



**water & sanitation**

Department:  
Water and Sanitation  
REPUBLIC OF SOUTH AFRICA



# Development of the National Water Resources Strategy Third Edition (NWRS-3)

## Enabling Chapter: Creating Effective Water Sector Institutions

**NWRS-3 CONSULTATION WORKSHOP**

**Day Month 2022**

# NWRS-3 CH13: Creating Effective Water Sector Institutions

## **The aim of this chapter is:**

To provide for the establishment and transformation of institutions to assist the DWS in giving effect to its core mandate – the development, protection, conservation and allocation of water resources, and regulation of water and sanitation services and water use. Institutional arrangements entail the establishment, development, strategic alignment and performance monitoring and evaluation of all water and sanitation institutions and role-players.

## **This chapter consists of the following 4 sections:**

- Context and Current Challenges
- Guiding Principles
- Baseline and Status Quo
- Strategic Objectives and Strategic Actions for implementation (see next slides)

## NWRS-3 CH13: Context & Current Challenges

The National Water Act (Act 36 of 1998) (Is to be amended in line with the proposed National Water and Sanitation Act.) provides for the establishment and transformation of institutions to assist the DWS in giving effect to its core mandate – the development, protection, conservation and allocation of water resources, and regulation of water and sanitation services and water use.

Since the enactment of the National Water Act and the Water Services Act (Act 108 of 1997), an institutional framework for water resource management and water and sanitation services has been established. Policy, capacity, resources and legal issues within the water sector have hampered implementation of the institutional arrangements to full functionality and highlighted the need for institutional realignment and rationalisation within the sector.

The key elements of the institutional framework are to ensure that:

- Roles, responsibilities and accountability within the water value chain are better defined, to separate the policy making, implementation and regulatory functions.
- The number of institutions reporting to the Minister are rationalized and aligned to improve delivery, good governance, and economies of scale, financial viability, transparency and accountability.
- The sector has sufficient institutional capacity to achieve its mandate and government outcomes and to improve water resource management and water and sanitation services delivery.
- The institutional framework for the water and sanitation sector is simple, clear, cost-effective and pragmatic with clear roadmap and timelines for implementation.

## NWRS-3 CH13: Context & Current Challenges

Clarity and certainty regarding future institutional arrangements in the following five strategic areas is needed:

- Developing, financing and managing national water infrastructure.
- Managing water resources at the local and catchment level.
- Managing regional water infrastructure.
- Supporting local government in the delivery of water and sanitation services.
- Managing local water resources infrastructure.
- Supporting resource-poor farmers.
- Transformation of the irrigated agriculture component of the water sector.
- DWS oversight role over entities
- Regulation of the sector.
- The role of the Water Tribunal.

These areas will form the backbone for the NWRS-3 as they require policy, regulatory and operational attention.

## NWRS-3 CH13: Guiding Principles

The key guiding principles for achieving the objectives of institutional arrangements are have been identified as follows:

- **Water resource management at the appropriate level:** The institutional vision provides for protection, use, development, management and control of water resources to be carried out at the appropriate level, considering efficiency benefits related to economies of scale.
- **Clear definition of roles and responsibilities:** The roles and responsibilities of the three spheres of government and of the envisaged water resource and water and sanitation services institutions are clearly defined, with overlapping mandates being eliminated wherever possible. The imperative of co-operative government is recognized.
- **Coherence between national, regional and local water related strategies and plans:** All water resource management and water and sanitation services strategies, plans and instruments at local, regional and national level, must be aligned to achieve coherence.
- **Separation of regulatory and operational responsibilities:** There is a clear separation of the responsibilities and authorities for regulation of and operations in the water sector. WSAs and all other users of water such as RWIs, WUAs and WSPs are not party to decision-making in relation to water use authorisations. There is also a clear separation of regulatory (water use authorisation) functions from the operational (water user) functions. Regulation will seek to protect the integrity of the water resource and aquatic ecosystem for future sustainable use, while ensuring that water resources are made available for supplying the justifiable needs for growing and sustaining the socio-economy of the country.

