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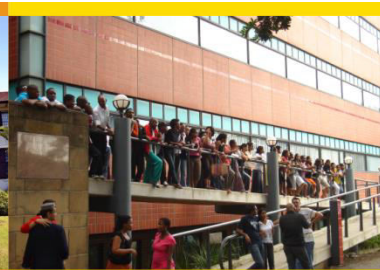
Compulsory Licensing under South Africa's National Water Act



EDGEWOOD CAMPUS



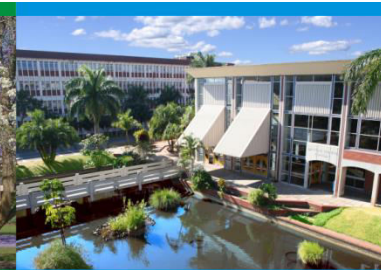
HOWARD COLLEGE CAMPUS



NELSON R MANDELA SCHOOL OF MEDICINE



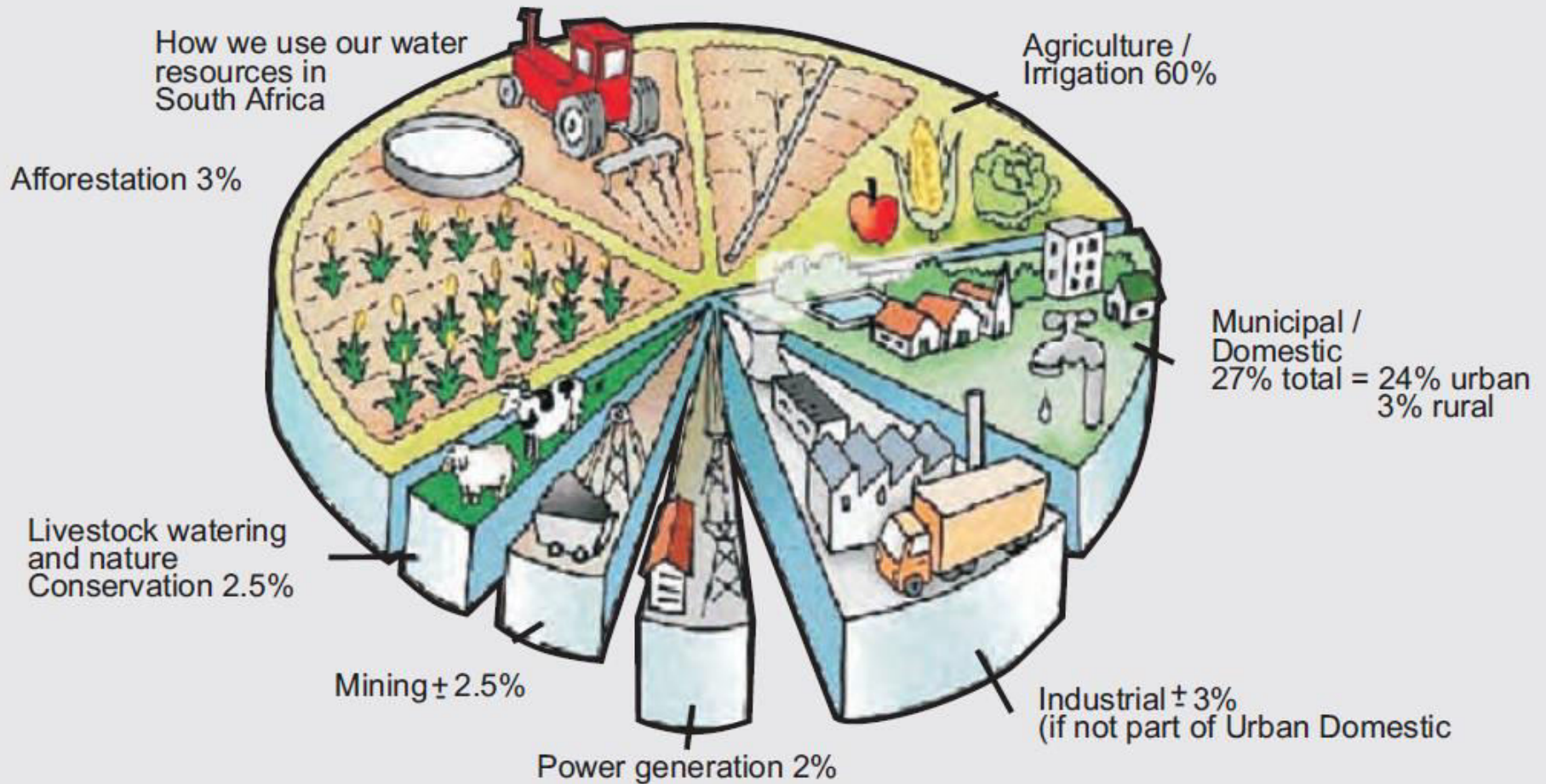
PIETERMARITZBURG CAMPUS



WESTVILLE CAMPUS

UKZN INSPIRING GREATNESS

Context



Source: NWRS 2 (2013)

Goals

- Efficiency
- Equity
- Sustainability

Why compulsory licensing?

- New Constitutional era – 1994
- New National Water Act 36 of 1998
- Water scarcity
- Existing lawful use – most productive water users still white farmers



water & forestry

Department:
Water Affairs and Forestry
REPUBLIC OF SOUTH AFRICA

CHIEF DIRECTORATE: WATER USE

WATER ALLOCATION REFORM

STRATEGY

September 2008

Water Allocation Reform

- Targets for allocation of water to Blacks

Table 2.1: National targets for water allocation

YEAR	TARGET
2014	30%
2019	45%
2024	60%

Water Allocation Reform

- Targets for allocation of water to women

Table 2.2: National targets for water allocation in respect of women

YEAR	TARGET
2014	30%
2019	40%
2024	50%

Equity

- Equity involves three aspects:
 - Equity in access to water services
 - Equity in access to water resources
 - Equity in access to benefits from water resource use through economic, social and environmental development and management.

