

# Guide for Local Government Cooperation with Catchment Management Agencies

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Water Research Commission

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

**Report to the Water Research Commission**

**by**

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# GUIDE FOR CMA COOPERATION WITH LOCAL GOVERNMENT

## 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 CMA Governing Board members and CMA officials. It is also meant to inform water resource managers in DWAF in order to provide appropriate advice to CMAs and related structures.

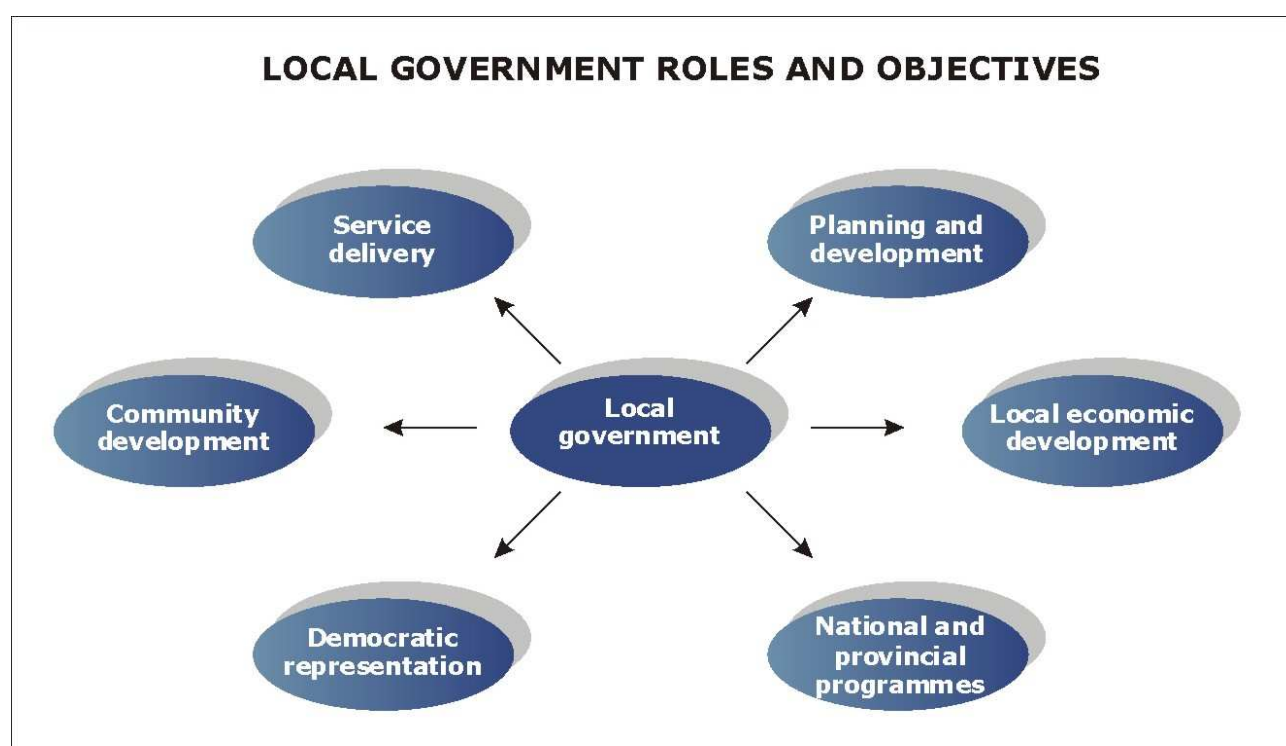
## **Purpose of this Guide**

The main purpose of the guide is to provide this group with information about the operation of local government, which components to contact for different purposes, and how to establish mechanisms for cooperative governance, critical for Integrated Water Resource Management (IWRM).

## PART 1: LOCAL GOVERNMENT POWERS AND FUNCTIONS

Local government (LG) is a critical component of the South African government. As the third tier of the South African government system, LG has a role in a number of growth and development areas. These areas include:

- Planning and development, i.e. integrated development planning
- Service delivery, i.e. water services, waste management, etc.
- The delivery of national and provincial development programmes targeted for communities
- Local community development
- The representation of the interests of people within their areas of jurisdiction as a democratically elected institution



### Objectives and roles of local government

Local government as a sphere of government has been granted executive and legislative authority to govern on its own. These powers are vested with the municipal councils. The powers granted to municipal councils are, however, subject (to a certain extent) to provisions of the Constitution. Through Sections 100 and 139, the national and provincial governments are given powers to intervene if there are indications that the lower sphere cannot perform the expected functions. A procedure for intervention is provided in the Constitution:

## CONSTITUTION: SECTIONS 100 AND 139

When a province cannot or does not fulfill an executive obligation in terms of legislation or the Constitution, the national executive may intervene by taking any appropriate steps to ensure fulfillment of the obligation.

## THE OBJECTIVES

### Constitution: Section 152

- To provide democratic and accountable government for local communities;
- To promote social and economic development;
- To ensure provision of services to communities in a sustainable manner;
- To promote a safe and healthy environment; and
- Encourage the involvement of communities and community organizations in the matters of local government

## THE ROLES

As the form of government closest to communities, LG has a developmental role towards community development. The Constitution defines specific developmental duties that LG should observe in ensuring community development.

- To give priority to the basic needs of the community;
- To promote the social and economic development of the community; and
- To participate in national and provincial development programmes.

## The powers and functions of local government

The Constitution and the Municipal Structures Act respectively stipulate the general functions of local government.

Chapter 5, Section 83 of the Municipal Structures Act stipulates the general functions assigned to LG in terms of the Constitution. These provisions are:

- Section 156 of the Constitution which deals with the municipalities' general legislative and executive powers in relation to matters listed in Part B of Schedules 4 and 5. This section also refers to national or provincial functions that may have been assigned to LG.
- Section 229 of the Constitution, which deals with municipalities' power to impose rates, fees, taxes and other duties.

