



Where to with Water Services Regulation in South Africa?

**Municipal Indaba
Regulation Syndicate
Birchwood Hotel
Gauteng
11-12 Sept 2008**



water & forestry
Department:
Water Affairs and Forestry
REPUBLIC OF SOUTH AFRICA



Purpose

- To update the sector on the progress made on regulating the water services institutions.



Introduction

- After three years we have reached common understanding on the need for Regulation in the water sector however we still differ on the Institutional Form/Model of the Regulator.
- **The challenges that we face are of a sufficient magnitude** to warrant strong focus on regulation.





Why is water regulation important ?

- Water has a social component - provision is included in the Bill of Rights.
- Water has an economic component - efficient and reliable provision is essential for economic growth .
- Water has many elements of monopoly – mostly impossible for a consumer to switch to another provider.
 - Water industry dominated by public sector monopolies with only few Private sector contracts (Nelspruit, Dolphin Coast,)
 - Annual turnover not accurately known (R10b??)



Legislative Mandate

Section 155(7) of the Constitution

- “The **national government**, subject to section 44, and the provincial governments have the legislative and executive authority **to see to the effective performance by municipalities of their functions** in respect of matters listed in schedules 4 and 5, **by regulation** the exercise by municipalities of their executive authority referred to in section 156(1)



Legislative Mandate

Chapter VIII of section 62 of WS Act, 1997

- “The Minister and any relevant Province **must** monitor the performance of every water services institution in order to ensure compliance with
 - all applicable national standards prescribed under this Act;
 - all norms and standards for tariffs prescribed under this Act;
 - every applicable development plan, policy statement or business plan adopted in terms of this Act.
- Every water services institution **must**
 - furnish such information as maybe required by the Minister after consultation with the Minister for Provincial Affairs and Constitutional Development; and
 - **allow the Minister access to its books, records and physical assets to the extent necessary for the Minister to carry out the monitoring functions contemplated above.”**



Policy Mandate

**Strategic Framework For WS approved by
Cabinet in 2003**

- **The role of DWAF as regulator** : Until such time as it is considered appropriate for an independent regulatory function to be created, **DWAF will fulfil the role of the National Regulator of the WS sector.** (Section 7.1)
- **A national regulation strategy** : DWAF will develop a regulation strategy to implement the regulatory framework. (Section 7.2)
- The WSA is the **local regulator** of water services (Section 7.1)



