

Policy Name	Digital access to sensitive taxon data
Division responsible for policy document	Biodiversity Information and Policy Advice
Date of last review	January 2018
Purpose of the Policy	This Policy governs the management and access control of digital data related to sensitive taxa. It ensures the protection of such data for various reasons beyond the sensitivity of the biological resource. It should be read alongside SANBI's Biodiversity Information Policy Framework and other policies in the Biodiversity Information Management Policy Series.
Reason for the development of the policy	The main objective of creating this Policy is to establish the norms and standards for managing, using, and controlling biodiversity information, providing guidance on handling environmentally sensitive data.
Date of request for review	16 October 2024
Specific areas of concern	The policy does not conform to the <i>Framework for Development and Management of SANBI Policies and Standard Operating Procedures</i> approved 23 May 2023. As an existing SANBI policy, it must include a standard provision for review, which should occur every three (3) years from the date of approval or earlier if required by legislation. This policy was last reviewed in 2018 by Fairbridges Wertheim Becker Attorneys, who were SANBI's legal advisors at the time.
Potential consolidation of policies	N/A
Impact of change to this policy to other policies	Low impact
Consultation process	BIPA BIM Cross-functional Steering Committee Ops Forum SANBI Career Ladder Scientists MANCO EXCO
Who within SANBI is affected by the policy?	All SANBI employees
How shall the policy impact on the	N/A

implementation of CSP and APP	
What is the relevance of this policy to Sustainable Transformation?	N/A
How does the policy align with SANBI's Gender Mainstreaming Policy?	N/A
Measures to communicate policy to users	The policy will be circulated by email to users. A copy of the approved policy will be placed on the MySANBI platform.
MANCO Reviewers (Policy reviewing screening process)	
Date of submission to MANCO	10 December 2024
Submission to EXCO	
Date of submission to EXCO	21 January 2025
EXCO Decision	Approved
Submission to HR & REMCO	
Date of submission to HR and REMCO	Not applicable
HR & REMCO Decision	
Submission to Board	
Date of submission Board	Not applicable
Board Decision	

Approved/Reviewed by:

Listed committees and divisions that have been consulted/contributed and approved this document. Approval is based on the level of delegation.



Committee/Division	Date	Designation	Review/Approved	Signature
SANBI Management Committee (MANCO)	10 December 2024	MANCO Chairperson	Review: Nontsikelelo Mpulo	
SANBI Executive Committee (EXCO)	21 January 2025	EXCO Chairperson	Approved: Mr Shonisani Munzhedzi	

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Digital Access to Sensitive Taxon Data

- Introduction**
- 1.1. SANBI recognises the imperative that open access to biodiversity information is in the public interest. As a general principle, biodiversity information in the possession or control of SANBI should be made freely available to stakeholders and Data Users who or which want to use such information in the public or environmental interest.
 - 1.2. SANBI also recognises that in certain circumstances, the principle of open access to biodiversity information could have an adverse impact on certain biological resources that are vulnerable or sensitive to exploitation. Sensitive data refers to biodiversity information which contain information about biological resources or biological diversity that, if disseminated, would prejudice or might harm environmentally sensitive biological resources.
 - 1.3. The principal purpose of this Policy is to prescribe the norms and standards applicable to the management, use and control of biodiversity information that will guide the practical management of environmentally sensitive information.
 - 1.4. SANBI is mandated in terms of the National Environmental Management: Biodiversity Act 10 of 2004 (the “Biodiversity Act”) to manage a wide variety of information about South Africa’s biodiversity. This includes collecting, generating, processing, coordinating and disseminating information about biodiversity and the sustainable use of South Africa’s biological resources. In fulfilling its mandate, SANBI is obliged to establish and maintain databases of biodiversity information and aims to be the preferred source of such information.
 - 1.5. To this end, SANBI has prepared a *Biodiversity Information Management Policy Framework: Principles & Guidelines*, which provides the overarching framework and operating principles for managing biodiversity information.
 - 1.6. As part of its governance structures regarding the management, use and control of biodiversity information, SANBI is integrating existing databases of biodiversity information and so facilitating access to these databases via a single portal, which is tailored to the needs of biodiversity information users. To achieve this goal, SANBI has established partnerships with Data Owners and Data Providers.
 - 1.7. In accordance with performing its functions in terms of the Biodiversity Act, SANBI aims to make biodiversity data freely available, wherever possible, to researchers, organisations and institutions that have a legitimate interest in biodiversity information.
 - 1.8. This Policy sets out the main factors that need to be taken into account and provides guidance when considering whether or not to disseminate biodiversity information that contains information relating to sensitive taxa.

