

DEPARTMENT OF WATER AFFAIRS AND FORESTRY
Recreational Water Use Manual
 Guidelines

Subject:	Considerations on the Institutional Arrangements for Managing Use of Water for Recreational Purposes.
Purposes:	To illustrate the various institutional options to institutionalise the management of recreational water use.
Authority:	National Water Act, 1998 (Act No. 36 of 1998) and the Public Finance Management Act, 1999 (Act No. 1 of 1998).
Approval:	Water Resource Functional Management Committee, September 2003.
Contact:	Department of Water Affairs and Forestry, Sub-directorate Environment and Recreation, Private Bag X 313, PRETORIA, 0001, Republic of South Africa, Tel: (012) 336 8224; Fax: (012) 336 6608; E-mail: deb@dwaf.gov.za .

CONTENTS

1. INTRODUCTION.....	1
2. INSTITUTIONAL ARRANGEMENTS.....	4
3. RECOMMENDATIONS.....	8
4. REFERENCES.....	9

1. INTRODUCTION

1.1 Background

There is increasing pressure to access, utilise and develop water resources and government water works for recreational purposes (including tourism). DWAF has responded to this driver by developing policies around the use of water resources for recreational purposes (DWAF, 2002a), based on the framework provided by the National Water Act (NWA).

Concession management has been adopted as the most appropriate approach for managing the use of water for recreational purposes, particularly in promoting community involvement and socio-economic development through commercial ventures (DWAF, 2002b). These concessions are intended to be developed within the context of a sustainable utilisation plan for the relevant water resource.

Although many of the details of concession management have been developed, there is a need for further clarity on the cooperative governance arrangements and partnerships required to implement the policy. In particular, appropriate institutional management arrangements at a local “resource” level need to be developed further.

This paper outlines some of the institutional issues at a local level and makes recommendations about the conditions under which different institutional management arrangements may be considered.

DEPARTMENT OF WATER AFFAIRS AND FORESTRY
Recreational Water Use Manual
Guidelines

1.2 Definition of Use of Water for Recreational Purposes

The Department of Sport and Recreation defines 'recreation' 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*".

When these activities are outdoors and water resource-based, it can be defined as the "use of water for recreational purposes". Such activities may range from leisure, sport, to culture and religion, noting that the intent may vary from personal satisfaction to commercial operations comprising the use and provision of goods and services.

Although non-consumptive in nature, recreation is a major use of water and issue in the planning and management of water resources. This use of water can add significant personal, societal and economic benefits to these resources but may also have extensive negative environmental impacts, including social disturbances and degradation of ecosystems and cultural heritage resources.

1.3 Management of Use of Water for Recreational Purposes

The following policy considerations have a bearing on the institutional management arrangements for recreational use of water:

- Section 21(k) of the NWA defines "*using water for recreational purposes*" as a water use requiring authorisation and control (as with all other consumptive and waste discharge related water uses).
- Schedule 1 exempts people with lawful access to a water resources for personal recreational activities from requiring authorisation¹.
- Section 113 of the NWA enables the Minister to control access and make reasonable charges for the use of a "*government water works and the surrounding state-owned land*" for recreational purposes (including Schedule 1)².
- A sustainable utilisation plan (SUP) should be developed for all water resources that are proposed to be used for recreational purposes, setting out the objectives, responsibilities and operational guidelines for management and development of the resource in line with the relevant catchment management strategy.
- This plan should be broadly consulted with the relevant stakeholders, following the DWAF guidelines for public participation.
- The SUP should provide a framework for the commercial and public access to the water resource, taking account of the requirements for resource protection and other uses of the resource and/or water works.
- Concessions should be planned and awarded according to the SUP for the water resource or government water works.
- Where *ad hoc* concession requests are made in the absence of a SUP, these should be based on a process which includes stakeholder involvement and environmental analysis.

¹ Currently, the wording of the Schedule 1 implies commercial intent as well, but regulations are being drafted to limit the manner, purpose and intent of Schedule 1 water use for recreational purposes.

