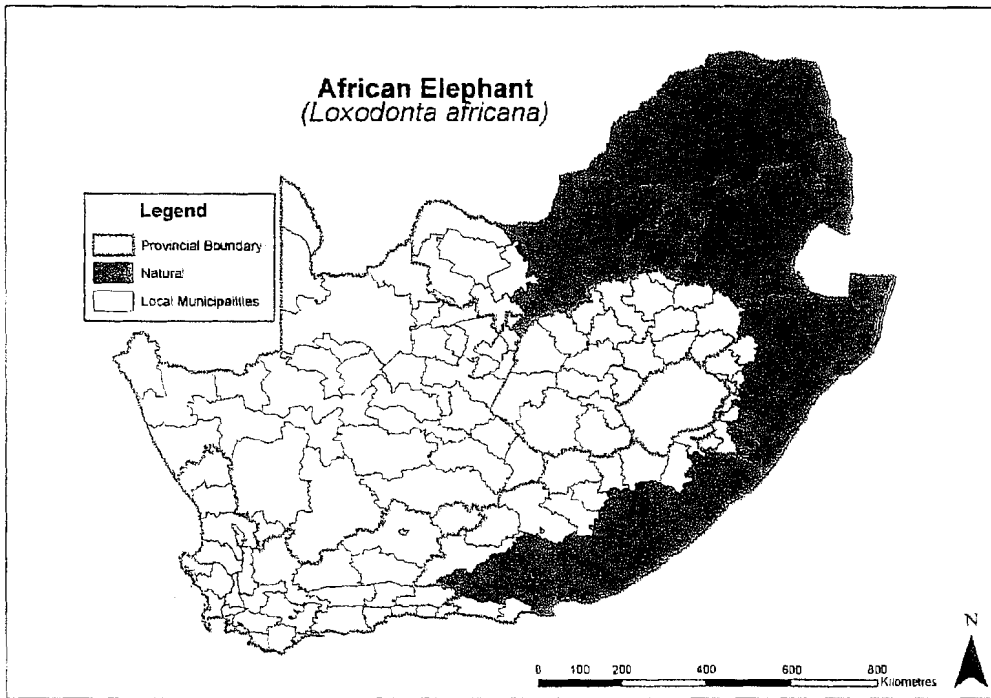
1r *Hippotragus niger niger* (Sable antelope)



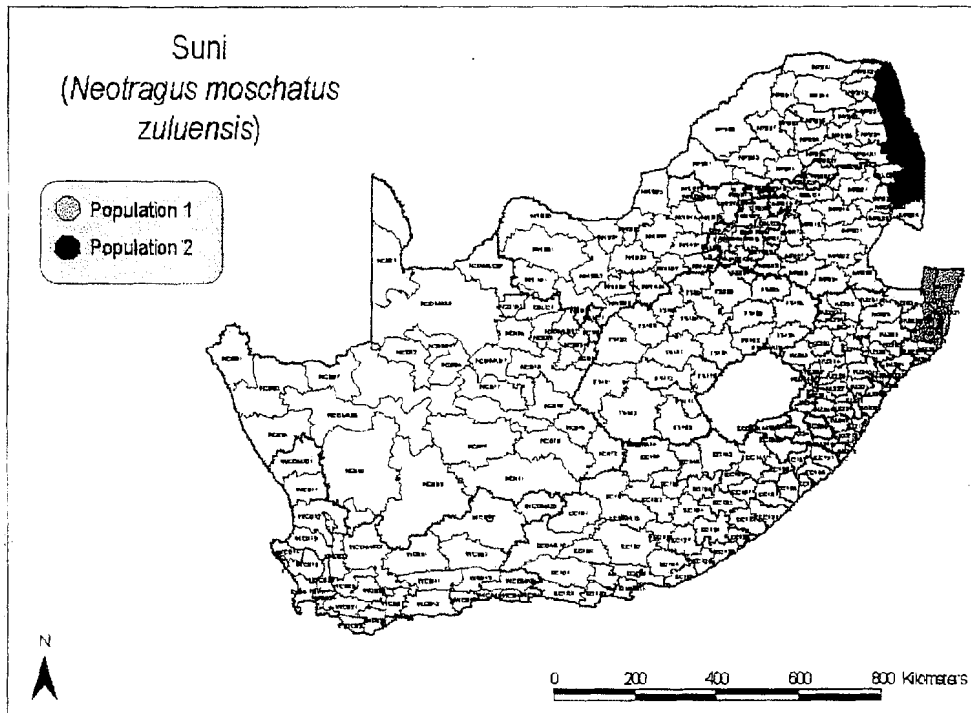
1s *Kobus ellipsiprymnus ellipsiprymnus* (Waterbuck)



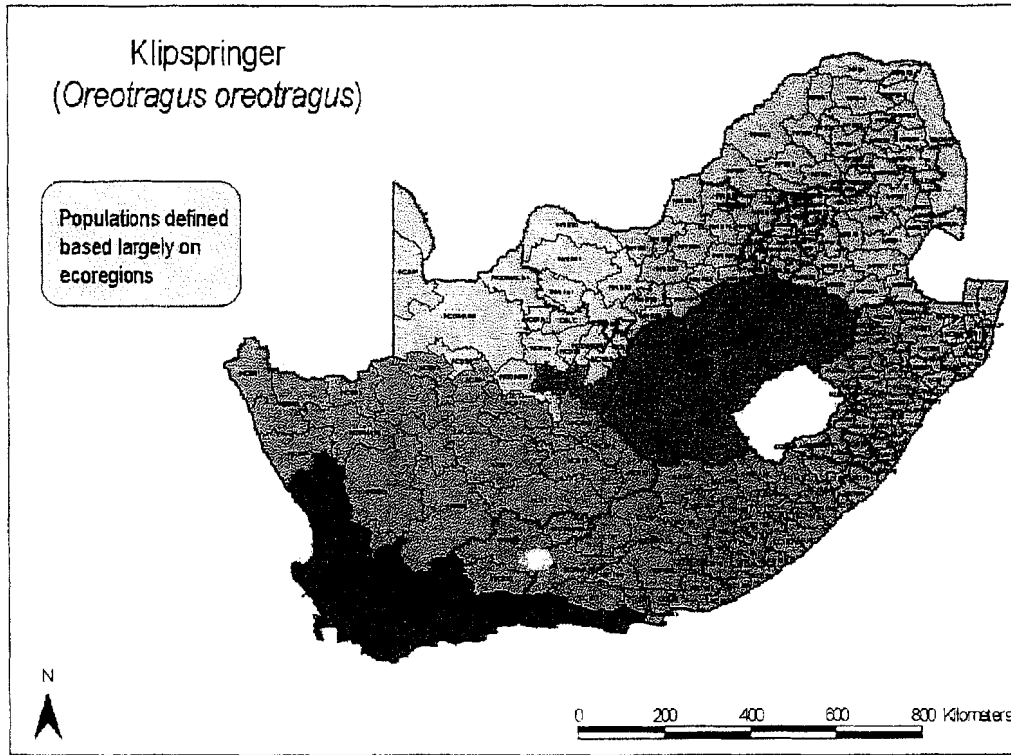
1t *Loxodonta africana* (African elephant)



