



**water & sanitation**

Department:  
Water and Sanitation  
**REPUBLIC OF SOUTH AFRICA**

# **COMMISSION: LEGAL FRAMEWORK**

**18 February 2022**

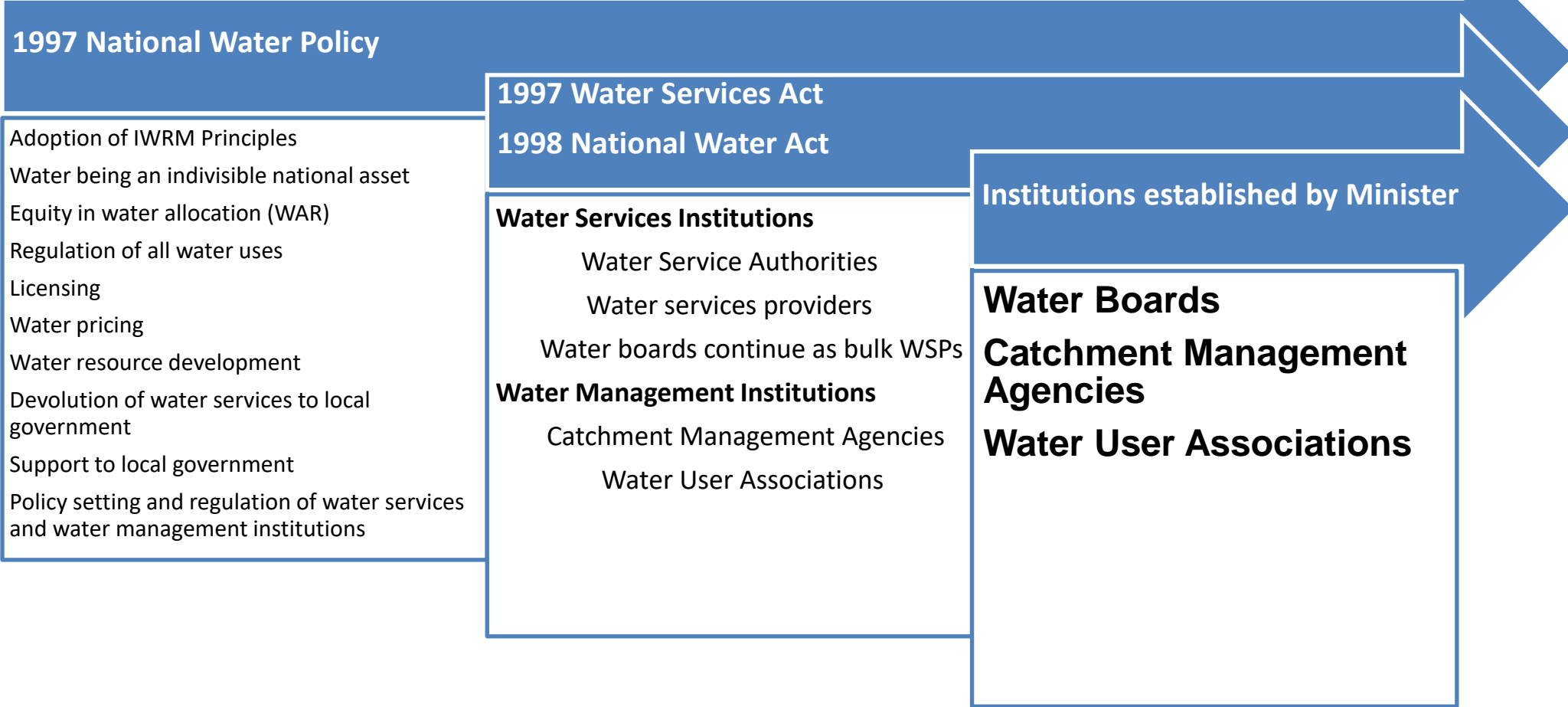
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- What are the challenges
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# OVERVIEW