² Clarity is required on the cooperative governance arrangements between DWAF as the user department and the Departments of Public Works (DPW) or Land Affairs (DLA) as the custodians of the land adjoining government dams and impoundments.

DEPARTMENT OF WATER AFFAIRS AND FORESTRY
Recreational Water Use Manual
Guidelines

- The Public Finance Management Act (PFMA) requires that these concessions be at market-related tariffs, except with the relevant Treasury approval.
- Charges for use of water for recreational purposes are to be applied towards funding water resources management, socio-economic development and empowerment of local communities.
- DWAF may appoint a delegated authority to manage access, utilisation and/or development of water resources for recreational purposes.

1.4 Requirements for the Institutional Arrangements

Given these considerations, there are a number of institutional issues that require attention, which are the focus of the remainder of this discussion paper:

- The role of DWAF and/or the relevant catchment management agency (CMA) in managing recreational water use and concessions.
- The management bodies that may be appropriate for managing recreational concessions, and the conditions under which they should be considered.
- The institutional arrangements that should be established under different situations, including the way in which local communities and other stakeholder interests are represented on the management bodies.

The following issues are not addressed in the following discussion, but will be addressed by the recreational water use policy process during the next few months:

- The process and requirements for establishing and managing a concession as a eco-tourism public-private partnership (PPP) or other partnership, requiring further discussion with Treasury. This would require attention to:
 - Responsibilities of DWAF as the user department and DPW or DLA as the custodian of the land adjoining the water works.
 - Responsibilities of components within DWAF need to be addressed, particularly between CD: Water Use and CD: Institutional Oversight.
 - Possible delegation of certain concession planning, development and/or management responsibility to CMAs (or other authorities), including the capacity implications.
- The nature of charges associated with concessions, responsibilities for disbursement of these funds. This requires attention to:
 - The relationship between charges collected under Section 113 of the NWA and those collected to fund WRM under the Pricing Strategy (Section 56), and whether a concession would be liable for both types of charge.
 - Possible disbursement of some of the funds collected under Section 113 to DPW or DLA as the custodian of the land, and implications for managing the concession for socio-economic development and community empowerment.
 - Possible disbursement of any charges collected under Section 56 or 113 to the CMA/DWAF to cover the costs of WRM, particularly in terms of managing the recreational use of water and associated concessions.

DEPARTMENT OF WATER AFFAIRS AND FORESTRY
Recreational Water Use Manual
Guidelines

2. INSTITUTIONAL ARRANGEMENTS

2.1 Introduction

This chapter outlines different institutional arrangements for managing recreational concessions, focusing on the institution that takes primary responsibility for managing these concessions. This management body needs to be formally established, as there are executive functions to perform and it must collect and disburse funds.

The evaluation must distinguish between the following primary responsibilities:

- "Authorisation" of the water use through development of concessions (including awarding concessions according to the SUP, which must remain the responsibility of the **responsible authority** (namely DWAF or the CMA) or a delegated authority³.
- Managing access, utilisation and development of the water resource and possibly the adjoining land area (for state water works) according to the SUP, including compliance monitoring of the concession agreements, which would be the responsibility of the **management body**.
- Developing and utilising the water resources according to the concession agreement, in line with the SUP, which is the responsibility of the **concessionaire**.

Other bodies may be involved in specific activities, such as nature conservation or community empowerment, but these would be specified in the concession agreements and/or appointed by the management body.

The financial arrangements would be overlaid on the institutional relationships, but this requires further clarity and is not further developed in this paper.

2.2 DWAF (or the CMA)

The DWAF Regional Office (RO) or the CMA (once it is established) could take responsibility for managing the water resource for recreational purposes. This may coincide with the operation of water works, but these are two fundamentally different functions.