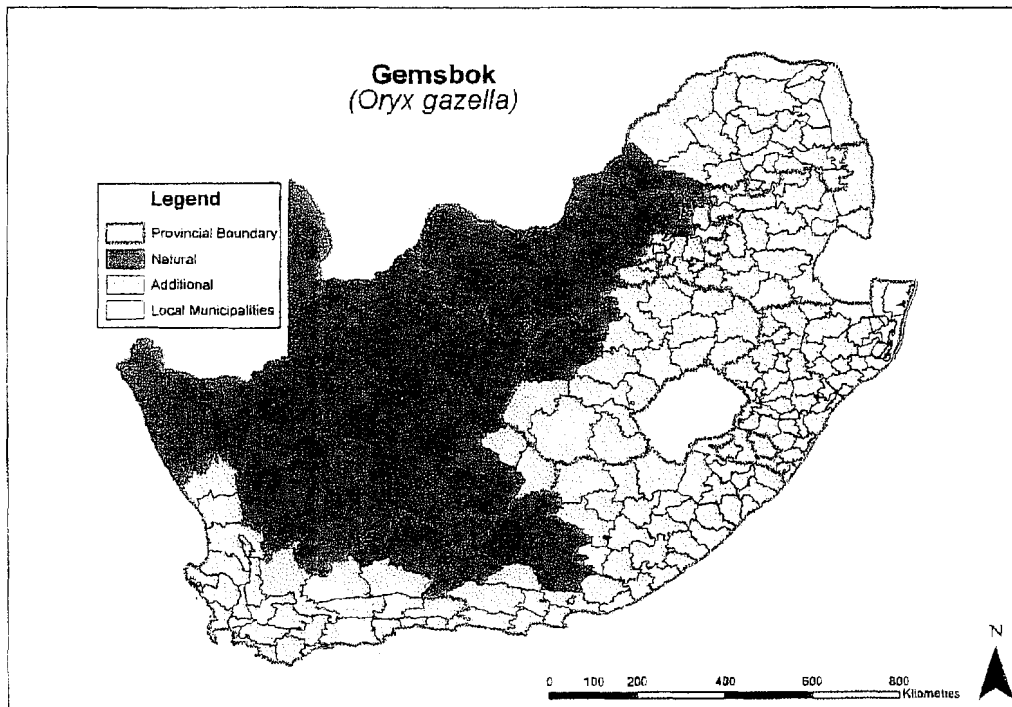
1u *Neotragus moschatus zuluensis* (Suni)



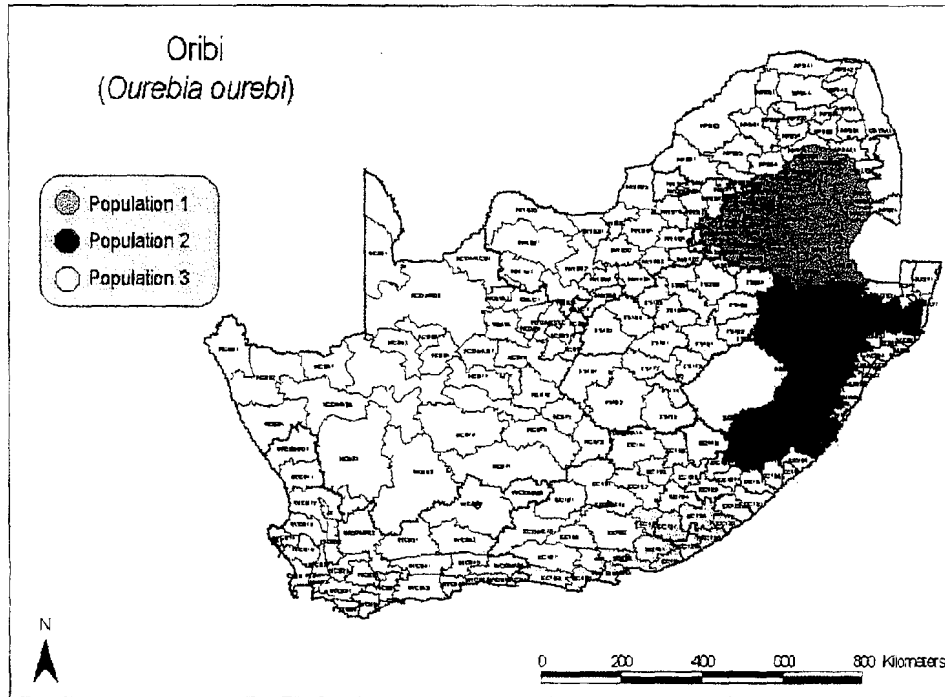
1v *Oreotragus oreotragus* (Klipspringer)



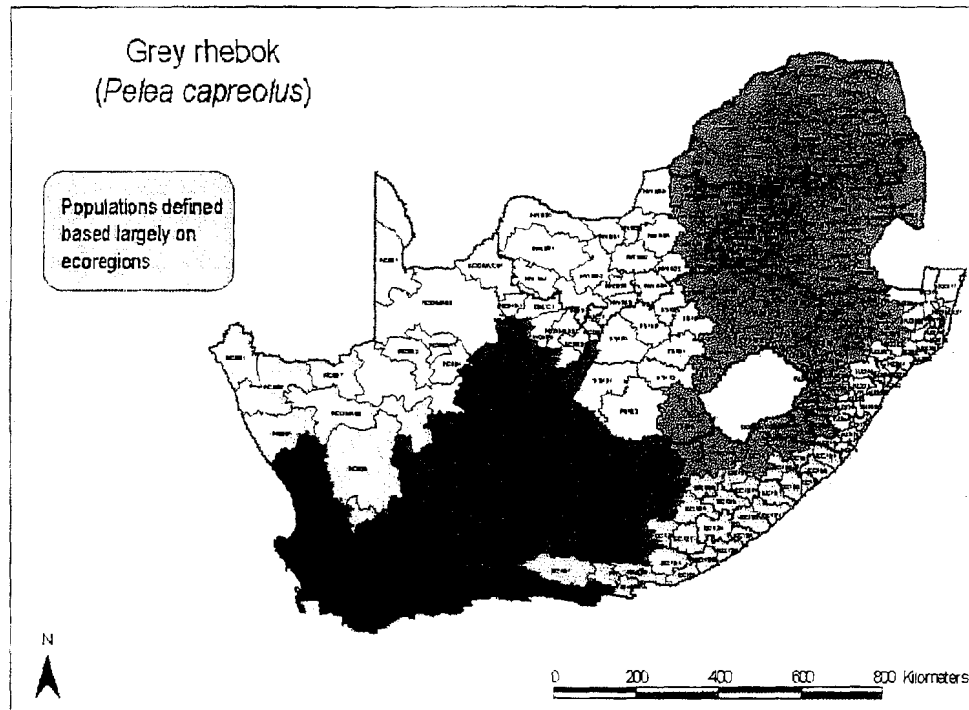
1w *Oryx gazelle* (Gemsbok)



1x *Ourebia ourebi* (Oribi)