Existing Regulations

Section 9,10,19 (5) , WS Act being enforced

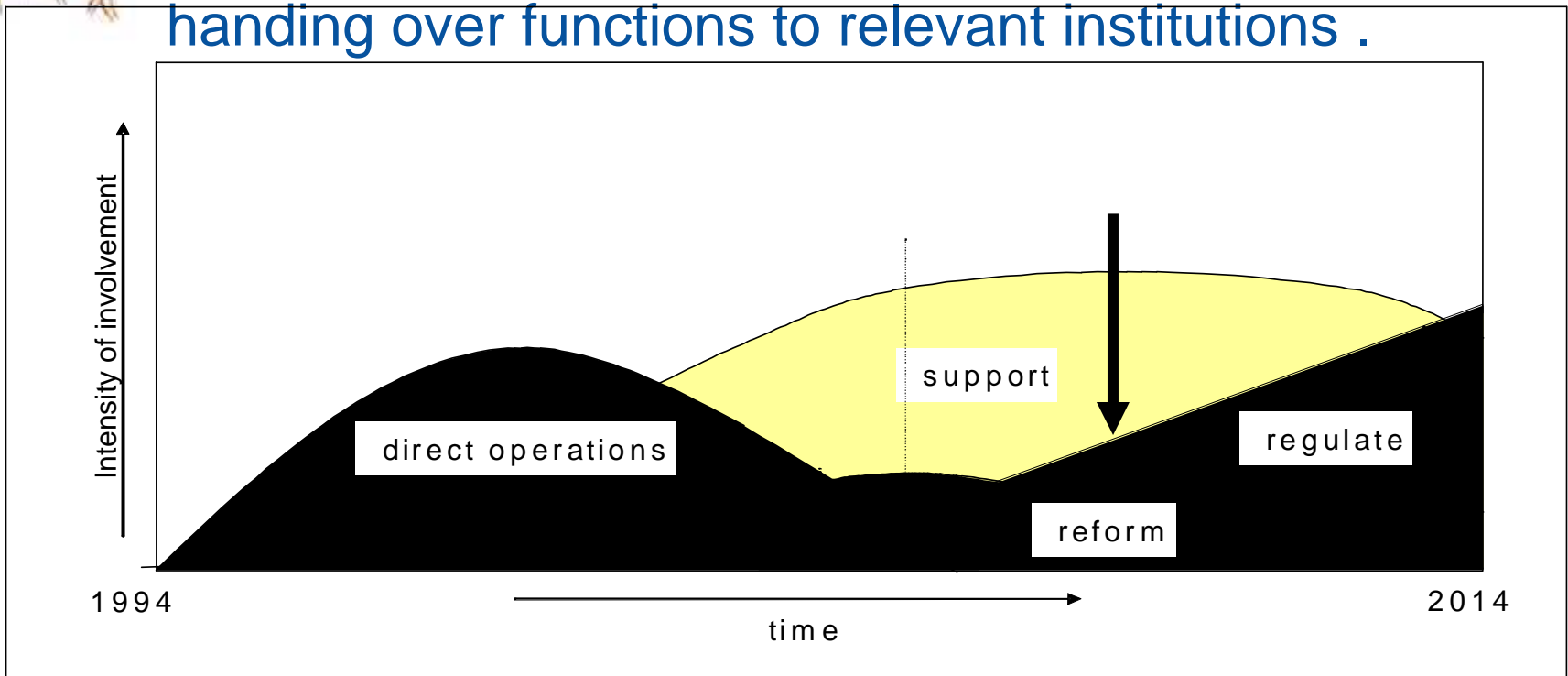
- Sect 9 of WS Act regulate the supply of potable water and sanitation.
 - Levels of service
 - Interruptions
 - Drinking Water Quality
 - Disposal of grey water
 - Effluent, Use of effluent and water , effluent balance analysis
 - Water losses.
 - Waste water collection & treatment
- Sect 10 of WS Act prescribes the norms and standards i.r.o tariffs for Water Services This is done in conjunction with the Minister of Finance.
 - tariff setting process and assessment of final tariffs;
- Sect 19(5) – The Minister after consultation with the Min for Provincial and Local Govt. prescribes the matters which must be regulated by a contract between the WSA and the WSP
WSA/WSP contracts are in place



