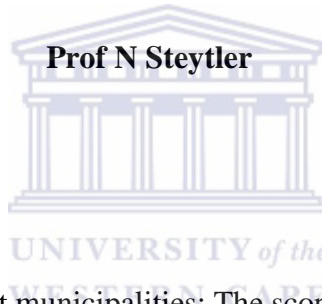


# Research Paper

## University of the Western Cape

Research Paper submitted in partial fulfilment of the MPhil Degree in Local Government  
Law and Decentralisation

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**Research Paper Topic:**

Prospects for the reform of district municipalities: The scope for manoeuvre.

**Key Words:**

Local government, reform, future of districts, developmental, feasibility, policy proposals, political party, councillors, personnel, finances, likely impacts, services.

## DECLARATION

I, Abdul Wahid Joseph, hereby declare that **Prospects for the reform of district municipalities: The scope for manoeuvre** is my own original work. It has never been presented to any other tertiary institution. Where other people's works have been used herein, references have been duly provided, and in some cases, quotations made. This dissertation is, therefore, submitted in partial fulfilment of the requirements of the MPhil Degree in Local Government Law and Decentralization, University of the Western Cape.

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**Date:**

2012/12/09

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**Date:**

## DEDICATION

This dissertation is dedicated to my mother, Mrs A Joseph, for always impressing on me the value of education. To my wife, Sabira, for her unwavering support. And finally, it is dedicated to the memory of the late Professor Jakes Gerwel who inspired me to follow my dreams and to believe in myself.

**Abdul Wahid Joseph**



## **ACKNOWLEDGEMENT**

I would be remiss in my duty if I did not start by thanking the good people from the Community Law Centre at the University of the Western Cape. They display the kind of attitude that motivates students to reach for academic excellence. There is a pervasive “can do” attitude about the place. But not one of “can do it for you”, rather, “can help you do it for yourself”. It is an enabling environment geared towards producing students of a high calibre confident in the knowledge that they have been equipped to tackle the next challenge.

To my supervisor Professor Steytler, your guidance and constructive criticism have been invaluable. Prof Steytler is not one to mince words and he lets you know when he thinks the high standards set by the Centre are not being met, but it never comes from a bad place. His contribution in terms of the overall dissertation helped me understand that “can help you do it for yourself” attitude I mentioned earlier. I believe that under his supervision I have improved as a student because he places such a high value on analytical and critical thinking and maintaining high academic standards.

Last, but certainly not least, to my wife Sabira who tirelessly helped me with the tables and calculations. Your contribution has also been invaluable and my success is your success.

## LIST OF ABBREVIATIONS

ANC	African National Congress
DM	District Municipality
LM	Local Municipality
EC	Eastern Cape
FS	Free State
GP	Gauteng
KZN	Kwa-Zulu Natal
LP	Limpopo
MP	Mpumalanga
NW	North West
NC	Northern Cape
WC	Western Cape
WSA	Water Service Authority
WSP	Water Service Provider
RSC	Regional Services Council
NT	National Treasury
ES	Equitable Share
DMA	District Management Area
MDB	Municipal Demarcation Board
TRC	Transitional Rural Council



TLC	Transitional Local Council
C1	DM with no water services
C2	DM with water services
WSSA	Water and Sanitation South Africa
PR	Proportional Representation
B1	LM (secondary city) with largest budget, population, GVA etc.
B2	LM with large town as core
B3	LM with small town and population, no large town as core
B4	LM mainly rural, communal land tenure, 1 or 2 small towns
A2	Proposed new category A municipality
GVA	Gross Value Add (economic output)
GVA-R	Gross Value Add per Region (economic output)
REC	Regional Executive Council
PEC	Provincial Executive Council
NEC	National Executive Council
MEC	Member of the Executive Council
CLLR	Councillor

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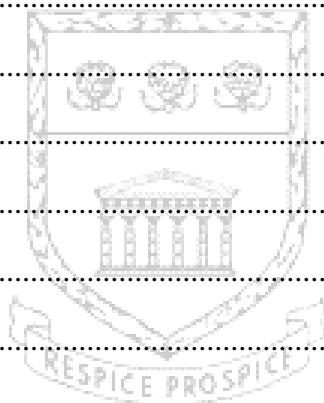
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# Chapter One: Introduction

## 1.1 Problem Statement

There are 44 district municipalities (DMs) in South Africa. The Local Government: Municipal Structures Act<sup>1</sup> states one of the main objectives of a district council is to ‘seek to achieve the integrated, sustainable and equitable social and economic development of its area as a whole’ and it aims to achieve this through integrated planning, bulk infrastructural development, building local capacity and equitable distribution of resources.<sup>2</sup> There are four core functions districts were expected to perform after December 2000.<sup>3</sup> These are (a) potable water, (b) bulk supply of electricity, (c) domestic waste-water and sewage and (d) sewage disposal systems. However, a large number of DMs are not performing these core functions as strong local municipalities (LMs) are performing them<sup>4</sup>. LMs will continue to provide bulk electricity services until national restructuring of the industry is complete.<sup>5</sup> Of the 44 DMs, 21 are Water Service Authorities (WSAs) and 15 are both WSAs and Water Service Providers (WSPs).<sup>6</sup>

The performance of the above-mentioned functions becomes important when considering the funding of DMs. Previously DMs had three main sources of revenue, namely tariffs for services, Regional Services Council (RSC) levies and intergovernmental transfers.<sup>7</sup> Many DMs did not perform any core services and thus could not collect tariffs. The scrapping of the RSC levy meant that DMs ‘may no longer be able to fulfil the key functions...of coordination, redistribution and cross-subsidisation...’<sup>8</sup> The RSC levy allowed DMs to identify and finance projects and monitor its implementation and enabled DMs to set the agenda for district forums.<sup>9</sup> The removal of the levy thus resulted not only in a loss of revenue but also in a loss of authority and function. In 2006 the RSC levy was scrapped and left DMs without a large

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<sup>1</sup> 17 of 1998 (Structures Act).

<sup>2</sup> Section 83(3)(a)-(d).

<sup>3</sup> Local Government: Municipal Structures Amendment Act 33 of 2000 (Amendment Act).

<sup>4</sup> Steytler N and Baatjies R (2007) *Redefining the Role and Application of District Municipalities* 7.

<sup>5</sup> Steytler and Baatjies (2007) 16.

<sup>6</sup> Department of Water Affairs: 2011 *Blue Drop Report*.

<sup>7</sup> Palmer I (2009) ‘An assessment of the performance of district municipalities’ in Steytler N (ed) *Municipal Demarcation Board 10<sup>th</sup> Year Celebration: The First Decade of the Municipal Demarcation Board: Some Reflections on Demarcating Local Government in South Africa* 90.

<sup>8</sup> Mlokoti V (2007) ‘Are District Municipalities Still Relevant?’ 9(2) *Local Government Law Bulletin* 8.

<sup>9</sup> Mlokoti (2007) 8.

portion of their revenue income. The levy was substituted by National Treasury (NT) with a levy replacement grant of an equivalent amount.

The Equitable Share (ES) transfer is largely based on the number of poor consumers within the district and what service function the district is performing, with water being the main service.<sup>10</sup> Palmer noted variability in transfers between strong and weak district economies when he highlighted that the transfer system favours economically strong districts, which goes against the concept of equity.<sup>11</sup> It is important to note that these strong districts have little or no service delivery obligations. DMs thus became institutions largely funded through grants.

Funding is an important factor related to the effectiveness of districts but another salient factor is political differences. The two-tier system of local government, in which two separate political structures must cooperate on various matters, creates an environment for inevitable political contestation.<sup>12</sup> This kind of conflict can potentially cripple the effectiveness of municipalities. Probably the most often cited cause of conflict relates to the overlap of powers and functions between DMs and LMs. This overlap creates unnecessary confusion around who is responsible for what. DMs and LMs can only function effectively if they act as a collective unit<sup>13</sup> in light of their coordinating and redistributive role.

DMs generally 'are not performing their statutory responsibilities', in fact, more functions are being moved to LMs.<sup>14</sup> Along with the confusion this creates, corruption and maladministration add to the problems DMs are facing. The question to be asked is whether there is a need for change. Or, whether there is a problem with the system. This is why the two-tier system of local government is now under review and has led to policy proposals by the African National Congress (ANC).

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<sup>10</sup> Palmer (2009) 91.

<sup>11</sup> Palmer (2009) 92.

<sup>12</sup> Steytler N and Jordan J (2006) *District-Local Municipal Relations: The Challenges to Cooperative Government* 17.

<sup>13</sup> Mlokoti (2007) 8-9.

<sup>14</sup> Steytler and Baatjies (2007) 27.

The ANC in its March 2012 national policy document outlined proposals on the future of districts.<sup>15</sup> There are four policy proposals:

- Leave the system as it is.
- Abolish the two-tier system with more category 'A' type municipalities.
- Create a new type of category 'A' municipality.
- Reform the role of districts by (i) strengthening the planning, coordination and support functions, (ii) retaining districts only in certain areas, or (iii) absorbing districts into national or provincial administrations.

At the June 2012 policy conference the commissions resolved that there should be a differentiated system of local government. With regard to the policy proposals the commissions resolved that strong LMs would be removed from DMs. They resolved further that DMs should focus on strengthening the planning, coordination and support functions of LMs; that there should be a new funding model for DMs; and that government use infrastructure development programmes to strengthen DMs.

Abolition of the two-tier system of local government is no longer an option. The objective is to remove strong LMs from DMs and create new category A's within the existing framework. This is more manageable and would not require constitutional amendment but instead, amendment of the Structures Act. The immediate problem is how do we define strong LMs? What constitutes the criteria for deciding on a definition? What are the financial consequences of removing strong LMs from DMs?

Financial viability is an unchanging, objective fact. Viable and sustainable local economies/revenue sources cannot be transplanted or created out of thin air. For DMs their locational situation is permanent. In addition, it is also difficult to attract skilled personnel to DMs in deep rural areas. Stating that strong LMs will be removed from DMs is thus a policy problem because how do we decide what constitutes strong?

Policy reform is shaped by the likely impacts that either constrain or open up possibilities. Examining the existing literature on DMs, there is remarkably little analysis of the likely impacts. How many personnel are employed in DMs? How many politicians? What are the district functions? What are the financial implications? What value is added, and where is the

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<sup>15</sup> ANC Policy Discussion Document on 'Legislature and Governance' March 2012 20-3. Available at <http://www.anc.org.za/docs/discus/2012/legislaturek.pdf> (Accessed 04/07/2012).

value added? The problem is that policy debates on reform are often conducted in the absence of any empirical research.

This study will be looking at the future of DMs, and in particular, what the broader likely impacts may be of any policy shift. There is strong recognition within national government as evidenced in the policy document, that the current two-tier system is untenable. There is thus appetite for functional, institutional and operational reform but not for large-scale restructuring. The focus of the study is therefore a discussion of the likely impact of the policy proposals and how it may/will constrain or facilitate adoption and implementation of the policy choice.

## **1.2 Research Question**

As described above, this study is informed by the policy debate around the two-tier system of local government. Accordingly, the focus of this is to examine the likely impacts of the policy choice. The policy document and related literature recognise that the problems facing DMs are complex and multi-faceted and that attempts at addressing the issues must consist of a cooperative effort between the spheres of government.

The research is guided by two questions considering prospects for the reform of DMs. What are the likely impacts within which the proposals must be assessed? These are impacts on factors such as self-interest, political organisation and influence, services, personnel and finances. Do the likely impacts either constrain or facilitate the change? And what is the policy room to manoeuvre? The latter question takes on particular importance in light of the political dimension informing any policy decision and the fact that the ANC's elective conference is happening December of 2012. Any kind of change to the two-tier system may see political casualties and would not be popular so close to the conference considering the intense succession debate currently raging.

## **1.3 Argument**

There are serious consequences for the reform of two-tier local government in light of the likely impacts. The preferred policy shift would see the position of many politicians weakened. There is also a vested interest to continue with the current system as some officials

have used their position to unjustifiably enrich themselves. Then there is also the matter of personnel who would stand to be redeployed.

Yet the ANC policy document is clear, ‘there are no advantages to retaining the current system as it is.’<sup>16</sup> Maintaining the current *status quo* is apparently not an option for the ANC. What we are left with are proposals redefining the role of DMs requiring institutional and legislative reforms, or to abolish the two-tier system requiring constitutional amendment. There are divergent ideas on how to address the issues, hence the proposals in the policy document. The scrapping of the two-tier system does not seem a viable option considering it would require large-scale restructuring and constitutional amendment.

However, there is a dearth of literature regarding the likely impacts of policy reform governing districts. It appears that scant attention has been paid to this, and the effect of implementing any recommended proposal and how it may influence any decision. In developing a new model, necessity dictates that we take into account current realities that may influence policy choices.

However, any policy reform and implementation cannot occur in a vacuum. It must consider the likely impacts within which reform will be implemented and it must consider the effect policy reform may have on the likely impacts. This is of paramount importance and will allow for the effective management of the changes policy reform brings.

It will be shown the ease or otherwise with which the policy reform could be implemented. Therefore, this study will be framed around the likely impacts in light of the policy proposals.

## **1.4 Literature Review**

There is consensus that DMs have not been efficient or cost-effective and have failed in the performance of duties assigned to them.<sup>17</sup> This is of course the basis for the ANC’s review of the two-tier system of local government as evidenced in their policy document. Atkinson *et al* stated that the role of DMs remains unclear and that this has severely hampered capacity-building at both levels.<sup>18</sup> Steytler<sup>19</sup> asserted that amendments to the Structures Act in 2000

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<sup>16</sup> Policy Document (2012) 20.

<sup>17</sup> Palmer (2009) 99-100, Mlokoti (2007) 9, Steytler and Jordan (2006) 17.

<sup>18</sup> Atkinson et al (2003) *The Role of District Municipalities: Final Report* 4.



(which viewed districts as major drivers of development by making them providers of key services) were a clear departure from the White Paper<sup>20</sup>, which envisioned a limited role for districts. Coordinating, equitable redistribution, capacity-building and developmental mandates of DMs are what the White Paper envisioned. The shifting of powers and functions between DMs and LMs created added confusion around responsibility. Clarity around powers and functions thus remained problematic. The literature on the subject suggests that the role of DMs be revised as they are more active in rural areas and that DMs should be depoliticised.<sup>21</sup> Kirkby *et al* reinforce this point by stating that municipalities claim as their greatest challenge functional grey areas around powers and functions between district and local municipalities.<sup>22</sup>

The literature identifies similar issues that reduce the effectiveness of municipalities. Atkinson *et al* further asserted that political organisation at district level is too problematic and that there exists no evidence substantiating democratic government at district level.<sup>23</sup> Baatjies suggested that a distinctive two-tier system has developed characterised by ‘relations of hierarchy, a lack of coordination, and in the end, of competition’.<sup>24</sup> Yet district and local government are mandated to act coherently and in mutual cooperation.<sup>25</sup>

In light of this there has been little research done on the likely impacts and how the impacts would be affected by any proposed policy shift. Palmer<sup>26</sup> has done some research examining the funding model of DMs in terms of capital and operational expenditure and its continued viability. This research is thus seeking to cover an important gap in terms of the political, human and financial conditions which may influence, or be influenced by, any decision.