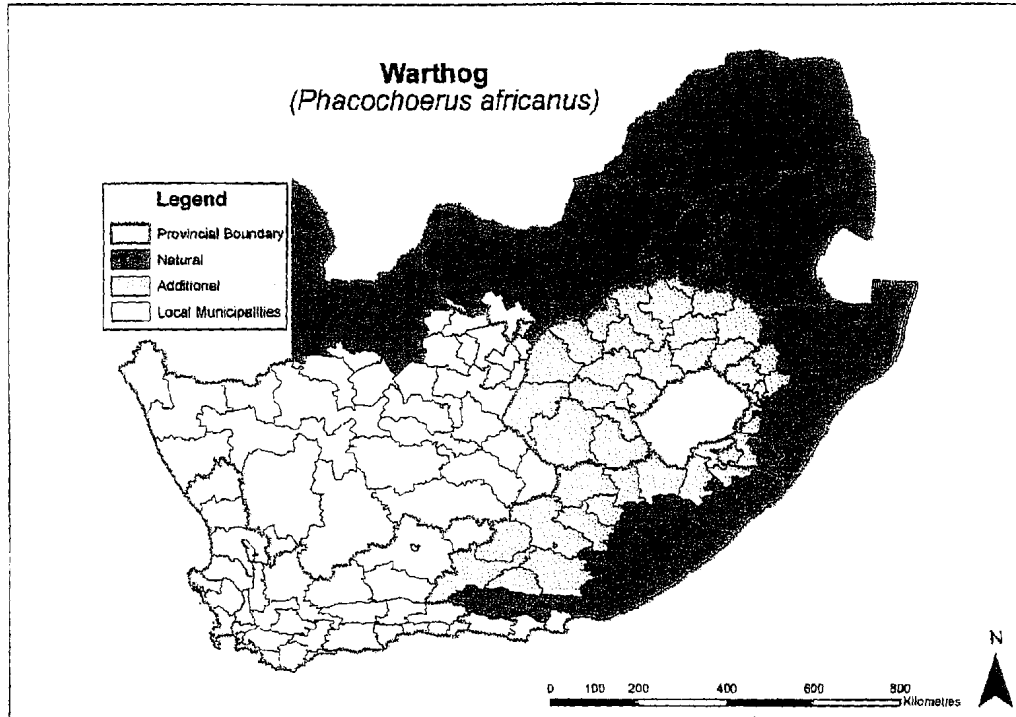


1y *Pelea capreolus* (Grey rhebok)



