

# Guide for Catchment Management Agency Cooperation with Local Government

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Water Research Commission

# **GUIDE FOR LOCAL GOVERNMENT COOPERATION WITH CATCHMENT MANAGEMENT AGENCIES**

**Report to the Water Research Commission**

**by**

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# GUIDE FOR LOCAL GOVERNMENT COOPERATION WITH CATCHMENT MANAGEMENT AGENCIES

## INTRODUCTION

The National Water Act (Act 36 of 1998) enables the establishment of Catchment Management Agencies (CMAs) in the 19 Water Management Areas (WMAs) established in South Africa. These CMAs will ultimately take responsibility for all activities required to enable and support water resources regulation, including authorising the use of water and ensuring that water related activities are performed in accordance with the Catchment Management Strategy (CMS) that is developed in the relevant WMA.

The recent local government demarcation process and the ongoing specification of the powers and functions between the District, Local and Metro Councils have further clarified the roles and functions of local government. Local government is constitutionally responsible for the implementation and control of a range of activities that affect water resources. In particular, local government has key responsibilities related to water resources management (WRM), including ensuring provision of municipal services, rural development strategies, municipal spatial development and infrastructure planning, environmental planning and management, including pollution control and waste management.

The South African Constitution requires all organs of state and spheres of government to observe and adhere to the principles and conduct their activities within the parameters of cooperative governance. Although there is general acceptance and support for this requirement, the water sector has not been particularly effective at pragmatically implementing these sentiments nor making them operational. As CMAs are established and local government continues to take on its Constitutional mandates, the need for cooperation between these two institutions will be critical to the effective, efficient and sustainable implementation of WRM.

CMAs are still to be established and therefore there is a significant opportunity to ensure that they foster cooperative governance, particularly with local government as a key partner in each WMA, particularly on the local government functional areas that impact on WRM. However, there are significant differences between municipalities throughout South Africa, in terms of their challenges, capacity, organisation and approaches to performing their functions. Furthermore, most water resources managers do not know which directorates or departments to make contact with in a local government organisation to achieve cooperation around a specific issue. This leads to frustration, inefficiencies and inadequate cooperation or consultation between the institutions.

Through the Water Research Commission, a study has been completed to evaluate and make recommendations on the functional interface requiring cooperative governance between these institutions and the most appropriate mechanisms to foster cooperation. The study is part of the objective of promoting effective and efficient implementation of government policy around water resources management to benefit local communities represented and served by local government.

As part of this study, a set of guidelines on local government and the CMAs has been developed to provide guidance on cooperation between the institutions.

## Who should read this Guide?

This guide is primarily intended for **local government councillors/politicians and the administrative wing of local government, i.e. municipal managers and staff**. The guide is also meant to assist institutions that support local government, such as the South African Local Government Association (**SALGA**) and the Department of Provincial and Local Government (**DPLG**), to be informed and therefore provide appropriate advice to local government.

## Purpose of this Guide

The main purpose of the guide is to provide this group with background information on CMAs as new institutions that are being created to manage water resources. Secondly, it describes mechanisms for cooperation between the two institutions and how local government interaction with CMAs could be promoted.

The guide is structured to explain the following:

- Roles and functions of CMAs – **Part 1**
- Motivation for cooperation between CMAs and local government – **Part 1**
- Areas of interface with CMAs – **Part 2**
- Mechanisms for cooperation – **Part 3**
- Phasing of cooperation – **Part 4**
- Way forward – **Part 5**

## PART 1: CATCHMENT MANAGEMENT AGENCIES

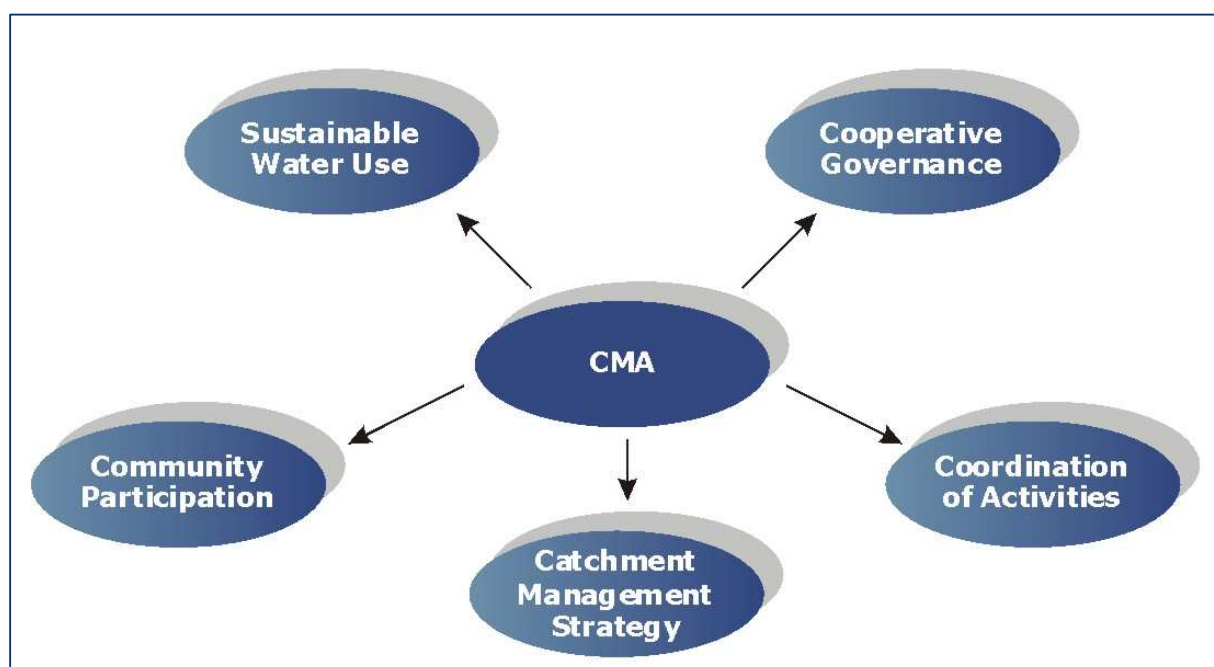
### Role and Purpose

CMA's are statutory bodies established in terms of chapter 7 of the National Water Act to manage water resources at catchment or regional level. CMA's are responsible for the planning, implementation and management of water resources. Secondly, they are tasked with coordinating the water-related activities of other water management institutions and water users within Water Management Areas (WMAs). CMA's are governed by Governing Boards (GBs) that are established by the Minister. The GB of a CMA must represent all of the stakeholders affected by water resource activities within the WMA, including local government.

A CMA has a specific mandate that it should fulfil within its specified WMA. This mandate includes:

- Developing a Catchment Management Strategy (CMS) as a framework for management of water resources within the WMA, which must be in harmony with the National Water Resource Strategy (NWRS) – the national framework for the management of water resources in South Africa
- Coordinating the other Water Management Institutions (WMIs) within the WMA
- Ensuring sustainable water use
- Promoting cooperative governance
- Promoting community participation in Water Resource Management (WRM)

### ROLES AND PURPOSE OF CMAS



## CMA Establishment Process

### *Development of a Proposal*

The CMA establishment process begins with a consultation process involving the stakeholders within a WMA. The stakeholders and the community develop a proposal for the establishment of a CMA within the area. The stakeholders are mainly all of the institutions and bodies affected by water resource activities within a WMA. The groups of stakeholders include Water User Associations (WUAs), local government, non-governmental organisations, commercial farmers, emerging farmers, etc.

### *Evaluation of the Proposal*

The proposal is then submitted to the Department of Water Affairs and Forestry (DWAF) for evaluation. The proposal is evaluated against asset criteria developed by the department. After the evaluation, the proposal is submitted to the Minister for approval, and then it is published in the Government Gazette for public comment. A final draft is then prepared based on the comments received.

