

**NOTICE 709 OF 2006****DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM****MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998)****PUBLICATION OF DRAFT POLICY AND REGULATIONS IN TERMS OF SECTION 77(2)(y) OF  
THE MARINE LIVING RESOURCES ACT, 18 OF 1998:**

I, Marthinus van Schalkwyk, the Minister of Environmental Affairs and Tourism, hereby publish for notice and comment, in terms of section 77 (1) (a) and (b) and (2) (y) of the Marine Living Resources Act, 18 of 1998 ("the Act"), the draft policy for the allocation of Boat Based Whale Watching permits and the management of the Boat Based Whale Watching Industry, together with draft regulations aimed at regulating the boat based whale watching policy industry.

Interested and affected parties may submit written comment to Mrs J du Toit at the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ("the Department"), Private Bag X2, Roggebaai, 8012. Written comments may be posted by registered mail to above address or emailed to [jdutoit@deat.gov.za](mailto:jdutoit@deat.gov.za). All written comments must be received by the Department by no later than 16h00 on **MONDAY 10 JULY 2006**. Comments received after this time may not be considered.

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## 1. Introduction

This draft policy on *Boat-based Whale and Dolphin Watching* ("BBWW") is issued by the Minister of Environmental Affairs and Tourism ("the Minister") for public comment. Interested and affected parties must submit written comment by **MONDAY 10 JULY 2006**, addressed to Ms J du Toit, as follows:

- By registered post: Private Bag X2, Rogge Bay, 8012; or
- By email: [jdutoit@deat.gov.za](mailto:jdutoit@deat.gov.za)

This policy is issued together with a set of draft *Regulations for Boat-based Whale and Dolphin Watching* ("the BBWW Regulations") (See Annexure "A"). Regulation 58 of GN Regulation 1111 of 2 September 1998 (*Government Gazette* 19205 of 2 September 1998 (as amended)) will therefore be repealed and replaced by the proposed Regulations. Interested and affected parties are invited to comment on both the policy and the Regulations.

In this draft policy the observing of free-ranging whales and dolphins from sea-going vessels will be referred to as Boat-based Whale Watching ("BBWW"). BBWW is a fast-growing activity which generates considerable economic benefits for coastal communities and operators and has educational benefits for those participating. In South Africa it already attracts large numbers of tourists, with more than half the clientele coming from abroad. Whale watching is indeed recognised globally as having substantial social, economic and educational benefits and it is growing worldwide. However, an increasing body of evidence suggests that whale watching could impact individual cetaceans and cetacean populations negatively.

The Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ("the Department") seeks to ensure the sustainability of the industry through best practice whilst simultaneously minimising the impact on cetaceans and is the responsible Department for managing and allocating BBWW permits to commercial operators. This policy is primarily intended to serve as a guide for the allocation of BBWW permits but some post-allocation management considerations are also addressed in this policy.

## 2. What informs this policy?

This policy guide is informed by South Africa's Constitution (Act No. 108 of 1996), its international obligations, environmental best practice and the legislative framework for the allocation of non-consumptive permits, and specifically BBWW.

The Marine Living Resources Act 18 of 1998 ("*the MLRA*"), which provides for the conservation of the marine ecosystem and the long-term sustainable utilisation of marine living resources, provides the legislative framework for the exercise of control over the exploitation of marine living resources so as to ensure their sustainable use and to ensure that exploitation is done in a fair and equitable manner to the benefit of all the citizens of South Africa.

### **3. Previous Management Efforts to regulate Whale Watching**

Boat-based Whale Watching was regulated for the first time in 1998 when three-year experimental permits were issued. Twenty areas were demarcated in 1998/9. This was increased to 25 areas in 2001/2. Dolphin-watching has not been regulated in the past, except to a very limited extent indirectly through the regulation of BBWW vessels.