Context : changing role of DWAF

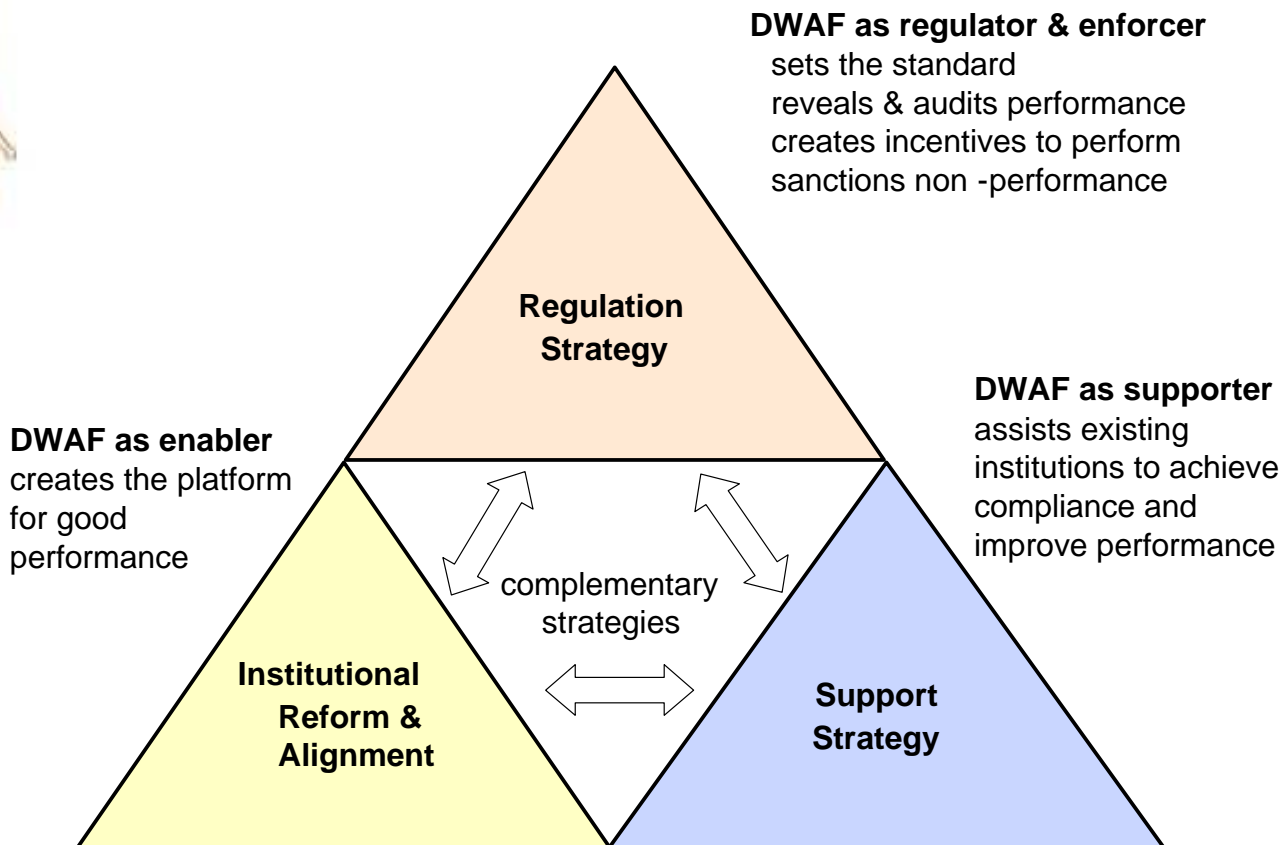


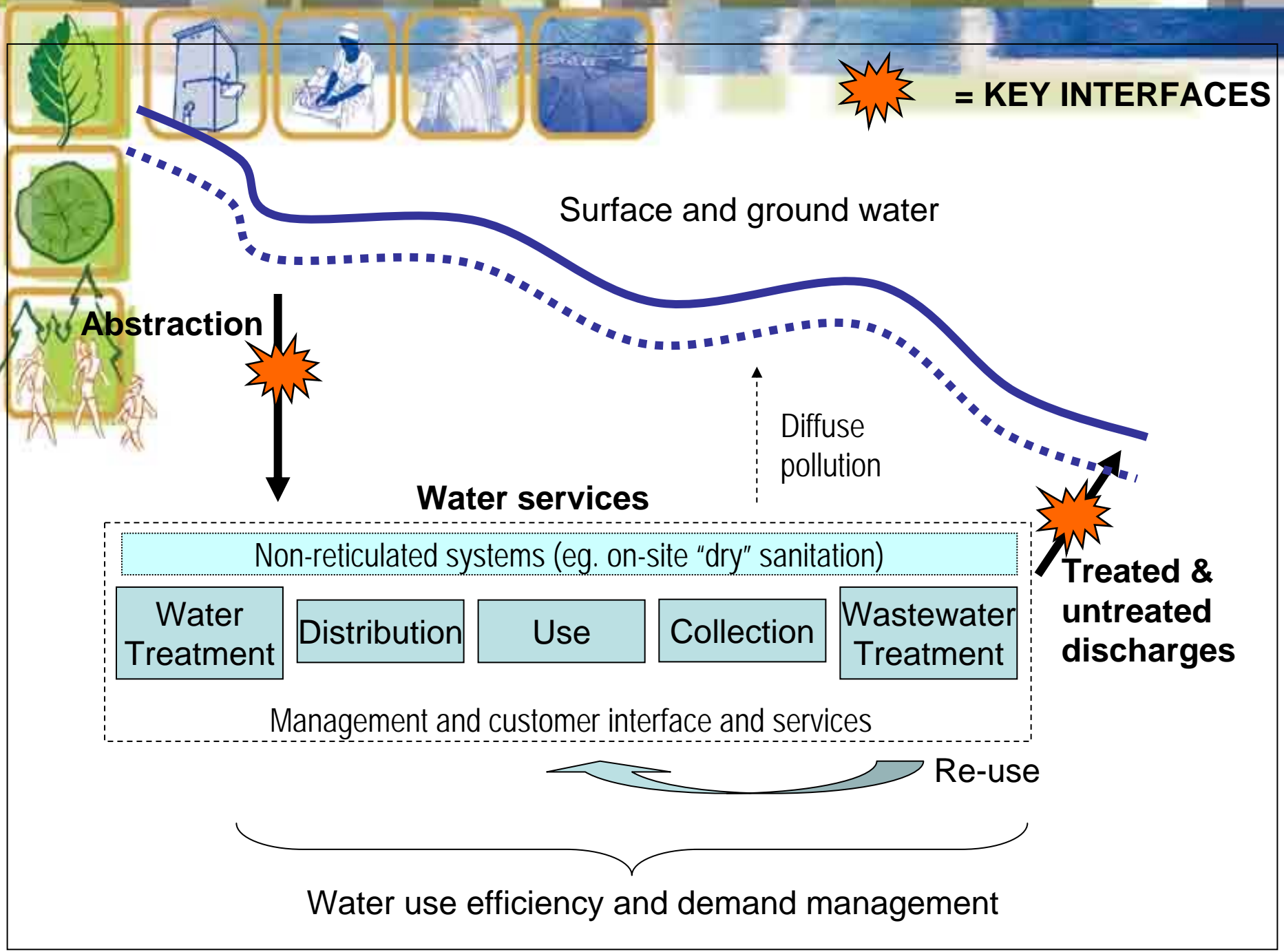
- DWAF's regulatory role is strengthened in the water sector, and support will be aimed at supporting institutions to comply with existing regulations, institutional reforms have started and involves DWAF handing over functions to relevant institutions .



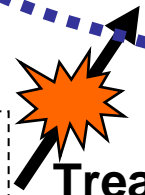
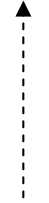
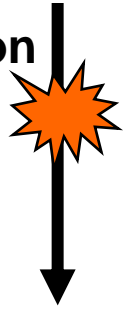


Complementary Strategies





= KEY INTERFACES



Water use efficiency and demand management



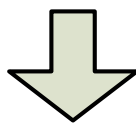
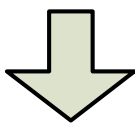
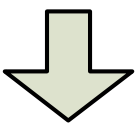
The WS Regulation Strategy: Three Pronged Approach

The Three Legs of the Strategy

Priority programmes
Initiatives to mitigate key risks
3. Priority compliance initiatives
4. Drinking water quality
5. Effluent quality