### *Advisory Committee*

After the proposal, the Minister may establish an Advisory Committee (AC) that is tasked with recommending the composition of the CMA GB.

The AC identifies the sectors and other interest groups that should be represented on the GB. The AC also indicates which institutions should be requested to have representation on the board.

### *CMA Governing Board*

Based on the recommendations of the AC, the Minister requests nominations for and appoints the CMA GB. Local government is the only institution specifically mentioned by the NWA as being critical to the representation on GBs. The role of the GB is to appoint a CEO for the CMA. The CEO, together with the GB, establishes the CMA institutionally by setting up structures and appointing staff.

### *Delegation*

After the establishment of structures and appointment of staff, the CMA may start performing its initial functions. Depending on capacity, the CMA may have certain functions delegated to it by DWAF.

## Expected Functional Evolution of CMAs

CMAs are currently not in existence but are in the process of being established. It should be understood that the DWAF Regional Offices (ROs) are currently fulfilling the roles of CMAs until they are established in each WMA.

It is important to note that CMA functions mainly cover WRM activities. **CMAs do not play any role in water service (WS) provision, which is a local government competence. CMAs can only**

**advise or assist with WS functions or activities that impact on the management of water resources. The role of a CMA would be in the areas of interface and prioritisation through water sector consultation.** WRM is a national competence and the CMAs are being established to play this role, while WS is a local government competence and WSAs and WSPs play this role.

### ***Functions of CMAs***

The functions of a CMA are evolved in a progressive manner. There are initial functions, which the CMAs are expected to perform upon their establishment. The second set of functions are those that will be delegated to the CMAs based on their growth and capacity. It is anticipated that CMAs will ultimately perform most of the functions currently performed by DWAF through delegation.

### ***Initial functions of CMAs***

Section 80 of the NWA provides for the initial functions of CMAs upon their establishment.

The initial functions of CMAs are mainly centered on managing the regional water resource and ensuring stakeholder participation within a WMA:

- Planning and implementing Integrated Water Resources Management (IWRM) within a WMA
- Investigating and advising interested persons on the protection, use, management, conservation and control of water resources
- Developing and giving effect to a CMS
- Promoting coordination between the CMS and Water Services Development Plans (WSDPs)
- Promoting stakeholder input, cooperation and agreement that is based on:
  - The coordination of activities
  - Cooperative governance
  - Ensuring sustainable water use
  - Ensuring community participation in water resource management

### ***Other possible functions of CMAs***

Through the Minister's consent, a CMA may have certain functions currently performed by DWAF delegated or assigned to it. These functions may include the general management of water resources in the water management area, the powers and duties of a responsible authority, and other powers and duties vested with the minister that can be delegated.

It is unlikely that these functions would be delegated to the CMAs initially; however, they could be delegated progressively. Depending on the size and capacity of the CMA, some of these functions may be delegated or outsourced to the other WMIs established within a WMA.

FUNCTIONAL AREA	SUB-FUNCTIONS AND ACTIVITIES
<b>Develop policy and strategy</b>	<ul style="list-style-type: none"> <li>• Long-term strategic planning for the CMA</li> <li>• Development of the CMS, including allocation plans</li> <li>• Determination of resource directed measures</li> <li>• Reconciliation of water availability and requirements</li> <li>• Financial and business planning for the CMA</li> </ul>
<b>Support institutions</b>	<ul style="list-style-type: none"> <li>• Creation of non-statutory consultative and participative bodies or fora</li> <li>• Coordination of the activities and relationships of WMIs in the WMA</li> <li>• Fostering cooperative governance and creating partnerships</li> <li>• Building capacity in WMIs and fora</li> <li>• Resolution of conflicts</li> <li>• Support/advice for water resource planning and management activities</li> <li>• Supportive or emergency organisational interventions</li> <li>• Ensuring appropriate stakeholder participation in these bodies</li> </ul>
<b>Regulate water use</b>	<ul style="list-style-type: none"> <li>• Registration of water use</li> <li>• Authorisation of water use (licensing, etc.)</li> <li>• Setting, billing and collecting water use charges</li> <li>• Ensuring dam safety and dam zoning</li> <li>• Monitoring authorisation requirements</li> <li>• Ensuring compliance (including enforcement)</li> <li>• Negotiation of co-regulation and cooperative agreements</li> </ul>
<b>Implement physical interventions</b>	<ul style="list-style-type: none"> <li>• Implementation of the Working For Water programme</li> <li>• Implementation of water demand management interventions</li> <li>• Rehabilitation of water resources (such as wetland or riparian zones)</li> <li>• Emergency response interventions (including disaster mitigation)</li> <li>• Operation and maintenance of water resource systems (water works)</li> <li>• Development (design and construction) of water resources infrastructure (waterworks)</li> </ul>
<b>Manage information</b>	<ul style="list-style-type: none"> <li>• Monitoring water resources (collect, source and capture data)</li> <li>• Development and maintenance of databases (including quality control)</li> <li>• Development and maintenance of information management/evaluation systems</li> <li>• Conducting research on water resources</li> <li>• Performance of needs assessments and water resource problem identifications</li> <li>• Communication with stakeholders and collection of anecdotal information</li> </ul>
<b>Audit WRM</b>	<ul style="list-style-type: none"> <li>• Development and maintenance of indicators for auditing</li> <li>• Performance of financial and organisational audits of WMIs</li> <li>• Performance of functional performance audits</li> <li>• Performance of water resources audits against specified objectives</li> <li>• Proposition and facilitation of corrective action</li> </ul>

The following functions may not be delegated to a CMA:

- Setting of water tariffs
- Authorisation of water use

The following powers are only vested with the Minister:

- To make regulations
- To authorise a WMI to expropriate
- To appoint the governing board of a CMA
- To appoint a member of the Water Tribunal

## Types of CMAs

The type of CMA to be established in a WMA is determined by a number of factors relating to the circumstances of the WMA. These factors range from the challenges faced by the WMA, to the priorities, capacity and functions within the WMA.

The indication is that the manner in which CMAs relate to their stakeholders will not be same. In reference to CMA/local government relations, different municipalities in different WMAs will have different relations with their CMA. WMAs with, for example, metropolitan municipalities stand to have more influence on the CMA on a number of areas. On the other hand, a WMA comprising of rural district municipalities will tend to have less influence on their CMA. The priorities of the municipalities within a district, in most cases, determine the types of relations it will develop with the CMA. In a rural dominated WMA, the CMAs will tend to have stronger relations with agriculturally based organisations, such as WUAs and community-based organisations.

Depending on the circumstances, one of the following types of CMAs may be found in a WMA.

### RURAL AGRICULTURAL – COMMUNITY DOMINATED (SMALL) CMA

Such a CMA is small, and its establishment emphasises institutional development and stakeholder participation. It will have a relatively small water use management component, which would largely be oriented towards the authorisation and control of irrigation and municipal water use, with some of the water use control responsibilities being delegated to WUAs (and possibly local government, depending on the capacity). Water resource planning and water use authorisation would require DWAF (and possibly consultant) technical support, while the monitoring component would need to be supported by laboratory services, and possibly monitoring done by WUAs and local government. An example of this type of CMA would be in the Olifants-Doorn WMA.

### RURAL AGRICULTURAL – INDUSTRIAL/MINING (MEDIUM) CMA

This type of CMA, with approximately 60 staff members, is medium sized. It mostly has capacity for institutional development, water resources planning, water use management and monitoring within a WMA with significant industrial, power, or mining activities. Monitoring would be supported by outsourced laboratory services and other institutions' programmes (including private industry), while technical planning and water use authorisation support would be brought in from DWAF or consultants.