Purpose and objectives

This Policy regulates the information management and control of access to digital data pertaining to sensitive taxa only. Records containing data from sensitive taxa may need to be protected against dissemination for a range of reasons unrelated to the sensitivity of the biological resource in question. This Policy must be read together with SANBI's Biodiversity Information Policy Framework: Principles & Guidelines for the general rules applicable to the management, use and sharing of biodiversity information as well as the other policies forming part of SANBI's Biodiversity Information Management Policy Series.

The purpose of this Policy is as follows:

- i) To facilitate the availability and use of information about South Africa's biological diversity for administrative decision-making, education and research purposes.
- ii) To safeguard threatened, range restricted and NEMBA protected taxa that are vulnerable or potentially vulnerable to collecting, over-exploitation, commercial and/or medicinal use by striking an appropriate balance between the imperative of open access to biodiversity information and protecting the integrity of sensitive taxa.
- iii) To establish the general principles applicable to the management, control, and dissemination of data relating to sensitive taxa, including the different levels of controls to be applied by SANBI in restricting access to data on sensitive taxa.
- iv) To establish the criteria and procedures to be applied by SANBI in determining the sensitivity of data relating to sensitive taxa

Applicable legislation

1. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
2. Convention on Biological Diversity (CBD) and the Nagoya Protocol on Access and Benefit-Sharing
3. National Environmental Management: Biodiversity Act, 10 of 2004
4. National Biodiversity Strategy and Action Plan (NBSAP)
5. Medicinal Plant Harvesting Regulations under NEMBA and NBSAP
6. Provincial Conservation Legislation

**Link to
SANBI
policies**

Related supporting institutional policies/guidelines, which this policy document must always be read in line with:

- Biodiversity Information Policy Framework Principles & Guidelines
 - SANBI Intellectual Property Rights Policy
 - SANBI Code of Ethics for Research Ethics
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**Scope of
application****1. Definition of sensitive data**

In the context of this Policy, the term “sensitive data” refers to any information about sensitive taxa that could result in over-collecting, over-exploitation, and unsustainable commercial and/or medicinal use, or the extinction or potential extinction of the taxa.

Sensitive data includes the following:

- i) Population sizes or numbers of populations that might influence the rarity value or commercial value of the taxon;
- ii) Information about the habitat and ecosystem of a sensitive taxon that may allow the locality of the taxon to be inferred;
- iii) Georeferenced localities, precise locations, descriptions of locations and/or localities and point locality co-ordinates that may allow a population to be located;
- iv) Specimen images showing locality data and/or descriptions of locations that will enable the location of sensitive taxa to be inferred;
- v) Records of specimens in collections or observation records (including the name of the collector, the collector specimen number, taxon identity, the locality description, co-ordinates more precise than a quarter-degree-square, population size, date of collection, collector of the specimen/s, and any habitat information associated with the specimen/s.) that with analysis may allow a population of a sensitive taxon to be located. The record may refer to a single specimen, or a sample, which includes several or many specimens with identical collecting details. All specimen/observation records for a sensitive taxon, no matter when collected, would be equally restricted.

2. Definition of sensitive taxa

The term sensitive taxa refers to threatened, range restricted or NEMBA protected taxa that are vulnerable or potentially vulnerable to over-exploitation from unsustainable collecting, and/or commercial use and

that may allow an increase in the risk of commercial, local or global extinction of the taxon.

Not all data pertaining to taxa in the above-mentioned categories of sensitive taxon shall automatically be considered to be sensitive. Information regarding sensitive taxa will only constitute sensitive data where the dissemination of such information could result in harm to the taxon in question through over-collecting, over-exploitation, and unsustainable commercial and/or medicinal use.

The categories of sensitive taxa contemplated in this Policy include:

- i) Any taxon listed on the annual publication of sensitive taxa, the National Sensitive Species List (NSSL) by SANBI. URL: <https://nssl.sanbi.org.za/>

Criterion 1: Targeted exploitation

Criterion 2: Population vulnerability

Criterion 3: Regeneration potential

- ii) Any threatened or protected taxon listed in terms of the Biodiversity Act.
- iii) All taxa within a genus having no less than 25% of its taxa in i) and/or ii) threatened through over-collecting, over-exploitation, and unsustainable commercial and/or medicinal use.

**Policy
statement**

**CRITERIA FOR DETERMINING THE ENVIRONMENTAL SENSITIVITY
OF DATA REGARDING SENSITIVE TAXA**

Where SANBI generates biodiversity information that contains sensitive data, SANBI shall specify that the data is sensitive, the nature and degree of the sensitivity, and the level of access control required.