In the past, few requirements were laid down for the issuance of Boat-Based Whale Watching permits. Permits were issued to natural as well as legal persons who complied with citizenship requirements (they had to be South African). Additional requirements were applied in 2001, such as that nominated vessels had to be SAMSAs endorsed and skippers and guides had to be qualified. The permits of current operators expire when fresh allocations are made, or at the latest at the end of 2005. These operators will be granted exemptions under section 81 of the MLRA until the permit allocations are made in 2006. For ease of reference, they are referred to as the "*current permit holders*" in this policy document.

### **4. Overall-sectoral Objectives**

The objectives of allocating permits are to:

- Improve the transformation profile of the BBWW industry;
- Grow the South African BBWW industry through the allocation of additional permits;
- More effectively monitor the impact of BBWW on whales, dolphins and the ecosystem;
- Support the regulatory and compliance framework;
- Balance optimal socio-economic benefits with the conservation status of whales, dolphins and the environment; and
- Establish a minimum standard of best practice.

The overall objectives of this policy is therefore to strike a balance between the demands of a growing eco-tourism business and the protection of vulnerable whales and dolphins, as well as the important issue of transformation and black economic empowerment.

The Department intends to amend the Regulations in order to comprehensively outlaw whale and dolphin watching operations and the advertising of such operations without a permit. The holders of BBWW permits will be allowed to advertise and offer dolphin watching but no additional dolphin watching boats will be permitted. The Department will accordingly also focus on regulating the operators' businesses, and setting stringent requirements for qualification (See Annexure "B").

It should further be stated, in particular, that BBWW operators that do not use their permits runs the risk of having the permit cancelled under the "use it or lose it" rule, which will be a permit condition. Non-performance includes the failure to submit a logbook or the failure to undertake more than 50 trips with paying clients on board from the second year of operation. The Department will also act against any operator, crew member, or client under the control or supervision of the operator who feed or swims with whales or dolphins or who enters a closed or restricted area.

The Department further wishes to affirm successful eco-tourist operators. The criteria developed therefore do not only deal with the protection of the resource, but also with the business aspects of a whale and dolphin watching operation. In this regard the Department will co-operate with SATOUR, through the Branch: Tourism, in order to contribute to the growth of the sector. For example, the Transkei, despite being an identified area for which permit applications can be made, remains under-utilised and the Department will seek to encourage the development of eco-tourism in this area. For this reason, if no permits are allocated to an area in the allocation period, the Department will evaluate whether a permit should not be allocated in the area as part of fulfilling the objectives of the Department's sustainable livelihood programmes. These programmes are based on socio-economic opportunities to be initiated in impoverished fishing communities that are currently closed to BBWW, to attract socio-economic development to these towns. This will ensure that whale watching, when introduced, will be more economically viable. Ad-hoc requests for whale watching permits for these areas at a later stage may therefore be considered and evaluated, as long as it has no negative impact on the environment and the sustainable development of the BBWW sector.

## **5. Permits**

The delegated authority may only allocate permits under section 13 of the MLRA for a maximum period of 1 year. Permit holders will be re-allocated their permits each year for 5 consecutive years, provided that they, in the opinion of the Deputy Director General, fully comply with all permit conditions. There will be a review of the number of BBWW operators in each of the designated areas specified in Annexure "C" after 5 years from the date of allocation of the first set of BBWW permits as detailed in this policy. A new call for applications will therefore occur every five years. Refer to Annexure "D" for the application procedure.

## **6. Form of Applicants**

Applications will only be considered from entities incorporated in terms of the Close Corporations Act, 69 of 1984, and the Companies Act 61 of 1973. Natural persons (i.e. individuals or sole proprietors) will not be granted permits. Current natural person permit holders must apply in the form of a close corporation or company and will be treated as current permit holder applicants. Organs of state may apply, but should do so in the form of a company which is either wholly or partially owned by the state.

## **7. Vessels**

A suitable BBWW vessel is a vessel that:

- is registered by SAMSA as being suitable for BBWW; and
- has a functioning vessel monitoring system.

It is important that properly adapted vessels are used for whale and dolphin watching tours. Operators will be required to provide proof that they have and intend to use such vessels, and will be expected to provide a detailed description of the nominated vessel.