Examples of this type of CMA would be in the Olifants and Middle Vaal WMAs. However, some of the larger rural agricultural WMAs (with total water use in the order of 1 000 million m<sup>3</sup>) may also require medium sized CMAs, such as the Inkomati and Breede WMAs.

## URBAN DOMINATED (LARGE) CMA

This is a large CMA establishment, with a staff complement of approximately 85 people, and most of the CMA's functions are performed in-house. However, some of the functions may be outsourced, thus decreasing the number of staff. This type of CMA has a significant water use management and monitoring component, which is required to manage the complex water quality problems associated with urban areas, although outsourcing of the laboratory components is assumed.

Examples of this type of CMA would be in the Upper Vaal, Crocodile-Marico and Mvoti-Mzimkulu WMAs.

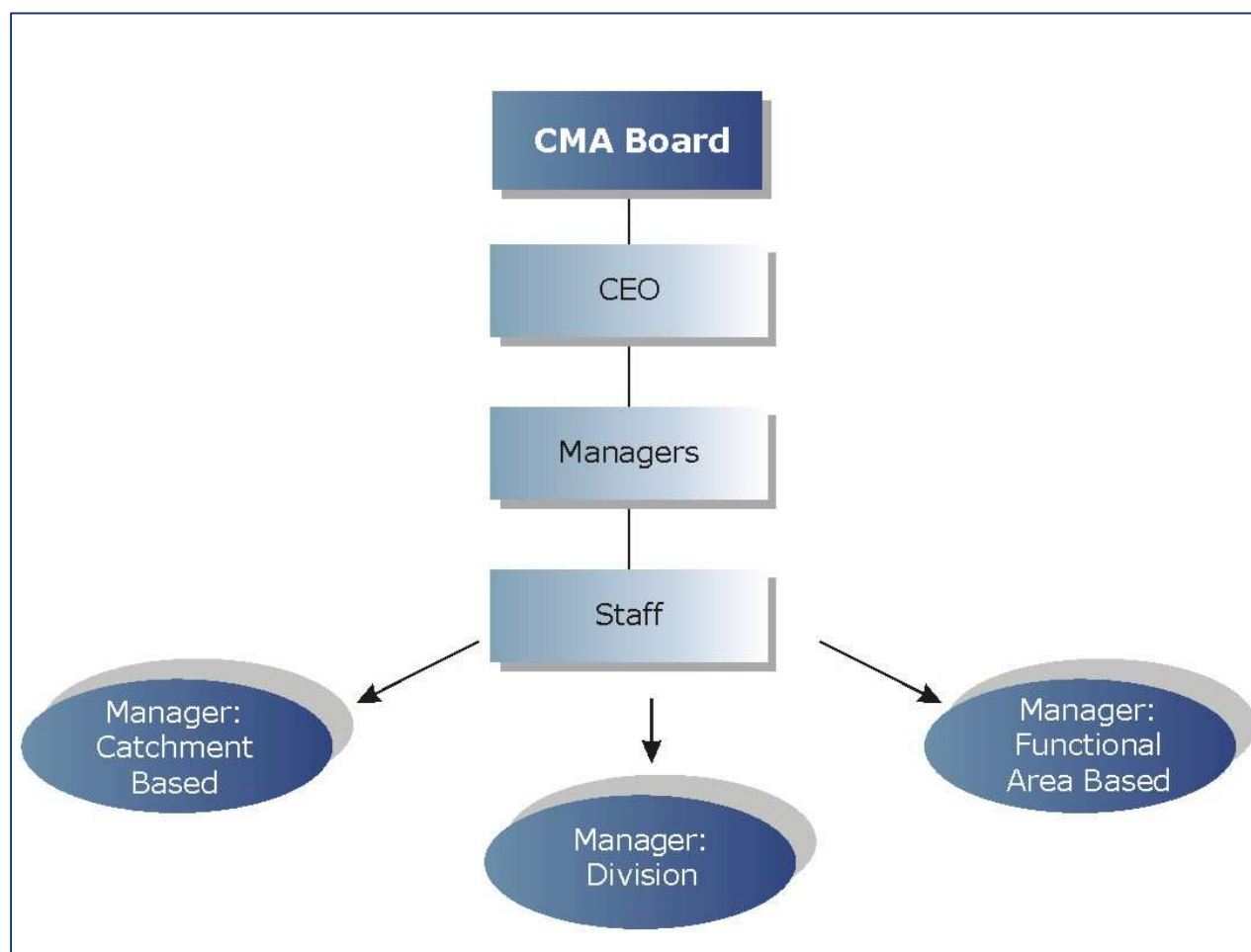
## Possible Institutional Arrangements

Typically, a CMA would have an organisational structure that represents the stakeholders within the WMA, i.e. the GB, management, and staff, as well as the functions it performs within the WMA. Depending on the nature of the WMA, a CMA would have Catchment Committees that assist it in various WRM activities. A number of other WMIs may play this role, e.g. WUAs, Catchment Forums, etc. (See *Other Institutions* for more information.)

In other WMAs, the CMAs are made up of different **sub-catchments [sub-committees/sub-structures – Ed.]** that are combined to form one institution. In terms of structure, this CMA may have representatives from each of **these sub-catchments** in its structures.

A CMA would either reflect some or all of these aspects in its organisational structure. It should be noted that there is no prescribed structure for CMAs, but they may consider using the provisions in the Act, e.g. the use of structures like CMCs, etc. The structures within the overall CMA structures are largely influenced by the circumstances within a WMA.

## TYPICAL CMA STRUCTURE



There are a number of options for the structure, particularly in areas where there will be sub-catchments with specified functions. These options include:

- **Catchment based management** – a CMA would have decentralised management arrangements in this case. Some of the functions of the CMA would be transferred to **sub-catchments**.
- **Functional based management** – in this case, a CMA would have **sub-catchments** that would be based on specific functions, e.g. institutional coordination, authorisation, information management, etc.
- **Division based management** – with this structure, a CMA would have specific divisions, e.g. Water Supply, Water Authority, etc. This type of structure would be most dominant in the urban areas.

## Other Institutions

In extending the objective of WRM, the NWA provides for the establishment of other WMIs whose role is to assist the CMAs in managing water resources. In the establishment of these institutions,

certain institutional arrangements are fostered between these institutions and the CMAs. Depending on their capacity, these institutions may assist CMAs with a number of functions, e.g. the use of forums to promote stakeholder participation and the use of catchment management committees solve local water resource issues within a WMA. Below is a description of these institutions and their possible institutional arrangements with the CMA.

### ***Catchment Forums***

Catchment Forums are institutions that have been established to provide, among other things, external expert support for WRM related issues, e.g. a forum for water quality, or a forum to prevent water wastage. The Catchment Forums also play a role in stakeholder participation during the CMA establishment process.

### ***Catchment Management Committees***

The NWA provides for the formal establishment of committees by CMAs, in order to advise them or to perform any of their functions within a specified area. CMCs have representation from the CMA GB and/or employees, but may include other specialists and/or stakeholders.

A geographically based CMC would focus on key WRM issues within a specified sub-catchment area of the WMA. Stakeholder representatives (including local government) from that area may be included on the committee, which may either be advisory or perform delegated functions.