## NWRS-3 CH13: Guiding Principles

- **Collaboration and partnerships:** The importance of collaboration and partnerships between all stakeholders and beneficiaries is recognized, including between all spheres of government, the private sector and civil society.
- **Alignment:** Institutions will be aligned throughout the water value chain to ensure the efficient, equitable and sustainable protection, use, development, conservation and control of water resources and the provision of improved and sustainable water and sanitation services, taking cognizance of the need to reflect the cultural, gender and racial diversity of South Africa. Realignment of institutions promotes economies of scope and scale in support of sustainability in the water sector.
- **Financial sustainability:** Realignment must enable institutions to leverage finance for water infrastructure and sustainable management.



# **PART A**

## **NATIONAL WATER RESOURCE INFRASTRUCTURE AGENCY**

## NWRS-3 CH13: Baseline and Status Quo

The current situation, with regard to the development, financing and managing of national water infrastructure is:

- The Trans-Caledon Tunnel Authority (TCTA) operates as a schedule 2 entity to finance and project management all economically viable water projects.
- The National Water Resources Infrastructure Branch and the Water Trading Entity are programs within the DWS to manage and operate national water infrastructure. The intention is to establish an alternative and appropriate National Water Resource Infrastructure institutional model (Agency) for developing, financing and managing national water infrastructure incorporating the three above facilities. The establishment of the proposed Agency should make a difference in developing and improving the management of water in the country and it should have a clear purpose without just adding another layer of unnecessary administration and costs.

The current situation, with regard to the establishment, funding and delegation of functions and authority to the Catchment Management Agencies (CMAs) is:



## CH13 Strategic Objective 1:

To establish an institutional model for National Water Resources Infrastructure Management.

In order to achieve the above strategic objective the following strategic actions must be undertaken:

- Establish a business case for streamlining institutional arrangements in the water and sanitation sector.
- Empower the institutional model for National Water Resources Infrastructure to efficiently and effectively own, finance, develop, operate and maintain national water resources infrastructure.
- Provide technical and financial resources and support to ensure that the institutional model becomes sustainable as soon as possible.
- Manage the phased approach of transferring the functions and resources from TCTA and Water Trading Entity.
- Empower the institutional model to contract out the operation and maintenance of national infrastructure.

## **CH13 Strategic Objective 3:**

To conclude effective establishment of the National Water Resources Infrastructure Agency and the National Water Resources and Services Regulator.