Vessels that cause the least amount of disturbance to the resource are more desirable from a management viewpoint and the replacement of ageing vessels with modern, cost-effective vessels with better facilities for paying clients will therefore be encouraged.

Each successful applicant will be restricted to one vessel per permit (unless otherwise indicated in Annexure "C") and the use of the vessel nominated in the application form. Should the permit holder subsequently wish to change the nominated vessel, the permit holder shall be obliged to advise the Department of the change and to provide proof that the vessel is certified by SAMSA as being suitable for BBWW.

Should the vessel change occur without SAMSA certification, the permit holder will not be allowed to operate until SAMSA has formally certified the replacement vessel as being safe for whale watching.

#### **8. Responsibilities**

The Department intends to share aspects of compliance and management responsibilities of this sector with the applicable permit holders, the recognised industrial body and managers of marine protected areas.

#### **9. Ongoing applications for Permits**

Any vacant area not allocated in 2006 should be filled as soon as possible. In general, the first applicant that meets all the exclusionary criteria and applies for a vacant area may be allocated a permit. However, as explained above, the Department may allocate permits in certain vacant areas along with its sustainable livelihood programme.

If a permit be revoked, cancel or reduced, that permit (if cancelled or revoked) or the balance of effort (if reduced in duration) may be allocated to any other person who, in answer to an invitation placed in the Government Gazette, satisfies the criteria set out in this policy.

Should further effort be made available, applications for the unallocated permits will be invited in the Government Gazette. The unallocated permits shall be allocated in terms of this policy, unless changed or amended in the Government Gazette.

#### **10. Experimental permits in Plettenberg Bay Area**

Three experimental dolphin watching permits are intended to be issued by the Department within the next five years in the Plettenberg Bay area. For the duration of the experiment, additional restrictions will be placed on the BBWW operators in the area.

#### **11. Observer Programme**

All permit holders will be required to carry observers upon written instruction by the Department. The costs of accommodating the observer on board will be for the permit holder's account.

**12. Permit Conditions**

The Deputy Director-General shall issue each BBWW permit subject to such conditions considered necessary for the attainment of the objectives of this policy. The Deputy Director-General may amend any permit condition, after consulting with the permit holder.

**ANNEXURE "A"****DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM****MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998)****PUBLICATION FOR REGULATIONS IN TERMS OF SECTION 77(2)(Y) OF THE MARINE LIVING RESOURCES ACT, 18 OF 1998:**

I, Marthinus van Schalkwyk, the Minister of Environmental Affairs and Tourism, hereby publish for notice and comment, the regulations set out in the schedule. The regulations are aimed at protecting whales, dolphins and turtles and at regulating the boat-based whale and dolphin watching industry in terms of section 77(2)(y) of the Marine Living Resources Act, 18 of 1998 ("the Act").

Interested and affected parties may submit written comment to Ms J du Toit at the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ("the Department"), Private Bag X2, Roggebaai, 8012. Written comments may be posted by registered mail to above address or emailed to [jdutoit@deat.gov.za](mailto:jdutoit@deat.gov.za). All written comments must be received by the Department by no later than 16h00 on XXX. Comments received after this time may not be considered.

**Schedule****REGULATIONS IN TERMS OF SECTION 77(2)(Y) OF THE MARINE LIVING RESOURCES ACT, 18 OF 1998:****REGULATIONS FOR THE PROTECTION OF WHALES, DOLPHINS AND TURTLES AND THE REGULATION OF BOAT BASED WHALE AND DOLPHIN WATCHING**

**To provide for the protection of whales, dolphins and turtles and for a regulatory framework for the allocation of permits for and the management of boat-based whale and dolphin watching**

**Definitions**

1. Regulation 1 of GN Regulation 1111 of 2 September 1998 is hereby amended by the addition of the following definitions:

“ **‘Department’** means the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management.