Although, this option represents a possible interim arrangement in certain cases, it is not optimal in the long term, because DWAF/CMA have an overarching regulatory responsibility and recreation should be managed by a local body. However, it would be appropriate for DWAF / CMA to coordinate and monitor recreation use in the absence of a SUP.

2.3 Management Committee

A CMA (or the DWAF RO acting as the CMA⁴) may establish a management committee (CMC) under Section 82(5) of the NWA, to take responsibility for managing recreational water use for one or more water resources and/or water works. This committee may have members appointed by the CMA/DWAF RO, representing the CMA/DWAF, relevant stakeholders and/or

³ The issue of delegating responsibility for planning, allocating and managing concessions to delegated authorities will be addressed with National Treasury in the context of proposed DWAF exemption from authorisation for PPPs.

⁴ Not the delegated authority in terms of use of water for recreational purposes.

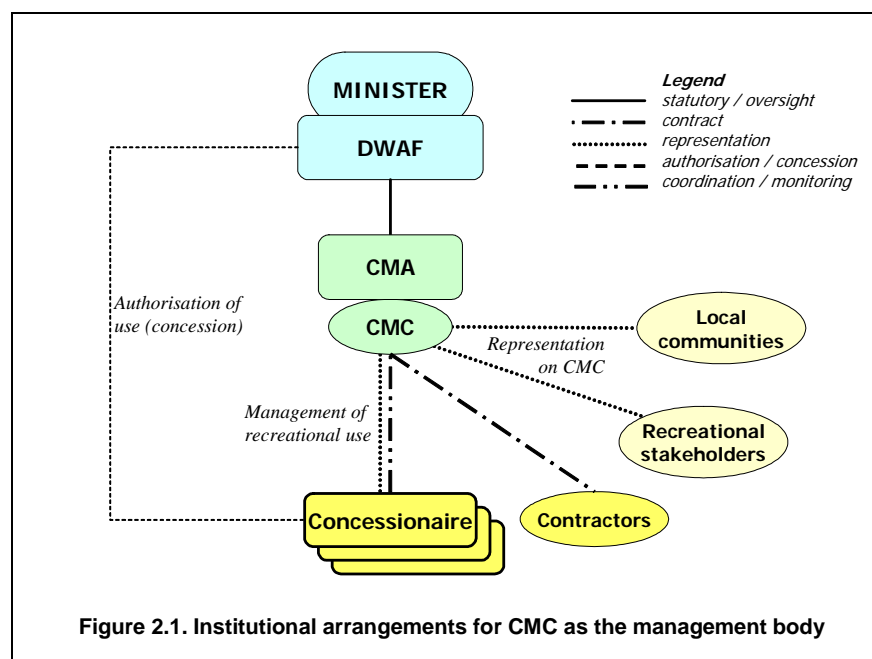
DEPARTMENT OF WATER AFFAIRS AND FORESTRY
Recreational Water Use Manual
 Guidelines

concessionaires, and may have an executive component to undertake any activities for the management of recreational water use.

This committee would be delegated with appropriate functions from DWAF, with the written consent of the Minister [under Section 86(1)(d)], and would have to comply with the requirements of Schedule 4 of the NWA in terms of business planning and reporting. The committee would not be delegated with the responsibility for developing and awarding concession/s, nor would it have the responsibility of drawing up the SUP/s for the water resource/s, as these are the responsibility of DWAF/CMA. Rather it would manage and coordinate access, utilisation and development of the water resource according to the SUP and would monitor the concessionaires according to the concession agreements.

Although a management committee may be established by DWAF prior to the establishment of a CMA, it would be more appropriate for committees to be established by the CMA, so as not to preempt the institutional management arrangements within a WMA. This implies that this option should be restricted before the CMA is established.

Once a CMA is established, the creation of a committee for managing recreational concessions (and implementing the associated SUP/s) should be considered, particularly where there are a number of water resources and/or water works requiring management within a catchment area of the WMA.