## The structures and categories of local government

Local government institutions have no single type of structure. However, they are influenced by the priorities of their area as well as the capacity within the municipality. Not all municipalities would have all of the departments as expected: instead, these may be combined, e.g. the departments of planning and environment.

Metropolitan municipalities tend to be the only institutions that have strong departments separated by their functions and roles. It is unlikely that departments and their functions would be combined in these situations. The combination of departments and functions is largely evident at the district and local municipality level.

### Categories of local government

It is critical that a CMA understands municipal categories and the provisions governing them. This has implications on the approach as well as the cooperative arrangements that could be fostered between the institutions.

Section 155 of the Constitution stipulates these categories, as well the criteria that should determine whether an area should have a single Category A municipality or if it should have both Categories B and C within the same area of jurisdiction.

#### CATEGORY A (METRO)

This is a municipality that has exclusive municipal executive and legislative authority in its area. Section 2 of the Municipal Structures Act sets out the criteria that determine what should be a Category A municipality.

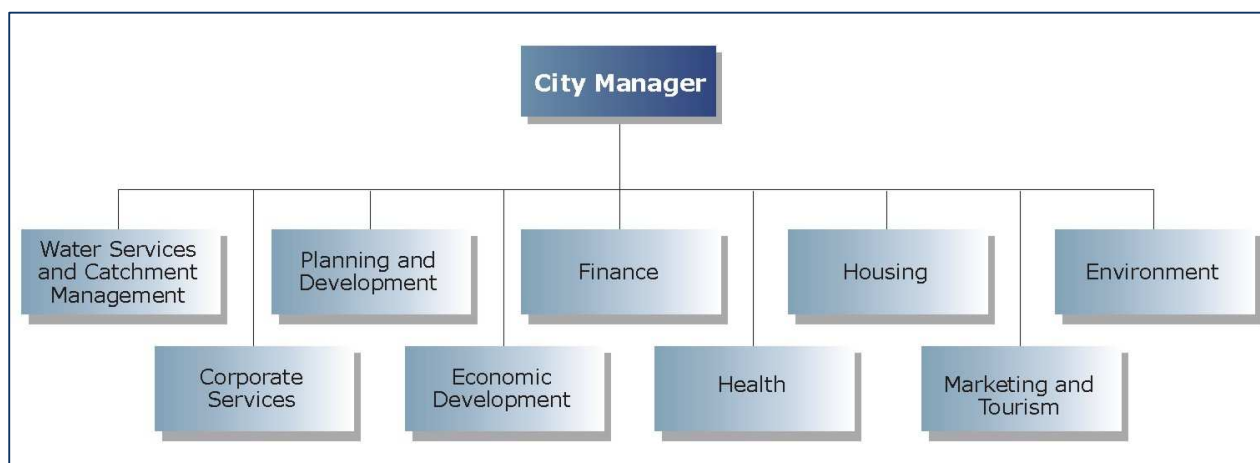
These are big local government institutions with high levels of capacity. Interacting with CMAs may not be a problem in most areas. However, the major challenge is finding right departments within the organisation as they tend to be complex and diverse, and some of the functions are assigned to other institutions, e.g. utilities.

Depending on the particular metro, they may have **Development Planning Coordinating Committees**. These committees deal with development issues as they affect the metro. They assist particular departments in discussing and making informed decisions. Such committees exist for infrastructure, the environment, etc. **The CMA and water resource managers should consider these committees as one of the structures to develop cooperative relationships with.** Structures like these can make the metro and/or departments prioritise engaging with the CMA.

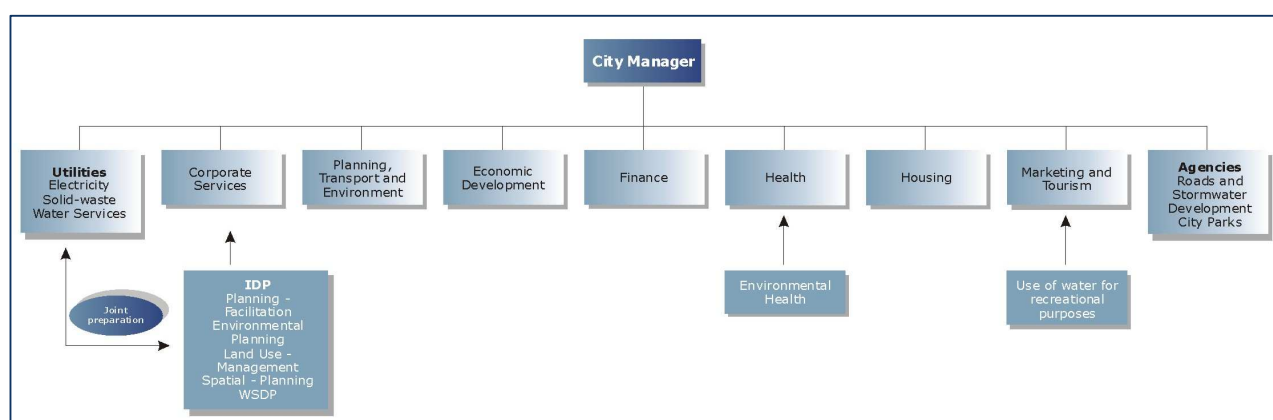
### Typical structures in a metro

The structural organisation of metro councils is usually big. For the purposes of this guideline, only those departments that could have relevance to water resource management have been examined.

## TYPE 1: METRO ACTING AS A WSA AND WSP



## TYPE 2: METRO WITH UTILITIES AND AGENCIES (separate WSP arrangements)



The CMA should consider the identified departments as critical to achieve integrated water resource management. It should be noted that not all metros make use of agencies and utilities that are “independent” from the council. These agencies and utilities are departments within the council structure, e.g. City of Johannesburg.