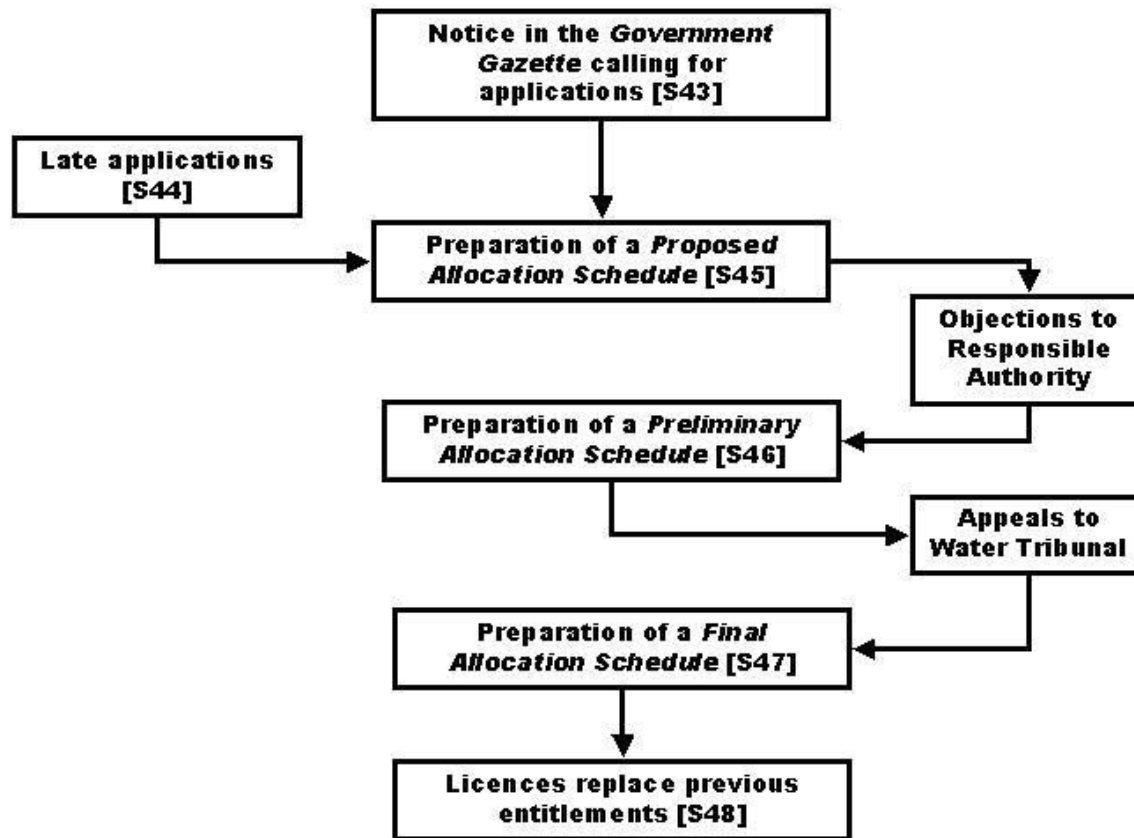
Water allocation priorities

1. The Reserve:
 - Basic human needs (25 lppd)
 - Ecological requirements
2. International requirements
3. Poverty eradication and greater racial and gender equity
4. Nationally strategically important uses
5. General economic purposes

NWA s 43

- **43 Compulsory licence applications**
- (1) If it is desirable that water use in respect of one or more water resources within a specific geographic area be licensed-
- (a) to achieve a fair allocation of water from a water resource ...-
 - (i) which is under water stress; or
 - (ii) when it is necessary to review prevailing water use to achieve equity in allocations;
- (b) to promote beneficial use of water in the public interest;
- (c) to facilitate efficient management of the water resource; or
- (d) to protect water resource quality,
- the responsible authority may issue a notice requiring persons to apply for licences for one or more types of water use ...