2.4 Water User Association

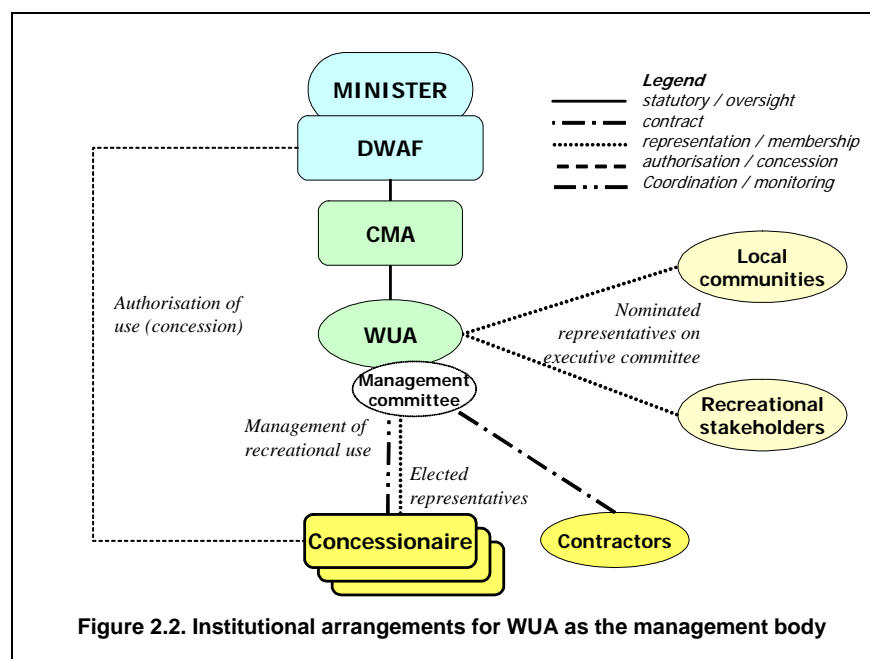
A water user association (WUA) may be established under Section 92 of the NWA with the express purpose of managing recreational use (including the concessions awarded by DWAF/CMA) associated with a particular water resources (usually related to a dam or impoundment). The WUA would be delegated the responsibility for managing access, utilisation and/or development of the resources, according to the SUP. It may also be responsible for monitoring the concession agreements.

DEPARTMENT OF WATER AFFAIRS AND FORESTRY
Recreational Water Use Manual
 Guidelines

The executive committee of the WUA would have nominated representation from relevant stakeholders and communities that have an interest in recreation⁵. Concessionaires may be represented by a specified number of elected members (preferably less than a quarter of the total number of representatives on the executive committee), but ensuring that they do not “force” decisions in their favour. Management committees may be established around specific issues, such as community empowerment and safety, and may include contractors that are appointed for these activities.

Where a WUA has already been established, most likely for managing the operation of the water works for consumptive water users, this body may also be delegated responsibility for managing recreational use. Under this circumstance, the WUA should establish a management committee focused on these activities, with appropriate representation by the recreational stakeholders, communities (beneficiaries) and concessionaires. This management committee would be represented on the WUA executive committee. Special guidelines would have to be drawn up for the requirements for membership, in line with WUA established for other purposes.

The WUA alternative is appropriate for intensively utilised water resources with several concessions, particularly where this would require an executive component to perform the delegated functions. The advantage of this approach is that WUA are intended to manage water works or resources for the mutual benefit of its members, but within the context of the NWA and relevant CMS. It may also collect charges from the users to cover its costs. Although the WUA is an independent water management institution, that is required to report to DWAF and Parliament in terms of Schedule 4, additional constraints may be placed on the WUA in terms of the delegations (as the WUA has no inherent powers of functions).



⁵ This would not necessarily include representatives of upstream and downstream water users, except where these may be represented by a WUA with a responsibility for the impoundment. The CMA / DWAF would be responsible for ensuring that the interests of these other users are addressed in the development of the SUP and operating rules for the water works (as part of the CMS development).