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<sup>19</sup> Steytler N (2009) ‘Demarcating District Municipalities’ in Steytler N (ed) *Municipal Demarcation Board 10<sup>th</sup> Year Celebration: The First Decade of the Municipal Demarcation Board: Some Reflections on Demarcating Local Government in South Africa* 81.

<sup>20</sup> The White Paper on Local Government 1998 Section D 3.2 (White Paper).

<sup>21</sup> Atkinson (2003) 51, Baatjies R (2008) *Redefining the Political Structure of District Municipalities* 7-8.

<sup>22</sup> Kirkby *et al* (2007) ‘Towards a More Cooperative Local Government: The Challenge of District Intergovernmental Forums’ 22 (1) *SA Public Law* 149.

<sup>23</sup> Atkinson (2003) 51.

<sup>24</sup> Baatjies (2008) 2.

<sup>25</sup> Section 41(1) (c)(h) Constitution of Republic of South Africa, 1996.

<sup>26</sup> Palmer (2009).

## **1.5 Methodology**

To answer the research questions this study will be based on a desk-top review of the relevant data, literature, legislation, reports and policy documents and will follow a critical and analytical approach. The research will consist of mainly primary and secondary sources. In terms of primary sources this study will rely on the Constitution and local government legislation encompassing the legal framework that regulates local government powers and functions. Secondary sources to be used are books, academic articles, policy documents and reports, which constitute the bulk of the sources utilised. It also places reliance on research and reports from various sources and related information will be gathered and collated by the author. Internet sites will also be used to collect relevant data and information.

## **1.6 Overview of chapters**

The argument will be developed over five chapters.

- Chapter 2 will consist of a review of the structure of the two-tier system of local government in South Africa. It will discuss the Constitution and the purpose of DMs in terms of the White Paper and powers and functions in the Structures Act and amendments. It will then discuss demarcation and conclude with the proclamations of 2000 and 2003.
- Chapter 3 will look at the current functions of DMs and discuss the background to the changes. Some information will be presented in table format. The main points will be isolated and any patterns established will be discussed.
- Chapter 4 will focus on the policy debate. It will focus on the various policy proposals and consider the outcome of the ANC policy conference.
- Chapter 5 will analyse the likely impact of the ANC policy choice on the current practice of local government relating to councillors, political party, services, personnel and finances.
- Chapter 6 will conclude by looking at the interplay between the likely impacts and the policy proposal. It will analyse how these likely impacts on the practice of local

government, will/may influence the adoption and implementation of the policy choice. In short, what is the space within which the reforms can be implemented? And will the likely impacts constrain or facilitate the proposed reform? It will conclude with a recommendation.



# Chapter Two: Overview of the structure of district municipalities

## 2.1 Introduction

This discussion focuses on the legal framework underpinning the system of two-tier local government. To this end it will discuss the Constitution as the source of policy and legislation, the vision in the White Paper that provided the policy intent underpinning the legislative framework, the Structures Act of 1998 and Local Government: Structures Amendment Act of 2000.<sup>27</sup>

## 2.2 Legal Framework

### 2.2.1 The Constitution 1996

The Constitution<sup>28</sup> provides for three categories of municipality, i.e., A, B and C. Category A municipalities are referred to as self-standing (metros) and have exclusive authority in their area. Category B municipalities share authority with a category C municipality ‘within whose area it falls’, which means that a category C municipality has authority in an area that consists of more than one category B municipality.<sup>29</sup> This sharing of authority refers to a sharing of powers and functions as enumerated within Schedules 4B and 5B of the Constitution.<sup>30</sup> The Constitution also gives municipalities’ original revenue raising powers. Section 229(1)(a) provides that a municipality may impose rates on property and surcharges on service fees and (b) that a municipality may impose authorised taxes, levies and duties appropriate to a specific category of municipality.

The Constitution further directed Parliament to enact legislation allocating municipal powers and functions between categories B and C municipalities. Section 155(3)(c) provides for an asymmetrical system that allows for differentiation of powers and functions between category B and category C municipalities. Section 155(3)(c) directed Parliament to enact national legislation that must ‘make provision for an appropriate division of powers and functions

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<sup>27</sup> 33 of 2000 (Amendment Act).

<sup>28</sup> Section 155(1).

<sup>29</sup> Section 155(1)(b).

<sup>30</sup> For a detailed exposition see Steytler N and De Visser J *Local Government Law* Issue 4 (2011) 5-31 - 5-34.

between municipalities when an area has of both category B and category C.’ This is a qualified provision subject to section 229 of the Constitution which provides a set of criteria<sup>31</sup> for the allocation of municipal fiscal powers and functions between the categories.

The idea of a two-tier system of local government was not an entirely new one; district councils have been active in various parts of the country for many years, with the divisional councils of the Cape Province as an example.<sup>32</sup> The paradigm shift that occurred was the constitutional recognition of local government as a sphere of government<sup>33</sup> and its executive and legislative authority.<sup>34</sup> Together with this, the Constitution adds another dimension by providing a developmental mandate<sup>35</sup> directing local government to prioritise basic needs and promote development within communities. This development mandate is what drives local government, and powers and functions to this effect are divided between local and district municipalities accordingly. Although the constitutional text gave no content to the three categories the Constitutional Court gave some indication of what such content may be:<sup>36</sup>

‘The effect of these amendments is to specify three different categories of municipalities that can be established. In substance these are (a) self-standing municipalities, (b) municipalities that form part of a comprehensive coordinating structure, and (c) municipalities that perform coordinating functions. In the terminology of existing legislation the third category would include structures such as regional and metropolitan councils.’

### **2.2.2 White Paper on Local Government 1998**

The White Paper on Local Government published in 1998 outlined principles and institutional arrangements that proposed a framework to aid the reconstruction and development of South Africa by recognising local government as the locus for implementation. The White Paper recognised the fact that while some ‘challenges can only be dealt with at local level...[o]ther challenges play themselves out on a larger scale, and clearly

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<sup>31</sup> Section 229(3)

<sup>32</sup> Palmer (2009) 88.

<sup>33</sup> Section 40(1).

<sup>34</sup> Section 156(a).

<sup>35</sup> Section 153(a).

<sup>36</sup> *In re: Certification of the Amended Text of the Constitution of the Republic of South Africa 1996 1997* (1) BCLR 1 (CC) para 77.

demand regional attention through some form of cross-municipal authority.<sup>37</sup> It is within this framework that the roles and responsibilities of district government were first articulated:<sup>38</sup>

- Integrated development planning for the district as a whole (coordinating);
- Capacity building;
- Economic development; and
- Providing services where municipal administration is non-viable – in so-called District Management Areas (DMAs).

Clearly, dealing with issues at a regional level and building capacity at local level is what the drafters of the White Paper envisaged when they designed the two-tier system of local government. The White Paper accepted that a measure of uniformity would give municipal councils consistency while simultaneously recognising that due to the nature of variable settlement types a measure of differentiation would be required to build a measure of flexibility into the district government system.<sup>39</sup> The White Paper thus envisaged a differentiated or asymmetrical system as the preferred option: ‘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.’<sup>40</sup>

To conclude, the White Paper envisaged the roles and responsibilities of DMAs as that of providing technical assistance, coordinating integrated planning for the district as a whole, ensuring access to bulk infrastructure and providing direct services in DMAs.

### **2.2.3 Local Government: Municipal Structures Act 1998**

The Structures Act was enacted the same year as the White Paper and was the legislative framework that gave expression to the policy intent in the White Paper. Although the Constitution provided for the categories of municipalities it did not provide definitions but instead directed Parliament to enact legislation that would define the categories.<sup>41</sup> The Structures Act therefore sets the criteria that define the type of municipality for the three categories:<sup>42</sup> Category A = Metropolitan Municipality, Category B = Local Municipality,

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<sup>37</sup> Section D 3.1

<sup>38</sup> Section D 3.1

<sup>39</sup> Section D 3.2

<sup>40</sup> Section D 3.2

<sup>41</sup> Section 155(2) Constitution.

<sup>42</sup> Sections 2-3.

Category C = District Municipality. The Act defined the criteria for the establishment of a Metropolitan Municipality as follows:

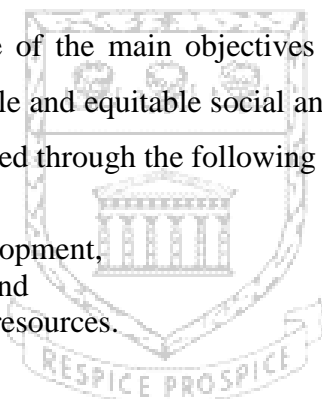
**2. Areas which must have category A municipalities** - An area must have a single category A municipality if that area can reasonably be regarded as—

- (a) a conurbation featuring—
  - (i) areas of high population density;
  - (ii) an intense movement of people, goods, and services;
  - (iii) extensive development; and
  - (iv) multiple business districts and industrial areas;
- (b) a centre of economic activity with a complex and diverse economy;
- (c) a single area for which integrated development planning is desirable; and
- (d) having strong interdependent social and economic linkages between its constituent units.

Section 3 states that if an area does not meet the set of criteria listed in section 2, that area must consist of category B and C municipalities.

Section 83(3) provides that one of the main objectives of a district council is to ‘seek to achieve the integrated, sustainable and equitable social and economic development of its area as a whole’. This must be achieved through the following developmental mandates:

- (a) integrated planning,
- (b) bulk infrastructural development,
- (c) building local capacity, and
- (d) equitable distribution of resources.



Section 84(1)(a) to (p) provides for the powers and functions of DMs ‘that give effect to the stated developmental mandates of district municipalities’. Section 84(2) provides that powers and functions not enumerated for DMs fall to LMs as residual powers<sup>43</sup>, and those enumerated in Schedules 4B and 5B.<sup>44</sup> The main functions for DMs listed in section 84(1) are (b) potable water supply systems, (c) bulk supply of electricity, (d) waste-water and sewerage, and (i) municipal health. This division of power in section 84(1) is not immutable; section 84(3) makes provision for the Minister to authorise a LM to perform a function or exercise a power in relation to the above-mentioned four main functions. Section 85(1) provides further that powers and functions between DMs and LMs may be moved between the two. The non-assignable functions are integrated development planning for the district,

<sup>43</sup> Steytler and Baatjies (2007) 12.

<sup>44</sup> Schedules 4B and 5B Constitution, 1996.

distribution of grants and the imposition and collection of taxes.<sup>45</sup> Section 85(2) provides that the MEC can adjust remaining powers and functions only if the municipality lacks the capacity and he/she has consulted the MDB capacity assessment of that particular municipality.

In sum, the role envisaged for DMs in the Structures Act, and giving effect to the White Paper, is that of coordinator and provider of bulk services. The only exception is where DMs provide frontline services in the DMAs.<sup>46</sup>

#### **2.2.4 Local Government: Municipal Structures Amendment Act 33 of 2000.**

The Structures Act as an expression of the White Paper envisaged the role of DMs as that of coordinator and bulk provider of services. This changed with the introduction of the Amendment Act as DMs were converted from coordinators and providers of bulk services to that of direct service provider to end-users. Steytler and Baatjies noted that what the amendments ushered in was a clear departure from the White Paper in that it now regarded DMs as the main drivers of development by making them direct service providers of the four main functions: water, electricity, sewerage and health services.<sup>47</sup>

According to Atkinson, the MDB were of the opinion that district local government was better placed to manage the equitable redistribution of resources, which is what the Amendment Act envisaged.<sup>48</sup> Steytler and Baatjies added that a major reason for the shift was the perceived redistributive capacity DMs were thought to possess.<sup>49</sup> This was a view supported by the Department of Local Government.<sup>50</sup> Steytler noted that NT was not in favour of this and held the view that redistribution is the prerogative of central government, which was supported by the Financial and Fiscal Commission, who agreed that powers and

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<sup>45</sup> Atkinson D (2002) *A Passion to Govern: Third Generation Issues Facing Local Government in South Africa* 46.

<sup>46</sup> Section 89 Structures Act.

<sup>47</sup> Steytler and Baatjies (2007) 12.

<sup>48</sup> Atkinson (2003) 7.

<sup>49</sup> Steytler and Baatjies (2007) 83.

<sup>50</sup> Department of Provincial and Local Government (2001) *Review of Municipal Powers and Functions: Report For Consultation* 13.



functions should not be determined by issues of redistribution as that should be the core concern of central government.<sup>51</sup>

Part of the rationale to move the major functions to DMs was based on the fact that ‘there could be a mismatch between the functions and powers of a district and local municipality and its ability to exercise those powers and perform those functions.’<sup>52</sup> The changes ushered in by the Amendment Act were not absolute; the Minister may shift the allocated powers and functions to LMs.<sup>53</sup> This, according to Steytler and Jordan, allowed for wide variation in the number and type of powers and functions DMs could perform, creating an asymmetrical system of allocations across districts.<sup>54</sup>

### **2.2.5 Taxing Powers of districts**

Section 229 of the Constitution deals with municipal fiscal powers and functions and provides that a municipality may impose (a) rates on property and surcharges on fees, and (b) if authorised by national legislation, other taxes, levies and duties; but that no municipality may impose income tax, value-added tax, general sales tax or customs duty. Therefore, property tax and tax on services provided are allocated exclusively to municipalities. Section 229(3) provides that taxes must be appropriately assigned when fiscal powers and functions are shared and must be done in terms of national legislation.

Section 84(1)(p) of the Structures Act provides that DMs have the power to impose and collect taxes as it relates to assigned fiscal powers and functions between DMs and LMs. Section 84(2) of the Structures Act provides further that powers and functions not enumerated for DMs fall to LMs. The collection of property tax is not enumerated in section 84(1) and therefore falls to LMs. However, section 89 of the Structures Act states that DMs have all the municipal powers and functions in DMAs.

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<sup>51</sup> Steytler (2009) 81.

<sup>52</sup> Steytler N and De Visser J (2000) ‘Amendments to the Structures Act: Last Minute Changes’ 2(3) *Local Government Law Bulletin* 14-15.

