

CHAPTER THREE

OVERVIEW OF CATCHMENT MANAGEMENT AGENCIES (CMA's)

THIS CHAPTER CONSISTS OF NINE SECTIONS:

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| Section 2 : | Process of establishing CMA's |
| Section 3 : | Delegation of Powers and Functions of CMA's |
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SECTION 1:

INTRODUCTION

The National Water Act (36 of 1998) provides for the progressive establishment of Catchment Management Agencies (CMAs) in the 19 water management areas (WMA) throughout South Africa. CMAs will take over responsibility for managing water resources at catchment management level. They are required to do so in cooperation with local stakeholders and as such to consult and seek co-operation and agreement on water-related matters from the various stakeholders and interested persons. CMAs will manage water resources and coordinate functions of other water management institutions within WMA's.

CMAs will be governed by a board and will commence functionality once the governing board has been appointed. The governing board must reflect the interests of all relevant sectors, as well as have appropriate expertise, experience, demographic and gender profile. The role of board members is to represent interests, rather than constituencies or organizations, except in the case of mandated representatives of the three spheres of government. Board members are ultimately responsible and accountable for the CMA's implementation of delegated or assigned functions for integrated water resources management, in accordance with the purpose of the Act.

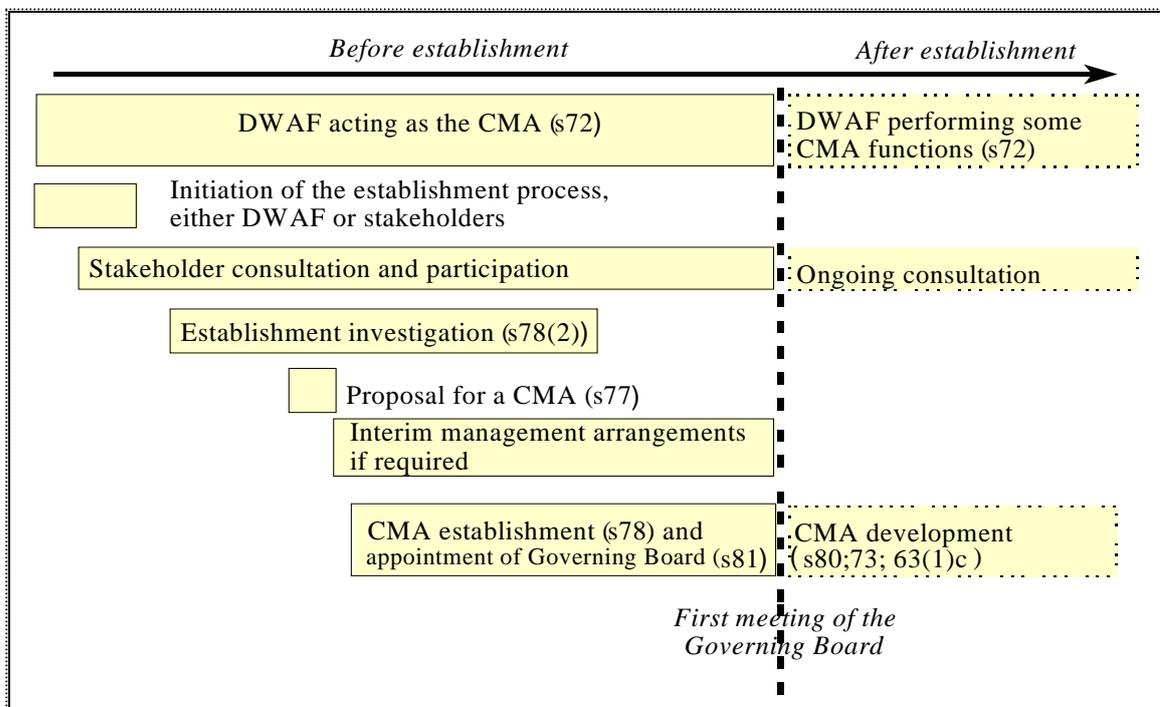
SECTION 2: PROCESS OF ESTABLISHING CMA'S

2.1 INTRODUCTION

Each CMA establishment process begins under different conditions, occurs within a specific context, and faces particular problems. The Act provides for a range of options and institutions that may be employed in the establishment process, driven by local needs. Some steps will take longer in some water management areas than in others. Some steps may be omitted where local circumstances are such that the process may proceed efficiently without them.

Resource and capacity requirements in a water management area may delay the establishment of a CMA. In this case, preliminary Catchment Management Strategies may be developed by the Minister to fulfil the functions of a CMA (s72) before its formal establishment.

Figure 1 illustrates the general phases of the CMA establishment process. These phases are described below. Stakeholder participation underlies the entire process and is part of every phase.



2.2 ROLE PLAYERS

Box 1: Role players in CMA establishment process

- *DWAF* (and particularly the Regional Office) as the proto CMA and the body responsible for ensuring the process meets the requirements of the Act.
- *Other statutory water institutions* that may play a role in water resources management or water supply within a particular water management area.
- *Stakeholders and water users* who have an interest in the water management area.
- *Local, provincial and national government* (and other organs of state) in the water management area with which the CMA will need to encourage cooperative governance.

2.3 INITIATION OF ESTABLISHMENT PROCESS

The process for establishing a CMA needs to be started by one or more committed persons with time, capacity and resources to do so. This may either be DWAF and/or concerned stakeholders or water users. Where stakeholders do not have the resources, they may enlist the help of other parties.

2.4 STAKEHOLDER CONSULTATION AND PARTICIPATION

Public participation is a key requirement of the CMA establishment process. It should begin immediately after initiation of the establishment of a CMA. Once the CMA is established, representative consultative fora and consultation networks should largely be in place, and participation could be narrowed down to fewer stakeholders, provided they are representative of the broader stakeholder body.

2.5 ESTABLISHMENT INVESTIGATION AND PROPOSAL FOR CMA

In addition to the stakeholder inputs, the establishment process must be supported by information about the focus and viability of a proposed CMA.

In most cases, this will involve the development of a proposal for the establishment of a CMA which is formally submitted to the Minister. Investigations should address the physical–technical, social, economic–financial and institutional–administrative environments associated with the relevant water management area. In the interests of efficiency, these investigations should be at the broadest level possible which will still

provide the required information to evaluate the viability (and potential competency) of a CMA. They should also be based on interpretation of existing information, where possible, rather than the collection of new data.

In most cases, the DWAF Regional Office will facilitate the investigation to develop the proposal for the establishment of a CMA. However, it is critical that stakeholders are involved.

2.6 INTERIM MANAGEMENT ARRANGEMENTS

The proposal to establish the CMA needs to indicate the likely time frame for establishment and any interim arrangements that are required.

Where the CMA may be established within six to twelve months of the proposal:

During this period, existing catchment management fora and catchment steering committees will develop capacity and possibly formalise their representation. It is critical that this momentum not be lost. During this period DWAF may elect to gradually empower such informal structures by allocating resources to them and/or consulting them on water resource management decisions.

Where it may take longer to establish the CMA:

In some cases, the process may take longer because it is not feasible to carry out the initial functions of a CMA due to capacity and other limitations. It may be appropriate for DWAF to establish statutory bodies such as advisory committees, catchment management committees or WUA's in the interim. Certain catchment management functions can then be delegated to these bodies provided that their representivity and capacity has already been established.

Interim arrangements should be avoided in circumstances where they may compromise the autonomy, authority and legitimacy of the CMA once it is established.

2.7 SUMMARY OF CMA ESTABLISHMENT PROCESS

2.7.1 Preparation of the proposal

This is the first formal step in the CMA establishment process. The Act (s77) specifies the following minimum requirements for a proposal to establish a CMA.

- **Proposed name and description of the proposed water management area of the CMA**

This is relatively self-explanatory, but ensures that a CMA proposal refers to an entire water management area.

- **Description of significant water resources in the proposed water management area, and information about the existing protection, use, development, conservation, management and control of those resources**

This should be based on a synthesis of all available information, and should draw on existing studies and reports, such as basin/catchment or planning studies that have been conducted in the area.

- **Proposed functions of CMA, including functions to be assigned/delegated to it**

This is a crucial component of the proposal and must balance the need for management of priority water resource issues at a catchment (Water Management Area) scale

- **How the proposed CMA will be funded**

Section 84 of the National Water Act authorizes the CMA to raise funds for the purposes of exercising its powers and carrying out its duties. The Act details the funding sources as parliamentary appropriation; water use charges (primary source of finance) ; any other lawful source.