### ***Water User Associations***

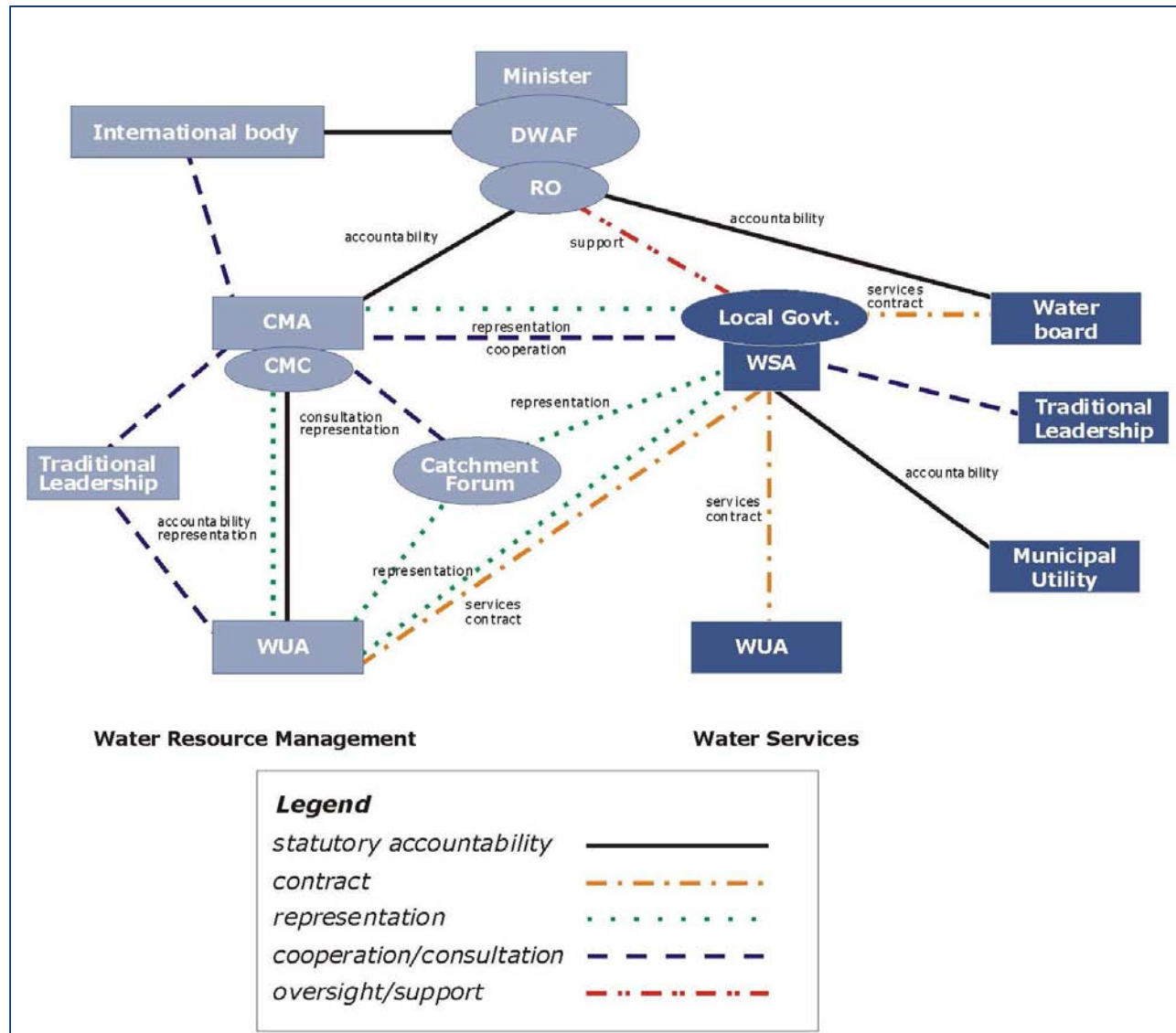
WUAs are cooperative associations of water users established under the NWA to undertake water related activities for the mutual benefit of all of its members within a WMA. Within the associations, members cooperate and pool resources to address local water related needs and priorities. WUAs are therefore mainly established to manage local water infrastructure, e.g. irrigation water supply schemes, and to implement management decisions agreed upon between the members.

The purpose of WUAs may also be stretched to perform other WRM and water services functions at local level. The water services functions may be on the basis of an agreement with the relevant water services authority, e.g. the district municipality, to supply water to the local communities.

### ***International Bodies***

The Minister may establish bodies to implement international agreements for WRM. These bodies may be involved in managing, monitoring, protecting or facilitating international cooperation on water resources, developing infrastructure and/or managing the allocation, use and supply of water. As such, they may include international river basin organisations, as well as international WUAs, and should give effect to the principles outlined in the *SADC Protocol on Shared Watercourses*.

## PRIMARY INSTITUTIONAL RELATIONSHIPS BETWEEN VARIOUS WATER SECTOR INSTITUTIONS

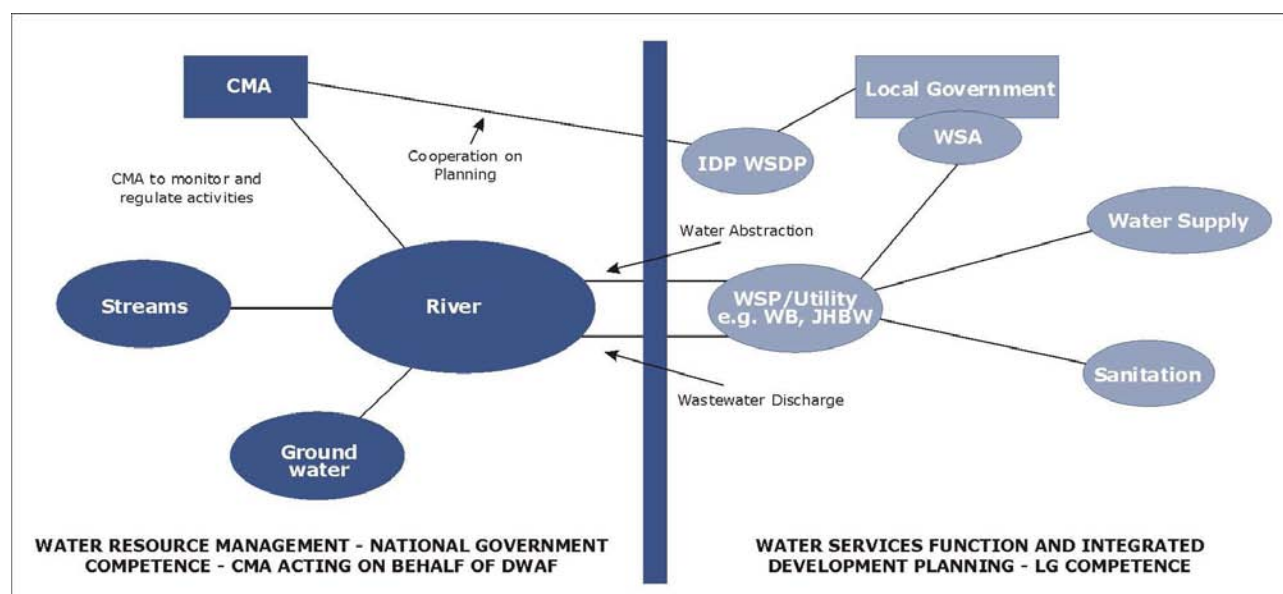


## PART 2: INTERFACE BETWEEN CMAs AND LG

The roles and functions of CMAs indicate a number of areas that warrant cooperation with local government. It is critical that local government institutions prioritise interaction with CMAs, as a number of their functions are dependent on relations with them, particularly water service functions.

In terms of CMAs, it should be understood that they have **no function in the provision of water services, but they can be a means to the effective provision of this service by local government institutions**. The roles and functions of the CMAs are purely related to WRM.

The difference between WRM functions and water services functions should be understood. **At no point will a CMA perform a water services function.**



The most important point to note is the advantage that cooperation between these two institutions brings to each other. Cooperation between the two institutions provides an opportunity for shared information. This information may be critical for making decisions about planning and water management.

