



**DEPARTMENT OF WATER AFFAIRS AND FORESTRY**

**POLICY:**  
**Using Water for Recreational Purposes**

**MARCH 2002**

Prepared by

**The Directorate Social and Ecological Services**

## **ACKNOWLEDGEMENTS**

The Department of Water Affairs and Forestry wishes to thank Ecotourism Afrika Trust for assisting in the development of a policy for using water for recreational purposes. This document and policy is the first step in the process towards the regulation of the use of water for recreational purposes.

## **POLICY ABSTRACT**

**Subject:** Using water for recreational purposes

**Purpose:** Defining government's overall and DWAF's particular responsibility regarding this water use and establishing the basic principles, aims and policy for regulating the use of water for recreational purposes.

**Authority:** Section 3 of the National Water Act, 1998 (Act No. 36 of 1998).

**Contact:** The Department of Water Affairs and Forestry, Director: Social and Ecological Services, Private Bag X 313, 185 Schoeman Street, Pretoria, 2001. Tel: 012-336 8224, Fax: 012-336 8678, e-mail: [deb@dwaf.pwv.gov.za](mailto:deb@dwaf.pwv.gov.za).

---

## CONTENTS

### ACKNOWLEDGEMENTS

### POLICY ABSTRACT

1. INTRODUCTION.....	1
2. THE NEED FOR A POLICY.....	1
3. THE PURPOSE OF THIS POLICY.....	2
4. AUTHORITY AND RESPONSIBILITIES.....	2
5. WIDER LEGAL FRAMEWORK.....	3
6. AIMS OF THE POLICY.....	3
7. POLICY FOR USING WATER FOR RECREATIONAL PURPOSES.....	3
8. IMPLEMENTING THE POLICY.....	4
8.1. KEY PERFORMANCE AREAS.....	4
8.2. SUPPORTING DOCUMENTATION.....	4
9. CONCLUSION.....	5
REFERENCES.....	6

### GLOSSARY

### LIST OF FIGURES

## **GLOSSARY**

Access	Refers to being able to get, enter or use something <sup>1</sup>
DWAF	Department of Water Affairs and Forestry
Equity	Refers to the application of general principles of justice and fairness with the specific intent of righting the wrongs of the past
KPA	Key Performance Area
NEMA	National Environmental Act, No. 107 of 1998
NWA	National Water Act, No. 36 of 1998

## **LIST OF FIGURES**

Figure 1: Sustainable use of water for recreational purposes .....	1
--	---

---

<sup>1</sup> White Paper on Environmental Management Policy, Department of Environment Affairs and Tourism, April 1999

## 1. INTRODUCTION

Tourism, sport and leisure, as the broad recreation industry, has developed into the largest industry worldwide, and is receiving increased focus and attention in South Africa. Often this industry utilises water as an integral part of its activities, and thus, as the industry grows and diversifies, it can be expected that the demand for water-orientated recreation will intensify.

In order to ensure the sustainability of an industry utilising water for recreational purposes it is imperative that the water resource be protected, and that the utilisation thereof be based on sound management, while ensuring equitable benefits to the affected communities. Increased pressure for Governmental intervention will occur in order to ensure sustainability through a clarification of policy regarding equity, resource management, protocols and guidelines.

## 2. THE NEED FOR A POLICY

To date this water-based industry has, however, largely been neglected in policy and legislation development, as well as in implementation.

With the promulgation of the National Water Act, No. 36 of 1998 (NWA) this situation changed. Section 21(k) of the NWA introduces and identifies 'using water for recreational purposes' as a water use.

According to the Department of Sport and Recreation, recreation is defined as "a *process of voluntary participation in a wide variety of activities that are undertaken during leisure times and contributes to the improvement of general health and well being of both the individual and society*", implying that the policy for using water for recreational purposes, focuses on the impacts of the activities on water quantity and quality and not on the activities as such.

In addition to the guidance of the NWA, policy is required to ensure that National Government through DWAF can provide explicit direction and guidance regarding this water use, thereby creating a conducive environment for unlocking the potential of this use and associated industry in a sustainable manner.

A clear policy, integrated and compliant with relevant legislation, policies and strategies, will ensure that this water use is an important catalyst regarding the redressing of past imbalances, whilst providing an effective strategy for managing, conserving and using water resources sustainably and equitably.