## CATEGORY B (LOCAL MUNICIPALITY)

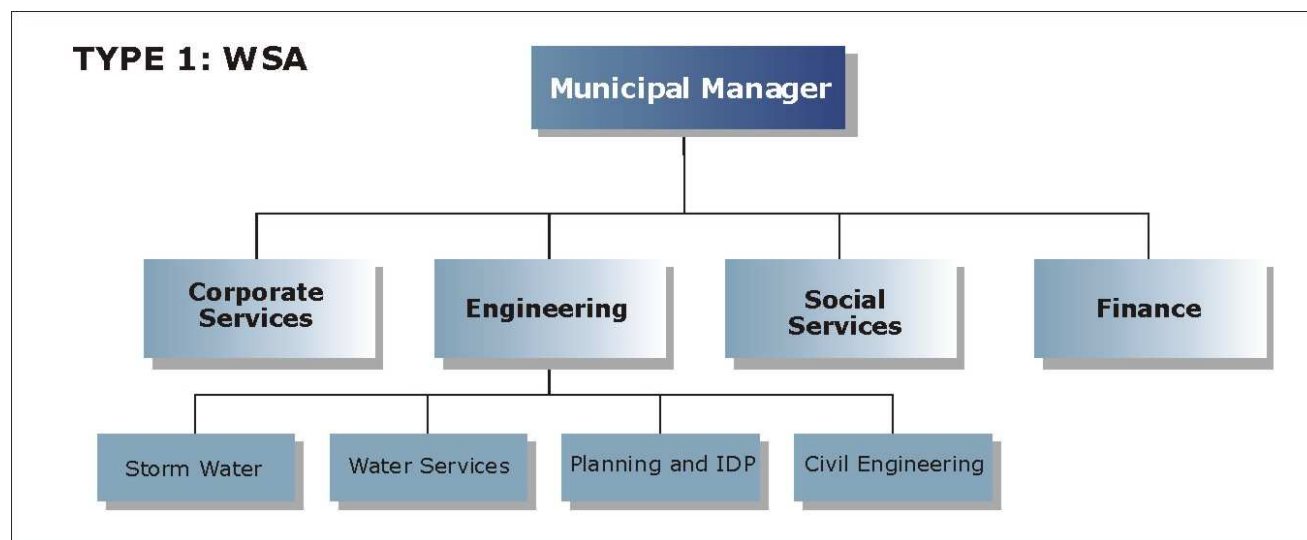
A category B municipality is a local government institution that shares municipal executive and legislative authority in its area with a category C municipality within whose area it falls. Local municipalities in general are largely urban municipalities that may have been established prior to 1994. The revenues for these municipalities in most cases are based on industries and businesses that may be within their areas of jurisdiction. Local municipalities usually have capacity, particularly the ones in the urban areas.

In most cases, category B and C municipalities would fall within the same jurisdiction. Where this is the case, Section 155(3)(c) of the Constitution and Section 83(2) of the Municipal Structures Act stipulates the division of powers and functions between the two municipalities. In terms of the Municipal Structures Act, a local municipality will have all of the powers and functions stipulated in Sections 156 and 229 of the Constitution, excluding those referred to in Section 84(1) of the Municipal Structures Act; these are exclusively allocated to the district (see category C). However, a local municipality cannot be prevented from performing any of these functions within its area of jurisdiction if there is capacity. In cases where there are disputes in these roles, the MEC within the province has the power to settle the disputes by defining the roles of each category based on the circumstances of the area.

## POWERS AND FUNCTIONS OF A LOCAL MUNICIPALITY

See Sections 156 and 229 of the Constitution – excluding the powers and functions stipulated in Section 84(1) of the Municipal Structures Act.

### TYPICAL STRUCTURE OF A LOCAL MUNICIPALITY



**TYPE 2: NOT A WSA**

The manner in which the local government structures are organised is largely influenced by the activities undertaken, as well as the capacity within the departments. It is important to note that some of the functions are combined within one department or are separated. This is particularly true with the engineering and planning functions. It is crucial to note that in some local municipalities, critical functions such as IDP are sometimes managed at the municipal manager's office.

**CATEGORY C (DISTRICT MUNICIPALITY)**

This municipality has executive and legislative authority in an area including more than one local municipality.

In terms of the Municipal Structures Act, district municipalities have developmental roles, i.e. promoting the overall development of all areas within their jurisdiction. Secondly they have a role in promoting and developing the capacity of all local municipalities within their jurisdiction.

**DEVELOPMENTAL ROLES AND OBJECTIVES OF A DISTRICT MUNICIPALITY**

- Ensure that services are provided throughout the district in an equitable manner based on the needs of the communities within the jurisdiction.
- Ensure services are provided in a sustainable manner, meaning that the consumer can afford them and the service provider can provide them on an ongoing basis.
- Assist and capacitate local municipalities to be able to provide necessary services within the local jurisdiction.
- Promote economic development within the district.
- Coordinate all of the functions aimed at promoting economic and social development within the district, therefore ensuring the development of the district.

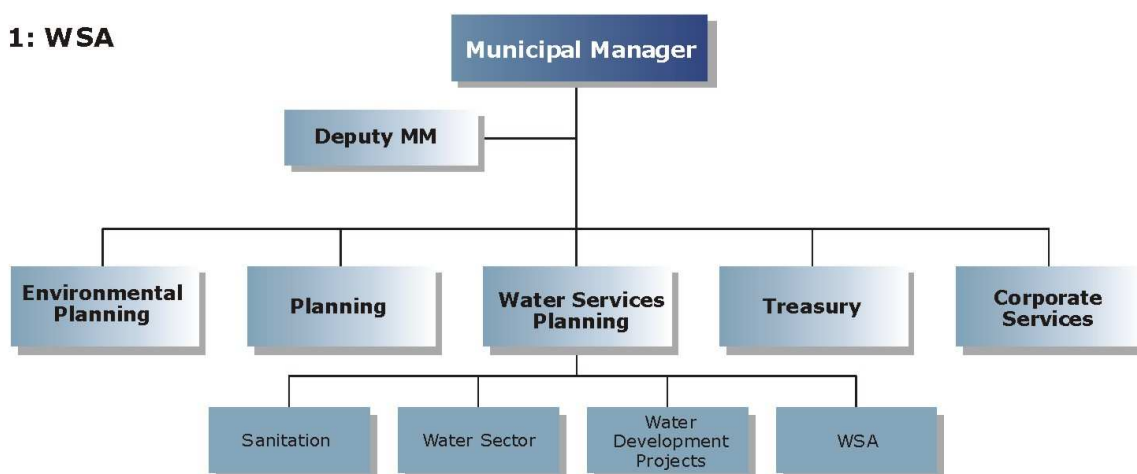
As the main development institution within local areas, district municipalities have Integrated Development Plans as their main instruments to achieve the roles and objectives indicated above.

