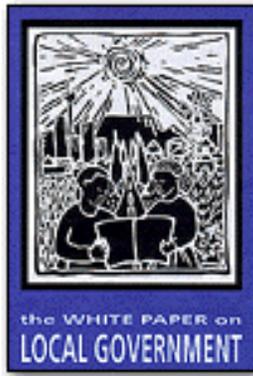


**The White Paper on Local Government
9 March 1998**



The White Paper is dedicated to the memory of Tshepiso Mashinini (1966-1998), chairperson of the White Paper Working Committee, and all the other women and men who contributed to the building of a democratic system of local government in South Africa

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FOREWORD BY MR MOHAMMED VALLI MOOSA
Minister for Provincial Affairs and Constitutional Development

South Africa has been given a rare and historic opportunity to transform local government to meet the challenges of the next century. Although local government will, until 1999, remain subject to the precepts of the transition process as regulated by the Local Government Transition Act, 1993, the new Constitution envisages a complete transformation of the local government system. In terms of the new Constitution, local government is a sphere of government in its own right and no longer a function of national or provincial government. Local government has also been given a distinctive status and role in building democracy and promoting socio-economic development.

The Ministry for Provincial Affairs and Constitutional Development has embarked on a policy process that will give effect to this new vision of local government. An intensive 18-month period of consultation and research has culminated in the White Paper on Local Government. This White Paper spells out the framework and programme in terms of which the existing local government system will be radically transformed. It establishes the basis for a system of local government which is centrally concerned with working with local citizens and communities to find sustainable ways to meet their needs and improve the quality of their lives.

In the development of this White Paper, every effort has been made to ensure that the process has been inclusive, interactive and transparent. A three-phase approach ensured that all stakeholders were included in the consultative process over the past eighteen months. The first phase of consultations resulted in a discussion document published in April 1997, containing the initial strategic questions to be addressed in the White Paper. The second phase, which consisted of issue-focused research processes, provincial and local workshops and other consultation mechanisms, resulted in the Green Paper on Local Government, which was released for public comment in October 1997. The third phase, consisting of Portfolio Committee hearings, a local government Summit, public submissions and sectoral consultative conferences, resulted in the White Paper on Local Government, which has been approved by Cabinet. Appropriate legislation will now be prepared to enact the policy directions contained in the White Paper.

This White Paper on Local Government is unique, as it does not deal with a sectoral policy, but with an entire sphere of government. It can almost be regarded as a "mini-Constitution" for local government, as it will affect all South Africans. Local government is the sphere of government that interacts closest with communities, is responsible for the services and infrastructure so essential to our people's well being, and is tasked with ensuring growth and development of communities in a manner that enhances community participation and accountability.

I would like to take this opportunity to thank everyone who has contributed their time and energy to this process to make it a truly unique and nation-building experience. I am convinced that this has laid the basis for a better life for all South Africans through an effective local government system.

Local government stands at the threshold of an exciting and creative era in which it can and will make a powerful impact on reconstruction and development in our new democracy.

FOREWORD BY MR PRAVIN GORDHAN
Chairperson of the White Paper Political Committee

The process of transforming the institutions of the South African state is premised on the fact that the new democratic state has a specific mission; that of meeting the new developmental objectives which will help to create a better life for all.

The policies in the White Paper are the result of a long process and an even longer history. A history of a strong civic movement, a history of popular participation, and the development of principles which will underpin local government structures through the years of struggle.

The process for developing a new policy for local government was done against the backdrop of globalisation and the redefinition of the nation state as well as a new emphasis on decentralisation.

The White Paper is the expression of the belief that our decentralisation of a special type can work. South Africa has developed a unique form of decentralisation in the context of the creation of three spheres which are required to govern in a cooperative manner.

Actually implementing the policies contained in this Paper will take a supreme effort, tremendous resilience and constructive participation of all role players. It will require our participation and rolling up of sleeves, our acting like citizens, as opposed to mere atomised consumers of municipal services. It will require very specific commitment and effort from national and provincial government and not in the least, from councillors and administrators within local government.

I believe that all who have contributed to developing this White Paper have succeeded in contributing to a formidable historic project; one of building a modern African state, which cares for its people, that is rooted in our history, in the soil of this land and this continent. We can be proud that this White Paper is a product from which people across the globe can learn, one which can take us into the next millennium and into our renaissance.

I must express my singular sadness at the passing away of Tshepiso Mashinini whose brilliant and energetic contribution played a pivotal role in the policy process.

I would like to thank you all who have contributed to this long history and process. Thank you specifically to those who have worked with Minister Moosa, Tshepiso Mashinini and myself on the actual writing of this paper which includes the White Paper Political Committee members (Mr Jomo Khasu, Mr Collin Matjila, Mr Sicelo Shiceka, Mr Lechesa Tsenoli and Mr Nhlanhla Zulu); Mr Zam Titus, Director General DCD, the White Paper Working Committee members (Mr Andrew Boraine, Mr Len Dekker, Mr Chris Heymans, Ms Lynelle John, Ms Jackie Manche, Mr Rudolph Mastenbroek, Mr Shoots Naidoo, Dr Crispian Olver, Adv Paddy Roome, Mr Richard Sizani, Dr Koos Smith, Mr Robert Willemse, Mr Roland White); the Editorial Team (Ms Dominique Wooldridge and Mr Patrick Cockayne) and the White Paper Secretariat (Ms MineeÇ Hendricks, Ms Marina van der Merwe and Ms Charmaine Hartman).

I trust, as I believe Tshepsio trusted, that the effort of writing this paper will, ultimately, be proven worthwhile.

INTRODUCTION / EXECUTIVE SUMMARY

Apartheid has fundamentally damaged the spatial, social and economic environments in which people live, work, raise families, and seek to fulfil their aspirations. Local government has a critical role to play in rebuilding local communities and environments, as the basis for a democratic, integrated, prosperous and truly non-racial society.

The Constitution of the Republic of South Africa (1996) mandates local government to:

- Provide democratic and accountable government for local communities.
- Ensure the provision of services to communities in a sustainable manner.
- Promote social and economic development.
- Promote a safe and healthy environment.
- Encourage the involvement of communities and community organisations in the matters of local government.

Local government must also promote the Bill of Rights, which reflects the nation's values about human dignity, equality and freedom, and uphold the principles enshrined in the Constitution.

Within the framework of the Constitution, this White Paper establishes the basis for a new developmental local government system, which is committed to working with citizens, groups and communities to create sustainable human settlements which provide for a decent quality of life and meet the social, economic and material needs of communities in a holistic way.

Section A: Current Reality, provides a brief history of local government under apartheid, which points to the origins of many of the problems currently faced by local government in South Africa. It highlights our history of community mobilisation, and locates the current transition process in its broader historical context.

This section also provides an outline of the current local government system, and discusses the specific strengths and weaknesses of the different models of transitional municipality created under the Local Government Transition Act. It points to the need for systems of metropolitan government which ensure that Metropolitan Councils have sufficient powers to fulfil their intended role; and to the need for flexibility in local government systems outside of metropolitan areas to accommodate the vastly different settlement types (ranging from large secondary cities to sparsely populated rural areas) which fall within the District Council system.

It also sketches the existing settlement patterns and trends in the country, and highlights the particular challenges which South Africa's unique settlement patterns pose for the new local government system.

The **second section** of this White Paper, **Developmental Local Government**, puts forward a vision of a developmental local government, which centers on working with local communities to find sustainable ways to meet their needs and improve the quality of their lives.

It discusses four characteristics of developmental local government, namely exercising municipal powers and functions in a manner which maximises their impact on social development and economic growth; playing an integrating and coordinating role to ensure alignment between public (including all spheres of government) and private investment within the municipal area; democratising development; and building social capital through providing community leadership and vision, and seeking to empower marginalised and excluded groups within the community.

It urges local government to focus on realising developmental outcomes, such as the provision of household infrastructure and services; the creation of liveable, integrated cities, towns and rural areas; and the promotion of local economic development and community empowerment and redistribution.

It also provides three approaches which can assist municipalities to become more developmental, namely integrated development planning and budgeting; performance management; and working together with local citizens and partners. It emphasises the potential of integrated development planning as a mechanism to enable prioritisation and integration in municipal planning processes, and strengthen links between the development and institutional planning processes. It proposes a process for the development of a performance management system for local government; and suggests ways in which municipalities can engage citizens and community groups in the affairs of the municipality in their capacities as voters, citizens affected by municipal policy, consumers and end-users of municipal services, and partners in resource mobilisation for the development of the municipal area.

The **third section** of this White Paper, **Cooperative Government**, situates local government within a system of cooperative government. It notes that, under the new Constitution, local government is a sphere of government in its own right, and not a function of national or provincial government. While acknowledging that the system of intergovernmental relations requires further elaboration, the section provides a preliminary outline of the roles and responsibilities of national and provincial government with respect to local government. It also provides a summary of national departmental programmes which impact on local government, and notes that local government is increasingly being seen as a point of integration and coordination for the delivery of national programmes.

This section concludes with a discussion on the role of organised local government, and horizontal relations between municipalities.

Section D deals with municipal **institutional systems**. It begins by highlighting the particular needs and circumstances which South African municipal institutions must cater for.

It then focuses on metropolitan municipal institutions, and puts forward three key motivations for the retention of metropolitan government systems in metropolitan areas, namely that metropolitan government provides a basis for socially just and equitable metropolitan governance, enables strategic land-use planning and coordinated public investment, and the development of a city-wide framework for economic and social development within the metropolitan area.

Two types of metropolitan government are proposed: Metropolitan government with Metropolitan Substructures, and metropolitan government with Ward Committees.

The system of metropolitan government with Metropolitan Substructures caters for metropolitan areas where a structured correspondence between political and administrative decentralisation is desired. The system of metropolitan government with Ward Committees allows for maximum administrative flexibility, but ensures that diversity within the metropolitan community is given voice through the establishment of decentralised Ward Committees.

The paper then discusses municipal institutions outside metropolitan areas, and motivates for a system of district government with responsibility for district-wide integrated development planning, infrastructural development, the provision of technical assistance to category (B) municipalities, and the direct provision of some municipal services in areas where category (B) municipalities lack the capacity to perform all municipal functions.

Three forms of category (B) municipality are proposed, namely urban municipalities, rural municipalities, and amalgamated urban-rural municipalities. Although the paper does not allow for the continuation of the existing Transitional Representative Council system or the "Remaining Area" system, it recognises that not all rural municipalities will be able to assume the full range of municipal powers and functions, and that, in a few exceptional circumstances where the establishment of category (B) municipalities are completely unviable, the district government may assume direct responsibility for the delivery of all municipal functions in the area.

The relationship between traditional leaders and local government is discussed. A cooperative model is proposed whereby traditional leadership will have representation on Category (B) and (C) municipal Councils. This model will apply in all areas of traditional leadership.

This section of the White Paper concludes by outlining the criteria for the demarcation of municipal boundaries.

The next section of the White Paper is concerned with municipal **political systems**, and begins by highlighting the importance of dynamic local political leadership.

It discusses the advantages of allowing for the delegation of executive powers by a municipal Council to either an Executive Committee or an Executive Mayor, and proposes that both options are accommodated.

The paper notes that Section 155 of the Constitution envisages some further differentiation between municipalities in addition to the different categories of municipalities provided for. It is proposed that municipal political systems provide a basis for such differentiation, and for the development of municipal types.

This section concludes by proposing a mixed municipal electoral system where the proportional representation component is geared to adjust distortions in representivity, and proposes an approach to reducing the number of municipal councillors.

The **seventh section** of this White Paper introduces the issue of municipal **administrative systems**. It notes that the local-level transition process has largely been concerned with the amalgamation of previously separated municipalities, and that significant changes to administrative systems have not yet taken place.

The bulk of this section focuses on service delivery systems, and a wide range of approaches to transforming municipal service delivery systems are put forward. While certain national interventions (such as the development of a regulatory framework for municipal public-private partnerships) are required to enable municipalities to utilise the full range of options available, each municipality is encouraged to develop its own institutional transformation programme and adopt the options which are best suited to its circumstances.

This section of the White Paper also outlines proposed changes to the local government training system, and stresses the pivotal role that the South African Local Government Bargaining Council will play in enabling the transformation of municipal administrative systems.

This section of the White Paper deals with municipal finance. It sketches the current situation, noting that while the aggregate size of the municipal budget in South Africa is significant, totaling over R48bn this year, there are vast disparities between the revenue-bases of different municipalities.

The paper puts forward a set of principles to guide the development of a new framework for municipal finance, and then elaborates the key aspects of that framework.

These include local revenue instruments and policies, where it is noted that while existing sources of municipal revenue should remain, some regulation of the property taxation system and the regional and establishment levies is required. Additional sources of revenue, such as a fuel levy and the extension of property taxation to rural areas, are explored. Municipalities are encouraged to develop clear tariff policies and credit control mechanisms, to ensure that poor households have access to basic services and that services are provided on a sustainable basis.

The second aspect of a framework for municipal finance discussed in the paper is intergovernmental transfers. The paper distinguishes between agency payments, capital transfers, and transfers to fund operating costs. The latter system is currently inconsistent and

inequitable, and will be restructured to introduce a formula-based system of transfers which will constitute the “equitable share” of national revenue to which local government is constitutionally entitled. The “equitable share” will be structured in a manner which enables all municipalities to provide a basic level of services to low-income households in their areas of jurisdiction at an affordable cost.

The final aspect of a framework for municipal finance addressed in the paper is leveraging additional investment in the municipal sector. Private sector investment in municipal infrastructure is required to meet the costs of inherited backlogs, and interventions to enable the involvement of both private sector institutions and public sector financial intermediaries are discussed.

This section concludes with a discussion of municipal budgeting, accounting, financial reporting and management systems, including generally accepted accounting practices, reserves, capital accounting, and internal and external reporting. It stresses the need for accurate financial information to enable sound financial management, private sector investment, and community involvement in municipal budgeting systems.

Finally, this White Paper puts forward an approach to **municipal transformation**. It notes that national government is committed to developing a stable and enabling framework in which change can occur, and providing a range of support mechanisms to assist municipalities during the transition. However, transformation ultimately rests in the hands of each municipality. Municipalities are encouraged to think critically about how they operate and relate to local communities, and to develop their own strategies for meeting local needs and promoting the social and economic development of communities in their areas of jurisdiction.

Strong and capacitated developmental local government has a substantial contribution to make to improving South African citizens' quality of life, and to the development of the nation. This White Paper outlines the systems which will make developmental local government a reality.

Section A: CURRENT REALITY

In this section:

This section provides a history of local government, an overview of the existing transitional system of local government, and an outline of settlement patterns and trends. It concludes by defining the challenge for local government.

1. A history of local government

Apartheid has left its imprint on South Africa's human settlements and municipal institutions. Transformation requires an understanding of the historical role of local government in creating and perpetuating local separation and inequity, and the impact of apartheid on municipal institutions. Equally important is the history of resistance to apartheid at the local level, and struggles against apartheid local government.

Racial segregation

Apartheid was not the beginning of geographic, institutional and social separation at the local level. Segregation was already a policy by the time apartheid was introduced in 1948. However, the Group Areas Act, the key piece of apartheid legislation, instituted strict residential segregation and compulsory removal of black people to "own group" areas. Through spatial separation, influx control, and a policy of "own management for own areas", apartheid aimed to limit the extent to which affluent white municipalities would bear the financial burden of servicing disadvantaged black areas. The Group Areas Act restricted the permanent presence of Africans in urban areas through the pass system, and reserved a viable municipal revenue base for white areas by separating townships and industrial and commercial development.

Various attempts were made under apartheid to introduce "own management" structures for black residents at the local level. This was in part to compensate for restricted rights, and in part to bolster the political and economic privileges of racial exclusion.

- In bantustans, limited local government was established. Traditional leaders were given powers over land allocation and development matters in areas with communally owned land. Some small rural townships (the so-called "R293 towns") were given their own administrations, but these lacked real powers.
- In the 1960s, "Coloured" and "Indian" management committees were established as advisory bodies to white municipalities.
- The Bantu Affairs Administration Act of 1971 established appointed Administration Boards, which removed responsibility for townships from white municipalities.
- In 1977, Community Councils were introduced. Community Councils were elected bodies, but had no meaningful powers and few resources. They never gained political credibility.
- In 1982 Black Local Authorities replaced Community Councils. Black Local Authorities had no significant revenue base, and were seen as politically illegitimate from the start. They were rejected by popular (and sometimes violent) community mobilisation in the mid-1980s.

To some extent these forms of "own local government" acknowledged the permanent presence of black people in urban areas. However, they were designed to reinforce the policies of segregation and economic exclusion. None had resources to make any real difference to the quality of life of their constituents.

Financial constraints

Historically, most local government revenue in urban South Africa was self-generated, mainly through property taxes and the delivery of services to residents and business. This particularly suited white municipalities which had small populations to serve and large concentrations of economic resources to tax.

Financial shortfalls were built into local government for black areas. Apartheid regulations barred most retail and industrial developments in black areas. This limited the tax base and

forced residents and retailers to spend most of their money in white areas. Municipalities in black areas were therefore deprived of the means to meet the needs of local residents.

In rural areas, discrimination and segregation were equally stark. Water and electricity were supplied to white residents in rural areas at enormous cost, while scant regard was given to the needs of the rural majority. Crisis and collapse were inevitable.

Communities began to mobilise against the apartheid local government system. At its launch in 1983, the United Democratic Front gave prominent attention to the Koornhof Bills which established the Black Local Authorities.

Black Local Authorities attempted to impose rent and service charges on township residents to increase revenue. This revenue source could never have provided for meaningful delivery. It only served to anger increasingly politicised communities. The rejection of Black Local Authorities in the mid-1980s led to a popular uprising which shook the foundations of the apartheid order.

Protesting against a distorted system

As the 1984 uprising gathered momentum, civics and other community bodies started to organise. Their rallying cry was the appalling social and economic conditions in townships and bantustans. Their chief weapons were the organised boycott of rents and service charges, and consumer boycotts. For the first time people began to protest systematically against the way human settlements were spatially and economically distorted.

In the late 1980s the apartheid state attempted to prop up collapsing Black Local Authorities and calm political tensions by redirecting funds to disadvantaged areas. A system of ad-hoc intergovernmental grants was developed to channel resources to collapsing townships. Regional Services Councils and Joint Services Boards were established to channel funds to black areas. However, these interventions were "too little too late". By the late 1980s most townships and many homeland rural areas were effectively ungoverned, and it was clear that Black Local Authorities (or any similar structures) would never be viable.

The crisis opened up by the collapse of the apartheid local government system eventually led to the realisation that a new deal was needed. White municipalities, experiencing the financial impact of organised consumer, service and rent boycotts, began to enter into negotiations with township representatives. Initially these forums were little more than crisis management structures. However, these initial talks formed the basis for later local negotiations, and the system of local government we have now.

Local forums recognised that the legal constraints which separated black residents from the municipal tax base had to be addressed nationally. The popular slogan, "One City, One Tax Base", could only be realised through national legislation. Local forums collectively pushed for the establishment of a national forum, the Local Government Negotiating Forum.

An incomplete transition

The crisis in local government was a major force leading to the national reform process which began in 1990. National debate about the future of local government took place in the Local Government Negotiating Forum, alongside the national negotiating process.

The Local Government Negotiating Forum framed the Agreement on Finance and Services writing off arrears to Black Local Authorities. It also negotiated the Local Government Transition Act of 1993. The Local Government Transition Act did not provide a blueprint for a new local government system but simply sketched a process for change. The process put forward in the Local Government Transition Act was essentially a locally-negotiated transition and it has resulted in a wide diversity of forms of local government.

The Local Government Transition Act mapped out three phases of transition:

- **The pre-interim phase**, which prescribed the establishment of local forums to negotiate the appointment of temporary Councils, which would govern until municipal elections.

- **The interim phase**, beginning with municipal elections and lasting until a new local government system has been designed and legislated upon.
- **The final stage**, when a new local government system will be established.

We are now in the interim phase. The Local Government Transition Act has effectively deracialised the system of local government through the amalgamation of former racially-based structures. However, real transformation has yet to occur. The weaknesses of the Local Government Transition Act, such as its urban bias and the lack of structured support processes to enable municipalities to manage the change process, are reflected in our current municipal system. Further, the compromises reached during the negotiation of the Local Government Transition Act, such as the delimitation of wards in a manner which skewed representation and the requirement that municipal budgets must be approved by a two-thirds majority, will remain in force until the final phase of the transition.

While newly elected councils in many areas have made significant progress in addressing backlogs and extending services, they face many constraints. The huge infrastructural disparities and inequalities resulting from apartheid local government remain. The transition process has clearly shown that delivery on new municipal mandates cannot be achieved within the existing institutional framework.

2. The current state of local government

2.1. The different forms of municipality

Our existing interim system of local government comprises a number of different municipal institutions. Each presents specific challenges:

Metropolitan Councils with Metropolitan Local Councils

This two-tier system comprising a Metropolitan Council and Metropolitan Local Councils has been established in six areas: four in Gauteng Province (Greater Johannesburg Metropolitan Council, Vaal/Lekoa Metropolitan Council, Pretoria Metropolitan Council and Khayalami Metropolitan Council) together with the Durban Metropolitan Area and the Cape Metropolitan Area. A clear definition of metropolitan areas is required to determine whether all these areas should retain Metropolitan Councils, and if other areas in the country should be designated metropolitan areas.

There is considerable variation in the size of the current areas of jurisdiction of both Metropolitan Councils and Metropolitan Local Councils, and in the number of Metropolitan Local Councils within each metropolitan area. Metropolitan Local Councils perform different functions in different metropolitan areas, and some have assumed a wider range of service delivery functions than others. Generally, metropolitan residents have not identified with the new Metropolitan Local Council boundaries, and large Metropolitan Local Councils (sometimes with over a million residents) have struggled to facilitate community participation in municipal affairs.

The Local Government Transition Act allowed for a local negotiation process to define the allocation of powers and functions between the Metropolitan Council and Metropolitan Local Councils. This has resulted in different allocations in each area. In some cases the location of municipal functions does not enable sound management and administrative practices, and simply reflects the balance of local power relations. The current lack of clarity regarding the specific powers and duties of each tier has resulted in considerable confusion and inefficiency, and in some instances has strained relations between the Metropolitan Council and Metropolitan Local Councils.

All Metropolitan Councils are responsible for redistribution across the metropolitan area. In all cases some redistribution occurs between high-income and low income consumers of services, and through the allocation of Regional Services Council levies (employment and turnover levies) to underdeveloped parts of the metropolitan area. In some metropolitan areas a metropolitan levy is also charged on Metropolitan Local Councils, and re-allocated across

the metropolitan area. These mechanisms for intra-metropolitan redistribution are not optimal, do not facilitate targeted redistribution, and have resulted in significant tensions.

The current transitional arrangements are not optimal for addressing many of the service delivery, governance and management problems within metropolitan areas. A new system of metropolitan government will need to be more clearly defined, and provide both clear guidance on the role of metropolitan government, and sufficient powers to fulfil this role.

District Councils

There are considerable variations in the size of the budgets and staffing complements of District Councils. The Local Government Transition Act did not provide for clear powers for District Councils. Their powers and functions are determined by provincial proclamations which differ from province to province. Hence the roles played by District Councils vary.

In most of the country District Councils build on the old Regional Services Councils and Joint Services Boards. In some areas District Councils are completely new structures established during the transition. Generally they are responsible for the bulk service functions of the old Regional Services Councils, and in some areas they also provide municipal services directly to the public.

District Councils have been tasked with assisting in the development of new primary structures in rural areas. Most District Councils have sufficient managerial and technical capacity to fulfil 'original' (or old Regional Service Council) functions. However, some have been slow to implement new functions (including support to rural municipalities, and direct delivery on their behalf). Others have been innovative in assisting small towns and rural areas, and in extending services to poor rural communities. Some have adopted a flexible approach to addressing priority issues that are not formally within their functional scope. Most, however, have not adopted a major role as development agents.

District Councils have a strong redistributive function. However, this redistributive function is not without problems. The large proportion of District Council levy income is collected from urban areas. These urban municipalities complain that not enough of this income is re-invested in urban infrastructure. Furthermore, wealthy metropolitan areas do not fall within District Council areas. Levy income collected in metropolitan areas is thus used exclusively for the metropolitan area. This can be perceived as unfair to non-metropolitan urban areas - it potentially reinforces the development disadvantages of struggling urban centres outside of the major cities. The role of District Councils in redistribution is complicated in some cases by powerful special interest groups, who continue to wield undue influence over the allocation of funds.

District Councils operate in very different contexts and serve areas of very different size and settlement patterns, ranging from areas of dense settlements to vast, sparsely populated regions. Generally, District Councils are significant centres of municipal capacity, and consideration should be given to building on this capacity in the design of a new local government system.

Transitional Local Councils

A Transitional Local Council model has been applied to most urban areas, ranging from major cities to small rural towns, with very different economic and social realities.

There are major variations in the capacities of municipalities serving cities and larger towns on the one hand, and small towns on the other. Municipalities in cities and larger towns face problems of poverty and uneven development, but have relatively solid administrative and financial capacity. This enables them to address their current responsibilities to a significant extent with their own resources.

Many small town municipalities, on the other hand, do not have the financial, administrative or service delivery potential to provide adequate services and governance without strong external support or rationalisation. District Councils are increasingly providing financial, accounting and other administrative services for smaller municipalities on an agency basis.

Rural Councils

There are three forms of government in rural areas:

- _ Transitional Representative Councils.
- _ Transitional Rural Councils.
- _ District Councils with Remaining Areas.

Transitional Representative Councils have only a representative function and no executive powers. Although they can assume executive powers as their capacity increases, in most cases few powers and duties have been devolved to Transitional Representative Councils due to their lack of capacity. Transitional Representative Councils generally do not have their own administrations, and are little more than advisory structures to District Councils. They rely on District Councils for administrative, technical and financial support.

Transitional Rural Councils have similar powers to their urban counterparts (Transitional Local Councils), although not all Transitional Rural Councils fulfil all the functions of a Transitional Local Council. Transitional Rural Councils have taxing powers but they have limited potential to generate adequate tax and service charge revenue. They rely on grants from and through the District Councils. This financial support is limited, and the basis for transfers is not clearly defined. This leads to a degree of financial uncertainty.

In some cases, the separation of rural areas from cities and towns has imposed artificial political and administrative boundaries between areas that are otherwise functionally integrated. It also creates inequity for rural residents who contribute to the town's economy but don't benefit from its resources.

In parts of the country there are no primary rural government structures, and the District Council administers what are termed Remaining Areas. In these areas voters directly elect representatives onto the District Council through proportional representation.

The limited powers and resources of rural municipalities, and their consequent inability to serve local communities, have diminished their credibility. This poses a threat to the future development of local government in these areas.

The transitional models of Rural Councils have been applied to a range of vastly different contexts, from sparsely populated commercial farmland to densely settled areas in former homelands. The very different contexts which are categorised as "rural" imply the need for a flexible system of municipal government in rural areas, and a flexible approach to providing municipal services in these areas.

While the unique challenges of each form of municipality need to be considered, a number of more general issues should also be taken into account.

2.2. Local government finance

The amalgamation of previously divided jurisdictions has massively increased the population which municipalities must serve, without a corresponding increase in the tax base. Combined with service backlogs, collapsed or deteriorating infrastructure, and deteriorating creditworthiness and borrowing capacity, municipalities are experiencing financial stress, and in some instances crisis. Municipalities are also experiencing upward pressure on salaries and the loss of experienced finance personnel. Although payment for services is improving, problems related to non-payment for services remain. Extending effective property taxation to the former township areas has also proved difficult.

Some municipalities have inadequate financial management capacity, and as a result budgeting, accounting, credit control and financial reporting systems are weak. The budget process is often not properly linked to municipal planning, and is not always open to community participation. In some cases revenue is overstated, resulting in unrealistic budgets.

These problems have put pressure on municipal cash flows and financial management. Many municipalities have responded by spending accumulated reserves, reducing capital expenditure, deferring payments to vendors, utilising bridging finance, and refinancing or extending their long-term debt. The results of national government's monitoring exercise, Project Viability, have confirmed a generally deteriorating aggregate financial position within the local sphere. However, there are great differences between municipalities with respect to their financial position, and many municipalities are financially stable and healthy despite these difficulties.

2.3. Administration

Most municipalities have undergone some administrative changes as a result of the amalgamation process. However, many administrations are still organised in much the same way as before, and most have not made significant progress with respect to transforming service delivery systems. Many municipal administrations are still characterised by hierarchical line departments, poor coordination between line departments, and authoritarian management practices. Front-line workers remain de-skilled and disempowered, and women and black people are not adequately represented in management echelons. In many cases the lack of performance management systems and poor internal communication contribute to inefficiency in service delivery.

The changed mandate of local government (with additional developmental functions) requires new capacities, attitudes and approaches, which are only beginning to emerge. Relations between municipal Councils and the administration, between management and the workforce, and between the municipality and service-users, need to be improved.

Some progress has already been made with respect to improving the training and labour relations systems, which have historically been poorly organised and ineffective. Agreement has been reached on a process to restructure the training system, and the South African Local Government Bargaining Council has recently been established.

Significant support and investment are required to build administrative capacity for the new local government system.

2.4. Legislative complexity

There have been changes in the local government system since 1993. However, many of the laws and regulations which supported the old system remain in effect (see Annexure A). In one way or another, these continue to impact on the operation of new municipalities. These inherited pieces of legislation are often applied differently in different parts of the country, resulting in considerable confusion and uncertainty. The current legislative complexities and legal vacuums have to be addressed. The body of inherited law must be rationalised to support the new vision and role identified for local government.

2.5. Powers and functions

Local government has a range of powers and functions at its disposal. Definitive municipal powers are defined in the 1996 Constitution, in Part B of Schedules 4 and 5:

The powers listed in Schedule 4, over which national and provincial government have concurrent legislative competence, include:

air pollution; building regulations; child care facilities; electricity and gas reticulation; fire fighting services; local tourism; municipal airports; municipal planning; municipal health services; municipal public transport; municipal public works (only in respect of the needs of municipalities in the discharge of their responsibilities to administer functions specifically assigned to them under the Constitution or any other law); pontoons, ferries, jetties, piers and harbours (excluding the regulation of international and national shipping and matters related thereto); stormwater management systems in built-up areas; trading regulations; water and

sanitation services (limited to potable (drinkable) water supply systems and domestic waste water and sewage disposal systems).

National and provincial governments have the right to legislate on these powers and functions, and the executive authority to ensure that municipalities perform these functions adequately.

The powers listed in Schedule 5, over which provincial government has exclusive legislative competence, include:

beaches and amusement facilities; billboards and the display of advertisements in public places; cemeteries, funeral parlours and crematoria; cleansing; control of public nuisances; control of undertakings that sell liquor to the public; facilities for the accommodation, care and burial of animals; fencing and fences; licensing of dogs; licensing and control of undertakings that sell food to the public; local amenities; local sports facilities; markets; municipal abattoirs; municipal parks and recreation; municipal roads; noise pollution; pounds; public places; refuse removal; refuse dumps and solid waste disposal; street trading; street lighting and traffic and parking.

Other local government powers are defined in national and provincial legislation. For example, the Local Government Transition Act (Second Amendment Act) gives local government powers for integrated development planning.

In addition, municipalities have potential powers and functions that may be devolved or delegated to them from provincial and national government. These national and provincial powers and functions are listed in Part A of Schedules 4 and 5 of the 1996 Constitution. The Constitution provides for the delegation of powers and functions to local government by agreement, if municipalities have the necessary capacity and are regarded as the most effective site from which these powers may be exercised. Again local government's exercise of these powers and functions is subject to national and provincial oversight.

Local government's core function needs to be understood as part of the functioning of the state and its three sphere government system as a whole. The constitutional definition of local government's powers and functions in relation to provincial and national government, is, however, ambiguous in some respects, and requires further clarification. This situation is further complicated by the fact that most powers and functions have several components, not all of which are best performed by the same sphere of government. The Constitution makes these distinctions to some extent (for example, between trade and trading regulations) but grey areas remain.

2.6. Global and national trends

No municipality can ignore the economic changes taking place in its locality, in the surrounding region, in the nation, and globally. The rise or decline of industries can have a marked impact on local income, employment and tax revenue.

Globalisation, or the internationalisation of capital, production, services and culture, has had, and will continue to have a major impact, in particular on metropolitan areas. The logic of transnational corporations, the fact that economic transactions and the integration of systems of production occur on a world-wide basis, and the rapid development of information technologies, have resulted in the emergence of the so-called "global economy". In this context large cities become the nodes or points of contact which connect economies across the globe.

The Growth, Employment and Redistribution (Gear) strategy places greater emphasis on an export-oriented economy, and will lead to increased international openness and competition. The ultimate aim is to achieve internationally competitive industries and enhance economic growth and well-being. In the immediate term, municipalities will need to manage the consequences of globalisation - such as the restructuring and relocation of industries.

Local government has an interest in attracting investment based on promoting the comparative advantages of the area for competitive industries, as well as supporting the growth of local enterprises. It will become increasingly important for municipalities to find the right balance between competition and co-operation among themselves. While some competition will improve both efficiency and innovation, co-operation between South African municipalities is necessary to enhance the performance of the national economy as a whole, and to avoid damaging forms of competition between municipalities.

2.7. The transition process

Municipalities are all experiencing problems arising from the transition process. Costly and complex administrative reorganisation has tended to focus municipalities' capacity inwards, rather than towards their constituencies and delivery. Prolonged uncertainty about powers, functions, areas of jurisdiction and a host of other matters affecting local government have added to the problem. At the same time, municipalities have faced increasing demands and expectations on delivery, often without an increase in the resources to deal with these demands, or even with shrinking subsidies. They have also faced the difficult task of realigning their operations with a range of sectoral policies and programmes. Overall there has been a lack of information and capacity.

While grappling with inherited inefficiencies and inequities, municipalities have also had to put in place a system of democratic and equitable governance, often in the face of resistance from a range of local players who benefited under apartheid.

It is essential for the successful implementation of a new system of local government that programmatic support is provided to municipalities to assist them during the next phase of the transition process.

The transition process has resulted in a local government system consisting of 843 municipalities and over 11 000 democratically elected councillors. Approximately one third of municipalities are facing serious financial difficulties or administrative problems. Serious consideration needs to be given to reducing the number of municipalities and councillors to enhance the viability of the local sphere.