Sustainability will only be attained if a harmonious balance can be created and maintained regarding resource management and conservation, equitable community beneficiation and meeting the water user's needs and requirements, through comprehensive public policy (refer Figure 1).

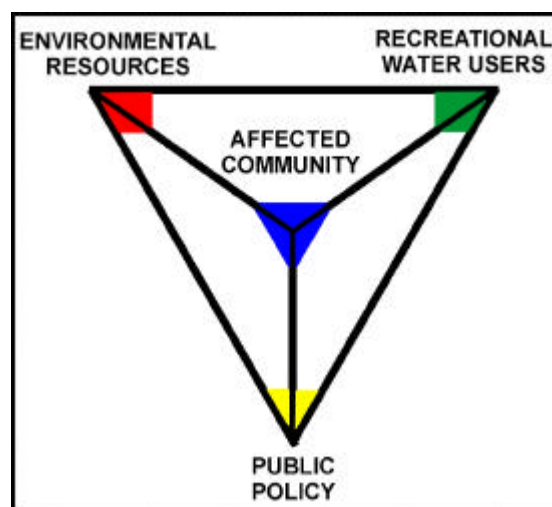


Figure 1: Sustainable use of water for recreational purposes

Government has a pivotal role to play in establishing such a balance and attaining the objectives of the Constitution of the Republic of South Africa, Act No. 108 of 1996, NWA, and environmental legislation.

DWAF's role in this equation will be to ensure that water resources are managed and protected, that the use of water for recreational purposes takes place in a sustainable and equitable manner, and that affected communities are afforded benefits from the water use. Ideally, this role must be undertaken in a co-operative governance approach, based on clear roles and mandates.

### **3. THE PURPOSE OF THIS POLICY**

Section 2 of the NWA states the purpose of the Act is to ensure that the nation's water resources are protected, used, developed, conserved, managed and controlled in ways which take into account amongst other:

- meeting the basic human needs of present and future generations;
- promoting equitable access to water;
- redressing the results of past racial and gender discrimination;
- promoting the efficient, sustainable and beneficial use of water in the public interest;
- facilitating social and economic development;
- providing for growing demand for water use;
- protecting aquatic and associated ecosystems and their biological diversity;
- reducing and preventing pollution and degradation of water resources;
- meeting international obligations;
- promoting dam safety,

and for achieving this purpose, to establish suitable institutions with appropriate community, racial and gender representation.

Additionally, as the NWA is founded on the principle that DWAF has overall responsibility for and authority over water resource management, including the equitable allocation and beneficial use of water in the public interest, a person can only be entitled to use water if the use is permissible under the Act.

Based on these objectives and principles the purpose of this policy regarding the use of water for recreational purposes is to define government's overall and DWAF's particular responsibility regarding this water use and to establish the basic principles, aims and policy for regulating the use of water for recreational purposes.

### **4. AUTHORITY AND RESPONSIBILITIES**

In terms of Section 3 of the NWA, National Government, through the Minister of Water Affairs and Forestry, is the public trustee of the nation's water resources, with additional power in terms of Section 26 of the NWA, to regulate the manner, purpose and extent of water use, and in this instance the use of water for recreational purposes.

DWAF is thus mandated as the lead organisation concerning the regulation and management of the use of water for recreational purposes. The Directorate Social and Ecological Services is the lead directorate within DWAF responsible for policy and protocol formalisation and support concerning the use of water for recreational purposes. The management and control of the use of water for recreational purposes will centre on achieving the purpose of the NWA.

The basis for regulating water use is defined in Chapter 4 of the NWA, specifically dealing with the various types of licensed and unlicensed entitlements to use water, inclusive of recreation.

However, given that the functional areas of concurrent national and provincial legislative competence comprise *inter alia* tourism, and that of exclusive provincial competence, provincial recreation and associated amenities, the responsibility for sustainably managing this water use, and the various aspects of this industry, will not only resort with DWAF but also with other spheres of government and delegated authorities in a co-operative manner.

## **5. WIDER LEGAL FRAMEWORK**

Although not an exhaustive list, other statutes forming part of the legal framework within which the use of water for recreational purposes will be regulated include:

- Constitution of the Republic of South Africa
- The Environment Conservation Act, No. 73 of 1986;
- National Environmental Management Act, No. 107 of 1998 (NEMA)
- Conservation of Agricultural Resources Act, No. 43 of 1983;
- Development Facilitation Act, No. 67 of 1995;
- Municipal Structures Act, No. 117 of 1998;
- National Forests Act, No. 84 of 1998;
- National Parks Act, No. 57 of 1976;
- Promotion of Administrative Justice Act, No. 3 of 2000;
- Public Finance Management Act, No. 1 of 1999; and
- Provincial and local laws, ordinances and by-laws.