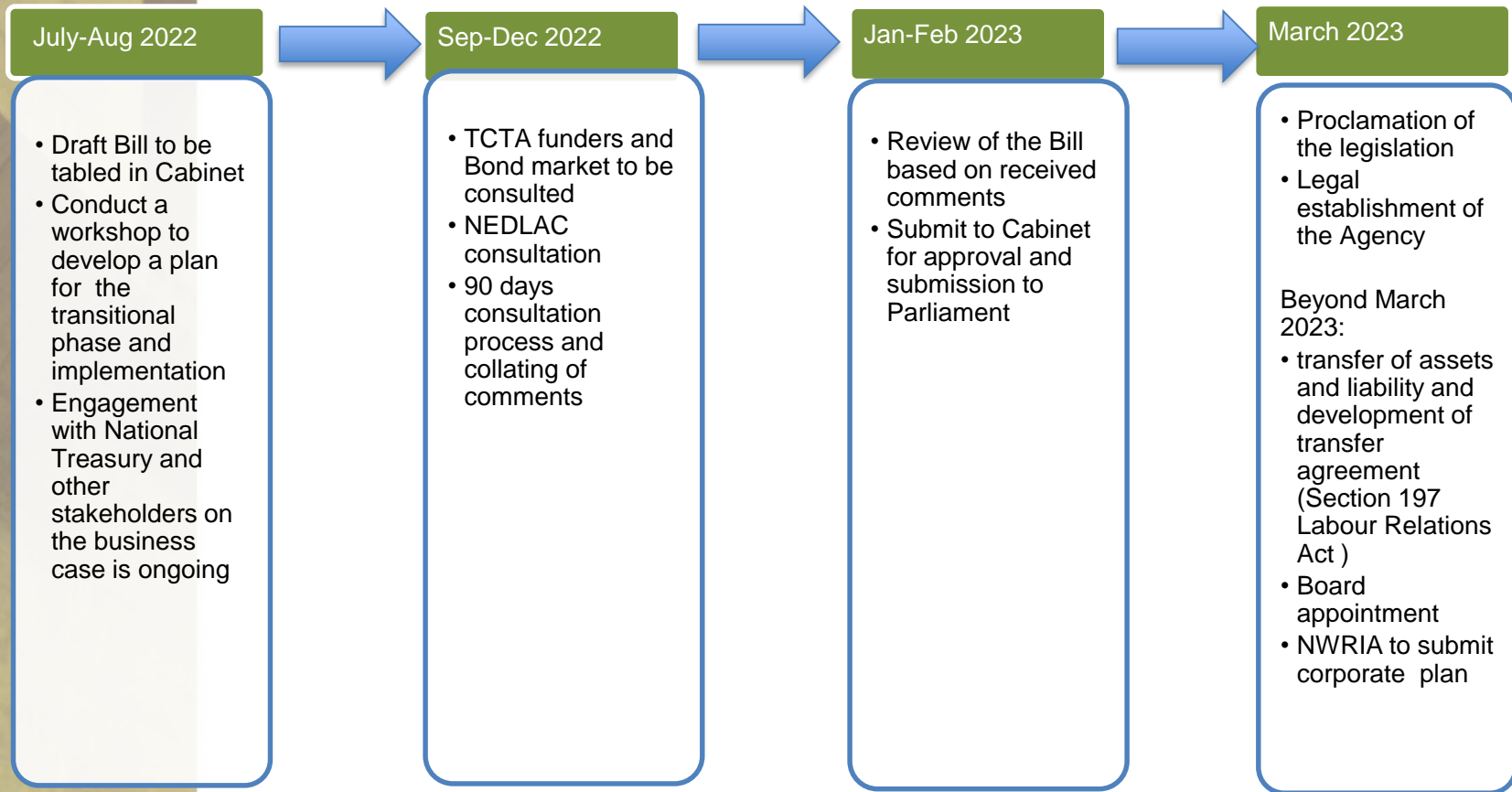
In order to achieve the above strategic objective the following strategic actions must be undertaken:

- Establish the National Water Resources Infrastructure Agency.
- Establish the National Water Resources and Services Regulator (NWRSR).
- Transfer functions with associated authority and responsibilities and budgets to the National Water Resources Infrastructure Agency and the National Water Resources and Services Regulator.

## **PROGRESS ON THE ESTABLISHMENT OF THE NATIONAL WATER RESOURCE INFRASTRUCTURE AGENCY**

- Draft Bill was completed in December 2021
  - Internal and Intergovernmental consultation took place in March 2022
  - Many iterations of consultations with National Treasury have been taking place
  - Cluster consultation took place in April and May 2022
  - Cabinet approved the Bill to be published for 90 days public consultation in August 2022.
  - The final draft business plan has been developed and submitted to National Treasury (because Minister of Finance approval of the business plan is required in terms of the PFMA, before the NWRIA is established).
- 11
- The workstreams are continuing to support the formation of the Agency.

# ROADMAP TOWARDS THE FINALISATION OF THE BILL PROCESS



# **PART B**

## **CATCHMNET MANAGEMENT AGENCIES**

## NWRS-3 CH13: Baseline and Status Quo

The current situation, with regard to the establishment, funding and delegation of functions and authority to the Catchment Management Agencies (CMAs) is:

Approval was obtained to reduce the number of CMAs from nine (9) to six (6).

- Out of the abovementioned CMAs, only two (2) are operational, namely; Inkomati-Usuthu and Breede-Gouritz.
- The Department of Water and Sanitation will ensure that the remaining seven (7) CMAs are all established and operational in order to manage water resources in the water management areas.