The proposal should estimate the funds that may be raised from water resource management charges (component of water use charges) under the water pricing strategy. This should be based on:

- A general estimate of the water use (abstraction and discharge) by different sectors at different assurances of supply throughout the water management area
- The proportion of all existing water use to be registered (s34)(2).

This potential income then needs to be compared to the predicted costs of the proposed CMA structure over a ten-year time-span, and an estimate made of

the top-up funds that will be required from DWAF or other sources.

■ **Feasibility of proposed CMA in respect of technical, financial and administrative matters**

This section should outline how the functions will be performed technically and administratively, emphasizing the initial functions. This requires an indication of the following:

- Structure of the CMA executive, its relationship with DWAF and how this is envisaged to evolve over time
- The premises and equipment that will be required for the CMA
- Whether the proposed functions will be re-delegated or contracted out, and to which organizations
- Technical and management capacity exists in the water management area, or whether it will (and can) be hired (or contracted) in.
- How cooperative governance between the CMA and other water institutions and government departments will be ensured.

■ **Indication of whether there has been consultation in developing the proposal and the results of the consultation**

The process of stakeholder consultation and participation must be described, as well as the outcome. Awareness, education or capacity building processes should be outlined, as well as special efforts to bring disadvantaged groups and especially the poor into the process. Guide 4 outlines the evaluation procedure.

■ **Other Matters**

Reference must be made to the relevant sections of the Act, and in particular, how the proposal will help meet the purpose of the Act as set out in Section 2

2.7.2 Evaluation of proposal

This is the second fundamental step in the CMA establishment process.

The Minister considers all proposals on their merits, with the intention of continuing the establishment process. The only outright rejection of a proposal should be where it is obvious that there was no sincere attempt at inclusive consultation and/or the DWAF Regional Office was not part of the process at all.

Based on the information provided, a decision should be made by the Minister whether to:

- Ask for additional information to support the proposal
- Plan a process involving further consultation, possibly supported by an advisory committee
- Plan a process leading towards an interim management arrangement with a specified character
- Establish an advisory committee: governing board and begin the CMA establishment process.

2.7.3 Establishing the CMA as a body corporate

To establish the CMA as a body corporate the Minister has to:

- Publish a notice in the Government Gazette setting out the proposed CMA establishment, name and water management area, and inviting comments within 60 days
- Consider further steps to inform interested persons, and implement those the Minister considers appropriate
- Consider all comments received
- Publish a notice in the Gazette establishing the CMA with a name and a water management area.

2.7.4 Appointing the CMA Governing Board

The Minister will appoint the governing board after the following process has been completed:

- The Minister must establish an advisory committee to make recommendations about the composition of and nominations to the governing board
- The Committee must consult with relevant organs of state and interest groups and make recommendations about the required sectoral and organizational representation and invitation for nominations.
- The Minister must select which organs of state and bodies are to be represented and obtain nominations from them.
- The Minister must appoint these nominees to the governing board, or otherwise state reasons for rejecting the nomination and invite a further nomination.
- The Minister may select and appoint additional members to achieve representivity or provide expertise.

2.7.5 Consideration by the Advisory Committee: Governing Board

The advisory committee: governing board (s81)(3) should recommend to the Minister the composition and nominations to the governing board of the CMA.

The Minister may appoint additional members to ensure that the governing board:

- Represents or reflects the interests identified by the advisory committee: governing board
- Achieves sufficient gender and demographic representation
- Achieves representation of DWAF
- Achieves representation of previously dis-advantaged communities
- Possesses the expertise required to exercise its powers and perform its duties.

However, in doing this, the Minister should consider the total size of the Board and ensure that it remains manageable, preferably between nine and fifteen people.

SECTION 3:

DELEGATION OF CMA POWERS AND FUNCTIONS

3.1 WHAT IS THE DIFFERENCE BETWEEN FUNCTIONS, POWERS AND DUTIES?

Functions are official tasks, activities and actions that are required in order to exercise powers or perform duties.

Duties are obligations imposed by statute which *must* be performed.

Powers are competencies given by statute which *may* be exercised

3.2 FUNCTIONS OF CMA'S

The Act provides that a CMA will have 'inherent powers' and obtain five 'initial functions' by virtue of establishment. In addition, there are a wide range of additional powers and duties which can be delegated or assigned to a CMA by the Minister.

Initial functions of a CMA

1. Investigate, and advise interested persons on, the protection, use, development, conservation, management and control of the water resources in its Water Management Area.
2. Develop a Catchment Management Strategy.
3. Co-ordinate the related activities of water users and of water management institutions within its Water Management Area.
4. Promote the co-ordination of the implementation of its Catchment Management Strategy with the implementation of any applicable development plan in terms of the Water Services Act (Act 108 of 1997).
5. Promote community participation in its functions.

In performing its functions, a CMA must keep in mind the need to redress the results of past racial and gender discrimination and to achieve equitable access to water resources. It must seek to achieve co-operation and consensus in the management of its water resources. A CMA must also act prudently in financial matters.

3.3 INHERENT POWERS OF CMA'S

A CMA has a number of inherent powers by virtue of establishment. A CMA is a body corporate and has the powers of a natural person of full capacity. This means that a CMA can carry out activities such as entering contracts for supplies and borrowing money.

A CMA can carry out a range of powers related to the planning and conduct of the routine administrative and institutional business of the CMA (Schedule 4). In addition, a CMA can levy charges, in terms of the Minister's pricing strategy for water use charges, to cover the cost of executing its functions.

3.4 EVOLUTION OF THE CMA

The process begins with the shifting of WRM responsibility from DWAF head office to the CMA as a catchment-based organ of state. This process involves a number of stages.

3.4.1 Proto-CMA Stage

This is initiated by the decentralisation of functions from DWAF, and the delegation of roles and responsibilities from DWAF head office (HO) to the proto-CMA within the regional office (RO) with DWAF acting as CMA. The proto-CMA takes on water use management and co-ordination functions and is implementing most water resource management responsibilities (except Authorisation and Resource Directed Measures).

3.4.2 Legitimacy stage

This is the first stage following establishment and entails building relationships, and establishing credibility and legitimacy within the WMA. The CMA advises on, and coordinates WRM, and develops the catchment management strategy (CMS).

The CMA assumes its "initial functions", as defined in Section 80 of the NWA. In order to perform these functions, the CMA has some "inherent powers," as described above.

3.4.3 Consolidation Stage

In this stage, the CMA is focussed on building capacity and strengthening the organisation to undertake its water resource management functions. This implies strengthening of systems within the organisation, including fiduciary management and governance of the CMA, and the establishment of information and implementation systems. Additional water use management functions are delegated to the CMA. Proto-CMA staff, seconded to the CMA during the legitimisation phase, are now transferred to the CMA as a coherent business unit, with the requisite infrastructure and budget. The CMA (led by its board and CEO) should compile its comprehensive business plan. This must also link to the DWAF timeframes for establishing water use charges (under the Pricing Strategy).

3.4.4 Responsible Authority Stage

The final phase during the evolution of the CMA is the progression to a fully functional CMA and the delegation of responsible authority functions (see 3.5 below). The majority of WRM and implementation roles and responsibilities are now seated in the CMA. The relationship, as well as systems and processes among the CMA, DWAF HO and RO are well established.

Under Section 73(1)(a) of the NWA, the Minister can delegate or assign the powers and duties of a responsible authority to a CMA. The most significant of these are the powers and duties related to authorisation of water use and the issuing, review and amendment of licences. In terms of section 63 of the NWA, there is a further provision for the delegation of powers and duties vested in the Minister.

In addition to providing the legal basis to the CMA performing its functions in its WMA, the NWA also allows the CMA to perform functions outside its WMA, under the condition that this does not affect its ability to execute its functions or detrimentally affect other water management institutions.

3.5 ADDITIONAL POWERS AND DUTIES

CMA's can acquire a range of additional powers and duties set out in the Act. These need to be either *delegated* to the CMA by the Minister in writing (s63) or *assigned* by the Minister through a notice in the Gazette. Conditions can be attached to any specific delegation or assignment.

When a power or duty is delegated, the CMA is effectively carrying it out on behalf of the Minister and delegation may be withdrawn or made conditional. When it is

assigned, the power or function is fully transferred to the CMA, which exercises the power or duty in its own right. It is likely that powers and duties will be first delegated. Assignment may follow once a CMA has demonstrated it can effectively carry out the relevant power or duty.