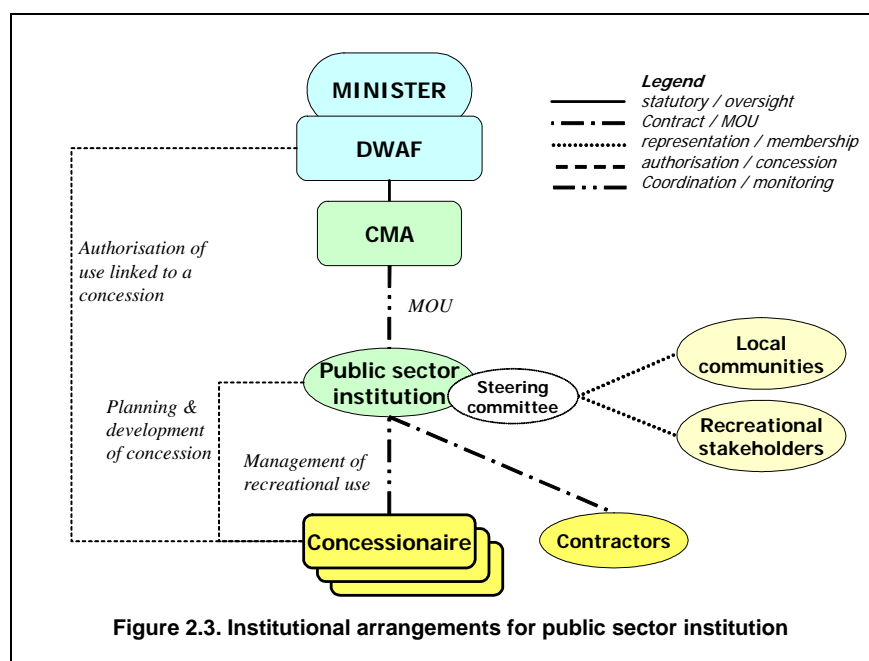
DEPARTMENT OF WATER AFFAIRS AND FORESTRY
Recreational Water Use Manual
 Guidelines

2.5 Public Sector Institution as Agent

There are cases where other public sector bodies (such as parks boards or water boards) are given the responsibility of managing recreational use of a water resource, through a memorandum of understanding (MOU)⁶.

Under certain conditions, they may also be the delegated authority with the responsibility for planning and developing recreational concessions, in accordance with the SUP developed through a consultative process and approved by DWAF/CMA. A steering committee may be established by the delegated authority with stakeholder and community representation to assist in the concession development and management of recreational use.

This option is appropriate where the relevant institution has capacity and is already responsible for management activities associated with the water resource, such as nature conservation (parks board) or operation of the water works (water board).



2.6 Private Sector Agent

In some cases, it may be appropriate to contract a private sector body/agent to manage and support the planning of concessions on a water resource (probably associated with a new impoundment where there is no existing water use). This would be in accordance with a SUP developed through a broad consultation process and driven by DWAF / CMA. Concessions would still be authorised by DWAF/CMA. A steering committee may be established by the agent with stakeholder and community representation to assist in the coordination and management of recreational use.