# **Support and Regulation of Local Government**

## SUPPORT AND INTERVENTION MECHANISMS & THEIR LIMITATIONS

- National and provincial interventions and support to date have been generally ineffective at halting the deterioration and turning it around
  - For example, despite repeated 6-month administrator interventions in Makana Municipality, the dysfunctionality of water and sanitation services remains
- DWS has regulatory instruments such as the Blue Drop, Green Drop and No Drop but these instruments are not optimally utilized:
  - Insufficient links between the results of monitoring and support measures and interventions
  - Lack of rapid response to emergency situations, such as sewage spillage in residential areas
  - Lack of integration and coordination of implementation of Section 19 (National Water Act), which allows DWS to execute remedial action and recover cost from polluters, and other interventions such as Section 139 of the Constitution, and Section 63 of the Water Services Act.
- DWS has published norms and standards for water and sanitation services but compliance, monitoring and enforcement has not been effective
- COGTA authorises municipalities to be Water Services Authorities (Municipal Structures Act) and Water Services Authorities appoint Water Service Providers (Municipal Systems Act) but these powers are not used to enforce compliance with norms and standards

# WHAT NEEDS TO BE DONE

- Working together with SALGA, NT and COGTA, DWS will lead the development and implementation of a range of inter-related and coordinated support measures and interventions which will include doing the following differently:
  1. Strengthen and extend the roles, responsibilities and capacity of water boards so that they can provide water and sanitation services in instances where municipalities are failing to provide the services
  2. Review the geographical boundaries of the water boards to make them more sustainable, this already started with the disestablishment of Sedibeng Water
  3. Increase involvement of private sector financing and management in municipal water and sanitation services
  4. Strengthen regulatory interventions based upon the results of monitoring mechanisms such as Blue Drop, Green Drop and No Drop
  5. Strengthen the National Norms and Standards (Water Services Act) and put in place a framework to guide the provision of sanitation services





# Transformation of Irrigation Boards

# TRANSFORMATION PROGRESS

- Approximately **92 WUAs** established (new establishments and transformation of over 99 irrigation boards)
- Over **200** irrigation boards still to be transformed
- Structural transformation of irrigation boards to WUAs and institutional transformation of established WUAs affected by:
  - Slow pace of water allocation reform, itself affected by slow pace of land reform
  - Financial capacity to support small-holder water users

## Emerging Issues Requiring Attention

1. Is there a need for legislative review to ensure compulsory membership of WUAs? What are the likely legal and practical implications for compulsory membership of WUAs? Is current legislation allowing for accelerated transformation?
2. Is there sufficient legal provision for WUAs to serve as bulk water suppliers? Lebalelo & Vaal Gamagara Cases?



# CHALLENGES IN IB TRANSFORMATION

- **Lack of financial** and technical resources to support new 'developmental' WUAs.
- **Two contradicting** water laws (on local WMIs) – 1956 and 1998 - leading to difficulties in effectively regulating IBs
- **Slow transformation** of irrigation boards
- **Poor representativity** and involvement of HDIs in Ibs/WUAs
- Concerns regarding the **transfer of private assets and liabilities**
- Land and water allocation **Reform**

# RENEWED EFFORTS

- A transformation plan has been developed to address stumbling blocks and fast-track the process.
- Key progress milestones
  - Guidelines and tools being reviewed
  - Model constitution being reviewed
- An Institutional Transformation Charter is being developed to address post-transformation issues affecting the status and functioning of Water User Associations



# **RE-ALIGNMENT OF CATCHMENT MANAGEMENT AGENCIES**

# CURRENT STATUS ON THE ESTABLISHMENT OF CMAs



**Two CMAs** already established and operating. **Six CMAs** are being established through consolidation of WMAs including amalgamation two existing CMAs



New business cases are being finalised for submission to National Treasury.



Once approved Minister will **appoint boards** and all CMAs should be running by the end of **2023**.

## Emerging Questions?

Why have the agencies not been established and enabled as intended?  
Are there any legislation impediments?