Additional powers and functions which CMA's can obtain, can be broadly categorised as:

- The powers and duties set out in Schedule 3 of the Act (see Box 2) which can be delegated or assigned to a CMA by the Minister. These are more general powers and duties relating to the management of the water resource.
- The powers and duties of a 'responsible authority' (see Box 3) which can be delegated or assigned to a CMA by the Minister. These are set out in Chapter 4 of the Act and relate to the ability to authorise, licence and regulate water use.
- Other powers and duties vested in the Minister by the Act which can be delegated (but not assigned) to CMA's (s63) (see Figure 3).

3.6 OTHER POWERS AND DUTIES VESTED IN THE MINISTER WHICH MAY BE DELEGATED TO CMA'S OR WHICH ARE EXCLUDED

The Minister may delegate to a CMA, and a range of other bodies, many of the other powers and duties vested in the Minister by the Act (s63(1)). This would include, for example, the power to oversee the activities of a WUA. However, the Minister may not delegate the power to make a regulation, to authorise a water management institution to expropriate, to appoint the governing board of a CMA, or to appoint a member of the Water Tribunal.

Box 2: Schedule 3 powers and duties

- Manage, monitor, conserve and protect water resources and implement catchment management strategies
- Make rules to regulate water use
- Require establishment of management systems by water users
- Require alterations to waterworks
- Temporarily control, limit or prohibit use of water during periods of water shortage

Box 3: Powers and duties of a responsible authority

- Issue general authorisations and licences in respect of water use subject to conditions
- Extend the licence period under certain conditions
- Review licences at periods stated in the licence and make amendments to its conditions or renew it
- Waive the need for a licence if the water use is authorised under another law
- Promote 'one stop shop' licensing
- Require licence applicants to provide security for licence obligations
- Require registration of existing lawful water uses
- Require an existing water user to apply to verify its water use
- Undertake compulsory licensing where there is water stress
- Suspend or withdraw entitlements to use water
- Enforce licence conditions

3.7 PROGRESSIVE DELEGATION AND/OR ASSIGNMENT OF POWERS AND DUTIES

The Act provides that 'the Minister must promote the management of water resources at the catchment level by assigning powers and duties to CMA's when it is desirable to do so. Additional assignment (and delegation) to CMA's should therefore be considered if it is likely to enhance water resource management in a particular Water Management Area. A proposal to assign or delegate additional powers or duties to a CMA should preferably be initiated jointly by DWAF and the CMA concerned.

There are two main approaches to the progressive delegation and assigning of powers and duties to CMA's.

3.7.1 Approach 1: Delegate and assign according to proven ability and capacity

In this case, a CMA will only receive additional powers and duties once it can demonstrate two things. Firstly, it must demonstrate that it is effectively carrying out its initial functions. Secondly, a CMA must show that it has the capacity to carry out the additional functions sought. A CMA may also need to show that the additional functions sought are necessary to enable it to effectively implement its Catchment Management Strategy. *This approach may be preferred in Water Management Areas with relatively low management capacity or financial potential.*

3.7.2 Approach 2: Progressively delegate and assign according to a plan developed jointly between the CMA and DWAF

Such an approach is more pro-active. The plan would include strategies to ensure that the CMA develops the required capacity to carry out additional functions by specific target dates. *This approach might be preferable in Water Management Areas with relatively good management capacity and proven income-generating capacity.*

A Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis would be a useful tool to assist in planning the functional development of a CMA in any particular Water Management Area. Such analysis would assist in identifying water management issues within the Water Management Area, the capabilities available to address the issues, and the likely financial base to support the activities of a CMA. A possible sequence for a CMA to carry out additional functions is shown in Figure 4. It is expected that some activities will happen in parallel.

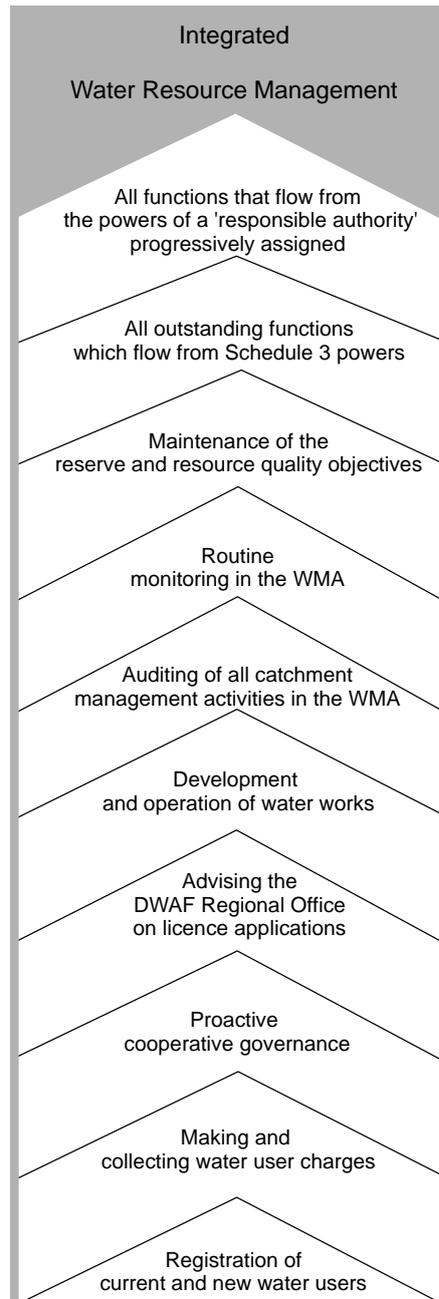
CMA's will need to establish certain minimum operational capacities before they will be in the position to effectively exercise licensing powers as shown in Box 4.

Box 4: Minimum operational capacity before licensing powers can be effectively exercised by CMA's

- Effective administrative systems in place
- Appropriate information systems in place
- A comprehensive Catchment Management Strategy prepared by the CMA & approved by the Minister
- Water use allocation plans developed and approved as part of the strategy
- Evidence that the Catchment Management Strategy will be effectively implemented in the area for which licensing is to be assigned.

The rate at which CMA's obtain additional functions will differ between Water Management Areas. Where there is little management capacity and financial potential, a CMA may exercise only its initial functions for many years after establishment. At the other extreme, there may be CMA's with the financial and management capacity to acquire a full range of powers and duties within a relatively short period.

Figure 2: Possible sequence for CMA to carry out functions



SECTION 4:

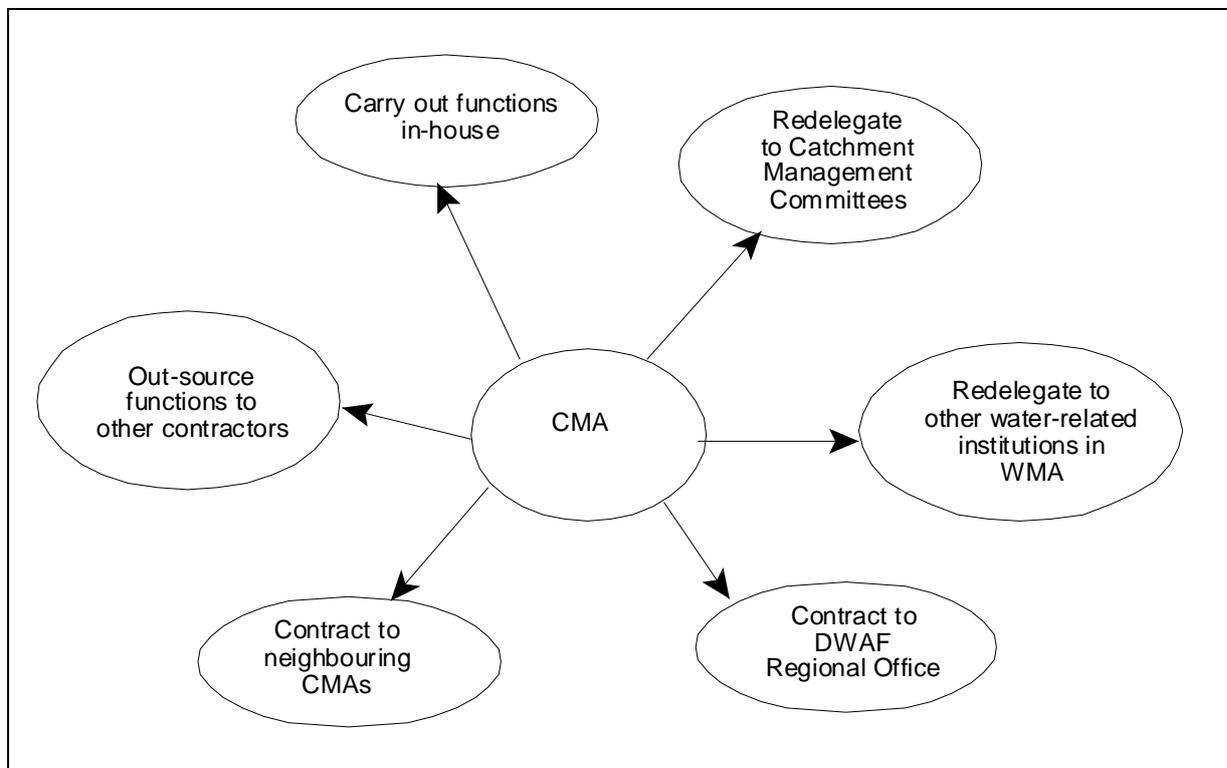
OPERATION OF CMA'S

4.1 CMA OPERATION

A CMA may decide to carry out its functions in a number of ways, ranging from exercising them all in-house, to delegating a wide range of functions to other parties. Several possibilities are described below and a combination of approaches is likely (see Figure 3) The approaches reflect the degree of decentralization and participation of stakeholders in decision making and whether CMA builds operational capacity internally or manages other external bodies to perform its functions.