**‘Deputy Director General’** means the Deputy Director General of the Department.”

## Whales, Dolphins and Turtles

2. Regulation 58 of GN Regulation 1111 of 2 September 1998 is hereby repealed and replaced by the following new regulations:

### “58A Whales and dolphins

- (1) No person shall, except on the authority of a permit –
- (a) kill, or attempt to kill, or harass a whale or a dolphin;
  - (b) feed, keep or control a whale or a dolphin;
  - (c) be in possession of any part of, or a product made from, a whale or a dolphin;
  - (d) use any vessel or fish processing establishment for the purpose of fishing, freezing or processing of a whale or a dolphin or participate in the operation or activities of such an establishment or vessel;
  - (e) have on board any vessel or on any fish processing establishment any gear, apparatus or appliance intended to be used in any manner for the fishing or the processing of whales or dolphins or participate in the operation or activities of such a vessel or establishment;
  - (f) supply any ship stores to any vessel used for or in connection with the fishing, freezing or processing of whales and dolphins;
  - (g) if in charge of a vessel or aircraft, approach closer than 500 metres to any whale or dolphin or fail to proceed to a distance of 500 metres if a whale or a dolphin surfaces closer than 500 metres from the vessel or aircraft;
  - (h) deliberately drive through a school of dolphins; or
  - (i) offer their services or derive financial gain in connection with any activities prohibited in this subregulation

provided that paragraphs (a) and (h) of this subregulation shall not apply to a *bona fide* effort by any person to render assistance to a beached whale or dolphin or to efforts made by persons appointed by the Department to render assistance to entrapped or entangled whales or dolphins.

- (2) No person may carry on a boat-based whale watching or dolphin watching operation except on the authority of a permit issued by the Deputy Director General.
- (3) No person shall advertise, or cause to be advertised, boat-based whale watching or dolphin watching operations or services unless such an operation or service is permitted in terms of these regulations. When advertising boat-based whale and dolphin watching operations or services reference must be made to the operator's permit number.
- (4) Boat-based whale and dolphin watching operations shall be restricted to specified areas, to be designated by the Deputy Director-General by Notice in the Government Gazette. The Deputy Director-General may increase or decrease the size of and number of areas of operation by Notice in the Government Gazette.

- (5) The Deputy Director-General may by notice in the Government Gazette determine the maximum number of boat-based whale and dolphin watching operations for each area designated in terms of regulation 58A(4). The Deputy Director-General shall be entitled to increase or decrease the number of boat-based whale and dolphin watching operations in any area of operation.
- (6) Applications for boat-based whale and dolphin watching permits shall be made to the Deputy Director-General on a stipulated application form and accompanied by a stipulated application fee.
- (7) A boat-based whale and dolphin watching permit is valid for a period of twelve months but may be renewed. The Deputy Director-General shall renew the permit of a boat-based whale and dolphin watching operator provided that a stipulated fee is paid and the operator, has, in the opinion of the Deputy Director-General, complied with all permit conditions.
- (8) Boat-based whale and dolphin watching permits may be issued subject to conditions.
- (9) Boat-based whale and dolphin watching operations may only be undertaken on a vessel certified by the South African Maritime Safety Authority as being safe and suitable for this purpose. Further specifications for vessels to be used for boat-based whale and dolphin watching, may be imposed by the Deputy Director General in permit conditions.
- (10) No person shall film or photograph whales or dolphins for purposes of selling the films or photographs unless such person has been granted a filming and photography permit in terms of these regulations. Applications for a filming and photography permit shall be made to the Deputy Director-General on a stipulated application form and accompanied by a stipulated application fee. Filming and photography permits shall be valid for a maximum period of twelve months and may be issued subject to conditions.
- (11) No person may approach whales or dolphins, tag them, or in any other manner interfere with them, in order to do research other than on the written authority of the Deputy Director General.

#### **58B Turtles**

No person shall, except on the authority of a permit, engage in fishing, collecting, killing, attempting to kill, disturbing, harassing, keeping or controlling of, or be in possession of, any turtle or any part or product thereof at any time.”