Where data is generated by third parties and deemed to be sensitive by the Data Owner and/or the Data Provider, they are required upon provision of the data to SANBI to specify which of the data is sensitive, the nature and degree of the sensitivity, and the level of access control required, within the categories of control used by SANBI.

SANBI shall on an annual basis publish a list of sensitive taxa, known as the *Published list of sensitive taxa*.

PRINCIPLES FOR THE MANAGEMENT, CONTROL AND DISSEMINATION OF SENSITIVE DATA

The following general principles apply to the management, control and dissemination of sensitive data.

1. Wherever possible, biodiversity information collected by SANBI or using SANBI resources should be made available via the SANBI portal at no cost to the user, with as few restrictions as possible, on a non-discriminatory basis.
2. A fee can be levied in respect of providing access to commercial users of sensitive data in the manner described in the *Biodiversity Information Management Policy Framework: Principles and Guidelines*.
3. Where the biodiversity information requested contains a mix of ecologically sensitive data and non-sensitive data, reasonable efforts should be taken by the data provider to ensure that the sensitive data is separated or deleted from the record in question and the non-sensitive data is released.
4. Access to sensitive data should be provided to the following categories of Data Users in the circumstances described below:

- i) Any department or administration in the national or provincial sphere of government or any municipality in the district and local sphere of government when taking a decision or exercising any function in terms of any statutory provision concerning the protection or management of the environment (including functions or decision-making processes relating to biodiversity conservation or management, natural resource documentation or management).

Additionally, it is important to acknowledge the multiple projects run by global entities, international departments, or organisations that contribute to local contexts or programmes. These are often overlooked in discussions but play a crucial role in shaping effective environmental and biodiversity management.

- ii) Any private individual or entity in connection with consulting services being undertaken for statutory provision concerning the protection or management of the environment.
- iii) Any private individual, entity or institution (including universities, research organisations and other organisations) that requires access to such information for the purposes of undertaking bona

vide scientific research and has been vetted by SANBI.

5. Access to sensitive data by all other categories of Data Users must be determined by SANBI, the Data Provider and/or the Data Owner on a case-by-case basis.
6. SANBI can determine the nature of access and the time extent, if applicable, to which it would allow access to sensitive data.
7. Recipients of sensitive data must sign a non-disclosure agreement.
8. A request for access to sensitive data shall be refused by SANBI if the request is manifestly frivolous or vexatious.
9. A request for access to sensitive data may be refused by SANBI if the work involved in processing the request would substantially and unreasonably divert SANBI's resources.
10. A request for access to sensitive data must be granted by SANBI if the disclosure of the record would reveal evidence of:
 - i) a substantial contravention of, or failure to comply with, the law; or
 - ii) an imminent and serious public safety or environmental risk;and the public interest in the disclosure of the record clearly outweighs the harm contemplated.
11. In the case of biodiversity information that contains confidential or commercial information of a third party, SANBI shall release such data only in accordance with the requirements stipulated in the *Biodiversity Information Management Policy Framework: Principles and Guidelines* and only after receiving the consent to do so in writing from the Data Owner or Data Provider in question.
12. Information supplied by SANBI, in any format, or through any media, may not be sold in whole or in part. The information may be used for purposes such as to inform an opinion, recommendation, interpretation, conclusion or policy as a derivative product and/or service. SANBI will not be held liable for the use of the information in any process, product or service. The use of the information is subject to the conditions as set out in the *SANBI Intellectual Property Rights Policy*.
13. Notwithstanding any other indication to the contrary in this Policy, SANBI is obliged to grant access to a record containing ecologically sensitive data in certain circumstances prescribed in the Promotion of

Access to Information Act (PAIA), as amended SANBI's *Biodiversity Information Management Policy Framework: Principles & Guidelines* must be applied in this regard.

PROCEDURE FOR GRANTING ACCESS TO SENSITIVE DATA

Requests for access to sensitive data will be considered on a case-by-case basis.