A CMA may not delegate the power of delegation or the power to make water use charges. Delegation of the power to authorise water use may only be made to a committee of three or more CMA board members.

Figure 3: Ways CMA's may carry out their functions



4.1.1 Re-delegate functions to a Catchment Management Committee

Catchment Management Committees may be useful structures for implementing the Catchment Management Strategy (see Section 4.4). Delegation of functions to the Catchment Management Committees will in essence keep the functions within the control of the CMA. A Catchment Management Committee may, firstly, consist of members of the CMA Governing Board and staff. Secondly, it may include a wider range of stakeholders. In the second case, the Minister's written consent is required prior to the CMA delegating any powers to the Catchment Management Committee.

4.1.2 Carry out functions in-house

A CMA may acquire the necessary staff and infrastructure in-house to execute all its functions. Staff needed for this could either be recruited for permanent appointment or be seconded to the CMA from other organisations such as the relevant DWAF Regional Office or Water Board.

4.1.3 Re-delegate functions to other water related institutions within the Water Management Area

A CMA could re-delegate certain functions to other institutions involved in water management with necessary technical and administrative ability. Delegation by a CMA to an employee or office holder of a Water Management Institution is authorised by the Act. Delegation to other bodies such as Water Boards, Water Services Committees, local government, Catchment Management Fora or Non-Governmental Organisations (NGOs) require the written consent of the Minister. This strategy may be an effective way for a CMA to keep its operational infrastructure 'lean and mean' and to avoid duplication of technical and administrative capacity that already exists in the area. Some powers and duties which lend themselves to such delegation are contained in Schedule 3 of the Act and are shown in Box 5.

Box 5: Powers and duties appropriate for CMA's to delegate to other Water Management Institutions

- Conserve and protect the water resources within the Water Management Area
- Develop and operate a waterworks in furtherance of the catchment management strategy
- Do anything necessary to implement catchment management strategies within the Water Management Area
- Limit permissible water use under certain conditions

4.1.4 Contract to DWAF Regional Office

The relevant DWAF Regional Office could undertake certain functions on behalf of the CMA. This could be a short to medium-term option while a CMA becomes more firmly established.

4.1.5 Contract to neighbouring CMA

A neighbouring CMA could undertake certain functions on behalf of a CMA. This would be an attractive option when CMA's are upstream or downstream of each other on the same river system. A good example is where an aquifer extends beyond more than one Water Management Area but a single management system is required to effectively manage the resource. This could also be a means to reduce overheads by the sharing of personnel.

4.1.6 Out-source functions

Certain functions could be out-sourced to water-related institutions, consulting firms or technical contractors. In this case, the CMA does not relinquish any powers or duties but merely hires in skills and resources on an as-needed basis. Examples of functions which fall into this category are shown in Box 6.

Box 6: Functions appropriate for out sourcing by a CMA

- Specific components for the development of the Catchment Management Strategy
- Specific tasks related to the implementation of the Catchment Management Strategy
- Assembly and maintenance of a GIS-linked Water Management Area data base, derived from the catchment characterisation and assessment performed as background for the strategy development
- Configuration and maintenance of appropriate hydrological catchment and system models of the river systems in the Water Management Area
- Planning, design and construction of particular waterworks or schemes
- Conduct investigations on the likely effect of proposed licences on the protection, use, development, conservation, management and control of the water resource
- Operation of particular waterworks and schemes
- Routine water sampling and streamflow gauging (the evaluation of which should remain in-house within the CMA or DWAF)
- Public participation campaigns and ongoing public education about water management

SECTION 5: RELATIONSHIPS WITH STAKEHOLDERS AND OTHER INSTITUTIONS

5.1 INTERACTION WITH STAKEHOLDERS

A major role of CMA's is to manage activities impacting on water resource management in their Water Management Area. They must also promote community participation in water resource management. This requires the involvement of stakeholders in the CMA's activities through a cooperative governance approach.

This section describes the elements of a cooperative governance approach. It then examines in more detail the mechanisms through which CMA's can interact with a wide range of stakeholders. These include water-related institutions, the three spheres of government (local, provincial and national) and other interest groups.

CMA's will need to interact with a wide range of water-related institutions (see Figure 5). The nature of these relationships are described below.

5.2 COOPERATIVE GOVERNANCE

The requirement for cooperative governance is enshrined in the Constitution. This requires that all spheres of government work together in a cooperative manner to promote good governance of the country as a whole. Under the Act, CMA's are required to adopt a cooperative governance approach in their management of water resources. Some elements of the cooperative governance approach are listed in Box 7.

Box 7: Elements of cooperative governance approach

- Fostering friendly relations
- Assisting and supporting each other
- Informing each other and consulting on matters of common interest
- Coordinating actions with each other
- Adhering to agreed procedures

There are a range of mechanisms through which CMA's can interact with other institutions as shown in Figure 4.