**ANNEXURE "B"****CRITERIA FOR THE ALLOCATION OF BBWW PERMITS****1. Exclusionary Criteria**

Every applicant will be expected to adhere to certain requirements pertaining to the completion and submission of application forms. If these requirements are not adhered to, the delegated authority will exclude the application. These will be stated in detail in the *Instructions* attached to the BBWW application form but may include:

- Using only the applicable application form;
- Paying the application fee in full; and
- Signing the application form and attesting to the declaration.

In addition, the following exclusionary criteria will be applied:

- (a) The applicant must demonstrate access to a suitable BBWW vessel.
- (b) Applicants must also employ or contract with a skipper certified by the South African Maritime Authority ("SAMSA") as capable of skippering the nominated suitable vessel with passengers. In addition to the theory module, the skipper needs to have completed his practical on 'approaches and regulations to whales'. New entrant applicants will have to provide an undertaking confirming that they will comply in this regard within 30 days of being allocated a permit.
- (c) A BBWW applicant must employ or contract with a SATOUR guide registered as such in terms of the Tourism Act 72 of 1993, and trained as a BBWW tour guide. All tour guides must be certified as Level 2: General Guides, as a minimum by the South African Qualifications Authority. New entrant applicants will have to provide an undertaking confirming that they will comply in this regard within 30 days of being allocated a permit.
- (d) Applicants that nominated a suitable vessel that is certified to carry more than 5 persons must employ or contract with a skipper **and** at least one tour guide. Applicants that nominate a suitable vessel that is certified to carry 5 persons and less must employ or contract with a skipper who must also be the tour guide.
- (e) All applicants must demonstrate that they have public liability insurance. New entrant applicants will have to provide an undertaking confirming that they will purchase public liability insurance up to an amount to be determined by the delegated authority.
- (f) Current permit holder applicants that failed to utilise their BBWW permits or exemptions, or that failed to regularly submit logbooks or undertook an average of less than 50 trips per season over the duration of the permit/exemption period will not be allocated a permit. The criterion will be applied flexibly.

- (g) If an applicant, or its members, directors or controlling shareholders has been convicted of a serious infringement of the MLRA, the regulations, permit conditions or other serious fishery related offences during the permit/exemption period, the applicant will not be allocated a BBWW permit. This does not include the payment of an admission of guilt fine. Permits will also not be allocated to an applicant if the applicant, or its members, directors or controlling shareholders, has had any permit cancelled or revoked in terms of the MLRA, or assets seized under the Prevention of Organised Crime Act 121 of 1998 or the MLRA. Decisions may be reserved on applications if an applicant (or its members, directors or controlling shareholders) is being investigated for a breach of the MLRA. All applicants will be required to state whether they have been found guilty of an offence in which animals were exploited or mistreated. Conviction of such an offence, or of any convictions under the MLRA or its regulations will constitute a ground for exclusion.
- (h) Current permit holder applicants that are unable to show significant investment or participation in the BBWW sector will not be allocated a permit. As a minimum, significant investment or participation by current permit holders (as at 31 July 2005) will comprise:
- Investment in a suitable BBWW vessel and equipment, whether as sole owner or as a shareholder (provided that the value of the shareholding is equal to or more than 5% of the market value of the vessel); and
  - Some of the natural person shareholder(s) or members must have actively participated in the operation of the business.

New entrant applicants will be required to demonstrate that they have obtained a right of access to a suitable BBWW vessel and that they are committed to participate in the operation of the business. This commitment will be determined having regard to, *inter alia*, knowledge of the sector and the ability to safely carry on the business of BBWW.

## 2. Balancing criteria

Although the following criteria will generally be applied to both current permit holder applicants and new entrant applicants, the weighting that will be applied to each of the categories will differ.

### (a) Transformation

One objective with allocating permits in this sector is to notably improve on the present levels of transformation. Accordingly, applicants will be assessed and scored on —

- The percentage black and women representation at ownership and executive management levels;
- Preferential Procurement;
- The representation of blacks and women at the various levels of employment below executive management;
- Compliance with the Employment Equity Act 55 of 1998, and skills development laws;

- Enterprise development;
- Corporate social investment. Positive consideration will be given to operators who sponsor educational trips for learners or who contribute to raising awareness regarding cetaceans through other educational means;
- Training. Apart from the requirements relating to crew already mentioned, BBWW operators are encouraged to provide ongoing training and education for crew members pertaining to all facets of running a BBWW operation.