<sup>53</sup> Section 84(3)(a)

<sup>54</sup> Steytler and Jordan (2006) 7.

Section 2(2)(a) of the Local Government: Municipal Property Rates Act<sup>55</sup> states that DMs may not collect property rates, except in DMAs. Municipalities may collect authorised taxes. The RSC levy was an authorised tax and accounted for roughly 34 percent of district income.<sup>56</sup> The scrapping of the RSC levies by NT in 2006 thus stripped DMs of an important source of revenue.<sup>57</sup> The levy was substituted with a replacement grant that was equal to revenue DMs raised through the levy. This left district finances at the discretion of NT and as mentioned previously it is the position of NT that redistribution is a central government concern.

## 2.3 Conclusion

The initial aim for DMs as envisaged in the White Paper was that they would coordinate planning, build capacity, facilitate economic development and provide services in non-viable areas or DMAs. However, the first shift came in 2000 when the Amendment Act made DMs full service providers to end-users of the four key functions of water, electricity, sewerage and health services. This was based in part on the perceived redistributive qualities DMs were thought to possess. There was a second counter-shift that occurred and instead of increasing the financial powers of DMs NT pulled the rug from under them by removing about a third of their income. NT had the power to scrap the RSC levy as it was an authorised and not original tax. As noted earlier NT were never satisfied with part of the rationale for the first shift in 2000. DMs could only have property tax in DMAs but there was no real property to speak of in these areas as they were so very sparsely populated. This left DMs as largely grant funded institutions raising little or no own revenue.

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<sup>55</sup> Act No. 6 of 2004 (Rates Act).

<sup>56</sup> Mlokoti (2007) 8.

<sup>57</sup> Steytler and De Visser (2011) 12-4.

## Chapter Three: Implementation and Functioning

### 3.1 Introduction

This chapter will discuss the functioning and critique of the current system of district government. It will start by outlining the demarcation process followed by the 2003 authorisations. It will then focus on the functioning of DMs and discuss the critique of the functioning of DMs.

### 3.2 Demarcation

At the start of the demarcation process in 1999 there was no criteria for the MDB to define how DMs were to be demarcated. At the time there were Transitional Rural Councils (TRCs) that had similar powers to Transitional Local Councils (TLCs) such as taxing powers but with limited potential to raise adequate revenue.<sup>58</sup> There were therefore rural areas that were not completely devoid of local administrative structures.

The demarcation of DMs (and LMs) was informed by criteria set out in sections 24 and 25 of the Local Government: Municipal Demarcation Act.<sup>59</sup> Of the set criteria only one had relevance – the equitable provision of services – which would allow for the cross-subsidisation of resources between municipalities with high/low capacity.<sup>60</sup> Steytler noted that the true criteria for demarcating DMs were to be deduced from assigned powers and functions with the difficulty being that ‘[w]hile the districts are being demarcated in 2000, their functions [were] being amended at the same time.’<sup>61</sup>

The net result of the 2000 demarcation process was that the MDB demarcated 6 metros, 232 LMs and 47 DMs. What was of significance was the ‘low number of local municipalities into which the districts were disaggregated.’<sup>62</sup> Nearly two-thirds or 63 percent of DMs consisted of between 4 and 6 LMs with one third composed of 5 LMs. Large DMs comprising of more

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<sup>58</sup> White Paper Section A 2.1

<sup>59</sup> 27 of 1998 (Demarcation Act).

<sup>60</sup> Steytler (2009) 74.

<sup>61</sup> Steytler (2009) 76.

<sup>62</sup> Steytler (2009) 79.

than 7 LMs were few (17.4 percent), and 19.5 percent comprised of three or less LMs.<sup>63</sup> Currently there are 44 DMs. This is due to the disestablishment of Bohlabela DM as a result of the termination of cross-boundary municipalities in 2005, and later disestablishment of Metsweding and Motheo DMs during 2011 based on viability as determined by the MDB.

### 3.3 Authorisations

The demarcation process of 2000 happened at the same time that district functions were being amended. The four main functions of - potable water, bulk supply of electricity, sewerage and health services - were allocated to DMs but legislative provision was made for the Minister of Provincial and Local Government to authorise the shifting of functions to LMs. Section 84(3)(a) of the Structures Act allows the Minister to move functions between DMs and LMs. The Minister only has to consult the national Minister responsible for the functional area and the MEC for local government in the province. This ability to shift powers and functions allowed for more variation in terms of what functions DMs could perform, which resulted in a *de facto* asymmetrical system.<sup>64</sup>

The Minister authorised the shifting of functions on a temporary basis, gazetted in November 2000 and valid until 30 June 2003<sup>65</sup>, which meant that newly established LMs would continue to perform the functions which disestablished TLCs used to perform in order to avoid service delivery disruptions.<sup>66</sup> LMs would therefore continue to provide water, sanitation, electricity and municipal health services directly to end users. Important to note is that DMs did not lose the power or function; the LM was merely empowered through the authorisation to perform the function or exercise the power in its area.<sup>67</sup>

#### 3.3.1 C1 and C2 Authorisations 2003 (WSAs/WSPs)

The Minister revoked the authorisations on 13 January 2003 and decided that electricity reticulation would continue to be supplied by LMs, but water and sanitation would be linked and managed on a provincial basis (considering the specific circumstances of each

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<sup>63</sup> Steytler (2009) 80.

<sup>64</sup> Steytler and Jordan (2006) 7.

<sup>65</sup> Steytler (2009) 83.

<sup>66</sup> Atkinson (2003) 6.

<sup>67</sup> Steytler and De Visser (2000) 15.

municipality) and municipal health services provided by DMs.<sup>68</sup> With reference to water Steytler and Baatjies noted that in response to criticisms against the allocation of a service-delivery role for DMs the MDB proposed the separation of the service authority function from the service provider function.<sup>69</sup> In practice this meant that DMs could retain the service authority function of setting policy and taking strategic responsibility, while outsourcing the operational function to LMs. Steytler and Baatjies noted that the Minister's proclamation resulted in the following:<sup>70</sup>

'All local municipalities in Gauteng, Free State, Northern Cape and Western Cape would continue providing bulk water supply and sanitation. In the Eastern Cape and Limpopo, only two local municipalities would perform bulk water and sanitation functions while in KwaZulu-Natal only three local municipalities would do so. In Mpumalanga local municipalities in three of the four districts, in North West local municipalities in two districts and in Northern Cape local municipalities in only one district were authorised to perform water and sanitation functions. In sum, local municipalities were authorised to continue providing water and sanitation functions in 22 of the 46 districts.'

In total the Minister proclaimed 152 WSAs in South Africa, of which 8 are metros (category As), 123 are LMs (category Bs) and 21 are DMs (category Cs).<sup>71</sup> Of the DMs only 15 of 21 are performing the full function, while the other 6 DMs have delegated the function to LMs or municipal entities (their own or LMs). In order to distinguish between DMs that retained the water services function and those that did not, DMs were split into C1 and C2 categories. C1 categorisation represents DMs that have no water service functions. C2 categorisation represents DMs that have water service functions. Considering that the ES allocation is based primarily on the number of poor consumers in an area, related to the water services function, it is useful to discuss DMs in terms of C1 and C2 categorisation. It is also useful, in relation to the discussion, to disaggregate between C2 DMs that are both WSAs/WSPs and cases where other institutions are performing the WSP function.

Figure 1 reflects the number of C1 and C2 DMs per province. It shows the assignment of the water services function for DMs. (DMs that retained the WSA function)

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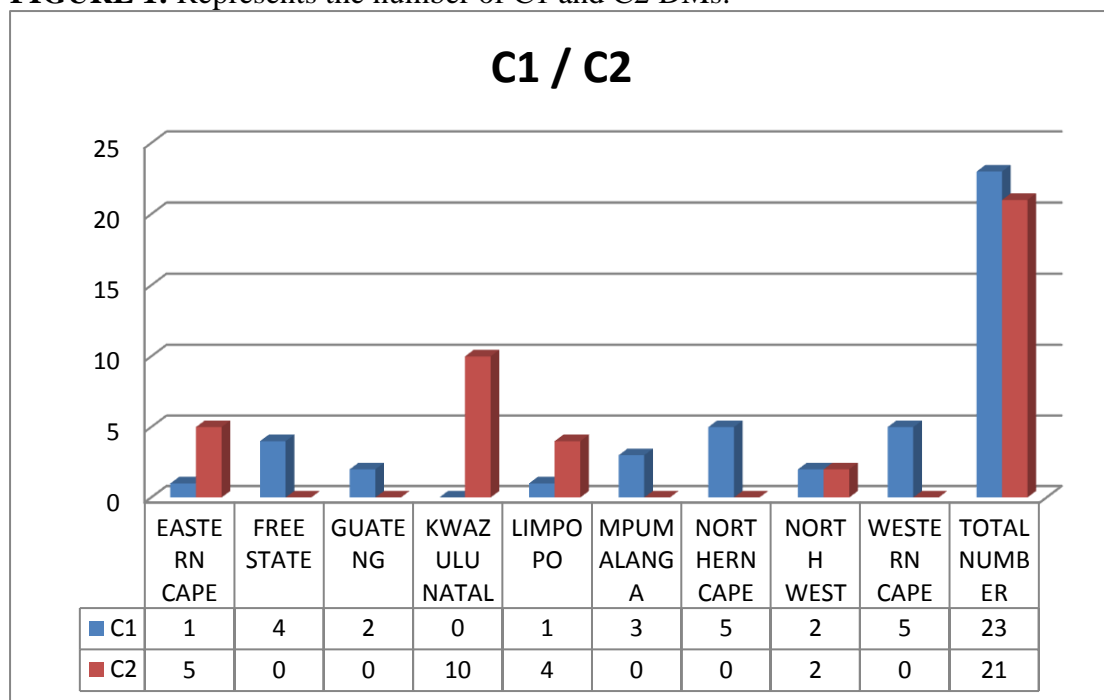
<sup>68</sup> Steytler and Jordan (2009) 10.

<sup>69</sup> Steytler and Baatjies (2007) 14.

<sup>70</sup> Steytler and Baatjies (2007) 17.

<sup>71</sup> MDB (2012) *Capacity Assessment Report 2011-12* 70.

**FIGURE 1:** Represents the number of C1 and C2 DMs.



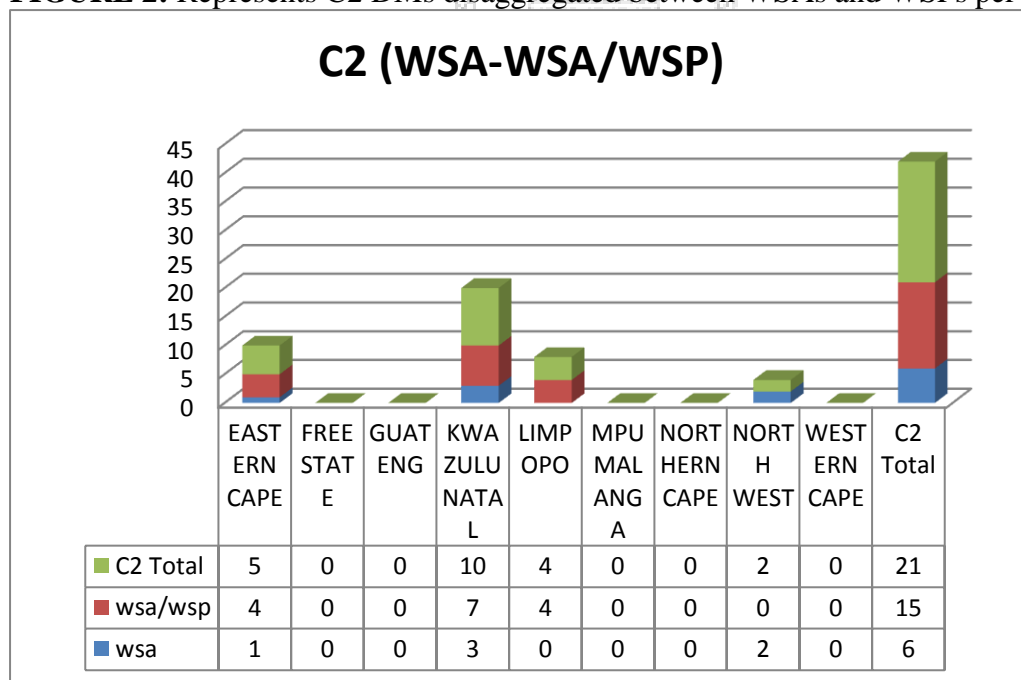
Source: National Blue Drop Report 2011.

In figure 1 we see that in the Eastern Cape (EC), Kwa-Zulu Natal (KZN) and Limpopo (LP) the majority of DMs are C2s. Whereas Free State (FS), Gauteng (GP), Mpumalanga (MP), Northern Cape (NC) and Western Cape (WC) have no C2s. In these areas the water services function is primarily performed by LMs and municipal entities. The North West (NW) sees a 50/50 split between DMs. As the graph indicates, C2 DMs have been favoured and are better represented in the EC, KZN and LP. C2s are mostly concentrated in and around the former homelands of Transkei in the EC, Kwa-Zulu in KZN and Lebowa, Gazankulu and Venda in LP. There are also 2 C2s in the former Bophuthatswana in the NW. MP does not have any C2 DMs. An inference may thus be drawn that the water services function was retained in rural DMs because of weak/newly established LMs in the former homelands. Furthermore, from a total of 21 C2 DMs, 19 can be found in three provinces. In total less than half of the 44 DMs are performing their statutory functions and the majority of those performing the functions are concentrated in three provinces. Although the Amendment Act empowered DMs to perform the water services function many were too weak/unable to perform the function. In addition, LMs were already adequately performing the water services function, however, in the former homelands there were no local government structures prior to 2000 and thus no

reason to re-authorise the water services function to LMs. Considering the fact that this decision was based on the LMs perceived ability/inability to perform the function, we may draw the inference that LMs were/are weaker in those three provinces. Conversely the same would apply to C1s; we may draw the inference that functions were not transferred to C1s based on their perceived ability/inability to perform the function. This raises an appropriate debate around capacity and function, which is fundamentally a ‘chicken and egg’ debate. Municipalities will become disincentivised to strengthen capacity if they are not responsible for performing the function, but they will also become disincentivised to accept responsibility to perform the function if they have capacity issues.

Figure 2 reflects C2s per province and shows DMs that are WSAs only and those that are both WSAs/WSPs. LMs and municipal entities are mostly performing the function for DMs that are WSAs only. It also looks at how many DMs retained the WSP function as well. The C2s that are both WSAs/WSPs are using other WSPs to assist them in providing the service.