# MAIN PRINCIPLES IN REALIGNING THE WMA AND RESPECTIVELY THE CMAS FROM 9 TO 6 ARE:

## PRINCIPLES

- ***Operational Integration***
  - Connected and integrated water systems
  - Easy coordination and monitoring of agreements
  - Improved capacity-pooled technical skills
- ***Integrated water resource planning***
  - The river basins fall within the same water system
  - Improved resource planning
  - Transboundary systems managed by same conventions
- ***Economies of scale***
  - Enhance revenue and hence sustainability
  - Cost – effectiveness
  - Consolidate management structures

# PROPOSED NEW CONFIGURATION OF WATER MANAGEMENT AREA



## REPUBLIC OF SOUTH AFRICA PROPOSED WATER MANAGEMENT AREAS 2022

### Legend

- Major City
- Major Dam
- River
- International Boundary
- Provincial Boundary
- Water Management Area
- Proposed Boundary (2022)

### Proposed Water Management Areas 2022

1. Limpopo-Olifants
2. Inkomati-Usuthu
3. Pongola-Mtamvuna
4. Vaal-Orange
5. Mzimvubu-Tsitsikamma
6. Breede-Olifants

**Data sources and acknowledgements:**  
 Chief Directorate National Geospatial Information;  
 Department of Rural Development and Land Reform: The coastline, international boundaries, cities, dams and rivers

Municipal Demarcation Board: Provincial boundaries  
 Department of Water and Sanitation: Water Management Areas

**Disclaimer:**  
 Although the greatest care has been taken to ensure that this map is up to date and accurate, the Department of Water and Sanitation gives no warranty, express or implied, as to the accuracy, reliability, completeness or

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# CMA IMPLEMENTATION PROGRESS TO DATE

NAME OF THE CMA	STATUS OF CMA ESTABLISHMENT	Next Steps
<b>Breede-Olifants</b>	<ul style="list-style-type: none"> <li>Business case is completed</li> <li>The Minister has signed the Gazette notice for the establishment of the Breede –Olifants CMA</li> </ul>	<ul style="list-style-type: none"> <li>Will publish the Gazette notice as soon as the decision on staff transfer has been finalised. This should take place by end August 2022</li> </ul>
<b>Vaal-Orange</b>	<ul style="list-style-type: none"> <li>CMA was gazetted for public consultation in May 2022</li> <li>Business case is finalised</li> <li>Consultation with stakeholders is underway</li> </ul>	<ul style="list-style-type: none"> <li>The CMA will be gazetted for establishment by Dec 2022</li> </ul>
<b>Pongola-Umzimkulu</b>	<ul style="list-style-type: none"> <li>CMA was gazetted for establishment in 2014</li> </ul>	<ul style="list-style-type: none"> <li>The Board appointment process has initiated and should be finalised by November 2022</li> </ul>
<b>Limpopo-Olifants</b>	<ul style="list-style-type: none"> <li>Business case development is completed</li> <li>Consultation with provincial offices is ongoing</li> </ul>	<ul style="list-style-type: none"> <li>CMA will be gazetted for public consultation September 2022</li> </ul>
<b>Mzimvubu-Tsitsikamma</b>	<ul style="list-style-type: none"> <li>CMA was gazetted for public consultation in 2016</li> <li>Business case is under development</li> <li>Consultation with the internal and external stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>The CMA will be gazetted for establishment by March 2023</li> </ul>
<b>Inkomati-Usuthu</b>	<ul style="list-style-type: none"> <li>No configuration will be done</li> </ul>	



# **PART C**

## **WATER BOARDS**

## NWRS-3 CH13: Baseline and Status Quo

The current situation, with regard to managing regional water Infrastructure and supporting local government in the delivery of water and sanitation services is that approval was obtained to consolidate schedule 3B utilities, (water boards) into Regional Water Utilities (RWUs) to manage regional water resources and regional bulk water and wastewater infrastructure, as follows:

- To consolidate the Umgeni and Mhlathuze Water Boards into one regional water utility in KZN.
- To consolidate the Bloem, Sedibeng and Magalies Water Boards into one regional water utility in NW, FS and NC.
- Rand Water has been expanded to incorporate Bushbuckridge Water.
- Sedibeng Water has been expanded to incorporate Botshelo Water and Pella Drift Water.