## **6. AIMS OF THE POLICY**

The NWA and NEMA introduce several concepts and principles relevant to the use of water for recreational purposes that will be applied toward the regulation of this water use.

These principles in essence include:

- Sustainable and beneficial water resource and environmental (natural, historical and cultural) protection, use, development, conservation, management and control;
- Appropriate consideration to relevant legislation, policies and regulations;
- Provision of lawful, reasonable and procedurally fair administrative services and support;
- Government providing and enabling framework for the water-based recreational industry to flourish, through clarification of policy and the promulgation of regulations to guide development;
- Private sector driven development, investment and operation; and
- Effective and equitable community involvement to ensure the basis for sustained growth of the related industry and development, as well as the empowerment of previously neglected communities.

In view of these principles the Department wants to attain and ensure through this policy the following four fundamental aims:

- Sustainable and beneficial water resource management and protection;
- Equitable community participation and beneficiation;
- Meeting the needs and requirements of the water user in a co-operative manner; and
- Just public administration and service delivery based on sound policy.

## **7. POLICY FOR USING WATER FOR RECREATIONAL PURPOSES**

It is thus Departmental policy that in terms of-

### **Sustainable and beneficial water resource management and protection:**

- (i) Using water for recreational purposes and associated amenities must comply with relevant environmental legislation to minimise and control impacts on water resources;
- (ii) Using water for recreational purposes must be authorised and decisions based on the premise that the impact of using water for recreational purposes will be detrimental;
- (iii) The burden of proof resorts with those who want to carry out recreational activities; and
- (iv) Water is a valuable environmental (social, economic and ecological) commodity and charges will be levied for using water for recreational purposes.



**Equitable community participation and beneficiation:**

- (v) Affected communities must be involved and participate in a meaningful manner in decision-making and other processes; and
- (vi) Appropriate and acceptable beneficiation and equity sharing must emanate from using water for recreational purposes.

**Meeting the needs and requirements of the water user:**

- (vii) Access to water resources for recreational purposes must be equitable;
- (viii) Using water for recreational purposes and other water uses must be compatible both in space and time; and
- (ix) Using water for recreational purposes must comply with public, and if applicable, industry health and safety norms, standards and regulations.

**Just public administration and service delivery:**

- (x) The potential of water resources must synergistically be unlocked and a conducive environment created for recreational purposes;
- (xi) Active outreach and communication efforts with stakeholders to ensure effective implementation of management actions must be promoted; and
- (xii) The regulation of using water for recreational purposes must take place within a co-operative approach.

## **8. IMPLEMENTING THE POLICY**

### **8.1. Key performance areas**

DWAF, as the lead organisation in the regulation of the use of water for recreational purposes, has a pivotal role to play in unlocking the potential of water resources for recreational purposes.

In order to focus the Department's activities on explicit outcomes, nine Key Performance Areas (KPA) with clear goals and supporting strategies have been identified. These KPAs will form the basis and framework for implementation of the policy and include:

1. **Controlling** the impact of use of water for recreational purposes through water use authorisation, registration, regulations, and other appropriate measures;
2. Establishing effective co-operative **linkages** with relevant role players;
3. Ensuring the **capacitation** of the various role players;
4. Addressing the **safety** of water users;
5. Facilitating appropriate recreational **infrastructure and development** based on environmental constraints, industry, user and community needs and expectations;
6. Facilitating and ensuring the creation of a conducive **financial environment** for recreational water;
7. Facilitating benefit flow to **affected communities**
8. Ensuring appropriate and relevant **information** collation and dissemination; and
9. **Auditing and monitoring** of compliance and performance regarding the use of water for recreational purposes.

### **8.2. Supporting documentation**

This policy is currently supported by the following protocol:

- A draft guideline series providing detailed information regarding the authorisation of the use of water for recreational purposes;
- Proposed general authorisation for using water for recreational purposes;
- A draft sustainable utilisation planning procedure for the compilation and implementation of management plans for water resources directed at managing and controlling the use of water for recreational purposes and ensuring compatibility with other water uses; and
- A draft terms of reference for the policy implementation programme.