3. Settlement patterns and trends

3.1. Introduction

Given the diversity of settlements across the country, an understanding of settlement types is critical for policy-makers seeking to create appropriate municipal institutions.

- Settlement dynamics have a major influence on the resource demands made on local government, particularly demands for access to basic services and infrastructure. Factors such as the population density and economic base of a settlement influence proximity to bulk services, the cost of installing services and levels of affordability for households. Settlement conditions therefore need to be taken into account when defining approaches to service delivery and appropriate municipal institutional arrangements.
- Changes in population distribution affect the size of *functional boundaries**. Boundary demarcation needs to take into account, and anticipate, the population distribution and concentration which is to be served by any municipality.

3.2. Settlement types

There is no simple categorisation of settlement types, and the definition of “urban” and “rural” is hotly debated. However, the following loose categorisation of settlement types is intended to facilitate an understanding of the diversity of settlements, and also to facilitate discussions on appropriate municipal institutions for the different settlement types:

URBAN CORE refers to the formal city and town, including the former white municipal and former townships areas. A key characteristic of these areas is their high population density,

with generally over 10 dwelling units per hectare. These areas are characterised by high levels of economic activity, and consequently higher land values.

URBAN FRINGE refers to various settlement conditions which exist within the boundaries of municipalities, but outside the urban core. This includes low-income settlements on the outer edges of towns and cities, many of which display middle order densities and large service backlogs. However, it also includes high-income low-density settlements, particularly on the peripheries of metropolitan areas.

SMALL TOWNS, most of which have intermediate density levels and the characteristic apartheid urban form - a former white area with intermediate to high service levels, and former black areas with more limited access to services. Small towns vary greatly, but most are economically and socially linked to surrounding rural hinterlands.

DENSE RURAL SETTLEMENTS: There are two predominant kinds of dense rural settlement, namely:

“**BETTERMENT**” **SETTLEMENTS**, which are common in the former homeland areas. These are dense, planned settlements, with populations of over 5 000 people.

INFORMAL SETTLEMENTS, which are unplanned and largely unserved, with populations of over 5000 people. Some are close to urban areas, and others are located in rural areas with a minimal local economic base. Some intensive commercial farming settlements also fall within this category.

VILLAGES, or smaller rural settlements with populations of more than 500, but less than 5 000 people. These are often unplanned traditional settlements or resettlement areas.

AGRI-VILLAGES are planned, dense settlements in rural areas, which service the surrounding farms.

DISPERSED OR SCATTERED SETTLEMENTS, which are mostly unplanned homestead settlements with a population of less than 500 people. Extensive settlements in commercial farming areas, some located on communal land and others on privately owned land, also fall within this category.

Each category is complicated by variations in features such as land tenure systems.

Each of the settlement types described above contains a diversity of communities and households and individuals whose relationships to their living space are shaped by the activities, interactions, needs and opportunities that colour their daily lives. These “Communities” and “households” are not homogeneous categories in which everyone is the same. Different people have different starting points in life - determined by such factors as gender, class, and race - and different opportunities to access resources and influence decision-making. Within communities and households, power dynamics can develop which see some people gain access to resources and power, and others marginalised or excluded.

Local government is uniquely placed to analyse and understand power dynamics within a community, and ensure that those who tend to be excluded and marginalised can become active and equal participants in community processes and the transformation of the settlements where they live.

3.3. The implications of current settlement patterns

Over half of the nearly 40 million people who live in South Africa are currently urbanised. Increased urbanisation, from natural urban population growth and migration from rural to urban areas, is expected to continue and result in dramatic increases in the proportion of urbanised citizens over the next two decades. Metropolitan areas and secondary cities are expected to absorb most of this growth. The population of rural areas is not expected to grow substantially - either as a proportion of the total population, or in absolute terms (in total).

The end of apartheid and the removal of legal restrictions to movement (influx control and group areas), demarcation of new boundaries, and migration trends within the Southern African sub-region have not (yet) meant fundamental change in national population distribution, urbanisation and migration. However, research reveals that profound changes may be under way in migration trends and settlement patterns, which will have a major impact on local government in the years to come.

Apartheid influenced South African settlement patterns in profoundly inequitable ways, and imposed enormous costs on mobility between rural and urban areas, and within urban areas. Municipalities can play a key role in transforming settlement types, and in addressing some of the existing distortions.

4. Defining the challenge for local government

A new local government system needs to build on the strengths of the current system. Equally it needs to address its weaknesses, and build the capacity of municipalities to address the considerable challenges they face.

4.1. Challenges facing South African municipalities

Municipalities the world over face the challenge of managing viable and environmentally sustainable urban and rural systems. South African municipalities face additional challenges, including the following:

- **Skewed settlement patterns**, which are functionally inefficient and costly.
- **Extreme concentrations of taxable economic resources** in formerly white areas, demanding redistribution between and within local areas.
- **Huge backlogs in service infrastructure** in historically underdeveloped areas, requiring municipal expenditure far in excess of the revenue currently available within the local government system.
- **Creating viable municipal institutions for dense rural settlements** close to the borders of former homeland areas, which have large populations with minimal access to services, and little or no economic base.
- **Great spatial separations and disparities between towns and townships and urban sprawl**, which increase service provision and transport costs enormously. Most urban areas are racially fragmented, with *discontinuous land use** and settlement patterns. Municipalities in urban areas will need to develop strategies for *spatial integration**, while managing the continuing consequences of rapid urbanisation and service backlogs.
- **Creating municipal institutions which recognise the *linkages** between urban and rural settlements**. There is a wide variety of urban settlements, ranging from those which play the roles of local or regional service centres (supplying services to rural areas and other towns), to functionally specialised towns (such as mining towns) and administrative centres (common in former homeland areas). Importantly, almost all towns are functionally linked to rural areas, relying on their *hinterlands** for productive economic activity and providing critical centres for the delivery of social services.
- **Entrenched modes of decision-making, administration and delivery** inherited from municipalities geared for the implementation of urban and rural apartheid.
- **Inability to leverage private sector resources for development** due to a breakdown in the relationship between capital markets and municipalities, the lack of a municipal bond market and the poor creditworthiness of many municipalities.
- **Substantial variations in capacity**, with some municipalities having little or no pre-existing institutional foundations to build on.
- **The need to rebuild relations between municipalities and the local communities they serve**. Municipalities should be particularly sensitive to the needs of groups within the community who tend to be marginalised, and responsive and accessible to people with a disability.

5. Concluding comment

Local government has been given a new constitutional mandate to create and sustain humane, equitable and viable human settlements. It is doubtful whether local government - as presently designed - is adequately equipped to fulfil this developmental mandate. Local government has been democratised, but the local government system is still structured to meet the demands of the previous era. A fundamental transformation is required.

SECTION B: DEVELOPMENTAL LOCAL GOVERNMENT

In this section:

This section explores developmental local government - the central responsibility of municipalities to work together with local communities to find *sustainable** ways to meet their needs and improve the quality of their lives. It discusses the characteristics of developmental local government, sets out a series of developmental outcomes, and proposes several tools to assist municipalities to become more developmental.

It is in the interest of the nation that local government is capacitated and transformed to play a developmental role. National government is committed to providing support to enable municipalities to utilise the options and tools put forward in this White Paper to make themselves more developmental. The approaches put forward here create a framework in which municipalities can develop their own strategies for meeting local needs and promoting the social and economic development of communities.

Developmental local government is intended to have a major impact on the daily lives of South Africans. Where municipalities do not develop their own strategies to meet community needs and improve citizens' quality of life, national government may have to adopt a more prescriptive approach towards municipal transformation.

1. Characteristics of developmental local government

Developmental local government is local government committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and improve the quality of their lives.

The Constitution enshrines the rights of all people in our country to dignity, equality before the law, freedom and security. It affirms our rights to freedom of religion, expression, culture, association and movement, as well as our political, labour and property rights. The Constitution commits government to take reasonable measures, within its available resources, to ensure that all South Africans have access to adequate housing, health care, education, food, water and social security.

The reality in our cities, towns and rural areas is far from this ideal. Many of our communities are still divided. Millions of our people live in dire poverty, isolated from services and opportunities. The previous local government system did very little to help those with the greatest needs. The current transitional system has not yet been able to do much to reverse these long-standing patterns of inequity and unmet human needs.

In the future developmental local government must play a central role in representing our communities, protecting our human rights and meeting our basic needs. It must focus its efforts and resources on improving the quality of life of our communities, especially those members and groups within communities that are most often marginalised or excluded, such as women, disabled people and very poor people.

Developmental local government has four interrelated characteristics:

- _ Maximising social development and economic growth.
- _ Integrating and coordinating.
- _ Democratising development.
- _ Leading and learning.

These four characteristics of developmental local government are further explained below.

1.1. Maximising social development and economic growth

The powers and functions of local government should be exercised in a way that has a maximum impact on the social development of communities - in particular meeting the basic needs of the poor - and on the growth of the local economy. Through its traditional

responsibilities (service delivery and regulation), local government exerts a great influence over the social and economic well-being of local communities. Each year municipalities collect a large sum in rates, user charges and fees. They employ thousands of people throughout the country. In many cases they are responsible for the price and quality of water, electricity and roads, and they control the use and development of land. In parts of the country they own substantial amounts of land. They purchase goods and services and pay salaries, and therefore contribute to the flow of money in the local economy. They set the agenda for local politics, and the way they operate gives strong signals to their own residents and to prospective migrants or investors. These functions give local government a great influence over local economies. Municipalities therefore need to have a clear vision for the local economy, and work in partnership with local business to maximise job creation and investment.

Local government is not directly responsible for creating jobs. Rather, it is responsible for taking active steps to ensure that the overall economic and social conditions of the locality are conducive to the creation of employment opportunities.

Provision of *basic household infrastructure** is the central contribution made by local government to social and economic development. However, simple changes to existing procedures such as *affirmative procurement policies**, linking municipal contracts to social responsibility, speeding up approval procedures or proactively identifying and releasing land for development could have a significant impact with little or no additional cost. In addition, new policies and programmes can be initiated, aimed specifically at alleviating poverty and enhancing job creation. For example, local government could assist with the provision of support services, such as training to small businesses or community development organisations.

Local government can also promote social development through functions such as arts and culture, the provision of recreational and community facilities, and the delivery of aspects of social welfare services. Municipalities have the constitutional power to provide child care facilities, and may provide grants to associations for this purpose in terms of the Child Care Act, 1983. The empowerment of marginalised and disadvantaged groups is a critical contribution to social development. Municipalities should also seek to provide an accessible environment for disabled people, so as to facilitate their independence.

1.2. Integrating and coordinating

Within any local area many different agencies contribute to development, including national and provincial departments, parastatals, trade unions, community groups and private sector institutions. Developmental local government must provide a vision and leadership for all those who have a role to play in achieving local prosperity. Poor coordination between service providers could severely undermine the development effort. Municipalities should actively develop ways to leverage resources and investment from both the public and private sectors to meet development targets.

One of the most important methods for achieving greater coordination and integration is integrated development planning. Integrated development plans provide powerful tools for municipalities to facilitate integrated and coordinated delivery within their locality. The principles set out in the Development Facilitation Act should guide municipalities in their approach to building integrated, liveable settlements. There is a summary of these principles in Annexure D at the back of the White Paper. (See also point 3.1 for more detail on integrated development plans.)

While strategies for building human settlements may differ between localities, it is clear that the establishment of sustainable and liveable settlements depends on the coordination of a range of services and regulations, including land-use planning, household infrastructure, environmental management, transport, health and education, safety and security and housing. Municipalities will need to work closely with other spheres of government and service providers and play an active integrating and coordinating role here. (More is said

about the departmental programmes and initiatives which municipalities should engage with in Section C: Cooperative Government, Point 2.1.)

1.3. Democratising development, empowering and redistributing

Municipal Councils play a central role in promoting local democracy. In addition to representing community interests within the Council, municipal councillors should promote the involvement of citizens and community groups in the design and delivery of municipal programmes.

In the past, local government has tended to make its presence felt in communities by controlling or regulating citizens' actions. While regulation remains an important municipal function, it must be supplemented with leadership, encouragement, practical support and resources for community action. Municipalities can do a lot to support individual and community initiative, and to direct community energies into projects and programmes which benefit the area as a whole. The involvement of youth organisations in this regard is particularly important.

Municipalities need to be aware of the divisions within local communities, and seek to promote the participation of marginalised and excluded groups in community processes. For example, there are many obstacles to the equal and effective participation of women, such as social values and norms, as well as practical issues such as the lack of transport, household responsibilities, personal safety, etc. Municipalities must adopt inclusive approaches to fostering community participation, including strategies aimed at removing obstacles to, and actively encouraging, the participation of marginalised groups in the local community.

At the same time, the participatory processes must not become an obstacle to development, and narrow interest groups must not be allowed to 'capture' the development process. It is important for municipalities to find ways of structuring participation which enhance, rather than impede, the delivery process.

A central principle of the Reconstruction and Development Programme (RDP) is the empowerment of poor and marginalised communities. This is repeated in the Growth, Employment and Redistribution (Gear) strategy which calls for "a redistribution of income and opportunities in favour of the poor". Developmental local government is uniquely placed to combine empowerment and redistribution in a number of concrete programmes. For example:

- Service subsidies are a focused mechanism for providing services to the poor at below cost, and thereby provide an opportunity for low-income households to improve their circumstances. The 'equitable share' will provide the basis for a standardised subsidy mechanism for all poor households. Municipalities need to plan the level and amount of additional subsidies in a way which is affordable within the overall municipal budget.
- Support to community organisations in the form of finances, technical skills or training can enhance the ability of the poor to make their needs known and to take control of their own development process.
- Linkage policies aim to directly link profitable growth or investment with redistribution and community development. An example is a development levy imposed in fast-growing areas and used to subsidise housing or other services for the poor. An alternative is a condition which requires developers to make social responsibility investments in return for planning permission. Another example is the use of conditions imposed on companies which supply goods and services to a municipality (such as banks) to invest in training, affirmative action or community development.
- Socio-economic development and community empowerment is mainly directed at poverty eradication. The majority of the poor are women, and empowerment strategies which focus on women are likely to prove the most effective and inclusive. Municipalities need to develop their capacity to understand the diverse needs of women in the community, and address these needs in planning and delivery processes to enhance their impact on poverty eradication.

1.4. Leading and learning

Extremely rapid changes at the global, regional, national and local levels are forcing local communities to rethink the way they are organised and governed. All over the world communities must find new ways to sustain their economies, build their societies, protect their environments, improve personal safety (in particular for women) and eliminate poverty. There is no single correct way to achieve these goals. National frameworks and support from other levels of government are critical, but cities, towns and rural communities are increasingly having to find within themselves ways to make their settlements more sustainable. This requires trust between individuals and open and accommodating relationships between stakeholders. Local government has a key role to play in building this kind of social capital - this sense of common purpose - to find local solutions for increased sustainability.

In practical terms, municipalities can build social conditions favourable to development through:

- Building the kind of political leadership that is able to bring together coalitions and networks of local interests that cooperate to realise a shared vision.
- Responsive problem-solving and a commitment to working in open partnerships with business, trade unions and community-based organisations.
- Ensuring that knowledge and information are acquired and managed in a way that promotes continuous learning, and which anyone can access easily and quickly.
- Enhancing local democracy through raising awareness of human rights issues and promoting constitutional values and principles.
- Building an awareness of environmental issues and how the behaviour of residents impacts on the local environment, and encouraging citizens to utilise scarce natural resources in a prudent, careful manner.
- Investing in youth development as a key resource for the future, and building on their creativity and motivation through involvement in civic and development programmes.
- Actively seeking to empower the most marginalised groups in the community and encouraging their participation.
- Empowering ward councillors as community leaders who should play a pivotal role in building a shared vision and mobilising community resources for development.

Developmental local government requires that municipalities become more strategic, visionary and ultimately influential in the way they operate. Municipalities have a crucial role as policymakers, as thinkers and innovators, and as institutions of local democracy. A developmental municipality should play a strategic policy-making and visionary role, and seek to mobilise a range of resources to meet basic needs and achieve developmental goals.

2. Developmental outcomes of local government

Citizens and communities are concerned about the areas where they live: they are concerned about access to services and economic opportunities, mobility, safety, absence of pollution and congestion, proximity to social and recreational facilities and so on. Local government can impact on all of these facets of our lives.

The outcomes which developmental local government seeks to achieve may differ over time. However, in our current circumstances the key outcomes are as follows:

- Provision of household infrastructure and services.
- Creation of liveable, *integrated cities, towns and rural areas**.
- Local economic development.
- Community empowerment and redistribution.

Each of these outcomes needs to be seen within the context of national development and the principles and values of social justice, gender and racial equity, nation-building and the protection and regeneration of the environment.

2.1. Provision of household infrastructure and services

Local government is responsible for the provision of household infrastructure and services, an essential component of social and economic development. This includes services such as

water, sanitation, local roads, stormwater drainage, refuse collection and electricity. Good basic services, apart from being a constitutional right, are essential to enable people to support family life, find employment, develop their skills or establish their own small businesses. The provision of household infrastructure can particularly make a difference to the lives of women, who usually play the major role in reproductive (domestic) work which sustains the family and the local society.

The starting point must be to prioritise the delivery of at least a basic level of services to those who currently enjoy little or no access to services. This can be achieved with the assistance of capital grants from the Consolidated Municipal Infrastructure Programme, or through local *cross-subsidisation*^{*}, or by mobilising private investment in municipal infrastructure. It can also be facilitated by assisting groups within the community to establish their own delivery institutions. An example is the establishment of networks of small businesses to collect refuse in a number of townships. These networks receive payments from citizens and municipalities as well as private loans from banks. Such proactive initiatives by local residents should be encouraged and supported.

As outlined in the Municipal Infrastructure Investment Framework, the levels of services which are sustainable and affordable will vary from one type of settlement to another. The Consolidated Municipal Infrastructure Programme provides grants for bulk and connector infrastructure, to enable municipalities to cover the capital costs of household infrastructure up to a basic level for low-income households. The *equitable share of national revenue*^{*} to which local government is entitled will enable municipalities to subsidise the operating costs of providing basic services to poor households. Municipalities must ensure that higher levels of services to residents and businesses are provided on a sustainable basis. This requires long-term infrastructure investment planning and a careful assessment of the levels of services which communities can afford. The provision of household infrastructure is also integral to the provision of housing, and municipalities must ensure that strategies and programmes for the provision of housing and infrastructure are appropriately integrated.

Approaches and mechanisms to transforming municipal service delivery systems and *leveraging private sector investment*^{**} in municipal infrastructure are discussed in more detail in this White Paper in Section F: Administrative Systems.

2.2. Creation of liveable, integrated cities, towns and rural areas

Apartheid planning has left deep scars on the spatial structure of our cities, towns and rural areas, and the lives of millions of individuals and households. The spatial integration of our settlements is critical. It will enhance economic efficiency, facilitate the provision of affordable services, reduce the costs households incur through commuting, and enable social development. Spatial integration is also central to nation building, to addressing the locational disadvantages which apartheid imposed on the black population, and to building an integrated society and nation.

Municipal strategies for the establishment of liveable cities, towns and rural areas will differ from area to area.

Urban areas face the challenges of integrating towns and townships. Integration must ensure affordable mobility between work, home and recreation; combat crime, pollution and congestion; and structure the built environment to facilitate the participation of disadvantaged groups in the social and economic life of the city. Urban municipalities should promote *mixed-use and mixed-income development*^{**}. They should plan and invest to meet current and future land-use and infrastructural needs for residential, commercial and industrial development. Metropolitan areas in particular need to anticipate and provide for the needs of rapidly growing populations.

In rural areas, the challenges of building liveable environments range from securing access to land and services for the rural poor, to addressing the distortions in ownership and opportunity that apartheid created between white and black rural dwellers. Many settlements face particularly acute challenges as a result of the apartheid practice of forcibly relocating

communities to 'decentralisation points' in the former homelands. This practice resulted in dense settlements with no sustainable economic base. In many of these settlements the majority of residents commute up to 70 kilometres to work in towns and cities. The distance between home and work not only imposes high transport costs, but also imposes harsh social and personal costs. The creation of sustainable and quality living environments for communities in these settlements requires innovative strategies and programmes.

*Environmental sustainability** is a key challenge in both urban and rural settlements. Municipalities can enhance environmental sustainability by including environmental issues in their planning processes. Many municipalities are participating in Local Agenda 21, to reach towards sustainable development in their local areas. Local Agenda 21 requires municipalities to develop long-term strategic action plans that address priority sustainable development concerns. Planning for environmental sustainability is not a separate planning process, but is an integral part of the process of developing municipal integrated development plans.

2.3. Local economic development

Local government can play an important role in promoting job creation and boosting the local economy. Investing in the basics - by providing good quality cost-effective services and by making the local area a pleasant place to live and work - is the key starting point. However, two other types of initiative are important:

- _ Reviewing existing policies and procedures to promote local economic development.
- _ Provision of special economic services.

These approaches are further explained below.

2.3.1. Reviewing existing policies and procedures to enhance employment and investment

Small and large businesses rely on the actions of local government in a number of ways. They are also subject to a number of municipal regulations. A review and simplification of municipal procedures and regulations can have a significant impact on the local economy. For example:

*Procurement procedures** can be revised to maximise the impact of municipal purchasing on job creation and the local economy. In particular, preference can be given to local suppliers and small enterprises, particularly those in the informal sector. Principles such as *labour intensity** and affirmative action can be introduced. It is essential to ensure that selection criteria and procedures are clear and transparent to avoid abuse. Cost and quality must still be central criteria; however, support can be given to emerging contractors by breaking tenders down into smaller parts, providing targeted information and training, or allowing exemption from large *securities**.

Rezoning requests and applications for building permits by developers are frequently held up in cumbersome bureaucratic approval processes. In many cases these can be simplified. The establishment of a spatial framework which identifies land for residential, commercial and mixed development can help to speed up rezoning by establishing clear guidelines up-front.

Customer management and billing are often handled by several different municipal departments with offices in different locations. The establishment of user-friendly one-stop shops which can advise residents and deal with single accounts for all municipal services can increase the quality and efficiency of local services.

2.3.2. Provision of special economic services

The Constitution states that local government is responsible for promoting the social and economic development of communities. This provides municipalities with a mandate to provide special economic services, or to assist other agencies with the provision of such services, where appropriate.

Marketing and investment support can be provided in order to attract and secure potential investors. It is important that such services are cost-effective. For example, international evidence suggests that financial incentives, which are quite costly, have a very limited impact on investment decisions and should be avoided.

Small business support services can be provided to assist small entrepreneurs. The Department of Trade and Industry has launched a programme to establish local business service centres, and municipalities are encouraged to support this programme where appropriate. Such centres aim to assist with skills, premises, information, networking, marketing and access to credit.

Research and technology are important ingredients for innovation in an increasingly competitive international economy. Municipalities might provide targeted assistance to a particular sector in the economy which has the potential to expand.

Training and placement services can be provided to help people to acquire the skills they need to find work, or to find jobs once they have the skills. The Department of Labour provides such services through its regional offices. Municipalities can play a role in tailoring these services to local circumstances, in order to match supply and demand in a practical way. The relevance of these services will depend on local circumstances. It is important to establish the value of a particular service in the local area before it is initiated.

In many cases, limited resources and expertise will make it difficult for municipalities to get involved in these specialised areas; however, it may be possible for municipalities to support or contribute to the activities of other agencies, such as national departments and non-governmental organisations, in these areas.

A review of existing legislation which impedes local economic development, such as planning and rating ordinances, needs to be undertaken by both national and provincial government.

3. Tools and approaches for developmental local government

To achieve developmental outcomes will require significant changes in the way local government works. This section of the paper puts forward three interrelated approaches which can assist municipalities to become more developmental:

- _ Integrated development planning and budgeting.
- _ Performance management.
- _ Working together with local citizens and partners.

3.1. Integrated development planning, budgeting and performance monitoring

3.1.1. Why do integrated development planning?

Municipalities face immense challenges in developing sustainable settlements which meet the needs and improve the quality of life of local communities. To meet these challenges, municipalities will need to understand the various dynamics operating within their area, develop a concrete vision for the area, and strategies for realising and financing that vision in partnership with other stakeholders.

Integrated development planning is a process through which a municipality can establish a development plan for the short, medium and long-term. The main steps in producing an integrated development plan are:

- _ An assessment of the current social, economic and environmental reality in the municipal area - the current reality.
- _ A determination of community needs through close consultation.
- _ Developing a vision for development in the area.
- _ An audit of available resources, skills and capacities.
- _ A prioritisation of these needs in order of urgency and long-term importance.
- _ The development of integrated frameworks and goals to meet these needs.
- _ The formulation of strategies to achieve the goals within specific time frames.

- The implementation of projects and programmes to achieve key goals.
- The use of monitoring tools to measure impact and performance.

In effect integrated development plans are planning and strategic frameworks to help municipalities fulfil their developmental mandate:

- They enable municipalities to align their financial and institutional resources behind agreed policy objectives and programmes.
- They are a vital tool to ensure the integration of local government activities with other spheres of development planning at provincial, national and international levels, by serving as a basis for communication and interaction.
- They serve as a basis for engagement between local government and the citizenry at the local level, and with various stakeholders and interest groups. Participatory and accountable government only has meaning if it is related to concrete issues, plans and resource allocations.
- They enable municipalities to weigh up their obligations and systematically prioritise programmes and resource allocations. In a context of great inequalities, integrated development plans serve as a framework for municipalities to prioritise their actions around meeting urgent needs, while maintaining the overall economic, municipal and social infrastructure already in place.
- They assist municipalities to focus on the environmental sustainability of their delivery and development strategies. Sustainable development is development that delivers basic social and economic services to all, without threatening the viability of the ecological and community systems upon which these services depend.
- They help municipalities to develop a holistic strategy for poverty alleviation. Poverty is not just about low household income. It includes other aspects of deprivation such as a lack of assets to help households cope with shocks and stresses, a lack of the resources or contacts necessary to secure political advantage, a lack of access to education, health care and emergency services, and the lack of safe, secure, and adequately sized housing with basic services.

While the idea behind integrated development plans is to build up a comprehensive integrated plan, municipalities cannot plan everything in detail in the first year. Rather, integrated development plans should empower municipalities to prioritise and strategically focus their activities and resources. An attempt to plan too comprehensively may result in unrealistic plans that lack the human and financial resources for implementation.

Integrated development plans should be viewed as *incremental plans**. In the annual process of review, new or changed priorities can be incorporated.

Integrated development planning is a normal and required municipal function - integrated development plans are not "add-ons" and should not be "farmed out" to consultants. The development of integrated development plans should be managed within municipalities, and provide a way of enhancing the strategic planning capacity of the administration, building organisational partnerships between management and labour, and enhancing *synergy** between *line functions**.

3.1.2. The legislative framework

At the moment municipalities are required by the Development Facilitation Act to produce land development objectives (with the exception of municipalities in the Western Cape and KwaZulu-Natal). The Local Government Transition Act (Second Amendment Act) requires municipalities to produce integrated development plans. Municipalities should see the development of land development objectives as part of their integrated development plans, and not as a separate planning process.

Municipalities are required to be multi-sectoral in their approach to integrated development planning. They are therefore also required to prepare plans that meet the requirements of different departments such as the Department of Water Affairs and Forestry, the Department of Transport, the Department of Housing and the Department of Environmental Affairs and

Tourism. These requirements will nevertheless be linked to a single planning cycle and process within municipalities as envisaged by integrated development plans.

Future legislation will endeavor to reduce the legislative complexity of the various planning requirements placed on municipalities. In particular, it will ensure that integrated development plans incorporate other planning requirements into a single planning cycle.

As part of this process, it may be necessary to revisit parts of the Development Facilitation Act. As the local government environment stabilises, the role of the Development Tribunals established by the Development Facilitation Act needs to be reassessed to ensure that local government's executive authority over development procedures and approvals is not undermined.

3.1.3. What is required of municipalities?

The key elements which are required to make integrated development plans useful and practical instruments for municipalities to work with are:

Developing a strategy and clear objectives:

The land development objective components or the planning requirements as put forward in the Development Facilitation Act provide a means of developing a strategic framework for development in the area. The land development objective components are critical because they are submitted to the provincial government for approval. Once approved, they have legal status and become powerful instruments for guiding and managing development in the area.

The Development Facilitation Act requires municipalities to develop objectives for service delivery (the services which a municipality will provide, the standards of service and the level at which they will be provided); the 'form' of the settlement (these objectives deal with issues normally associated with 'town and regional planning' or the spatial planning of an area, such as land-use control, environmental planning, integrating low-income areas into the broader settlement, etc.); and development strategies. These objectives will provide a broad strategic framework for development.

Developing action plans and budgets:

Two key and inter-linked action plans are required to move from objectives to delivery. The first is an institutional plan of action, the second a financial plan of action.

Institutional plans: Institutional plans, including *human resource development** strategies, are particularly important tools for municipalities during the transformation period. Institutional action plans are intended to assist municipalities in reorganising their administrations for improved delivery to communities. Section F: Administrative Systems discusses institutional planning and transformation in more detail.

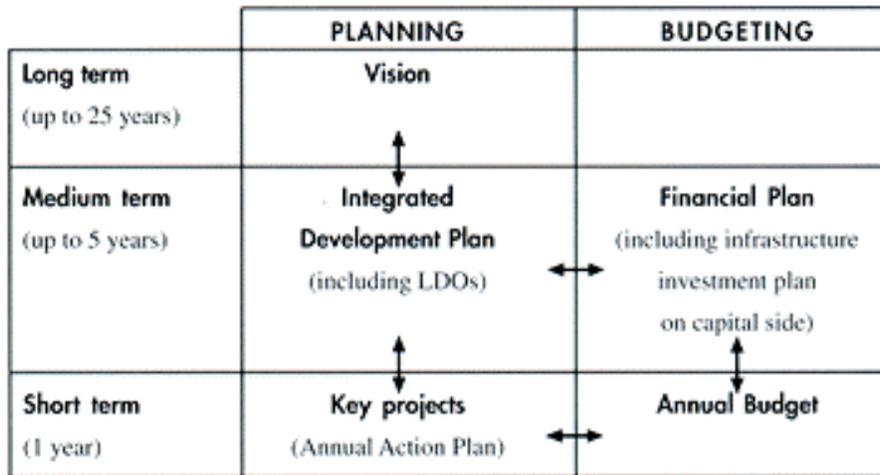
Financial plans: Integrated development planning should be linked to financial planning. A financial plan involves producing a medium-term (five-year) projection of capital and recurrent expenditure. This means incorporating municipal land development objectives and other strategies into the normal medium-term planning for capital and recurrent expenditure. Municipalities should also develop a plan for raising the revenue to support these strategies. The financial plan should show how the priorities in the budget change over the five-year period in order to achieve the goals set out in the integrated development plan.

On the capital side municipalities need to develop a coherent infrastructure investment plan, which sets out how they will achieve infrastructure targets, and mobilise public and private funding sources for this purpose. The development of integrated development plans and financial plans provides an opportunity for municipalities and other spheres of government to discuss and prioritise public investment in the area. Such governmental alignment could result in the production of a negotiated 'public investment plan' for an area which brings together the resource commitments of all spheres of government in relation to the integrated development plan.

Municipalities should seek private investment to supplement the public funds available for capital expenditure. They can obtain assistance and advice on how to leverage private investment from the municipal infrastructure investment unit, which has been established for that purpose.

Provincial governments should monitor the extent to which municipal budget priorities reflect the integrated development plan, and use existing conditional grant mechanisms as incentives in this regard.

The medium-term financial plan forms a basis on which annual budgets can be drawn up. The following diagram shows the relationship between planning and budgeting.



3.2. Performance management

Performance management is critical to ensure that plans are being implemented, that they are having the desired development impact, and that resources are being used efficiently. Municipalities currently set their own measures of performance, or key performance indicators. Key performance indicators vary greatly from municipality to municipality, and cover both efficiency measures and *human development indices**.

Key performance indicators can provide valuable information for two purposes:

- Firstly, development indices (such as the Household Development Index) can help municipalities to know their areas better and plan more effectively. Development indices also assist municipalities to assess the impact and effectiveness of the development strategies which they adopt, and make adjustments to their plans as required. The Central Statistical Service already provides useful indicators to assist municipalities in planning for their areas. Following the demarcation of new municipal boundaries, it will be possible to disaggregate (lift out) information according to municipal jurisdictions, which will be of particular value in the planning process. Development indicators should also be disaggregated according to gender to allow municipalities to assess the impact of their strategies on women, and ensure that the needs and interests of women are incorporated into municipal planning processes.
- Secondly, indicators which measure value-for-money in service provision can provide valuable guidance for municipal organisational transformation. Efficiency and quality indicators enable municipalities to set targets for continued improvement in their operations, to prioritise areas where organisational change is required, and assess the success of their transformation programmes.

Involving communities in developing some municipal key performance indicators increases the accountability of the municipality. Some communities may prioritise the amount of time it takes a municipality to answer a query, others will prioritise the cleanliness of an area or the provision of water to a certain number of households. Whatever the priorities, by involving

communities in setting key performance indicators and reporting back to communities on performance, accountability is increased, and public trust in the local government system enhanced.

Municipal Councils will also find that developing some key performance indicators in consultation with internal municipal stakeholders (i.e., management and organised labour) can assist in developing a shared organisational vision and common goals for improved performance and delivery.

Performance monitoring indicators need to be carefully designed in order to accurately reflect the efficiency, quality and value-for-money of municipal services. International experience shows that poorly designed performance indicators can have a negative effect on delivery, and that it is critical that indicators focus on outcomes and not only inputs and outputs. For example, a municipality has a programme for cutting the grass verges. The aim is to maintain an orderly appearance in the streets and to discourage the dumping of rubbish in public spaces. However, if the municipality fails to collect the cut grass, it will build up and lead to the dumping of garden refuse by residents. This defeats the municipality's original objective. A performance management system which only measures the frequency of cutting the grass (the output) - and not the effect that this has on the maintenance of the public spaces (the outcome) - will give a misleading report on the effectiveness of the municipality's actions.