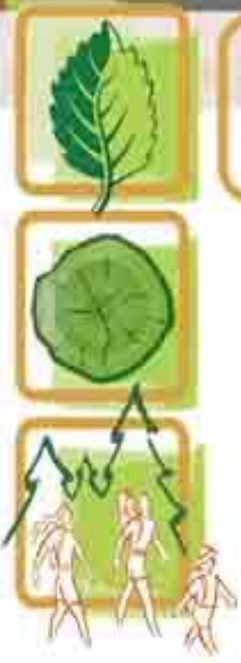
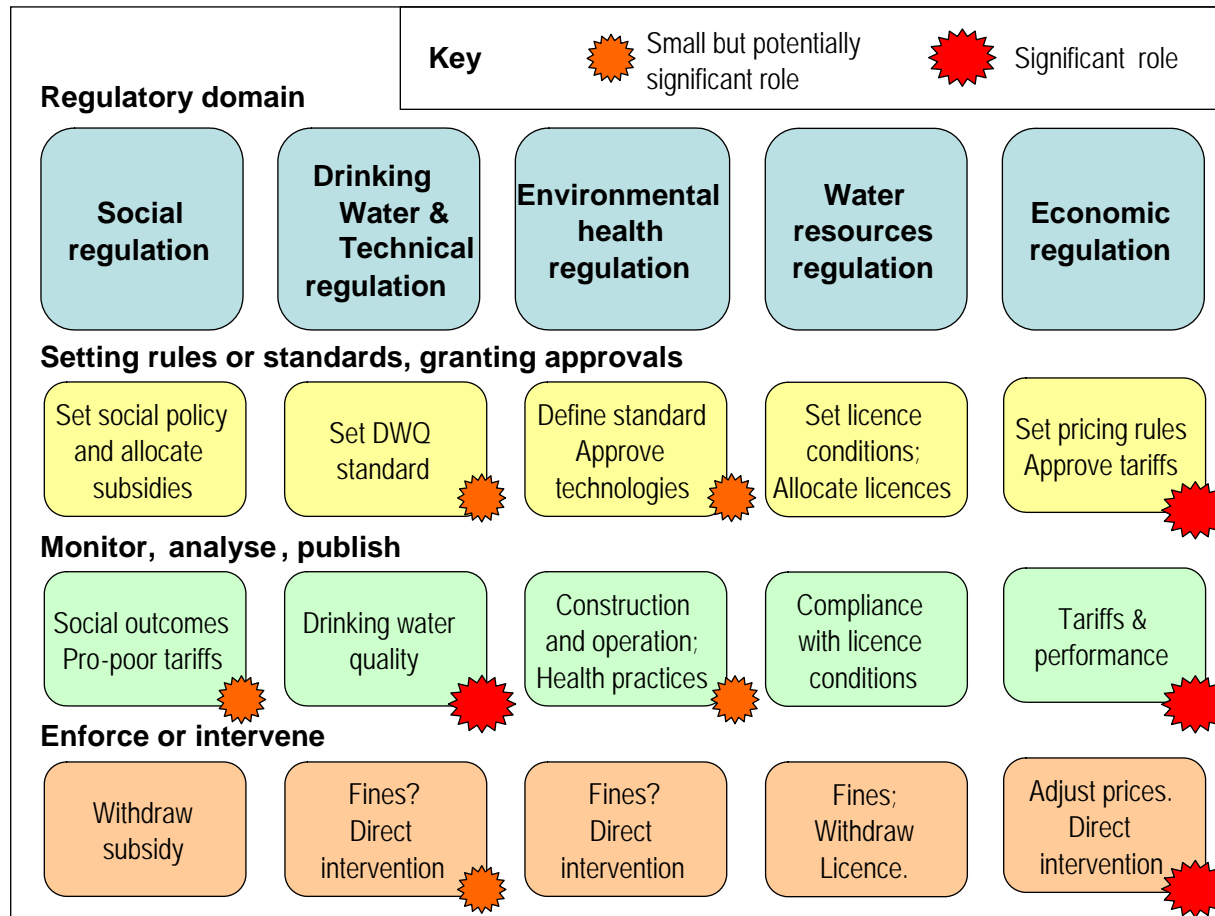
Building the foundations for effective regulation
Cross-cutting initiatives to ensure effective regulation
6. Revealing performance
7. Financial transparency
8. Improving accountability
9. Strengthening enforcement
10. Building consumer voice
11. Regulating competencies
12. Building regulatory capacity