### CMA Regulatory Role

In terms of the Constitution and the NWA, DWAF and the agencies established in terms of the Act, i.e. the CMAs, are given powers to manage and regulate water resources throughout South Africa. CMAs **operate within a particular sphere of government** through a particular piece of legislation linked to a government department with constitutional mandates. This gives the agency powers that are vested in DWAF. The implications are that a CMA, based on the powers conferred to it by the Act, will manage and regulate the water use activities of all stakeholders within a specified WMA, including local government. However, this does not overlook the fact that local government

institutions represent an independent sphere of government. Therefore, a cooperative approach is necessary.

## Interface on Water Use Regulation

Water use, as an area that impacts on water planning, exposes a number of areas that warrant cooperation between the CMAs and local government institutions.

### WATER USE

Water use refers to all of the activities that have a direct or indirect impact on the:

- Source of water
- Quantity of water in the resource
- Quality of water in the resource
- Environment surrounding the resource

The NWA refers to water use as being the following activities:

- Taking water from a water resource (abstraction)
- Storing water
- Activities which reduce stream flow (for example forestry)
- Discharging waste or water containing waste into a water resource
- Controlled activities (activities that impact detrimentally on a water resource, for example, irrigating land with water containing waste, or power generation activities which alter the flow of a water resource)
- Changing the physical structure of rivers and streams (altering a watercourse, obstructing or diverting the flow of water in a watercourse)
- Removing underground water
- Using water for recreational purposes

Local government undertakes the water use functions of taking water from a water resource (abstraction), discharging wastewater into a water resource, and changing the physical structure of rivers and streams (altering a watercourse, obstructing or diverting the flow of water in the watercourse). In these cases, municipalities may build a dam in the river or pump water directly from the river. These municipal water use activities become the driver of cooperation with the CMA.

### Authorisations

The management of water at this level is done through authorisations. Depending on the extent of impact the water user has on the resource, they may be required to register as low impact users under general authorisations (who may require licences in certain instances) or be required to apply for water use licences as high impact users. **In most cases, local government water related**

**functions have a high impact and therefore require water use licence applications with the relevant authority, i.e. DWAF/a CMA.**

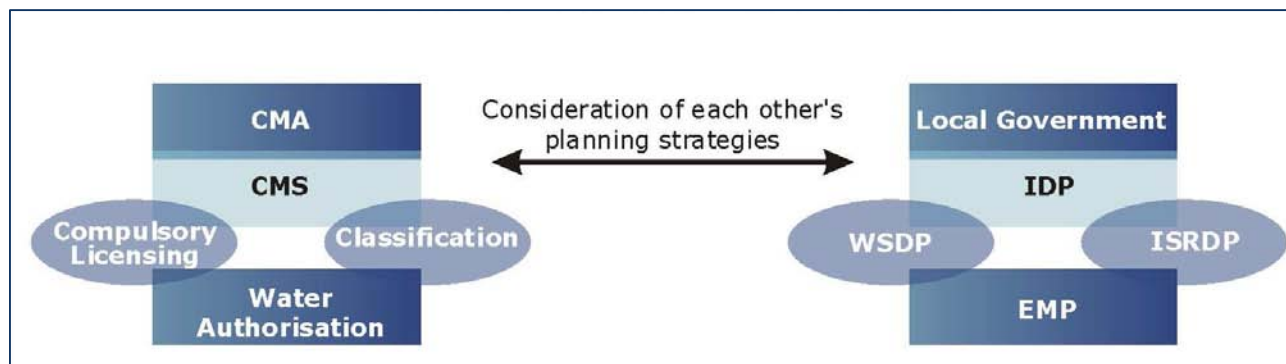
Certain conditions apply to the licences that are issued by the relevant authorities. These conditions include the period during which the licence will apply and the conditions that will ensure that the activity does not have a negative impact on the resource. In terms of the NWA, all water users should comply with the conditions of their licences. **Failure to comply with the conditions means that the authorities may withdraw the licence and may also prosecute the user.** However, in the spirit of cooperative governance, prosecution is not encouraged until all other avenues have been exhausted.

## Interface on Planning and Strategy Alignment

At this level of relations, cooperation is based on strategy and planning, which is fundamental for all possible relations between institutions. **Local government needs to align its IDP strategy with the CMS, which is a framework for the management of water resources by the CMA.**

The CMS in its visioning process has to take into account the IDP which is made up of sector plans that have implications on the intended vision of the resource, e.g. WSDPs and the ISRDPs, therefore catering for the vision at local level and vice versa. The CMS will enable local government take decisions critical for the provision of water services and planning.

### RELATIONS AT STRATEGY PLANNING LEVEL



## PART 3: MECHANISMS FOR COOPERATIVE GOVERNANCE

Most of the mechanisms indicated are centered on the CMAs and local government taking a proactive role in promoting cooperative governance. It is critical for local government institutions to look at these mechanisms and evaluate how they would apply within their environments.

### CMA Establishment Process Mechanisms

#### *Background*

Based on the identified areas of cooperation, it is critical that local government institutions begin to develop approaches for cooperation with CMAs. This should be encouraged by local government taking part in the CMA establishment process. In order to ensure that there is full representation of all local government structures, **participation in the CMA establishment process should be extended to include the administrative level of local government management.**

#### *Mechanisms during the CMA Establishment Process*

The CMA establishment process is evolving to include pre- and post-establishment phases. It is therefore critical that local government be involved at both of these phases. The role of local government during these phases should be clear, and should also reflect the various roles that it represents, i.e. **the planning role, the water services role, the stakeholder role and the democratic representative role.** Therefore, the approach for local government participation cannot be the same as for other institutions.

Local government may assist in the CMA processes by providing the necessary information as well making presentations and clarifying their various roles to create more understanding of local government within the CMA.

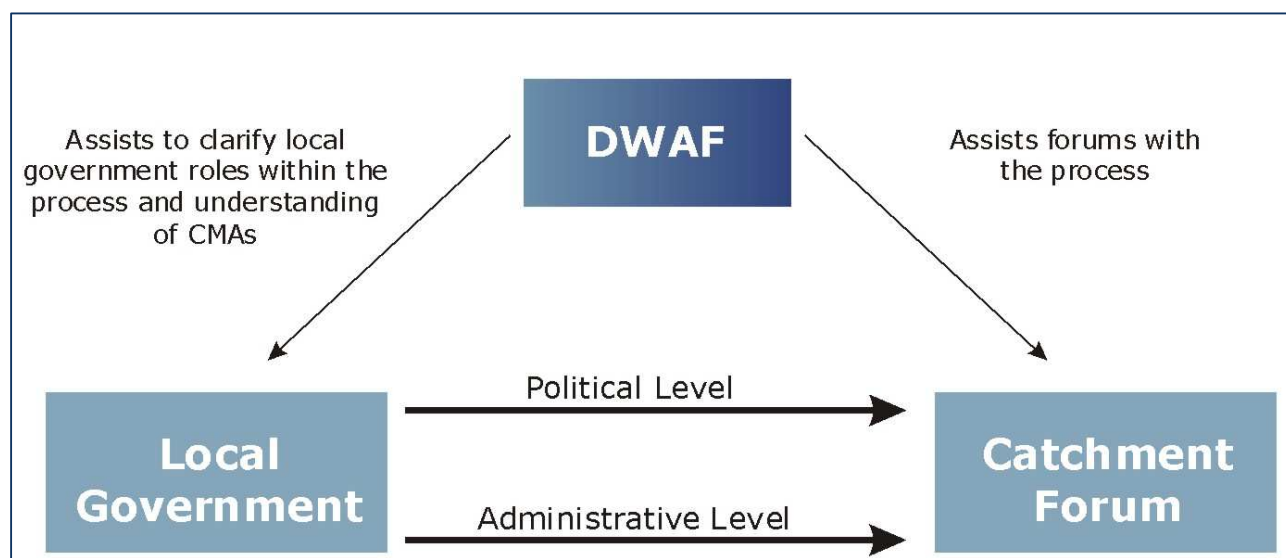
#### *(i) Pre-establishment*

This is the phase that should set the scene for future engagement with local government within the WMA.