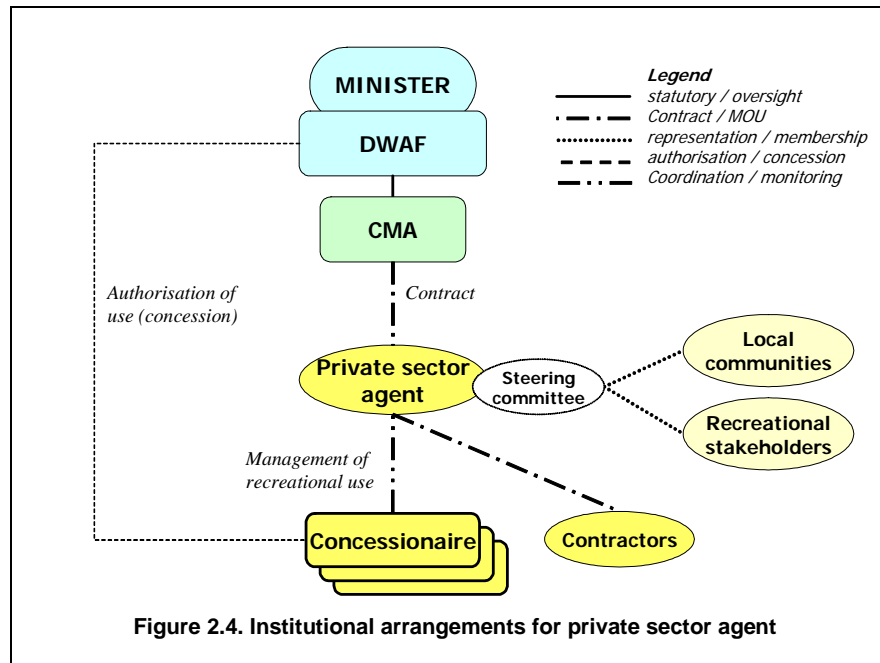
In terms of National Treasury's PPP regulations and guidelines the private party's fee for its services, in accordance to predefined performance criteria, may consist entirely of service tariffs or "user charges", entirely from a departmental budget, or a combination of the above.

⁶ This represents the existing situation for a number of state owned dams.

DEPARTMENT OF WATER AFFAIRS AND FORESTRY
Recreational Water Use Manual
 Guidelines

The collection of concession fees could thus be applied towards payment of the agent in the above context, but I do believe that the allocation of the concessions should remain with DWAF/CMA to ensure appropriate conduct.

The private sector agent would be responsible for managing recreational access, utilisation and development of the resource (as the management body). However, this would require DWAF / CMA to monitor and oversee the contract / agreement with the private agent.



3. RECOMMENDATIONS

A key principle is that flexibility should be allowed in the management arrangements for recreational water use. A number of options are appropriate, each with specific applicability. The following guidelines are proposed:

- DWAF (or the relevant CMA once established) should coordinate the development of the SUP through a consultative process (in the context of the CMS where this is in place), to provide a framework for managing recreational use associated with a water resource.
- DWAF/CMA should plan and develop concessions, according to this SUP, resulting in a PPP concession agreement between DWAF/CMA and the (private sector or community based) concessionaire.
- Where there is no SUP, DWAF/CMA should monitor and manage the concession agreement, although this should be seen as an interim arrangement.
- Overall, all institutional arrangements and delegated powers for the purpose of recreational water uses should be regarded as interim pending the establishment of CMAs. The decision on how best such uses should be managed would lie and have to be renegotiated with the CMA within the frameworks and principles contained in the NWA and defined by the regulator.

DEPARTMENT OF WATER AFFAIRS AND FORESTRY
Recreational Water Use Manual
Guidelines

- A management committee may be established (preferably by a CMA, rather than DWAF) to manage recreational use (particularly concessions) in an area.

This may be most appropriate in the situation of concessions on different water resources in a sub-catchment area, particularly where this does not involve significant operational activities.

- A water user association may be established to manage recreational use for a specific water resource.

This may be most appropriate where there is intensive recreational use of a water resource (generally associated with a dam or impoundment) with a number of concessionaires, particularly where this involves significant executive or operational activities.

- A public sector institution (preferably a parks board or water board) may be designated as the delegated authority for managing recreational use for one or more water resource/s.

This may be appropriate where the institution has adequate capacity and is already managing other activities associated with the water resource.

- A private sector agent may be contracted to manage or coordinate recreational use for a water resource.

This may be appropriate for a new water works where there is not existing recreational water use.

4. REFERENCES

DWAF (2002a) Policy: Using Water for Recreational Purposes.

DWAF (2002b) Concession Management Policy: Access, utilisation and development of water resources and state land adjoining government water works for recreational purposes.