Compulsory licensing



Source: <https://www.dwa.gov.za/WAR/compulsorylicensing.aspx>

Compulsory licensing

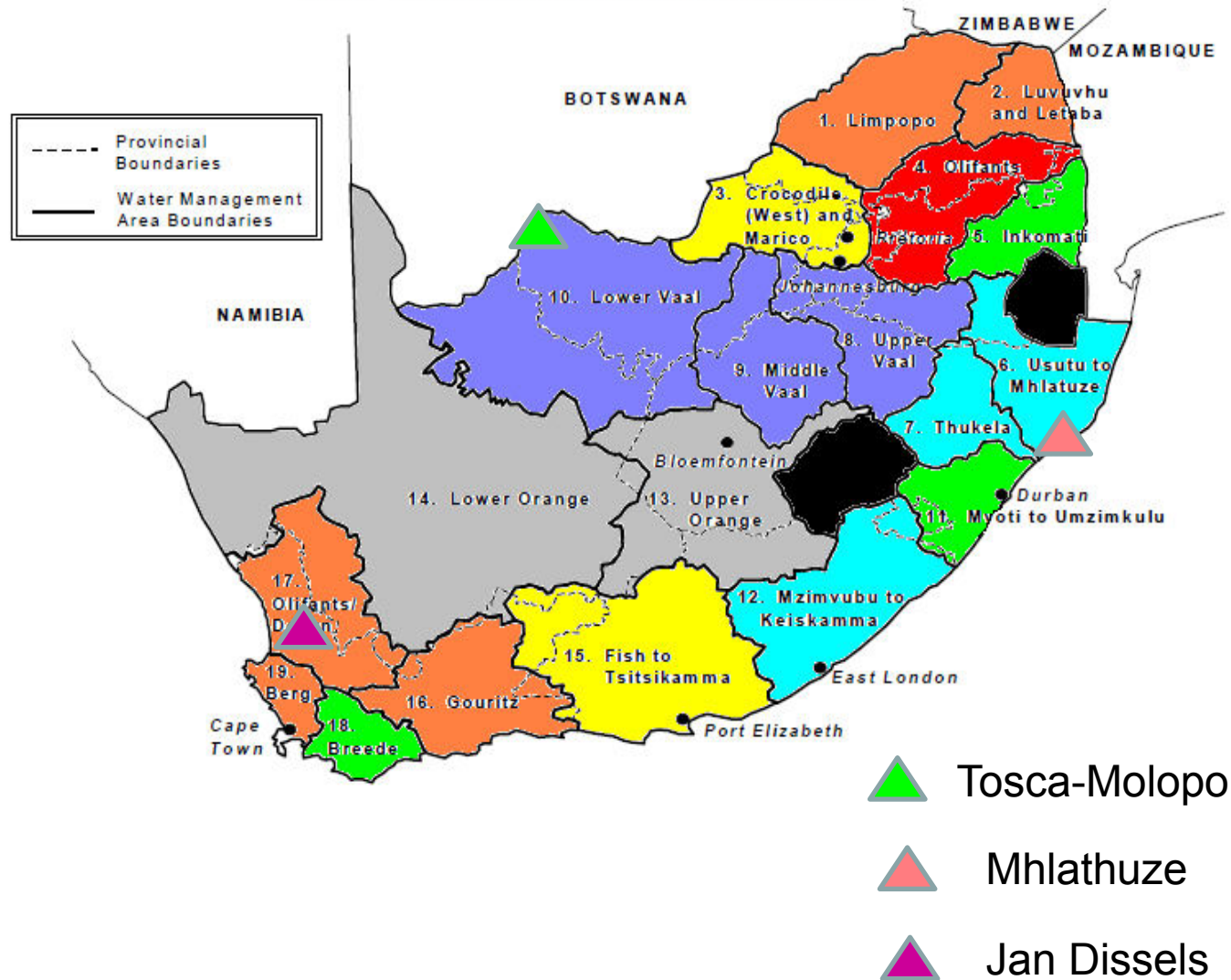
- Prior to call for applications
 - Preparatory – Catchment Assessment Report
 - Reconciliation
 - Implementation (diagram on previous page)

Source: <https://www.dwa.gov.za/WAR/compulsorylicensing.aspx>

Three processes

Area	First notice	Proposed allocation schedule	Preliminary allocation schedule	Final allocation schedule
Tosca-Molopo	12 Aug 2010	17 Dec 2010	20 May 2011	22 Jul 2011
Jan Dissels	20 Aug 2010	28 Sep 2012	8 Feb 2013	26 Apr 2013
Mhlathuze	12 Aug 2010	10 Aug 2012	14 Oct 2014	25 Mar 2015