## AREAS COVERED BY IDPs

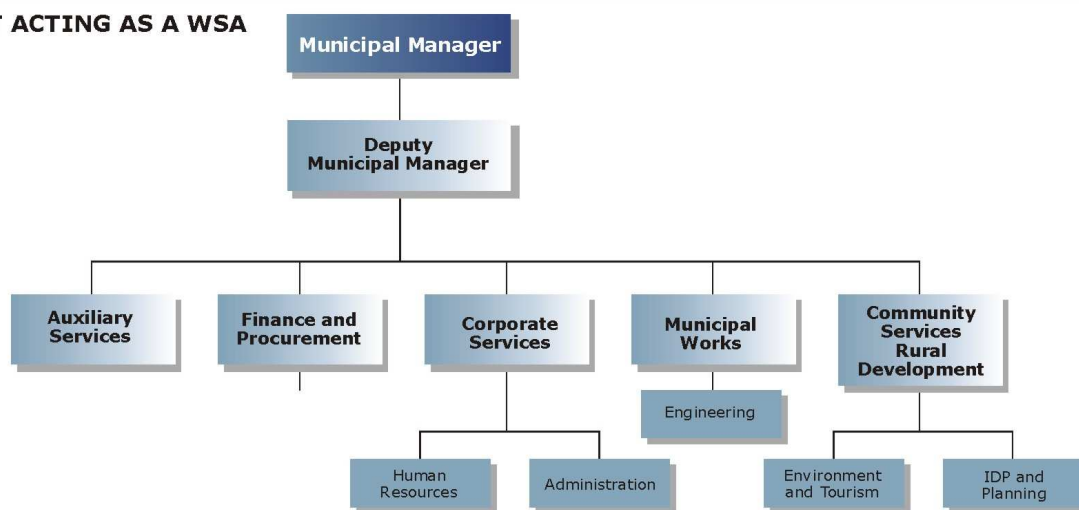
- Coordination of district framework plans and local process plans
- Passenger transport services
- Roads construction and maintenance
- Airport transport regulation and management
- Water services

## TYPICAL STRUCTURES OF DISTRICT MUNICIPALITIES

### TYPE 1: WSA



### TYPE 2: NOT ACTING AS A WSA



## Local government and WRM

### Functional areas with relevance for WRM

Based on the roles and functions that local government institutions play, they have a number of functional areas that interface with WRM functions. It is these functional areas that dictate the need for cooperation between local government and CMAs. The identifiable functional areas of interface are **planning, water services and environmental management**.

#### *Interface with Planning*

In terms of planning, local government have IDPs as their main planning frameworks that should guide and provide the development direction of municipalities. The IDPs are made up of a number of sector plans, and some of these sector plans have an impact on WRM.

##### **(a) Spatial plans**

These are plans that detail the manner in which local government institutions intend to develop in terms of space. These range from the development of human settlement areas, to local industrial areas, recreational areas, etc. Spatial development has an impact on water resource planning, as it has to take into account the water needs of development initiatives.

Depending on the development initiative, the spatial plans may have an impact on water **quality** (wastewater discharge) and **quantity** (abstraction) of the resource.

##### **(b) Water services development plans (WSDPs)**

These plans are frameworks and/or “business plans” that local government institutions use for the provision of water services functions within their areas of jurisdiction. Among other things, such plans should detail the source, quantity, etc. of the water in question.

The provision of this function is dependent on the availability of an adequate quantity and quality of water resources. The implications are that this function should be provided in a manner that is consistent with the broader goals of integrated water resource management. It is the role of the CMA to set these goals.

In relation to WRM interface, the CMA will be responsible for the development and implementation of a catchment management strategy (CMS). The CMS has to take into account **water services development plans and the business plans of water services providers** as they impact on the intended objectives of the resource. **It is therefore imperative that water resource planners cooperate with local government at the planning phases of the WSDP process.**

The WRM planners should ensure that the contents of a WSDP are informed by the CMS.

#### *Interface with Environmental Planning and Management*

The Constitution provides for a role of local government institutions to be the promotion of a safe, healthy and clean environment within their areas of jurisdiction.

In relation to environmental planning and management, local government institutions have the following roles:

- The promotion of integrated environmental management within their areas of jurisdiction, i.e. environmental issues must be integrated in the planning frameworks
- The promotion of environmental health based on national and provincial legislation
- The development of environmental management awareness within their areas of jurisdiction
- The consideration and provision of commentary on high impact developments within their areas of jurisdiction, subject to EIA regulations
- The coordination of comments on EIAs
- The identification of environmental risks and hazards that require priority intervention, coordinated with the department in charge of the relevant resource and the national Department of Environmental Affairs and Tourism
- The authorisation of land use

In summary, local government have the following areas of responsibilities within the environment that also impact on CMAs:

- Planning – comments on EIAs and EMPs need CMA input if they relate to water resources.
- Land use management – land use authorisations may impact on water resources.
- Environmental health – human action has impacts on water resources, e.g. the Jukskei River.

### ***Interface with Service Delivery***

Local government service delivery functions impact on a number of areas that require CMA cooperation:

#### **(a) Water services**

Local governments act as WSAs and WSPs. The planning at water resource level influences the implementation of these functions. The CMA will influence the level, type of service and the quantity of water that local government institutions can provide to their constituencies.

#### **(b) Waste discharge**

This refers to wastewater that local government discharges back to the resource. The quantity of wastewater that local government institutions can discharge is determined by the CMA, which manages the resource based on the applicable licence conditions.