##### **The Initiation Phase**

This is the awareness creation phase for the public among all of the relevant stakeholders, including local government. **It is critical that, at this phase, the involvement of local government not be limited to the political level: it should also include the administrative level.** It is the role of local government to ensure that this happens. This has an institutional development element (with the opportunity to build awareness and capacity within municipalities), as well as creating relationships between the proposed CMA and municipalities. **It is during this phase that local government institutions should begin to understand their roles within the CMA process, as well as how they could grow this understanding within their municipalities.**

## LOCAL GOVERNMENT INVOLVEMENT IN PRE-ESTABLISHMENT PHASE



### The CMA Governing Board

While it is understood that the CMA GB should reflect all the stakeholders within a WMA, the Advisory Committee (AC) making recommendations to the Minister should **take into account that the various roles of local government should all be represented on the GB**. All of the various roles played by local government cannot be represented in one seat.

It is critical for local government to take up these issues with DWAF.

The following roles should be represented in the GB:

- Local government as the democratic institution in its area

Local governments are democratically elected institutions. The implications are that, within a WMA, they will also represent a number of stakeholders and ordinary individuals who may be affected by the CMA process. Local government institutions therefore have dual roles, i.e. a role as a representative of stakeholders within their jurisdiction, and a role based on their functions as water services providers and integrated planners.

- Local government as a water user

Local government institutions, based on their functions, extract water and discharge wastewater. This function has implications in the management of the resource by the CMA, and local government representation for this aspect is therefore critical.

- Local government as an agency for local IDP

Local government institutions, through the Municipal Systems Act, are responsible for IDP within their areas of jurisdiction. IDP encompasses other activities that may have an impact on the water resource, e.g. spatial development. This role of local government should also be recognised on the board.

## **(ii) Post-establishment**

Once the CMA has been established within a WMA, the role of local government is largely at the operational level, as the CMA prepares to perform its initial functions. It is critical that the structures and relationships created during the pre-establishment phase are translated to assist as mechanisms for cooperation in the initial functioning of the CMA.

The mechanisms and structures will thereby cease to become part of the establishment process and become structured cooperative mechanisms for cooperative relations with local government.

### **Cooperative Mechanisms (post-establishment)**

**Although there are imperatives for cooperation by CMAs and local government, the mandates, priorities and capacity limitations of most municipalities indicate that CMAs should take the main responsibility for promoting and enabling cooperative governance around WRM between these institutions.** It is therefore likely that CMAs will be the main drivers for the establishment of the following mechanisms, although with time and the building of local government awareness and capacity, this process should become a partnership.

### **(i) Institutional Mechanisms**

The institutional mechanisms established with local government have to be developed in a manner that they cover all areas and functions that may impact on the functions as well as the intended objectives of WRM. These areas are indicated below:

#### ■ Governance, Accountability and Representation

The CMA GB must have local government representation, although the nature of this representation is not clear. It is clear that the diverse interests of typically 10 to 20 municipalities within a WMA must be represented by a limited number of GB members (probably less than 3).

#### ■ Legislative and Policy Alignment

Local government may establish bylaws around a range of activities that affect WRM. CMAs have an interest in ensuring that these are aligned with (or at least are not inconsistent with) WRM legislation and approaches. The development of model bylaws may contribute to this, but a **CMA may take a proactive role in evaluating municipal bylaws in the WMA and advocating changes where these may be inappropriate from a WRM perspective.**

#### ■ Coordinated Strategy Development

The NWA requires the CMS to be aligned with other development plans. In relation to local government, this would mean alignment with the IDP, which encompasses a number of plans impacting on WRM.

The strategy alignment with the municipality should be based on an agreed approach between the CMA and municipality. It may include:

- *Participation/involvement* by relevant staff from municipalities in CMS development processes and CMA staff in IDP development processes, through the relevant forums

- *Informal meetings* between the CMA and municipal planning sections to identify and resolve areas of inconsistency
- *Formal reviews* and comments on draft CMSs or IDPs
- An active process of *joint strategy development*, from initiation to development of relevant parts of CMSs or IDPs

***Participation in strategy/plan development processes is the minimum level of engagement acceptable***, possibly supported by informal meetings or formal review (where problems are identified). Even this requires capacity from both institutions that is often likely to be missing. From the perspective of WRM, ***the CMA must engage with the IDP process***. Furthermore, the ***CMA should make every effort to engage municipalities in the CMS process***, possibly through dedicated bilateral or multilateral local government forums, particularly where a municipality has limited capacity. It should be acknowledged that, although ultimately desirable, the likelihood of joint strategy development is limited in the short to medium term, except where there is a real driver for this alignment, possibly related to severe water shortages or water quality problems.

## **(ii) Institutional Structures**

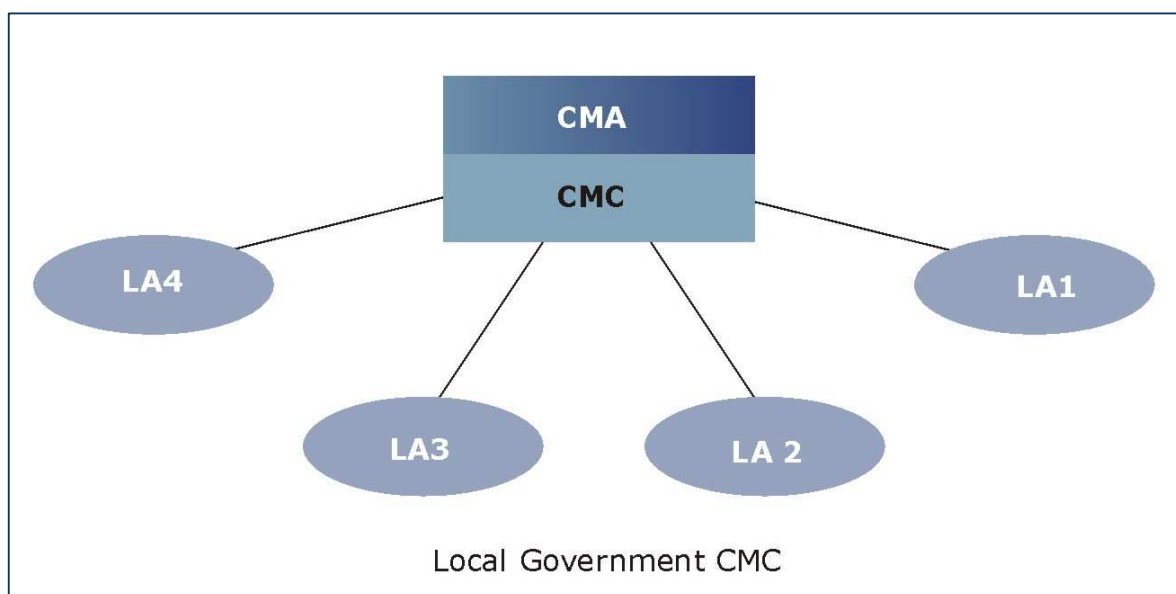
This refers to the structures that the two institutions may develop as the vehicles to drive cooperation. These structures will be developed mainly to drive some of the institutional mechanisms above, as well as creating a link between the two institutions on matters that may directly affect each other. However, it should be stated that not all of them might be suited for CMA and local government cooperation, particularly on specific institutional issues.