**FIGURE 2:** Represents C2 DMs disaggregated between WSAs and WSPs per province.



Source: National Blue Drop Report 2011.

Of the 10 C2s in KZN, 7 are both WSAs/WSPs. In LP the 4 C2s are all both WSAs/WSPs and in the EC there are 5 C2s, of which 4 are both WSAs/WSPs. In terms of the total C2s

(21), 15 are both WSAs/WSPs and 6 are WSAs only. The Joe Gqabi DM in the EC is a WSA only and Elundini, Gariiep, Maletswai and Senqu LMs, together with Amatola Water Board, are the WSPs. In KZN 3 DMs are WSAs only. In Umzimyathi DM Uthukela Water Board is the WSP. In Zululand DM Abaqulusi LM and Water and Sanitation SA (WSSA) are the WSPs. In Amajuba DM Uthukela Water Board is the WSP. In the NW two DMs are WSAs only. In Dr Ruth Segomotsi Mompati DM it is Sedibeng and Botshelo Water Boards that are the WSPs. In Ngaka Modiri Molema DM it is Ditsobotla, Ramotsere Moilola and Mafikeng LMs that are the WSPs.

Of the 15 DMs that are both WSAs/WSPs almost all of them are using other WSPs to assist them in performing the function on an agency basis. In the EC three DMs (Alfred Nzo, Chris Hani and OR Tambo) have contracted out the entire WSP function and in Amathole DM the bulk of the WSP function is performed by Amathole Water. In KZN only Uthukela DM is the sole WSP in its area. The other six DMs in KZN have contracted out large parts of the WSP function. In LP there are no DMs that are the sole WSPs. Vhembe DM is the WSP in only one area. There is more or less a 50/50 split between the other DMs in LP who have contracted out the WSP function (in relation to areas where the function is performed). In summary, of the 44 DMs only 15 (34 percent) have both the WSA/WSP function and of that 15 only 1 DM (in KZN) is the sole WSP for its area.<sup>72</sup>

### **3.4 Concluding Remarks**

What is clear is that DMs perform no real functions in urban areas. DMs are predominantly performing functions in rural areas around weak locals. The majority of DMs that have the water services function are both WSAs/WSPs. However, even though 34 percent of DMs are both WSAs/WSPs, research shows that all except one have contracted out either entire, or large parts of the WSP function. DMs that are WSAs only have outsourced the function to LMs and Water Boards in the districts. A consequence of this is that DMs have become largely grant-funded institutions as a result of the fact that only 34 percent are performing a

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<sup>72</sup> Department of Water Affairs: 2011 *Blue Drop Report*.



function that raises income through fees. The end result is that the majority of DMs are not performing their statutory functions. There seems to be little value-add for most DMs.

### **3.5 Critique of Two-Tier System**

#### **3.5.1 Introduction**

This section will discuss some of the main critiques of the two-tier system of local government in South Africa. It has been established that the majority of DMs are not performing their statutory functions. DMs are plagued with political conflict between as well as within parties. This section will discuss issues such as DMs not performing functions, poor service delivery, duplication, failure to redistribute, lack of accountability and political conflict and will conclude with a brief summary.

#### **3.5.2 DMs are not performing their statutory functions**

Section 84(1) of the Structures Act states that DMs are required to perform 12 functions but excluding those related to finance and preparation of the IDP. Steytler asserted that generally DMs only perform half of their statutory functions.<sup>73</sup> From a total of 44 DMs 21 are WSAs, which leaves 23 that are not performing the water services function. Of the 21 WSAs only 15 (34 percent) are actually performing the function and of that 15 most of them have contracted out the function either in part or in full. DMs do not perform the electricity function. The *MDB Capacity Assessment Report for 2008/9* provides us with a breakdown of functions performed:<sup>74</sup>

- 20 percent of districts do 3 or less functions;
- 57 percent of districts do between 4 and 6 functions;
- 20 percent of districts do between 7 and 9 functions;
- Only 2 districts do more than 9 functions.

The MDB 2009 Report indicates that 76 percent of DMs are performing less than 50 percent of the statutory functions and only 2 DMs are performing more than 75 percent of their functions. Based on this breakdown we can see that DMs are not performing their statutory functions as provided for in section 84(1) of the Structures Act. Steytler and Jordan noted that

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<sup>73</sup> Steytler (2009) 83.

<sup>74</sup> MDB (2009) *Capacity Assessment Report for 2008/9* 113 table 80.

the vision of strong DMs has not materialised as LMs are still dominant in large parts of the country; DMs are doing little by way of service delivery with the exception of those performing the water services function.<sup>75</sup>

### 3.5.3 Poor Service Delivery

DMs have been criticised for poor service delivery which has been attributed to (i) a lack of clarity and (ii) the continuous shifting of functions. Steytler and Jordan noted that one of the main causes of unproductive relations between DMs and LMs is the lack of clarity in the division of powers and functions.<sup>76</sup> They noted further that uncertainty related to the scope and meaning of section 84(1) of the Structures Act contains at least three kinds of uncertainty:<sup>77</sup>

- (i) The distinction between district and local matters;
- (ii) The broad definition of some functions; and
- (iii) The over-inclusiveness of some district powers.

Steytler and Jordan noted the MDBs suggestion that local government functions be divided into three categories: district, shared and local. Some functions apply only to DMs or LMs but there are multiple functional areas where both DMs and LMs may operate.<sup>78</sup> The problem is most evident in shared functions, which are areas where both DMs and LMs share functional competence. Examples of these would be local tourism, municipal planning and municipal roads. Mlokoti shared this view in stating that the lack of clarity and the way in which powers and functions are divided creates much confusion.<sup>79</sup> Ultimately, the lack of certainty regarding who is responsible for the function results in both tiers holding back on delivering the service.<sup>80</sup> Atkinson stated that as a result of the confusion created by this lack of clarity the developmental focus of local government became distorted, in so far as which would be the primary developmental tier.<sup>81</sup> She stated further that the outcome of this confusion resulted in relationships being maintained on an *ad hoc* basis, influenced along

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<sup>75</sup> Steytler and Jordan (2006) 22.

<sup>76</sup> Steytler and Jordan (2006) 13.

<sup>77</sup> Steytler and Jordan (2006) 14.

<sup>78</sup> Steytler and Jordan (2006) 14.

<sup>79</sup> Mlokoti (2007) 8-9.

<sup>80</sup> Steytler N and Fessha Y (2007) *Defining Local Government Powers and Functions: The Management of Concurrency* 10.

<sup>81</sup> Atkinson (2003) 10.

party dynamics and personalities, and that relationships have either developed constructively or deteriorated into rivalry and suspicion.<sup>82</sup>

The Structures Act in section 84(3)(a) allows the Minister to shift functions between DMs and LMs through the process of authorisation and the MEC in section 85(1) through the process of adjustment.<sup>83</sup> Mlokoti stated that the processes of authorisation and adjustment create confusion about who is responsible for executing a function.<sup>84</sup> He stated further that more tension arises since the shift in function may affect the revenue base of a municipality, which means that municipalities have difficulties setting their budgets. Atkinson pointed out that this uncertainty had four consequences: (i) budgeting and planning and finalisation of organograms become difficult; (ii) delay in authorisation may result in low morale, job insecurity and resignations; (iii) handing over of schemes becomes difficult due to uncertainty as to who is authorised to manage such schemes; and (iv) for the sake of continuity a municipality will continue to deliver a service after the function has been shifted.<sup>85</sup> This refers to unfunded mandates that describe the practice of performing a function on behalf of another organ of state, which the latter does not fund. Some municipalities continued to perform the function after it was reallocated based on their constitutional duty to provide an uninterrupted service even without receiving the funding for it.<sup>86</sup>

#### 3.5.4 Duplication

One of the consequences of a lack of clarity is duplication, which happens when both tiers provide the same service. Duplication occurs often as a result of competition for resources or political manoeuvring, which leads to waste of scarce resources.<sup>87</sup> Steytler and Jordan noted that in some cases the shifting of functions has resulted in the duplication of services.<sup>88</sup> They added by citing an example from Mangaung where the Municipal Manager stated that if a local municipality advertises economic development the district does the same. Mlokoti cited jurisdictional tensions and contestation between municipalities as a cause of unnecessary

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<sup>82</sup> Atkinson (2003) 9.

<sup>83</sup> Atkinson (2003) 14.

<sup>84</sup> Mlokoti (2007) 9.

<sup>85</sup> Steytler and Jordan (2006) 15.

<sup>86</sup> Kirkby (2007) 151.

<sup>87</sup> Steytler and Fessha(2007) 9.

<sup>88</sup> Steytler and Jordan (2006) 15.

duplication of services and wastage of resources and that these tensions are most evident in DMs that have secondary cities in their jurisdictions.<sup>89</sup>

### 3.5.5 Failure to redistribute

Section 84(1)(o) of the Structures Act states that one of the main functions of DMs is the 'receipt, allocation and, if applicable, the distribution of grants made to the district municipality'. In fact, this is one of the main non-assignable functions of a DM. DMs were charged with redistributing grant funding and the bureaucratic handwringing created as a result of being compelled to divide funds vertically and horizontally between two tiers of government did little to advance principles of modern financial management.<sup>90</sup> Steytler and Baatjies noted that one of the key objectives of DMs was to redistribute resources from economically stronger municipalities to weaker municipalities in the area.<sup>91</sup> DMs were able to perform this redistributive function to a limited degree through revenue collected from RSC levies. Metros collected two-thirds of the total RSC levies, which amounted to 7 percent of their total revenue; whereas DMs collected the remaining third of the RSC levy income and it accounted for 34 percent of their income.<sup>92</sup> This gives an indication that DMs were more dependent on income generated from the RSC levies. It allowed them to cross-subsidise weaker LMs by transferring funds collected from economically stronger municipalities. Mlokoti added that this financial muscle allowed DMs to fund and influence the prioritisation of projects and easily determine the agenda for intergovernmental forums.<sup>93</sup>

According to Palmer the scrapping of the RSC levies and the fact that less than half of DMs actually raise revenue through tariffs for services has left districts largely grant-funded institutions, reliant on transfers for 90 percent of their revenue.<sup>94</sup> He asserted further that the role and function of DMs, and their impact on development, is strongly influenced by the way DMs are financed. This is because the way in which finance is applied dictates the level of impact institutions have on development, in relation to their allocated functions. Mlokoti quoted the maxim that 'capacity defines the potential for development' because without this

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<sup>89</sup> Mlokoti (2007) 9.

<sup>90</sup> Kirkby (2007) 148.

<sup>91</sup> Steytler and Baatjies (2007) 24.

<sup>92</sup> Mlokoti (2007) 8.

<sup>93</sup> Mlokoti (2007) 8.

<sup>94</sup> Palmer (2009) 91.

financial muscle DMs are no longer able to fund and influence the prioritisation and implementation of the IDPs.<sup>95</sup> The scrapping of the RSC levies therefore had an extended effect in that not only has it made DMs grant-dependent institutions; it has also weakened the planning and coordinating function of DMs.

### **3.5.6 Accountability**

The lack of clarity regarding responsibility for a function creates uncertainty for consumers who are unsure who to hold accountable for poor service delivery. It also enables government institutions to ‘pass the buck’ and so avoid taking responsibility.<sup>96</sup> The main argument levelled at DMs when the four main functions were shifted was the fact that LMs, being the last link in the service delivery chain and having first contact with end-users, bears the brunt of consumer dissatisfaction. DMs have no wards they are responsible for and therefore have no constituencies they have to account to. If these councillors had no direct responsibility to resident voters they did not have to include them in important decisions around issues such as water and sanitation. Transferring the functions to DMs meant that accountability was separated from the institution performing the function and thus negated principles of accountable and democratic government. The 40 percent proportional representative (PR) councillors are too far removed from residents in the district who vote for them because they have no direct responsibility to voters in constituencies. The 60 percent indirectly elected councillors who are appointees of LMs played little role in the running of DMs and therefore played little or no accountability role.<sup>97</sup>

### **3.5.7 DMs and LMs locked in political contestation**

Steytler and Jordan argued that ‘having two political structures that must cooperate on numerous matters sets the stage for political contestation’.<sup>98</sup> Baatjies added that “district municipalities have been known to be sites of fierce political contestations”.<sup>99</sup> He argued that this is due to alignment in the council being according to political party allegiance and that even when there is single party dominance intra-party contestation has also been present. Due

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<sup>95</sup> Mlokoti (2007) 8.

<sup>96</sup> Steytler and Fessha (2007) 10.

<sup>97</sup> Baatjies (2008) 8-9.

<sup>98</sup> Steytler and Jordan (2006) 17.

<sup>99</sup> Baatjies (2008) 8.

to the hierarchical nature of political parties, more senior members are deployed to DMs and this plays itself out in council, where more senior members assume their party seniority carries over and they are the ‘big brothers’ of more junior members from the local councils.<sup>100</sup> This results in LMs withdrawing from the DMs and makes cooperation difficult. It was assumed that the 60:40 ratio of appointed and elected officials on district councils would result in the appointed officials dominating the councils. This did not materialise as the councillors were uncertain of their roles, whether they were representing their local constituents or representing district interests.

### **3.5.8 Concluding remarks**

The primary critique levelled at the two-tier system of local government is the fact that most DMs to varying degrees are generally not performing their statutory functions. This is a significant critique because the fundamental purpose of local government is the delivery of services to communities. When DMs and LMs are performing functions poorly they are doing so largely because of uncertainty around powers and functions. This leads to a waste of scarce resources due to duplication of services. DMs do not play a redistributive role as they have lost a major portion of their income through the scrapping of the RSC levies. The system of directly elected and appointed officials does not tie in with principles of participatory governance. Inter and intra party political conflict has meant that the focus shifted from serving communities to political manoeuvring. The main critiques thus serve to highlight the fact that the two-tier system is hamstrung, in some cases severely, and that this leaves the system ripe for reform. The only remaining question to consider is which reform path would come closest to delivering the desired outcomes.

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<sup>100</sup> Baatjies (2008) 8.

## Chapter Four: Policy debate, proposals and resolutions

### 4.1 Introduction

This chapter will sketch the background to the policy debate around local government reform. It will look at what the proposals were and then trace how the ANC have developed them. This is followed by a detailed discussion of the actual proposals. The ANC is not considering total abolition of the two-tier system of local government; what they are considering is restructuring of the two-tier system which would have a lesser impact if strong LMs are removed from the DMs.