Full scope of water services regulation
Implement all regulatory functions
13. Social regulation
14. Drinking water quality regulation
15. Environmental health regulation
16. Economic regulation



Effective regulation of Sector

The Emerging Domains





Regulation Approach

REGULATION

- Define & Communicate Regulatory Requirements
- Set & Review Rules, Norms and Standards
- Monitor Compliance & Reveal Performance
- Determine Appropriate Interventions

ENFORCEMENT

SUPPORT

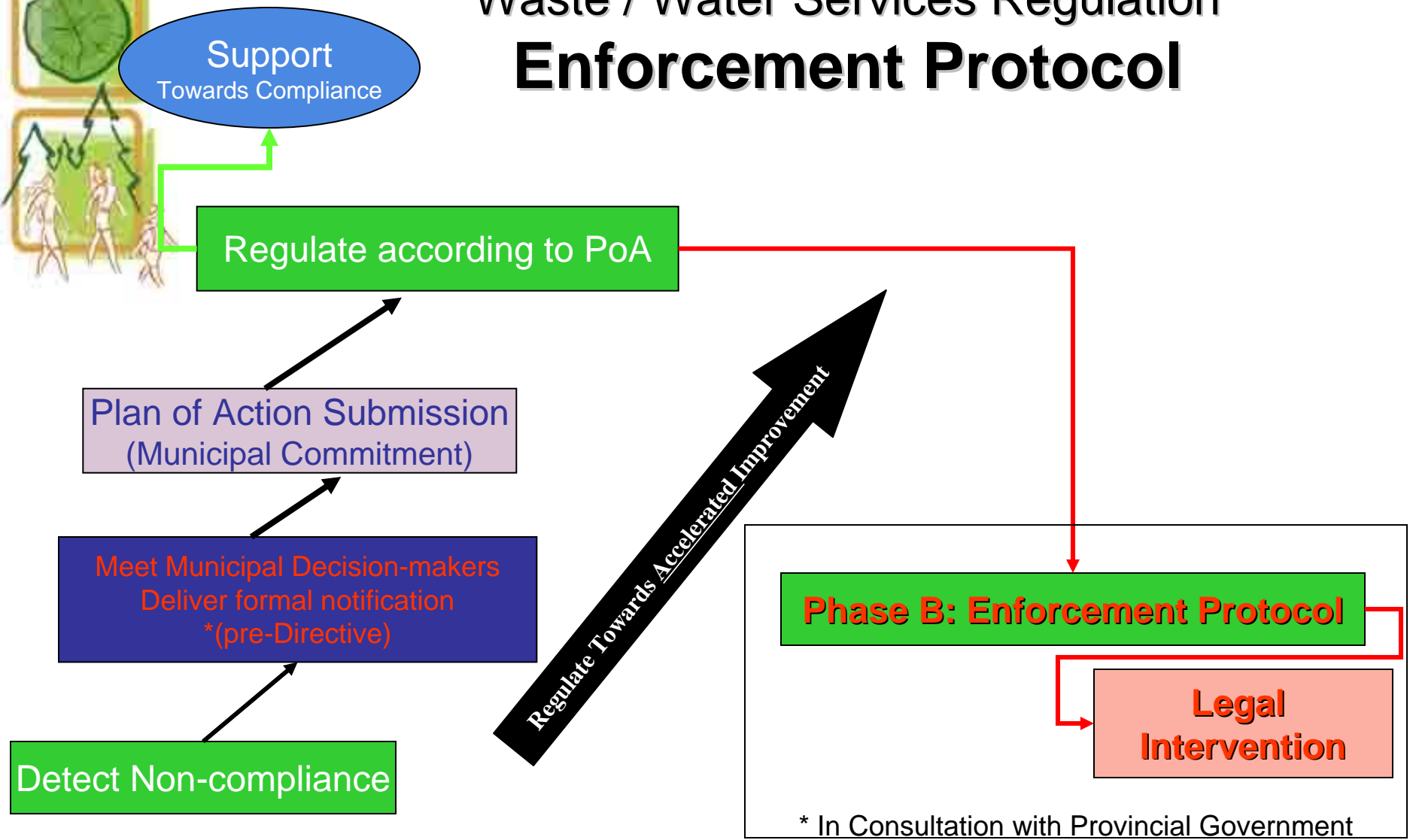
Forestry

Water Resources

Water Services



Waste / Water Services Regulation **Enforcement Protocol**



Support
Towards Compliance

Regulate according to PoA

Plan of Action Submission
(Municipal Commitment)

Meet Municipal Decision-makers
Deliver formal notification
*(pre-Directive)

Detect Non-compliance

Regulate Towards Accelerated Improvement

Phase B: Enforcement Protocol

Legal Intervention

* In Consultation with Provincial Government

Progress Made

- Penultimate Draft on WS Regulation Strategy.
- Water Resources & Intergrated Framework started .
- Drinking Water Quality regulation started and electronic monitoring system developed and implemented.
- Assessment of Waste Water Treatment works started.
- Pre-directives issued to non-complying municipalities.
- Annual Consumer Satisfaction Survey conducted.
- Regulatory Performance Measurement System –piloted on 19 municipalities.
- Audit of WSA/WSP Contracts conducted.
- Enforcement Protocol developed and implemented.
- WSA/WSP and Citizens disputes are handled.
- Tariff analysis started.
- Regulatory Publication in progress.
- Citizens Voice Project started at Ekurhuleni Metro –slow in Msunduzi
- Water Use Compliance & Enforcement Draft Strategy developed.
- Director Regulation Positions established in almost all regions.
- Learning journey on Regulating water board-Amathola Water.
- ***Note : DWAF Regulator for Dam Safety for almost 21 years.***