#### **(c) Roads and storm water**

This service is based on CMAs providing expertise on hydrological water quality impacts, which affect the water resource, particularly with regard to urbanisation and industrialisation. The infrastructure that the local government institutions use has a bearing on the water resource too. Where municipalities undertake activities that impede the flow of water in a river or change the course of a river, authorisations are needed from the CMA.

## Variations in interaction

It is critical to note that the location and capacity of each local government institution will determine the institutional arrangements that may be developed with the CMA.

### *Metropolitan councils*

These are all in urban areas and are mostly capacitated. A CMA will have no difficulty in coordinating cooperation. The difficulty is that these institutions are big, and it may be challenging to have an effective coordination of activities with the CMA. The CMA needs to target specific committees or sections for cooperation.

### *District municipalities*

#### *District 1 – Urban*

The coordination of activities between CMAs and district municipalities may vary according to their location. Certain district municipalities are within urban or highly industrialised areas. These municipalities tend to be well capacitated and have made considerable progress in their service delivery functions, and they are also aware of the need of cooperative relations with other organs of state. It is possible for CMAs to establish institutional arrangements with these municipalities. Also based on their capacity, the CMA may delegate the municipality to perform certain functions on its behalf.

#### *District 2 – Rural*

On the other hand, there are poorly capacitated district municipalities, which are mostly from the former homelands, as well as those established after the new local government demarcations. Those established after the demarcations are rural districts that service rural areas that previously had no councils. Interaction with these municipalities may prove to be difficult as they have other priorities, e.g. housing, water and sanitation. Planning and development in these municipalities is mostly incremental, and it is seldom based on planning frameworks. In dealing with these municipalities, a CMA would need serious interventions that should highlight the need to cooperate with the CMA. The CMAs should also consider capacity building as the core intervention prior to any interaction.

#### *District 3 – Combination*

Some of the areas combine urban and rural municipalities, therefore, the CMA may need to create a balance on how it approaches these municipalities. It may be that the CMA should liaise with the urban municipalities in building the capacity of the rural municipalities if they fall within the same jurisdiction. Even if not, this may create an opportunity for cooperative relations between municipalities.

***It is critical that CMAs use different approaches for different municipalities. This should be based on the municipalities' backgrounds, capacities and locations.***

## PART 2: MOTIVATION FOR COOPERATIVE GOVERNANCE

While there are identifiable areas of cooperation between CMAs and local government, there are also legal requirements and other factors that make it imperative for the two types of institution to cooperate.

### The Constitution

Chapter three of the Constitution of South Africa presents cooperative governance as one of the components that should build relations between the institutions, as well promote coordination of activities for integrated development from national to local government spheres. The Constitution stipulates that institutions should develop legislation that provides an environment for cooperation between institutions based on the functions that they perform.

#### CONSTITUTION - CHAPTER 3, SECTION 41(1)(H):

All spheres of government and all organs of state within each sphere must cooperate with one another in mutual trust and good faith by:

- fostering friendly relations;
- assisting and supporting one another;
- informing one another of, and consulting one another on matters of common interests;
- coordinating their actions and legislation with one another;
- adhering to agreed procedures; and
- avoiding legal proceedings against one another.

### Legislation

The National Water Act (NWA) and the Water Services Act further put into perspective how the two institutions should cooperate. The NWA states that the CMS has to take into account all other plans by other institutions including local government WSDPs. On the other hand, the Water Services Act (WSA) states that water services planning within local government has to take into account all other plans that may impact on water services planning.

### Effective water management

Based on the areas of interface indicated in Part 1, the indication is that local government has a number of areas that impact on WRM functions. In order to achieve integrated water resource management and the effective management of resources, cooperation between the two institutions is critical. This should be accompanied by a clear understanding of local government roles and functions.

Effective management of the resource in relation to local government activities should be based on the understanding that different legislation and planning strategies govern these institutions. Secondly, they affect WRM activities at different levels and in different contexts. Therefore, CMA planning should accommodate these differences, as they are a motivation for cooperation.

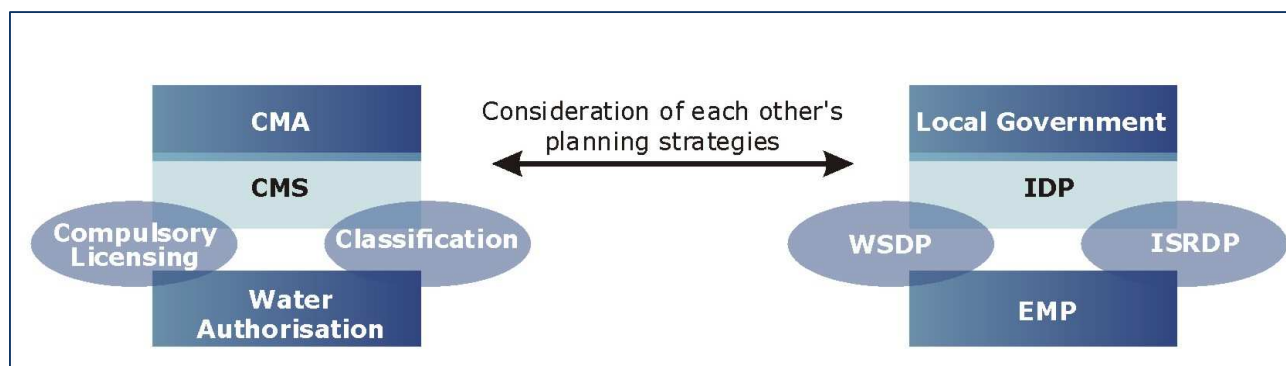
## Areas that motivate for cooperation

### *Local government activities impacting on WRM*

The relations at this level should be based on an understanding that local government institutions, as a tier of government, are autonomous institutions with different legislation and policies. While understanding their autonomy, their planning policies and strategies affect WRM planning. The IDPs of local government and the CMSs of CMAs are the strategies that motivate cooperation.