### 4.2 Background to policy debate

The debate on the reform of the two-tier system has been on-going ever since its inception in 2000. The first concrete analysis of the challenges facing local government was conducted by the Parliamentary Portfolio Committee on Local Government early in 2003.<sup>101</sup> Their analysis culminated in a comprehensive report that examined all aspects of local government transformation. Steytler noted that the 'Committee's analysis of the challenges facing local government is penetrating and its suggestions are valuable'.<sup>102</sup> The Committee stated: 'Given that the new local government system is little more than 2 years old and taking into account the magnitude of the transformation, municipalities have progressed well in establishing single administrations.'<sup>103</sup> Two key points the Committee made with regard to the two-tier system was that the (i) biggest challenge appeared to be clarity on the division of powers and functions, and (ii) unproductive and often unsatisfactory relations between LMs and DMs.<sup>104</sup> The Committee found that relations between DMs and LMs vary from 'cordial and co-operative to conflictual and unproductive' and that the larger LMs questioned the relevance of DMs<sup>105</sup> and suggested that DMs are not necessary in large urban areas.<sup>106</sup> The Committee acknowledged that there were bound to be 'teething problems' as the new system was only

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<sup>101</sup> Report of the Portfolio Committee on Provincial and Local Government on the Study Tour of Municipalities, 15 April 2003 (Portfolio Committee).

<sup>102</sup> Steytler N (2003) 'Local government is in good health' 5(3) *Local Government Bulletin* 6.

<sup>103</sup> Portfolio Committee (2003) 2.4

<sup>104</sup> Portfolio Committee (2003) 4.1

<sup>105</sup> Portfolio Committee (2003) 4.1

<sup>106</sup> Portfolio Committee (2003) 4.3

two years old and held the view that difficulties were to be expected in the early implementation phase and that the difficulties did not detract from the overall usefulness of the two-tier system.<sup>107</sup>

According to Steytler and Jordan in 2006 the same problems still persisted with the two-tier system and arguably worsened: role clarification was still a significant problem and having two separate autonomous political structures having to cooperate on various matters set the stage for political contestation.<sup>108</sup>

#### **4.2.1 What have been suggested policy options?**

The debate on the future of DMs has seen the emergence of three broad policy options, with a variation on one option. First, abolition of the two-tier system, with a variation on abolition of either DMs or LMs. Second, retaining the *status quo* and strengthening the capacity of DMs. Third, creating urban stand-alone municipalities while retaining DMs in rural areas. Steytler and Baatjies assert that any options should be assessed within the normative framework of developmental local government by assessing which option would come closest to achieving this constitutional objective.<sup>109</sup> It should be self-evident that the development of any such policy must be commanded by this constitutional objective. However, this objective must never override the necessity to factor current realities into any type of decision-making regarding policy reform.

##### ***Abolition of DMs (single-tier)***

Atkinson held the view that there was no doubting the importance of DMs, '[h]owever, there was no intrinsic reason why DMs should be autonomous, elected, democratic bodies.'<sup>110</sup> She held further that the most appropriate role for DMs was as field offices of provincial governments and stated that this would, amongst others, strengthen the effect of provincial governments; promote inter-sectoral collaboration; remove political jockeying and remove

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<sup>107</sup> Portfolio Committee (2003) 4.15 (i).

<sup>108</sup> Steytler and Jordan (2006) 14-17.

<sup>109</sup> Steytler and Baatjies (2007) 29.

<sup>110</sup> Atkinson (2003) 50.



expenditure on councillors.<sup>111</sup> Atkinson was thus in favour of abolition by re-establishing DMs as administrative extensions of provincial governments, with LMs remaining.

Baatjies held a different view in relation to reform of the two-tier system of local government.<sup>112</sup> Whereas Atkinson<sup>113</sup> wanted to see DMs completely depoliticised, Baatjies held a more pragmatic view in relation to reform of district councils. However, one of the options put forward by Baatjies entailed abolition of DMs as it suggested removing the political structure of DMs by establishing multi-jurisdictional entities with LMs as joint shareholders.<sup>114</sup> He explains that multi-jurisdictional entities would be purely business entities aimed at combining the strength and capacity of LMs, with emphasis on attracting skills and fostering a culture of professionalism within the district.<sup>115</sup>

Steytler and Baatjies identified the failure of DMs to fulfil their basic functions as the primary basis on which arguments for abolition were based and identified five arguments.<sup>116</sup> First, one of the main objectives of DMs was the redistribution of resources but that this hardly materialised and was eliminated by the scrapping of the RSC levy. They also questioned whether DMs, relying solely on transfers and consisting of between two and five LMs were the best option for distributing funds, or would the province be better placed to do it. Second, the principle of subsidiarity dictates that the level of government closest to the area of impact should be responsible for the delivery of the service. Therefore LMs should provide services to end-users and where they lack capacity it should be built up by the provinces. Third, the creation of a two-tier system of local government was extremely costly in terms of structure and personnel. Fourth, DMs are hardly providing any services in urban areas. Fifth, South Africa does not have enough LMs to make the two-tier system viable.<sup>117</sup>

Steytler and Baatjies provide three main reasons why the wholesale scrapping of the two-tier system may not be a wise choice.<sup>118</sup> First, based on the enormous financial and human

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<sup>111</sup> Atkinson (2003) 50.

<sup>112</sup> Baatjies (2008) 3.

<sup>113</sup> Atkinson (2003) 50.

<sup>114</sup> Baatjies (2008) 4.

<sup>115</sup> Baatjies (2008) 17.

<sup>116</sup> Steytler and Baatjies (2007) 29.

<sup>117</sup> Steytler and Baatjies (2007) 29-30.

<sup>118</sup> Steytler and Baatjies (2003) 30.

resources that have gone into DMs it would be a huge waste to scrap DMs, in addition to it being very disruptive of local governance and service delivery. Second, DMs have contributed to developmental local government in rural areas. Bulk supply of services enables DMs to maximise socio-economic development and their coordinating function can lead to better integrated development planning. Third, DMs are performing a supporting role in weaker LMs.

### ***Strengthening of DMs (retain status quo)***

Similar to findings of the Portfolio Committee Report on the Study Tour of Municipalities in 2003, supporters of the two-tier system held the view that it was too early to review the relevance of DMs and that the best option to resolve the problems was to capacitate them fully.<sup>119</sup> The MDB recommended a reversal of the shifting of the current functions to LMs, which would see DMs responsible for performing the full functions.<sup>120</sup> According to Steytler and Baatjies this view asserts the inherent worth of the basic objectives of DMs (*i.e.*) coordinating development planning, supporting weaker municipalities and providing services to end-users in LMs that lack capacity.<sup>121</sup>

Baatjies put forward options that called for reform of the functioning of district councils, *i.e.*; increasing local leadership on district councils by ensuring the mandatory election of local councillors to district leadership positions; doing away with PR councillors by composing district councils only of indirectly elected members.<sup>122</sup>

Arguably, strengthening the capacity of DMs does not really change anything. It is not changing the structure of DMs. All it will do is strengthen DMs without addressing the fundamental issues. Steytler and Baatjies question the wisdom of making DMs full service providers for end-users as it does not address the fundamental misalignment of roles between

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<sup>119</sup> Steytler and Baatjies (2007) 30.

<sup>120</sup> MDB *Capacity Assessment Report 2006/07* 12.

<sup>121</sup> Steytler and Baatjies (2007) 30.

<sup>122</sup> Baatjies (2008) 4.

secondary cities and DMs and will not only duplicate administration but also intensify conflicts between DMs and LMs.<sup>123</sup>

### ***Abolition of LMs (single-tier)***

This option is suggested by Baatjies and entails establishing the district council as a single local authority by absorbing the LMs into DMs as independent entities, which does away with LMs as a separate, constitutionally entrenched category of local government.<sup>124</sup> The LMs effectively become sub-councils of the DMs. This is similar to what happens with metros and their sub-councils.

This model results in district-wide single-tier government with all the powers and functions to deliver all local and district services. The single-tier authority will not perform all functions; the sub-councils would provide some services subject to them having the necessary capacity. One of the arguments in favour of this model is familiar; capacity can be more efficiently strengthened at district level than at local level. Some of the arguments against this model is that it will create more distance between local government and the community; it would require a major redrafting of boundaries and wards and will require a reduction in councillors.<sup>125</sup>

### ***Establishing urban stand-alone municipalities – DMs in rural areas only***

While good arguments are made for retaining the two-tier system, the fact that DMs perform no real functions in larger urban areas raises a serious question: would single-tier municipalities be the most suitable form of government in larger urban areas? Steytler and Baatjies answer in the affirmative by stating that single-tier systems are better suited to deal with the dual challenges of economic development and poverty alleviation as there is legal certainty in role-clarification, which will eliminate turf battles, it reduces transaction costs and duplication, it ensures accountability and streamlines decision-making and the flow of funding.<sup>126</sup> They therefore recommend that the most appropriate response to the debate on DMs is to redefine their mandate and confine their application to non-urban areas.<sup>127</sup>

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<sup>123</sup> Steytler and Baatjies (2007) 30.

<sup>124</sup> Baatjies (2008) 18.

<sup>125</sup> Baatjies (2008) 22.

<sup>126</sup> Steytler and Baatjies (2007) 31.

<sup>127</sup> Steytler and Baatjies (2007) 31.

Steytler asserted that the focus of the current debate on DMs should be on whether the challenges of urbanisation would be better met by single-tier local government and that there is a need for specialist, focused municipal government in urban areas.<sup>128</sup> He stated further that such policy is underpinned by the distinction between category A and B municipalities.<sup>129</sup> Current practice indicates that DMs are mostly performing functions in non-urban areas and it is here that DMs can contribute and build developmental local government as (i) district-wide planning and integration of services makes scarce resources go further; (ii) providing bulk services develops economies of scale and makes rural government more feasible; and (iii) weaker or under-capacitated LMs are found primarily in the rural areas which is where planning and support functions find its best application.<sup>130</sup>

### **4.3 ANC policy development on local government reform**

The ANC as the major governing party has been wrestling with the issue of district and local government since its inception and its policy decisions will be the significant driver of local government reform. The ANC subsequently developed a discussion paper that include recommendations for the reform of the two-tier system of local government.

#### **4.3.1 2007 Discussion Document on Legislature and Governance**

The March 2007 ANC Discussion Document on Legislature and Governance for a National Democratic Society<sup>131</sup> said very little about local government reform. The policy document alluded to local government reform within the context of the reform of provincial government. The most said regarding local government reform was the ANC recommending a comprehensive review of the two-tier system of local government. The importance of the 2007 policy discussion document was that it raised the possibility of the abolition of provinces. This could have had a major impact on DMs as they could then have performed some of the functions of provinces. Steytler and Baatjies stated that the strengthening of DMs received support in the context of the debate on the future of provinces and that the disestablishment of provinces could have seen the transfer of some functions to DMs and

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<sup>128</sup> Steytler N (2007) *Single-tier local government in major urban areas* 5.

<sup>129</sup> Steytler (2007) 5.

<sup>130</sup> Steytler and Baatjies (2007) 31.

<sup>131</sup> ANC Policy Discussion Document on 'Legislature and Governance for a National Democratic Society' March 2007 Available at: <http://www.anc.org.za/show.php?id=2367> (Accessed 2012/11/04).

metros as the next level of government.<sup>132</sup> The ANC at its December 2007 National Conference in Polokwane made no decisions on provinces or local government but resolved to hold a comprehensive review of the local government system, including the White Paper, and to hold a summit on provincial and local government reform.<sup>133</sup>

#### **4.3.2 2010 ANC Summit on Provincial and Local Government Reform**

The ANC 2010 Summit on Provincial and Local Government Reform<sup>134</sup> was much more comprehensive in its assessment of local government and in its recommendations for possible reform. On the Summit's assessment of the two-tier system it stated that the vision for DMs was that of coordinating and redistributing and that the ANC always held the view that local government should play an active role in the equitable distribution of resources.<sup>135</sup> There was recognition by the ANC that various policy shifts undermined the original vision for DMs and that this made DMs largely non-functional.<sup>136</sup> First, the Structures Amendment Act of 2000 made DMs direct service providers for the four key functions of water, electricity, sanitation and health; second, the 2005 IGRF Act<sup>137</sup> created district intergovernmental forums to facilitate cooperative relations between DMs and LMs; third, the scrapping of the RSC levies in 2006 by NT fundamentally changed the revenue structure of DMs.<sup>138</sup> The ANC stated further that in addition to the above-mentioned policy shifts the increase in the number of LMs taking over district functions not only indicated that DMs were not performing their statutory functions, it also undermined governance by increasing tensions between DMs and LMs.<sup>139</sup>

There were proposed options that emerged from the 2010 Summit:<sup>140</sup> The first three options deal with abolition and the last option deals with retention and reform of the two-tier system:

- Abolition of the two-tier system

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<sup>132</sup> Steytler and Baatjies (2007) 30.

<sup>133</sup> ANC (2007) 52<sup>nd</sup> National Conference: Resolutions 'Review of provincial and local government' Available at: <http://www.anc.org.za/show.php?id=2536> (Accessed 2012/11/14).

<sup>134</sup> ANC 'Summit on Provincial and Local Government' December 2010 Available at: <http://www.anc.org.za/docs/discus/2010/summitz.pdf> (Accessed 2012/11/05).

<sup>135</sup> ANC Summit (2010) 15.

<sup>136</sup> ANC Summit (2010) 15.

<sup>137</sup> Intergovernmental Relations Framework Act No. 13 of 2005.

<sup>138</sup> ANC Summit (2010) 15.

<sup>139</sup> ANC Summit (2010) 16.

<sup>140</sup> ANC Summit (2010) 26.

- Absorbing DMs into provinces and creating a single tier
- Retaining DMs as shared administrative and service centres for LMs
  
- Retaining DMs only in certain areas

The outcome of the 2010 Summit as it relates to local government reform indicated that the ANC was giving serious thought to reform and to finding an appropriate policy direction. There was recognition within the ANC that local government faced significant problems in areas of capacity, service delivery, planning and budgeting and that review of the system was needed. The ANC recognised the importance of adhering to the time frames and stated that the policy process, while it must be conclusive, must be concluded by June 2012. The Summit also stated that there would be a Commission established to conduct an enquiry into the review process to ensure accuracy, transparency and inclusivity, but this never materialised.<sup>141</sup> Basically, the 2010 Summit saw the emergence of two options, abolition, and retention only in certain areas. Abolition of DMs by absorbing them into provinces with district functions assigned to provinces or LMs, creating single-tier government with LMs remaining. Retaining of DMs as shared administrative and service centres for LMs, leaving the DMs remaining, but as depoliticised multi-jurisdictional entities. A new emerging option was that of retaining DMs only in certain areas. This option would entail retaining DMs where they are providing service functions.