(b) Investment in the Sector

Applicants will be evaluated having regard to investments made in the BBWW sector.

As far as current permit holder applicants are concerned, the delegated authority will specifically consider:

- Investments in suitable vessels and equipment. In this regard, investment in the form of shareholding will be considered.
- Investment in marketing. In this regard, the delegated authority will reward current permit holder applicants that have invested in marketing South Africa and their local area as a BBWW diving tourist venue.
- Utilisation of the permits/exemptions. In this regard, the Department will score negatively current permit holders that have under-utilised their permits or exemptions without a valid reason.
- Efforts made by the permit holder to collect data for the Department.

New entrant applicants will be required to demonstrate whether they have or intend to invest in a suitable vessel and equipment. New entrant applicants must also how they intend marketing BBWW to both local and international tourists.

(c) Local Economic Development

BBWW permits are allocated on an area basis. A number of new areas have now been added. Accordingly, further BBWW operators may now be accommodated. The intention is to stimulate further growth of the BBWW industry in coastal towns. The delegated authority may reward those current permit holder applicants that demonstrate that they have made investments in infrastructure in the area from which they have operated. Involvement, where possible, of local community members will be taken into account.

(d) Jobs

The delegated authority will reward those current permit holders that have provided (or new entrants that undertake to provide) their employees with –

- Secure employment during the entire BBWW season;
- Medical aid and pension; and
- Safe working conditions.

(e) Reliance on BBWW

The delegated authority will reward BBWW applicants who rely on BBWW for their main source of income.

(f) Non-payment of Fees

The delegated authority will negatively score all BBWW applicants that have not paid their fees related to BBWW.

Should such applicants nevertheless qualify for a permit, the responsible authority will not issue the permits until all fees owing have been fully paid up.

(g) Operational Plan

Applicants will have to compile an operational plan on which they will be evaluated. An operational plan should include the following at a minimum:

- The expected frequency of trips and numbers of passengers;
- The marketing strategy;
- The anticipated duration of trips;
- The areas of intended operation; and
- A description of the anticipated trip activity, safety precautions and tourist education.

The education that will be given to cetacean watching tourists will, in particular be assessed. Not only does education enrich the experience of tourists and but is also adds to the eco-tourism bottom line, which in turn also increases compliance pressure to adhere to regulations and codes of conduct. BBWW operators capable of educating tourists and to provide educational material for their clients will be favourably considered.

Since BBWW is growing into a lucrative form of eco-tourism in which more than half the clientele comes from abroad, a solid reputation for prudence and safety needs to be built up in order to portray a positive image of the industry. Experience in tourism and knowledge of local sea and weather conditions will therefore be taken into account.

(h) Research

There is growing consensus that commercial BBWW operators are often in possession of very useful information and data which can make a valuable contribution to the more effective management of whale and dolphin populations. Co-operation between operators and managers/scientists is therefore essential. Plans and the ability for making meaningful contributions by operators will be rewarded. In particular, favourable consideration will be given to operators who have undertaken practical steps and demonstrate a capability to co-operate and assist scientists in the gathering of data and assisting in research, such as assisting with the monitoring of individual as well as populations of cetaceans including, number, size, sex, and individual identification.

(i) **Compliance**

Minor infringements of the Marine Living Resources Act, including its Regulations, by the applicant, its directors or controlling shareholders or members will result in the applicant being negatively scored. Applicants unable to demonstrate that they comply with their obligations under the Employment Equity Act 55 of 1998, the Skills Development Act 97 of 1998 and the Skills Development Levies Act 9 of 1999 (if applicable), the Occupational Health and Safety Act, 1993 and the Compensation for Occupational Injuries and Diseases Act, 1993, will be penalised.