Economies of scale will enable Regional Water Utilities to provide improved support to rural municipalities and to better deploy their limited financial and technical resources across disadvantaged areas, and care needs to be taken to maintain local participation in the consolidated utilities. Economies of scale will also reduce the number of institutions that the Minister has to regulate and oversee.

## CH13 Strategic Objective 2:

To implement the approved consolidation of schedule 3B utilities, (water boards) into Regional Water Utilities (RWUs).

In order to achieve the above strategic objective the following strategic actions must be undertaken:

- Determine the optimal configuration of water boards to manage regional bulk water supply, and assist municipalities to perform their primary water and sanitation services mandate, and where necessary, manage regional water resources infrastructure, and manage regional bulk WTWs and WWTWs.

## NWRS-3 CH13: Rationale for reconfiguring water boards

- Municipal performance is generally weak and compromises effective and sustainable water services delivery. This means that services are not being effectively expanded to households without an adequate service, that services being provided to existing households may not be sustainable, and that the quality of services is deteriorating
- In some instances, the relationships between water boards and municipalities are poor and not conducive to optimal outcomes for service delivery
- The financial viability of some water boards is marginal. In some instances, this is related to an underlying structural issue (geography and client base), in addition to challenges with billing and revenue collection at municipal and non-payment by municipalities to water boards
- There have been and continue to be governance problems in some water boards
- As far as possible, Water Boards should be financially sustainable and able to raise capital from the market for infrastructure projects
- All geographical areas which need the services of Water Boards, but which are not yet serviced by Water Boards, should be covered by Water Boards
- Some areas are serviced by multiple water boards, resulting in a degree of institutional confusion (for example, Hammanskraal, where two Water Boards and the Tshwane metro are all supplying water, resulting in confusion when there are disruptions in service delivery)

# PRINCIPLES UNDERLYING THE RECONFIGURATION

- The Department has reviewed the Water Boards in terms of financial sustainability, servicing areas that are not currently serviced and institutional confusion caused by having multiple Water Boards serving the same area.
- The purpose of the review of the Water Boards is to:
  - (a) Strengthen the capacity and capability of the entity in Province (leveraging on existing technical skills)
  - (b) Improve and enhance institutional efficiencies and rationalise the number of institutions in the water sector to ensure economies of scale,
  - (c) Maintain financial viability and enhance the ability to raise capital from the market for infrastructure projects.
  - (d) Enable Water Boards to better support Water Services Authorities (WSAs). All geographical areas to be serviced by Water Boards, and
  - (e) Ensure transformation and improved governance.
  - (f) There has been an effort to align water boards boundaries with Provincial boundaries.
  - (g) Reconfiguration must not result in job losses .