Figure 4: interactions between CMA's and other institutions

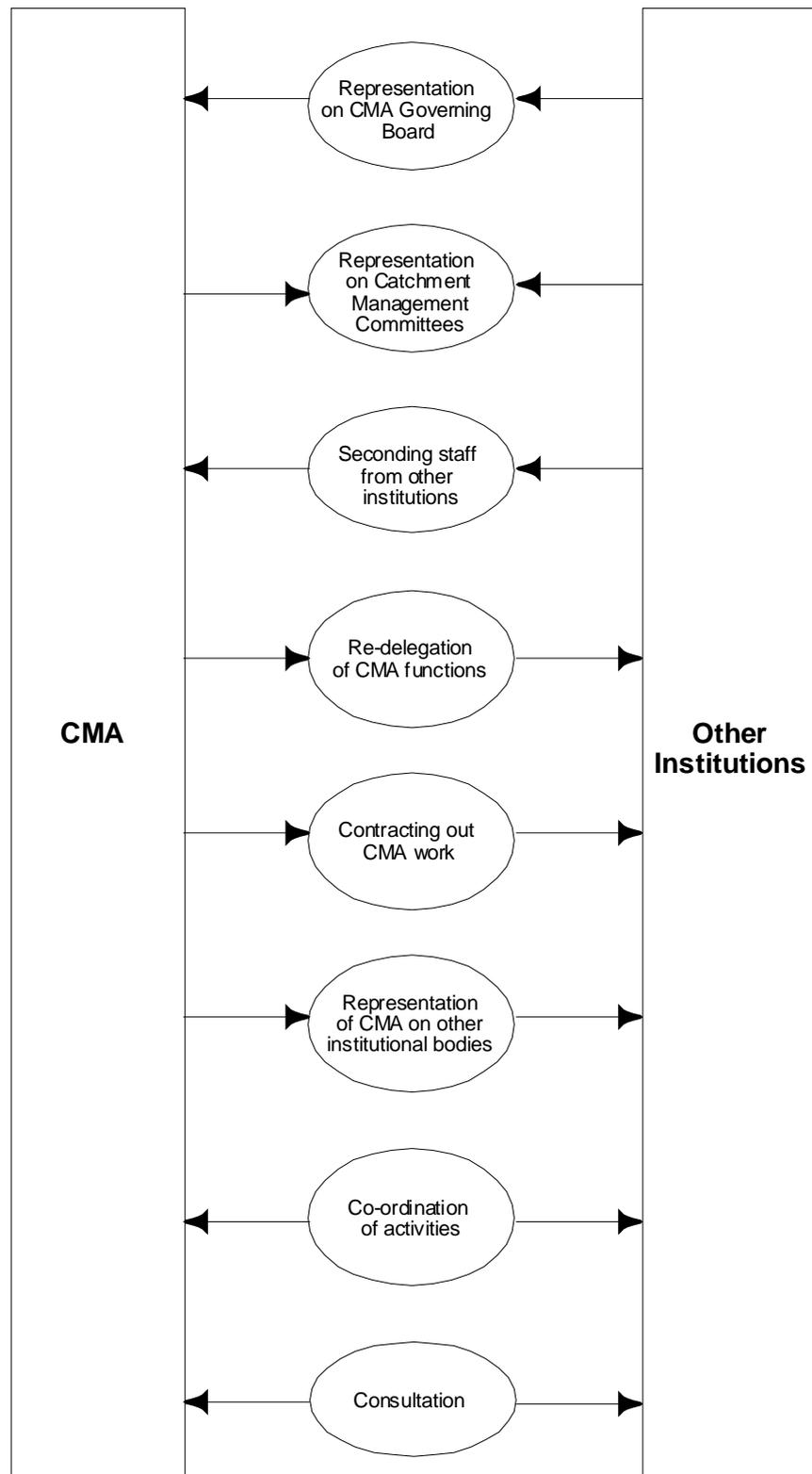
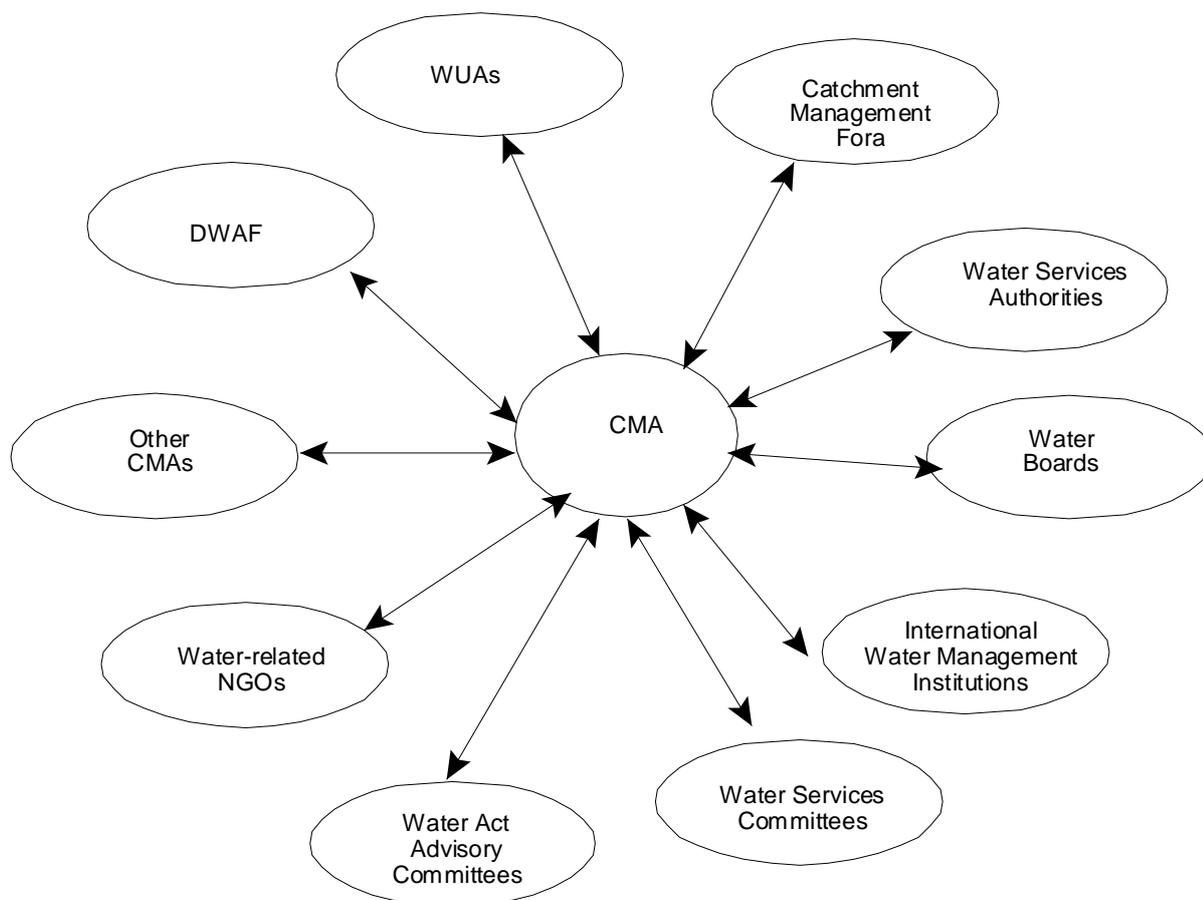


Figure 5: Water-related institutions which CMA's will interact with



5.2.1 DWAF

The relationship between a CMA and DWAF will be a very close one. WRM links closely with the DWAF strategic objectives and key functional areas (KFAs) for WRM. The Minister is ultimately accountable to Parliament for the management of the nation's water resource. The CMA board, in turn, is accountable to Minister, as Executive Authority. He or she must therefore ensure that CMA's carry out their functions effectively. The Minister will need to develop a service delivery agreement with the CMA board.

DWAF will clearly play a critical role in facilitating the establishment of CMA's as well as providing ongoing support and capacity building.

The Act provides for a representative of DWAF to be appointed onto the Governing Board. In addition, DWAF staff may have greater involvement in specific resource management issues through involvement in Catchment Management Committees.

The Minister has considerable control over CMA operations. He or she will decide when to delegate and assign powers and duties to CMA's and will audit how they are carried out. The Minister has the power to intervene in the event that the CMA runs into difficulties.

The CMA Board is its Accounting Authority. Through the DWAF, it will account in terms of the Public Finance Management Act (1 of 1999) requirements. The board must submit its business plan and annual reports to DWAF, through which its performance may be monitored.

5.2.2 WUA's

A WUA is a statutory body established by the Minister under the Act to carry out water-related activities. The Act provides that the Minister and CMAs can delegate water management functions to WUA's. WUA's may therefore play an important role in water resource management at a localised level. A WUA may be represented on a CMA's Governing Board. It is also likely that a WUA will be represented on Catchment Management Committees which address issues of direct relevance to the Association.

5.2.3 Catchment Management Fora

Catchment Management Fora are non-statutory bodies not specifically referred to in the Act. Such Fora usually consist of stakeholder representatives for specific catchments or sub-catchments. They meet to discuss issues of mutual concern and seek ways of addressing them.

The establishment of such Fora has been widely seen as a prerequisite to the successful establishment and operation of CMA's. To maintain the interest of their participants, Fora will need to be given some meaningful ongoing involvement in water management.

Given the large size of a Water Management Area, it seems unlikely that many Fora will obtain direct representation on the CMA Governing Board. However, Fora could be effectively linked with the Governing Board through the Catchment Management Committee structure. Each Geographical Catchment Management Committee could contain membership from local Fora and the Governing Board. Such Committees would then provide a mechanism for information to flow from the Fora to the Board and vice versa.

5.2.4 Water Boards

Water Boards are statutory bodies established under Section 28 of the *Water Services Act (Act 108 of 1997)*. The primary activity of a Water Board is bulk water supply (Water Services Act, s29). However the Water Services Act 108 of 1997 acknowledges that a Water Board may provide catchment management services to CMA's (s30(2)(c)) as well as undertake a broad range of other activities.

A Water Board could be represented on the CMA Governing Board and/or at a Catchment Management Committee level. A CMA could contract out or delegate functions to a Water Board. There will need to be close coordination between the CMA and Water Boards as bulk water suppliers. Inter-institutional committees or working groups may need to be established.

5.2.5 International Water Management Institutions

Section 102 of the Act provides for the Minister to establish bodies to implement international agreements entered into by the South African Government in relation to water management. Eleven water-related international committees, to which South Africa is a party, currently exist. It will be important for a CMA managing a Water Management Area affected by such international agreements to be represented on any relevant International Water Management Institutions.

5.2.6 Water Services Committees

Water Services Committees are statutory bodies established by the Minister under the Water Services Act (s51(1)). Their purpose is to provide water services to consumers where no water services authority is currently operating effectively. Their activities must be taken into account in the preparation of the Catchment Management Strategy. In the absence of other bodies, these Committees may also be able to play a useful role in representing the interests of water consumers in CMA affairs.