**ANNEXURE "C"****NUMBER OF AREAS, PERMITS AND VESSELS**

<b>Areas</b>	<b>Current No. of Permits</b>	<b>Proposed No. of permits</b>
Port Nolloth	0	1
Lambert's Bay	1	1
St Helena Bay – Sandy Point	1	1
Saldanha Bay	1	1
Cape Town	1	1
Hout Bay	0	1
Cape Point - Kalkbaai	1	1
Gordons Bay	2	1
Hermanus / Gans Bay	3	3
Kleinbaai	1	1
Arniston and Struis Bay	1	1
Stilbaai	0	1
Mossel Bay	1	1
Knysna	1	1
Plettenberg Bay	2	2
Cape St Francis	0	1
Port Elizabeth	1	1
Kenton on Sea	0	1
Port Alfred	1	1
East London	1	1
Kei – Umgazi rivers	1	2

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Umgazi – Umtanvuna rivers	1	2
Shelley Beach	1	2 permits with maximum two boats each
Durban	1	2
Richards Bay	1	0
St Lucia	1	2 permits with 2 boats each
Sodwana Bay	1	1

**ANNEXURE "D"****APPLICATION PROCEDURES**

The procedures described below are intended to inform prospective applicants of each of the procedures applicable to consultation on this policy and the procedures intended to be followed subsequent to the invitation to apply for BBWW permits.

**(i) Public participation in policy formulation**

The Minister will consider all comments received on this policy and where necessary revise policy in the light of the comments. The final policies will be published in the Government Gazette and on [www.mcm-deat.gov.za](http://www.mcm-deat.gov.za). The policy will set out the basis in terms of which permits will be allocated. The relevant policy will also be distributed along with the application forms used in the permit allocation process. It will be assumed that applicants read and this policy when applications are evaluated.

**(ii) Communication Processes**

After applications are invited, the Minister and the delegated authority will not communicate with individual applicants, other than in the manner set out in this policy document. Communication will take place only through electronic media and the Government Gazette. Questions of clarification will be entertained by way of e-mail, which will be provided after application forms are distributed. In addition, communication will be facilitated through industrial bodies, if registered in terms of section 8 of the Marine Living Resources Act.

**(iii) Application forms**

The application form will be designed to be as user friendly as possible.

**(iv) Language**

This Policy, the application form and all explanatory notes to the application forms will be available in English. See [www.mcm-deat.gov.za](http://www.mcm-deat.gov.za).

**(v) Fees**

Application fees are charged in order to defray the costs of the allocation process.

**(vi) Distribution of application forms and manner of payment of application fees**

Applicants will be able to obtain application forms electronically ([www.mcm-deat.gov.za](http://www.mcm-deat.gov.za)) or at a centralised venue in Cape Town. Payment of the application fee will be required prior to the issuing of an application form to an applicant. Payment of the application fee must be made into the following bank account:

Name of Account: xxxxx
Account Number: xxxxx
Branch Code: xxxxx
Reference Number to be Used: xxxxx

**(vii) Departmental Assistance**

Applicants will be able to submit queries on the Final Policy and Application Form to the Department electronically ([jdutoit@deat.gov.za](mailto:jdutoit@deat.gov.za)). The query period will be open for a specified time, after which all queries will be collated and responses will be published on the Departmental website prior to the closing date for applications. The Department's customer services centre may also be contacted on 0861 123 626.

**(viii) Receipt of Application Forms**

Applications will be received at a central Cape Town venue only.

**(ix) Number of Copies**

All applicants will be required to submit one hard copy of the application and annexures, together with the original application.

**(x) Oral Hearings, Calls for Further Information and Investigations**

The delegated authority may call an applicant for an oral hearing or for further written information to be provided when there is uncertainty regarding a material issue in an application.

The Rights Verification Unit may investigate a matter where it appears that an applicant may have provided false information or documents or failed to disclose material information or misrepresented information or in any other matter if requested to do so by the delegated authority or the Minister.