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 ISRDPs, therefore catering for the vision at local level. The CMS is able to influence (not prescribe) certain decisions at local level that may have implications on the water resource e.g. further water resource development options. On the other hand, the IDP and its sector plans are able to influence and provide information on certain aspects of the CMS, e.g. spatial/land use planning and water demand.

#### RELATIONS AT STRATEGY PLANNING LEVEL



### *Local government water use*

Local government has certain water use functions, such as 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. This municipal water use activity therefore becomes the driver of a specific relation with the CMA. They may further be required to have water licences for abstraction and discharge.

### ***Local government as a stakeholder***

The relations in this area are based on local government playing a role within a water resource, but at a less binding level, i.e. not being involved in the fundamentals of the management of the resource. An example of such relations could be local government using water for recreational purposes as part of their tourism promotion initiative.

### ***Water scarcity***

Local government, as a major water user, may need to monitor the efficiency of water use by its clients so as to conserve water. The CMAs may work with local government institutions in implementing some of the water management techniques that can help conserve water, e.g. water demand management.

### ***Sharing capacity with a CMA***

While a CMA's main functional area is WRM and local government focuses on water services, there are a number of areas where these institutions can share capacity as well as delegate some functions to each other. The sharing of capacity may be particularly suited to functional areas where one institution may have limited capacity.

### ***CMA credibility***

CMAs are new institutions about to operate at local level where a number of other institutions have been in existence for some time, including local government. Secondly, CMAs will regulate some of local government's water related activities. It is therefore critical that CMAs create cooperative relations with local government in order to become credible institutions.

## PART 3: MECHANISMS FOR COOPERATIVE GOVERNANCE

### Background to mechanisms for cooperation

It is critical to understand that the approach and mechanisms developed for local government cannot be uniform, but will be determined by the environment within which each particular local government institution exists. Secondly, as indicated in Part 1, local government has different categories and varying degrees of capacity. Mechanisms and approaches should be developed based on an understanding of this.

### 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, water services role, stakeholder role and democratic representative role**. Therefore, the approach for local government participation cannot be the same as for other institutions.

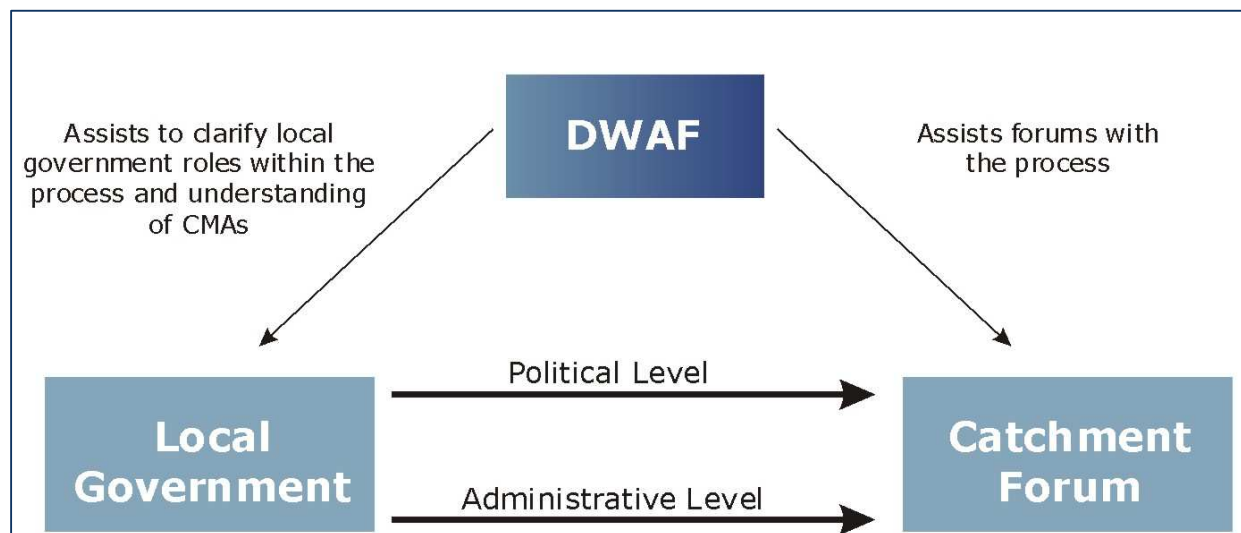
#### *Pre-establishment phase*

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

##### **Initiation phase**

This is the awareness creation phase among all relevant stakeholders, including local government. **It is critical that, at this phase, the involvement of local government is not limited to the political level: it should also include the administrative level.** This involvement 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 should begin to understand their roles within the CMA process, as well as how they should grow this understanding within their municipalities.** DWAF, as a leading institution in this process, should assist in this regard. The omission of or inadequate interaction with local government during this phase could cause significant damage to the possibilities for cooperation in the critical first years of the CMA's operation.

## LOCAL GOVERNMENT INVOLVEMENT IN PRE-ESTABLISHMENT PHASE



### **CMA Governing Board**

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

The following roles should be represented on the GB:

- **Local government as the democratic institution in its area**

Local governments are democratically elected institutions. This implies 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 service providers and integrated planners.

- **Local government as a water user**

Local government institutions, based on their functions, extract water and discharge wastewater. These functions have implications for the management of the resource by the CMA; therefore local government representation is critical.

- **Local government as an agency for local integrated development planning**

Local government institutions, through the Municipal Systems Act, are responsible for integrated development planning within their areas of jurisdictions. Integrated planning encompasses other activities that may have impacts on the water resource, e.g. spatial development. This role of local government should be recognised on the board.

## ***Post-establishment phase***

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

The mechanisms and structures 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 between CMAs and local government, the mandate, priority, 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 should become a partnership.

### ***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 and 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. The CMA has 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 the **CMA must 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 that the CMS 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 strategic alignment with a 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 commenting on draft CMSs or IDPs
- an active process of *joint strategy development*, from initiation to development of relevant parts of the CMS or IDP

***Participation in strategy/plan development processes is the minimum level of engagement acceptable***, possibly supported by informal meetings or formal reviews (where problems are identified). Even this requires a 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 the 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.