In the medium-term, a national performance management system is required to assess the overall state of local government, monitor the effectiveness of development and delivery strategies adopted by different municipalities and ensure that scarce resources are utilised efficiently. It would provide 'early warning' where municipalities are experiencing difficulties, and enable other spheres of government to provide appropriate support before a crisis develops. It would also enable municipalities to compare their own performance with that of similar municipalities across the country, identify successful approaches or 'best practice', and learn from one another.

National government will work closely with municipalities, provincial governments and other agencies that can contribute to the development of a national performance management system (such as the Central Statistical Service and the Auditor-General's Office) to develop a set of indicators which can be piloted by different municipalities and ultimately lead to the establishment of a national system.

While it is envisaged that the national system will apply in all municipalities, it will not replace the need for municipalities to set their own key performance indicators as part of the integrated development plan process. A national system can only incorporate indicators which are relevant to all municipalities. Municipalities will need to continue to develop key performance indicators which are specific to their local circumstances and goals, and to the priorities of local communities.

In summary...

Integrated development planning, budgeting and performance management are powerful tools which can assist municipalities to develop an integrated perspective on development in their area. It will enable them to focus on priorities within an increasingly complex and diverse set of demands. It will enable them to direct resource allocations and institutional systems to a new set of development objectives.

3.3. Working together with local citizens and partners

One of the strengths of integrated development planning is that it recognises the linkages between development, delivery and democracy. Building local democracy is a central role of local government, and municipalities should develop strategies and mechanisms (including, but not limited to, participative planning) to continuously engage with citizens, business and community groups.

Municipalities require active participation by citizens at four levels:

- As voters - to ensure maximum democratic accountability of the elected political leadership for the policies they are empowered to promote.
- As citizens who express, via different stakeholder associations, their views before, during and after the policy development process in order to ensure that policies reflect community preferences as far as possible.
- As consumers and end-users, who expect value-for-money, affordable services and courteous and responsive service.
- As organised partners involved in the mobilisation of resources for development via for-profit businesses, non-governmental organisations and community-based institutions.

As voters:

As in the rest of the world, municipalities will need to ensure that voters are constantly made aware of the need to vote and that they are able to vote easily and safely. When voter participation declines, democratic accountability is diluted. The following approaches will enhance voter participation:

- Civic education programmes about the importance of voting.
- Ward-level activities to continuously connect elected leaders and their constituencies.
- Creative electoral campaigning around clear policy choices that affect the lives of citizens.
- Electoral systems that ensure that registration and voting procedures are structured in a way that enhances access and legitimacy.

As participants in the policy process:

Municipalities should develop mechanisms to ensure citizen participation in policy initiation and formulation, and the monitoring and evaluation of decision-making and implementation. The following approaches can assist to achieve this:

- Forums initiated from within or outside local government allow organised formations to initiate policies and/or influence policy formulation, as well as participate in monitoring and evaluation activities. Forums tend to work better when it comes to formulating either general community-wide development visions or issue-specific policies, rather than for formulating multiple policies that affect a multiplicity of interests.
- Structured stakeholder involvement in certain Council committees, in particular if these are issue-oriented committees with a limited lifespan rather than permanent structures.
- Participatory budgeting initiatives aimed at linking community priorities to capital investment programmes.
- Focus group participatory action research conducted in partnership with non-governmental organisations and community-based organisations can generate detailed information about a wide range of specific needs and values.
- Support for the organisational development of associations, in particular in poor marginalised areas where the skills and resources for participation may be less developed than in better-off areas. This is important because citizens tend to participate via associations rather than as individuals.

As consumers and service-users:

For many local citizens, their main contact with local government is through the consumption of municipal services, and it is here that municipalities need to begin to build relationships with citizens and communities. Municipalities need to be responsive to the needs of both citizens and business as consumers and end-users of municipal services. Improved customer management and service provision are critical to building an environment conducive to economic and social development.

The Batho Pele ('People First') White Paper, issued by the Minister for Public Service and Administration, provides a useful approach to building a culture and practice of customer service. Batho Pele is based on eight key principles:

- **Consultation:** Citizens should be consulted about the level and quality of public service they receive, and, where possible, should be given a choice about the services which are provided.
- **Service standards:** Citizens should know what standard of service to expect.

- **Access:** All citizens should have equal access to the services to which they are entitled.
- **Courtesy:** Citizens should be treated with courtesy and consideration
- **Information:** citizens should be given full and accurate information about the public services they are entitled to receive.
- **Openness and transparency:** Citizens should know how departments are run, how resources are spent, and who is in charge of particular services.
- **Redress:** If the promised standard of service is not delivered, citizens should be offered an apology, a full explanation and a speedy and effective remedy; and when complaints are made citizens should receive a sympathetic, positive response.
- **Value-for-money:** Public services should be provided economically and efficiently in order to give citizens the best possible value-for-money.

Importantly, the Batho Pele White Paper notes that the development of a service-oriented culture requires the active participation of the wider community. Municipalities need constant feedback from service-users if they are to improve their operations. Local partners can be mobilised to assist in building a service culture. For example, local businesses or non-governmental organisations may assist with funding a helpline, providing information about specific services, identifying service gaps or conducting a customer survey.

As partners in resource mobilisation:

Municipalities will be expected to enhance delivery within the constraints of available resources. Although becoming more efficient will be one way of achieving this, another is to mobilise off-budget resources (resources additional to those budgeted for) via partnerships with businesses and non-profit organisations. Municipalities can utilise partnerships to promote emerging businesses, support non-governmental organisations and community-based organisations, mobilise private sector investment, and promote developmental projects which are initiated but not necessarily financed by local government. Examples of the range of options for this approach include various combinations of the following:

- Community development corporations.
- Public-private and public-public partnerships around service delivery (see Section F: Administrative Systems, Points 2.2.3 - 2.2.4).
- Community contracting for services such as refuse collection.
- Development partnerships around issues such as local economic development, eco-tourism or farming.
- Community banking and various forms of community finance control (e.g., stokvels).
- Community information and learning centres as central points for using the new information technologies (e.g., the Internet, e-mail) for development purposes.
- Emerging business development centres.
- Training and capacity-building initiatives aimed at building up the skills base for development projects.
- Social housing mechanisms.
- Value-adding initiatives aimed at transforming wastes into products, e.g., linking recycling to job creation for the unemployed.

Service delivery partnerships are discussed in more detail in Section F: Administrative Systems. The critical point here is that there are a range of creative methods through which municipalities can mobilise energy, capacity and resources outside the municipality for the development of the area.

4. Concluding comment

Municipalities face great challenges in promoting human rights and meeting human needs, addressing past backlogs and spatial distortions, and planning for a sustainable future. Local government can only meet these challenges by working together with local citizens, communities and businesses, and adopting a developmental approach which:

- Enhances their capacity as policy and planning centres, able to mobilise and manage a range of development initiatives, resources and processes through a coherent vision and integrated planning framework for their local area.

- Focuses their own institutional and financial capacity on the delivery of affordable and sustainable services relevant to the needs of local communities.

A developmental role for local government offers substantive benefits to local residents, communities, provincial and national spheres of government, and the nation as a whole.

Section C: COOPERATIVE GOVERNMENT

In this section:

This section situates local government within the South African system of government. It outlines the roles and responsibilities of national and provincial government with respect to local government. It describes some current national policies and programmes which have a direct impact on local government, and suggests ways in which national and provincial government can work with local government to enhance the effectiveness of all spheres of government. It concludes with a discussion of horizontal cooperation between municipalities.

1. The framework of intergovernmental relations

1.1. Cooperative relations between spheres

The new Constitution states that government in South Africa is constituted as national, provincial and local spheres of government. These three spheres are distinctive, interdependent and interrelated. Local government is a sphere of government in its own right, and is no longer a function of national or provincial government. It is an integral component of the democratic state.

All spheres of government are obliged to observe the principles of cooperative government put forward in the Constitution. Cooperative government assumes the integrity of each sphere of government. But it also recognises the complex nature of government in modern society. No country today can effectively meet its challenges unless the components of government function as a cohesive whole. This involves:

- Collectively harnessing all public resources behind common goals and within a framework of mutual support.
- Developing a cohesive, multi-sectoral perspective on the interests of the country as a whole, and respecting the discipline of national goals, policies and operating principles.
- Coordinating their activities to avoid wasteful competition and costly duplication
- Utilising human resources effectively.
- Settling disputes constructively without resorting to costly and time-consuming litigation.
- Rationally and clearly dividing between them the roles and responsibilities of government, so as to minimise confusion and maximise effectiveness.

1.2. Intergovernmental relations

Intergovernmental relations are the set of multiple formal and informal processes, channels, structures and institutional arrangements for bilateral and multilateral interaction within and between spheres of government. In South Africa a system of intergovernmental relations is emerging to give expression to the concept of cooperative government contained in the Constitution.

A system of intergovernmental relations has the following strategic purposes:

- To promote and facilitate cooperative decision-making.
- To coordinate and align priorities, budgets, policies and activities across interrelated functions and sectors.
- To ensure a smooth flow of information within government, and between government and communities, with a view to enhancing the implementation of policy and programmes.
- The prevention and resolution of conflicts and disputes.

To date, the development of a framework for intergovernmental relations has focused on the relationship between national and provincial government. The role of local government is being defined as it develops in practice over time. The establishment and recognition of organised local government structures is an important step in ensuring local government representation in intergovernmental processes and forums. In 1998 local government representatives nominated by the South African Local Government Association (Salga) have taken their place in the National Council of Provinces (NCOP). In the same spirit, we also

need to work towards ensuring that provincial local government associations are accommodated within the legislative processes of provincial governments.

Section 41(2) of the Constitution requires the development of an Act to establish or provide for structures and institutions to promote intergovernmental relations. The Department of Constitutional Development is currently drafting a discussion document to open debate on the question of intergovernmental relations, with a view to initiating discussions around the content of future legislation. The roles and responsibilities of each sphere within a system of intergovernmental relations will become clearer as this process unfolds. However, a sketch of the basic roles and responsibilities of national and provincial government with respect to local government is outlined below.

1.3. Roles and responsibilities of national and provincial government

The Constitution defines the roles and responsibilities of national and provincial government with respect to local government. It obliges all spheres of government to cooperate with one another in mutual trust and good faith through fostering friendly relations; assisting and supporting one another; informing one another of, and consulting one another on, matters of common interest; and coordinating their actions and legislation with one another. The specific roles of national and provincial government with respect to local government need to be viewed within this context.

1.3.1. National government

National government has a number of roles and responsibilities with respect to local government, including:

- **A strategic role:** National government is responsible for setting the overall strategic framework for the economic and social development of the nation, and for all spheres of government. It should ensure that local government operates within *an enabling framework** and is structured and capacitated in a way that best enables it to promote the development of citizens, local communities, and the nation.
- **Coordinating the transition:** Local government is still in the process of transition envisaged by the Local Government Transition Act. National government, in partnership with other spheres of government, is responsible for the coordination, management and oversight of this transition process. It is also responsible for taking local government into the final phase envisaged by the Local Government Transition Act through legislating for a new local government system. This White Paper is part of that process.
- **Providing a legislative framework for local government:** National government must provide an overall legislative framework for local government within the general legal framework set out in the Constitution. This includes:
 - Establishing criteria for the demarcation of municipal boundaries, the definition of categories of municipalities and types within categories.
 - Making provision for an appropriate division of powers and functions between category (C) and category (B) municipalities.
 - Municipal electoral systems and administrative matters.
 - Ensuring that provincial legislation with respect to local government is formulated within a national legislative framework.
 - Providing a framework for intergovernmental relations, including the structures, procedures and mechanisms to promote and facilitate positive intergovernmental relations and the resolution of intergovernmental disputes within and between the spheres of government.
- **Providing a framework for municipal capacity-building and supporting municipalities:** Section 154(1) of the Constitution tasks both national and provincial government with supporting and strengthening the capacity of municipalities to manage their own affairs, exercise their powers and perform their functions. National government must establish an overall framework for municipal capacity-building and support.
- **Support for key institutions:** National government is committed to supporting and strengthening *organised local government*** to enable it to perform its constitutional role effectively. In addition, national government will support other institutions which are crucial to the transformation and continued viability of local government, such as the

Local Government Sector Education and Training Authority and the Local Government Bargaining Council.

- **Local government finances:** *Fiscal** provisions for local government, including managing the system of intergovernmental fiscal relations, situating local government's fiscal powers within the national tax structure, and passing legislation to determine local government's "equitable share" of revenue raised nationally and on a range of other financially related topics such as municipal budgetary forms and processes.
- **Monitoring and oversight:** To ensure the necessary levels of compatibility, uniformity and consistency, national government needs to develop an overall framework for a system of monitoring and oversight within which other organs of state, particularly provincial governments, will perform these functions.

A number of institutions require accurate and relevant information to enable the monitoring and oversight of local government. For example, such information is required to enable the oversight of municipalities by the National Assembly (required by Section 55(2)(b)(ii) of the Constitution); the monitoring of municipalities by provincial governments (required by Section 155(6)(a) of the Constitution); and to enable the Human Rights Commission to assess the measures municipalities have taken towards the realisation of specific rights. National departments with decentralised policy and implementation programmes also require reliable information from local government with respect to these programmes.

National government should provide a coherent framework to ensure that the reporting requirements placed on municipalities are reasonable, and should also ensure the rationalisation and standardisation of the current multiplicity of local government surveys into a coherent annualised national data collection system, which includes an annual survey of performance in terms of agreed key performance indicators, and a quarterly survey of indicators as required for Project Viability, by the SA Reserve Bank, and so forth.

- **Intervention:** Although provincial government is primarily responsible for intervention, national government may also need to intervene together with provincial government or in instances where a provincial government fails to intervene, or where national fiscal resources are implicated, or where such intervention is required to maintain economic unity, essential national standards and national security, or to prevent unreasonable actions that are prejudicial to a province or the country as a whole.

1.3.2. Provincial government

There are very different conditions and challenges for the establishment of the new local government system, both between and within provinces. Some of the key differences arise from the varying capacity and revenue of existing municipalities, and the degree of unmet needs within the municipal area. Provincial governments will need to tailor their approaches to supporting local government according to the specific conditions which prevail in each area.

Provincial government's roles include:

- **A strategic role** with respect to developing a vision and framework for integrated economic, social and community development in the province through the provincial growth and development strategy.
- **A development role:** Provincial government should ensure that municipal integrated development plans combine to form a viable development framework across the province, and are vertically integrated with the provincial growth and development strategy. Provincial government is also responsible for processing grants to municipalities for bulk infrastructure, housing, public works and so forth. Provincial government should ensure that municipal planning and budgeting processes give priority to the basic needs of the community and promote the social and economic development of the community as required by Section 153 of the Constitution.
- **An intergovernmental role:** Provincial government has an intergovernmental role to play with respect to local government. It should establish forums and processes for the purpose of including local government in decision-making processes which affect it. Provincial government can also promote horizontal cooperation and coordination between municipalities in the province.

- **Regulatory role:** Section 155(7) of the Constitution gives national and provincial government 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 regulating the exercise by municipalities of their executive authority with respect to the local government matters listed in Parts B of Schedules 4 and 5, and any other matter assigned to local government by legislation.

The old provincial ordinances which regulated the functioning of local government under apartheid are still in force. In many instances these ordinances contradict the new Constitution. As part of the transformation process provincial governments need to reformulate their regulations with respect to local government to ensure that they are both constitutional, and support the new vision of developmental local government. The process of reviewing and repealing provincial ordinances will be facilitated by a nation-wide review across all provinces, and a common approach to the repeal of ordinances.

Where municipalities fail to fulfil their constitutional functions, and the regulation of their executive powers does not succeed in ensuring that they perform their functions effectively, intervention may be required.

- **An institutional development and capacity-building role:** Provincial government establishes municipalities, and is tasked by Section 155 (6) of the Constitution with promoting the development of local government capacity to enable municipalities to perform their functions and manage their own affairs. These responsibilities give provincial government an important role in the institutional development of municipalities, which will be pivotal to ensuring the success of the new local government system during the coming years.

Training and capacity-building are an integral part of institutional development. Provincial government is not solely responsible for local government training and capacity building - individual municipal Councils, as employers, have a responsibility for the development of their staff; local government training structures (described in Section F: Administrative Systems) have certain responsibilities for training; and Salga has a key role with respect to councillor training. However, provincial government has a critical coordinating and strategic function, both with respect to developing a framework for municipal capacity-building in the province, and ensuring that capacity-building takes place. The training system proposed in this White Paper provides for provincial training structures. Provincial governments' input at this level will ensure that training strategies take account of provincial diversity, and are prioritised to meet the needs of municipalities in the province.

In addition to this coordinating function, provincial governments can build municipal capacity in a number of ways, such as facilitating or funding training programmes, providing technical assistance and mentorship, arranging exchange programmes, providing assistance with municipal integrated development plans, facilitating shared learning between municipalities, and even the secondment of staff where appropriate.

All training and capacity-building initiatives should be linked to the national legislative and policy framework for skills development put forward by the Department of Labour.

- **A fiscal role:** Provincial governments already play a role in monitoring the financial status of municipalities through the provincial task teams of Project Viability. This monitoring role may be extended.

Provinces have a critical role in building the financial management capacity of municipalities and intervening when necessary to ensure local financial viability.

Provincial government's ability to effectively monitor local government can be enhanced through tabling the Auditor-General's reports on each municipality, together with the municipality's comments thereon, at the provincial public accounts committee. Provincial Members of the Executive Council (MECs) for Finance are also represented on the Budget Forum and hence play a key role in determining budget allocations for local government.

- **A monitoring role:** Provincial government has a key role in monitoring local government in order to ensure that high standards of public service and good government are

maintained. This function must be conducted in ways which empower local government, and do not impede its functions.

Provincial monitoring and oversight should be directed at local government's execution of functions allocated in Schedules 4 and 5 of the Constitution, and the execution of assigned powers. Provincial government may also monitor municipalities with respect to the objectives of local government as given in Section 152 of the Constitution.

Provincial government's monitoring role must be supported by an information system which enables the provincial government to determine where municipal capacity needs to be built and where support is required, and to ascertain whether and which kind of regulation or intervention is necessary.

– **An intervention role:** Powers of intervention by provincial government in the affairs of local government provide a safeguard to:

- Protect and promote minimum standards of local government delivery and democracy and ensure that local government fulfils its constitutional mandate.
- Restore a municipality to financial health or to ensure financial sustainability.
- Promote accountability and public faith in local government institutions.
- Prevent corruption and maladministration.

At present powers of intervention are governed by Section 10G(2) of the Local Government Transition Act. The provisions of this Act will remain in force until 1999, after which the provisions of Section 139 of the Constitution - and any additional policy, procedures or legislation developed in terms of this section - will regulate the process of intervention.

The Local Government Transition Act gives the provincial MEC authority to take wide-ranging steps to restore the finances of municipalities which are in financial difficulty to a state of health.

In terms of Section 139 of the Constitution, provincial government has the power to intervene when a municipality cannot or does not fulfil an executive obligation in terms of legislation. Provincial government may take any appropriate steps to ensure that the municipality fulfils its obligation, including:

- Issuing a directive to the municipal Council, describing the extent of its failure to fulfil its obligations and stating any steps required to meet its obligations.
- Assuming responsibility for the relevant obligation of that municipality to the extent required to maintain essential national standards or meet established minimum standards for the rendering of a service; to prevent that municipal Council from taking unreasonable action that is prejudicial to the interests of another municipality or to the province as a whole; and to maintain economic unity.

Where a provincial government assumes responsibility for a municipal function in terms of Section 139 (1) (b) of the Constitution:

- The intervention must end unless approved by the MEC responsible for local government affairs within 14 days.
- Notice of the intervention must be tabled in the provincial legislature and in the NCOP within 14 days of their respective first sittings after the intervention began.
- The intervention must end unless it is approved by the NCOP within 30 days of its first sitting after the intervention began.
- The NCOP must review the intervention regularly, and make appropriate recommendations to the relevant provincial executive.

The fair and even exercise of intervention powers requires a level of uniformity across the country. Predictability with respect to the exercise of intervention powers is also an important requirement for stabilising the relationship between municipalities and financial markets. For these reasons national guidelines on the process of intervention will be developed. In addition, a detailed legal framework which governs events when municipalities encounter significant financial difficulties needs to be put into place. This framework needs to cover

matters such as debt default provisions, the bankruptcy process and measures which need to be taken in terms of such a process.

National guidelines will be based on the following principles:

- Firstly, steps should be taken to remove the need for intervention. This includes ensuring that all municipalities have access to adequate training, capacity-building, funding and support systems to enable them to perform their functions and manage their administrations properly. Good monitoring and information systems are required to indicate potential problems before they become crises, so that municipalities are able to take their own corrective measures where problems arise.
- Secondly, clear responsibility and financial liability for mismanagement, maladministration or fraud must be established, with rapid procedures for prosecuting offenders at both the political and administrative level.
- Thirdly, national and provincial government should exercise the power given to them in terms of Section 155(7) of the Constitution, to regulate the executive authority of municipalities to ensure that municipalities perform their functions effectively. It is anticipated that, in most instances, the regulation of municipal executive authority will be sufficient to ensure that municipal functions are effectively performed, and intervention in terms of Section 139 of the Constitution will be a rare occurrence.
- Where intervention is required, the level of intervention needs to be appropriate to the context, ranging from support and advice through issuing directives for specific actions, to the assumption of executive authority for a municipal function by another sphere of government.
- The ultimate sanction against a municipal Council for persistent non-performance is the loss of executive power. This should occur only where all other mechanisms to improve the situation have failed and in a way which will lead to the re-establishment of the municipal Council's executive power as soon as possible.

Powers of intervention should be seen as a measure of last resort, where the problem cannot be resolved through ordinary intergovernmental processes. There is broad agreement that both national and provincial government are committed to ensuring the stabilisation of the local government environment to such an extent that interventions are exceptional and not regular occurrences.

The above list of roles and responsibilities indicates that national and provincial government are constitutionally required to take an active interest in ensuring the development of strong local government, capable of fulfilling its constitutional mandate.

In return, municipalities are required to work with provincial and national government in their respective areas of jurisdiction, and enhance the effectiveness of national and provincial programmes. Local government should maintain open, cooperative and constructive relations with both provincial and national government, seeing its operation as a component of the broader state structure.

2. Working with local government

2.1. National policies and programmes

Local government does not determine the sustainability of human settlements alone. Other spheres of government, either by independently conducting their own programmes in the same area as a municipality, or by regulating the operation of municipalities in line with their own sectoral objectives, also affect the overall shape of settlements and the livelihoods of people who live there.

The following is a summary of some national departments' programmes and policies as they relate to local government. The summary gives an indication that the national policy environment within which municipalities operate is rapidly becoming more complex. Local

government is increasingly being seen as a point of integration and coordination for the programmes of other spheres of government.

Department of Health

The Department of Health has proposed decentralising significant functions to local government, and will potentially designate municipalities as district health authorities where they have the capacity to perform this function.

The department perceives a clear need to integrate services currently rendered by multiple authorities (e.g., where provincial and local governments operate separate clinics close to each other in the same area), and to coordinate those vertically split services which impact upon health quality (water supply, welfare, transport access, etc.). It sees a district health system which reintegrates and coordinates services at the local government level as the best way to achieve this.

District health authorities will be established across the country with boundaries coterminous with (aligned with) municipal boundaries where possible. In rural areas with smaller, more widely dispersed populations, a number of municipalities may together comprise a district health authority. In denser metropolitan areas, each metropolitan government may incorporate a number of district health authorities.

The proposed district health system will significantly improve health planning and bring real cost savings and improvements in service delivery. But it has major implications for local government which need to be considered. These include:

- Linking 'municipal health services' (an original power of local government in terms of the Constitution) to primary health care, which may have financial implications for local government.
- The alignment of boundaries to enable the effective delivery of municipal and district health authority services.
- The relationship between the employment conditions of district health authority staff and those of local government.

Department of Transport

The Department of Transport has proposed a Bill which envisages the designation of municipalities and/or combinations of municipalities as transport authorities. Transport authorities will have responsibilities for, among other things:

- The development of transport policies and plans based on national and provincial guidelines and visions.
- The implementation of plans and the operation, maintenance and management of transport programmes and systems established under these policies and plans, including public transport.
- The administration of land transport authority funds.
- The development, implementation and monitoring of environmental strategies with respect to land transport.
- The regulation and enforcement of transport matters.
- The promotion of security in public transport.

The Bill establishes national and provincial transport funds, as well as specific 'land transport funds' for each transport authority. Land transport funds will receive money from provincial and national budgets as well as grants from member municipalities, money allocated for the subsidisation of public transport, levies on transport infrastructure users approved by provincial MECs, loans approved by provincial legislatures, and from the exploitation of transport authority assets (bus fares, etc.).

The Bill makes allowances for municipalities to set up transport authorities which straddle provincial boundaries if this enables more effective planning and service provision.

The department also proposes the very gradual phasing out of transport subsidies for municipal public transport. In some areas of the country, notably areas of displaced

urbanisation, this will have a great impact on settlement patterns and people's work opportunities.

Department of Trade and Industry

The role of local government in boosting local economies, enhancing local competitiveness and promoting small scale enterprise will be enhanced by initiatives under the Department of Trade and Industry.

Local government has been actively drawn into small, medium and micro-sized enterprise (SMME) initiatives, via local service centres, and collaboration with *Ntsika** and *Khula** is encouraged. In addition, assistance with local economic development pilot projects is available both from the Department of Trade and Industry and the Department of Constitutional Development.

The *spatial development initiatives** managed by the Department of Trade and Industry offer major opportunities for municipalities to get involved in regional development programmes, and collaborate with other spheres of government and stakeholders to attract investment and boost local job creation. Due to the potential long term impact if these initiatives on local development, municipalities need to become more involved in the planning and implementation of spatial development initiatives.

Department of Arts and Culture

The Constitution lists culture as a concurrent competence. This means that provincial and local government have some responsibility in promoting and developing arts and culture in their areas. Internationally, municipalities are the biggest funders of arts and culture, and many cities have made the transition from industrial to post-industrial global centres through promoting the development of arts and culture locally.

Traditionally in South Africa, community arts centres and libraries are the responsibility of local government. As more of these centres and libraries are built, a legal framework will have to be developed to manage them.

Some other programmes relevant to municipalities are the cultural industries growth strategy, which aims to identify and maximise the economic potential of the cultural industries, and the Legacy Project, which is aimed at making the heritage sector (museums, historic monuments, etc.) more representative of our country's diversity.

Department of Safety and Security

The Department of Safety and Security's national crime prevention strategy has four pillars, namely:

- Re-engineering the criminal justice system.
- Environmental design to promote safety and security.
- Promoting public values and education.
- Transnational crime.

Local government will be expected to play a key role in the second and third of these pillars: strategising and implementing social crime prevention measures to promote healthy, prosperous and well informed communities in which criminal activity has little opportunity to flourish.

New legislation will enable municipalities to establish municipal police forces. Municipalities will be able to get support through training and access to police facilities.

The department also envisages an overhaul of the present system of community policing forums and their replacement with a system based on municipal public safety committees.

Department of Mineral and Energy Affairs

The Department of Mineral and Energy Affairs is overseeing a process of far reaching changes in the electricity industry. At present Eskom and municipalities both reticulate electricity to different parts of the country and sometimes different parts of the same

municipality. Many municipalities are losing their licences to reticulate electricity because of their inability to pay their bulk electricity accounts. It is proposed that a system of regional electricity distributors be established which will combine Eskom and municipality electricity reticulation into autonomous structures.

The proposal will impact significantly on municipalities' revenues and cash flows. In some municipalities profits on electricity supply are used to cross-subsidise otherwise non-viable services within municipal accounts, but many municipalities operate their electricity undertaking at a loss. Municipalities will be allowed to levy a tax on the sale of electricity which should in aggregate improve their income from electricity. However, the removal of electricity will affect the municipal asset base, and thereby impact on credit ratings and borrowing ability.

Many of the details related to establishing the regional electricity distributors, such as the exact levy municipalities may charge and the role of municipal representatives on regional electricity distributor governance structures, still have to be finalised. Local government will be an active participant in this discussion, and, via Salga or other mechanisms, must ensure that its interests are represented.

Department of Land Affairs

The Department of Land Affairs administers the Development Facilitation Act, which imposes a set of planning requirements on municipalities. The Local Government Transition Act (Second Amendment Act) also imposes certain planning requirements on local government. The Department of Constitutional Development and the Department of Land Affairs are working closely through the Forum for Effective Planning and Development to ensure that these requirements, as well as the sectoral plans which other national departments require from local government, are coordinated and streamlined into a single generic planning process - the integrated development planning process (see Section B, 2.2 and 3.1 for more on integrated development plans).

Local government also needs to work closely with the Department of Land Affairs to ensure that land reform and restitution processes are incorporated in municipal integrated development plans, and that the benefits of tenure reform are consolidated within municipal areas.

Department of Public Works

The Department of Public Works has a number of programmes which impact upon local economic development. These include a labour-intensity programme; a procurement reform programme within national and provincial government; and a programme for support to emerging contractors.

The department is investigating the possibility of extending the procurement reform programme to local government, and of working closely with municipalities around the other programmes.

Department of Housing

In terms of the new Housing Bill, municipalities are required to ensure that, within the frameworks of national and provincial legislation and policy, all inhabitants in their areas have access to adequate housing. This is to be achieved through the setting of housing delivery goals, the coordination of housing development and the identification and development of appropriate land. It also requires coordination of the planning and provision of bulk and basic services with the planning and implementation of new housing projects.

The Bill allows for municipalities to participate directly in the national housing programme by either acting as a developer or an administrator of a national programme in which it contracts developers. If a municipality is accredited for the purposes of administering a national housing programme, it may receive allocations from the provincial housing development fund if the MEC deems this appropriate.

At present no person without formal legal title to land is able to qualify for a subsidy under the national housing programme. This has excluded people living on communal land in rural areas from accessing the subsidy. The Department of Housing is exploring a new instrument with the Department of Land Affairs which may allow people in rural areas to use existing access to a portion of land as a qualified title for the purposes of receiving a subsidy.

Department of Water Affairs and Forestry

In recent years the Department of Water Affairs and Forestry has pursued a multibillion rand programme of supplying water directly to communities. The programme is beginning to have a significant and positive impact on the quality of life of rural people. However, largely due to the transitional process in local government, this programme has often bypassed municipalities in the past. The Department of Water Affairs and Forestry has committed itself to a systematic institution-building programme at the local government level to ensure local government involvement in the programme.

The Department of Water Affairs and Forestry has developed a White Paper on Water Supply and Sanitation, which will impact on municipalities with respect to the delivery of these services. The recently passed Water Services Act (No. 108 of 1997) requires that all municipalities draw up water services management and water resources development plans, specifying how the municipality plans to use and preserve water as a national resource.

The Department of Water Affairs and Forestry may also provide for the specific regulation of water tariffs for bulk purchases by, and reticulation within, municipalities. These regulations could have a significant impact on the way municipalities conceive the long-term development of their areas.

Department of Environmental Affairs and Tourism

In order to provide for thorough and uniform control of the environmental impact of development projects, the Minister of Environmental Affairs and Tourism published a provisional list of activities and draft regulations for environmental impact assessments. This is a significant step in formalising environmental impact assessment in South Africa, and facilitating the integration of environmental impact management with development processes. This will lead to more responsible and environmentally sensitive development. Provision has been made in the regulations for the relevant provincial authorities to identify municipalities that could be designated by the Minister to act as competent authorities.

Tourism is a concurrent competence, and requires good coordination and mutual support between spheres of government, particularly in view of the diverse nature of tourism. The White Paper on Tourism emphasises the important role of municipalities in developing tourism, and the extraordinary contribution this sector can make to socio-economic upliftment.

Disaster management*

Effective disaster management requires that the resources and capacities of all spheres of government are coordinated to prevent disasters where possible, and deal with them effectively where they occur. Each municipality should proactively plan for the prevention and management of disasters. Municipalities should, through their planning and implementation processes, seek to minimise the vulnerability of communities and protect people who are at risk. The direct involvement of communities in planning and implementation is the most effective way to identify the possible hazards and risks faced by communities, and build a culture of risk reduction. Disaster prevention and preparedness should be an integral part of development policy.

The Department of Defence assists in the crime prevention function of disaster management and has various disaster management and civil aid capabilities. Local government will need to work together with the Department of Defence during times of crisis when this assistance is required.

2.2. Cooperative government in practice

It is clear that national government is increasingly looking to local government as a logical point of coordination and necessary vehicle for the implementation of policies and programmes. Provincial governments are also decentralising certain functions to local government. At the same time, local government is constitutionally obliged to participate in national and provincial development programmes.

It is also clear that the policies and programmes of other spheres have wide-reaching implications for local government, and can potentially have a positive impact on municipal capacity and a strong synergy with municipal programmes. National and provincial government can build local government capacity through the way they execute their own programmes, and enhance the effectiveness of both. Some of the ways in which this can happen are:

- **Working with local government directly:** If national and provincial departments commit themselves to working through local government directly, substantial resources could be made available to municipalities to conduct their constitutionally assigned powers and functions. Depending on the nature of the funding, it may contribute significantly to local government institutional development, as well as general development and delivery programmes.

Municipalities often find themselves working in parallel with a range of local offices of government departments. The activities of these parallel structures are sometimes difficult to incorporate into integrated development plans, and may also undermine the authority of local government to govern within its area of jurisdiction. If local government is to govern effectively and play an integrating, coordinating role at the local level, some of the activities of these structures may need to be brought under local government authority.

- **Integrating programmes into municipal integrated development plans:** Municipalities are expected to develop local infrastructure investment plans on the basis of integrated development plans. However, national and provincial departments have major infrastructure programmes of their own, which are not always executed with the active and informed participation of municipalities. Some of these national and provincial investments may impose unforeseen future costs on municipalities. Integrated planning is needed to coordinate national, provincial and local investments in municipal areas of jurisdiction, to ensure that scarce resources are utilised for maximum impact.
- **Coordinated decentralisation and the assignment of powers:** National and provincial government are constitutionally permitted to devolve powers and functions to local government. While decentralisation is often desirable to improve the effectiveness of government as a whole, it is not without problems. The devolution of a new function to local government may occur without it being accompanied by the financial and administrative capacity required to sustain it - what is termed an unfunded mandate. Unfunded mandates strain local government's limited resources and, ultimately, result in a lack of delivery.