5.2.7 Advisory Committees

The Minister is empowered under the Act to establish Advisory Committees for particular purposes. Such Advisory Committees may focus on a wide range of issues impacting on water resource management such as, for example, streamflow reduction activities. Mechanisms for interaction between Advisory Committees and CMA's will need to be considered where appropriate.

5.2.8 Water-related NGOs

Non-governmental organisations with water-related interests could play a valuable role in developing water management understanding and capacity at a community level such as through running community education programmes. Such organisations often develop close links with communities through involvement in the delivery of services such as water supply and sanitation.

5.2.9 Other Catchment Management Agencies

Inevitably there will be issues which cross boundaries between Water Management Areas such as water quality and quantity. These will require coordination between different CMA's. CMA's may also wish to contract out work to each other or to share resources, such as staff, plant or equipment, to reduce costs. The Act provides for a CMA to carry out activities outside its Water Management Area.

There will need to be mechanisms through which CMA's can meet to discuss issues of joint concern. This could include regular meetings of CEO's, the Governing Board chairs and other key staff. Such meetings could enable CMA's to share their experiences and discuss problems and successes. Where there are specific cross boundary issues to be addressed joint technical working committees may need to be established.

5.2.10 Local government

Implementation of development and land use planning is primarily the responsibility of local government. Many local governments are also required to prepare a range of other plans including water services development plans under the Water Services Act. The relationship between CMA's and local government is therefore a very important one.

Local government is a sector which is specifically identified in the Act for representation on the CMA's governing board. Consideration will need to be given to the best way to ensure effective representation on the board of the large number of local authorities in any Water Management Area. This could be achieved through formal local government associations.

Local councillors and/or officials could be members of Catchment Management Committees. It would also seem desirable that CMA Board Members and/or staff become involved in local government committees which deal with issues of common interest. In particular, there will need to be close coordination between the integrated development planning carried out at a local government level and the development of the Catchment Management Strategy.

5.2.11 Provincial government

Provincial government carries out a wide range of activities which potentially impact on water resource management including development planning and environmental management. In particular, provincial government administers the environmental impact assessment procedures under the *Environment Conservation Act (Act 73 of 1989)*. CMA's will need to develop strong working relationships with relevant provincial departments.

Section 81(1) of the Act includes provincial government as one of the interests which needs to be represented on the CMA Governing Board. Such representation may need to be at the provincial premier's office level or through a delegated representative, to ensure that the interests of all provincial departments are represented.

Provincial government departments will also need to be included in the membership of relevant Catchment Management Committees or be invited to join specific meetings where their expertise is required on particular matters.

It will be important for CMA's to work closely with provincial government in promoting the development of a 'one stop shop' licensing system to minimise red tape involved in initiating developments.

5.2.12 National government

A wide range of national government departments exercise functions which potentially impact on water resource management. Much of the work of national government is in developing policy, which is implemented at a regional and local government level. The relationship between CMA's and national government departments is therefore not likely to be as close as that with provincial and local government.

Apart from DWAF, national government departments are not specifically required to be represented on the CMA governing board. They may be represented on Catchment Management Committees if appropriate. However, it seems likely that a CMA will maintain more informal links with relevant departments depending on the issues being addressed at any one time.

5.2.13 Other interest groups

There are a wide range of other interest groups which will be present in the Water Management Area. These will include organised commercial groupings, environmental interest groups and community based organisations. Many of these will be represented on the Governing Board of the CMA as water users, potential water users and environmental interest groups. These and others will potentially also be represented on the Catchment Management Committees, Catchment Management Fora and WUA's.

It will be critical for the successful operation of the CMA's to achieve broad support from stakeholders in the Water Management Area. CMA's will therefore need to devise a mix of representation, involvement and information sharing to ensure that this occurs.

SECTION 6:

SOURCES OF FUNDING FOR THE CMA

6.1 CMA FUNDING AT PROPOSAL STAGE

The proposal should estimate the funds that may be raised from water resource management charges under the water pricing strategy. This should be based on:

- A general estimate of the water use (abstraction and discharge) by different sectors at different assurances of supply throughout the water management area
- The proportion of all existing water use to be registered.

This potential income then needs to be compared to the predicted costs of the proposed CMA structure over a ten-year time-span, and an estimate made of the top-up funds that will be required from DWAF or other sources. During drought conditions a minimum amount must be charged to cover overheads.

6.2 BACKGROUND TO CMA FINANCING AND THE PRICING STRATEGY

6.2.1 Implications of the Pricing Strategy for CMA financing

Chapter 5 of the NWA and the *Pricing Strategy for Raw Water Charges* provides the financial framework within which CMA's operate. Section 56(2) of the NWA provides for setting of water use charges as part of the *Pricing Strategy* for:

- Funding water resource management,
- Funding water resource development and operation, and
- Achieving the equitable and efficient allocation of water.

The two main sources of funding for CMA's are user charges and parliamentary appropriations (through DWAF)¹. The intention is that CMA's are largely financed through user charges for WRM. The following issues in the Pricing Strategy should be noted for the purposes of CMA financing²:

- Schedule 1 allocations, the basic human need and ecological Reserve, international obligations and inter-WMA water exports have first claim on the water in a WMA (as part of the NWRS). The remaining water, including inter-WMA

¹ Money may also be obtained from "any other lawful source for the purpose of exercising its powers and carrying out its duties", which may include donor funds or loans.

² The WRC Report *Guidelines for financing catchment management agencies in South Africa* (Pegram and Palmer, 2001: WRC Report # 1044/1/01) provides a more detailed discussion of the issues around CMA financing. Much of this discussion is derived from this report.

water imports, can be allocated within the WMA and represents the economic use of water. However, certain international obligations and water exports may also generate revenue.

- Based on the resource protection philosophy underlying the NWA, the Pricing Strategy specifies that water use charges are not applicable to the requirements of the ecological and basic needs Reserve.

This implies that the other “economic” users of water must cover the costs of catchment management in a WMA.

- The Pricing Strategy only applies to consumptive use of water that may be expressed in volumetric terms, namely:
 - Abstraction of surface or ground water under section 21(a) of the NWA,
 - Evaporative losses associated with storing of water for recreational purposes under section 21(b), and
 - Stream flow reduction activities under section 21(d).
- Charges for waste discharge or disposal are not included, but are being addressed as part of a project to develop a Waste Discharge Charge System (WDCS), although the administrative costs of water quality management may be collected through the existing Pricing Strategy. The WDCS is likely to enable charges to be applied to point source dischargers, based on discharge load. A WDCS is only likely to be implemented by 2004, but other users, such as recreation and in stream activities will not be included.
- The strategy distinguishes explicitly between four user sectors, namely:
 - *Water services authorities*, and by implication water service providers;
 - *Industrial, mining and energy*, and storing water for recreational purposes;
 - *Irrigation*, of agricultural lands; and
 - *Stream flow reduction activities*, which currently only includes forestry.
- Water use charges are only applied to and collected from registered water users, based on average registered use. This simplifies the logistical requirements of setting, billing and collecting user charges, but introduces problems where users have not yet registered. Under Section 21 of the NWA, water use relates to the actual use of the water resource (not the use of water), and therefore the registration is at the point of abstraction or discharge.

- The strategy proposes that the users in a WMA will only pay a portion of the total costs of WRM, based on the ratio of allocated (used) water to the total economically utilizable (allocable) water in the WMA. This is an appropriate mechanism for the collection of charges by DWAF, where the relevant costs of the regional offices (and therefore each WMA) are relatively consistent. This facilitates a subsidy to relatively undeveloped WMA's with fewer users and resources. However, this is not relevant for the highly developed WMA's in which the costs of WRM are significantly higher than for undeveloped WMA's.
- Revenue will be split between DWAF and the CMA relative to the activities performed. This is appropriate, particularly in the transitional phase while functions are being transferred from DWAF to CMA's. In practice, the CMA should be performing additional functions that DWAF was not performing, and therefore the CMA cost is likely to be far greater than the estimated DWAF cost. While DWAF continues to collect charges³, this would include the CMA charges. However, once the CMA is collecting charges, DWAF would estimate the user charges needed to cover the costs (less subsidies) of the remaining DWAF (undelegated) functions, and would bill the CMA for this. The CMA would treat this as a financial input cost, in the same way as the cost of an inter-WMA import or outsourced function.
- The costs of WRM activities may be allocated differently to the user sectors. The pricing strategy indicates that irrigated agriculture will have 90% subsidy on water conservation, while forestry does not pay this component of the costs. This approach should to be extended for application to a CMA where various functions benefit different users to a greater or lesser extent.
- The financial transfer between two WMA's involved in an inter-WMA transfer is to be based on the relative portion (ratio of export to total available) of the total WRM budget in the donor WMA. This implies that water used in another WMA has the same WRM costs as water used in the donor WMA. There are a number of benefits that the residents of a WMA gain from WRM, other than the availability of water supply of adequate quality. Furthermore, the donor catchment does not have to carry the costs associated with as managing the effluent return flow and institutional development for the actual users. A case may be made for the reduction of user charges for water exports, in line with the benefit accrued to the users and the management requirements for the CMA's. However, this should be related to implementation of the WDCS.
- Water use charges for WRM are meant to cover the costs, and not constitute the imposition of a levy, duty or tax. Therefore, the Pricing Strategy prevents users in one WMA from subsidizing users in another WMA, although they would have to

cover the relevant costs of water management in a donor WMA in the case of inter-WMA transfers. Any grant or subsidy to a WMA should be in the form of a parliamentary appropriation. However, this does not apply to cross-subsidies between catchments or sectors within a WMA.