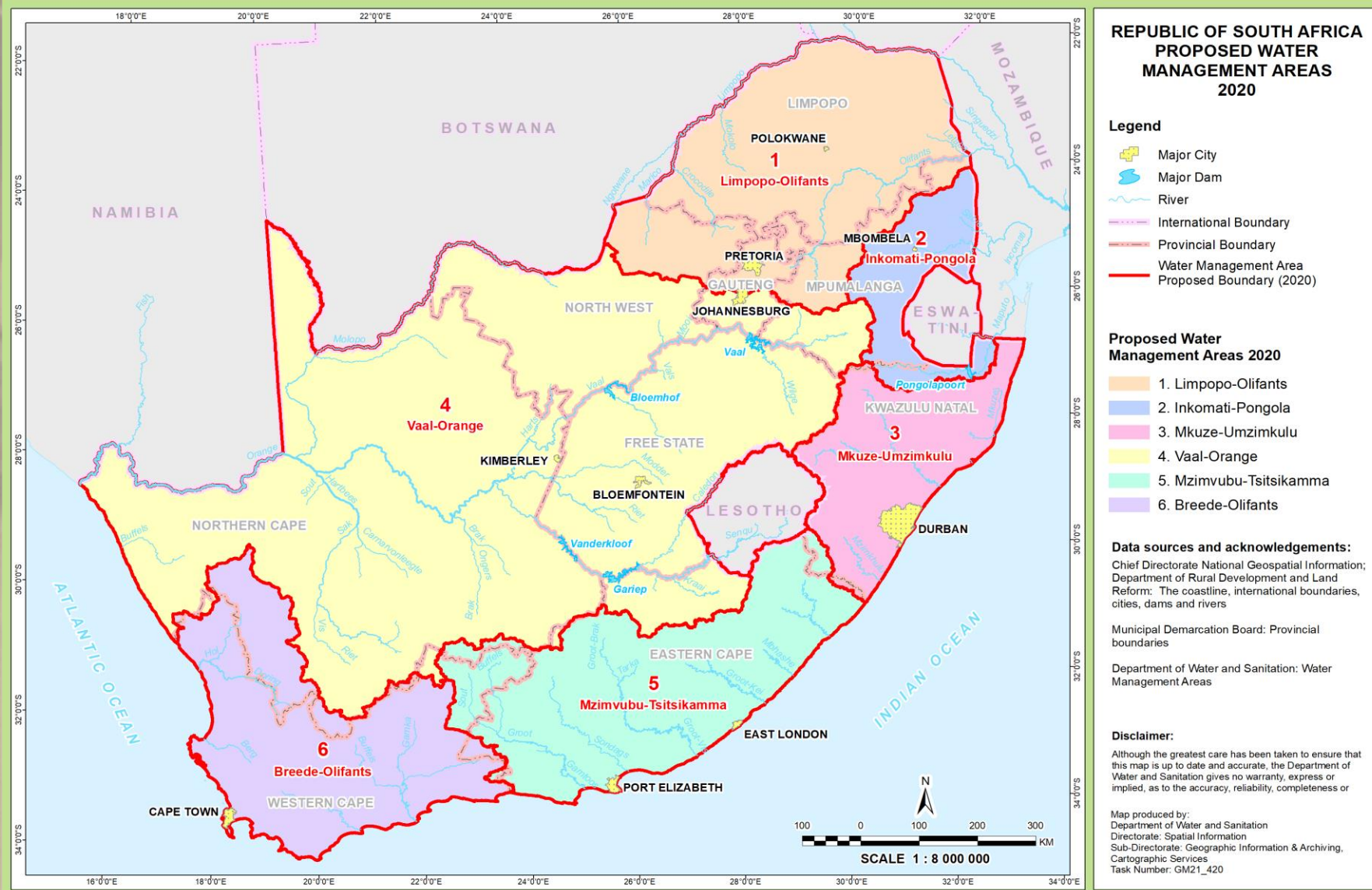
# MAIN PRINCIPLES IN REALIGNING THE WMA AND RESPECTIVELY THE CMAS FROM 9 TO 6 ARE:

## 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 WMA







## IMPLEMENTATION PRINCIPLES

Cooperative governance

Policy coherence

Financial viability

Common message

Clear roles and responsibilities

# BROAD QUESTIONS

- Does the legislation – WSA & NWA - allow for a cohesive and seamless response to emerging challenges such as:
  - Institutional failures: Can a CMA temporarily take over WUA functions? Can Water Boards temporarily take over local WSA functions? Can a WUA take over a Water Board function or vice-versa?
  - Water shortages
  - Bulk infrastructure development
- Does the legislation fully address key issues such as:
  - Stakeholder participation in governance?
  - Accountability?
  - Dynamic orientation?
- Does current legislation allow for coherent implementation of national and provincial interventions?



# DISCUSSION

Focussing on solutions!