In order to ensure that the combination of decentralisation initiatives by different departments does not overwhelm local government, and that unfunded mandates are avoided, it is proposed that all legislation dealing with the decentralisation or assignment of powers to local government is referred to the local government MinMec for discussion and comment. In addition, provincial government should monitor the extent to which coordination of governmental activities within a municipal area is taking place through the relevant municipality, and report to MinMec in this regard.

The delegation of functions from a national level to local government should be the result of a cabinet decision, and should follow consultation with both provincial and local government. Similarly, delegations from provincial government to local government should be the result of a provincial Executive Council decision, and should follow consultations with local government in the province. This approach will facilitate integrated decision-making by ensuring that decentralisation initiatives by different line function departments are considered in relation to one another, and their combined impact on local government.

3. Horizontal cooperation between municipalities

Constructive and mutually beneficial relations between the three spheres of government are vital to the integrity and effectiveness of local government. However, horizontal cooperation between municipalities, whether formal or informal, is equally important.

3.1. Organised local government

The Constitution allows for municipalities to organise forms of municipal association. A national organisation, Salga, and nine provincial associations have been established.

For historical reasons the voice of local government has been weak in the development of national and provincial policies, even where these affect local government directly. Salga's key role is the effective representation of local government in the legislative processes of all spheres of government, and in intergovernmental executive processes. Salga represents local government interests in forums such as the National Council of Provinces, the Financial and Fiscal Commission, the new Budget Forum dealing with intergovernmental transfers, MinMec, and in the drafting of legislation that affects the status, institutions, powers and functions of municipalities. In order to fulfil this representative role effectively, Salga must develop its own policy formulation and advocacy capacity, as well as develop strong internal mandating and consultative processes.

Organised local government in South Africa is also an employers' organisation, and constitutes the employer component of the South African Local Government Bargaining Council. Labour relations is often a neglected area, and the importance of labour matters and their impact on the daily operations of local government is sometimes not fully recognised.

Salga has a key role to play, not only as an employer in the South African Local Government Bargaining Council, but also in building capacity in the area of labour relations among its membership, and maintaining open and constructive relationships with organised labour. The successful transformation of local government requires that the relations between employer bodies and municipal trade unions are reconstructed around a common commitment to a developmental role for local government. The negotiation of this partnership will require vision and leadership, as well as considerable expertise in labour relations, bargaining, conflict resolution and human resource management and development. The Department of Labour can play a role in supporting Salga and developing its capacity as an employer organisation.

Salga also has potential to make a strong contribution to the development of municipalities throughout the country, through, for example:

- The provision of specialised services to supplement and strengthen the capacity of municipalities.
- Research and information dissemination.
- Facilitating shared learning between municipalities.
- Human resource development.
- Councillor training.

Organised local government is primarily funded by and dependent on membership fees payable by municipalities. This keeps local government associations accountable to the municipalities that constitute it. However, the functions performed by organised local government require wide-ranging, high-level and specialised human resources. For organised local government to be effective, additional sources of funding will need to be accessed. National and provincial government are committed to assisting organised local government, and have made provision for funding organised local government on a rand-for-rand basis out of the equitable share of national revenue to which local government is entitled.

3.2. Informal and international relationships between municipalities

Municipalities need not relate to each other through formal associations only. Inter-municipal cooperation may take many varied forms, including: exchange of learning experiences; sharing of staff, technology and equipment; joint investment projects; and collective purchasing.

Municipalities can also engage with municipalities in other countries, through a range of mechanisms from informal linkages to formal twinning arrangements and membership of international municipal institutions. Due to South Africa's historical isolation, very little attention was given to municipal international relations in the past. A process is currently underway to discuss areas where coordination may be required, such as visits to foreign countries initiated by municipalities or foreign governments; donor support to municipalities in South Africa; and the conclusion of agreements or contracts with foreign entities in cases where such agreements can create rights and/or obligations for the municipality, or impact on the country's foreign policy.

International linkages may provide numerous benefits to South African municipalities, including facilitating the sharing of international expertise and best practice experience. The Department of Constitutional Development, in consultation with the Department of Foreign Affairs and Salga, will develop and publish a policy on municipal international relations in 1998.

4. Concluding comment

Strong and capacitated local government can play a critical role in enhancing the success of national and provincial policies and programmes, and building sustainable human settlements for the nation. In a spirit of cooperative governance, national and provincial government should seek to support and enhance the developmental role of local government.

Section D: INSTITUTIONAL SYSTEMS

In this section:

This section of the White Paper discusses municipal institutions, including metropolitan government systems, district government, and local municipalities in non-metropolitan areas. It also addresses the relationship between traditional leadership and rural local government, and the demarcation of boundaries for new municipal institutions.

1. Introduction

1.1. The Constitutional framework

The Constitution establishes the following categories of municipality:

- **Category (A):** A municipality that has exclusive municipal executive and legislative authority in its area.
- **Category (B):** A municipality that shares municipal executive and legislative authority in its area with a Category (C) municipality within whose area it falls.
- **Category (C):** A municipality that has municipal executive and legislative authority in an area that includes more than one municipality.

Section 155 of the Constitution states that national legislation must:

- Define the different types of municipality that may be established within each category (see also Section E: Political Systems, point 2.3).
- Establish criteria for determining when an area should have a single Category (A) municipality or when it should have municipalities of both Category (B) and (C).
- Make provision for an appropriate division of powers and functions between municipalities when an area has municipalities of both Category (B) and (C).

1.2. Meeting South Africa's needs

Municipal institutional arrangements cannot be assessed in the abstract, and there are no universally ideal systems. While this White Paper is informed by research into municipal systems in both the developed and developing world, no international model can be transposed into the South African context. Rather, municipal institutions need to be assessed in the context of our specific circumstances, and judged against their ability to meet the needs of local communities.

Some factors which have guided the choice of municipal institutions proposed in this White Paper are:

- The legacy of (colonial and apartheid) separation, which has created distortions in our settlement patterns.
- The uneven distribution of municipal capacity, particularly between urban and rural municipalities. Previous legislation created disincentives for skilled staff to work in rural and small town areas. Further, under apartheid there was little commitment to building sustainable municipal capacity in large parts of the country.
- The need for rapid intervention in the management of urban and rural systems, to tackle entrenched patterns of inequity, increase economic competitiveness and viability, and harness concentrated capacity and investment.
- Sharp social divisions within local communities, and the need to enable diverse community groups to have adequate voice and representation within the municipal system without perpetuating existing divisions.
- The new vision for local government, and the need for empowered and capacitated municipalities to play a transformational and developmental role in building viable human settlements which meet the needs and aspirations of local communities.

These factors lead to:

- The need for capacitated municipal institutions at an appropriate level to address spatial distortions in settlement patterns.

- A focus on district governments as centres of municipal capacity to manage integrated development planning and to ensure rapid delivery where local municipal capacity does not exist.
- A focus on metropolitan governments to promote social inclusion and the spatial, economic and political integration of metropolitan areas.

2. Metropolitan government

2.1. What is a metropolitan area?

Metropolitan areas are large urban settlements with high population densities, complex and diversified economies, and a high degree of *functional integration** across a larger geographic area than the normal jurisdiction of a municipality. Economic and social activities transcend municipal boundaries, and metropolitan residents may live in one locality, work in another, and utilise recreational facilities across the metropolitan area.

Metropolitan governments are governments whose area of jurisdiction covers the whole metropolitan area. Where there is no metropolitan government, the metropolitan area is divided into many municipal jurisdictions.

2.2. Why have metropolitan government in metropolitan areas?

There are three compelling reasons for the establishment of metropolitan government:

(a) Metropolitan government creates a basis for equitable and socially just metropolitan governance

In the absence of metropolitan government, municipalities within a metropolitan area seek to maximise their per capita tax base through:

- Exclusionary practices (i.e., excluding low-ratable forms of development in their jurisdiction and excluding residents who would cost the tax base more than they would contribute to it).
- Protecting their tax base from claims beyond their borders (i.e. ensuring that their tax base does not contribute to the costs of servicing areas outside their jurisdictions).

The result is that the urban poor are pushed to the metropolitan peripheries or into spatial “pockets of poverty”, which are expensive to service and far from job opportunities and recreational and social amenities.

Urban apartheid provided a legal framework for white municipalities to effectively exclude the largely black majority of the urban poor and ensure that high-ratable commercial development fell within their jurisdiction. Although the consumer and labour power of township residents contributed to the tax base of white municipalities, services in the townships were not funded from this tax base.

Metropolitan government provides a mechanism for addressing this dynamic of inequity, and ensuring that everyone who contributes to the tax base benefits from it. Where the Metropolitan Council has sufficient fiscal powers and effective mechanisms to enable redistribution across the metropolitan area, metropolitan government can significantly enhance equity and promote social justice in the city.

A more equitable and socially just form of metropolitan governance not only benefits the urban poor, but in the long-term benefits all metropolitan residents. Numerous studies have shown that the overall economic prosperity of metropolitan cities is greater where there is less inequity between constituent parts of a metropolitan area. Social justice and equity are not merely desirable ends in themselves, but also make good economic sense.

(b) Metropolitan government promotes strategic land-use planning, and coordinated public investment in physical and social infrastructure

Municipalities in metropolitan areas are embedded in a continuous urban area that extends beyond their boundaries. Urban economic, social and spatial dynamics inevitably play

themselves out at a scale larger than the boundary of any particular embedded municipality. However, municipalities exercise their planning powers and functions within their particular areas of jurisdiction. This mismatch between the scale of municipal boundaries and the scale of economic and social activity in the metropolitan area often results in irrational land-use planning decisions. Given that planning frameworks are intended to guide public investment (for example, investment in infrastructure and transport systems), poor planning tends to result in the less than optimal use of public funds.

Public investment in physical and social infrastructure may also result in negative *spillovers and externalities** in metropolitan areas where there is no metropolitan government. Services (such as roads, bulk infrastructure and communications infrastructure) may be funded from one municipal tax base, yet consumed predominantly by residents from other tax bases. Some services (such as art galleries, reference libraries, museums and so forth) are likely to be located in the central city but utilised by all metropolitan residents. The provision of such services is usually costly, and, in line with the principle that services should be paid for by the urban residents who consume them, the costs of such services should be shared across the metropolis.

The city-wide jurisdiction of metropolitan governments enables more integrated development planning which is able to respond to and influence metropolitan-wide spatial, social and economic trends, and helps to minimise negative externalities.

(c) Metropolitan government is able to develop a city-wide framework for economic and social development, and enhance the economic competitiveness and well-being of the city

Metropolitan areas are often assessed as single entities for purposes of determining their investment attraction potential. Metropolitan government is able to market the city as a whole, and direct investment in line with an integrated development plan. In the absence of metropolitan government, municipalities may compete excessively for investment, and create negative perceptions through separate and uncoordinated international marketing strategies. The aggregate (cumulative) effect of economic policies which protect narrow local interests can damage the overall economic well-being of the metropolitan area.

Metropolitan government creates the basis for metropolitan development that is socially just and equitable, as well as spatially and economically integrated across the metropolitan area.

2.3. Metropolitan government institutions

2.3.1. The context

The choice of institutional arrangements for the municipalities which will govern South Africa's metropolitan areas is a key policy issue which not only impacts on the lives of millions of metropolitan residents, but is central to the economic well-being of the nation as a whole. Metropolitan areas, which are densely concentrated centres of economic activity, generate the bulk of the country's gross domestic product. However, they are also home to a large (and increasing) number of citizens who live in dire poverty, often lacking secure and decent shelter or access to basic services. The form of urban governance adopted in metropolitan areas will therefore be a critical factor in determining the future economic prosperity and social stability of the nation.

Over the past year, national government has facilitated an inclusive and intensive process of debate on the issue of metropolitan government systems. What has become clear is that the fragmentation of metropolitan areas into separate municipal governments will perpetuate inherited economic inequities and social divisions, and therefore cannot be favoured as an option for the future.

Equally, it has become increasingly clear that the existing system of metropolitan government, designed as an interim mechanism to unite the plethora of racially-based municipalities within metropolitan areas, requires careful rethinking. If the benefits of a metropolitan government system are to be consolidated, it is essential that the Metropolitan Council has sufficient

powers and functions to fulfil the roles defined for it and sufficient flexibility to consolidate potential efficiency gains through vertically integrating or decentralising service functions.

2.3.2. Roles and responsibilities of the Metropolitan Council

In any system of metropolitan government, it is envisaged that the Metropolitan Council will fulfil the following key roles:

City-wide spatial integration and socially inclusive development

The concentration of the commercial and industrial tax base combined with the extreme spatial and social segregation along class and race divides within our metropolitan areas demand that particular attention is given to promoting spatial integration and socially inclusive forms of development.

Metropolitan governments should utilise their land-use planning and regulation functions to promote integrated spatial and socio-economic development. Land-use planning and regulation is not simply a technical instrument for ordering physical space. If combined with other functions such as transport planning and bulk-infrastructure planning, land-use planning may facilitate the development of a particular kind of urban living environment. Metropolitan governments should use their integrated development plans to articulate a vision for the kind of urban environment in which citizens wish to live, and translate that vision into reality through the combined exercise of land-use planning and other powers. In this sense land-use planning can become an instrument of social equity, which challenges the existing spatial location of poverty, and redirects market dynamics in line with the aspirations of metropolitan residents.

The Metropolitan Council should have powers over land-use planning, transport planning and bulk infrastructure planning. The Metropolitan integrated development plan should guide the development of the whole metropolitan area.

The promotion of equity, social justice and economic prosperity

The economic and social viability of our metropolitan areas is closely linked to addressing existing inequities and creating a stable environment for the attraction of capital investment. The former requires redistribution across the metropolitan area; the latter requires a clear, transparent and predictable framework in which redistribution can occur.

To effectively promote equity and facilitate redistribution between developed and underdeveloped parts of the city, Metropolitan Councils require strong fiscal powers.

The promotion of local democracy

The promotion of local democracy should be seen as a central role for any municipal government - it is given particular attention here because the scale and complexity of metropolitan areas require specific mechanisms to promote local participation and democracy.

The local sphere is an arena where citizens can participate in decision-making to shape their own living environments, and exercise and extend their democratic (social, economic and political) rights. It is often seen as critical for enhancing participative democracy because citizens may have greater incentives to participate at the local level and fewer disincentives. An individual is more likely to exercise some influence over a policy decision in a smaller, local institution, close to home. It is sometimes argued that the smaller the institution, the greater the participation. However, in the South African context of vast intra-metropolitan inequities and racially-divided cities, it cannot be assumed that smaller political institutions with maximum autonomy will necessarily enhance everyone's democratic rights.

Metropolitan residents should have a voice in decisions which affect them at their work, at home and at places of recreation. As in all democratic systems, there is a need in metropolitan systems to ensure that the exercise of the democratic rights of some groups does not infringe on the economic, social or political rights of other groups. This requires a metropolitan system where no constituent Council which represents only part of the

metropolitan community has the autonomy to act in ways which limit the rights and opportunities of other metropolitan residents.

At the same time, a metropolitan government with a large jurisdiction may be perceived by residents as a distant form of government, and discourage their active participation. Our metropolitan areas include diverse communities, with different histories, priorities, needs and aspirations. Metropolitan governments need to be responsive to these diverse needs, and ensure that all citizens are able to contribute effectively to the governance of their communities. This requires smaller forums which effectively represent the diversity of interests within the metropolitan area.

Given the social geography of our major cities, it is likely that forums small enough to facilitate direct citizen participation will reflect existing racial divisions in the city. If these forums are independent municipal Councils, there is a danger that they will encourage race-based local politics.

The need for smaller representative forums can be accommodated at the same time as the concerns that no one Council should be able to act in ways which disadvantage other metropolitan residents, and that statutory divisions between parts of the metropolitan community should be avoided. Smaller political forums could be constituted as committees of the Metropolitan Council, thereby removing the need to create statutory divisions between parts of the city. The Metropolitan Council would need to decentralise powers and functions to these committees to ensure that they act as forums for meaningful participation and interaction with elected representatives, and do not become “talk-shops”.

The provision of affordable and efficient services

Efficient delivery mechanisms require the decentralisation of certain functions, and the vertical integration of others. Not only is flexibility required with respect to the degree to which specific functions are decentralised within any metropolitan government -flexibility is also required between metropolitan governments. Factors such as the location of existing centres of municipal administrative capacity and infrastructure, population distribution patterns, and the existence of public utilities in some metropolitan areas, implies that effective delivery systems will require different degrees of administrative centralisation and decentralisation between metropolitan areas.

A two-tier system with a rigid division of powers and functions between tiers of independent municipalities can only allow for this type of flexibility where the allocation of powers and functions is locally negotiated. A legislated allocation of powers and functions between tiers imposes a standard allocation of functions on all metropolitan areas. However, experience from the past two years suggests that it is exceptional for the local negotiation of powers and functions between independent municipalities to result in an operationally optimal split of functions between tiers, and that political considerations generally tend to override administrative concerns.

Maximum flexibility with respect to differing administrative arrangements between and within metropolitan areas is best achieved through empowering each Metropolitan Council to decide on the extent of administrative decentralisation required for each function. This can be facilitated through vesting all municipal powers and functions at the metropolitan level, and making provision for the Metropolitan Council to decentralise functions as required. This system will enable different administrative arrangements to emerge in different metropolitan areas, based on a consideration of municipal capacity and infrastructure and end-user needs in each area. It will also allow for administrative arrangements to change over time to respond to changing needs, or to incorporate “best practices” from other metropolitan areas.

It has the added advantage of creating a single employer body, thereby facilitating parity in the conditions of service of municipal staff within the metropolitan area, and allowing for the deployment of staff across the metropolitan area as appropriate.

2.3.3. Metropolitan government systems

Two types of metropolitan government are proposed. In terms of Section 155(5) of the Constitution, provincial legislation must determine the type of metropolitan municipality to be established in that province.

Metropolitan government with Ward Committees

Metropolitan governments with Ward Committees are Category (A) municipalities that consist of:

- A Metropolitan Council which exercises the complete range of (legislative, executive and administrative) municipal powers and duties.
- Ward Committees, which are area-based committees whose boundaries coincide with ward boundaries. Ward Committees have no original powers and duties. They are established as committees of the Metropolitan Council, and their powers and functions must be delegated from the Metropolitan Council. They may have advisory powers and the right to be consulted on specific issues prior to Council approval. They may also correspond to decentralised service centres which bring the administration closer to residents.

The Metropolitan Council will establish a Ward Committee for each ward falling within its area of jurisdiction. Ward Committees should be chaired and convened by the councillor elected to the ward. Each Metropolitan Council must develop procedures and rules to govern the membership and proceedings of Ward Committees, provided that membership rules are applied consistently across the metropolitan area and do not unfairly discriminate against any individual or institution. The central role of Ward Committees is the facilitation of local community participation in decisions which affect the local community, the articulation of local community interests, and the representation of these interests within the metropolitan government system.

Ward Committees provide a structured channel of communication between geographic communities within the metropolitan area and their political representatives at the ward and metropolitan level. Well-functioning Ward Committees will provide every metropolitan resident with a local point of access to municipal government and strengthen the accountability of ward councillors to local residents. The establishment of Ward Committees should go hand in hand with strengthening support to ward councillors and building accountable and effective local political leadership.

The powers and duties delegated to Ward Committees must be determined by the Metropolitan Council. Metropolitan Councils can utilise Ward Committees effectively through the delegation of powers, such as:

- A strong role in determining local needs and priorities which form the basis of the metropolitan integrated development plan.
- Advisory powers with respect to policies impacting on the local area.
- The right to be consulted on specific issues prior to Council approval.

In this type of metropolitan government, the Metropolitan Council may decentralise administrative functions as required. Decentralised administrative units do not need to correspond to ward boundaries, and may service any area determined by the Metropolitan Council. This will allow maximum flexibility with respect to the administrative arrangements adopted by the Metropolitan Council.

Metropolitan government with Metropolitan Substructures

Metropolitan governments with Metropolitan Substructures are municipalities that consist of:

- A Metropolitan Council with original (legislative, executive and administrative) powers for all municipal functions.
- Metropolitan Substructures. The powers and functions of Metropolitan Substructures must be devolved from the Metropolitan Council. They will have advisory, supervisory and decision-making powers.

Metropolitan Substructures will consist of all ward councillors elected to wards that fall within the Metropolitan Substructure's area of jurisdiction, and additional members of the Metropolitan Council allocated to serve on each Metropolitan Substructure. The allocation of

additional members maintains the proportionality of votes cast for each party within the Metropolitan Substructure's area of jurisdiction.

This type of metropolitan government is intended to facilitate a structured correspondence between political and administrative decentralisation. Metropolitan Substructures are intended to:

- Act as representative forums to enhance local democracy.
- Facilitate the effective oversight, management and coordination of municipal functions within part of a metropolitan municipality's area of jurisdiction.

The Metropolitan Council will decentralise powers and functions to Metropolitan Substructures, including decision-making powers with respect to specific functions or components thereof. However, the powers listed in Section 160 (2) of the Constitution may not be decentralised.

Metropolitan Councils may approach the establishment of Metropolitan Substructures in various ways:

- One approach is to establish Metropolitan Substructures as the key interface between local government and local communities, with the Metropolitan Council playing a supportive and enabling role. Powers and functions which involve direct interaction with the local community will be devolved to Metropolitan Substructures. Powers and functions which relate to either bulk supply or the establishment of policy frameworks which enable delivery by Metropolitan Substructures will be retained at metropolitan level. This approach could result in an allocation of powers and functions where Metropolitan Substructures are responsible for sewage disposal and the reticulation of services such as water and electricity, while the Metropolitan Council is responsible for the bulk sewage system and the bulk supply of water and electricity.

In addition to these shared powers and functions (where both the Metropolitan Council and Metropolitan Substructures assume responsibility for aspects of the same function) some functions (such as environmental management and traffic control) can be managed at Substructure level, with the Metropolitan Council playing a coordinating role in so far as these functions affect more than one Metropolitan Substructure. Functions which involve a high degree of interaction with local communities, such as the establishment of local amenities, business licensing, cleansing, billboards and advertising, the control of public places and so forth could be completely decentralised to Metropolitan Substructures.

- In some metropolitan areas shared powers and functions may not be desirable, as the vertical integration of particular services may result in efficiency gains. For example, both the bulk supply and reticulation of water could be managed by the Metropolitan Council. Other functions such as local planning decisions, environmental control, public amenities, cleansing, business licensing, billboards and advertising, etc. could be decentralised to the Metropolitan Substructures, giving both the Metropolitan Council and Metropolitan Substructures a role in directly interacting with end-users. Substructures would retain a key role in compiling integrated development plans, including formulating inputs and strategy formulation.

Whichever approach is taken, the metropolitan municipal budget should be structured in a manner which ensures that Metropolitan Substructures have adequate revenue to fulfil the functions which are decentralised to them.

2.4. Managing the transition process in metropolitan areas

Both types of metropolitan government can be accommodated within a Category (A) model and allow for a phased implementation process which will minimise disruptions to service delivery. As an interim measure, Metropolitan Councils will be able to ensure continuity by delegating powers and functions in a way which will reproduce the existing metropolitan government architecture. Over time these can be adjusted to better suit the operational and efficiency requirements of the metropole. The establishment of a single tax base and common conditions of employment for all metropolitan staff will facilitate this process of restructuring.

The flexibility allowed by these models with respect to administrative and political decentralisation will create space for different systems of metropolitan governance to emerge within different metropolitan areas, without compromising any of the key objectives of metropolitan government. As systems of metropolitan governance are consolidated, best practices with respect to different aspects of metropolitan government will emerge. When appropriate, the legislative framework for metropolitan government may be revisited to incorporate the best practice models which develop over the forthcoming years. Organised forums of metropolitan governments can facilitate this process.

2.5. Anticipating the future in metropolitan areas

It is impossible to accurately predict the future industrial, commercial and residential development patterns of South Africa's metropolitan areas. What is certain is that continued urbanisation, the lifting of apartheid restrictions, new government policies and programmes, and South Africa's entry into the global economy under Gear will result in far-reaching changes. Metropolitan institutions and boundaries need to be flexible enough to accommodate changing development patterns and needs.

Where urban growth outstrips the metropolitan boundary, and encompasses a number of metropolitan or municipal areas, there may be a need for special mechanisms to address the spillover effects and potential inequities that may arise between areas experiencing rapid economic growth and functionally integrated residential areas or urban cores which fall within a different municipal jurisdiction.

In these circumstances it may be necessary to equalise across adjacent municipal tax bases, thereby maximising the locational efficiency of both households and businesses. Fiscal equalisation measures would involve two or more adjacent metropolitan or municipal Councils, and should be based on a rational formula linked to either Regional Services Council levies or property rates. National government will investigate appropriate mechanisms to introduce fiscal equalisation measures where necessary, and will carefully monitor patterns of urban growth, investment and development in this regard.

2.6. Concluding comment

South Africa's metropolitan areas require systems of metropolitan government which:

- Provide a basis for spatial, economic and social integration.
- Provide sufficient flexibility for each Metropolitan Council to develop efficient service delivery systems geared to local circumstances.
- Accommodate diversity within a framework of social justice for all metropolitan residents.

3. District government

3.1. The need for district government

Historically, the only form of local government outside metropolitan areas was found in small market towns and Regional Services Councils. Here, municipalities could stabilise their costs around a geographically contained population, and an economic base of protected agricultural and mining industries. As in the metropolitan areas, groups who would draw more from municipal resources than they would contribute to the municipal tax base, were legally excluded. The bulk-service needs of farmers, which were difficult and costly to provide, were externalised to Joint Services Boards and Regional Services Councils. The service needs of the vast majority of South Africa's non-metropolitan population, including labour reserve populations in small dormitory townships attached to white towns, farm workers, and people forcibly settled in bantustans, went largely unheeded. A new system of local government will need to change this pattern.

Local government outside the country's metropolitan areas faces a diverse set of challenges. These include the need to:

- Build appropriate municipal institutions in areas which have no existing administrative capacity, which are unlikely to attract strong local government personnel, and which have little or no financial base to support staff complements and sustain service delivery.
- Respond creatively to changes in local economies. This includes kickstarting development in areas where economic potential has not been realised, partly because of the high production and distribution costs imposed by poor municipal infrastructure; initiatives to manage decline in many small market towns and some regional service centres; and measures to anticipate and manage the effects of rapid growth in others.
- Anticipate shifts in settlement patterns, especially with large numbers of people leaving commercial farmland, and with informal settlements rapidly growing on vacant land in agricultural areas and on the edges of towns.
- Provide for the basic needs of people living in historically derived settlement patterns which are difficult and costly to serve. These include settlements on communally owned land where dispersed homesteads are the norm, and in denser areas of “displaced urbanisation” on the borders of former homelands.
- Rapidly build capacity so that municipalities can respond to new opportunities, including the availability of national funding for infrastructure investment, the devolution of national and provincial functions, and a range of sectoral and spatial initiatives.

Some of these challenges can only be dealt with at the local level, and require strong and effective primary-tier local government. Other challenges play themselves out on a larger scale, and clearly demand regional attention through some form of cross-municipal authority. A system of district government is therefore proposed to address regional challenges, and assist in the development of local municipalities.

While new district governments will build on the capacity of the transitional district government system which is in place, it is envisaged that it will assume new roles and responsibilities.

3.2. Roles and responsibilities of district government

District Councils are very different entities in various parts of the country. Given the numerous different settlement types within district jurisdictions, this is not a bad thing. While a measure of consistency is necessary across all district governments, a measure of flexibility needs to be built into the system. A variable district government system is envisaged in which districts exercise different sets of powers vis-à-vis their areas and the local municipalities that comprise them, depending on local circumstances.

It is envisaged that the district governments will fulfil the following key roles:

- District government should be reorganised around a set of standard planning and development regions and given key responsibilities for district-wide integrated development planning, including land-use planning, economic planning and development, and transport planning.
- The role of district governments as infrastructural development agents should be continued through the retention of Regional Services Council levies. District government should also provide bulk-services where required.
- The ability of district government to provide on-demand assistance, as well as systematic capacity building to municipalities will be promoted. The capacity-building role of district government should be focused on increasing the capacity of Category (B) municipalities to assume municipal functions.
- In areas where municipalities with inadequate administrative capacity are established, the capacity of district government to provide and maintain appropriate levels of municipal services will be legally permitted and actively fostered.

Each of these roles is further explained below.

3.2.1. Integrated development planning

The Local Government Transition Act currently makes the formulation and implementation of integrated development plans by District Councils subject to the approval of municipalities

within the district. In the new system, district integrated development plans will be a statutory requirement of all district governments.

District-level integrated development planning requires that district government boundaries need to be re-demarcated to reflect the most appropriate areas within which district-level integrated development planning should be exercised. Such boundaries must take into account linkages within a regional economy, existing and potential land usage and transport planning, economies of scale for infrastructure development, and future industrial, commercial and residential development. They should also consider the most appropriate areas within which other sectoral functions might be exercised (regional health services, water resources management, and so forth). As far as is possible, the planning areas of provinces and national departments should coincide with these regions.

District-level integrated development planning has both a horizontal and a vertical dimension:

- On the one hand, the integrated development plans legally required of each municipality must be reconcilable with those of neighbouring municipalities. Two sets of plans which counteract each other will detract from development in each locality, for example, when two adjacent municipalities choose to promote very different forms of industrial growth. District integrated development plans must be informed by local objectives set by municipalities. At the same time, district integrated development plans must rationalise municipal development objectives if these contradict each other.
- A number of national and provincial departments intend to decentralise functions to local government level. Some form of vertical coordination between local government and various sectoral departments is essential. It is most rational for this coordination to be focused at the district level. This is because many of the planned service areas for decentralised functions cross municipal boundaries. It is also not cost effective for departments to always interact with each municipality directly. District government provides an appropriate level for vertical integration to occur through district integrated development plans.

District integrated development plans should provide guidelines for the local development objectives of each municipality, and for the planning and programmes of departments with decentralised field offices in the area.

The role of district government in transport planning may also be enhanced. The Department of Transport is proposing to designate municipalities or collections of municipalities as transport authorities. These transport authorities will provide comprehensive transport planning, public transport systems, subsidised services and capital infrastructure development in line with national and provincial guidelines. In many parts of the country district governments should provide the appropriate planning scale, as well as the existing administrative capacity, to become transport authorities.

As district governments assume responsibility for integrated development plans, their ability to impact on regional economic development will increase. There is wide potential for district governments to play a more active role in promoting economic development within their areas, through, for example, the provision of labour market information services, or supporting the entrepreneurial efforts of non-governmental organisations, community development corporations, training organisations, small business coalitions, etc.

3.2.2. Infrastructural development

District governments continue to be the most appropriate site from which to plan and develop bulk infrastructure in non-metropolitan areas. Apart from the clear redistributive possibilities of Regional Services Council levies, there are economies of scale in managing large infrastructure projects at a more regional level. It is envisaged that Regional Services Council levies will continue to be a core source of income for district governments, and their expenditure on infrastructure a key function. Provision will have to be made, however, to ensure that Regional Services Council levies are indeed contributing to infrastructure development and not going solely to maintaining staff and systems.

In some areas district governments will play a role in the direct provision of bulk and regional services. Many District Councils have developed systems to manage bulk functions like waste water and sewerage, and where appropriate this role should be strengthened. The role of District Councils in the planning and provision of infrastructure and regional services must occur within the policy and legislative frameworks put forward by national government, such as the Water Services Act (1997).

3.2.3. Technical assistance to municipalities

Some District Councils already provide technical assistance on demand to administratively weak municipalities, mainly in the form of town clerk and treasury functions. This role is likely to continue and possibly even expand. District governments may provide meaningful technical support to municipalities in the following areas:

- Facilitating the sharing of specialised capacity and equipment between municipalities, particularly computer systems.
- Assisting in the development of cooperative relations between municipalities which save on overall service costs (joint ventures, cooperative purchasing agreements, etc.).
- Planning and legal services.
- Assistance in the preparation of budgets, consolidated municipal infrastructure programme applications, tenders, draft by-laws, and so forth.

Some national departments also provide technical assistance to municipalities, for example, the Department of Water Affairs and Forestry provides direct assistance in the areas of contract guidelines and model development plans.

District governments could also provide a point of coordination for national and provincial capacity-building programmes and the location of support and training infrastructure.

3.2.4. Direct service provision at local level

While the capacity of Category (B) municipalities to deliver municipal services should be enhanced to meet local needs, there are some areas which do not warrant the building of fully-fledged municipal administrations. Although these areas have insufficient population numbers and densities to justify the establishment of a municipality with a full administration, municipal services still need to be provided. District government should supplement the administrative capacity of Category (B) municipalities in these areas, by providing financial and administrative capacity where it is lacking, or directly providing municipal services where required.

3.3. Category (B) municipal institutions

Three alternative options for Category B municipalities in areas with District governments are proposed:

Urban municipalities

The first are urban municipalities, which will have a full range of municipal powers and functions (with the exception of Regional Services Council levies), and are best suited to cities and larger towns. Although it is envisaged that urban municipalities will not have boundaries which extend to incorporate rural hinterlands, this does not imply that the existing boundaries of Transitional Local Councils should not be altered. In many instances the boundaries of cities and larger towns do not encompass even the full extent of the continuously built up urban area. This is particularly true where large informal settlements have begun to spring up on the urban fringe, or new industrial and commercial development has sought to take advantage of lower property rates in the rural areas immediately outside of the Transitional Local Council. *Densification** and proper planning of our larger towns and cities demand that the boundaries of urban Councils enclose at least their urban fringe.

Amalgamated urban-rural municipalities

The second are amalgamated urban-rural municipalities. They can be established through the amalgamation of existing rural and urban municipalities, or by an urban municipality extending

its boundaries into a rural hinterland. Amalgamated municipalities are appropriate for small and medium-size towns which have clear social and economic linkages between urban and rural settlements. Many countries have pursued this option as a way both to cut the costs of multiple Councils operating in the same area, and to enhance service delivery in rural areas. Almost all the evidence suggests that although the costs incurred by the town naturally increase, there are significant delivery gains in rural areas with positive economic spin-offs for the area as a whole.