## Institutional structures

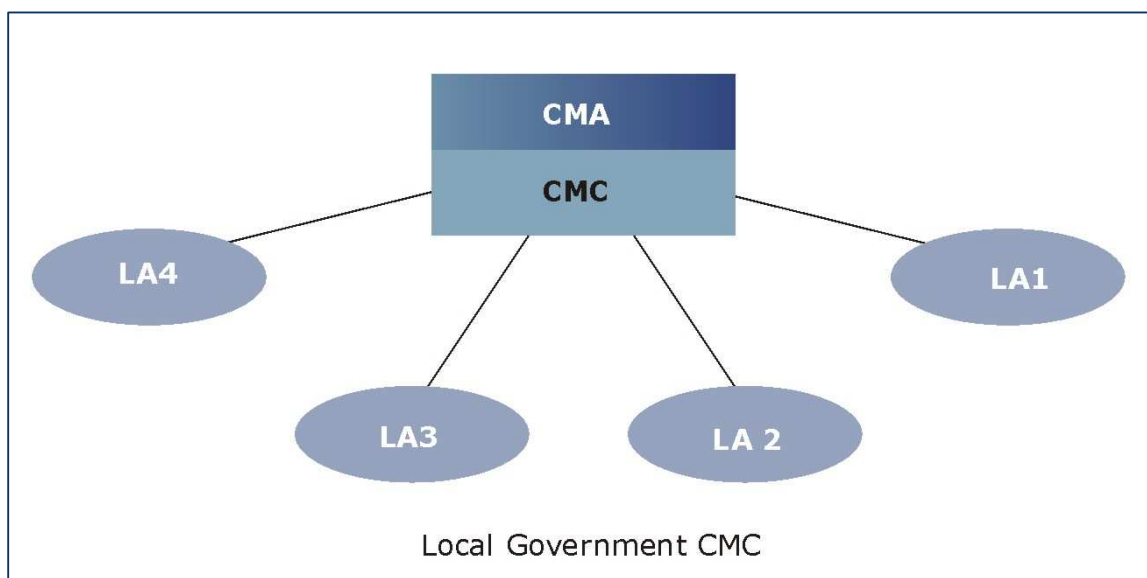
This refers to the structures that the two institutions may develop as the vehicles to drive cooperation. These structures are mainly developed to drive some of the institutional mechanisms above, as well as creating a link between the two institutions on matters that may directly affect each other. However, it should be stated that not all of them might be suited for CMA/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 for such bodies are possible, including:

- **Local Government Catchment Management Committee**

This is a committee that may be established by the 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).

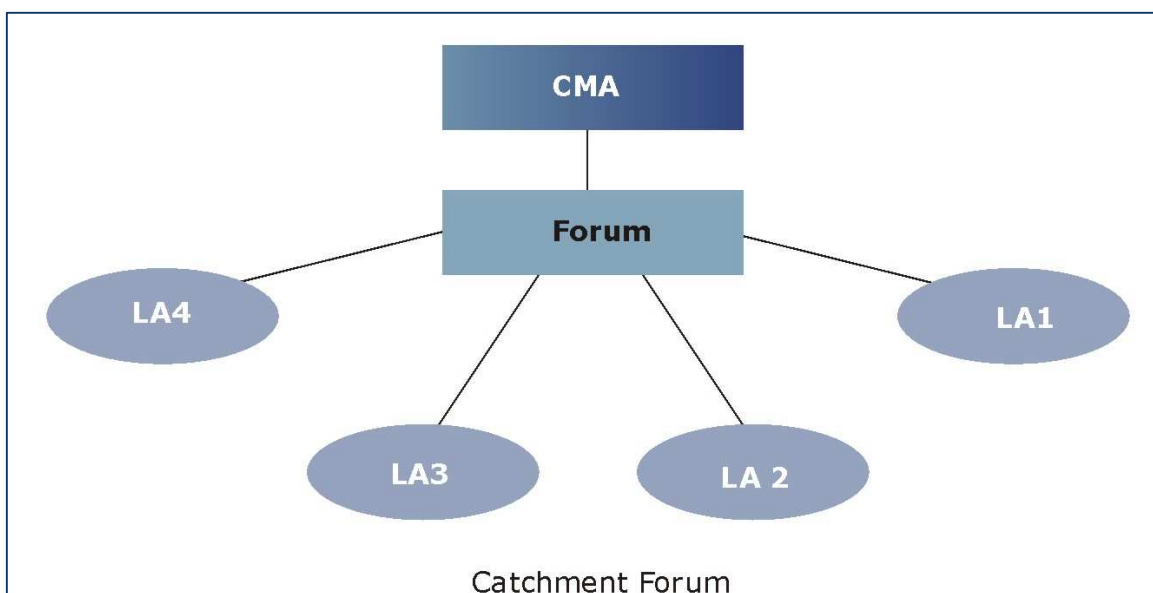
## CATCHMENT FORUMS



### ■ Catchment Forums

These are forums that provide an opportunity for different stakeholder groups in an area of the 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 the CMA and municipalities as government institutions.