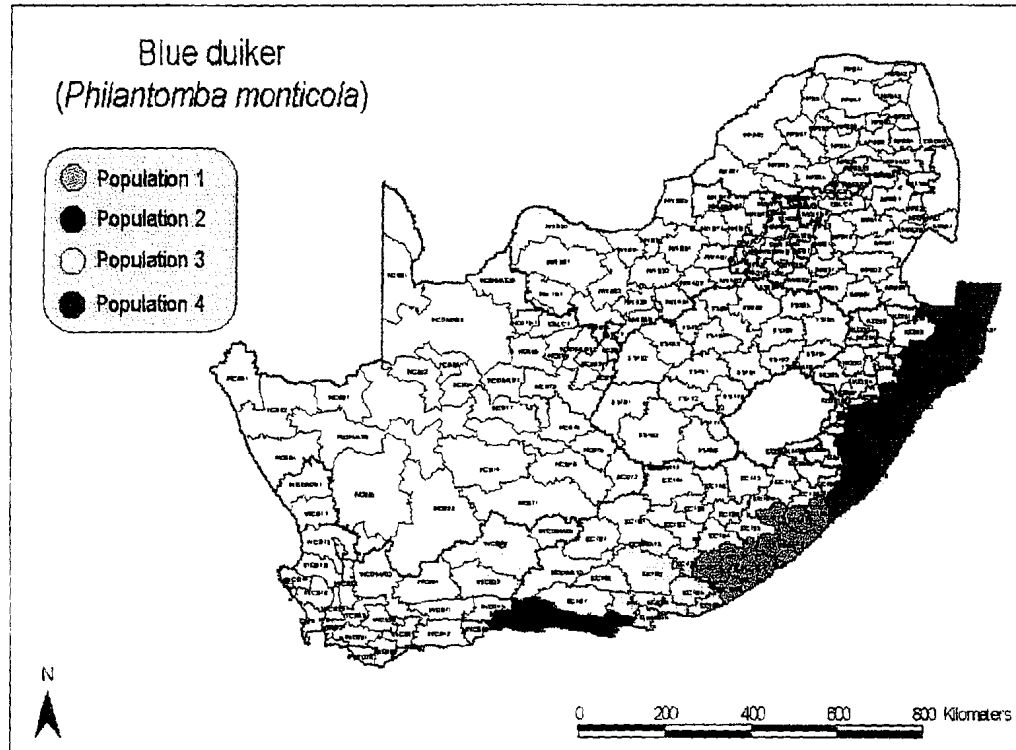
1z *Phacochoerus africanus*

Warthog

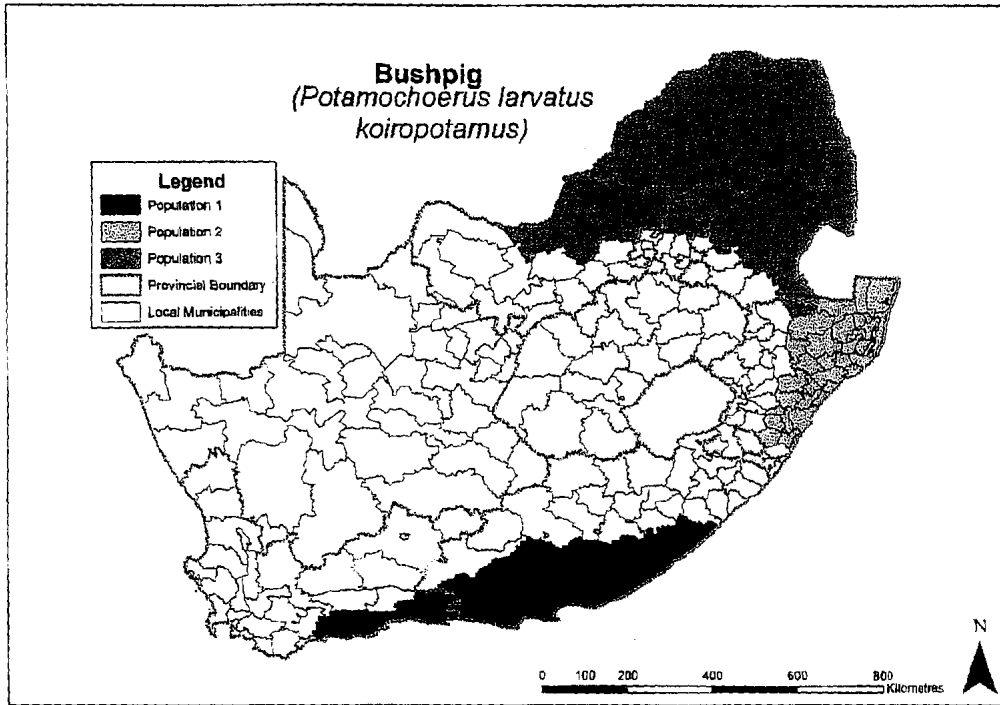


1aa *Philantomba monticola*

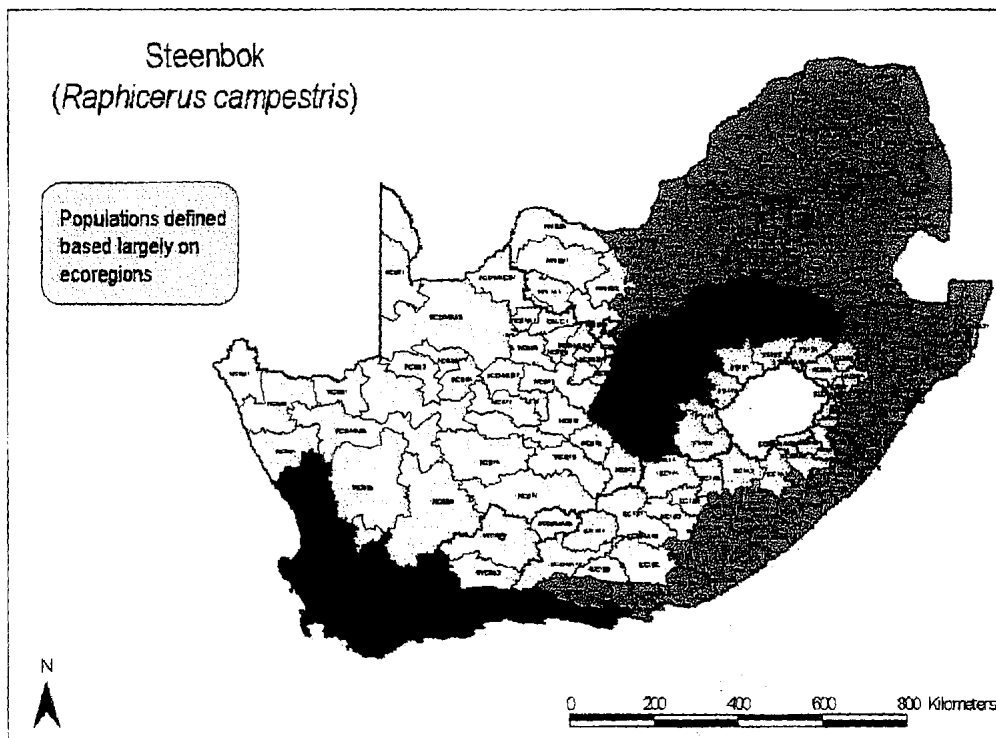
Blue duiker



1bb *Potamochoerus porcus koiropotamus* Bushpig

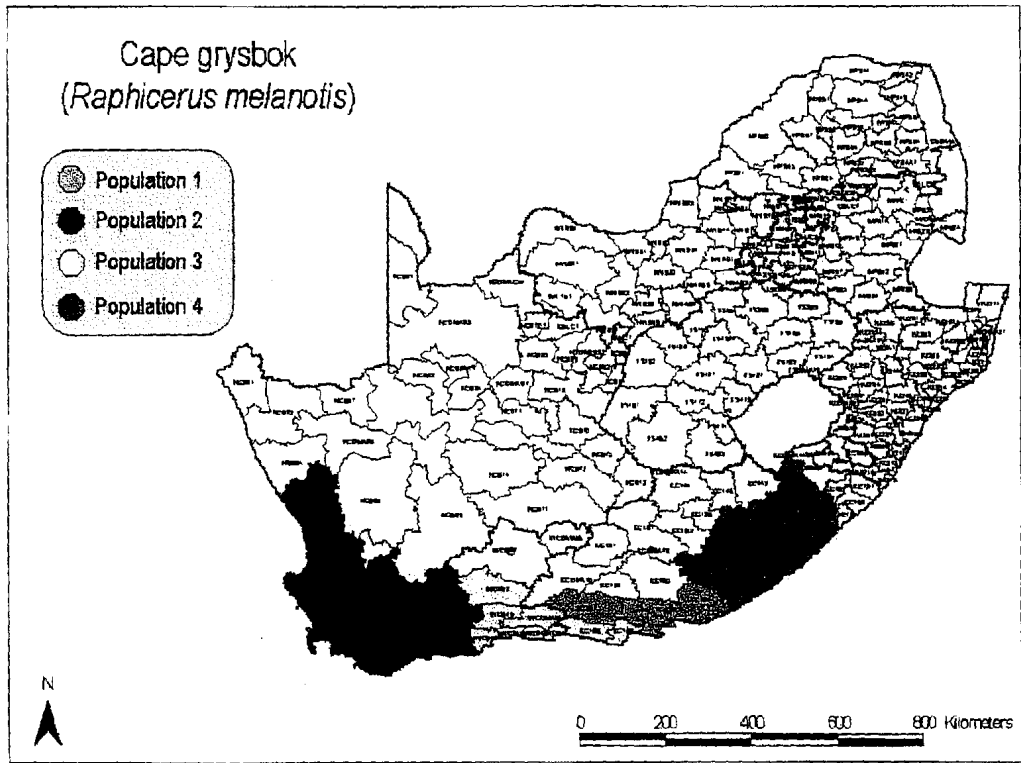


1cc *Raphicerus campestris* Steenbok