# Progress on the reconfiguration of the Water Boards

PROPOSALS	TIMELINES	PLAN/PROGRESS
Reconfiguration of Rand Water to incorporate Mpumalanga	March 2023	<p>Rand Water will:</p> <ul style="list-style-type: none"> <li>• service entire Mpumalanga (Gazette issued in 2014, not withdrawn)</li> <li>• transfer the Bospoort pipeline in Rustenburg to Magalies Water</li> <li>• will take over Magalies Water operations in Tshwane</li> </ul> <ul style="list-style-type: none"> <li>• Minister will be starting Consultations in terms of Section 28 of WS Act in Sept.</li> </ul>
Reconfiguration of Umgeni and Mhlathuze into a single water board in KZN	March 2023	<ul style="list-style-type: none"> <li>• Roadmap has been developed for the reconfiguration of Umgeni Water and Mhlathuze Water by 30 July 2022</li> <li>• Minister has consulted with both water boards and DG with Chief Executives.</li> <li>• Minister has consulted with both Boards of Mhlathuze and Umgeni</li> </ul> <ul style="list-style-type: none"> <li>• Submission prepared for Minister to direct Umgeni Water to initiate Due diligence and finalise by end of Nov 2022.</li> <li>• Minister has started consultations in terms of Section 28 of WS Act.</li> </ul>
Reconfiguration of Lepelle Northern Water	March 2023	<ul style="list-style-type: none"> <li>• The Lepelle Northern Water (LNW) area of operation will be expanded to include the whole of Limpopo in order to maximize service delivery and cover areas the unserved.</li> </ul>
Reconfiguration of Amatola Water	March 2023	<ul style="list-style-type: none"> <li>• The Amatola Water Board will service the entire Eastern Cape.</li> </ul>
Reconfiguration of Overberg Water	March 2023	<ul style="list-style-type: none"> <li>• Minister has directed that Overberg Water develop a growth strategy. Minister may issue Directives in terms of Section 41 of the Water Services Act to intervene in selected municipalities</li> </ul>
Reconfiguration of Magalies Water	March 2023	<ul style="list-style-type: none"> <li>• Magalies Water will service the entire North West. They have taken over the staff, assets and liabilities from Sedibeng with effect from 01 Aug 2022.</li> </ul>
Reconfiguration of Bloem Water	March 2023	<ul style="list-style-type: none"> <li>• Bloem Water will service the entire Free State and Northern Cape. They have taken over the staff, assets and liabilities from Sedibeng with effect from 01 Aug 2022.</li> </ul>



# Progress on Sedibeng Water Disestablishment Process

Final Gazette was published on 26 July 2022 and the interim board's term of office expired on July 2022.

- The interim Board submitted its exit/handover report to the Minister in July 2022.
- The asset register is still being finalised as part of the Audit process for 2021/22. The receiving entities have undertaken to do their analysis of asset register.
- **By the 1<sup>st</sup> of August 2022 both receiving entities took over their extended area of supply as per the published Gazette**



# **PART D**

## **IRRIGATION BOARDS AND WATER USER ASSOCIATION**

## NWRS-3 CH13: Baseline and Status Quo

The current situation, with regard to the managing local water resources infrastructure, transformation of Irrigation Boards and establishment of Water User Associations is:

- Approval was obtained to proceed with the transformation of Irrigation Boards into Water User Association.
- The development and transformation of WUAs, either through the transformation of existing irrigation boards (to ensure broader representivity) or through the establishment of new WUAs comprising resource poor farmers has not been slow.
- There are 90 WUAs established, including new associations and transformed boards. Approximately 179 Irrigation Boards still needed to be transformed to become WUAs.
- Strategic interventions are envisaged to:
- Conduct case by case due diligence, with the aim of defining and transforming/establishing new institutions based on the most efficient hydrological and integrated water resource management criteria and promoting reform.
- Disestablish existing institutions to be amalgamated in the process of transformation.
- Enable the Department to effectively regulate and support the local water resource management institutions to perform their functions and effectively address the transformation agenda of government.

## CH13 Strategic Objective 4:

To conclude the process to restructure, transfer and/or disestablish a water user association or irrigation board.

In order to achieve the above strategic objective the following strategic actions must be undertaken:

- Conduct case by case due diligence, with the aim of defining and transforming/establishing new institutions based on the most efficient hydrological and integrated water resource management criteria and promoting reform.
- Support the programmes to build the capacity of emerging farmers in this sector to enable them to access subsidies in terms of the pricing strategy.
- Develop and implement a Strategic Governance Framework for effective groundwater governance.
- Develop a programme for the acceleration of the transformation agenda of government.