## **9. CONCLUSION**

By regulating the use of water for recreational purposes based on a policy that encompasses sustainability based on sound principles and objectives relating to-

- environmental constraints and opportunities;
- community and user needs and requirements;
- sound business practice;
- a clear understanding of both the manner purpose and extent of this use; and
- co-operative governance processes,

it is envisaged that the nation's water resources can be managed, protected and controlled in a manner that ensures the achievement of equitable access to water resources and efficient, sustainable and beneficial use of water for recreational purposes.

## REFERENCES

- AUSTRALIAN PARKS SERVICE, *Environment Protection Act, 1999*. Australia
- AUSTRALIAN PARKS SERVICE, *Energy and Water Act, 1988*. Australia
- BEWSHER, P K, & DE JONG, R C, 1997, *Ecotourism and cultural resource management. Document prepared for the SA Wildlife College*. Pretoria: Centre for Ecotourism.
- BØRHAUG, K, 1993, *From policy guidelines to problem solving. A critical assessment of the national conservation strategies of Botswana and Zambia*. Bergen (Norway): Chr. Michelsen Institute.
- BROHMAN, J, 1996, New directions in tourism for third world development. *Annals of Tourism Research*, Vol 23, No 1, pp 48-70.
- CANADIAN PARKS SERVICE, *Dominion Water Power Act, 1999*. Canada
- DE JONG, R C, 1992, *Draft policy guidelines for cultural resource management in nature conservation and forestry areas in South Africa*. Pretoria: National Cultural History Museum (unpublished)
- DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM, 1996, *White Paper on the Development and Promotion of Tourism in South Africa*. Pretoria: The Department.
- DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM, 1997, *White Paper on the conservation and sustainable use of South Africa's biological diversity. Government Gazette*, Vol 385, No 18163, 28 July 1997.
- DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM, 1998, *A national strategy for Integrated Environmental Management in South Africa. Discussion document*. Pretoria: The Department.
- DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM, 1998, *Tourism in Gear. Tourism development strategy 1998-2000*. Pretoria: The Department.
- DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM, 1998, *White Paper on environmental management policy for South Africa. Government Gazette*, Vol 395, No 18894, 15 May 1998.
- DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION, 1997, *White Paper on human resource management in the Public Service. Government Gazette*, Vol 390, No 18594, 31 December 1997.
- DEPARTMENT OF PUBLIC WORKS, 1998, *White Paper 1997. Public Works towards the 21<sup>st</sup> century. Government Gazette*, Vol 391, No 18616, 14 January 1998.
- DEPARTMENT OF TRANSPORT, 1997, *Proposed model for inland water (navigation) regulations*.
- DEPARTMENT OF SPORT AND RECREATION, 1998. *National Sport and Recreation Act, 1998*.
- DEPARTMENT OF WATER AFFAIRS, 1964, *Regulations framed in terms of paragraphs (b), (c) and (j) of section seventy of the water act, 1956 (Act 54 of 1956)*.
- EARTHPLAN, 1997, *Rustenburg and Eastern Districts Strategic Tourism Plan, Phase 1*.
- MAJCHRZAK, A, 1984, *Methods for policy research*. Beverly Hills (etc): Sage Publications.
- MINISTRY FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT, 1998, *White Paper on Local Government. Government Gazette*, Vol 393, No 18739, 13 March 1998.
- MINISTRY FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT, 1998, *Municipal Structures Bill. Government Gazette*, Vol 395, No 18914, 22 May 1998.
- REPUBLIC OF SOUTH AFRICA, 1996, *Constitution of the Republic of South Africa, Act 108 of 1996. Government Gazette*, Vol 378, No 17678, 18 December 1996.

REPUBLIC OF SOUTH AFRICA, 1998, *National Water Act, Act 36 of 1998*. *Government Gazette*, Vol 398, No 19182, 26 August 1998.

REPUBLIC OF SOUTH AFRICA, 1989, *Environment Conservation Act, Act 73 of 1989*. *Government Gazette*, Vol 5999, 5 September 1989.

REPUBLIC OF SOUTH AFRICA, 1998, *National Environmental Management Act, Act 107 of 1998* *Government*.

SCOTTISH TOURISM COORDINATING GROUP, 1994, *Scottish Tourism Strategic Plan*.

UNESCO, 1972, *Convention concerning the protection of the world cultural and natural heritage*. Paris: UNESCO.

US NATIONAL PARKS SERVICE, 1988, *Management Policies*.