In many areas the amalgamation of rural and urban municipalities areas will:

- Greatly reduce the cost of government by overcoming duplication of municipal structures, thereby increasing efficiency of resource allocation.
- Broaden the tax base of the new municipalities.
- Improve the *scale economies** of service delivery.
- Facilitate access to public services by rural communities.
- Ensure that rural residents who contribute to the urban tax base share the benefits derived from that tax base.
- Promote integration of rural and urban development.
- Improve the financial and administrative capacity of smaller municipalities by combining existing capacities.
- Enhance intergovernmental financial and technical assistance due to reduced competition for resources.

Concern has been raised in some quarters that amalgamation of rural and urban areas will set back the development that committed and innovative rural Councils have made in recent years, and that rural interests will be prioritised below urban ones in budget allocations. One option to ensure dedicated attention to rural development matters is to establish a rural committee of Council, which would operate as a rural chamber for the municipality.

At present many District Councils provide direct administrative support and services to representative Councils in their areas. There is a danger that the extension of urban boundaries would transfer the cost of this support to amalgamated Councils. This can be avoided through regulating the allocation of Regional Services Council levies in line with district integrated development plans, or even through a formula-based allocation, if required.

Rural municipalities

The institutional design of rural municipalities needs to recognise the diversity of rural settlement patterns, and the variations in existing municipal capacity and service demands across rural areas. It is proposed that rural municipalities are allocated a minimum of executive and legislative powers, but are able to “draw down” powers from the district government as they demonstrate sufficient administrative and financial capacity to administer the power.

In some areas rural municipalities could immediately assume a number of additional powers and functions. In others, particularly in very sparsely settled areas, the rural municipality may assume relatively few powers, and those over a protracted period as capacity increases. The varied allocation of powers and functions between Category B municipalities and district governments will provide the flexibility necessary to cater for the diversity of rural contexts and needs. District government will play an important role in the provision of municipal services where rural municipalities lack administrative capacity.

National legislation will provide for a mechanism to facilitate the allocation of powers and functions between Category (B) and (C) municipalities. This mechanism will be applied by provincial governments, in consultation with the affected local governments, subject to national oversight.

It is envisaged that a system of Category (C) and Category (B) municipalities (i.e. district government with urban municipalities, urban-rural amalgamated municipalities and rural municipalities) will apply in all non-metropolitan areas. However, there are a few exceptional, very expansive sparse settlements in the country where no municipal services are provided, and no sustainable Category (B) municipality is possible. In these areas, district governments

would need to assume responsibility for all municipal functions. Special electoral arrangements will be required where this option is exercised to allow the few citizens in these settlements to have representation at the district level.

3.4. Concluding comment

A flexible system of government is required in non-metropolitan areas to accommodate the diversity in settlement types and administrative capacities. District government should provide the consistency across the country, and have variable relationships with local municipalities based on the circumstances in each locality.

4. Traditional leadership

The relationship between traditional leadership and elected rural local government requires clarification in the White Paper on Local Government. Chapter 7 of the Constitution provides for the establishment of elected local government across the country, while Chapter 12 of the Constitution recognises traditional authorities and states that national legislation may provide for a role for traditional leadership as an institution at local level on matters affecting local communities.

This White Paper addresses the relationship between traditional leadership and local government. It is important to note that other issues affecting traditional leadership will be addressed in the White Paper on Traditional Affairs to be drafted by the Department of Constitutional Development, the Department of Justice (customary law and courts) and by the Department of Land Affairs (communal tenure and land trusteeship).

4.1. The role of traditional leadership at local level

At present, traditional leaders have responsibility for a number of functions.

Their functions include, among others:

- Acting as head of the traditional authority, and as such exercising limited legislative powers and certain executive and administrative powers.
- Presiding over customary law courts and maintaining law and order.
- Consulting with traditional communities through imbizo/lekgotla.
- Assisting members of the community in their dealings with the state.
- Advising government on traditional affairs through the Houses and Council of Traditional Leaders.
- Convening meetings to consult with communities on needs and priorities and providing information.
- Protecting cultural values and providing a sense of community in their areas through a communal social frame of reference.
- Being the spokespersons generally of their communities.
- Being symbols of unity in the community.
- Being custodians and protectors of the community's customs and general welfare.

Their role in the development of the local area and community includes:

- Making recommendations on land allocation and the settling of land disputes.
- Lobbying government and other agencies for the development of their areas.
- Ensuring that the traditional community participates in decisions on development and contributes to development costs.
- Considering and making recommendations to authorities on trading licences in their areas in accordance with law.

It must also be acknowledged that there are traditional authorities which have a stake in rich mineral deposits. Through these resources they contribute to development.

4.2. Policy directions

The White Paper process on Traditional Affairs is underway. In that process the following issues, among others, will be dealt with:

- _ The structure and role of traditional leadership and institutions.
- _ Principles relating to remuneration.
- _ A national audit of traditional leaders.
- _ The role of women.
- _ The role of traditional leaders in politics.
- _ The future role of the Houses and Council of Traditional Leaders.
- _ The rationalisation of current legislation dealing with traditional leadership and institutions.

The Department of Justice has indicated its intention to establish community law courts. These courts will take cognisance of the advantages of customary law courts such as the fact that they are cheap, speedy, informal, conciliatory and accessible. Traditional leadership will enjoy special recognition in the new community law courts which will operate in rural areas.

The Department of Land Affairs is looking at various options of land tenure.

Some of the functions set out above do not overlap with the constitutional functions of local government. Local government does not, for example, lend itself to judicial functions, nor can it speak on traditional affairs or act as the custodian of customs and culture. In some respects, however, the current responsibilities of traditional authorities and municipalities do overlap. This has been a source of tension and has hampered development in certain rural areas. Traditional communities will be entitled to vest the responsibility for general administration and the allocation of their land in the institutions of their choice, which may include traditional authorities.

There is no doubt that the important role that traditional leaders have played in the development of their communities, should be continued. However, where Chapter 7 of the Constitution allocates a function to a municipality, the municipality has sole jurisdiction over the matter. On issues such as development, for example, a cooperative relationship will have to be developed. Tensions which arise in this respect will have to be addressed through dispute resolution mechanisms. These mechanisms are being applied by certain communities.

4.3. The relationship between traditional leaders and local government

A cooperative model for rural governance

During consultations with traditional leaders and their communities, local government and other stakeholders, a number of suggestions have been made regarding a suitable model for rural local government in those areas falling under traditional leadership. Proposals range from traditional authorities becoming the primary local government in their areas, to a clear and exclusive division of powers and functions between elected local government and traditional authorities. The model being proposed must, however, be in line with the Constitution.

The proposal put forward here attempts to combine the strengths of various approaches within a model which is consistent with the Constitution and recognises the positive contribution that both elected structures and traditional authorities can make in the overall development of traditional areas and communities. The proposed model ensures cooperation, communication and consultation between local government and traditional leaders and institutions.

It is proposed, in accordance with the Constitution, that there will be elected local government in all the areas falling under traditional authorities. Traditional leadership should play a role closest to the people, and their role should therefore be defined principally in relation to Category (B) municipalities, although larger Kingdoms covering an entire district will clearly require similar relationships with district governments. Their role will include attending and participating in meetings of the Councils and advising Councils on the needs and interests of their communities. In this regard traditional leaders will have representation on such Councils. Whether traditional leaders should exercise voting rights alongside the elected councillors, as

well as other matters relating to this model, needs to be determined after further consultation and research into constitutional provisions. These functions are in addition to those identified in item 4.1. Traditional leaders are also empowered to discuss issues relating to the development of their areas with other spheres of government.

Within the broad scope of this role a number of additional functions can be included. However, the exact nature of such functions will differ from area to area. In this regard, provincial government and legislatures will play a role in determining additional functions of traditional leadership within the national framework provided by this model. In addition, provincial government and legislatures will need to determine the precise circumstances in which the model would apply.

Both district and local municipal Councils must inform and consult traditional leaders regarding municipal projects or programmes within the traditional leaders' area.

The authority responsible for demarcating municipal boundaries should take the existing boundaries of traditional authorities into account when demarcating new municipal jurisdictions.

4.4. Concluding comment

There is no reason why African customs and traditions should be seen to be in conflict with the demands of modern governance. What is required is an innovative institutional arrangement, which combines the natural capacities of both traditional and elected local government to advance the development of rural areas and communities. The cooperative model proposed here provides a constructive role for traditional leadership at local level in the governance and development of rural communities.

5. The demarcation of municipal boundaries

Many existing boundaries irrationally divide settlements, and in so doing disempower municipalities that seek to plan and provide for the needs of communities within the integrated social and economic area of the settlement. To empower municipalities to operate effectively, the most appropriate geographical extent within which a municipality should exercise its particular powers and functions has to be revisited.

Section 155(3)(b) of the Constitution requires that legislation establish:

- _ An independent demarcation authority for the drawing of new municipal boundaries.
- _ Appropriate procedures for the proper functioning of the authority.
- _ Demarcation criteria for the determination of municipal boundaries.

An independent Municipal Demarcation Board will be established during 1998. It will determine the boundaries of municipal areas in line with the following objectives:

- _ To establish an area that will facilitate:
 - Coordination between municipal, provincial and national functions, services and programmes.
 - Integrated social and economic planning and development.
 - An inclusive tax base.
- _ To permit the municipal Council of that area to fulfil its constitutional obligations, namely:
 - To encourage responsive and participatory democracy.
 - To deliver its municipal responsibilities in the most effective and efficient manner.
 - To redistribute financial and administrative resources.
 - To attain financial and administrative viability.
 - To promote social and economic development.
 - To create a safe and healthy environment.

When determining the boundaries of an area, the Municipal Demarcation Board must take into account:

- The interdependence between communities in the area in respect of settlement patterns, work, commuting, spending patterns and recreation.
- The financial viability of the municipality for that area, including a viable tax base for the performance of its functions.
- Sufficient financial and administrative capacity of the municipality to perform functions efficiently and effectively.
- Topographical, environmental and physical characteristics of the area.
- Existing functional boundaries, including tribal authority boundaries, magisterial districts and *enumerator areas**
- Existing and future land usage, town and transport planning, including commercial, industrial, residential and recreational and amenity use.

In so far as is possible, municipal boundaries should surround the functional settlement. This means, for example, that metropolitan areas should not be fragmented into separate municipalities, and that informal settlements on the peripheries of towns should not be excluded from the municipal jurisdiction. There are some settlements which straddle provincial boundaries. In these areas "cross-boundary" municipalities will be provided for, to enable the demarcation of a municipal boundary which captures the functional settlement.

The existing boundaries of traditional authorities will be taken into account during the demarcation process, and the Municipal Demarcation Board will consult with the affected municipalities and the provincial MEC before determining new municipal boundaries.

5.1. Concluding comment

The successful implementation of the new local government system will require that municipal boundaries are demarcated in a way which best enables municipalities to fulfil their functions effectively and provide for good local governance. It is envisaged that the re-demarcation of municipal boundaries will commence in the first half of 1998 in preparation for the next municipal elections.

Section E: POLITICAL SYSTEMS

In this section:

This chapter looks at political systems. It discusses the importance of strong political leadership for developmental local government and examines political and electoral systems for the new local government system.

1. Political leadership

Both urban and rural localities are becoming increasingly complex units to govern. The local area is not an island unto itself, a closed society. Rather, local areas are increasingly part of a web of social, economic and political transactions that transcend their boundaries. The actions of a wide range of civil and corporate players impact on the local economy and society. Resources and capacity are dispersed across different sectors and deployed for a variety of purposes.

In this context of complexity, developmental municipalities will need to be guided by strong political leadership, able to make difficult policy judgements, work with a range of players and guide the actions of the administration to promote the social and economic well-being of local communities.

Developmental local government requires a political leadership which:

- **Provides community-wide leadership and vision:** Local communities are often diverse and contain a multiplicity of diverging interests. By putting forward a vision for the local area, building coalitions of common interest and encouraging the development of a vibrant civil society, local political leadership can enhance the capacity of diverse groups of people to act together around shared goals.
- **Constantly builds its capacity to make policy judgements:** Governing is about making choices, from the prioritisation of a range of demands to the allocation of limited resources. Local political leaders can actively strengthen their ability to make policy judgements through deepening their understanding of the dynamics in the local area, anticipating changes and learning from past practice.
- **Is accountable and transparent:** Accountability means being willing to account for one's decisions and actions. Developmental local government requires a political leadership which creates opportunities to account to the community over and above regular elections. Increased accountability ensures that the actions of the Council reflect the aspirations of the community, increases the legitimacy of the Council and deepens local democracy.
- **Builds partnerships and coalitions:** The challenge of meeting the needs and aspirations of local communities requires a political leadership able to build partnerships with communities, business, labour and other public agencies. A political leadership that engages in ongoing dialogue with a wide range of local actors will be able to identify and act on opportunities to build partnerships between sectors. In this way, human and financial resources and capacity can be mobilised to achieve developmental goals.
- **Represents the diversity of interests:** Municipal Councils which represent the diversity of interests within the local community are best able to provide credible and effective leadership. Municipalities should take active steps to ensure that representatives from groups which tend to be marginalised (such as women, people with disabilities and the poor) are encouraged to stand for elections. One way to achieve this is through running candidate support programmes, which provide information to prospective candidates on issues such as electoral systems and processes, and the functions and operations of local government; and build skills in areas such as public speaking, organising public meetings, fundraising and so forth.
- **Demonstrates value for money:** Local political leadership is responsible for ensuring that local taxes are utilised to the maximum benefit of the local community. Local political leadership should therefore be concerned with the efficiency and effectiveness of the local administration, and constantly seek to enhance performance and service quality.

Various support mechanisms are required to enable dynamic local political leadership, including capacity-building programmes for councillors, support for the policy formulation process and information systems.

Changes to the current local government system may also be required. For example:

- The ability of political leaders to ensure value for money and quality services requires a system of performance management which allows councillors to assess the performance of their own administration as well as that of other service providers (see also Section B: Developmental Local Government, 3.2).
- The development of partnerships requires a framework of support and regulation to enable various types of partnership.
- Building a community-wide vision requires strong support for ward councillors to engage local communities, and planning and budgeting processes which are participative and open.

These systems, although they are closely linked to the support and development of strong political leadership, are discussed elsewhere in this paper. The rest of this section is concerned with the systems and structures which directly shape the roles and operations of local political leaders, namely, political and electoral systems.

2. Political systems

2.1. The delegation of executive powers

2.1.1. Constitutional framework

The Constitution specifies that municipal Councils should make decisions concerning the exercise of all powers and the performance of all functions of the municipality. It obliges the Council to elect a chairperson, and allows the Council, subject to national legislation, to elect an Executive Committee.

National legislation may provide criteria for determining the size of a municipal Council, whether municipal Councils may elect an Executive Committee or any other committee, and the size of the Executive Committee or any other committee of a municipal Council.

Why delegate *executive powers*?

The first issue which requires attention is whether there should be a delegation of executive powers at the local level. In other words, should municipal Councils elect an executive?

The delegation of executive powers is common to most government systems. Generally, it has advantages in terms of both accountability and efficiency, particularly in larger Councils:

- **Efficiency:** A small executive has the ability to act more quickly, efficiently and responsively than a large legislature. However, the legislature acts as a check on the powers of the executive, and is able to ensure that the executive act in a manner consistent with its mandate.
- **Accountability:** An independent legislature can call both the executive and administration to account and is able to stimulate debate on policy issues and probe the implementation process.

These advantages may be minimised where the municipal Council is very small. It is common experience that discussions in large forums tend to be broader, and result in decisions more slowly, than those in small focused forums. A small Council with, for example, less than 12 members, may be able to take decisions as efficiently in plenary as through the establishment of a separate executive. Similarly, the number of members in Council may not be sufficient to stimulate wide debate in the legislature if a separate executive is formed.

While municipal Councils with more than twelve members should elect an executive, this does not undermine the role of non-executive members of Council. Both the executive and legislature have important, although distinct, roles to play in enhancing local democracy and accountability and steering the municipality towards developmental outcomes.

2.1.2. Individual and collective executives

There are a number of ways in which the executive can be structured. One of the key decisions is whether the executive should be a collective (a committee) or an individual.

An individual executive is most commonly the Mayor. This may be misleading in the South African context, where the Mayor has historically played a ceremonial as opposed to executive role. In this paper "Mayor" refers to an executive Mayor with a role different to the previous role of Mayors.

An individual executive Mayor may be an appropriate form of political leadership for many Councils. It has the advantage of "giving a face" to local government, and creating a strong focal point for local politics. However, the executive functions of large Councils may demand additional political capacity (technical capacity should be provided to any form of municipal executive). There are two broad options here:

- The first is to allow the Mayor to constitute a "cabinet" by appointing a limited number of members of Council to serve on her/his cabinet. The Mayor could delegate responsibilities to members of cabinet as required, but would remain accountable to Council for the executive functions of the municipality.
- The second is to create a collective executive, or "Executive Committee". This differs from the above option in that the Executive Committee is elected by the whole Council, and not appointed by the Mayor. Executive powers are vested in the Executive Committee through delegation from Council. Although the Mayor would be the chairperson of the Executive Committee, he or she would be unable to take executive decisions as an individual. In this system executive powers would be exercised collectively, i.e. a certain quorum of members of the Executive Committee would be required to take decisions.

The first option retains the advantages of an individual executive such as decisiveness and increased public visibility. However, the collective Executive Committee may also have distinct advantages: by spreading responsibility for executive functions across a number of councillors this structure can act as an effective method for building the capacity of emerging political leadership.

It is proposed that both individual and collective executive options are allowed for in future legislation. In other words, municipal Councils could have either:

- An executive Mayor, elected from and by the members of the municipal Council. The municipal Council would delegate executive powers to the Mayor. The Mayor could be allowed to appoint a limited number of Council members to his/her cabinet, depending on the size of the Council, or
- An Executive Committee, elected from and by the members of the municipal Council. The Mayor would be the chairperson of the Executive Committee. The municipal Council would delegate executive powers to the Executive Committee.

In both options the municipal Council would also elect a chairperson. The chairperson would preside over meetings of Council. The Council chairperson would play a separate and distinct role from that of the Mayor.

2.1.3. The extent of delegation

Each municipal Council must decide on which powers should be delegated to the executive Mayor or the Executive Committee.

Section 160(2) of the Constitution states that the following powers may not be delegated but must be exercised directly by the Council:

- The passing of by-laws.
- The approval of budgets.
- The imposition of rates and other taxes, levies and duties.
- The raising of loans.

In addition, national legislation may prohibit the delegation of other functions, such as the approval of municipal integrated development plans.

Municipal Councils should delegate executive powers in a manner which facilitates timeous and efficient decision-making, and allows for the sound management and oversight of the municipal administration.

The delegation of powers and functions to other Council committees may also enhance decision-making processes within the Council.

2.2. Committee systems

Municipal committees can have either delegated powers (to take decisions within their terms of reference) or advisory powers (to advise the executive on issues which fall within their terms of reference) or a combination of both.

Council committees can play a number of roles:

- **Management and supervision of a municipal function:** Committees, established to oversee the workings of the administration, tend to operate best when they have distinct areas of competence and are aligned to the administrative departments/clusters/units which they supervise. However, there is a danger that only having committees structured along departmental lines will lead to fragmented decision-making.
- **Management and supervision within part of a municipal area:** Municipal Councils with large areas of jurisdiction may wish to delegate managerial or supervisory powers to area-based committees whose areas of jurisdiction correspond to decentralised administrative units. Area-based committees can assist with the coordination of municipal service delivery within a particular area, and should have delegated or advisory powers over (aspects of) a number of functions within their area of jurisdiction.
- **Policy-formulation:** Committees established to formulate policy (or manage a participative policy formulation process) may operate best where the focus of the committee crosses departmental boundaries (for example, poverty alleviation or inner city regeneration as opposed simply to housing or parks and recreation).

All municipalities will be required to establish an *Audit Committee** and a *Tender Committee** to enhance municipal accountability, with the exception of very small municipalities, which will be required to establish an audit and tender function.

The kind of committee system that will best enable a municipality to fulfil its functions depends on local requirements, needs and policy priorities.

Within any committee system it is critical that councillors are provided with sound information as a basis for decision-making. The committee system has traditionally been driven by reports generated by the administration. While this is usually sufficient for supervisory functions, committees with a policy focus require a broad base of information sources. In such cases, other options should be considered, including:

- The establishment of policy research units.
- Contracting in policy research capacity.
- Joint research initiatives between municipalities.
- The establishment of a relevant database.

2.3. Municipal types

Section 155 of the Constitution obliges national government to define the different types of municipality that may be established within each category of municipality, and provincial governments to determine the different types of municipality to be established in the province.

In referring to types, the Constitution clearly envisages some differentiation between municipalities in addition to the different categories of municipalities provided for (A, B or C). In other words, municipalities belonging to the same category might differ from each other in

terms of their political systems. Municipal political systems provide a basis for such differentiation, and for the development of municipal types.

Municipal types could include variables such as:

- Whether a municipal Council has an Executive Committee, an individual Executive (such as an executive Mayor), or no delegation of executive powers.
- The number of members of the Executive Committee, or the number of members that an Executive Mayor may appoint to constitute his or her cabinet.
- The number of committees that a municipal Council may establish.

National legislation will define a number of municipal types, and specify guidelines for the application of types. For example, to ensure that decision-making is streamlined and efficient, a maximum number of committees and committee members may be determined in relation to the category of municipality and size of the municipal Council. This maximum number will not include ad hoc committees (such as issue-specific committees established for a limited time period) or other committees which municipalities may be required to establish by legislation.

Provincial legislation will determine which municipal types will be applied in each province. In addition, Ward Committees and Metropolitan Substructures may be committees of a Metropolitan Council and hence the choice between systems of metropolitan government is a choice of municipal type, which must be determined by provincial legislation.

- Each municipality will determine which committees it will establish, the membership of its committees, and the powers to be delegated to each committee.

3. Municipal elections

3.1. Electoral systems

The present municipal electoral system consists of:

- 40% *proportional representation**.
- 60% *first-past-the-post ward candidature**.

This system has two excellent features, namely, an element of representivity (the proportional matching of Council seats with votes cast), and an element of accountability (the identification of individual councillors to particular wards). Both these valuable features should be retained in any future system.

The issue of representivity does not only refer to party proportionality, but extends to wider questions of representivity, such as the gender balance within municipal Councils. Although women constitute more than 50% of the population, only 20% of municipal councillors are women. International research has shown that a proportional representation system is most likely to result in an increased proportion of women councillors. This is substantiated by the results of the 1995 local government elections in South Africa, where 29% of the councillors elected to proportional representation seats were women, compared to 11% of women elected to wards.

While a proportional representation system is most favorable in terms of gender representivity, the increased accountability offered by a ward component should not be lost. The enhanced accountability which will result from strengthening the role of ward councillors will benefit all groups within the community, including women. A new electoral system should therefore retain both a proportional representation and ward component. The present ratio of 40% proportional representation to 60% ward seats will be retained.

The present system is a *parallel system** in which both components operate separately. The effect of this is that distortions on party representivity produced by the high first-past-the-post ward component are not necessarily adjusted by the proportional component. This could be substantially corrected in the South African situation, while still retaining the advantages of wards, by applying a *mixed system** in which the proportional component is deliberately geared to adjust distortions.

In the proposed mixed system, ward candidates would be elected in single-member wards according to the system of first-past-the-post. In addition, party votes would be counted either on the basis of the political affiliation of the ward candidates, or on a second party vote. The total party votes would determine the overall number of seats in the municipal Council to which each party is entitled, calculated proportionally according to the present *droop quota** and the *largest remainder method**. Thus, if a municipal council has 20 seats and a party wins 70% of the party votes in the election, it will qualify for 70%, or 14 seats. If it has won six ward seats, it will therefore receive an additional eight proportional representation seats, allocated as at present from its closed party list. The number of proportional representation seats is determined by subtracting the ward seats from the total allocation given by the proportional representation count. No seats would be deducted where a party wins more ward seats than those allocated to it by virtue of its party votes.

The existing gender inequities in municipal government could be addressed through the introduction of a *quota** system in the proportional representation component by political parties. This would be an interim mechanism required by current circumstances. Prolonged use of a quota system may have an adverse effect, and defeat the objective of empowering women to stand as candidates for municipal Councils and compete against male candidates on an equal footing. Political parties are encouraged to ensure that at least half of the candidates on party lists in the next three municipal elections are women, and that party lists are drawn up so that the first candidate on the list, and every second candidate thereafter, is a woman.

A mixed electoral system may be unnecessarily complex for small urban municipalities with around 1500 or fewer voters. In these cases only the proportional representation component should be applied.

3.1.1. Ward delimitation

Ward delimitation is the responsibility of the Electoral Commission.

The delimitation of wards should take into account the following criteria:

- An approximately equal number of registered voters between wards, with not more than 10% variation from the norm.
- Availability and location of a suitable place for voting (and counting if appropriate), taking into consideration:
 - Communications and access to and from that place.
 - Density of population.
 - Topography and physical characteristics.
 - Safety and security of voters and the integrity of the voting process.
- Suburban identity.
- Number of voters who can be accommodated within the required time frame.

3.1.2. Number of councillors

At present there are some 11 300 municipal councillors in the country. Many municipalities have more councillors than is necessary or affordable. Municipal Councils which are too large obstruct meaningful representation and effective decision-making, as Council meetings become extended and indecisive, committees grow in size and number, and administration fragments. Currently, many councillors are part-time appointments, and must juggle their time to accommodate work, family and civic commitments. Ward councillors in particular struggle to manage their work commitments and to remain responsive to community needs.

A more community-oriented political system could be built through reducing the overall number of councillors, and using the financial resources allocated to councillors to enable the appointment of an increased proportion of councillors on a full-time basis.

It is proposed that the number of councillors is determined by setting an upper limit (which should be the maximum size of a municipal Council which facilitates effective decision-

making) and a lower limit, and determining a range between these two limits. In general, an appropriate upper limit or maximum size for municipal Councils is approximately 45 members of Council, and an appropriate lower limit is three members of Council. In large metropolitan areas additional Council seats may be required to ensure adequate representation. While this approach will result in different councillor : constituent ratios in different parts of the country, it will ensure that every municipal Council is scaled to enable effective decision-making within its area of jurisdiction.

4. Concluding comment

Democratic and developmental local government requires dynamic political leadership, regular and free elections, and appropriate political structures and systems.

To enable a community-oriented and dynamic political leadership, it is proposed that the number of municipal councillors be reduced, and the support provided to councillors increased.

Section F: ADMINISTRATIVE SYSTEMS

In this section:

This section looks at local government administrations. It identifies the need for changes to the existing administrative organisation and operations of municipalities, and outlines a set of principles and alternative options for more effective service delivery. It also asserts the need for sound labour relations to underpin developmental local government, and discusses the roles and responsibilities of national government in assisting municipalities to transform themselves.

1. The need for change

Local government administrations have seen changes in recent years. However, these changes have not always been informed by a clear and coherent vision of the roles and responsibilities of municipalities in a new era. As a result, they have not always meant real transformation.

The process of amalgamating the old race-based municipal administrations, initiated by the Local Government Transition Act, proceeded very differently in different municipalities. In many cases the structures and systems of better established municipal administrations (usually former white municipalities) were adopted and extended to “absorb” staff from the smaller administrations (usually former black local authorities). While this approach minimised administrative disruption, it did not result in new, more effective or more equitable ways of working. Minimal changes were made to organisational structure. In many instances amalgamation disadvantaged the staff of former black local authorities as they were “slotted in” to job evaluation systems which weighted formal qualifications above job experience. The process reproduced inequity and made little attempt to enhance performance. All the inherited weaknesses of the old administrative system remained intact.

However, many municipalities did use the amalgamation process to initiate a more fundamental review of their administrative organisation. Some municipalities undertook participative processes which drew a cross-section of staff into the process of designing new organisations. Innovative approaches to strategic management were introduced. Processes of staff communication and cultural change were initiated. Functions were clustered together in ways which promote service integration between line functions. These approaches have resulted in some meaningful administrative changes. However, municipalities have experienced difficulty in consolidating these gains because of the high levels of uncertainty during the transition period.

The amalgamation process was largely concerned with addressing technical problems. Little attention has been paid to rethinking the basic principles on which the administration is organised. In particular, new administrative capacities have not been built and administrative operations have remained locked in traditional approaches to service delivery. The potential, skills and energies of the majority of the workforce have not been harnessed for transformation.

Transformation for developmental local government requires a further process of administrative reorganisation to gear municipalities to meet the considerable challenges of social, economic and material development in all communities. Such a process cannot hope to succeed unless management, organised labour and other stakeholders develop a common vision and work together to achieve it. This is not to say that there will not be conflict between stakeholders over the nature and process of administrative change. There are real differences of interest, and conflict is inevitable. However, conflict and difference can act as constructive forces in organisational transformation, provided that there is agreement on the objectives and vision which drive change.

If the shared vision is translated into measurable performance indicators, different municipal stakeholders can measure their contributions and those of others, towards realising common goals (see also Section B: Developmental Local Government, 3.2).

2. New approaches to service delivery

Under apartheid there was systematic under-investment in municipal infrastructure in black areas. This deprived millions of people of access to basic services, including water, sanitation, refuse collection and roads. Developmental local government has to address this backlog. Its central mandate is to develop service delivery capacity to meet the basic needs of communities. Basic services enhance the quality of life of citizens, and increase their social and economic opportunities by promoting health and safety, facilitating access (to work, to education, to recreation) and stimulating new productive activities.

Municipalities have a range of delivery options to enhance service provision. They need to strategically assess and plan the most appropriate forms of service delivery for their areas. Their administrations need to be geared to implement the chosen delivery options in the most effective manner and so ensure maximum benefit to their communities.

2.1. Principles for service delivery

In choosing the delivery options for their areas, municipalities should be guided by the following principles:

- **Accessibility of services:** Municipalities must ensure that all citizens - regardless of race, gender or sexual orientation - have access to at least a minimum level of services. Imbalances in access to services must be addressed through the development of new infrastructure, and rehabilitation and upgrading of existing infrastructure. The Consolidated Municipal Infrastructure Programme has been established to provide capital grants to assist municipalities in funding bulk and connector infrastructure for low-income households and so extend access to services.

Accessibility is not only about making services available, but also about making services easy and convenient to use. Municipalities should particularly aim to ensure that people with a disability are able to access municipal services and amenities.

- **Affordability of services:** Accessibility is closely linked to affordability. Even when service infrastructure is in place, services will remain beyond the reach of many unless they are financially affordable to the municipality. Municipalities can ensure affordability through:
 - Setting tariffs which balance the economic viability of continued service provision and the ability of the poor to access services.
 - Determining appropriate service levels. Services level which are too high may be economically unsustainable and jeopardise continued service provision. However, inadequate service levels may perpetuate stark spatial divisions between low, middle or high income users (particularly in urban areas) and jeopardise the socio-economic objectives of the Council.
 - Cross-subsidisation (between high and low-income users and commercial and residential users) within and between services. (See also Section G: Municipal Finance, under Point 1.3 "Equity and redistribution").
- **Quality of products and services:** The quality of services is difficult to define, but includes attributes such as suitability for purpose, timeliness, convenience, safety, continuity and responsiveness to service-users. It also includes a professional and respectful relationship between service-providers and service-users.
- **Accountability for services:** Whichever delivery mechanism is adopted, municipal Councils remain accountable for ensuring the provision of quality services which are affordable and accessible.
- **Integrated development and services:** Municipalities should adopt an integrated approach to planning and ensuring the provision of municipal services. This means taking into account the economic and social impacts of service provision in relation to municipal policy objectives such as poverty eradication, spatial integration and job creation through public works.
- **Sustainability of services:** Ongoing service provision depends on financial and organisation systems which support sustainability. Sustainability includes both financial viability and the environmentally sound and socially just use of resources.

- **Value-for-money:** Value in the public sector is both a matter of the cost of inputs, and of the quality and value of the outputs. The above principles require that the best possible use is made of public resources to ensure universal access to affordable and sustainable services.
- **Ensuring and promoting competitiveness of local commerce and industry:** The job-generating and competitive nature of commerce and industry must not be adversely affected by higher rates and service charges on industry and commerce in order to subsidise domestic users. Greater transparency is required to ensure that investors are aware of the full costs of doing business in a local area.
- **Promoting democracy:** Local government administration must also promote the democratic values and principles enshrined in the Constitution, including the principles provided by Section 195(1).

2.2. Approaches to service delivery

Municipalities will need to seek an appropriate mix of service delivery options. Choices about delivery options should be guided by clear criteria such as coverage, cost, quality and the socio-economic objectives of the municipality.

Delivery mechanisms which municipalities can consider include the following options:

- Building on existing capacity.
- Corporatisation.
- Public-public partnerships.
- Partnerships with community-based organisations and non-governmental organisations.
- Contracting out.
- Leases and concessions (public-private partnerships).
- Transfers of ownership (privatisation).

2.2.1. Building on existing capacity

Municipalities in South Africa have very different levels of administrative capacity. Approaches which build on existing capacity must be based on an evaluation of the skills, capacity and potential of the existing administration. In most instances the bulk of the workforce comprises semi or unskilled black workers, who have historically been denied access to training and personal development opportunities and alienated from the communities they serve. Management remains predominantly white, and historically schooled in rigid, authoritarian and outdated management practices. In this context, two approaches for improving internal efficiency are managerial reform and worker empowerment. Both imply wide-reaching changes in the way the administration is organised and operates.

Management reform involves building a culture and commitment to results and value-for-money. It also involves a service-orientation where labour is a partner in delivering services to the community. This stands in sharp contrast to the bureaucratic culture of budget maximisation, centralisation and control, and the emphasis on inputs which is prevalent in many municipal administrations. Management reform measures include (but are not limited to):

- **The introduction of performance-based contracts for senior staff:** Performance-based contracts can improve accountability and induce a focus on outputs. Municipalities should consider the introduction of performance-based contracts for the first two or three reporting levels of senior officials. These posts would remain professional appointments, but employment contracts would specify job outputs (results to be achieved) and performance standards. Contracts would be renewable based on an assessment of performance against specified targets. The introduction of performance contracts would need to be in accordance with fair labour practice.
- **Revising or developing codes of conduct:** Existing codes of conduct tend to emphasise the prohibition of certain actions, such as corruption or financial and ethical misconduct. While these prohibitions are important and must remain in force, codes of conduct should also bind employees to proactive action. For example, codes of conduct could oblige management to act in the interests of the community, to consult relevant

stakeholders and to develop staff within their departments. Codes of conduct should also deal with sexual harassment, and provide for investigation, disciplinary and grievance procedures in this regard.