6.2.2 Implementation of the Pricing Strategy

The current intention is for DWAF to implement the pricing strategy by April 2002, having registered most water users, installed the necessary information management systems, determined the relevant water use charges, set up collection points and trained the required staff. CMA's will be delegated responsibility for setting charges, billing and collection, probably quite soon after their establishment, as water use charges for water resources management represents the main source of funding for CMA operations.

The billing and collection system is based on the Water Use Authorization and Registration System (WARMS), which contain all the necessary water use information according to the category of use. The Accounts Receivable system is being installed to take the WARMS information and generate integrated and itemized invoices (including user charges for water resources management and for water resource infrastructure) for each user, based on the Title Deed number.

DWAF operates three Trading Accounts, whereby goods and services are sold to internal and external clients. In particular, the Water Trading Account (Programme 5) has four sub-programmes. User charges collected by DWAF under the *Pricing Strategy* for WRM are channelled through the so-called Integrated Catchment Management Trading Account. This integrates water utilization, water quality management and water conservation on a catchment basis and is designed to facilitate the eventual financial self-sufficiency of WRM implementation functions (to be delegated to CMA's) from water use charges.

DWAF will set the user charges for water resources management in each WMA, to cover the ICM Trading Account costs of the DWAF Regional Office (RO) from the registered users. The DWAF RO will do billing, with collection points in the DWAF regional, district and area offices (at least one per WMA). Facilities will be made available for water users to pay cash, although electronic systems will be preferred.

6.3 CONSIDERATIONS FOR CMA FINANCING

6.3.1 User charges, sponsorship and in-kind contributions

As indicated above, user charges for WRM represent the main source of income for a CMA. However, the CMA should legitimately only collect charges for core WRM functions that have been delegated or assigned by the Minister. This may not cover all the possible CMA (or catchment forum) expenditure on important activities and projects that may support the objectives of WRM, such as youth programmes, bio-monitoring competitions, etc. These projects should be facilitated by CMA staff and seed funds, but may require sponsorship or donor support for full implementation. Furthermore, there is considerable in-kind support provided by stakeholders and other organizations, particularly through the activities of catchment forums that should also be considered in assessing the resource requirements and availability. The Proposal should highlight all of these requirements and sources of support in assessing the viability of the CMA.

The estimation of user charges and evaluation of financial viability also needs to consider the user charge being applied by DWAF to cover the Regional Office WRM costs. This portion will decrease with time as functions are delegated to the CMA, but the total charge is likely to increase.

6.3.2 Registered use and non-payment

User charges can only be collected from registered users, which make the viability of any CMA highly dependent upon the registration rate in the WMA. However, there is also the possibility that some users will not pay, either because the charges are unaffordable (related to ability to pay) or are not deemed acceptable (willingness to pay). Care needs to be taken to minimize the likelihood of default, particularly in the initial phases, because this would set a bad precedent for cost recovery. However, possible under-registration and/or non-payment should be considered in the viability analysis.

6.3.3 Differential user charges between sectors

In addressing the non-payment issue, it may be important to vary charges between user groups. In particular the affordability and acceptability of charges to irrigated agriculture should be carefully considered³. It may be appropriate to consider

³ Sensitivity must be taken to avoid alienating agriculture during the initial period of collecting charges, because these sectors have not been required to pay these sorts of water charges and the charges may represent a significant portion of their input costs. Furthermore, there is a rural development and employment component to irrigated agriculture that must be taken into account. Finally, the WRM requirements of this sector, the assurance of supply and the impacts of the sector may be lower than for the domestic, industrial and mining sectors.

charging agriculture between 10% and 50% of the equivalent charge for industrial and municipal users. However, this needs to be tested against the later user groups in the WMA.

6.3.4 DWAF support

Financial support from DWAF may be a once-off grant to support establishment process, ongoing (possibly limited time) operating support or subsidies⁴. The Proposal for establishing a CMA should evaluate the need for such financial support and the possible motivation to DWAF.

- Establishment grants may be considered to cover the total cost of the first year of operation (before the CMA has an opportunity to set charges to cover its costs), as well as to contribute to the capital and/or once-off set-up costs of establishing a CMA.
- Operating support may be claimed under the Pricing Strategy for unallocated water, or else motivated by a situation of financial need (due to inadequate registration, unaffordable charges or the inability to collect waste discharge charges from users that cannot be charge for abstraction).
- Subsidies provided in terms of Working for Water or support to emerging farmers (over five years).

6.4 CONSIDERING THE ECONOMIC IMPLICATIONS

In assessing the viability and sustainability of the CMA, the economic implications of the charges should be considered. This is critical in the agricultural and forestry sectors, where water use charges represent a significant portion of the input costs to the activity (particularly where charges are now being collected on infrastructure schemes). The economic consequences in these areas are also potentially greater, as these activities often represent the mainstay of poor rural economies. On the other hand, application of charges to municipal and industrial use represents a small portion of the total water costs (usually less than 3%). This is unlikely to have a major economic impact, except for water intensive industries that may introduce recycling and water saving technologies, with associate costs.

⁴ There is currently little clarity on the issue of financial support from DWAF for WRM costs, either for establishment or on-going CMA costs. However, this is the topic of a DWAF project, which will also address the situation of funding transferred functions (particularly where this has been prompted by DWAF for the CMA to act as DWAF's agent)

6.5 RISKS FOR FINANCIAL VIABILITY

The financial viability analysis needs to consider whether the CMA can operate on commercial lines (in order to cover its expenditure with income), being viable upon establishment (taking account of any financial support that may be forthcoming) and being financially sustainable over the foreseeable future (about 10 years). There are a number of critical risk areas for the financing of the CMA, any one of which may result in the need for a change in the CMA expenditure or sources of funding, thereby making the CMA less financially viable or sustainable. All of the following issues should be considered, and where they pose a real threat, management solutions need to be found to mitigate their impact:

- Inadequate registration of water users, thereby limiting the possible revenue and potentially damaging the credibility of the CMA for the registered users.
- Reductions in water use due to improved authorization & enforcement of license conditions (or compulsory licensing), particularly in water stressed parts of the WMA.
- Changes in water use patterns through demand management or in response to the application of water use charges, thereby reducing the potential total revenue to the CMA.
- Non-payment of charges by registered water users, either due to unaffordable charges and/or non-acceptance of the legitimacy of the charges (willingness to pay).
- Inability to efficiently implement the administrative components of the billing and collection system, either by the CMA or by DWAF itself.
- Poor cash-flow management of the billing and collection process, resulting in delayed payment.
- Any proposed establishment and/or operational financial support from DWAF is not forthcoming.
- Expected sponsorship, donor support and/or in-kind contributions are not forthcoming.
- The CMA is unable to raise capital loans at low interest rates, due to lack of a financial history.

SECTION 7: CATCHMENT MANAGEMENT STRATEGY

7.1 THE PURPOSE OF A CATCHMENT MANAGEMENT STRATEGY

Every CMA must progressively establish a catchment management strategy, by notice in the *Gazette*, and review it at least once every five years. This strategy must set out the framework for managing water resources within the WMA and the principles for allocating water to existing and prospective water users. As such it specifies the CMA's (and DWAF) intent in terms of water resources management in a WMA, and specified the way in which water will be managed in that area.

The strategy also must set out the water management institutions to be established in the WMA and guides these institutions in performing their functions in terms of the Act. All persons and organizations must adhere to the strategy, which in turn must take account of the constitutional mandate and legal powers of water management institutions, as well as other relevant organs of state. Furthermore, the strategy must indicate the manner in which the public will be enabled to participate in water resources management within the WMA.