## Overview of where we are

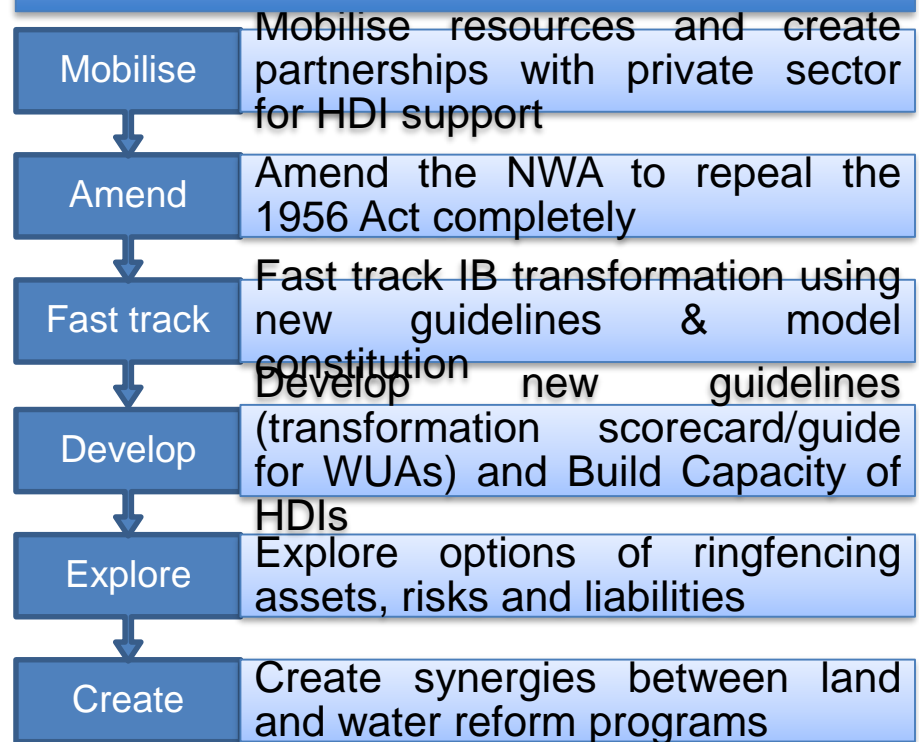
- Pre 1994 there were 305 Irrigation Boards
- After 1998, 45 Water User Associations were established, and 54 Irrigations boards were transformed to water user associations.
- Over 200 Irrigation Boards must still be transformed, however the process has been revived after <sup>26</sup>delays by the 2013 Policy Positions which directed the ~~disestablishment of all IBs and WUAs~~

# CHALLENGES AND OPPORTUNITIES IN IB TRANSFORMATION

## Challenges

- **Lack of financial and technical resources** to support new 'developmental' WUAs.
- **Two separate water laws** (on local WMLs) – 1956 and 1998 - leading to difficulties in effectively regulating IBs
- **Slow transformation** of irrigation boards
- **Poor representativity and involvement** of HDIs in WUAs
- Concerns regarding the **transfer of private assets and liabilities**
- **Lack of alignment** between land and water allocation reforms

## Interventions



# Proposed implementation process





# **PART E**

## **INTERNATIONAL BODIES**

## **CH13 Strategic Objective 5:**

To conclude the establishment bodies established in terms of international agreements.

In order to achieve the above strategic objective the following strategic actions must be undertaken:

- Identify and establish any bodies still outstanding in terms of international agreements.





# **PART F**

## **WATER TRIBUNAL**

## CH13 Strategic Objective 6:

To finalise the governance arrangements of the Water Tribunal.

In order to achieve the above strategic objective the following strategic actions must be undertaken:

- Identify and conclude any activities required to ensure effective governance arrangements for the Water Tribunal.
- Establish a Municipal Support Unit for Water and Sanitation in DWS, staffed with highly competent experts to drive a national programme of intervention at municipal level.

## **CH13 Strategic Objective 7:**

To establish the national appeal process.

In order to achieve the above strategic objective the following strategic actions must be undertaken:

- Assess and conclude any activities in terms of the proposed Water and Sanitation Act that must be undertaken with respect to the national appeal process.

Discussion and Inputs  
Chapters 13,