Cooperation may be facilitated by the establishment of bilateral or multilateral bodies with consultation, coordination or joint decision-making responsibilities. In the context of CMAs and municipalities, a number of options are possible, including:

- **Local Government Catchment Management Committees**

Such a committee may be established by a CMA with all of the municipalities within the WMA (or an area), to facilitate the coordination of activities and alignment planning (and possibly even joint decision-making).

## CATCHMENT FORUMS

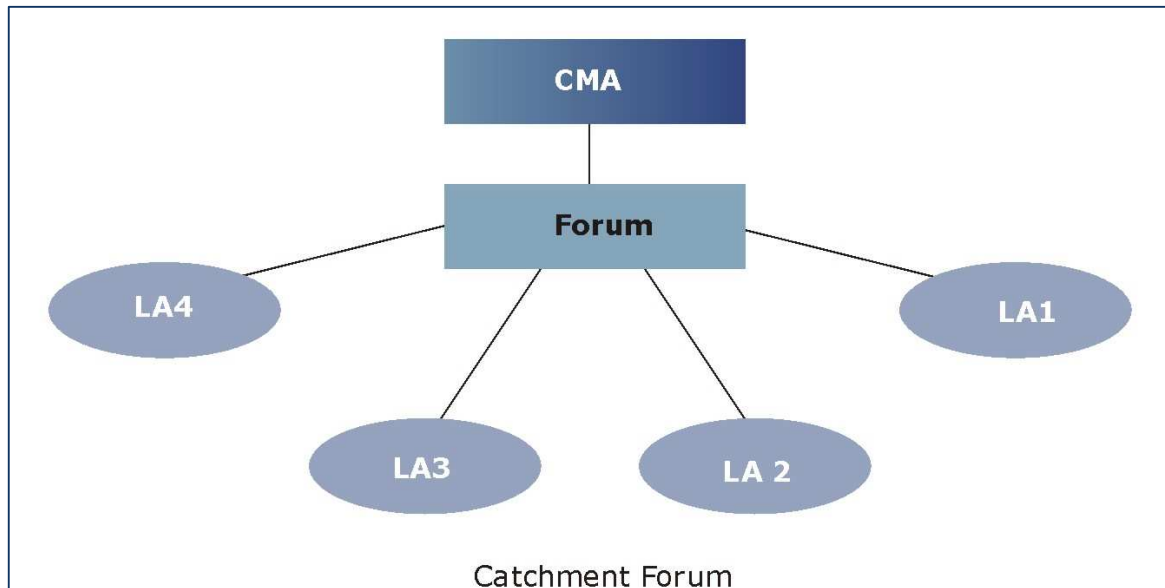


### ■ Catchment Forums

These are forums that provide an opportunity for different stakeholder groups in an area of a WMA, including local government, to be consulted and resolve issues. Although this is an important vehicle for participation and it is critical for municipalities to be represented, it is not particularly suited for the specific type of interaction necessary to foster cooperative governance between CMAs and municipalities as government institutions.

These are generally established to ensure the internal alignment of policy and the coordination of implementation by the different components of a municipality. Infrastructure and/or environmental committees are of particular interest for WRM (and CMAs), but it is unlikely that a CMA would be permitted to attend these meetings on a regular basis. However, **the CMA should request information on relevant actions agreed to at these committees and in some cases make presentations to them.** It may, however, be possible to encourage larger, more capacitated and aware municipalities to establish an interdepartmental committee on catchment management, which the CMA may attend, particularly where this is a recognised activity for the municipality.

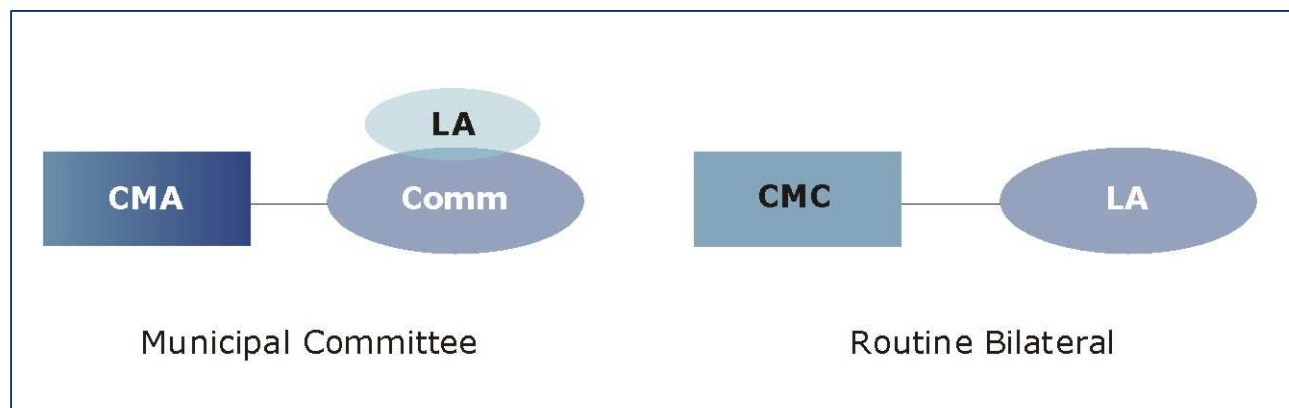
## MUNICIPAL COMMITTEES



### ■ Routine Bilateral Meetings

These are meetings that may be set up between relevant components of a CMA and components within a municipality to focus on specific areas of common interest, such as planning, water supply and waste discharge, or waste management. These meetings should occur on a regular basis (3 to 6 monthly) and could be deemed to be technical committees with a mandate to identify and resolve areas of common interest or conflict. This is potentially resource intensive from the CMA's perspective, but may be critical in dealing effectively with larger municipalities and metros.

## ROUTINE BILATERAL MEETINGS



**CMA should develop any or all of these institutional structures where possible to foster cooperation with municipalities.** The advantage is that these bodies institutionalise relationships, which allows continuity even with organisational and personnel changes, and can enable the development of other mechanisms.

## Other Issues for CMA/Local Government Cooperation

### *Organisational Design (CMA)*

The establishment of cooperative governance mechanisms between CMAs and municipalities will generally require human and/or financial resources from the CMAs as the key proponent of this cooperation (at least initially). It is advisable for CMAs to address this explicitly in their organisational design, particularly in terms of the organisation structure and business plan. **A CMA should establish a dedicated component (with adequate resources) to promote and support the development of relationships and cooperative mechanisms with local government** within a broader institutional development, stakeholder participation and coordination group.

### *Delegation and Contracting*

Cooperation can also become institutionalised through the delegation or contracting of functions to local government, particularly where the latter has capacity and/or is already performing similar activities. **A CMA should consider delegating or contracting certain functions to suitable municipalities**, particularly where these will not have major ramifications if they are not appropriately implemented.

### *Financial Arrangements*

All municipalities will pay water use charges for WRM costs, which will go either directly or indirectly (through a bulk service provider) to their CMAs. The setting of charges on local government and the possible payment for services rendered (under delegation or contract) provides an important opportunity to develop cooperative relations. This will continue to be a point of potential conflict and the **development of financial arrangements between CMAs and municipalities must therefore be done in the most transparent and consultative manner possible**, without jeopardising the financial viability and sustainability of either CMAs or municipalities.

### *Consultation and Comment*

The institutions may agree to informal consultation and/or formal comment on particular issues of joint interest. This is particularly important in terms of various permitting or authorisation processes, including the authorisation of water use by CMAs (which should be in line with the development objectives of municipalities) and land use development by municipalities (which should consider the water resources impacts). This should be based on clear resource requirements and time frames to avoid delays in the processes.

## ***Information Sharing and Exchange***

Both CMAs and municipalities will need to collect information about the water resources and catchments in their areas of jurisdiction. ***The sharing and exchange of water resources and catchment information should be promoted between CMAs and municipalities***, both to avoid duplication and to build a common understanding of the issues. Where possible, this should be associated with joint planning of the systems for data acquisition and information management, to facilitate transfer.