1. Records containing data of sensitive taxa must be marked as such in SANBI's database. Sensitive data will be flagged so that only the coarse locality data associated with them will appear.
2. Where SANBI identifies that the data requested contains sensitive data, the bona fides of the data requester must be established as well as the purpose for which the request has been made.
3. The accounting officer must identify the Data Owner to determine whether the information is SANBI-generated or not, as non-SANBI generated data may have conditions placed on it as stipulated by the Data Owner in the Data Sharing Agreement between SANBI and the Data Owner and might be otherwise protected by law.
4. Where the data belongs to a third party, SANBI's databases shall be filtered according to the specifications as outlined in an agreement between SANBI and the Data Owner where such agreement regulates the information in question.
5. Where such agreement regulates the information in question, requests for non-SANBI generated sensitive data (e.g. fine-scale locality data for threatened taxa) will be referred back to the Data Owner, who must establish the bona fides of the requester and decide whether or not to grant the requisite permission or consent for the release of the information by SANBI (including such detail as at what level or spatial resolution should access be granted) should such datasets not be covered by any existing agreement.
6. The data will be provided at the appropriate level for the sensitivity of the data in accordance with the criteria set out in this Policy and subject to the requirement that access to any records containing sensitive data must be approved by SANBI's Biodiversity Information Management Committee in a manner to be determined by SANBI in accordance with this Policy.
7. Data in its original, detailed form will be made available to conservation authorities to support informed decision-making. A representative from each conservation authority will be appointed to ensure that all team

members handling the data understand these restrictions, maintain data security, and limit access to authorised personnel only. Furthermore, the data will not be used in publications or presentations without explicit permission.

Professionally sensitive data

8. Professionally sensitive data refers to all data (including, but not restricted to data relating to sensitive taxa) provided to SANBI by any source that will be publishing the data and that has not authorised its release by SANBI until the publication of the data has occurred or permission from the source has been granted.
9. SANBI shall not release such data without permission from the source unless a mutually acceptable time limit for release has elapsed, as determined in the Intellectual Property Rights Policy of this Biodiversity Information Policy Framework.
10. The Data Provider must make explicit on providing the data to SANBI that the data is categorised as professionally sensitive data in terms of this Policy, and the time frame for such categorisation of the data.

ACKNOWLEDGEMENT OF DATA OWNERS

SANBI must ensure that Data Owners are adequately acknowledged and that such attribution be maintained in any subsequent use of the data. Data Users must be required to cite the author and source of the material in the same manner that they would cite and acknowledge material from any printed work. Members of the public who were involved in data collection should also be acknowledged.

DATA SHARING RIGHTS

Data sharing rights are to be for limited time periods, and to be renewed on a regular basis. Data Owners that place conditions on their datasets are required to provide a release period, after which the datasets will be made available. Data Owners may request to be notified when their data is extracted by a Data User. The execution of this request is subject to resource availability.

GENERALISATION OF DATA

Sensitive data held by SANBI is safeguarded by either generalising location information to make it less specific or redating the data. SANBI shall make the data available at only two resolutions: at a fine-scale level constrained by the resolution at which it was collected and at a

generalised level of a quarter-degree-square (QDS).

Where there is disagreement between the opinion of the data provider and SANBI as to whether a record or dataset should be regarded as sensitive, SANBI shall retain the right not to curate, publish or disseminate the record or dataset until a resolution has been made.

Definitions

“Data”	means primary taxon occurrence data, legacy data, observational and multimedia records in digital format and includes without limitation, photographs, images, recordings, specimens, monographs and other documents in SANBI’s possession or control;
“Data owner”	means organisations or individuals that own Data;
“Data portal”	means any SANBI controlled website through which the Data may be accessed through the internet;
“Data Provider”	means the organisations or individuals that provide Data to SANBI;
“Data Users”	means any person accessing the Data through the Data Portal and making use thereof;
“Ecologically sensitive data”	refers to any information about sensitive taxa that could be used to identify localities or population size of the taxon that may allow an increase in the risk of commercial, local or global extinction of the taxon;
“PAIA”	means the Promotion of Access to Information Act 2 of 2000, as amended;
“Population vulnerability”	means the number of mature individuals, known subpopulations or range;

“Regeneration potential”	means the population growth rate and recovery from exploitation (can be grown in a nursery);
“SANBI”	means the South African National Biodiversity Institute;
“Sensitive taxon”	means any threatened, range restricted or NEMBA protected taxon that is vulnerable or potentially vulnerable to over-exploitation from unsustainable collecting, and/or commercial use, that may allow an increase in the risk of commercial, local or global extinction of the taxon;
“Targeted exploitation”	means any species actively targeted or known to be exploited (e.g. sold on the internet, sieges at roadblocks or border patrols, etc.);
“Taxa”	Singular taxon: means a kind of animal, plant or other organism that does not normally interbreed with individuals of another kind, and includes any species, sub-species, cultivar, variety, geographic race, strain, hybrid or geographically separate population.

Annexures

- Biodiversity Information Management Policy Framework: Principles and Guidelines. Available at <http://hdl.handle.net/20.500.12143/7450>