- **Affirmative action:** Municipalities need to proactively ensure that the gender and racial composition of management reflects the composition of South African society. Municipalities should develop affirmative action programmes in line with the National Labour Relations Forum framework, and develop mechanisms to support and monitor the implementation of their programmes.

Management reform goes hand in hand with worker empowerment. The central thrusts of worker empowerment are human resource development and the decentralisation of operational responsibility. In many municipal administrations hierarchical grading systems and narrow job definitions have deskilled jobs at the front-line level. Combined with inadequate training, the lack of opportunities to influence job content and organisation and poor management practices, the result is a demoralised and inefficient workforce.

Mechanisms to improve performance include (but are not limited to):

- **Empowering and enhancing the skills of the front line:** Front-line workers interact with the community and end-users of services on a daily basis. As such, they need to be empowered to provide information, services and advice to the community. The front line needs to be reskilled, and encouraged to play a more active role in building cooperative relations between municipalities and communities. If capacitated and empowered, front-line staff can utilise the considerable knowledge and expertise of those who actually perform delivery functions to enhance effective operations. Strategies to develop the skills of front-line staff should be included in the integrated human resource development strategies of municipalities, which should cover capacity building, training, staffing, and labour relations.
- **Decentralisation of operational management responsibility:** Within an organisational framework which specifies clear objectives, outputs and performance standards, the decentralisation of operational management responsibility encourages innovation and commitment. Decentralisation can take different forms, from increasing the discretion of operational management to the creation of self-managed work teams. Decentralisation of management responsibility should be accompanied by training, and should be situated within a programme of organisational development.
- **Developing strategies together:** Ongoing consultation and communication ensures that the workforce is informed about and contributes to the development of organisational strategies and vision. Mechanisms to facilitate consultation range from regular meetings between organised labour, management and councillors, to breakaways to discuss specific issues.

Training and capacity-building is an essential part of both management reform and worker empowerment. Joint training programmes for managers from different line functions, or for management and workers, can be particularly effective in building a common vocabulary; understanding of concepts, issues and problems; and approaches to service transformation.

Whichever combination of alternative service delivery mechanisms is adopted, municipalities will need to invest in restructuring and reorienting their existing administrative capacity and systems.

2.2.2. Corporatisation

Corporatisation refers to the separation of service delivery units from the Council (in the same way that an external service provider is separate from the municipality). Service units which are corporatised may be “ringfenced” or have their budgets separated from the rest of the municipal budget. They will be managed as operationally autonomous units. Corporatisation allows Council to set policy and service standards and hold the unit to account against those standards. It also offers greater autonomy and flexibility to the management of the service unit to introduce commercial management practices to the delivery system.

Corporatisation can take a number of forms, ranging from the establishment of public utilities similar to the Water Boards which exist in parts of the country, to joint-ventures between municipalities. Corporatisation may be particularly appropriate for municipalities with large areas of jurisdiction, such as Metropolitan Councils.

Where some municipal functions are corporatised, reporting requirements and accountability mechanisms must be clearly defined by the municipal Council. This is to ensure that lessons from policy implementation is fed back into policy development.

2.2.3. Public-public partnerships

Public-public partnerships or public joint ventures allow for horizontal cooperation between municipalities to exploit economies of scale. They also allow for vertical cooperation to improve coordination at the point of delivery. Public-public partnerships are common internationally in areas such as joint purchasing consortia, training initiatives, technical support and information services. Within South Africa, municipalities are beginning to explore innovative partnership agreements, such as partnering with the Post Office for the collection of municipal revenue. This makes it easier for citizens to pay their municipal bills and decreases the strain which revenue collection places on municipal capacity.

Substantial benefits can be derived from public-public partnerships, and municipalities are encouraged to explore the options as individual organisations and through organised local government associations.

2.2.4. Partnerships with community-based organisations and non-governmental organisations

Partnerships with community-based organisations and non-governmental organisations can be effective ways of gaining access to external expertise and experience. They can also stimulate local economic development. Community-based organisations and non-governmental organisations often have particular skills relating to facilitating development initiatives, developing small, medium and micro-sized enterprises, and capacity-building. Another advantage of these partnerships is that community-based organisations and non-governmental organisations often have close linkages with community groups and can act as effective intermediaries in development initiatives.

Municipalities should also consider including non-governmental organisations and community-based organisations in partnerships with other public or private institutions. For example, some municipalities have found three-way public-private- community-based organisation partnerships to be very effective with respect to maintenance projects such as sewer rodding. In such partnerships the municipality provides funding and project management capacity; the private sector contractor provides access to equipment and training; and the community-based organisation provides functions such as the recruitment and management of local labour and community liaison. This approach enables the transfer of skills, creates employment and provides an effective service without draining municipal capacity.

2.2.5. Contracting out

It is common practice for municipalities to contract with specialist private companies to provide services. Specialist companies can sometimes provide economies of scale and specialist expertise and experience more efficiently than in-house capacity. Contracting out can range from the contracting of specific aspects of a particular service, to the introduction of competitive tendering for the delivery of most aspects of a service. Where services are contracted out, municipalities should protect standards and promote quality through tender evaluation processes, contract specifications, and contract monitoring and compliance techniques.

In developing and assessing tender documents, municipalities should be aware that the lowest bidder is not always the best contractor. While price is an important factor, the financial

standing of the contractor, their commitment to providing training and good employment conditions, willingness to use local labour, technical capacity to undertake the contract, environmental and health and safety record, and commitments regarding service tariffs, quality standards, quality control systems and customer relations are equally important. Municipalities can also use contracting out as a means of empowering local and emerging business.

Where a large number of functions associated with a service, or the management of an entire service, are contracted out, the *allocation of risk** becomes a critical issue. Generally, where the contractor takes on higher risks it also demands a better deal, either in the form of more control and autonomy over the management of the service or increased financial rewards.

Contracting out is most effective when municipalities are both clear and specific about the nature of the service they are seeking from a contractor, and have the capacity to manage the process of tendering and contract development and monitoring in a manner which ensures that municipal objectives are met.

Instances may arise where national departments with constitutional mandates to regulate service provision within specific sectors, prescribe matters which must be regulated by contracting out instruments.

2.2.6. Leases and concessions

Leases and concessions are forms of public-private partnerships that are most common for services where large-scale capital investment is required. They typically differ from contracting out in three important respects:

- The duration of the contractual relationship between the municipality and the contractor is usually longer (often between 20 and 30 years).
- The contractor is usually required to take charge of the assets and infrastructure associated with the service for the duration of the contract, and to invest in them. The investment of the contractor in assets and infrastructure is usually the driving motivation for a municipality to enter into a lease or concession agreement.
- The risk implicit in the contractor's responsibility for infrastructure development is normally accompanied by the transfer of responsibility for revenue collection (user-charges) to the contractor.

A variety of mechanisms exists through which the contractor can take responsibility for the development of new infrastructure, or the rehabilitation of existing infrastructure. The contract period is typically long enough for the contractor to recover their investment in infrastructure through revenue generated from user-charges. The contractor will own the assets for the period of the contract. At the end of the contract, ownership of infrastructure and assets is transferred to the municipality.

The variety of types of concessions and leases is reflected in the names of the partnerships, including:

- Build-operate-transfer (the contractor builds the asset, operates it for a period, and then transfers it to the municipality).
- Build-own-operate-transfer.
- Build-operate-train-transfer.

Concessions and leases can provide an effective mechanism to maximise private sector investment in municipal infrastructure. Where this type of partnership is municipality-driven, and aims to harness the capacity of the private sector to meet public interests, substantive benefits can be derived.

However, if poorly managed and structured, the risks of these partnerships are high. For this reason national government is currently developing a regulatory framework for the development of public private partnerships to ensure public accountability and the protection of consumer and worker rights. Regulation is vital to guard against monopoly pricing, "cherry-picking" of high-income customers (and hence limited access for low-income groups), poor

quality services and unfair labour practices. In contracting out or negotiating leases and concessions, the objective of black economic empowerment must also be promoted through better structuring of such deals. National government will develop a regulatory framework for municipal public-private-partnerships in 1998.

Regulation of public-private partnerships will address the following specific matters:

- **Monitoring, oversight and consultative mechanisms:** The development of a framework for monitoring the financial position of municipalities is particularly important to ensure greater clarity with respect to the security of loan investments.
- **Tendering and procurement processes, including the issue of unsolicited proposals:** Tendering and procurement processes need to be sensitive to black economic empowerment.
- **Contractual arrangements, including mechanisms to ensure contract compliance and review.**
- The regulation of **tariff setting**.
- The **resolution of disputes**.

2.2.7. Transfer of ownership

The transfer of ownership refers to the sale of municipal assets as well as responsibility for managing the complete delivery of the service to a private company. This is often called “privatisation” to distinguish it from other forms of private sector involvement in service delivery. In current South African circumstances, the transfer of ownership is not an option for core municipal services, particularly water, electricity and solid waste collection and disposal. Given the central role that these services play in meeting the material, social and economic needs of communities, it is undesirable that ownership of associated infrastructure and assets is removed from the public sphere.

However, the privatisation of assets which are not considered strategic to the core purpose and role of municipalities may boost municipal capacity and revenue to focus on the delivery of strategic and core services. Privatisation of “non-core” assets may remove the necessity for public subsidy of services which constitute a drain on municipal revenue, and generate capital which can be utilised for strategic and core activities. With the exception of services aimed at meeting basic needs, which are clearly “core” municipal activities, there is variation between municipalities regarding municipal assets which are “non-core” and therefore open to the option of privatisation. While national guidelines will be issued in this regard, each municipal Council will need to make its own assessment in relation to the strategic direction put forward in the municipal integrated development plan.

2.3. Choosing service delivery options

In assessing the appropriateness of different service delivery mechanisms, it is important to note that the choice is not between public and private provision. Rather, the real issue facing each municipality is to find an appropriate combination of options which most effectively achieves their policy objectives.

The adoption of any option should be based on a critical review of existing service delivery mechanisms, the requirements for service delivery put forward in the municipal IDP, and a comparative assessment of the performance of other municipalities or other service providers. An overall plan for the way in which the municipality will provide services (the “institutional plan” which forms part of the municipal integrated development plan) should be developed. The municipal Council should consult with all affected stakeholders in the development of their institutional plan, particularly consumers of the relevant service and the workers involved in providing the service.

National and provincial government will collaborate on the development of a major capacity-building initiative to assist municipalities in developing and implementing plans to improve service delivery systems. Municipalities will be able to access advice regarding different service delivery options, as well as their overall approach to transforming administrative systems. Plans to launch the Municipal Infrastructure Investment Unit (which will provide

advice to municipalities on private sector investment in municipal infrastructure) are already at an advanced stage. Appropriate support for other (non-private-sector-led) approaches to transforming delivery systems will also be established.

3. Core administrative capacities to support development

To effectively play a developmental role and improve performance with respect to service delivery, municipalities will need to develop at least three sets of new capacities:

- **Strategic capacity** to assess, plan, and develop innovative programmes to meet local needs. If municipalities are to meet service demands and make a significant contribution to social and economic development, they will have to become far more strategic in orientation. Strategic capacity means developing the ability to be open and flexible to new demands (rather than simply ignoring them because they do not fit with established plans or patterns of supply), to prioritise carefully on the basis of a clear understanding of existing resources and medium to long-term objectives, and to move quickly and effectively to meet demands at the highest level of competence.
- **Integrating capacity** to coordinate and integrate inputs from inside and outside the administration to ensure developmental outcomes. Integrating capacity means directing capacity and resources from both inside and outside the municipality to common, directed programmes of action. The vertical integration of national and provincial programmes with municipal administrative systems may be a particularly effective way for rural municipalities to build their administrative capacity.
- **A community orientation** to inform a user-friendly, relevant and quality service to local communities. Municipalities need to develop mechanisms to interact with community groups to identify service needs and priorities as well as community resources that can be unlocked and channelled for development ends. Municipalities will need to develop mechanisms to ensure that their delivery systems are inclusive, and accommodate groups which tend to be marginalised or disadvantaged. Front-line workers who interact with communities on a daily basis will need to be capacitated to correctly assess, rapidly communicate and effectively respond to service needs.

Without the capacity to strategise, integrate and interface with non-municipal groups and interests, innovative new approaches to the traditional functions exercised by local government administrations are unlikely to be sustainable.

The development of new capacities and approaches should go hand in hand with measures to enhance the accountability of the administration and build relationships of mutual respect and confidence between councillors and the administration.

The chief executive officer and senior officials play a particularly important role in providing leadership for administrative transformation, promoting new attitudes and approaches, and managing the implementation of programmes and policies. It is therefore critical that the chief executive officer and the first three reporting levels of senior management have the full confidence of the Council. These appointments should therefore be made subject to the approval of the Council. Where performance contracts are introduced, the term of these contracts should be linked to the term of office of the Council. (For example, performance contracts could expire three to six months after local government elections, allowing the incoming Council sufficient time to review and renew contracts before the termination date.)

The employment practices of all municipal Councils, with respect to both contract and permanent appointments, should be guided by the principles of the Labour Relations Act and the proposed Employment Equity Bill. No employee should be discriminated against on the basis of race, gender, sexual orientation or disability.

4. The training system

A national local government training system, able to capacitate municipal administrations to meet their developmental challenges, must be a key feature of the new system. The training system has until now been fragmented and inefficient, and unresponsive to the new training needs of local government. As a result, there has been no systematic programme to develop

the high level management and new front-line worker capacities identified here as essential to effective municipal administrations.

Historically, the national local government training system has been coordinated by two separately functioning boards. The Local Government Education and Training Board was established in terms of the Manpower Training Act of 1989, and has been funded primarily by national government grants and a levy on municipalities. Operating separately in terms of the Local Government Training Act of 1985 was the Training Board for Local Government Bodies. It also imposed a levy on municipalities. The two Boards today have a common membership in an attempt to align their efforts, but they still operate separate networks of training centres throughout the country.

There is wide consensus that the current arrangements are not effective. The double system is simply wasteful and, more importantly, is unable to generate a common national vision of training objectives or a systematic human resource development strategy. The double network of training centres is unevenly distributed geographically, leading to duplication in some areas and an under-service in others where capacity-building needs are often greater. Teaching and learning in the centres is menu-driven rather than needs-driven and therefore is not geared to the needs of developmental local government. Furthermore, there is no process of ongoing assessment and quality control.

A complete overhaul of national local government training is clearly needed. A new system is being designed which is flexible, decentralised, demand-led, and structured to ensure continuous evaluation and improvement. The system will have three components:

- **A regulator:** A local government Sector Education and Training Authority will be established as a single coordinating body for local government training. This will be registered as an Education and Training Quality Assurance body in terms of the Skills Development Bill. It will be responsible for managing a local government Education and Training Fund built from the proceeds of the National Skills Fund as levied from local government. It will play a role in allocating these funds to provincial training structures, setting national training priorities, establishing standards, accrediting service providers, and providing trainee certification.
- **Purchasers:** Provincial training structures will be established in each province to undertake a systematic needs analysis and, with municipalities, to purchase the provision of training from a variety of agents. They will include representatives from organised labour and organised local government.

The provincial training structures will package local government proposals on their training needs and priorities in "invitations to tender" and then allocate funding to suitable tenders. They will also evaluate the quality of training programmes and assess their impact.

The advantages of provincial training structures include:

- The scope to recognise regional diversity within overall Sector Education and Training Authority policy, given their better understanding of the logistics of their different areas.
- The opportunity for each provincial government to have direct participation in training. This matches their constitutional role of promoting, supporting and monitoring the performance of municipalities in their area of authority.
- The opportunity for organised local government at provincial level to participate directly through the appropriate provincial Local Government Association.
- **Providers:** Training will be designed and delivered by a variety of contracted agents, in response to needs defined by the Sector Education and Training Authority and provincial training structures. Providers who may compete for training contracts tendered by provincial training structures include:
 - Non-governmental organisations.
 - Universities and technikons.
 - Provincial training centres.
 - Individual municipal training departments.
 - Private sector companies and centres.
 - Commercial training and development consultants.

→ Professional bodies.

Until such time as this system is operational, the two training boards will be merged into a single body which will act as an unofficial Sector Education and Training Authority / Education and Training Quality Assurance, and provincial Training Coordinating Committees will serve as interim provincial training structures.

The training of municipal councillors will not be the responsibility of the local government Sector Education and Training Authority. It is envisaged that Salga will play a major role in councillor training, and that an intensive councillor training programme will be required to coincide with the election of new municipal councillors.

5. Labour relations

Correctly choosing, planning and effecting appropriate delivery options requires high level strategic and integrating capacity and a commitment to meeting community needs in a consultative manner. However, these capacities must be underpinned by a qualitatively different set of employer-employee relations within each municipality. Approaches to improving service delivery efficiency and quality which build on existing capacity are most likely to succeed if they are structured as a partnership between Council, management and labour. Other partnership approaches have implications for the position of workers in the administration, and no amount of capacity to plan, effect and administer them will bring success unless the real concerns of labour are recognised and addressed.

While the successful transformation of municipal administrations depends on recognising the particular interests of labour, labour's interests cannot stand in the way of transformation or delivery to communities. The South African Local Government Bargaining Council will become a critical forum for shaping the partnership between labour, management and Councils around new service delivery and development objectives. Such national negotiations must take into account the specific problems of individual municipalities, including the affordability of any municipality to enforce national or provincial agreements.

Key issues that need to be addressed by the South African Local Government Bargaining Council over the next year include:

- Ensuring greater flexibility in the retraining and re-deployment of staff, in order to enable a redistribution of administrative resources.
- Introducing a more customer and performance-oriented service system.
- Ensuring that wage negotiations and conditions of service support fair and equitable labour practices, and do not undermine the need to prioritise service delivery to communities and to sustain viable local government, particularly in smaller municipalities.
- Improving the level of accountability and commitment to delivery within municipal administrations.

In order to achieve this, the capacity of Salga as an employer's organisation and the capacity of municipal trade unions must be enhanced.

6. The role of other spheres of government

National government, provincial governments, and the nation as a whole have an interest in ensuring that administrative transformation equips municipalities to better meet development challenges. Municipalities which continue to be organised on old models will not be effective in delivering basic needs, promoting human rights, and providing social and economic development. Specific support mechanisms must be introduced to help municipalities transform. In addition, however, national government has an obligation to intervene on behalf of communities where municipalities, through inefficiency or a lack of commitment to delivery and development goals, fail to provide affordable services.

In the first instance, national government, in partnership with provincial governments, is committed to providing support for municipal administrative transformation through training and capacity-building, making technical support for service delivery transformation available,

and the development of systems and regulatory frameworks which support municipal delivery by providing guidance and certainty.

National government wishes to avoid prescriptive approaches, and encourage and support municipalities to develop innovative organisational arrangements geared to meet local needs. However, where municipalities fail to take the initiative to improve performance and develop efficient service delivery systems, a prescriptive approach will be taken. The Constitution allows both national and provincial governments to see to the effective performance by municipalities of their functions by regulating their executive authority. If required, this power will be used to ensure that steps are taken to enhance administrative performance and efficiency. Interventions could range from a directive to undertake specific internal reorganisation measures, through to the introduction of compulsory competition for certain services. These measures will be applied to individual municipalities and only in instances where municipalities fail to initiate and implement their own transformation programmes. The Constitution (section 215 and 216) provides for a role for national and provincial government in regulating and monitoring the finances of local governments, and ensuring more efficient and effective spending by local authorities. (See also Section C: Cooperative Government)

7. Concluding comment

Municipal administrative systems need to be transformed to support improved service delivery. There are a range of approaches which municipalities can adopt, and each municipality should develop an institutional plan which outlines its own transformation programme.

Section G: MUNICIPAL FINANCE

In this section:

This section deals with municipal finance. It outlines the current situation and proposes a framework for a new municipal financial system, including local revenue instruments and policies, intergovernmental transfers and leveraging additional investment in municipal infrastructure.

A new framework for municipal finance which supports the developmental role of local government should:

- Address the root causes of the financial problems that face municipalities.
- Balance programmes for poverty eradication and equity with strategies to enhance growth, job creation and competitiveness.
- Empower municipalities to fulfil their constitutional mandate.

A new framework must also recognise and accommodate the differences between municipalities. Urban and rural municipalities, and even those in different metropolitan areas, are in very different financial circumstances, with very different prospects for providing adequate services at reasonable costs. Some municipalities, particularly those in rural areas, do not have adequate tax bases to fund the delivery of even a minimum level of basic services.

The underlying problems with the existing municipal finance system relate both to shortcomings in policy, and to poor implementation of the current system, such as inadequacies in financial management and service delivery. Interventions to improve the system should therefore include changes to both policy, and capacity-building initiatives.

1. The current situation

1.1. Basic features

The aggregate size of the municipal budget in South Africa is substantial. In the 1996-97 financial year, municipalities budgeted for total expenditure of more than R48bn. This represents about 7,5% of South Africa's total gross domestic product, and is equivalent to 20,97% of the country's total public sector budget. Within this, municipal budgets vary enormously, from metropolitan areas with budgets of several billions, to small rural councils with negligible revenues.

Most local government revenue is generated by trading services (electricity, water and sanitation). In aggregate, revenue from trading services accounts for over 60% of local government revenue. Electricity, for example, constitutes the largest revenue source for many municipalities. While the surplus derived from the sale of electricity (i.e., the difference between revenue and total expenditure) is not large, it remains an important source of income for many municipalities. Alternative income from levies on electricity sales will be generated once restructuring within the electricity sector results in municipalities no longer playing a direct service provision role.

The major source of tax revenue for municipalities is property rates. These generate around 20% of total revenue. The Regional Service Council and Joint Services Board levies levied by District and Metropolitan Councils bring in an additional 5%.

The total amount budgeted for intergovernmental transfers from the central fiscus to municipalities in 1996-97 equalled more than R5,2bn, of which about R1,2bn was for agency payments, R1,2bn was for capital grants (excluding any receipts from the housing subsidy programme), and R2,2bn was for explicitly (cash) operating subsidies. The balance consisted mainly of implicit (non-cash) subsidies from national departments to the local level. In 1997-98 this total - excluding *rollover funds** - rose to R5,9bn.

1.2. The Constitution

A restructured system of municipal finance needs to be founded on the Constitution.

Sections 229 and 230 of the Constitution grant municipalities considerable taxation and borrowing powers, but subject these powers to national legislation and regulation. Municipal taxation powers are also limited in that they cannot “unreasonably prejudice” national economic policies and economic activities. Borrowing powers are limited by the requirement that borrowings do not fund budget deficits. This means that the Constitution effectively prohibits deficit budgeting at the local sphere.

The Constitution addresses intergovernmental fiscal relations in two broad respects:

- **Intergovernmental transfers:** Section 227 entitles the local sphere to an “equitable share” of nationally raised revenue in order that it may “provide basic services and perform the functions allocated to it”. Municipalities may also receive additional grants from national or provincial government on a conditional or unconditional basis.
- **Oversight and regulation of the financial affairs of municipalities:** Sections 139 (1)(a) and (b) and 155 (7) give national and provincial government executive and legislative authority to oversee the performance of municipalities with regard to their functions. Sections 229 (1)(b), (2)(b), 230 (1) provide for national regulation over the fiscal powers of a municipality. In addition, sections 215 and 216 and other provisions of Chapter 13 grant powers to the national Treasury to regulate the financial affairs of municipalities.

The proposed Treasury Control Act required under Section 216 of the Constitution will set financial controls for all spheres of government, and impose responsibilities and penalties on accounting officers and chief executive officers, as well as their political heads. Intervention in the event of gross financial mismanagement is also allowed in terms of Sections 100 and 139 of the Constitution. Sections 229 and 230 also provide for national regulation over the fiscal (i.e., taxing and borrowing) powers of municipalities.

1.3. Policy objectives

In order to meet the objectives of Constitution, the system of municipal finance will need to be restructured in line with a number of basic policy principles:

Principles for the new system

- **Revenue adequacy and certainty:** Municipalities need to have access to adequate sources of revenue - either own resources or intergovernmental transfers - to enable them to carry out the functions that have been assigned to them. Municipalities should be encouraged to fully exploit these sources of revenue to meet their developmental objectives. Municipalities should have reasonable certainty of revenue to allow for realistic planning.
- **Sustainability:** Financial sustainability requires that municipalities ensure that their budgets are balanced (income should cover expenditure). Given revenue constraints, this involves ensuring that services are provided at levels which are affordable, and that municipalities are able to recover the costs of service delivery. No bailout will be provided to a municipality that overspends its budget and/or fails to put in place proper financial management controls. It is the responsibility of the political leaders to ensure that they set realistic budgets. However, there is a need for subsidisation to ensure that poor households, who are unable to pay even a proportion of service costs, have access to basic services.
- **Effective and efficient resource use:** Economic resources are scarce and should be used in the best possible way to reap the maximum benefit for local communities. However, there are no mechanisms available to ensure that municipal decisions will indeed lead to an effective allocation of resources. It is therefore important that local residents provide the necessary checks and balances. They can do this by participating in the budgeting process to ensure that resources are being put to their best use. Efficiencies in public spending and resource allocation will ultimately increase the access of the poor to basic services.
- **Accountability, transparency and good governance:** Municipalities should be held responsible and accountable to local taxpayers for the use of public funds. Elected

representatives should be required to justify their expenditure decisions and explain why and how the revenue necessary to sustain that expenditure is raised. The fiscal system should be designed to encourage accountability. Municipal budgeting and financial affairs should be open to public scrutiny, and communities should have a greater voice in ratifying decisions about how revenue is raised and spent. Community participation in budgeting should aim to incorporate those groups in the community, such as women, who face particular constraints in participating. It should also include a capacity-building component to ensure that people understand the process of prioritisation - why resources are allocated to one set of things rather than to another. Accounting and financial reporting procedures should minimise opportunities for corruption and malpractice.

- **Equity and redistribution:** Municipalities must treat citizens equitably with regard to the provision of services. In turn, national and provincial government must treat municipalities equitably with regard to intergovernmental transfers. Local government cannot be solely responsible for redistribution, and national government has a critical role to play in this regard, particularly with respect to subsidising the provision of basic services. The *“equitable share” of national revenue** to which local government is entitled will be directed primarily at this purpose. In addition to targeted subsidies to poor households, funded from the “equitable share”, municipalities can cross-subsidise between high and low- income consumers, both within particular services and between services. The extent of this cross-subsidy is a local choice that needs to be exercised carefully, within the framework of the municipal integrated development plan.
- **Development and investment:** Meeting basic needs in the context of existing service backlogs will require increased investment in municipal infrastructure. Public Private Partnerships such as leases and concessions, discussed in Section F: Administrative Systems, provide a mechanism for attracting private investment in municipal infrastructure.
- **Macroeconomic* management:** Municipalities form an integral part of the public sector in South Africa, and their actions can substantially affect national policy. Municipalities need to operate within the national macroeconomic framework and their financial activities should not be such as to destabilise macroeconomic fiscal policy.

2. A framework for a new municipal financial system

In order to achieve the objectives outlined above, the municipal fiscal and financial system needs to be restructured in four critical areas:

- Local *revenue instruments** and policies.
- National-local intergovernmental transfers.
- Gearing in private investments.
- Budgeting, accounting and financial reporting systems.

Government's broad policy directions in each of these areas are outlined below. In each case the specific measures that are taken will need to be formulated in the context of government's overall macroeconomic and fiscal policies.

2.1. Local revenue instruments and policies

The power to tax is essential to sustainable and accountable local government. There are four important areas of local decision-making with respect to taxation:

- The choice of tax to be imposed.
- The definition of the *tax base**.
- The choice of the *tax rate**.
- Tax administration.

The choice of tax rate is the most critical means of promoting the *fiscal autonomy** of local government. The freedom of municipalities to vary the tax rate strengthens local accountability, and enables communities to challenge municipalities about the value-for-money of services provided.

Any local tax policy must be seen within the framework of the total tax system and the need for a coherent and transparent tax system. Further, taxation policy must take into account any

adverse consequences on the productive economy. National legislation must provide a framework within which local taxation policy must fit. The impact of property taxes and Regional Service Council and Joint Services Board levies must be assessed in terms of this framework and national macroeconomic objectives like job creation and the need for competitiveness.

Municipalities require access to adequate resources and budgetary powers to fulfil their assigned functions. On average, municipalities have sufficient revenue raising powers to fund the bulk of their expenditure, and finance 90% of their *recurrent expenditure** out of own revenues. Own revenues include rates (19,89%) and trading services such as electricity (41,4%); water (11,8%); and sewage and refuse removal (8,22%).

These aggregate figures hide the fact there are great variations between municipalities across the country, and rural municipalities fund far less of their expenditure from own revenues than urban municipalities do. In fact, many municipal services are provided by national and provincial departments in rural areas. A more accurate picture will only emerge when rural local government becomes functional and assumes responsibility for the provision of these services.

2.1.1. Property taxation

The major source of local taxation is the property tax (rates). This is currently levied only in urban areas. The owners of property in municipal areas have to pay a tax based on a valuation of their properties in order to finance municipal services. While this tax is by no means the sole source of municipal revenue, it is an important source of *discretionary own revenue** for local government and enables it to function effectively.

Rating in the country has historically been done differently in the various provinces. Each of the former four provinces had its own legislation in this regard. This legislation was never coordinated, despite the fact that the relevant circumstances in the former provinces did not differ much. The present system of property rating in South Africa is cumbersome, and a simpler and uniform system of valuation must be found.

Section 229(2) of the Constitution, which came into effect on 1 January 1998, states that the power of the municipality to impose rates on property may be regulated by national legislation. The provincial ordinances currently regulating property rating will, therefore, remain in force until they are replaced by national legislation in this regard.

Government will need to address four main issues with regard to property tax:

- First, the issue of bringing currently untaxed areas into the tax net. The newly amalgamated urban municipalities (which bring formerly black and white areas into one municipality) have decided in principle to extend the tax base to previously unrated areas. However, some of the former black areas remain outside the property tax net. Effective measures to integrate these areas into the property tax net need to be determined and implemented. Currently, property rates are still not being uniformly applied, and property valuations are often disputed.
- Second, there is the issue of variation in the rating system with regard to the tax base. The property (assessment) rates levied should be based on the market value of the property. The optimal method of valuation applicable to the South African situation should be determined. Possible rating systems that need to be reviewed are:
 - Site rating, or the valuation of land only.
 - The combined rating of land and buildings.
 - Differential or composite rating, where both land and buildings are rated together but at different rate levels, and where the rate levied on land is higher than that on improvements.
 - A rating system where a uniform rate is used for areas which were not previously rated, irrespective of the value of the property. (This is often called "flat-rating" in South Africa). The rate is usually lower than the actual value of the property.

The key decision that needs to be taken is whether there should be a uniform national system, or whether there should continue to be local choice in this matter.

- Third, the issue of valuation periods needs to be addressed. In many areas, properties are not valued regularly. A process of regular assessments of property values needs to be entrenched. Again, the question of national versus local choice in valuation periods needs to be determined.
- Fourth, there is a need to develop the criteria for evaluating alternative property valuation systems, within the framework of alleviating and addressing poverty. A municipality needs to develop a clear policy and set of procedures regarding the full or partial relief to those who are genuinely too poor to pay for rates. Any rebates or *grants-in-aid** allowed on property tax (as prescribed in the relevant provincial/national legislation) should be clearly indicated in a transparent and consistent manner in the budget of a municipality.

It is important to note that local government should have the latitude to make certain decisions concerning the nature of the property tax in their area of jurisdiction, which reflect their unique circumstances and local economic objectives.

2.1.2. Regional Service Council and Joint Services Board levies

The Regional Service Council and Joint Services Board levies, are a source of revenue for Metropolitan and District Councils. Since their inception, the Regional Service Council and Joint Services Board levies have been controversial taxes.

The most serious problem with these levies is in the administrative costs of collection. They are collected by municipalities themselves rather than by a national collecting agency like the SA Revenue Services, and the scope for evasion is high. A second and even more serious problem is that the levy is a tax on staff or labour. This reinforces the bias against labour-intensive firms.

Despite these problems, these taxes are an important source of municipal revenue, and will need to be retained, at least until such time as a suitable alternative, yielding the same net revenue, is introduced.

The effectiveness of regional and establishment levies as engines of development will be assisted by the development of clear rules about the uses to which municipalities can put these funds. It is proposed that District and Metropolitan Councils should utilise the levies for the development and maintenance of infrastructure linked to the needs of the community.

The uncontrolled use and increase of regional and establishment levies could lead to sharp increases in the effective taxation of commerce and industry. Vastly differing levy rates could cause negative inter-jurisdictional spillover effects. However, as long as these levies are restricted to low levels and are ultimately subject to national control, these potential negative effects can be minimised. National oversight with regard to the determination as well as utilisation of these levies is therefore required to ensure an optimal system of Regional Service Council and Joint Services Board levies.

2.1.3. Fuel levy

Schedule 5 (Part B) of the Constitution determines that municipal roads are a functional responsibility of the local government sphere. In this context, consideration will be given to assigning a percentage of the fuel levy to local government. The fuel levy represents a potentially important source of revenue for local government due to its ability to grow, and the ease with which it is administered.

The issue of a local government fuel tax needs to be seen within the context of the national fuel levy. National government will develop a set of principles that will provide a framework within which these funds will be spent. One such principle is that fuel taxes are best suited for recovering the maintenance costs of roads.

2.1.4. User charges

An important source of local own revenue are charges which are directly related to the provision of public services. The majority of these are public utility charges - such as electricity and water - which have contributed significantly to the growth of revenue of municipalities.

Cost recovery* is an essential part of sustainable service delivery. However, municipalities will not be able to meet all the costs associated with addressing backlogs. National government has therefore provided a capital grant package, the Consolidated Municipal Infrastructure Programme to assist municipalities in meeting the capital costs of bulk and connector infrastructure. The new system of intergovernmental transfers is aimed at subsidising the operating costs of basic services to indigent and low-income households.