### **4.3.3 2012 Policy Document on Legislature and Governance**

One of the stated purposes of the 2010 Summit was “to initiate an inclusive process and thorough debate within the organisation on changes required to provincial and local government, in order to give effect to the principles of the developmental state”.<sup>142</sup> In its overview of the local government system the March 2012 ANC Policy Document on Legislature and Governance built on decisions taken at the 2010 Summit and stated that municipalities differ from each other in various ways and that this had an impact on the type of services required and the level of services municipalities are able to perform.<sup>143</sup> There was acknowledgement that local government was critical to the efficient delivery of services and

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<sup>141</sup> ANC Summit (2010) 19-20.

<sup>142</sup> Policy document (2010) 2.

<sup>143</sup> Policy Document (2012) 14.

was also the most challenged sphere of government.<sup>144</sup> This lack of proper service is more pronounced in rural areas. These municipalities are plagued by institutional weaknesses that render them unable to deliver on even their basic service delivery mandate.

There were three main proposals mentioned in the policy document:<sup>145</sup>

- Leave the system as it is and strengthen the planning, coordination and support functions.
- Abolish the two-tier system by absorbing DMs into national or provincial administration with the LMs becoming stand-alone municipalities.
- Removing strong LMs from DMs.

This last option seemed to be the favoured one as it called for a more differentiated model of the two-tier system. The implementation of such a differentiated model would see strong LMs removed from DMs and the policy document acknowledged that creating a new type of category A municipality widens the scope for differentiation and allows DMs to focus on municipalities that are under-capacitated.<sup>146</sup> Following the development trajectory of the proposed policy reform shows us how initially in 2007 the ANC limited the discussion of local government reform to a comprehensive review. In 2010 they were more comprehensive in their assessment of local government and the two-tier system and produced various options for consideration. These options were debated at the June 2012 ANC National Policy Conference at Gallagher Estate in Gauteng.

#### **4.4 2012 Policy Conference Resolutions**

One of the guiding principles of the development of the policy process as stated in the 2010 Summit was that prolonged uncertainty was not conducive to effective service delivery. Even though analysis must be inclusive and outcomes evidence-based it is crucial to adhere to given timeframes and that given the long legislative lead time the policy process should be finalised by June 2012.<sup>147</sup> There is a fluidity that ties together the development of the policy process. In 2007 the ANC resolved to undertake a comprehensive review of the architecture of government structure, how it impacts on service delivery and committed to holding a

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<sup>144</sup> Policy Document (2012) 3.

<sup>145</sup> Policy Document (2012) 20-3.

<sup>146</sup> Policy Document (2012) 20.

<sup>147</sup> Policy Document (2012) 20.

summit on provincial and local government. In 2010 the ANC held a summit on provincial and local government where various proposals emerged and the ANC resolved to have the policy process completed by 2012. At the June 2012 policy conference the ANC debated the options and agreed that abolition was not viable. The ANC favoured structural reform of the two-tier system<sup>148</sup> and resolved that '[s]trong local municipalities should not be located in [d]istricts'.<sup>149</sup> Based on policy recommendations the ANC are not keen on maintaining the *status quo* as they see no advantages to retaining the current two-tier system. Abolishing the two-tier system may also not be a viable option because of the large amount of resources (human and financial) already invested in it and because DMs are still performing a function in rural areas.

## **4.5 Likely policy option**

### **4.5.1 'Strong' locals (stand-alone A2s)**

The policy option that strong LMs should not be located within DMs means removing strong LMs from the DMs. This option structurally changes the architecture of the two-tier system. This means that a new form of category A municipality would have to be established because these LMs would become stand-alone municipalities. An important factor is the definition that will distinguish strong LMs. LMs considered to be strong would not match the definition of metros as defined in the Structures Act. It is not a constitutional definition and institutionalising the policy reform without amending the Constitution is the preferred option. These strong LMs would not meet criteria for metros, which leave one of two options (*i*) abandoning or changing the current definition of metros, or (*ii*) adding a definition for urban LMs. The main question therefore is: how does one define 'strong' LMs?

### **4.5.2 B1s**

There are various indicators used by government to differentiate between LMs. The MDB in its *Capacity Assessment Report 2006/07* referred to a report prepared for NT in 2004 that used population size, percentage urban formal housing, percentage of households with

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<sup>148</sup> 'ANC Recommendations from the 4<sup>th</sup> National Policy Conference June 2012' Available at: [http://www.anc.org.za/docs/pol/2012/policy\\_conference.pdf](http://www.anc.org.za/docs/pol/2012/policy_conference.pdf) (Accessed 2012/11/05).

<sup>149</sup> ANC Policy Recommendations June 2012 5.1.5



adequate water, revenue less subsidies per household per month, and household income profile as criteria to classify municipalities and it is this NT report that placed LMs into four sub-categories (B1, B2, B3 and B4) as reflected in table 1 below.<sup>150</sup>

**TABLE 1:** Reflects the sub-categories distinguishing between LMs as first used by NT and the MDB.

<b>NT / MDB Category</b>	<b>Description</b>
<b>B1</b>	Secondary City - LM with largest budgets, populations etc.
<b>B2</b>	LM with large town as core
<b>B3</b>	LM with small town, small population, no large town as core
<b>B4</b>	LM mainly rural, communal land tenure, 1 or 2 small towns

Source: MDB *Capacity Assessment Report 2006/07*.

These sub-categories were first used by NT and the MDB and draw a distinction between LMs. They were developed as an acknowledgement that municipalities have varying degrees of capacity across factors such as fiscal capacity, revenue base, skills, settlement patterns and population. Based on the criteria LMs were classified into the various sub-categories. From a revenue perspective B2s may be fairly consolidated by having a large town as core, which makes them relatively sustainable. It is the B3s and B4s that are more vulnerable as they have no large town as core; they have smaller populations and weak revenue bases, which make them more susceptible to challenges around sustainability because they are situated in mainly rural areas with weak economies which make it harder to attract scarce skills to such areas. In this sub-categorisation B1s are of specific relevance because it represents most secondary cities that have large population numbers, large budgets, fairly consolidated revenue bases and potential to grow their economies.

### **4.5.3 Secondary Cities**

There is no official list of secondary cities in South Africa. NT has adopted a list that named 22 secondary cities based on population size and growth, size and growth potential of the economy (Gross Value Add per Region), size of the municipal budget, assignment of human settlements and public transport functions, assignment of intergovernmental transfers and geographic spread.<sup>151</sup> NT's *Cities Support Programme* identified 22 South African cities that

<sup>150</sup> MDB *Capacity Assessment 2006/07* 14.

<sup>151</sup> National Treasury (2012) *Cities Support Programme: Framework Document – Final Draft 8-9*.

exhibit consistent economic growth and human settlement patterns and recognised the need to develop cities that are responsive to rapid urbanisation.<sup>152</sup> The strategic aim of the document is the linkage between the intergovernmental framework, management of the built environment and capacity of cities.<sup>153</sup> These 22 cities have been selected to be part of NT's programme to strengthen these linkages and build capacity. NT estimates that about 62 percent of the population live in urban areas and that South African cities (primary and secondary) contribute 78 percent of economic activity and are growing faster than the national economy.<sup>154</sup> Cities are thus the main centres of growth and development. Of the 22 secondary cities 19 are listed by NT as B1s. Three secondary cities have been included in the list; two that are B2s (Mafikeng and Khara Hais LMs) and one B3 (Lephalale LM).

#### 4.5.4 Definition of 'strong' LM

Two categorisations will be used in formulating a definition for strong LMs.

1. The categorisation of B1s because they have large populations, budgets and economic output, which are your main indicators.
2. The categorisation of secondary cities because they exhibit similar characteristics. Of the 22, two B2s have been included. I have however excluded the one B3 LM. The remaining 19 are all B1s.

The B2s have been included because they exhibit significant/similar population numbers, budgets and GVA-R in comparison to the other 19 B1s. Lephalale LM has been excluded because it does not satisfy the definition of a strong LM as it is a B3 municipality. The other two B2 LMs show a dominance pattern which Lephalale does not. Lephalale was included in NT's *Cities Support Programme* based on its growth potential over the long term. With Ellisras as its core town, Lephalale LM represents only 14 percent of the DM population and 10 percent of the DM GVA. It does not fit the mould of a strong LM. Therefore, my sample consists of 21 of the 22 secondary cities as listed by the SACN's 2012 *Cities Network Report* and NT's 2012 *Cities Support Programme*.

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<sup>152</sup> National Treasury (2012) *Cities Support Programme* 3-5.

<sup>153</sup> National Treasury (2012) *Cities Support Programme* 3-5.

<sup>154</sup> National Treasury (2012) *Cities Support Programme* 2.

Table 2 represents strong LMs defined as the 21 secondary cities; there is no hierarchy or ranking. B1s are listed per major town and district.

**TABLE 2:** B1s (secondary cities) reflecting major towns and DMs.

	<b>B1</b>	<b>MAJOR TOWN</b>	<b>DISTRICT</b>
1	Matjhabeng	Welkom	Lejweleputswa
2	Emfuleni	Vereeniging	Sedibeng
3	Mogale City	Krugersdorp	West Rand
4	Msunduzi	Pietermaritzbu	Umgungundlovu
5	Newcastle	Newcastle	Amajuba
6	Umhlatuze	Richards Bay	Uthungulu
7	Polokwane	Pietersburg	Capricorn
8	Emalahleni	Witbank	Nkangala
9	Govan Mbeki	Secunda	Gert Sibande
10	Mbombela	Nelspruit	Ehlanzeni
11	Steve Tshwete	Middelburg	Nkangala
12	City of Matlosana	Klerksdorp	Dr Kenneth Kaunda
13	Madibeng	Brits	Bojanala
14	Mafikeng	Mafikeng	Ngaka Modiri Molema
15	Rustenburg	Rustenburg	Bojanala
16	Tlokwe	Potchefstroom	Dr Kenneth Kaunda
17	Khara Hais	Upington	Siyanda
18	Sol Plaatje	Kimberley	Frances Baard
19	Drakenstein	Paarl	Cape Winelands
20	George	George	Eden
21	Stellenbosch	Stellenbosch	Cape Winelands

Sources: *Cities Network Report 2012*.

The SA *Cities Network Report*<sup>155</sup> has adopted the list and suggested adding more comprehensive indicators in determining features a town should possess to qualify as a secondary city. Indicators such as educational profile, labour profile and municipal performance are listed within a set of indicators to be used in addition to those used by NT and MDB. These are the kinds of indicators that should influence the decision on a definition for the new category As. Ideally we would have more than one level of category A (e.g. A1 and A2) and the definition would establish secondary cities as stand-alone municipalities as

<sup>155</sup> South African Cities Network Background Report (2012) *Secondary Cities in South Africa: The start of a conversation* 19. Available at: [http://led.co.za/sites/led.co.za/files/cabinet/orgname-raw/document/2012/cities\\_backg\\_report\\_2012.pdf](http://led.co.za/sites/led.co.za/files/cabinet/orgname-raw/document/2012/cities_backg_report_2012.pdf) (Accessed 13/10/2012).

the next level of urban concentrations. The reason a new definition would be needed is because the current definition is too restrictive in terms of its criteria for stand-alone municipalities (metros). Secondary cities would be hard-pressed to meet the narrow criteria.

One of the primary indicators must be financial sustainability; these new municipalities must be able to sustain the bulk of their operational and capital expenditure from own revenue. They must have the potential to progressively increase revenue streams. Secondary cities dominate contemporary debate around development issues because they are recording the fastest population and economic growth, so there is a strong case to be made for them to be stand-alone municipalities.<sup>156</sup> When the ANC policy recommendations talk of removing strong LMs from DMs it means establishing B1s as stand-alone municipalities. Established practice indicates that DMs perform hardly any functions in B1s therefore; this will have little if any impact on B1s. Removing secondary cities from DMs may be the most viable option for reform of the two-tier system.

Secondary cities are important because they are urban centres for people to live and work in, which relieves pressure on the traditional large cities.<sup>157</sup> This is significant in the South African context as skewed settlement patterns meant that the bulk of economic activity and migration occurred in just a few cities. Secondary cities are considered to have the potential to kick-start economic development in surrounding areas. It was therefore deemed important to promote the development of secondary cities as they were considered important catalysts for more balanced and dispersed growth across the country.<sup>158</sup> Secondary cities should receive special consideration within the context of economic development and how policy and legislation either facilitate or constrain development objectives because they exhibit the most rapid demographic and economic growth.<sup>159</sup>

B1s, as the next level of urban concentrations, will become A2s, with metros being A1s. B1s have sufficient population numbers, with only Khara Hais (B2) that has a population of less than one hundred thousand people. They have large budgets with large revenue bases and the

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<sup>156</sup> *Cities Report* (2012) 14.

<sup>157</sup> *Cities Report* (2012) 14.

<sup>158</sup> *Cities Report* (2012) 14.

<sup>159</sup> *Cities Report* (2012) 14.

added potential to increase their fiscal capacity. Steytler<sup>160</sup> noted that while large secondary cities are financially viable DMs are not because it was impossible to create two levels of government that are both financially viable. He noted further that this is because local government's main revenue sources, property rates and trading services, could not be split between the two levels.<sup>161</sup> What has exacerbated the situation is the scrapping of the RSC levy by NT as this affected 34 percent of DMs income, and with it, the redistributive function of DMs.

## **4.6 What are possible outcomes if secondary cities (B1s) are removed from DMs?**

### **4.6.1 Possible disestablishment of DMs**

One of the more important outcomes that may occur if B1s are removed from DMs is that DMs may see large reductions of their population. This is as a result of DMs being established around large towns or secondary cities, with secondary cities being the dominant LMs. The logic behind this fundamental change was the notion that large towns would support poor rural municipalities. The DMs will then have to continue without the B1s after they have been removed, which may have a significant impact on DMs. How will this affect the viability of the remaining DMs? According to Steytler close to 20 percent of DMs are dominated by an LM constituting upwards of 66 percent of the population for the district area.<sup>162</sup> He noted further that more than 10 percent of B1s have more than 50 percent of the district population and that in almost 44 percent of DMs one LM has more than a third of the population.<sup>163</sup> Last, he noted that almost three quarters of DMs had one or more dominant B1 in its area. Therefore, a significant problem may occur as a result of implementing such a policy. There are 4 DMs that will have 3 LMs remaining and there are 3 DMs that will have 2 LMs remaining if the B1s are removed. This means that 7 DMs will have 2 or 3 LMs remaining. The MDB has questioned the viability of such DMs with only 2 or 3 LMs as it

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<sup>160</sup> Steytler (2009) 86-87.