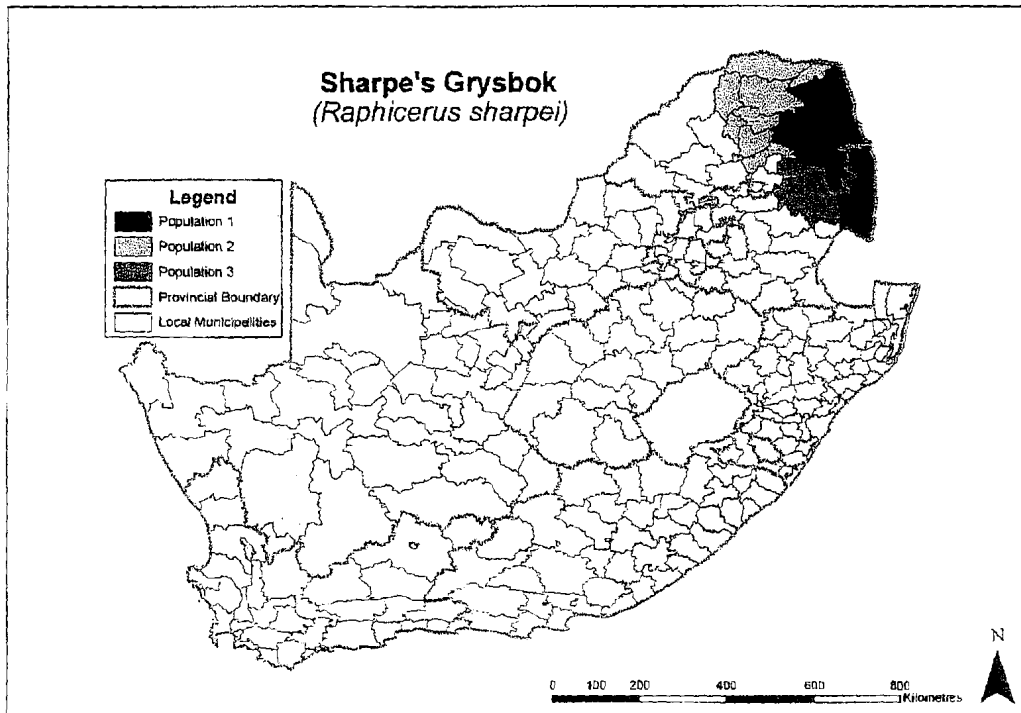
1dd *Raphicerus melanotis*

Cape grysbok



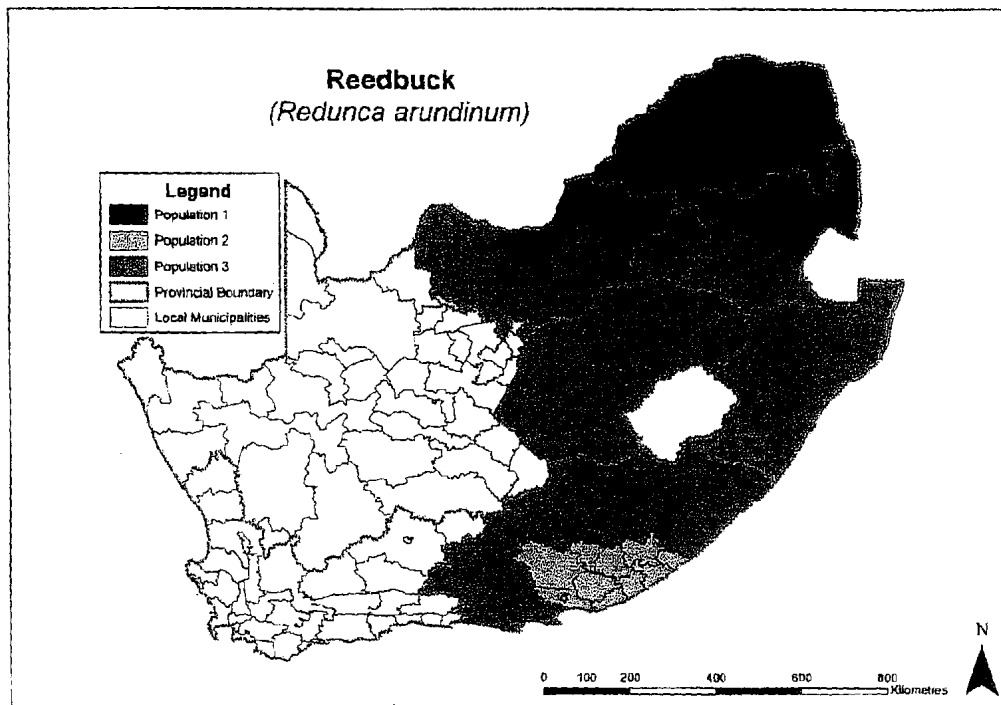
1ee *Raphicerus sharpei*

Sharp's grysbok



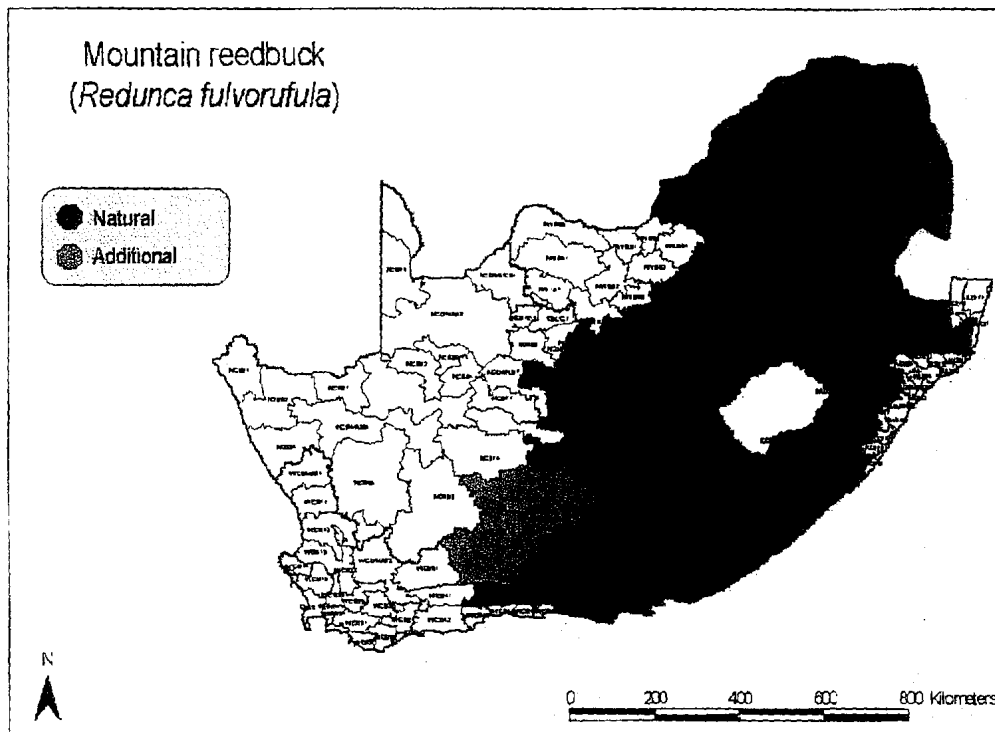
1ff *Redunca arundinum*

Reedbuck

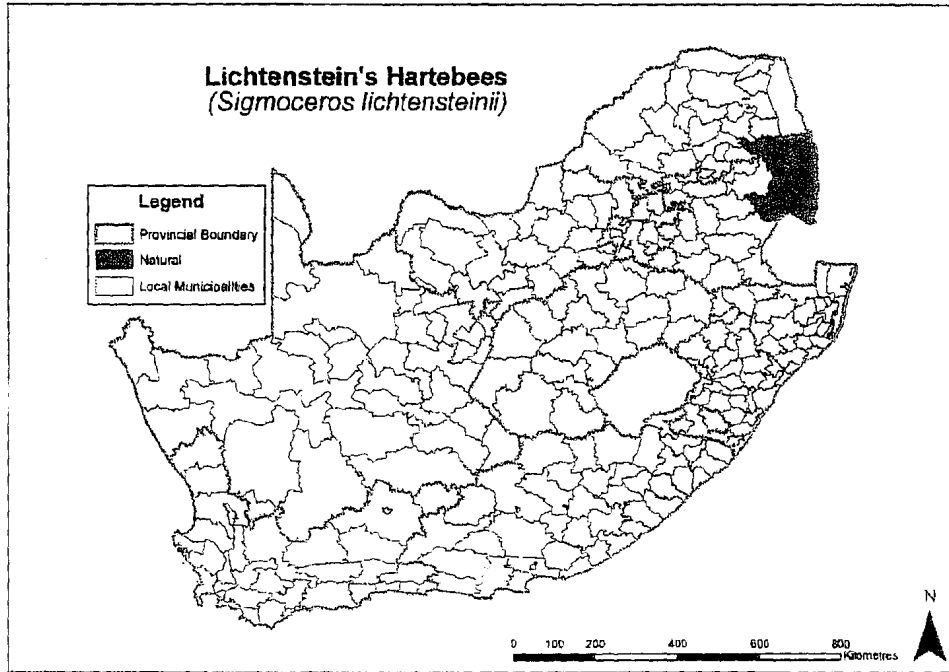