**(xi) Capturing of information on a database and development of detailed criteria and weighting**

Information submitted by applicants will be captured on a database. The policy and the database will be used for the development of detailed criteria and weighting for the purposes of assessing the applications.

**(xii) Notification of decision and the reasons therefore**

All applicants will be notified in writing of the delegated authority's decision on their applications. Letters to unsuccessful applicants will include the reason for the application being unsuccessful. All applicants will further be furnished with a document recording the process followed in allocating the permits, which will include the detailed criteria and weighting applied in the allocation of permits.

**(xiii) Appeals**

An applicant will be permitted to submit a written appeal against the decision to refuse their application within the prescribed period.

**NOTICE 710 OF 2006****AIR SERVICE LICENSING ACT, 1990 (ACT NO.115 OF 1990)  
APPLICATION FOR THE GRANT OR AMENDMENT OF DOMESTIC AIR  
SERVICE LICENCE**

Pursuant to the provisions of section 15 (1) (b) of Act No. 115 of 1990 and Regulation 8 of the Domestic Air Regulations, 1991, it is hereby notified for general information that the application detail of which appear in the appendix, will be considered by the Air Service Licensing Council.

Representation in accordance with section 15 (3) of the Act No. 115 of 1990 in support of, or in position, an application, should reach the Air Service Licensing Council, Private Box X 193, Pretoria, 0001, within 21 days of date of the publication thereof.

**APPENDIX II**

(A) Full name trade name of the applicant. (B) Full business or residential address of the applicant. (C) Class and number of licence in respect of which the amendment sought. (D) Type of air service and the amendment thereto which is applied for. (E) Category of aircraft and the amendment thereto which is being applied for. (F) Amendment referred to in section 14(2)(b) to (e).

(A) Mid – East Charters CC. (B) Virginia Airport. Hangar No. 7, Durban North. (C) Class II; N249D. (D) Type N1 and N2. (E) Category A3 and A4. **Changes to the Management Plan:** R. I. Robinson is replaced by J. A. G. Dyer as the Chief Executive Officer, Responsible Person: Aircraft and Air Service Safety Officer and R. I. Robinson is replaced by D. Aspden as the Responsible Person: Flight Operations

**NOTICE 711 OF 2006****INTERNATIONAL AIR SERVICES ACT, (ACT No. 60 OF 1993)  
GRANT/ AMENDMENT OF INTERNATIONAL AIR SERVICES LICENSES**

Pursuant to the provisions of section 17 (12) of Act No. 60 of 1993 and regulations 15 (1) and 15 (2) of the International Air Services Regulations, 1994, it is hereby notified for general information that the applications, details of which appear in the Schedules hereto, will be considered by the International Air Services Council (Council).

Representations in accordance with section 16(3) of Act No. 60 of 1993 and regulation 25(1) of the International Air Services Regulations, 1994, against or in favour of an application, should reach the Chairman of the Council at Private Bag X 193, Pretoria, 0001 within 28 days of the application hereof. It must be stated whether the party or parties making such representation is / are prepared to be represent or represented at the possible hearing of the application.

The Council will cause notice of the time, date and place of the proceedings to be given in writing to the application and all parties who have made representations as aforesaid and who desire to be present or represented at the hearing.

**SCHEDULE 2 AMENDMENT OF LICENCE(S)**

(A) Class and number of the license in respect of which the amendment was made. (B) Full name, surname and trade name, if any licensee. (C) Type of International Air service in respect of which the amendment was made. (D) Category or kind of aircraft in respect of which the license was made. (E) Airport in respect of which the amendment was made. (F) Area to be served. (G) Frequency of flights in respect of which the amendment was made. (H) Conditions under which the amendment was made.

(A) Nationwide Airlines (Pty) Ltd; Nationwide. (B) Hanger 10 Lanseria Airport, Lanseria. (C) Class I; I/S092. (D) Type S1 and S2. (E) Category A1; A2 and A3. (F) and (H) from Johannesburg  
International Airports, adding the following:

State	Destination	Frequency
Zambia	Livingstone	Three (3) return flights per week