## ***Awareness, Capacity Building and Support***

In order to create institutions that foster cooperative governance, it is critical that institutions themselves create internal conditions that are conducive for cooperative governance. ***CMAs should drive a process of WRM awareness creation and focused capacity building within the municipalities in their WMAs***, focusing appropriately on the political leadership, municipal management and officials.

## PART 4: PHASING OF COOPERATION

Based on the nature and the environment under which local government institutions function, it is critical to note that cooperation between the two institutions may not be short term process. CMAs are also new institutions, therefore a phased implementation process should be considered. The phased implementation process is influenced by a number of factors including capacity, an understanding of institutional roles and functions, institutional priorities (particularly for local government), etc.

The earlier chapters of this document indicated that the CMA establishment process has phases of different activities leading to the establishment of a complete institution. CMAs are established against the background of well-established local government institutions in terms of the South African governmental system. It would therefore be to the CMAs' advantage to play a proactive role in cooperating with local government as they go about establishing themselves. (However, this does not imply that local government should not play a proactive role.) Therefore, in all of the phases of CMA establishment, local government should be seen as the critical stakeholder.

### CMA Establishment Phases and Local Government Cooperation

#### *Phase 1 (pre-proposal)*

The CMA establishment process begins with the initiation of the participation process. This is aimed at developing relationships with and knowledge of stakeholders and interest groups within the WMA. It is during this process that all stakeholders develop a common vision on the establishment process of the CMA. The different stakeholders may establish a Catchment Forum (CF) as a vehicle for different stakeholders' participation in the process. The success of a CF is based on the premise that all stakeholders are represented on it.

#### *Local Government Cooperation in Phase 1 (pre-proposal)*

All local government institutions within a WMA where a CMA is established should be part of the pre-proposal stage. While it is accepted that within a WMA there may be one or two district municipalities plus four or five local municipalities, these institutions should have a body that they will use as a vehicle to ensure full local government participation in the process. **Local government institutions may form a Local Government Forum.** This forum should be part of the general CF. However this is not a prerequisite, and local government may be part of the bigger CF within a WMA instead.

The local government forum at this stage should focus on having **municipal officials being the drivers of local government participation in the process.** Municipal officials, based on their attendance in the forums and their positions within their institutions, are in a better suited position to market and create awareness on CMAs within their municipalities. They would be able to become a reference point for local government participation in the process for their respective municipalities.

At this stage, **bilateral meetings** may be established with the key municipalities within the WMA. This particularly refers to municipalities with anticipated high impacts on the resource. The bilateral

meetings should set the scene and be able to deal with the expectations of all parties involved, as well as beginning to highlight areas of cooperation.

The CFs representing all stakeholders and a Local Government Forum representing all local government institutions within a WMA may together establish a committee, such as a Catchment Steering Committee. This committee would assist the stakeholders to develop a proposal for CMA establishment.

## ***Phase 2 (post-proposal)***

Phase 2 of the CMA establishment process is focused on establishing the CMA GB, which should be representative of all of the sectors/stakeholders affected by water resource activities. This is done through the establishment of an AC by the Minister. The AC, based on an assessment process of a WMA, will make recommendations to the Minister on the composition of the GB, i.e. the sectors that should be represented on the CMA GB. If the Minister is satisfied with the sectors for the GB and other factors, a CMA GB may be established. The GB role at this stage will be to appoint the CEO and together establish the institution by appointing managers and staff for the CMA.

### ***Local Government Cooperation in Phase 2 (post-proposal)***

As an existing precursor to raise awareness of local government issues, the **Local Government Forum from the pre-proposal stage** may be used to continue local government coordination for representation on the CMA. The **political section of local government**, i.e. the councils, has a major role to play in this process. The Local Government Forum, through coordination with all of the municipalities and other local government structures, e.g. SALGA, will make recommendations to the AC on the institutions that should represent local government interests in the GB. Secondly, this body may make recommendations on issues to consider about local government representation on the board, taking into account the various roles that local government has, based on its mandates.

Based on the first two phases of the CMA establishment process, the outcomes of cooperation with local government institutions should be:

- Local government understanding of the CMA establishment process, their roles and functions
- Full participation of both the political and administrative wings of local government

## ***Phase 3 (post-establishment)***

Cooperation at this stage between the institutions is largely based on the functions that these institutions will be performing. These are gradually implemented in a phased manner. Most of these activities will be taking place at an administrative level of engagement. However, there should be continued cooperation at GB level to provide high-level strategic direction on cooperation.

### ***Phasing at Administrative Level***

CMA functioning begins with the initial functions that they perform immediately after their establishment. The initial functions will be followed in a phased manner by the functions of managing

water use and ensuring equity. The final phase of functions for the CMA will be that of responsible authority for the authorisation of water use.

### **(a) Initial Functions Cooperation**

The initial functions of CMAs are centered on the regional management of water resources and ensuring stakeholder participation in the management of these resources. Section 80 of the NWA describes the initial functions of a CMA as:

- Developing a CMS
- Coordinating the activities of users and WMIs within the WMA
- Aligning the CMS and WSDP of local government institutions
- Promoting community participation in WRM
- Providing advice on WRM

Local government institutions in this phase should be part of the process, particularly in terms of CMS development and the alignment of strategies. This should be done through a coordinated strategy development process. Local government institutions should avail specific structures that would form part of the process.

It is critical for local government at this stage to develop internal components that will focus on promoting and developing alignment with CMAs. These should further promote awareness, capacity building and support within the municipalities.

**This phase is mainly based on promoting awareness and the coordination of activities, as well as setting the frameworks for cooperation in various water resource related activities.**

### **(b) Management of Water Use Cooperation**

This is the phase in which the CMA begins the actual management of the water resource within its WMA, by managing, implementing, cooperating and ensuring water availability. Some of the activities at this level include water allocation planning, determining water resource directed measures, supporting other WMIs, financial planning for the CMA, and long term strategic planning for the CMA.

In terms of local government, cooperative relations should be specific to the activities performed by local government. Local government should be prepared to have a bilateral body that is function specific with the CMA. The district municipalities would have bilateral bodies related to IDP and spatial development planning. The local municipalities should be prepared to have bilateral bodies on water services planning, as they develop WSDPs.

**This phase is based on the actual implementation and development of bilateral structures that are specific to institutional functions and issues arising through cooperation.**

### **(c) Authorisation (Responsible Authority)**

This is the phase where CMAs begin to regulate water use as responsible authorities. The functions in this phase include registering water use, authorising water use (licensing), setting, billing and collecting water use charges, monitoring authorisation requirements, compliance, co-regulation and cooperative agreements.

Cooperation with local government at this stage is largely based on authorisations (licence applications) and cooperation on the setting of charges for water resource use (abstraction and discharge). Local government institutions may want to use the different structures developed during the other stages to engage a CMA on a number of issues, e.g. decisions on tariffs, regulation, etc.

## PART 5: WAY FORWARD

CMAs are new institutions that are in the process of being established. Their development comes within an environment where there have been other institutions that have existed for a longer period. They may therefore meet difficulties in their progressive development. **It is critical that local government institutions assist the CMAs as new institutions in the functions that they will perform for the benefit of all stakeholders affected, including the communities represented by local government. These communities are a priority in terms of IWRM strategic objectives.**

It is important to note that, as the CMA establishment processes unfolds, there are a number of policy gaps and areas that require DWAF policy guidance or clarification, particularly on the role of local government during and after CMA establishment. These areas are highlighted in the report.

### Additional Information

1. **Water Management Institutions Overview**
2. **DWAF Guidelines on CMAs**