1gg *Redunca fulvorufula*

Mountain reedbuck

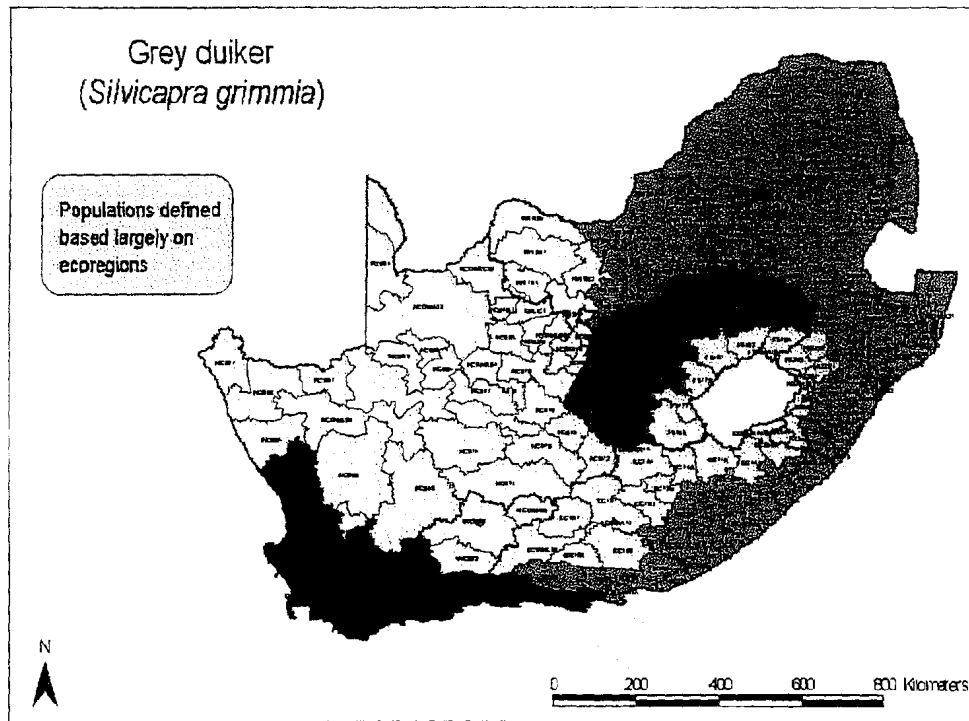


1h*Sigmoceros lichtensteinii* Lichtenstein's hartebees



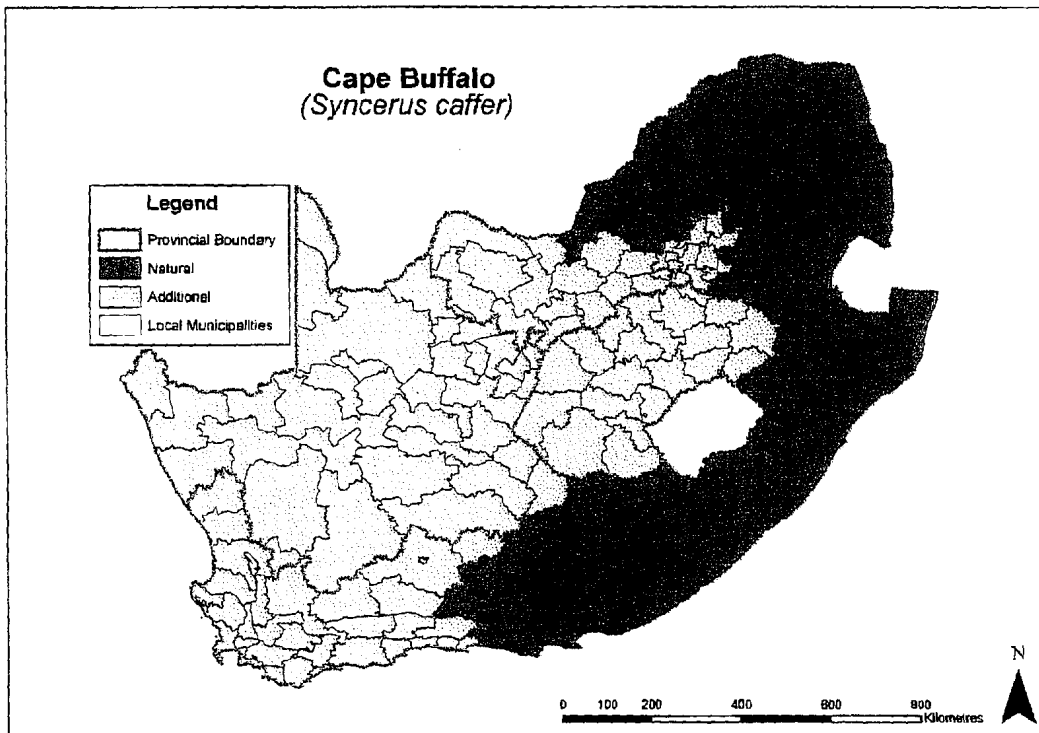
1i*Silvicapra grimmia*

Grey duiker



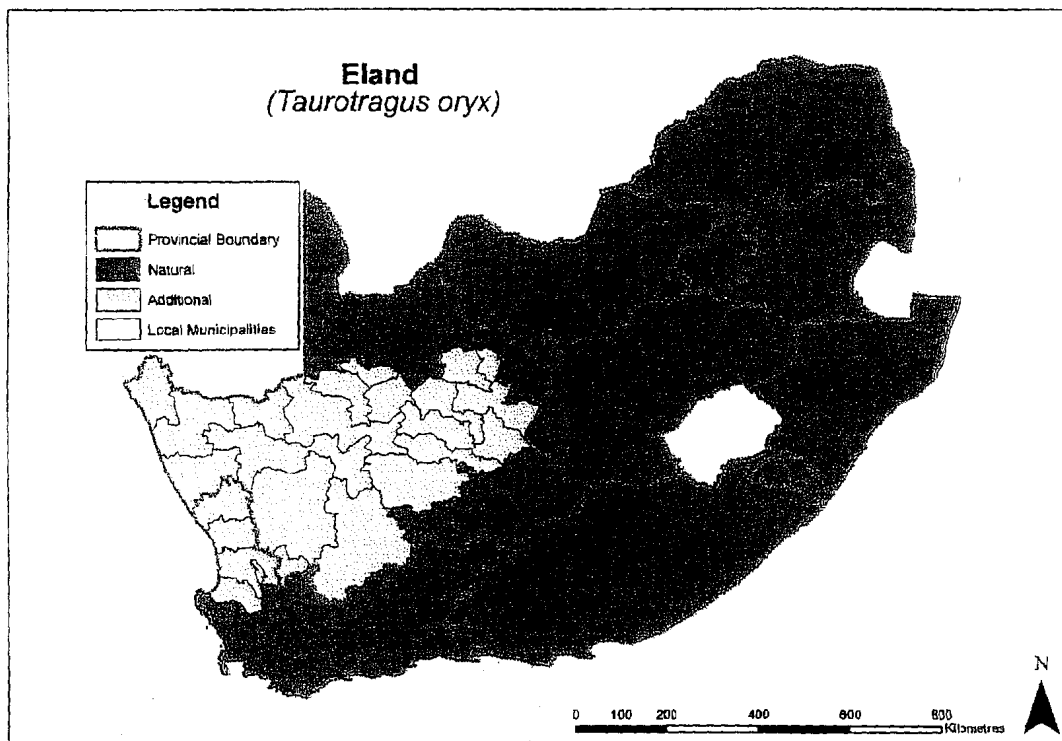
1jj *Syncerus caffer*

Cape buffalo



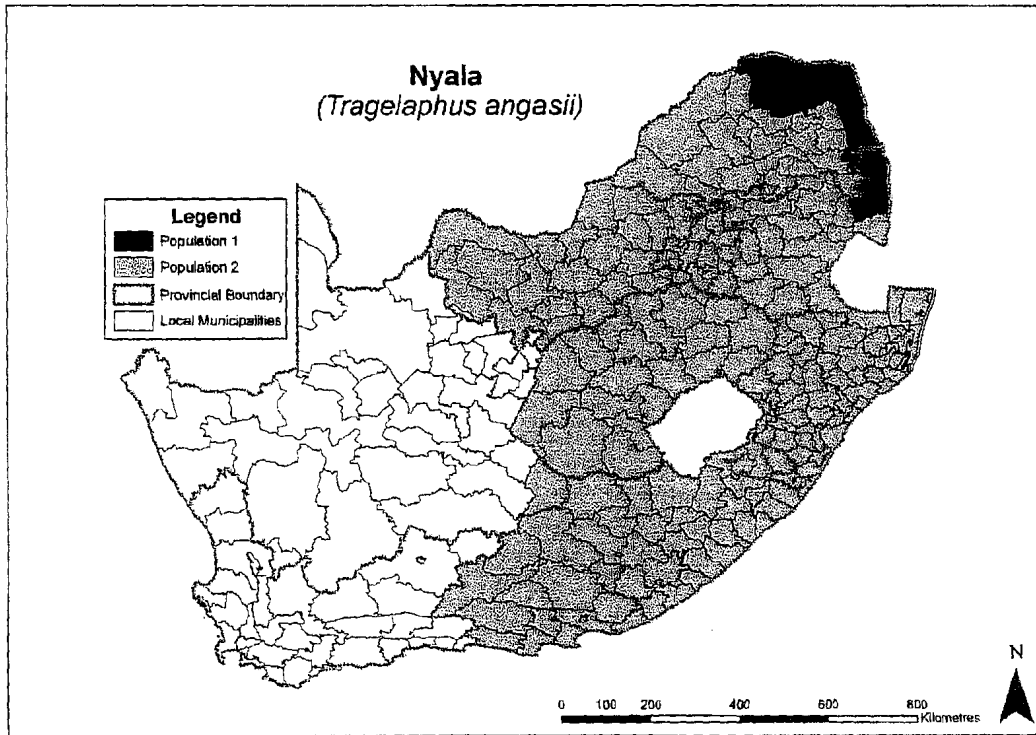