<sup>161</sup> Steytler (2009) 87.

<sup>162</sup> Steytler (2009) 81.

<sup>163</sup> Steytler (2009) 81.

would be mere duplication of the LMs themselves. A significant problem in terms of its knock-on effect could therefore mean the disestablishment of those DMs. Even though 7 DMs may be disestablished, the rest of the C1s and C2s will remain. The policy only proposes the removal of B1s from DMs. It does not propose the disestablishment of DMs.

#### **4.6.2 Future reconfiguration of DMs**

Another important consequence that will occur if the policy option of removing strong LMs from DMs is implemented is the effect it will have on the contiguity<sup>164</sup> of DMs. There will be 5 DMs that will become non-contiguous if the policy is implemented. Of those 5 DMs, 2 will also have between 2 and 3 LMs remaining. At the very least, serious consideration will therefore have to be given to the 2 DMs that will have between 2 and 3 LMs remaining, in addition to becoming non-contiguous, based on removal of the B1.

#### **4.6.3 C2s – Will they remain as is?**

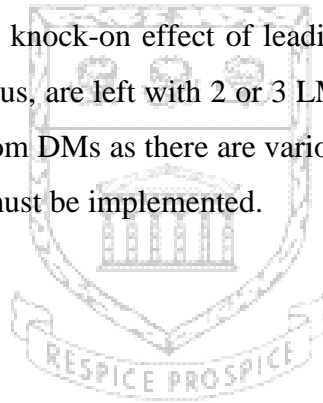
An important question emerges regarding whether or not weak C2s will retain their water services function. The rationale behind DMs given the water services function was straightforward. It could not in all likelihood be given to any other institutions. In the rural areas, particularly the former homeland states, there were no municipal structures operating. DMs and LMs were established simultaneously and given powers and DMs were allowed to continue the water services function. LMs did not have the function to begin with. It was easy to ask DMs to exercise their statutory powers because there were no competing LMs with water services and the two-tier system was starting from scratch because no local government existed before 2000 in those areas. DMs performing the statutory function could then start building capacity and it therefore seemed more appropriate to authorise those newly established DMs to perform the function. C2s will therefore retain the water services function if B1s are removed from their area as there would be no other LMs with the capacity to do it.

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<sup>164</sup> 'Contiguity' in this context refers to the sharing of municipal borders.

## 4.7 Concluding remarks

NT and the MDB have classified strong LMs as equating to B1s. I am equating B1s with 'strong' LMs as I am going to use B1s as my measure, in addition to using 2 secondary cities (B2s) identified by NT as 'strong' LMs and used by the Cities Network, but discarding one (B3). The 21 secondary cities have large budgets, large populations and economic growth potential. The preferred ANC policy option appears to be that B1s be removed from the DMs. There may be strengthening of the capacity of DMs but that would not really be structural reform. However, implementation of this policy recommendation will leave DMs without B1s. This highlights important questions. Will DMs be viable without the B1s? There are 7 DMs that will be left with 2 or 3 remaining LMs. There will also be 5 DMs that will become non-contiguous and of the 5 DMs 2 will also have between 2 and 3 LMs remaining. Based on MDB policy, this may have the knock-on effect of leading to either the disestablishment of DMs who become non-contiguous, are left with 2 or 3 LMs, or both. It is thus more than just simply removing strong LMs from DMs as there are various likely impacts to consider within which this ANC policy choice must be implemented.



## **Chapter Five: Analysis of the likely impact of the ANC policy choice on the current practice of local government relating to councillors, political party, services, personnel and finances.**

### **5.1 Introduction**

What would be the likely impact on the current practice of local government if the ANC implemented the policy choice of removing B1s from DMs? How may that impact influence the adoption and implementation of the policy choice? Policy reform is influenced by conditions that either constrain or open up possibilities. Examining the existing literature on districts, there is remarkably little analysis of the conditions that should inform the policy choice. The problem is that policy debates on reform are often conducted in the absence of empirical research. However, any policy reform cannot occur in a vacuum. The debate on policy reform must be informed by empirical information. Policy makers must consider the impact of the proposed policy if 21 secondary cities (B1s) are removed from the DMs and become stand-alone A2s. This chapter will therefore focus on the impact of removing B1s from DMs - the 21 secondary cities or B1s that form part of the ANC policy proposal to remove strong LMs from DMs. The key conditions will be: (a) politicians, (b) political party structure, (c) services, (d) personnel, and (e) finances.

### **5.2 Secondary Cities - from B1s to A2s**

There are vital components of DMs such as total GVA, population and number of LMs that will be affected if the ANC implements the policy of removing strong LMs from DMs. DMs will see a vast reduction in population numbers and economic activity. Table 3 below shows the difference in population numbers and GVA between DMs and LMs and reflects the potential reduction DMs could be facing.



**TABLE 3: DM population, GVA-R, number of LMs, B1, percentage B1 population per DM, major town, B1 GVA and percentage B1 GVA per DM.**

DM	DM POP	DM GVA R'000	LMs	B1	% B1 POP/DM	MAJOR TOWN	B1 GVA R'000	% B1 GVA/DM
Lejweleputswa	685 596	15 294 569	5	Matjhabeng	62%	Welkom	12 481 829	82%
Sedibeng	946 555	20 241 674	3	Emfuleni	83%	Vereeniging	14 740 081	73%
West Rand	887 598	21 710 084	4	Mogale City	40%	Krugersdorp	9 914 604	46%
Amajuba	519 849	9 146 030	3	Newcastle	71%	Newcastle	7 393 419	81%
Umgungundlovu	1 035 358	22 968 461	7	Msunduzi	59%	Pietermaritzburg	17 025 979	74%
Uthungulu	984 040	22 954 447	6	Umhlatuze	36%	Richards Bay	9 352 082	41%
Capricorn	1 267 789	26 441 713	5	Polokwane	44%	Polokwane	17 787 952	67%
Ehlanzeni	1 555 511	31 170 845	5	Mbombela	33%	Nelspruit	20 560 169	66%
Gert Sibande	967 422	34 336 787	7	Govan Mbeki	25%	Secunda	19 949 096	58%
Nkangala	1 094 708	42 817 913	6	Emalahleni	41%	Witbank	19 555 821	84%
				Steve Tshwete		Middelburg	16 204 036	
Frances Baard	360 095	12 813 747	4	Sol Plaatje	63%	Kimberley	11 155 364	87%
Siyanda	224 987	8 546 146	6	Khara Hais	39%	Upington	2 334 071	27%
Bojanala	1 275 712	53 950 951	5	Rustenburg	62%	Rustenburg	32 792 742	82%
				Madibeng		Brits	11 541 111	
Kenneth Kaunda	643 210	16 976 378	4	City of Matlosana	81%	Klerksdorp	10 591 304	96%
				Tlokwe		Potchefstroom	5 730 392	
Ngaka Modiri Molema	820 371	14 187 693	5	Mafikeng	34%	Mafikeng	8 110 226	57%
Cape Winelands	727 731	23 864 495	5	Drakenstein	50%	Paarl	7 367 594	55%
				Stellenbosch		Stellenbosch	5 791 135	
Eden	525 261	18 553 662	7	George	33%	George	5 813 902	31%

Sources: *Gaffney's Local Government Yearbook 2011-13*. Global Insight 2012.

The table shows that the B1s have the bulk of the population. This ranges between 25 and 83 percent for the 21 B1s in the 17 DMs. The B1s also contribute the bulk of the GVA for the district. This ranges between 27 and 96 percent. This is experienced more acutely for DMs that have two B1s within their area. Nkangala, Bojanala, Dr Kenneth Kaunda and Cape Winelands DMs face a possible reduction of 84, 82, 96 and 55 percent respectively in their GVA-R. This has further consequences for the configuration of DMs. Removing of the B1s from DMs will reduce the number of remaining LMs in the DMs and affect contiguity. There are wider policy implications for DMs when B1s are removed from DMs. It will affect the number of councillors they need and revenue transfers they receive from NT, that in turn affect their finances, which they need to run their administrations. It will also affect personnel needed and threaten the vested interest of politicians.

### 5.3 PR Councillors per province and district

Implementation of the ANC policy choice of removing B1s from DMs may have serious implications for district councillors. The 21 B1s are situated in 17 DMs spread across all but one province, the EC. The main question is therefore whether the 17 DMs will require the same amount of councillors if the ANC policy choice of removing the 21 B1s from those DMs is implemented? It is in the impact on councillors that the implementation of the policy choice will be most visible. The reason for this is the method used to determine the number of councillors per municipality. Section 20(1)(a) of the Structures Act states that the number of councillors of a municipality must be determined by using a formula determined by the Minister and that the formula must be based on the number of voters per municipality. Section 23(2)(a) states that the number of councillors representing LMs in a district council must be equal to 60 percent of the number of councillors as determined by section 20(1)(a). For example, if a district council has 10 councillors as per section 20(1)(a), 60 percent must be indirectly elected councillors from the LMs as per section 23(2)(a). The remaining 40 percent constitute PR councillors for the district council. If B1s are removed from DMs the number of voters in the DM will be reduced. Theoretically, a reduction in the number of voters would see a reduction in the number of PR councillors as per section 20(1)(a).

Table 4 reflects councillor representation per number of voters for the 17 DMs and indicates the projected loss of total councillors and then PR councillors per DM. This is based on the current number of DM voters per councillor. For example, if a DM has 10 councillors and 50 000 voters, the ratio is 1: 5000. This is used to determine the number of councillors if the B1s are removed from the DMs. The new total number of councillors is then split 60:40 to determine the new number of PR councillors.

**TABLE 4:** Councillors (60:40) for the 17 DMs per province and projected loss of councillors.

PROV	DM	B1	DM CLLRS	PR CLLRS	DM VOTERS	B1 VOTERS	DM VOTERS/D M CLLR	DM VOTERS/D M CLLR %	DM V'S - B1 V'S	% LOSS DM V'S - B1 V'S	DM CLLRS REM.	LOSS OF DM CLLRS	% LOSS OF DM CLLRS	PR CLLRS REM.	LOSS PR CLLRS	%LOSS PR CLLRS
FS	Lejweleputswa	Matjhabeng	38	16	311 303	203 593	8 192	3%	107 710	65%	13	25	65%	5	11	67%
GP	Sedi beng	Emfuleni	48	19	435 154	342 715	9 066	2%	92 439	79%	10	38	79%	4	15	79%
	West Rand	Mogale City	44	18	396 577	175 799	9 013	2%	220 778	44%	24	20	44%	10	8	46%
KZN	Amajuba	Newcastle	25	10	201 267	149 136	8 051	4%	52 131	74%	6	19	74%	3	7	74%
	uMgungundlovu	Msunduzi	45	18	466 279	282 708	10 362	2%	183 571	61%	18	27	61%	7	11	61%
	uThungulu	Umhlatuze	41	17	414 834	154 544	10 118	2%	260 290	37%	26	15	37%	10	7	39%
LP	Capricorn	Polokwane	53	21	519 393	239 953	9 800	2%	279 440	46%	29	24	46%	11	10	46%
MP	Ehlanzeni	Mbombela	69	28	698 974	254 137	10 130	1%	444 837	36%	44	25	36%	18	10	37%
	Gert Sibande	Govan Mbeki	48	19	444 302	131 576	9 256	2%	312 726	30%	34	14	30%	14	5	29%
	Nkangala	Emalahleni	59	24	575 039	167 690	9 746	2%	309 286	46%	32	27	46%	13	11	47%
		Steve Tshwete				98 063										
NC	Frances Baard	Sol Plaatje	27	10	184 671	121 367	6 840	4%	63 304	66%	9	18	66%	4	6	63%
	Siyanda	Khara Hais	21	8	113 615	46 956	5 410	5%	66 659	41%	12	9	41%	5	3	38%
NW	Bojanala	Madibeng	68	27	679 018	203 510	9 986	1%	233 076	66%	23	45	66%	9	18	65%
		Rustenburg				242 432										
	Dr Kenneth Kaunda	City of Matlosana	39	16	328 598	184 971	8 426	3%	54 685	83%	6	33	83%	3	13	84%
		Tlokwe				88 942										
	Ngaka Modiri Molema	Mafikeng	41	16	356 842	124 092	8 703	2%	232 750	35%	27	14	35%	11	5	33%
WC	Cape Winelands	Drakenstein	40	16	346 971	115 089	8 674	3%	152 332	56%	18	22	56%	7	9	56%
		Stellenbosch				79 550										
	Eden	George	35	15	292 129	90 601	8 347	3%	201 528	31%	24	11	31%	10	5	36%
TOT	17	21	741	298	6 764 966	3 497 424	150 119		3 267 542		356	385		142	156	
AVE			44	18	397 939	205 731	8 831	3%	192 208	52%	21	23	53%	8	9	53%

Sources: IEC LGE Candidate and Councillor Reports 2012. *Gaffney's Local Government Yearbook 2011-13.*

Removal of B1s from DMs will see a significant reduction in the number of PR councillors in district councils. On average the ratio of DM councillor to DM voters is 1: 8831. Implementation of the policy will see a loss of 156 PR councillors, at an average reduction of 53 percent of PR councillors for the 17 DMs. Sedibeng and Dr Kenneth Kaunda DMs will see a reduction of 79 and 84 percent respectively in the number of PR councillors. The B1s contain the bulk of the voters for the district and if a B1 is removed from a DM so are the bulk of the voters.

Section 20 of the Structures Act allows for some differentiation based on the category of municipality and allows the MEC for local government in a province to deviate from the numbers as determined by the formula, but only under qualified circumstances. The deviation may also not be more than three if the allocated number of councillors is 30 or fewer, or 10 percent of the allocated number if there are more than 30 councillors as per section 20(4)(a) and (b). In terms of any deviation the room to manoeuvre is limited. It is unlikely that the Minister will adjust the formula so as to accommodate for the reduction in voters as a means to retain councillors as this will mean an increase of PR councillors in all other DMs. In total there will be a loss of 156 PR councillors. Will the ANC redeploy their member councillors? And if so, where to?

#### **5.4 District mayors on regional or provincial political structures**

There are 44 DMs in South Africa and if the less preferred option of absorbing DMs into national/provincial government should be implemented those 44 district mayors all stand to lose their positions and with it their livelihood. If the preferred option of removing 21 B1s from 17 DMs is implemented there may still be casualties amongst the mayors. At the very least their fiefdoms will drastically be reduced in size and revenue base. Table 5 reflects the mayors of the 17 DMs per province and whether or not those mayors are serving on Regional Executive Committees (RECs) or Provincial Executive Committees (PECs) of the ANC, and in what capacity. The information was sourced by making telephone calls to the individual DMs and speaking either to the mayors or their personal assistants.