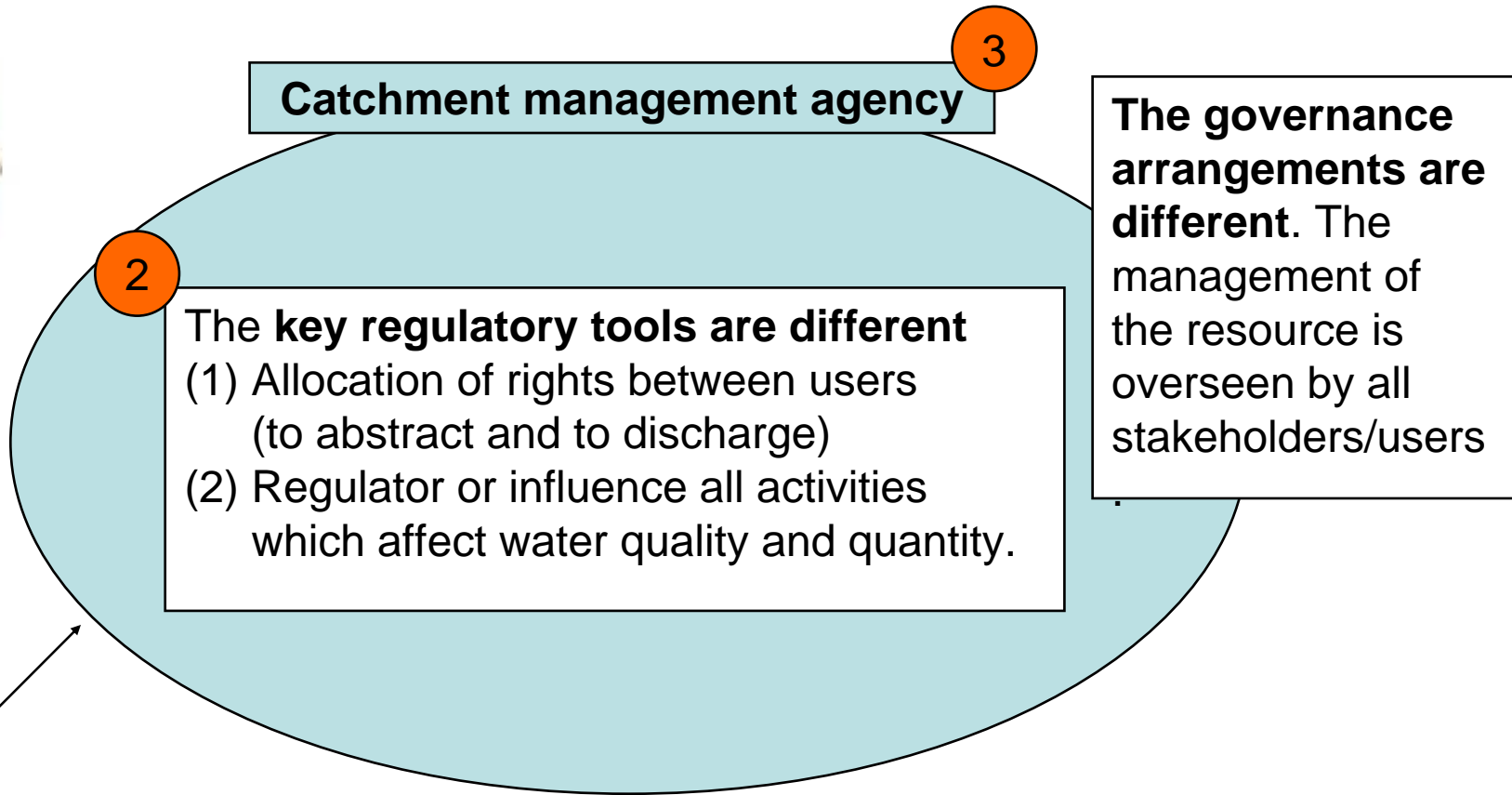
Challenges

Policy and legislation

- Initial focus was on water services.
- Water services and water resources policies and legislation have followed two parallel streams.



The nature of water resources regulation is different ...



The catchment boundary is different to the water services provision area



Statement of Intent

Embargoed until formal approval by DG.

Joint Release by the Minister of Water Affairs and Forestry and
the South African Local Government Association

(DRAFT – JUNE 2008)



The Department of Water Affairs and Forestry (DWAF), supported by the South African Local Government Association (SALGA), hereby makes a statement of its intention to intensify the regulation of water supply and sanitation services in South Africa.

Both DWAF and SALGA recognise that a critical point has been reached in the development of our democracy. It is time for the balance between supporting the development of local government institutions and regulating these institutions to shift in order to ensure the ongoing safety and security of our people, the sustainable management of our natural environment and the social and economic growth and development of our country.



Where to

- Finalise Institutional Model.
- Align with WR –Integrated Regulation Framework.



“We are on track but there are mountains to climb”

President Mbeki.





Key Documents

- Penultimate Draft on National WS Regulation Strategy, 2008.
- A regulatory framework for economic regulation of network industries in SA. Prepared by GENESIS for Presidency, 2008.
- International Models of WS regulation and their relevance to SA, 2008, WRC.
- Review of regulatory aspects of WS Sector –Summary Report-2008, WRC.
- Nedlac administered prices study on economic inputs in the water sector , April 2007-unpublished.
- Institutional Options for WS Regulation, WRC- 2006.
- Current International trends in the economic regulation of network industries for the Presidency of SA, March 2006.
- Water Services Reform and Regulation initiatives in South Africa, Paper by Prof John Langford-Melbourne Australia, 2004.