1kk *Taurotragus oryx*

Eland



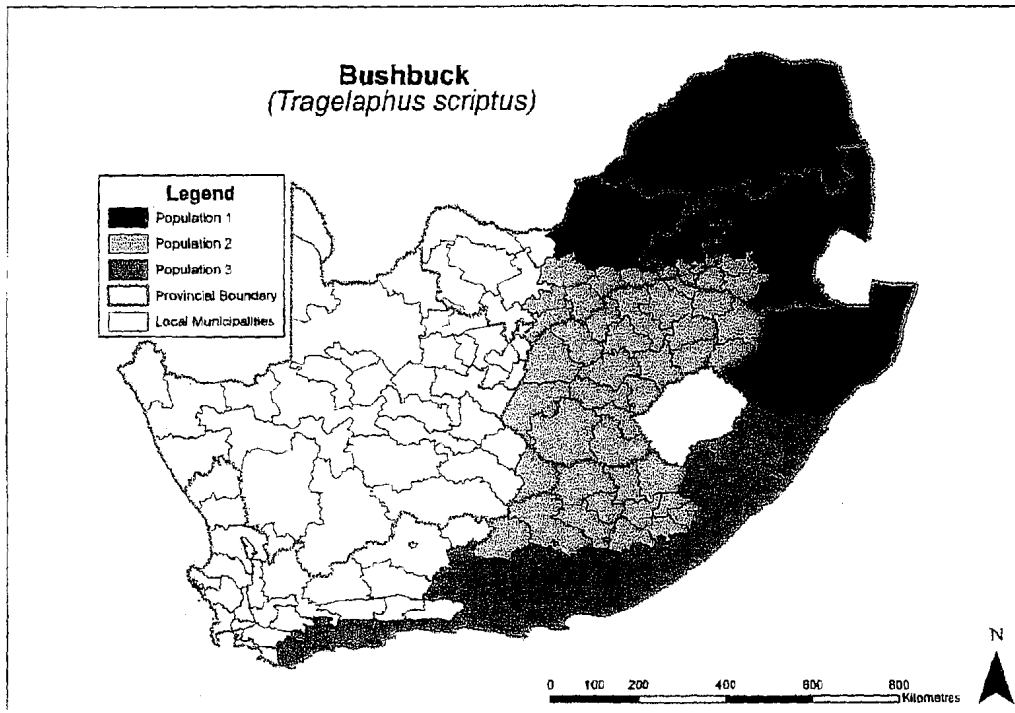
111 *Tragelaphus angasii*

Nyala



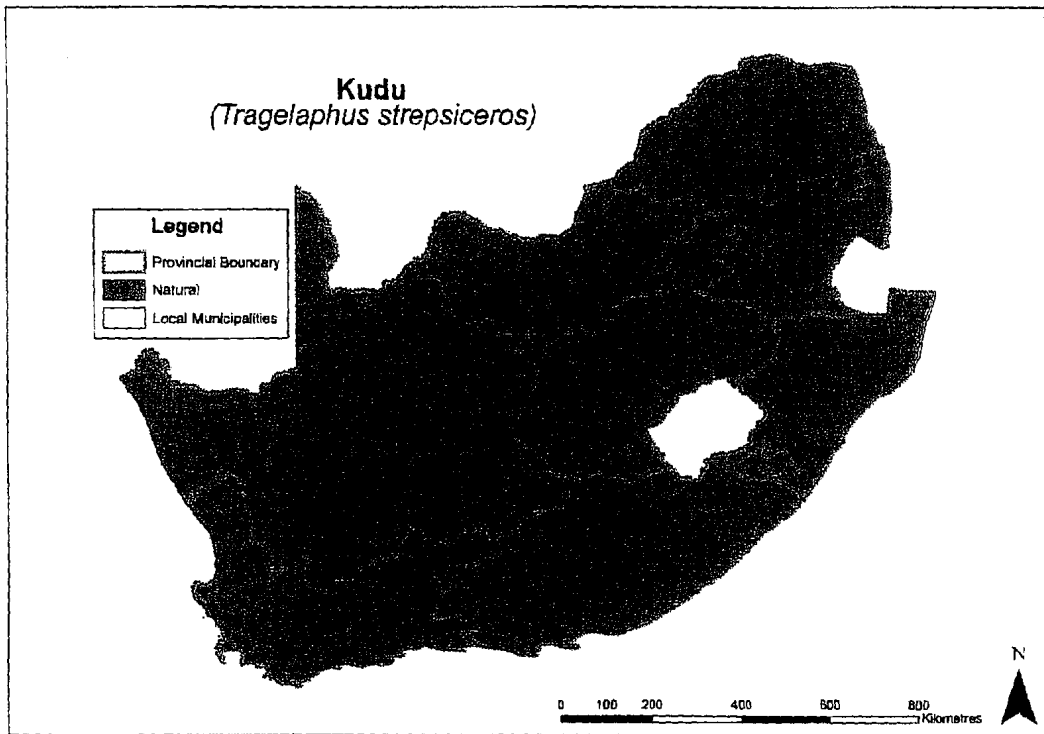
1mm *Tragelaphus scriptus*

Bushbuck



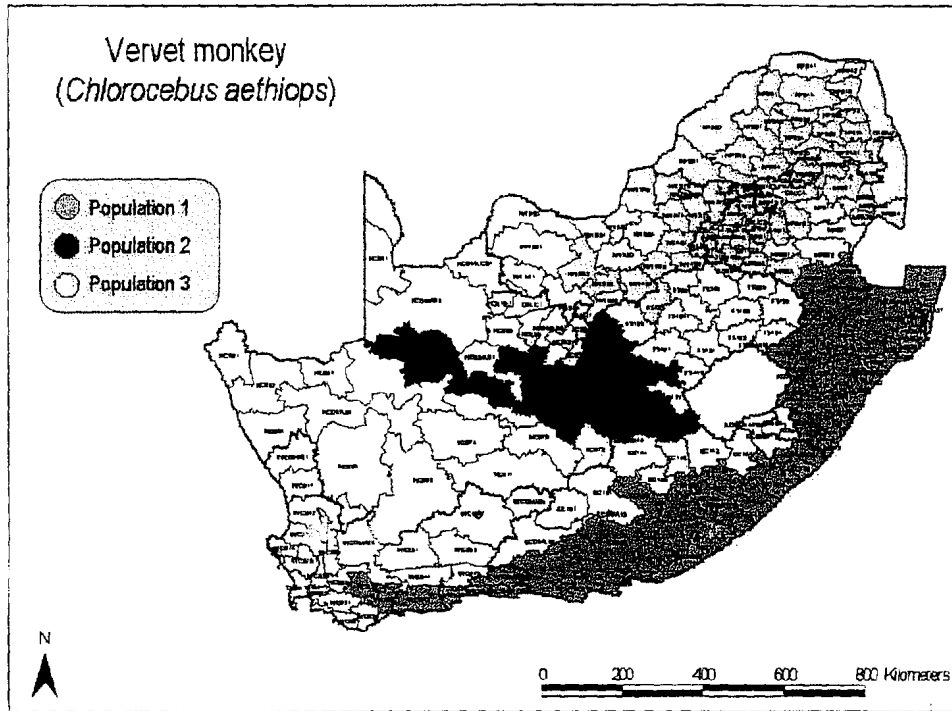
Tragelaphus strepsiceros

Kudu



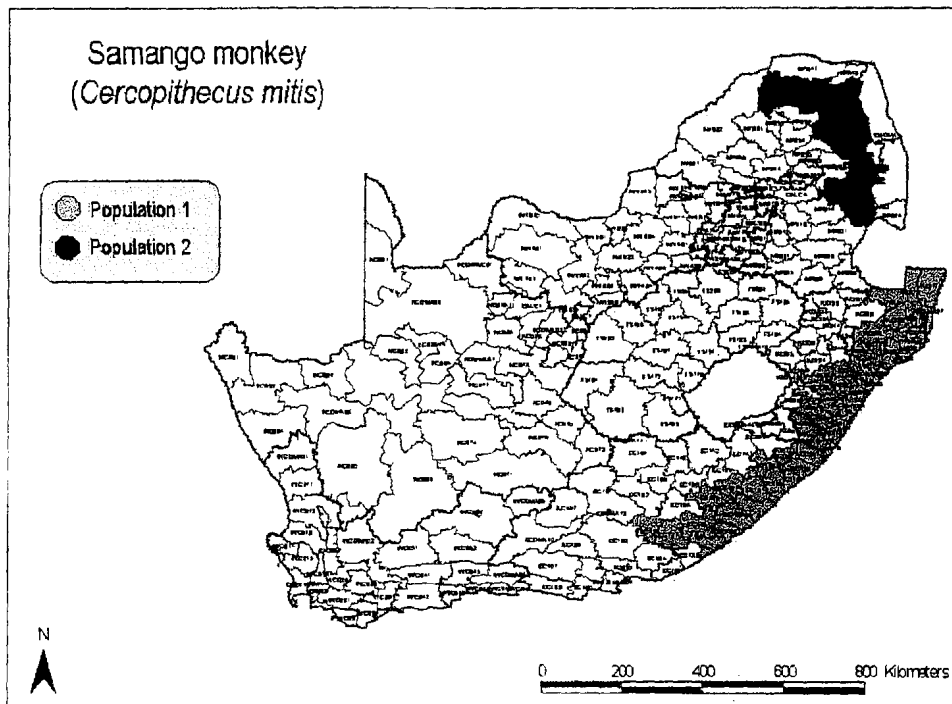