Government and stakeholders have agreed on a set of principles to guide tariff policy:

- **Payment in proportion to the amount consumed:** As far as is practically possible, consumers should pay in proportion to the amount of service consumed.
- **Full payment of service costs:** All households, with the exception of the indigent, should pay the full costs of the services consumed.
- **Ability to pay:** Municipalities should develop a system of targeted subsidies to ensure that poor households have access to at least a minimum level of basic services.
- **Fairness:** Tariff policies should be fair in that all people should be treated equitably.
- **Transparency:** Tariff policy should be transparent to all consumers and any subsidies and concessions which exist must be visible and understood by all consumers.
- **Local determination of tariff levels:** Municipalities should have the flexibility to develop their own tariffs in keeping with the above principles.
- **Consistent tariff enforcement:** A consistent policy for dealing with non-payment of tariffs needs to be developed. This must be targeted and enforced with sensitivity to local conditions.
- **Ensure local economies are competitive:** Local tariffs must not unduly burden local business through higher tariffs, as these costs affect the sustainability and competitiveness of such businesses and firms.

Municipalities need to develop a clear tariff policy, including a policy to ensure that indigent households have access to basic services. Tariff enforcement needs to be linked to improved credit control mechanisms.

2.1.5. Credit control*

It is vital to the long-term financial viability of any municipality that it collects the revenues due to it for services rendered. This means that appropriate credit control mechanism must be established.

As a first step, municipalities need to be able to measure the amount of services that households consume. This means that metering of services such as water and electricity must take place efficiently.

Secondly, households need to receive regular and accurate bills for the services they use, in a format which is easy to understand. In some areas special arrangements may be required to ensure that households receive bills regularly.

Thirdly, credit control measures will only be successful if targeted relief is available for those households who cannot afford to pay for services. Municipalities must establish accessible mechanisms to enable poor households to apply for a rebate on service charges.

Fourthly, municipalities need to take strong measures to deal with those households who can afford to pay for services but are not doing so. This means that municipalities must keep a proper record of outstanding debtors, and must take action against them after a given notice period. Such action can include cutting off services or court action to recover debts. It is fundamentally important that local government is able to retain the power to cut off electricity

to consumers as a credit control measure, and amendments to the Electricity Act will be promulgated in this regard.

2.1.6. Financing municipalities in rural areas

Measures to improve the financial viability and revenue base of rural local government are required. A substantial portion of the share of the national fiscus reserved for local government will be directed at rural municipalities. In addition, the institutional restructuring of existing municipalities will result in increased financial viability. Directing sectoral funding for housing, water infrastructure and so forth via rural municipalities will also strengthen local capacity. However, other mechanisms to improve the financial viability of rural local government are required.

One option is the extension of the property tax to rural areas. Because property is immobile and allocation thereof cannot be distorted, property tax is an ideal local tax. The acceptability of extending property taxes to rural areas would be increased if the revenue raised is spent in the area where it is raised, with visible benefits for local communities. Revenue generated from property tax could be used primarily (but not necessarily exclusively) for rural infrastructure purposes, e.g. road infrastructure and maintenance of roads in rural areas. Although a property tax could be an important source of revenue for rural municipalities, the total amount raised would be limited.

The rate at which the property tax is extended should be approached cautiously. The rate should either be equal or less than the *average rental return on land ratio**. The rate should also be high enough to cover the costs of administering the tax, and ensure that a reasonable return is yielded. When considering the applicable tax rate, the relation between the rural property tax and other local taxes (e.g., Regional Service Council and Joint Services Board levies) will have to be considered.

A combination of revenue-generating options, including betterment taxes, will need to be explored further to secure the financial viability of rural local government.

In addition to the above categories of revenue (property tax, metropolitan and district levies, user charges, and fuel tax) municipalities derive revenues from capital grants as well as intergovernmental grants for operating expenditure. Given local government's pivotal role in delivery and development, further consideration should be given to adding to the revenue-raising powers of local government.

2.2. Intergovernmental transfers

Intergovernmental transfers are important to the fiscal relationship between national and local government. There are three basic types of transfer:

- _ Agency payments paid by provincial governments to municipalities for services rendered by the latter on behalf of the former.
- _ Grants to subsidise the capital costs of investment in municipal infrastructure.
- _ Grants to support the operating budgets of municipalities.

2.2.1. Agency payments

Agency payments are fees rather than grants and there is no necessity for any change to this aspect of the transfer system. However, it is imperative that municipalities ensure that payments received from provinces are sufficient to cover the full cost of the services which municipalities deliver on their behalf.

2.2.2. Capital transfers

During 1996-97 a process of rationalising the various capital grants flowing to municipalities into a single funding channel, the Consolidated Municipal Infrastructure Programme, was initiated. Some further rationalisation of capital transfers flowing to municipalities - particularly those in rural areas - is required. In general, however, the Consolidated Municipal

Infrastructure Programme has successfully begun to deal with the problems of fragmentation and duplication that characterised the capital grant programmes of the past. It is therefore not anticipated that there will be any major changes to this programme in the foreseeable future.

2.2.3. Transfers to fund operating costs

The current system of operating transfers, however, is highly problematic and requires urgent policy attention. In general, the current problems include:

- The grant system is inconsistent and inequitable.
- Grants are unpredictable - there is no certainty as to what any municipality will receive in any given year.
- The grants are not based on objective, rational policy criteria.
- The incentives in the current system sometimes encourage poor financial management behaviour by municipalities.

In order to address these problems, and so as to comply with Section 214 of the Constitution, government will fundamentally restructure the system of operating transfers to municipalities and - in so doing - will introduce an “equitable share” of national revenue for local government, beginning in the 1998-99 fiscal year.

The new system of intergovernmental transfers will need to address two key issues: the “vertical division” of revenue - the total share of revenue going to local government, and the “horizontal division” of this revenue - how the total amount is divided between municipalities.

The vertical split will be decided via the national budgeting (medium-term expenditure framework) process, taking into account the factors put forward in Section 214 (2) of the Constitution.

It should be noted that the “equitable share” covers only those transfers to fund the operating costs of municipalities. Capital transfers, for example, are classified as “additional conditional grants” in terms of the Constitution. The “equitable share” in other words should not be confused with the total amount of national revenue flowing to municipalities. The amount of the “equitable share” component of national-local flows can only be properly determined with due regard to the other transfers to municipalities. As certain subsidies to municipalities are phased out, the equitable share will need to expand.

The horizontal division of the equitable share between municipalities will need to be driven by five key objectives:

- Equity.
- Efficiency.
- Ensuring a basic level of administrative capacity in the most resource-poor municipalities.
- Predictability.
- Incentives for proper financial management at the local level.

In order to achieve this a transparent, formula-based system will be phased in over a period of four years for urban municipalities and seven years for rural municipalities. The dominant principle underlying this system will be equity - it should enable all municipalities to provide a basic level of services to low-income households in their areas of jurisdiction at affordable cost. A secondary principle will be effective administrative infrastructure: the system should ensure that even the most resource-poor municipality is able to build a basic level of administrative infrastructure to allow it to govern its area effectively. Many municipalities are already in a position to provide this without financial assistance from the national fiscus. Therefore, this aspect of the formula will need to have an equalising dimension to it.

A formula-based approach by its nature removes discretion over the allocation of funds to municipalities. The funds will therefore best be allocated directly from the central fiscus to municipalities rather than via the provinces. In order to ensure certainty it is also important that transfers are allocated to those municipalities which have actual expenditure responsibilities in respect of service provision and governance.

2.2.4. Targeting intergovernmental transfers

One of the key goals of restructuring the systems of intergovernmental transfers is to assist the indigent to access services. When fully operational, the new system of intergovernmental transfers will enable all municipalities to deliver a package of basic services to all low-income and indigent households in their areas. This funding will be complemented by capital grant funding channelled via the Consolidated Municipal Infrastructure Programme.

With a few exceptions, it will be difficult to ensure that intergovernmental transfers effectively reach particular target groups, such as the poor. Intergovernmental transfers are primarily intended to subsidise the provision of local public services, and it is difficult to pinpoint which particular individuals and groups will utilise such services. Unless the entire geographic community happens to be members of the target group (e.g. a poor rural community), transfers are unlikely to benefit only the intended target group. Transfers from national government to municipalities are therefore a blunt instrument to reach the poor, unless the individual municipalities use these transfers to provide those local services that impact positively on the lives of the poor. The actual targeting of these intergovernmental transfers, and ensuring that only eligible households have access to subsidised services, will therefore be the responsibility of individual municipalities.

2.2.5. Local government participation

Given the monitoring and oversight powers of provincial governments with respect to local government, provincial MECs responsible for local government should also participate in forums and processes related to local government finance.

3. Leveraging additional investment in the municipal sector

Previous government studies - such as the Municipal Infrastructure Investment Framework - show that in order to meet infrastructure backlogs and secure access for all to basic services, additional investment in municipal infrastructure from the private sector and public sector financial intermediaries is required. There are three key areas of municipal finance which support additional investment in the municipal sector, namely:

- _ Borrowing and investment powers of municipalities.
- _ *Credit enhancement**.
- _ *Concessional loan finance**.

Private sector investment can also be encouraged through the regulation of public private partnerships and the establishment of a system to monitor the financial position of municipalities, which are discussed in Section C: Cooperative Government and Section F: Administrative Systems.

3.1. Borrowing and investment powers of municipalities

The Local Government Transition Act (Second Amendment Act) extended and introduced broad uniformity into the borrowing powers of municipalities. Consideration should be given to further expanding municipal borrowing powers. There is also a need to define the exact nature of the regulation of these powers by national legislation. The Second Amendment Act also liberalised the regulatory framework for municipal investment, and this trend may need to be extended.

Ultimately, a vibrant and innovative primary and secondary market for short and long term municipal debt should emerge. To achieve this, national government must clearly define the basic "rules of the game". Local government will need to establish its creditworthiness through proper budgeting and sound financial management, including establishing firm credit control measures and affordable infrastructure investment programmes. Finally, a growth in the quantum, scope and activities of underwriters and market facilitators (such as credit-rating agencies and bond insurers) will be required.

If private investment is to be encouraged, greater clarity needs to be achieved with respect to the security of loan investments. This will be facilitated by the development of a framework for monitoring the financial position of municipalities, building on current laws and practices (such as Project Viability). National government's approach emphasises the importance of achieving financial discipline through decentralised market relationships (between borrower and lender), rather than the direct, centralised control of local government. This is in line with the fiscally decentralised orientation of the Constitution.

The rules governing intervention in the event that municipalities experience financial difficulties need to be clearly defined and transparently and consistently applied. It is critical that municipalities, investors, as well as national and provincial government, have a clear understanding of the character of their respective risks. Risks should not be unduly transferred to national or provincial government.

3.2. Credit enhancement

Measures to enhance credit

National government will not provide sovereign guarantees of municipal debt. However, there are a range of other mechanisms which can be considered to enhance the credit of municipalities, including:

- Municipal bond insurance*
- Treasury trusts*
- Interception of intergovernmental transfers*
- Debt syndication*
- Bond banking*

Other measures which may indirectly enhance the credit of municipalities include introducing better municipal accounting systems, the provision of relevant and reliable information, a clear framework for supervision by other spheres of government, procedures for intervention when failure occurs, establishing fiscal certainty (grant flows, ownership of local tax bases, etc.) and clarifying the role of concessional loan finance.

3.3. Concessional loan finance

Although municipalities have fairly extensive borrowing powers, current conditions at local level and in the capital market effectively constrain the ability of municipalities to raise loans. Concessional loan finance - offered through a public sector financial intermediary - can play an important role in enabling municipalities that cannot gain access to credit from the capital market to borrow at an affordable price.

Specialised institutions for providing concessional loan finances to municipalities are not intended to replace the existing commercial financial institutions, but rather to complement them. Commercial and public sector financial institutions should play complementary roles.

Objectives of concessional loan finance

Public sector financial intermediaries are designed to achieve a range of objectives, including to:

- **Make credit accessible:** One of the major obstacles facing municipalities is securing loans on the private capital market, and financial intermediaries have the potential to provide municipalities with access to credit.
- **Mobilise additional resources:** Financial intermediaries can be granted sufficient powers to enable them to pool funds from various sources - including the domestic capital market - and then on-lend these funds to the various municipalities.
- **Provide technical assistance:** Apart from the primary goal of ensuring municipalities have access to long-term capital financing, financial intermediaries can promote municipal capacity in order to improve the use of resources.

Financial intermediaries generally provide long-term credit financing for municipal investments, and could potentially play a critical role in funding municipal infrastructure.

It should be noted that:

- Where public sector financial intermediaries are involved, care must be taken to ensure that government does not subsidise the borrower in a manner which is not transparent or clearly quantified so that the subsidy is not absolutely clear.
- Public sector financial intermediaries should not “crowd out” or discourage private sector investment. In fact, they are key agents to support the development of an effective market for municipal debt and to enhance the overall level of investment in the municipal sector. Within the framework of the RDP, public sector financial intermediaries should actively support financial markets and endeavor to engage the private sector in these markets.
- Concessional finance sources could introduce the discipline of loan finance to municipal institutions which find it difficult to access private markets. This discipline in the way municipalities conduct their financial affairs should be a basic principle of concessional loan finance so that, in the long term, such municipalities will be able to satisfy the requirement of the markets and so gain access to private sector investment.

Public sector financial intermediaries clearly have an important role to play in making loan finance available to municipalities. The role of such institutions should be constantly monitored, refined and streamlined in relation to the private sector's role in the municipal sector. Through targeted loans and technical assistance they can support the development of a municipal debt financing system.

4. Budgeting, accounting, financial reporting and management

Municipal budgets are a critical tool for re-focusing the resources and capacity of the municipality behind developmental goals. To this end, budgets must be developed in relation to the policies and programmes put forward in municipal integrated development plans.

Given that resources are scarce, community participation in the development of both integrated development plans and municipal budgets is essential. Participation provides an opportunity for community groups to present their needs and concerns. It enables them to be involved in the process of prioritisation, and to understand and accept the trade-offs which need to be made between competing demands for resources.

Current budgeting, accounting, financial reporting and financial management practices of municipalities suffer from a number of weaknesses. These weaknesses may act as disincentives to community participation and to private investment. In some municipalities these weaknesses include:

- Unrealistic budgeting.
- Poor credit control.
- A lack of budgetary and financial discipline.
- A lack of user-friendly and accessible information on the budget process.

Addressing these problems requires local political will and improved management efficiency. It also requires a number of national changes to systems.

4.1. Generally accepted accounting practice for municipalities

Much progress has been made in recent years in defining and introducing generally accepted accounting practice standards for local government. Only minor changes are now required, except in the case of accounting for *fixed assets**. Applying accounting principles specifically tailored for municipalities will promote transparency. It will enable the content and presentation of financial statement information to be consistent and so enable informed decision-making on risk and returns.

4.1.1. Reserves, provisions and funds

Current accounting principles and disclosure of the internal financing of fixed assets is complex. This does not promote transparency. It does not enable councillors, management and the public to gain an understanding of the true financial position of the municipality. For

example, the extent to which funds or reserves have been used to finance fixed assets or make temporary advances to the operating account cannot be easily determined.

In order to address this - and to prevent excessive taxation before there is a need - there needs to be a limitation on the number of reserves permitted. However, all municipalities should establish a working capital reserve, which should be based on debtor balances and take into account the possible non-recovery of income included in the annual budget.

Existing funds should also be consolidated as far as possible and the accounting entries relating to the internal financing of the fixed assets simplified. This should enable external users, particularly financial institutions, to obtain a clearer understanding of the financial position of the municipality concerned.

4.1.2. Capital accounting

A fundamental difference between existing municipal accounting principles and generally accepted accounting practices relates to accounting for fixed assets. At present, fixed assets are recorded at historic cost (their original purchase cost). No account is taken of wear and tear incurred in the provision of the services. As a result, there is some risk that the true cost of rendering services is understated. This has a negative impact on proper price and tariff setting. More realistic fixed asset values will facilitate more accurate decision-making in a range of areas, including the valuing of services for public-private partnerships, relating maintenance expenditure to replacement costs, and providing for sustainability and replacement costs through depreciation.

4.1.3. Internal reporting

The lack of minimum internal reporting standards in the past limited the effectiveness of senior management and councillors - key financial information was not presented on a regular basis or in a clear and easy-to-understand format. As a result, it was difficult for management and councillors to react proactively to a change in the financial position of the municipality. The recently promulgated regulations on financial reporting by municipalities under the Local Government Transition Act will in future regulate such reporting. Further guidelines on the content and frequency of internal reports need to be formulated to improve financial management.

4.1.4. External reporting

An important policy principle in ensuring accountability in municipal finances is the submission of annual financial statements to an external body such as the Auditor-General. The Local Government Transition Act spells out the chief executive officer's responsibilities with respect to the compilation and submission of annual financial statements to the Auditor-General. Annual financial statements need to portray financial viability and enable an accurate assessment of the risk to be undertaken if the use of private sector funding, in whichever form, is to be undertaken.

In respect of reporting to the community, there is a perceived lack of transparency as municipalities often do not understand the information needs of the community. It is unlikely that there will be significant demand for audited annual financial statements. Therefore municipalities need to consider preparing Mayoral budget addresses and annual reports as a way to present information which is credible and understandable, and allows citizens and communities to assess municipal expenditure against the municipal integrated development plan.

5. Concluding comment

The restructuring of local government in South Africa has caused the newly formed municipalities to experience a variety of financial challenges. These have included:

- _ Dramatically increased services responsibilities.
- _ Increased administrative costs.

- Upward pressure on salaries.
- Cuts in operating subsidies.
- Reductions in experienced personnel, especially in the financial sector.

These challenges have placed significant pressure on municipalities' cash flows and have led to a reduction of their financial resources. Although various actions have been taken by government to address the current crisis situation in municipalities in the short to medium-term, long-term solutions are required to restore financial discipline, eliminate outstanding debts and generate the necessary cash flows.

Moreover, it is vital that provincial and national government assist municipalities and councillors in this process. They need to communicate to municipalities the importance of making affordable choices up front. They also need to communicate the total commitment of government to building a financially independent and viable system of local government in the long-term.

Section H: THE TRANSFORMATION PROCESS

In this section:

This section provides an outline of the transformation process. The process aims to create the space for municipalities to work with local communities to fulfil their developmental role in a sustainable manner.

1. Building on the past five years

The legislation which follows this White Paper will mark the end of the transitional system of local government, and the establishment of a new, democratic and non-racial local government system. This is a historic moment. However, policies and laws alone cannot bring about developmental local government. This will depend on the actions of the new municipalities themselves. As they engage with transformation, they will - step by step - give real content to their developmental role.

Over the past five years of transitional local government, municipalities and communities have built up capacity. In the process of negotiating changes in their local areas, they have acquired skills to:

- Engage with different opinions.
- Promote change.
- Negotiate and mediate.
- Innovate.
- Collectively find solutions to challenges.

Participants in the transition process have had to look at their own living environments through the eyes of people from different and unknown “worlds” just a few kilometres away from their homes. They have had to come to an understanding of what local government is, and what it can do - the impact it can have on the everyday lives of citizens.

These skills - which could not have been acquired in formal training - will be invaluable to the new municipalities as they tackle the changes that lie ahead. They will form the basis of the new local government system. And the continued engagement between councillors, officials, citizens and community groups will shape and sustain the new developmental role.

Within each municipality the political leadership will need to harness the resources at its disposal: the skills and capacity of workers, the energy of the community, and the resources of the public, civil and private sectors. They will have to develop strategies for change which meet local needs.

2. Establishing a stable framework

While transformation ultimately rests with each municipality, there are a number of ways in which national government will enable and support the transformation process. National government will prepare the way for the important nation-wide municipal elections which will usher in the new system of local government. National government will also create an enabling legal framework - laws and policies which will promote the establishment of new developmental local government.

The introduction of the new local government system requires nation-wide municipal elections. In terms of the Constitution, elections must take place by November 1999 in seven of the nine provinces, and by June 2000 in KwaZulu-Natal and the metropolitan area of the Western Cape (where elections for the transitional system were postponed). On this date the term of office of the existing transitional Councils will expire, and a new system of local government will take its place.

In order to prepare for these elections, national government will pass legislation to:

- “Fast-track” the establishment of the Municipal Demarcation Board, and so enable the re-demarcation of municipal boundaries.

- Enable the demarcation of wards and preparation for elections.
- Create a framework for the establishment of new local government.

On this basis, provincial legislation will formally establish new municipalities in each of the nine provinces.

The time frame in which municipal elections must occur allows a limited period for the demarcation of new municipal boundaries. It may therefore be necessary to phase the demarcation to allow for a review of municipal boundaries to continue after municipal elections have been held.

The municipal elections and the establishment of new municipal institutions is a vital point in the transformation process - an essential step in creating a stable environment to enable good local governance.

3. Support mechanisms for municipal transformation

In addition to creating the enabling legal framework described above, national government will facilitate the establishment of mechanisms to support municipal transformation. These include:

- Increasing local government's voice through:
 - Securing local governments' constitutional rights as a sphere of government.
 - Supporting Salga as the representative voice of local government.
 - Ongoing consultation during policy and legislative processes.
- The coordinated decentralisation of powers and functions to local government. This will be achieved through:
 - Avoiding unfunded mandates.
 - Working through and with local government.
 - Aligning sectoral service delivery boundaries with municipal boundaries wherever possible.
- A coherent planning framework for integrated development planning. The integrated development planning process will:
 - Enable planning around needs prioritised in consultation with community groups.
 - Facilitate vertical integration with national and provincial policies and programmes.
 - Gear municipal resources and capacity to meet the objectives identified in integrated development plans.
- Support for improved service delivery. This will be achieved through:
 - Capacity-building.
 - Capital funding from the Consolidated Municipal Infrastructure Programme.
 - "Hands-on" assistance for the transformation of service delivery systems.
- Developing performance management systems. These systems will be developed in partnership with local government and will have the following aims:
 - To enable realistic planning.
 - To allow municipalities to assess the impact of their administrative reorganisation processes and development strategies.
 - To enhance local government accountability.
- Training and capacity-building. This will be achieved through:
 - The reorganisation of the local government training system.
 - Targeted assistance for improved financial and budgeting processes.
 - Working with Salga to develop and implement councillor training programmes.
 - Working with provincial governments to develop ongoing capacitation programmes.
- Increasing financial certainty. This will be achieved through:
 - Streamlining intergovernmental grants.
 - Ensuring that municipal demarcation results in financially viable jurisdictions.
 - Introducing the equitable share of the national fiscus to which local government is constitutionally entitled.

- _ Ongoing institutional development. This will be achieved through:
 - Facilitating shared learning between municipalities.
 - Supporting provincial institutional development initiatives.
 - Funding pilot programmes.
 - Working with the full range of stakeholders who can contribute to building municipal sustainability through all of the above initiatives.

An intensive support programme including all the elements listed above will be required to develop municipal capacity for delivery and development. The process of establishing the new local government system is likely to result in extraordinary costs, and a special transformation fund may be required to assist municipalities to manage the transformation process. A transformation fund could include capacity-building funds and additional resources from aid agencies. It should be structured to support the capacitation and development of local government. Care must be taken to ensure that this fund is not used to “bail out” municipalities who misallocate their own revenue, as this would be an incentive for poor financial management. Rather, a transformation fund should be targeted at developing appropriate support and capacity-building mechanisms for the implementation of the new system of local government.

The development of the systems required to support municipal transformation should be managed in partnership with local government: this will both build the capacity of local government and result in effective systems which municipalities can use to lever change in their operations and in their approaches to meeting community needs.

Given the scale of need in local communities, it is essential that skills, resources and capacities from a number of institutions and sectors are harnessed behind the vision of developmental local government and contribute actively to making this vision a reality.

Following the publication of this White Paper, a process involving all spheres of government and affected stakeholders will be initiated to design a detailed support programme for the implementation of the White Paper.

However, successful transformation ultimately rests in the hands of each municipality. Transformation is not a choice - it is an obligation placed on each municipality to fulfil its constitutional mandate and play a role in the development of the nation. Unless the capacities built through years of struggle for democratic rights and a decent quality of life for all are mobilised within each local area, we will lose what we have struggled for. Local government has a critical role to play in consolidating our new democracy, and each councillor, each official, and each citizen is tasked with making their contribution in the areas where they live.

ANNEXURE A

REFERENCE GUIDE ON LEGISLATION AFFECTING LOCAL GOVERNMENT

Containing:

- ACTS THAT HAVE AN IMPACT ON LOCAL GOVERNMENT
- OTHER NATIONAL LEGISLATION THAT IMPACTS ON LOCAL GOVERNMENT
- PROVINCIAL LAWS THAT IMPACT ON LOCAL GOVERNMENT
- FORMER TBVC STATES AND SELF-GOVERNING TERRITORIES LEGISLATION THAT HAS AN IMPACT ON LOCAL GOVERNMENT

This guide should be considered as work-in-progress and may be updated and corrected from time to time.

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ACTS THAT HAVE AN IMPACT ON LOCAL GOVERNMENT

Abattoir Hygiene Act 121/1992
Abolition of Racially Based Land Measures Act 108/1991
Advertising on Roads and Ribbon Development Act 21/1940
Arbitration Act 42/1965
Assessment of Damages Act 9/1969
Atmospheric Pollution Prevention Act 45/1965
Auditor-General Act 12/1995
Basic Conditions of Employment Act 75/1997
Bethelsdorp Settlement Act 34/1921
Black Administration Act 38/1927 and Proclamation R110 of 1975
Black Authorities Act 68/1951
Black Communities Development Act 4/1984
Borrowing Powers of Provincial Governments Act 48/1996
Businesses Act 71/1991
Cannon Island Settlement Management Act 15/1939
Cape Town Forshore Act 26/1950
Carnarvon Outer Commonage Settlement Act 19/1913
Carnarvon Outer Commonage Subdivision Act 17/1926
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City of Cape Town (Muizenberg Beach) Improvement Act 17/1925
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Community Development Act 3/1966
Community Welfare Act (House of Rep) 104/1987
Companies Act 61/1973
Compensation for Occupational Injuries and Diseases Act 130/1993
Constitution of the Republic of South Africa Act 108/1996
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Housing Act (House of Representatives) 2/1987
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Housing Arrangements Act 155/1993
Housing Development Act (House of Delegates) 4/1987
Housing Development Schemes for Retired Persons Act 65/1988
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Income Tax Act 58/1962
Intergovernmental Fiscal Relations Act 97/1997
Interim Protection of Informal Land Rights Act 31/1996
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Kwazulu and Natal Joint Services Act 84/1990
Labour Relations Act 66/1995
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Lekoa City Council Dissolution Act 61/1991
Less Formal Township Establishment Act 113/1991
Limitation of Legal Proceedings (Provincial and Local Authorities) Act 94/1970
Liquor Act 27/1989
Local Authorities Loans Fund Repeal Act 98/1997
Local Councils Act (House of Assembly) 94/1987
Local Government Affairs Council Act (House of Assembly) 84/1989
Local Government Training Act 41/1985
Local Government Transition Act 209/1993
Manpower Training Act 56/1981
Mapochs Gronden Water and Commonage Act 40/1916
Marburg Immigration Settlement (Local Board of Management) Act 43/1927
Marburg Immigration Settlement Regulation Act 50/1971
Medical, Dental and Supplementary Health Service Professions Act 56/1974
Mier Rural Area Act (House of Rep) 90/1990
Mine Health and Safety Act 29/1996
Mineral Act 50/1991
Mining Titles Registration Act 16/1967
Mooi River Township Lands Act 5/1926
Municipal Accountants Act 21/1988
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North-West Commissions Act 18/1994
Northern Vyfhoek Settlement Adjustment Act 75/1963
Nursing Act 50/1978
Occupational Health and Safety Act 85/1993
Ohrighstad Settlement Act 6/1933
Organised Local Government Act 52/1997
Pension Benefits for Councillors of Local Authorities Act 105/1987
Physical Planning Act 125/1991
Physical Planning Act 88/1967
Prescription Act 68/1969
Prevention of Illegal Squatting Act 52/1951
Prevention of Public Violence and Intimidation Act 139/1991
Promotion of Local Government Affairs Act 91/1983
Public Holidays Act 36/1994
Public Investment Commissioners Act 45/1984
Public Protector Act 23/1994
Rating of State Property Act 79/1984
Regional Services Councils Act 109/1985
Regulation of Gatherings Act 205/1993
Removal of Restrictions Act 84/1967
Rent Control Act 80/1976
Repeal of Local Government Laws Act 42/1997
Restitution of Land Rights Act 22/1994
Road Traffic Act 29/1989
Road Transportation Act 74/1977
Roodepoort and Weltevreden Agricultural Settlements Adjustment Act 53/1966
Rural Areas Act (House of Rep) 9/1987
SA Qualifications Authority Act 58/1995
Sea-Shore Act 21/1935
Settlements (Committee of Management) Act 21/1925
Skanskop Settlement Act 24/1947
Slums Act 76/1979
South African Abattoir Corporation Act 120/1992
South African Police Service Act 68/1995
State Land Disposal Act 48/1961
State President's Committee on National Priorities Act 119/1984
Subdivision of Agricultural Land Act 70/1970
Sundays River Settlements Administration Act 15/1925
Tobacco Products Control Act 83/1993
Town and Regional Planners Act 19/1984
Unemployment Insurance Act 30/1966
United Municipal Executive (Pensions) Act 12/1958
Urban Transport Act 78/1977
Validation of Certain By-laws Act (House of Assembly) 48/1990
Value-added Tax Act 89/1991
Valuers' Act 23/1982
Vanwyksvlei Settlement (Local Board of Management) Act 10/1929
Vanwyksvlei Settlement Regulation Act 68/1970
Vyfhoek Management Act 39/1935
Wage Act 5/1957
Water Act 54/1956
Water Services Act 108/1997
Winterton Irrigation Settlement (Local Board of Management) Act 16/1926

Note: Amendments are not listed separately.

OTHER NATIONAL LEGISLATION THAT IMPACTS ON LOCAL GOVERNMENT

Betterment Areas Proclamation, 1967 (Proclamation No. R. 196 of 1967)
Black Areas Land Regulations (Proclamation R.188 of 1969)
Licensing and Control of Dogs Proclamation (Transvaal), 1960 (Proclamation No. R.419 of 1960)
Proclamation R.96 of 1958 - Section 12 *bis*
Proclamation concerning Payment by Blacks of Rentals for Arable and Residential Allotments and of Fees for Grazing Stock on certain Land owned by the South African Development Trust, 1968 (Proclamation No. R. 300 of 1968)
Regulations concerning Land Tenure in Towns (Proclamation R.29 of 1988)
Regulations for the Control of the Residence on and Occupation of Privately- or Tribally-owned Land in Black Areas, 1967 (Proclamation No. R.192 of 1967)
Regulations relating to Community Services in Black Areas (Proclamation No. R.199 of 1967)
Regulations relating to Township Establishment and Land Use (GN R.1897 of 1986)
Sanitary Regulations - Rural Black Areas (Proclamation No. R269 of 1968)
Township Regulations (Proclamation No. R.293 of 1962)

Note:

(i) Amendments are not listed separately.

(ii) The applicability of legislation indicated in this section is still under investigation. A possibility exists that some of this legislation may have been repealed.