WATER MANAGEMENT AREAS



Tosca-Molopo



Tosca-Molopo

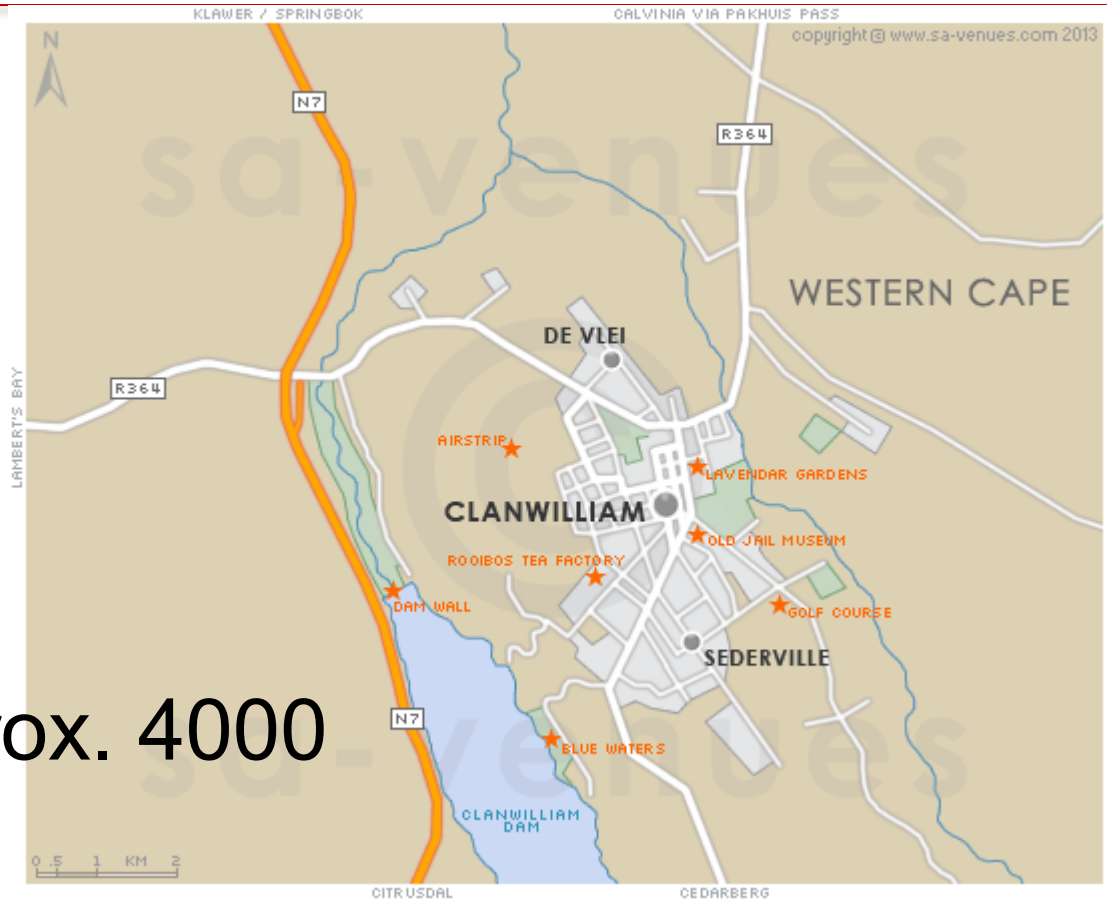


- Largely rural
- Population approx. 4500
- Size 1625 km²
- Groundwater only

Jan Dissels



- Largely rural
- Population approx. 4000
- Size 197 km²
- Primarily surface water