PRIMATES

Cercopithecus aethiops pygerythrus Vervet monkey



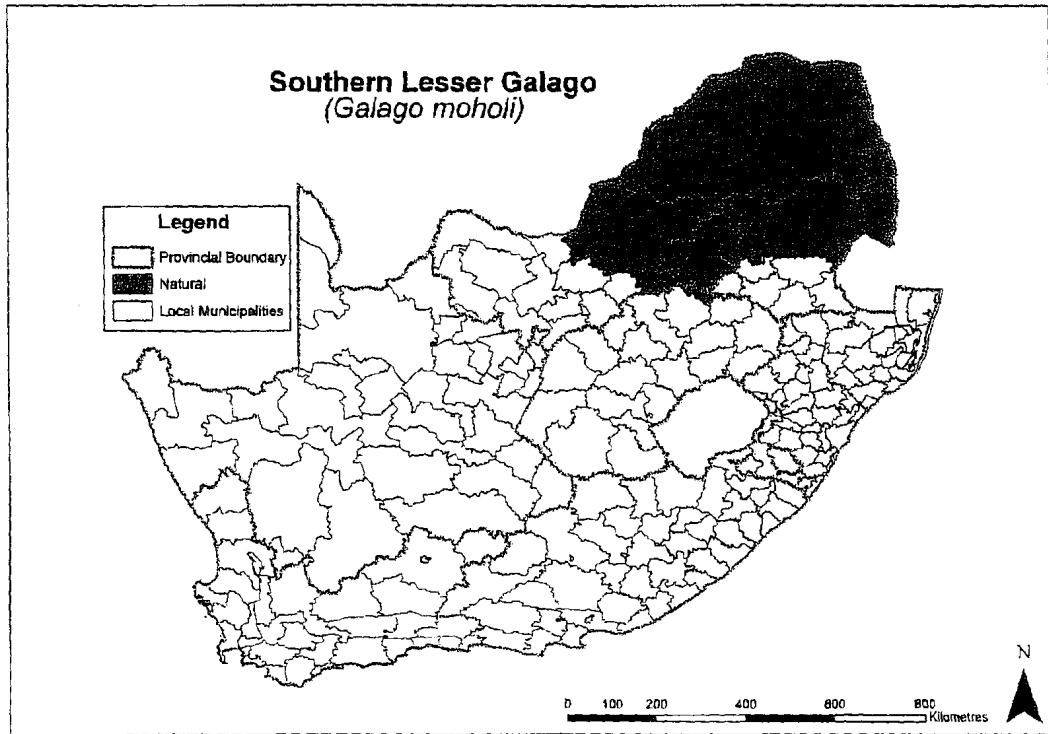
Cercopithecus mitis

Samango monkey



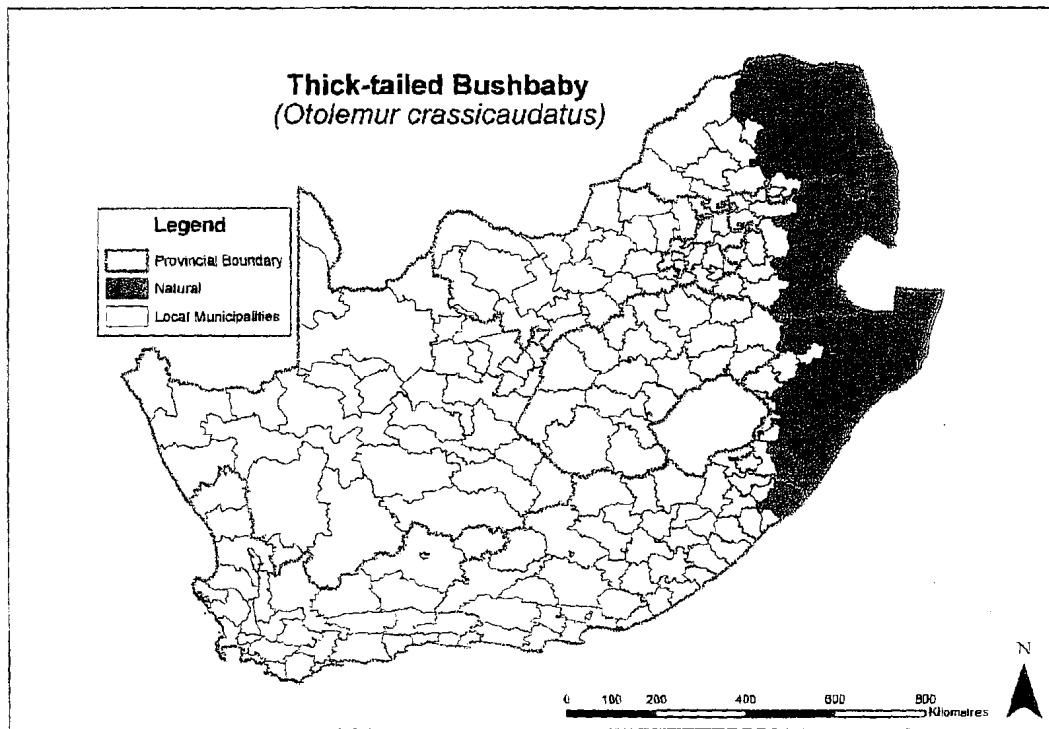
1qq *Galago moholi*

Southern lesser galago



1rr *Otolemur crassicaudatus*

Thick-tailed bushbaby



1ss*Papio ursinus*

Chacma baboon