PROVINCIAL LAWS THAT HAVE AN IMPACT ON LOCAL GOVERNMENT

Abolition of Dog Race Meetings and the Prohibition of Betting on Dog Races Ordinance, 1949 (Ordinance No. 4 of 1949) (Transvaal)
Bethulie Town Lands Sale Private Ordinance, 1914 (Ordinance No. 9 of 1914) (Orange Free State)
Boroughs Ordinance, 1924 (Ordinance No. 19 of 1924) (Natal)
Burial Place Ordinance, 1952 (Ordinance No. 4 of 1952) (Orange Free State)
By-Laws and Regulations Ordinance, 1922 (Ordinance No. 5 of 1922) (Natal)
Cape Local Authorities Gas Ordinance, 1912 (Ordinance No. 7 of 1912) (Cape)
Cemeteries and Crematoria Ordinance, 1969 (Ordinance No. 39 of 1969) (Natal)
Cemetery Ordinance, 1932 (Ordinance No. 8 of 1932) (Transvaal)
City of Bloemfontein Ordinance, 1945 (Ordinance No. 5 of 1945) (Orange Free State)
Civil Defence Ordinance, 1978 (Ordinance No. 5 of 1978) (Natal)
Civil Defence Ordinance, 1977 (Ordinance No. 20 of 1977) (Transvaal)
Civil Protection Ordinance, 1977 (Ordinance No. 10 of 1977) (Orange Free State)
Coloured and Indian Management Committees Ordinance, 1984 (Ordinance No. 4 of 1984) (Transvaal)
Commissions of Enquiry Ordinance, 1960 (Ordinance No. 9 of 1960) (Transvaal)
Commissions Ordinance, 1945 (Ordinance No. 1 of 1945) (Cape)
Commissions Ordinance, 1954 (Ordinance No. 5 of 1954) (Orange Free State)
Committees of Inquiry Ordinance, 1978 (Ordinance No. 13 of 1978) (Cape)
Continuation of Local Authorities' By-laws and Regulations Ordinance, 1948 (Ordinance No. 19 of 1948) (Transvaal)
Control of Dancing Ordinance, 1957 (Ordinance No. 12 of 1957) (Orange Free State)
Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965) (Transvaal)
Delegation of Powers Ordinance, 1945 (Ordinance No. 20 of 1945) (Transvaal)
Delegation of Powers Ordinance, 1965 (Ordinance No. 13 of 1965) (Cape)
Delegation of Powers Ordinance, 1970 (Ordinance No. 4 of 1970) (Orange Free State)
Development and Services Board Amendment and Interpretation Ordinance, 1975 (Ordinance No. 11 of 1975) (Natal)
Development and Services Board Designation Ordinance, 1974 (Ordinance No. 14 of 1974) (Natal)
Development and Services Board Ordinance, 1941 (Ordinance No. 20 of 1941) (Natal)
Division of Land Ordinance, 1986 (Ordinance No. 20 of 1986) (Transvaal)
Divisional Councils Ordinance, 1976 (Ordinance No. 18 of 1976) (Cape)
Dog Tax Ordinance, 1978 (Ordinance No. 19 of 1978) (Cape)

Drive-in Theatres Ordinance, 1960 (Ordinance No. 22 of 1960) (Transvaal)
Drive-in Theatres Ordinance, 1960 (Ordinance No. 8 of 1960) (Orange Free State)
Dwelling Loans Guarantee Ordinance, 1959 (Ordinance No. 3 of 1959) (Natal)
Dwelling Loans Guarantee Ordinance, 1959 (Ordinance No. 4 of 1959) (Orange Free State)
Extra-territorial Assistance Ordinance, 1978 (Ordinance No. 8 of 1978) (Transvaal)
Gauteng City Improvement Districts Act, 1997 (Act No. 12 of 1997) (Gauteng)
Gauteng Removal of Restrictions Act, 1996 (Act No. 3 of 1996) (Gauteng)
Horse Racing and Betting Ordinance, 1968 (Ordinance No. 34 of 1968) (Transvaal)
Horse Racing and Betting Ordinance, 1978 (Ordinance No. 24 of 1978) (Transvaal)
Horse-racing and Betting Ordinance, 1977 (Ordinance No. 8 of 1977) (Orange Free State)
Hospitals Ordinance, 1958 (Ordinance No. 14 of 1958) (Transvaal)
Incorporated Area Rates Adjustment Ordinance, 1958 (Ordinance No. 5 of 1958) (Natal)
Ladybrand Erven Amalgamation Amendment Ordinance, 1918 (Ordinance No. 5 of 1918) (Orange Free State)
Land Use Planning Ordinance, 1985 (Ordinance No. 15 of 1985) (Cape)
Licences and Business Hours Ordinance, 1973 (Ordinance No. 11 of 1973) (Natal)
Licensing and Control of Dogs Ordinance, 1933 (Ordinance No. 18 of 1933) (Transvaal)
Licensing and Control of Dogs Ordinance, 1942 (Ordinance No. 10 of 1942) (Natal)
Licensing and Control of Dogs Ordinance, 1968 (Ordinance No. 10 of 1968) (Orange Free State)
Local Authorities (Audit) Ordinance, 1938 (Ordinance No. 17 of 1938) (Cape)
Local Authorities (Development According to Community) Ordinance, 1963 (Ordinance No. 6 of 1963) (Cape)
Local Authorities (Investment of Funds) Ordinance, 1935 (Ordinance No. 23 of 1935) (Cape)
Local Authorities Capital Development Fund Ordinance, 1978 (Ordinance No. 9 of 1978) (Transvaal)
Local Authorities Capital Development Fund Ordinance, 1978 (Ordinance No. 9 of 1978) (Transvaal)
Local Authorities Ordinance, 1974 (Ordinance No. 25 of 1974) (Natal)
Local Authorities Rating Ordinance, 1977 (Ordinance No. 11 of 1977) (Transvaal)
Local Authorities Roads Ordinance, 1904 (Ordinance No. 44 of 1904) (Transvaal)
Local Authorities (War Service) Ordinance, 1940 (Ordinance No. 17 of 1940) (Natal)
Local Government (Administration and Elections) Ordinance, 1960 (Ordinance No. 40 of 1960) (Transvaal)
Local Government (Extension of Powers) Ordinance, 1962 (Ordinance No. 22 of 1962) (Transvaal)
Local Government Control Ordinance, 1958 (Ordinance No. 21 of 1958) (Transvaal)
Local Government Ordinance (Coloureds and Free Settlement Areas), 1963 (Ordinance No. 12 of 1963) (Orange Free State)
Local Government Ordinance, 1939 (Ordinance No. 17 of 1939) (Transvaal)
Local Government Ordinance, 1962 (Ordinance No. 8 of 1962) (Orange Free State)
Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973) (Natal)
Markets Ordinance, 1961 (Ordinance No. 21 of 1961) (Transvaal)
Municipal Consolidated Loans Fund Ordinance, 1952 (Ordinance No. 9 of 1952) (Transvaal)
Municipal Corporation Ordinance, 1903 (Ordinance No. 58 of 1903) (Transvaal)
Municipal Elections Ordinance, 1970 (Ordinance No. 16 of 1970) (Transvaal)
Municipal Ordinance, 1974 (Ordinance No. 20 of 1974) (Cape)
Municipal Ordinance, 1918 (Ordinance No. 11 of 1918) (Natal)
Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974) (Natal)
Pound Ordinance, 1952 (Ordinance No. 18 of 1952) (Orange Free State)
Pounds Ordinance, 1972 (Ordinance No. 13 of 1972) (Transvaal)
Prescription (Local Authorities) Ordinance, 1964 (Ordinance No. 16 of 1964) (Cape)
Prohibition of Dog Race - meetings Ordinance, 1976 (Ordinance No. 11 of 1976) (Orange Free State)
Prohibition of the Dumping of Rubbish Ordinance, 1976 (Ordinance No. 8 of 1976) (Orange Free State)
Public Bodies (Language) Ordinance, 1958 (Ordinance No. 13 of 1958) (Transvaal)
Public Resorts Ordinance, 1969 (Ordinance No. 18 of 1969) (Transvaal)

Recovery of Payments by Statutory Bodies Ordinance, 1977 (Ordinance No. 15 of 1977) (Cape)
Recreational Facilities Ordinance, 1972 (Ordinance No. 24 of 1972) (Natal)
Regulations relating to the Establishment and Amendment of Town Planning Schemes for the Province of the Cape of Good Hope (PN.733 of 1989) (Cape of Good Hope)
Removal of Graves and Dead Bodies Ordinance, 1925 (Ordinance No. 7 of 1925) (Transvaal)
Roads Ordinance, 1957 (Ordinance No. 22 of 1957) (Transvaal)
Roads Ordinance, 1968 (Ordinance No. 4 of 1968) (Orange Free State)
Shop Hours Ordinance, 1986 (Ordinance No. 8 of 1986) (Transvaal)
Shop Hours Ordinance, 1976 (Ordinance No. 16 of 1976) (Cape)
Shop Hours Ordinance, 1952 (Ordinance No. 19 of 1952) (Orange Free State)
Small - Holdings Ordinance, 1954 (Ordinance No. 17 of 1954) (Orange Free State)
Statutory Publications Ordinance, 1933 (Ordinance No. 4 of 1933) (Transvaal)
Town-planning and Townships Ordinance, 1986 (Ordinance No. 15 of 1986) (Transvaal)
Town Planning Ordinance, 1949 (Ordinance No. 27 of 1949) (Natal)
Townships Ordinance, 1969 (Ordinance No. 9 of 1969) (Orange Free State)
Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943) (Transvaal)
Transvaal Provincial Library and Museum Service Ordinance, 1982 (Ordinance No. 20 of 1982) (Transvaal)
Valuation Ordinance, 1944 (Ordinance No. 26 of 1944) (Cape)
Water Services Ordinance, 1963 (Ordinance No. 27 of 1963) (Natal)

Note:

(i) Numerous Natal ordinances are in existence pertaining to specific towns. These are not listed.

(ii) Amendments are not listed separately.

TBVC STATES AND SELF-GOVERNING TERRITORIES LEGISLATION THAT HAS AN IMPACT ON LOCAL GOVERNMENT

BOPHUTHATSWANA

Application of Municipal Laws Act, 1978 (Act No. 24 of 1978 of Bophuthatswana)
Bophuthatswana Traditional Authorities Act, 1978 (Act No. 23 of 1978 of Bophuthatswana)
Bophuthatswana Traditional Courts Act, 1979 (Act No. 29 of 1979 of Bophuthatswana)
Civil Defence Act, 1979 (Act No. 20 of 1979 of Bophuthatswana)
Fire Brigade Services Act, 1979 (Act No. 9 of 1979 of Bophuthatswana)
Health Act, 1983 (Act No. 12 of 1983 of Bophuthatswana)
Municipal Councillors (Thaba Nchu) Term of Office Extension Act, 1990 (Act No. 7 of 1990 of Bophuthatswana)
Municipal Laws Amendment Act, 1980 (Act No. 54 of 1980 of Bophuthatswana)
Municipal Laws Amendment Act, 1985 (Act No. 5 of 1985 of Bophuthatswana)
Municipal Laws Amendment Act, 1990 (Act No. 8 of 1990 of Bophuthatswana)
Pounds Act, 1974 (Act No. 7 of 1974 of Bophuthatswana)
Promotion of Local Government Act, 1984 (Act No. 4 of 1984 of Bophuthatswana)
Registration and Control of Dogs Act, 1976 (Act No. 4 of 1976 of Bophuthatswana)
Townships Regulations Amendment Act, 1981 (Act No. 21 of 1981 of Bophuthatswana)
Townships Regulations Amendment Act, 1982 (Act No. 4 of 1982 of Bophuthatswana)

VENDA

Civil Defence Act, 1985 (Act No. 10 of 1985 of Venda)
Corporations Act, 1981 (Act No. 17 of 1981 of Venda)
District and Territorial Councils Act, 1986 (Act No. 15 of 1986 of Venda)
Horse Betting Act, 1987 (Act No. 34 of 1987 of Venda)
Venda Graves and Removal of Dead Bodies Act, 1977 (Act No. 5 of 1977 of Venda)
Venda National Library Services Act, 1981 (Act No. 12 of 1981 of Venda)
Venda Traditional Leadership Proclamation (Proclamation No. 29 of 1991 of Venda)

KWAZULU

KwaZulu Act on the Licensing and Control of Dogs, 1988 (Act No. 19 of 1988 of Kwazulu)

KwaZulu Amakhozi and Iziphakanyiswa Act, 1990 (Act No. 9 of 1990 of KwaZulu)
KwaZulu Civil Protection Act, 1984 (Act No. 12 of 1984 of KwaZulu)
KwaZulu General Law Amendment Act, 1987 (Act No. 3 of 1987 of KwaZulu)
KwaZulu General Law Amendment Act, 1987 (Act No. 21 of 1988 of KwaZulu)

QWA QWA

Qwa Qwa Administration of Authorities Act, 1983 (Act No. 6 of 1983 of Qwa Qwa)
Qwa Qwa Advertising on Roads and Ribbon Development Act, 1991 (Act No. 5 of 1991 of Qwa Qwa)
Qwa Qwa Civil Defence Act, 1983 (Act No. 12 of 1983 of Qwa Qwa)
Qwa Qwa Corporations Act, 1984 (Act No. 11 of 1984 of Qwa Qwa)
Qwa Qwa Fire Brigade Services Act, 1990 (Act No. 9 of 1990 of Qwa Qwa)
Qwa Qwa Health Act, 1985 (Act No. 13 of 1985 of Qwa Qwa)
Qwa Qwa Levying of Tribal Taxes Act, 1983 (Act No. 5 of 1983 of Qwa Qwa)
Qwa Qwa Local Authorities Act, 1988 (Act No. 18 of 1988 of Qwa Qwa)
Qwa Qwa National Library Services Act, 1983 (Act No. 10 of 1983 of Qwa Qwa)
Qwa Qwa Pounds Act, 1974 (Act No. 4 of 1974 of Qwa Qwa)
Qwa Qwa Traffic Act, 1980 (Act No. 8 of 1980 of Qwa Qwa)

KWANDEBELE

KwaNdebele Traditional Authorities Act, 1984 (Act No. 2 of 1984 of KwaNdebele)

CISKEI

Administrative Authorities Act, 1984 (Act No. 37 of 1984 of Ciskei)
Ciskei Agricultural Development Act, 1989 (Act No. 14 of 1989 of Ciskei)
Ciskei Land Regulations of 1982
Ciskei Nature Conservation Act, 1987 (Act No. 10 of 1987 of Ciskei)
Land Use Regulation Act, 1987 (Act No. 15 of 1987 of Ciskei)
Municipal Act, 1987 (Act No. 17 of 1987 of Ciskei)
Pounds Act, 1984 (Act No. 43 of 1984 of Ciskei)

TRANSKEI

Administration (Amendment) Act, 1976 (Act No. 25 of 1976 of Transkei)
Local Authorities Act, 1976 (Act No. 17 of 1976 of Transkei)
Municipalities (Audit) Act, 1978 (Act No. 29 of 1978 of Transkei)
Municipalities Act, 1978 (Act No. 24 of 1978 of Transkei)
Regulations for Land Tenure in Surveyed Districts of Transkei (Proclamation 74 of 1921)
Regulations for Land Tenure in Unsurveyed Districts in Transkei (Proclamation 26 of 1936)
Regulations for Land Tenure in Unsurveyed Districts in Transkei for Xalanga District (Proclamation 170 of 1922)
Transkei Agricultural Development Act, 1966 (Act No. ? of 1966 of Transkei)
Transkei Authorities Act, 1965 (Act No. 4 of 1965 of Transkei)
Transkei Environmental Conservation Decree of 1992
Valuation Act, 1978 (Act No. 30 of 1978 of Transkei)

LEBOWA

Lebowa Central Library Services Act, 1991 (Act No. 7 of 1991 of Lebowa)
Lebowa Civil Protection Act, 1988 (Act No. 10 of 1988 of Lebowa)
Lebowa Corporations Act, 1984 (Act No. 16 of 1984 of Lebowa)
Lebowa Horse-racing and Betting Act, 1979 (Act No. 12 of 1979 of Lebowa)
Lebowa Local Authorities Act, 1988 (Act No. 15 of 1988 of Lebowa)
Lebowa Pounds Act, 1990 (Act No. 8 of 1990 of Lebowa)

GAZANKULU

Gazankulu Civil Protection Act, 1987 (Act No. 5 of 1987 of Gazankulu)
Gazankulu Corporation Act, 1985 (Act No. 10 of 1985 of Gazankulu)
Gazankulu National Library Service Act, 1982 (Act No. 4 of 1982 of Gazankulu)
Gazankulu Pounds Act, 1976 (Act No. 8 of 1976 of Gazankulu)

Note: Amendments are not listed separately in all cases.

ANNEXURE B

NUMBER OF LOCAL AUTHORITIES PER PROVINCE / REGION

PROVINCES WITHOUT METROPOLITAN AREAS

- _ LC Local Council
- _ DC District Council
- _ RLC Rural Local Council
- _ RC Rural Council

EASTERN CAPE

TOTAL NUMBER OF COUNCILS: 183

URBAN 94	RURAL 89
LCs 94	DC 6 RLC 7 RC 76

FREE STATE

TOTAL NUMBER OF COUNCILS: 99

URBAN 80	RURAL 19
LCs 80	DC 4 RLC 15 RC 0

NORTHERN CAPE

TOTAL NUMBER OF COUNCILS: 112

URBAN 64	RURAL 48
LCs 64	DC 6 RLC 0 RC 42

MPUMALANGA

TOTAL NUMBER OF COUNCILS: 83

URBAN 55	RURAL 28
LCs 55	DC 6 RLC 0 RC 18

NORTHWEST

TOTAL NUMBER OF COUNCILS: 53

URBAN 30	RURAL 23
LCs 30	DC 5 RLC 0 RC 18

NORTHERN PROVINCE

TOTAL NUMBER OF COUNCILS: 50

URBAN 12	RURAL 38
LCs 12	DC 2 RLC 36 RC 0

PROVINCES WITH METROPOLITAN AREAS

- _ MC Metropolitan Council
- _ SC Services Council
- _ MSs Metropolitan Substructure
- _ LAC Local Authority Council

GAUTENG

TOTAL NUMBER OF COUNCILS: 51

METRO 16	URBAN 14	RURAL 21
MC 4 MSs 12	LCs 14	SC 2 LAC 9 RC 10

KWAZULU-NATAL

TOTAL NUMBER OF COUNCILS: 120

METRO 7	URBAN 61	RURAL 52
MC 1 MSs 6	LCs 61	RC 52

WESTERN CAPE

TOTAL NUMBER OF COUNCILS: 136

METRO 7	URBAN 95	RURAL 34
MC 1 MSs 6	LCs 95	DC 7 RC 27

POPULATION DENSITY BY REGION / PROVINCE SHOWING URBAN RURAL SPLIT

REGION	POPULATION	TOTAL	AREA	DENSITY
Eastern Cape	5,865		170	35
Free State	2,470		130	19
Gauteng	7,171		17,03	421 (Most dense)
KwaZulu-Natal	7,672		94,86	81
Mpumalanga	2,646		79,53	33
Northern Cape	746		363,2	2 (Least dense)
Northern Province	4,128		123,1	34
Northwest	3,043		116,5	26
Western Cape	4,118		129,6	32
Total	37,859		1223,82	31 (Average density)

Population in thousands of people

Area in thousands of square kilometre

Density is represented as number of people per square kilometre

Figures based on pre-release Census 1996 data

NUMBER OF TMCs/RSCs/DCs BY REGION

REGION	METRO	RSC/DC	TOTAL
Eastern Cape 0	6	6	
Free State	0	4	4
Gauteng	4	2	6
KwaZulu-Natal 1	7	8	
Mpumalanga	0	3	3
Northern Cape 0	6	6	
Northern Province	0	6	6 (Only two now?)
Northwest	0	5	5
Western Cape 1	7	8	
Total	6	46	52

NUMBER OF MUNICIPALITIES PER REGION

REGION	MetroSS	TLCs	TRCs	TOTAL
Eastern Cape 0	94	83	177	
Free State	0	85	17	102
Gauteng	12	15	11	38 Plus 10 local areas?
KwaZulu-Natal 6	61	52	119	
Mpumalanga	0	36	40	76
Northern Cape 0	26	42	68	
Northern Province	0	12	36	48
Northwest	0	31	19	50
Western Cape 6	80	27	113	
Total	24	440	327	791

NUMBER OF REGISTERED VOTERS PER COUNCILLOR (Local Government election 1996)

REGION	RegVot (K)	CounSeats	Pop/CouncillorRANK	
Eastern Cape 2 747	1935	1 419,64	5	
Free State	1 152	1308	880,73	2 (Low)
Gauteng	3 713	1043	3 559,92	9 (High)
KwaZulu-Natal 4 029	2159	1 866,14	7	
Mpumalanga	1 117	1102	1 013,61	3
Northern Cape 344	811	424,17	1 (Low)	
Northern Province	1 747	559	3 125,22	8 (High)
Northwest	1 420	755	1 880,79	6
Western Cape 1 975	1446	1 365,84	4	
Total	18 244	11 118	1 640,94	

NUMBER OF PEOPLE PER COUNCILLOR (CENSUS 1996)

REGION	RegVot (K)	CounSeats	Pop/CouncillorRANK	
Eastern Cape 5 865	1935	3 031,01	5	
Free State	2 470	1308	1 888,38	2 (Low)
Gauteng	7 171	1043	6 875,36	8 (High)
KwaZulu-Natal 7 672	2159	3 553,50	6	

Mpumalanga	2 646		1102	2 401,09		3
Northern Cape 76		811		919,85	1 (Low)	
Northern Province	4 128		559	7 384,52		9 (High)
Northwest	3 043		755	4 030,46		7
Western Cape 4 118		1446		2 847,86		4
Total	37 859	11 118	3 405,20			

**PERCENTAGE POPULATION REGISTERED FOR LOCAL GOVERNMENT ELECTION
1996**

REGION	RegVot (K)	PopTot (K)	%PopReg
Eastern Cape 2 747		5 865	46,8
Free State	1 152	2 470	46,6
Gauteng	3 713	7 171	51,8
KwaZulu-Natal 4 029		7 672	52,5 (High)
Mpumalanga	1 117	2 646	42,2
Northern Cape 344		746	46,1
Northern Province	1 747	4 128	42,3 (Low)
Northwest	1 420	3 043	46,7
Western Cape 1 975		4 118	48,0
Total	18 244	37 859	48,2

**FIGURES BASED ON ETG, DEPARTMENT OF WATER AFFAIRS AND FORESTRY,
DEPARTMENT OF LAND AFFAIRS, AND CSIR DATA
TABLES PRODUCED BY FCR-GIS**

ANNEXURE C

The maps showing District Councils, rural municipalities and urban municipalities in each province will be added soon.

ANNEXURE D

Summary of the principles in Chapter One of the Development Facilitation Act

The Development Facilitation Act principles state that all laws, policies and administrative practices affecting land development should:

- Facilitate the development of both formal and informal existing new settlements - there is therefore no bias in favour of any one sort of development and no individual community or group in an area can claim preferential treatment without a good reason.
- Discourage land invasions without ignoring the reality and history of informal land development processes.
- Promote efficient and integrated land development that, among other things: integrates rural and urban areas, integrates poor and rich, black and white areas in towns and cities, and integrates different land uses rather than keeping them strictly separate.
- Discourage urban sprawl and contribute to more compact towns and cities.
- Make maximum use of all available resources and avoid duplicating existing infrastructure and services.
- Promote development of housing and work opportunities near to each other, and encourage environmentally sustainable practices and processes.
- Be clear and easily understood - they should also provide guidance and information to people in or affected by the land development process, rather than simply trying to control the process and the people.
- Promote sustainable development that:
 - Is within the fiscal, institutional and administrative means of the country.
 - Establishes viable communities.
 - Protects the environment.
 - Meets the basic needs of all citizens in an affordable way.
 - Ensures the safe use of land.

In Memoriam

TSHEPISO MASHININI 21 AUGUST 1966 - 20 FEBRUARY 1998

Tshepiso had a long and passionate involvement with local government in South Africa. He played a pivotal role in laying the foundations for local government transformation, especially in Johannesburg through his involvement in the Central Witwatersrand Metropolitan Chamber's Working Groups and as a member of the Strategic Management Team in the office of the Gauteng Minister of Development Planning, Environment and Works in 1993-94.

Tshepiso started his employ with the Johannesburg Council in February 1995 as a strategic adviser to the chief executive officer and in May 1996 he was appointed as the Strategic Executive : Metropolitan Planning, Urbanisation and Environmental Management, a title that he always found too cumbersome for his liking, although a job he found challenging and exciting.

One of the last and most significant achievements of his working life, of which he was particularly proud, was his management and coordination role in the drafting of this White Paper on Local Government, which is a document that will shape our future in years to come. Tshepiso was the chairperson of the White Paper Working Committee and seconded to the Department of Constitutional Affairs on a part-time basis to facilitate this process. He finished the final draft of the White Paper two days before he died, but unfortunately could not see it through Cabinet and Parliament.

Tshepiso has touched many people's lives in both his professional career and personal life and he will be sorely missed by all of us. Much of his thinking and work was focused on enabling change that would benefit those involved. This was particularly evident in the work he did for urban planning and for local government as a whole. To put it in his own words, the day before he died:

"I am proud to be a transitionocrat."

Tshepiso is survived by both his parents, eight brothers, two sisters, his partner Rhona, his daughter Malika and son Kgotso.

Robala ka Kgotso - Letebele

GLOSSARY

Section A: CURRENT REALITY

functional boundaries

Households in different neighbourhoods which rely on shared infrastructure are "functionally" linked. Functional boundaries take account of these linkages.

discontinuous land use

Discontinuous land-use is usually the result of apartheid planning, which created "buffer zones" or strips of undeveloped land between white and black areas. This pattern of land-use is inefficient (as it increases infrastructure and transport costs) and has negative or exclusionary social effects.

spatial integration

Spatial integration is a strategy for doing away with the expensive and exclusionary land-use patterns of apartheid. It seeks to enhance the efficiency of the city by placing residential development closer to job opportunities, and reduce the costs of development by exploiting surplus bulk infrastructural capacity. Spatial integration also has a social dimension and can increase the access of low-income residents to facilities and opportunities in the city.

linkages (between urban and rural settlements)

Urban areas are usually linked to surrounding rural areas in ways which create inter-dependencies between urban and rural well-being. For example, rural businesses may use the urban center as a place to market their goods and sell their produce; while businesses in urban centers may benefit from the consumer power of rural residents.

hinterlands

Hinterlands refer to the areas surrounding urban centres which are not part of the urban settlement, but are economically, socially or functionally linked to the urban centre.

Section B: DEVELOPMENTAL LOCAL GOVERNMENT

sustainable

Sustainable activities utilise resources and build capacity in a way which ensures that the activity can be maintained over time.

basic household infrastructure

Essential municipal services such as water, sanitation, electricity, roads, stormwater drainage and street lighting needed to sustain a healthy and safe standard of living.

affirmative procurement policies

Affirmative procurement policies are policies concerning the purchase of goods and services in a way which affirms, or benefits, specific target groups. For example, a municipality may have a policy to give preference to emerging black businesses or small-scale companies which tender for contracts, thereby creating an opportunity for these firms to establish themselves.

integrated cities, towns and rural areas

The integration of our cities, towns and rural areas has a spatial dimension (see definition of "spatial integration"); an economic dimension (for example, ensuring that all residents who contribute to a local tax base enjoy the benefits derived from that tax base); and a social dimension (for example, encouraging mixed-income development). The aim of integration is to create more efficient and equitable cities, towns and rural areas, where the poor are not locationally disadvantaged or socially excluded.

cross-subsidisation

Cross-subsidisation between services means using a surplus or profit generated by one service, to subsidise (or help pay for) the costs of delivering another service which generates less income.

“equitable share” of national revenue

In terms of Section 227(1) of the Constitution, local government is entitled to a share of the income which is raised by national government. The proportion of nationally-generated revenue which goes to local government must be equitable. In other words, nationally-generated income must be shared fairly between national, provincial and local government, based on the functions each has to fulfil, and the amount of revenue they are able to generate on their own.

leveraging private sector investment

Using government funds in ways which encourage private investors to lend or invest their money as part of the deal.

mixed-use and mixed-income development

Mixed-use development locates residential, commercial and industrial land-use in close proximity to one another. This makes the area more convenient for residents, who have near-by shopping, recreation and job opportunities.

Mixed-income development aims to eliminate the "ghetto-isation" of the poor by locating high-income and low-income residential areas closer to one another. This proximity means the benefits of investment in affluent neighbourhoods will be shared by adjacent areas, and local facilities and amenities can be utilised by both high and low-income residents.

environmental sustainability

Environmentally sustainable activities do not deplete environmental resources faster than they can be regenerated, or threaten the viability of ecological systems.

procurement procedures

The administrative steps that are followed in buying goods and services from outside suppliers. Usually this involves steps such as tendering, bid evaluation, contracting, etc.

securities

Earmarked funds or bank guarantees that companies have to set aside as insurance in case they do not perform according to contract.

labour intensity

Doing construction or building work in ways which use the maximum amount of labour and create more jobs. Labour intensity is a measure of the extent to which people, instead of machines, are utilised to perform tasks. Labour intensive ways of working can provide jobs and training opportunities to people. For example, only one machine operator would be hired to dig a trench using a bulldozer, but many people could be employed to dig a trench by manual labour. Although this increases staff costs, the costs of buying and maintaining machinery are reduced.

incremental plans

A step-by-step approach to planning, which builds on the basis of previous plans.

synergy (between line functions)

Mutual reinforcement, making the sum greater than the parts. Although line function departments deal with discreet services, these services impact on one another. For example, the supply of water and sanitation impacts on the health needs of a community; and the location of housing developments impacts on the transport needs of a community. Developing a synergy between line functions means understanding the impact that line functions have on one another, and ensuring that the policies and implementation programmes of individual line functions support and enhance the delivery of other services.

line functions

Line functions are service departments dealing with specific services, such as water, sanitation, transport and so forth.

human resource development

Human resource development is the process of enhancing the potential of people (as individuals and groups) to perform better in all spheres of life. People's potential can be developed through training and capacity-building, access to opportunities, and access to an environment which supports their development.

human development indices

Human development indices provide information about the well-being of groups of people. For example, the level of literacy or infant mortality in a community provides a measure of the well-being of that community.

Section C: COOPERATIVE GOVERNMENT

organised local government

Structures representing municipalities, and hence representing local government as a sphere.

fiscal

Fiscal refers to issues of government finance, including the taxation, borrowing and expenditure functions of government.

an enabling framework

An enabling framework is a legal, regulatory or institutional framework which makes certain activities possible through removing obstacles to initiating those activities, or providing support for those activities. An enabling framework does not oblige anyone to perform specific actions or prescribe the details of how activities must be performed. Rather, an enabling framework creates a supportive space in which activities can be initiated.

spatial development initiatives

Coordinated programmes involving multiple departments and all three spheres of government focusing on particular areas of the country with high development potential.

disaster management

Disasters are events which disrupt the lives of people and cause large-scale social or economic damage, such as floods, oil spills or major fires. Disaster management refers to the process of managing disasters, including the development of systems to mitigate against and prevent disasters; responding to disasters when they occur; providing relief to communities affected by disasters; and assisting in the rehabilitation of communities affected by disasters.

Ntsika

A wholesale agency tasked with the responsibility of increasing access to non-financial support services for small, medium and micro enterprises through operational support and capacity-building of non-financial support providers.

Khula

A wholesale finance agency tasked with the responsibility of increasing access to finance for small, medium and micro-sized enterprises through credit guarantee schemes and the provision of loans, operating support and capacity-building for retail financial intermediaries.

Section D: INSTITUTIONAL SYSTEMS

functional integration

Linkages and coordination between different services, sectors or departments which ensure that a broader vision, strategy and programmes are established.

spillovers and externalities

Spillovers and externalities are the effects that a policy or practice in one area has on adjacent areas.

polity

A polity is a political community or group of individuals who share political representation. For example, people within a municipal boundary constitute a polity, because they vote for the same Municipal Council and are represented by the same Municipal Council.

densification (in urban municipalities)

Many cities have low-income, over-crowded townships on the one hand, and far less densely populated affluent areas on the other. By densifying - that is, developing vacant land and allowing for stands to be sub-divided - the number of people living in more sparsely populated areas can be increased. This is a way of giving more people access to land which is already serviced (by transport networks and bulk infrastructure) and increasing the efficiency of the city.

scale economies (of service delivery)

The delivery of some services, particularly bulk functions, requires very expensive infrastructure and highly specialised capacity. Smaller areas may not generate enough demand to fully utilise this infrastructure and capacity, and may not be able to afford to pay for it. However, if the service is delivered at a larger scale (e.g., to a number of smaller areas), the delivery of the service becomes economically viable. This is called an economy of scale.

enumerator areas

The administrative districts used by Central Statistical Service for gathering household information for the census.

Section E: POLITICAL SYSTEMS**executive powers**

The authority assigned to municipalities to make policy and to implement national and provincial legislation as well as by-laws made by the municipal Council.

audit committee

A committee of the Council set up to supervise and review the process of auditing the finances of the municipality.

tender committee

A committee of the Council set up to ensure that proper tender procedures are followed when goods or services are purchased.

proportional representation

Proportional representation is an electoral system in which Council seats are allocated on a proportional basis from party lists. For example, if a party wins 60% of the votes, it receives 60% of the seats.

first-past-the-post ward candidature

First-past-the-post is an electoral system in which the winning candidate is the one who gets more votes than any other candidate, but not necessarily the majority of votes cast.

Wards are geographic areas into which a municipality is divided for purposes of the election. Each ward returns one candidate, elected on a first-past-the-post basis, to the municipal council.

droop quota

The droop quota is a formula which is used to determine how seats in the proportional representation system are awarded. The quota is obtained by dividing the total vote by the number of seats plus one, then one is added to the product.

largest remainder method

This method is used after seats have been allocated in terms of the quota and one or more seats remain to be filled. The count then continues with the party having the highest remainder securing the next seat and so on.

quota

A quota is the threshold or minimum number of votes necessary to be eligible for winning a seat in a system of proportional representation.

Section F: ADMINISTRATIVE SYSTEMS

allocation of risk

Dividing the risks associated with a project between the involved parties.

Section G: MUNICIPAL FINANCE

Regional Services Council and Joint Services Board levies

Metropolitan Councils and District Councils obtain levies from:

- Every employer who employs or who is deemed to employ employees within its region, and each person carrying on or deemed to be carrying on an enterprise within its region. This is a regional services levy (**payroll tax**).
- Every person carrying on or deemed to be carrying on an enterprise within its region. This is a regional establishment levy (**turnover tax**).

rollover funds

Rollover funds are savings realised in one financial year which are made available for utilisation in the next financial year.

“equitable share” of national revenue

The “equitable share” of national revenue to municipalities covers operating transfers to municipalities to be utilised primarily for the provision of a basic level of services to the poor/indigent.

macroeconomic

Macroeconomic is the overall view of economic life, considering the total size, shape and functioning of economic experience, rather than the individual parts. The government has adopted a macroeconomic framework for growth, employment and redistribution.

revenue instruments

The means by which municipalities generate income through taxes and service charges.

tax base

The tax base is that part of the object of taxation on which the tax payable is calculated. The capital value or tax base of a property is determined by the valuation process.

tax rate

The tax rate is that percentage of the value of the tax base to be paid by the subject of taxation. In the case of property tax it usually refers to so many cents per R1 of the value of the tax base.

fiscal autonomy

Fiscal autonomy refers to the degree to which a sphere of government can take its own decisions and determine its own priorities with respect to taxation and municipal expenditure.

recurrent expenditure

The day-to-day expenses of a council - things such as salaries, postage, printing, stationery, repairs to offices, interest on loans, service provision (such as bulk buying of electricity for supplying to residents).

discretionary own revenue

The utilisation of own revenues without any intervention or prescripts from other spheres of government.

grants-in-aid

Grants-in-aid are a feature of the property tax structure for bringing relief to meritorious cases, i.e., pensioners and other indigent property owners, in order to neutralise the regressive effect of a proportional property tax rate.

cost recovery

Refers to the recovering of the costs of providing services from the relevant users of such services.

credit control

The collection and control over the money which is owed to a Council - for example, by ratepayers or consumers of municipal services.

average rental return on land ratio

The average rental return on land ratio is the cash rental value divided by the land value.

credit enhancement

There are a number of ways in which the ability of municipalities to attract loans at good rates can be improved, e.g., municipal bond insurance, debt syndication, bond banking, and the interception of intergovernmental transfers.

concessional loan finance

This is "development finance" or concessional loans to municipalities made via parastatal development finance institutions, such as the Development Bank of Southern Africa.

municipal bond insurance

Insurance by investors to protect them against risks in the market place.

treasury trusts

Treasury trust funds may be established for the purpose of investing in non-marketable debt of provincial governments and municipalities.

interception of intergovernmental transfers

The transfer of intergovernmental transfers due to municipalities to third parties as collateral.

debt syndication

The formation of a consortium of investors in order to finance loans and mitigate against risk.

bond banking

Financial transactions involving trade in bonds to investors, banks, etc. in order to create a market in such stock.

fixed assets

A fixed asset is a resource with future economic benefits which will flow to the municipality and a cost or value that can be measured reliably.