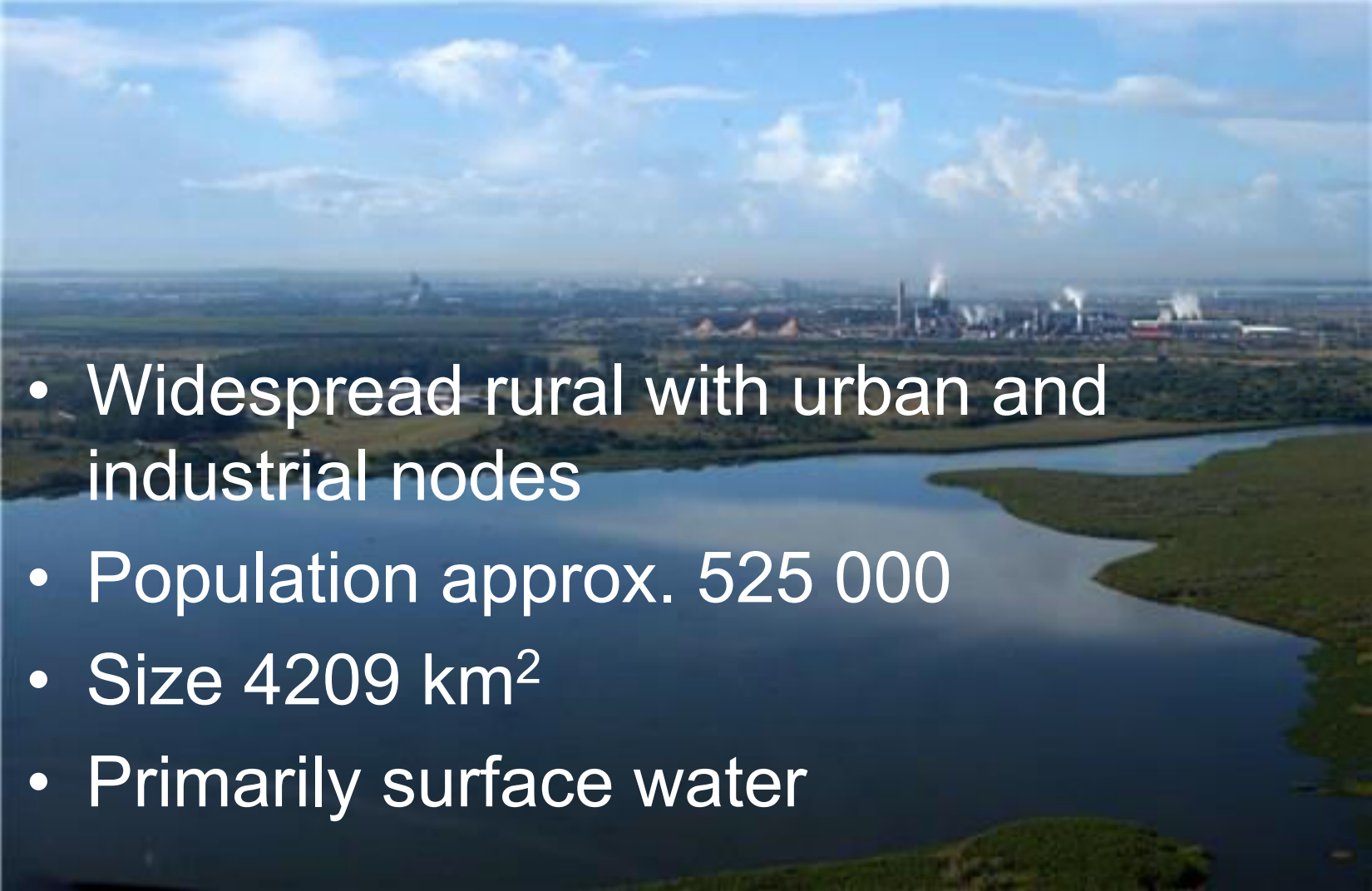


Mhlathuze

Water features



Mhlathuze

- 
- Widespread rural with urban and industrial nodes
 - Population approx. 525 000
 - Size 4209 km²
 - Primarily surface water

Comparative statistics

Area	Number licence applications	Volume applied for (million m ³ /annum)	Volume allocated (million m ³ /annum)	Number of licences
Tosca-Molopo	60	14,424	9,960	50
Jan Dissels	33	5,436	3,920	43?
Mhlathuze	670	401	288,088	1141

Analysis

- Complex process
- No international dimensions
- No appeals
 - Highlights importance of ongoing communication
- In all cases objective primarily to address water shortage

Analysis – CL for equity

- (Non) - alignment with land reform
- How to classify juristic persons?
- Successors in title
 - NWA s 51 (2): A successor-in-title of any person to whom a licence to use water has been issued-
 - (a) may, subject to the conditions of the relevant licence and paragraph (b), continue with the water use; and
 - (b) must promptly inform the responsible authority of the succession, for the substitution of the name of the licensee, for the remainder of the term.

Conclusions

- Land reform links with water allocation reform?
- Amendment of NWA re primacy of transformation (equity)?
- Food security?
- More difficult processes in future?