## MUNICIPAL COMMITTEES



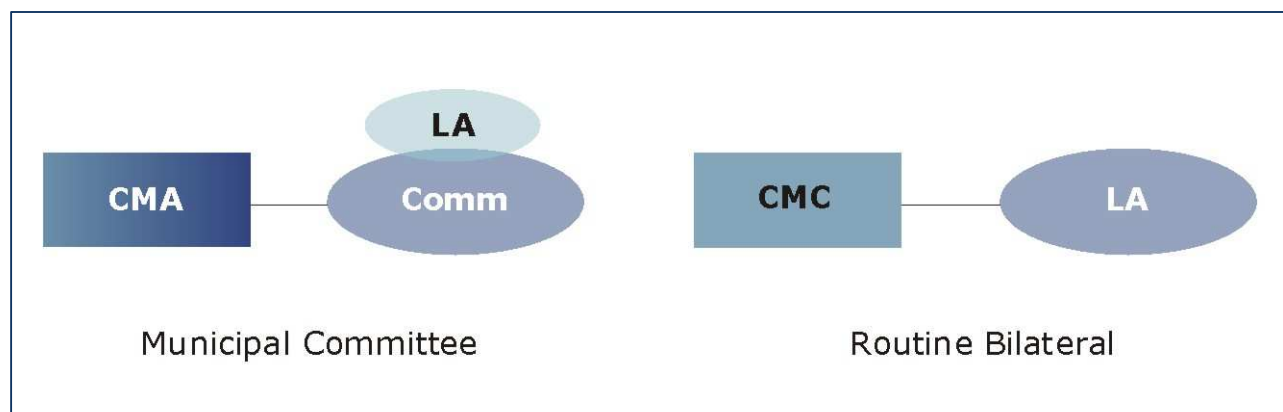
### ■ Municipal Committees

These are generally established to ensure the internal alignment of policy and 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 by these committees, and in some cases, make presentations to the committee.** It may, however, be possible to encourage larger, more capacitated and aware municipalities to establish an inter-departmental committee on catchment management, which the CMA may attend, particularly where this is a recognised activity for the municipality.

### ■ Routine Bilateral Meetings

These are meetings that may be set up between relevant components of the CMA and components within the 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 a CMA's perspective, but may be critical in dealing effectively with larger municipalities and metros.

#### ROUTINE BILATERAL MEETINGS



**CMAs 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 for continuity even with organisational and personnel changes, and can lead to the development of other mechanisms.

## Other issues for CMA/LG cooperation

### *Organisational design (CMA)*

The establishment of cooperative governance mechanisms between the CMA and municipalities will generally require human and/or financial resources by the CMA as the key proponent of this

cooperation (at least initially). It is advisable for the CMA to explicitly address this in their organisational design, particularly in terms of the organisational structure and the business plan. The **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.

### **Delegations 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 the delegation or contracting of 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 the CMA. The setting of charges on local government and 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 conflict and the **development of financial arrangements between the CMA and municipalities must therefore be done in the most transparent and consultative manner possible**, without jeopardizing the financial viability and sustainability of either the CMA 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 permission or authorisation processes, including authorisation of water use by the CMA (which should be in line with the development objectives of the municipality) and land use development by the municipality (which should consider the water resource 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 the CMA 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 the 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. **The CMA**

***should drive a process of WRM awareness creation and focused capacity building within the municipalities in its WMA,*** focusing appropriately on the political leadership, municipal management and officials.

## PART 4: PHASING OF COOPERATION

Understanding the nature and the environment under which some of the local government institutions function is critical. Secondly, it should be noted that cooperation with the CMA should be a phased process. CMAs also need to understand that local government has other pressing priorities, which may render CMA cooperation not a priority. It is therefore in a CMA's interests that it ensures that local government considers the CMA a critical component in the realisation of their goals.

### CMA establishment phases and LG cooperation

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

The CMA establishment process begins with the initiation of the participation process. This process is aimed at developing relationships between 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*

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 to 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 should not be a prerequisite, and local government may be part of the bigger CF within a WMA.

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 of the CMA 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 resource. This particularly refers to municipalities with an anticipated high impact 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 begin to highlight areas of cooperation.

The CF representing all stakeholders and a local government forum representing all local government institutions within a WMA may together establish a committee, e.g. 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 have representation from all the sectors/stakeholders affected by water resource activities. The Advisory Committee, based on the assessment process of a WMA, makes 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 role of the GB at this stage will be to appoint the CEO, and together, they will establish the institution by appointing managers and staff for the CMA.

### ***Local government cooperation in phase 2***

As a precursor to dealing with 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 Board. The political side of local governance has a huge role to play in this process, i.e. the council. This body, 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 on 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 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 is largely based on the functions that these institutions will be performing. These would gradually be implemented in a phased manner. Most of these activities would take place at an administrative level of engagement. However, there should be continued cooperation at GB level so as to provide a high-level strategic direction on cooperation.

### ***Phasing at administrative level***

The CMA functions begin with the initial functions that are performed immediately after establishment. The initial functions will, in a phased manner, be followed by the functions of management of 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.

#### **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 CMAs as:

- Developing a CMS
- Coordinating the activities of users and WMIs within the resource

- Alignment of CMSs and WSDPs of local government institutions
- Promoting community participation in WRM
- Providing advice on WRM

In ensuring cooperation with local government institutions, the CMA should involve local government in the initial functions above, particularly on CMS development and the alignment of strategies. Cooperation at this stage should start by making sure that local government forms part of the process of developing a CMS. This should be done through a **coordinated strategy development mechanism**.

In ensuring the participation of both institutions, appropriate institutional structures may be developed to ensure coordinated strategy development. It is also at this stage that the institutions should develop internal components to focus on promoting and developing alignment. These should further promote awareness, capacity building and support.

**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.**

#### Management of water use cooperation

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

In relation to local government, cooperation should be specific to activities performed by local government. In this phase, the institutions may develop a bilateral structure that is function-specific. Cooperative relations with district municipalities on integrated development planning and spatial development planning would be critical at this stage. Another bilateral structure may be developed with local municipalities 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 during cooperation in this phase.**

#### Authorisation (responsible authority)

This is the phase where CMAs begin to regulate water use as a responsible authority. 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). The CMA, in consultation with local government institutions, should determine the water tariffs.

## PART 5: THE WAY FORWARD

CMAs are new institutions in the process of being established. Their development comes within an environment where there are other institutions that have existed for longer periods. They may therefore encounter difficulties in their progressive development. While it is also understood that CMAs are organs of state based on a particular legislation and the Constitution giving them certain powers, it is in the interests of CMAs that they prioritise cooperation with other institutions based on mutual trust and the objectives of IWRM.

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

### Additional information

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