7.2 THE CONTEXT OF THE CATCHMENT MANAGEMENT STRATEGY

The catchment management strategy must reflect the national water resources strategy, which provides the framework for water resources management between WMA's. The strategy must take into account the resource directed measures, and in particular should provide a framework (and necessary steps) for giving effect to the water resource class, the associated resource quality objectives and the requirements of the Reserve.

A catchment management strategy can be progressively established, which implies that water resources management issues may be prioritised and addressed in a phased manner. The natural environment, land use patterns, infrastructure and services and socio-economic development characteristics of the WMA must be considered, in addressing the water resource management priorities.

7.3 GIVING EFFECT TO THE CATCHMENT MANAGEMENT STRATEGY

The catchment management strategy should reflect the water resource management priorities in different parts of a WMA. All institutions involved in water related activities must give effect to the strategy. This means that they should perform their functions in terms of the strategy, implementing the specified plans, guidelines and procedures. This implies that their organizational structure and procedures for institutional cooperation and public participation should reflect the water resource management issue (and by implication, the functional) prioritisation reflected in the strategy.

In summary, the catchment management strategy is both a process and a framework for implementing water resources management in a particular WMA. Effective implementation requires the strategy to inform the catchment management functions that must be performed, and therefore the organizational capacity that is required by the different water management institutions that already exist or are to be established in the WMA. As such the strategy provides the linkage between priority water resource management issues and organizations responsible for their management.

SECTION 8:

REPORTING REQUIREMENTS OF THE CMA

8.1 BUSINESS PLANS AND ANNUAL REPORTS

Schedule 4 Part 4 of the NWA stipulates that CMA's must submit business plans. The business plans must:

- Be for a period of not less than 3 years
- Be in a form determined by the Minister
- Include financial matters
- Be submitted to the Minister

Schedule 4 Part 6 of the NWA stipulates that CMA's must, in respect of each financial year, prepare an annual report.

For the BP and annual report to be useful management tools a detailed performance based monitoring system is needed including Key Performance Indicators for the Chief Executive Officer.

8.2 CONTENT OF THE BUSINESS PLAN

Matters to be covered in the Business Plan are prescribed in Schedule 4 Part 4 (21–23) of the National Water Act. The Business Plan can be defined as a planning document that results from the process of planning. The purpose of a business plan is to:

- Summarise the mission statement
- Set out the objectives
- Define and articulate how the management team plans to achieve the objectives
- Put the policies and procedures defined in the Policy Statement into practice

According to the Act, there are certain requirements that need to be met:

- It is the responsibility of the board / to prepare business plans
- The first business plan must be for a period of not less than three years and must begin when the first financial year starts (in the case of CMA's, not more than 6 months after the board is established)

- Business plans must be updated annually
- The board may review and revise a business plan at any time, and must do so when directed by the Minister

The business plan may be developed based on the following framework:

- Executive summary
- Institutional environment
- Mission and objectives
- Policies
- Services
- Customers / water users
- Outsourcing / shared services
- Operations and systems
- Risk assessment
- Financial information
- Any other information the Minister may prescribe

In relation to financial matters, the business plan must:

- Include a financial target
- Outline overall financial strategies (incl. setting of charges, borrowing, investment, purchasing and disposal strategies)
- Include a forecast of the revenue and expenditure (incl. forecast of capital expenditure and borrowings)
- Provide for capacity building among board members and officials
- May include other financial information that the board considers appropriate
- Must include other financial information determined by the Minister

Taking into account that the CEO and key CMA managers might not have been appointed by the time for submission of the first business plan, the focus of the CMA's first business plan should be on organisational development and operating expenditure. A comprehensive business plan should be developed once the CEO is appointed.

The CMA business plan must be aligned to the DWAF Key Focus Areas (KFAs) as well as the priorities in the Catchment Management Strategy.

8.3 THE ANNUAL REPORT

The purpose of an Annual Report is to inform DWAF and the clients of the WMI, of the progress made in achieving the targets set out in the Business Plan. The Annual Report is a publicly available record of the WMI's annual performance, and includes audited financial statements which sets out the WMI's financial status throughout the past year, and often compares to the financial status of the previous 5 years. The Annual Report can be used to project a positive public image for the WMI.

The annual report framework:

- Executive summary
- Report on activities
- An assessment of the performance of the WMI and a report against the KPI.
- Audited financial statements that follow generally accepted accounting practices (GAAP) and lists all costs or income by primary or secondary report.

8.4 PUBLIC FINANCE MANAGEMENT ACT REPORTING REQUIREMENTS

The CMA, under classification as a Schedule 3 entity in terms of the PFMA will, 6 months before the start of the financial year, submit to the Minister (Executive Authority), through the DG, a budget of estimated revenue and expenditure for approval. The Minister, through the support of the Department, must ensure that the submitted budget is in line with the DWAF approved budget. DWAF will be responsible for submitting the information to the Auditor-General or National Treasury, as and when required.

SECTION 9:

INTERVENTIONS, DISESTABLISHMENT AND REGULATIONS

The Minister of Water Affairs and Forestry may (in terms of part 4 of the National Water Act (NWA)) disestablish a Catchment Management Agency (CMA) or make changes to its Water Management Area for various reasons, such as the need to reorganize water management institutions for more effective water resource management. A CMA may also be disestablished if it does not operate effectively.

9.1 INTERVENTION BY MINISTER

The Minister may direct a CMA to take a specific action and withhold any financial assistance which might be available to it if the CMA:

- Is in financial difficulties or is being otherwise mismanaged
- Has acted unfairly or in a discriminatory or inequitable way towards *any person* within its water management area
- Has failed to comply with any directive given by the Minister under the NWA
- Has obstructed the Minister or any other water management institution in exercising a power or performing a duty in terms of the NWA
- Is unable to exercise its powers or perform its duties effectively due to dissension among members of the board or water users within its WMA
- Has failed to comply with the NWA
- Has become redundant and ineffective.

The directive must state the nature of the deficiency, the steps which must be taken to remedy the situation, and a reasonable period within which to do this. If the CMA fails to remedy the situation in the specified period, the Minister may take over the relevant power or duty of the CMA only after giving the CMA a reasonable opportunity to be heard, and after affording it a hearing on any submission it may make.

If the Minister takes over a power or duty of a CMA,

- The Minister may do anything which the CMA might be empowered or required to do under the NWA, to the exclusion of the CMA
- The CMA board may not exercise any of its powers or perform any of its duties relating to that power or duty

- An employee or contractor of the CMA must comply with a directive given by the Minister
- The Minister must cease exercising any such powers and performing any such duties as soon as he/she is satisfied that the CMA is once more able to exercise its powers or perform its duties effectively
- The Minister may recover from the CMA all reasonable cost incurred, including any losses suffered as a result of lawful and reasonable action taken, except if the loss is caused or contributed to by the negligence of the Minister or any person under his/her control.

9.2 DISESTABLISHMENT OF A CMA

If it is desirable, the Minister may (by notice in the gazette) disestablish a CMA:

- for re-organising water management institutions in that area in the interests of effective water resources management
- because the CMA cannot or does not operate effectively, or
- because there is no longer a need for the CMA.

Before disestablishing a CMA, the Minister must publish a notice in the gazette stating the intention and reasons, and inviting written comments up to 60 days after its publication. He must also take any further steps that are deemed necessary to bring the contents of the notice to the attention of interested persons, and consider all comments received by the specified date.

If the WMA of a CMA is changed or the CMA is disestablished, the Minister may direct the CMA to transfer some or all of its assets and liabilities to another water management institution. In doing this, the Minister must consider the interest of creditors and users of water, and any contributions made by users of water resources towards the infrastructure of the CMA. If a CMA is issued with this directive, it must do everything in its power to give effect to it. If not transferred, then the assets and liabilities of the CMA vest in the Minister, who must wind up its affairs and assume its powers and duties for the winding up period.

9.3 REGULATIONS ON CMA'S

The Minister may make regulations:

- prescribing a minimum and maximum number of members of a governing board
- requiring the establishment of consultative forums and determining their composition and functions
- determining (in consultation with the Minister of Finance) the basis and extent of remuneration and payment of expenses of members of governing boards and committees, and
- on any other matter necessary or desirable for the efficient functioning of CMA's and their governing boards and committees.

In making regulations, the Minister must consider the need to:

- achieve adequate representation of and consultation with organs of state, bodies representing different sectors and other interests within the areas of jurisdiction of CMA's, and
- secure the efficient and cost effective functioning of CMA's and their management structures.