**TABLE 5:** Mayors and their position within the ANC (REC and PEC) structures.

PROVINCE	DISTRICT MUNICIPALITIES	MAYORS SERVING REGIONAL/PROVINCIAL POLITICAL STRUCTURES
<b>FREE STATE</b>	Lejweleputswa	ANC REC Chairperson <i>ex officio</i> PEC member
<b>GAUTENG</b>	Sedibeng	ANC REC Chairperson <i>ex officio</i> PEC member
	West Rand	ANC REC Chairperson <i>ex officio</i> PEC member
<b>KWAZULU NATAL</b>	Amajuba	ANC REC Deputy Chairperson
	uMgungundlovu	ANC PEC member
	uThungulu	ANC REC Deputy Secretary
<b>LIMPOPO</b>	Capricorn	ANC REC Chairperson <i>ex officio</i> PEC member
<b>MPUMALANGA</b>	Ehlanzeni	ANC PEC member
	Gert Sibande	ANC PEC womens league
	Nkangala	ANC REC member
<b>NORTHERN CAPE</b>	Frances Baard	ANC PEC member
	Siyanda	ANC REC Chairperson <i>ex officio</i> PEC member
<b>NORTH WEST</b>	Bojanala	ANC REC Chairperson <i>ex officio</i> PEC member
	Dr Kenneth Kaunda	ANC PEC member
	Ngaka Modiri Molema	ANC REC member
<b>WESTERN CAPE</b>	Cape Winelands	DA member
	Eden	DA member

Rule 21.1 of the ANC constitution states that the National Executive Committee (NEC) will supervise the PECs in their division of the province into regions to facilitate more democratic and efficient functioning of the ANC. Rule 21.2 states that these regions will be demarcated to adhere strictly to district (and metro) boundaries in the province. If these 21 B1s are removed from the DMs and become stand-alone municipalities the ANC may have to establish 21 new RECs.

In total 36 mayors from 39 ANC-held DMs (representing 92 percent) are serving on RECs, PECs, or both. Of the 36, 15 mayors (representing 41 percent) are Chairpersons of their respective RECs. There are also 9 mayors (representing 25 percent) that are members of PECs. If the option of removing the 21 B1s from the 17 DMs is implemented it affects 17 RECs and, by extension, 17 mayors. The 17 DMs constitute 43 percent of the total DMs which will have their senior councillors affected. Over one third (35 percent) of the mayors are REC Chairpersons. One of the mayors is REC Deputy Chairperson. One mayor is a REC Deputy Secretary. Three mayors (18 percent) are ordinary members of the ANC. Five mayors (29 percent) are members of the PEC, which is significant because REC Chairpersons and

Secretaries are also *ex officio* members of the PECs as per Rule 19.4 of the ANC Constitution as amended 2007. This means that 65 percent of the mayors are members of PECs as per Rule 19.4 of the ANC Constitution. These are powerful and influential politicians that may be faced with the possibility of having their power base reduced or even wiped out.

## 5.5 Services

DMs have little, if any real presence in the B1s. The secondary cities perform all the main functions and also the priority and shared functions. Of the 17 DMs there are 5 C2s, of which only 3 are WSAs/WSPs. The other 13 are all C1s. According to Steytler DMs perform almost no functions in the B1s; he stated that in the LMs of Buffalo City, Mangaung, Emfuleni and Msunduzi the DMs had, before 2011, hardly any presence or impact.<sup>165</sup> This is confirmed in the MDB *Capacity Assessment Report 2012* which indicates that B1s are performing almost all of the functions, including non-statutory functions.<sup>166</sup> Therefore, the removal of B1s should have little if any impact on DMs in relation to the provision of functions and services.

## 5.6 Personnel numbers for 17 DMs per province

There may be no real impact on personnel because DMs are not active in the B1s. In theory the main impact may be financial in relation to affordability. There are over 5 000 personnel for the 17 DMs and the services they provide may stay the same. These personnel are performing mainly governance, administration, and planning and development functions. The question is: where will the money come from to pay the personnel? See next section for impact on finances. Table 6 reflects the personnel numbers of the 17 DMS for each province.

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<sup>165</sup> Steytler (2007) 12.

<sup>166</sup> MDB (2012) *Capacity Assessment 'Comparative Report Cards'*.

**TABLE 6:** Number of personnel employed by 17 affected DMs.

PROVINCE	DISTRICT MUNICIPALITIES	PERSONNEL NUMBERS
FREE STATE	Lejweleputs wa	76
		<b>76</b>
GAUTENG	Sedibeng	865
	West Rand	400
		<b>1265</b>
KWAZULU NATAL	Amajuba	99
	uMgungundlovu	387
	uThungulu	283
		<b>769</b>
LIMPOPO	Capricorn	523
		<b>523</b>
MPUMALANGA	Ehlanzeni	151
	Gert Sibande	129
	Nkangala	96
		<b>376</b>
NORTHERN CAPE	Frances Baard	170
	Siyanda	96
		<b>266</b>
NORTH WEST	Bojanala	340
	Dr Kenneth Kaunda	152
	Ngaka Modiri Molema	277
		<b>769</b>
WESTERN CAPE	Cape Winelands	541
	Eden	571
		<b>1112</b>
<b>TOTAL</b>		<b>5156</b>

Source: *MDB Capacity Assessment Report 2012*.

The 17 DMs employ a considerable number of personnel. The likely impact on over 5000 people if the policy choice of removing B1s from DMs is approved and implemented will be negligible because DMs will still perform the same functions. There will be no reduction in personnel because DMs will still perform functions in remaining LMs. Some DMs may be disestablished, which will affect senior management personnel. The real problem will be financial: whether or not DMs will be able to pay for existing personnel based on the current system of local government financing for DMs.

## 5.7 Finances and budgets

The way in which DMs are funded would result in a significant loss in revenue if the ANC policy choice of removing BIs from DMs is implemented. DMs would lose the bulk of their revenue base as determined by the existing funding model. There are three main ways through which districts are funded:

- Fees for services rendered;
- By charging surcharges on tariffs for services they provide; and
- Transfers: (i) Equitable Share (ES),  
(ii) RSC Replacement Grant, and  
(iii) Conditional Grants.

It has been established that DMs raise little revenue through fees for services they provide. Charging surcharges on fees for services is therefore not a source of revenue for these DMs as they provide no real services. What is left are the ES and RSC levy replacement grant. The ES is calculated based on the following:<sup>167</sup>

- The *Basic Services component* constitutes 92.1 percent of the ES and provides for the cost of providing free basic services and municipal health services. The objectives of the basic services component are to support poor households; distinguish between connector services and alternative service-delivery mechanisms; recognise water, sanitation, refuse removal and electricity reticulation as core services; and provide municipal health services to all households. The allocation is calculated based on the subsidies for the core services, number of households connected/not connected to the core services and total number of households.
- The *Development component* is dormant.
- The *I-component* constitutes 7.9 percent of the ES and subsidises basic municipal administrative costs and is determined based on population, councillor and poor household numbers.
- *Revenue-raising capacity correction component* compensates for variation in revenue-raising capacity between municipalities by deducting 7 percent of the value of the ES, mainly from wealthier municipalities, to subsidise poorer municipalities.

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<sup>167</sup> National Treasury (2012a) *W1 Explanatory Memorandum to the division of revenue* 33. Available at: <http://www.treasury.gov.za/documents/national%20budget/2012/review/Annexure%20W1.pdf> (Accessed 2012/10/24).



- *Correction and stabilisation factor* – ensures guarantees in the formula can be met and constitutes a small portion of the final ES allocations.

Table 7 reflects DMs and B1s across provinces per population numbers, budgets, GVA-R per DM. It is important to show the differences in population numbers, budgets and GVA between DMs and LMs when stating that DMs are going to have large parts of their revenue bases affected when B1s become stand-alone municipalities, and the possible knock-on effects resulting from that. Looking at Table 3 above it is evident that there is considerable overlap with Table 7. This is deliberate. Table 3 serves as a broad picture of population numbers and GVA-R of the 17 DMs and 21 B1s. The purpose of this is to give an introductory view that familiarises the reader with the argument as it progresses. Table 7 includes budgets and how these may be affected.



**TABLE 7:** DMs and B1s disaggregated between population number, budgets and number of LMs per DM and number of LMs and population remaining after B1s are been removed.

	DM	DM		DM GVA R'000	B1	B1		B1 GVA R'000	DMs – B1s	% LOSS DM POP	B1 % GVA/ DM
		POP.	BUDGET R'000			POP.	BUDGET R'000		POP.		
1	Lejweleputswa	685 596	106 251	15 294 569	Matjhabeng	425 929	1 578 947	12 481 829	259 667	62%	82%
2	Sedibeng	946 555	325 263	20 241 674	Emfuleni	784 276	3 555 193	14 740 081	162 279	83%	73%
3	West Rand	887 598	251 977	21 710 084	Mogale City	352 244	1 472 162	9 914 604	535 354	40%	46%
4	Amajuba	519 849	193 514	9 146 030	Newcastle	369 842	1 235 141	7 393 419	150 007	71%	81%
5	Umgungundlovu	1 035 358	456 546	22 968 461	Msunduzi	614 038	2 684 234	17 025 979	421 320	59%	74%
6	Uthungulu	984 040	574 227	22 954 447	Umhlathuze	349 576	2 019 150	9 352 082	634 464	36%	41%
7	Capricorn	1 267 789	571 812	26 441 713	Polokwane	555 464	2 064 005	17 787 952	712 325	44%	67%
8	Ehlanzeni	1 555 511	192 290	31 170 845	Mbombela	512 622	1 803 591	20 560 169	1 042 889	33%	66%
9	Gert Sibande	967 422	257 677	34 336 787	Govan Mbeki	238 357	1 076 105	19 949 096	729 065	25%	58%
10	Nkangala	1 094 708	317 768	42 817 913	Emalahleni	297 116	1 226 797	19 555 821	644 125	41%	84%
					Steve Tshwete	153 467	1 110 135	16 204 036			
11	Frances Baard	360 095	104 183	12 813 747	Sol Plaatje	225 083	1 323 103	11 155 364	135 012	63%	87%
12	Siyanda	224 987	95 744	8 546 146	Khara Hais	86 717	400 668	2 334 071	138 270	39%	27%
13	Bojanala	1 275 712	488 633	53 950 951	Rustenburg	415 201	2 330 919	32 792 742	487 698	62%	82%
					Madibeng	372 813	983 588	11 541 111			
14	Kenneth Kaunda	643 210	168 938	16 976 378	City of Matlosana	385 282	1 740 005	10 591 304	120 255	81%	96%
					Tlokwe	137 673	767 034	5 730 392			
15	Ngaka Modiri Molema	820 371	531 287	14 187 693	Mafikeng	278 320	461 616	8 110 226	542 051	34%	57%
16	Cape Winelands	727 731	470 063	23 864 495	Drakenstein	224 476	1 396 225	7 367 594	366 194	50%	55%
					Stellenbosch	137 061	904 263	5 791 135			
17	Eden	525 261	243 277	18 553 662	George	172 536	1 183 706	5 813 902	352 725	33%	31%
<b>TOT</b>		14 521 793	4 798 932	395 975 597		7 088 093	31 316 587	266 192 909	7 433 700		
<b>AVE</b>		854 223	282 290	23 292 682		416 947	1 842 152	15 658 406	437 276	50%	65%

Source: *Gaffney's Local Government Yearbook 2011-13*. Global Insight 2012.

### 5.7.1 Impact of DMs – B1s on Equitable Share transfer

#### ***Basic Services Component***

The Basic Services component applies to all households. In DMs this includes the population of the B1s. The Basic Services component constitutes 92.1 percent of the ES transfer. This is a significantly high proportion of the ES allocation. This is because the objective is to subsidise the delivery of free basic services to poor households. Therefore, if the population of DMs is reduced so is the number of households. On average DMs stand to see a reduction of 50 percent of their population if B1s are removed from DMs. For 2 DMs the reduction in population is over 80 percent. Considering that the Basic Services component constitutes over 90 percent of the ES transfer, removal of B1s from DMs will see an average reduction in the ES transfer to DMs of at least half. For DMs that raise very little own revenue this will be a significant reduction in finances.

#### ***Institutional Component***

The I-component is significant because it funds the cost of a municipality's administration and is determined by population numbers and number of poor households. It is also determined by taking into account the base allocation for each municipality, allocations for councillors and number of seats. If B1s are removed from DMs they take with them the bulk of the population, councillors and a large portion of poor households. The I-component of the ES will now be determined minus the B1 population, councillors and poor households.

A decrease in the population leads to a decrease in the number of voters, which would lead to a decrease in the number of councillors. Removing B1s from DMs results in a decrease in the main components used to determine the ES. It will now be determined based on reduced councillor, population and poor household numbers. The funding formula cannot be changed as it must apply to all municipalities.

According to Palmer DMs spend about half of their budgets on governance and administration activities.<sup>168</sup> It has been established that removal of B1s from DMs will see a reduction of over 50 percent in population and councillors, which means at least half of their

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<sup>168</sup> Palmer (2009) 96.

budgets may be cut. Theoretically personnel numbers may have to be reduced because the DM should have a smaller administration based on the removal of the B1. The DM will be unable to fund the same size administration because of a reduction in the I-component of the ES. For example, Emfuleni LM has a population of 784 276 and Sedibeng DM has a population of 946 555. The removal of the B1 from the DM sees the DM left with a population of 162 279. That total constitutes a reduction in population of 83 percent for the DM (*See Table 7*). Voter numbers will be reduced and because voter numbers are used to determine councillor numbers there will be a reduction in councillor numbers. For example, Sedibeng will see a reduction of 79 percent in councillor numbers (*See Table 4*). DMs will have considerably less money but will be left with the same service delivery obligations and the same staff numbers.

### **5.7.2 RSC levy replacement grant**

Based on the current formula it is in the RSC replacement grant that DMs will feel the financial effects acutely because it is based on economic activity - business payroll and turnover taxes. For example, Dr Kenneth Kaunda DM will see a dramatic reduction in the basis for the replacement levy equivalent to the B1s contribution of the regional GVA totalling 96 percent. The removal of 2 B1s will wipe out the DM's GVA. The removal of Sol Plaatje LM will see a reduction of 87 percent of the GVA contribution of Frances Baard DM. Overall the B1s contribution to the GVA of DMs ranges between 27 and 96 percent. There will thus be significant impact on DMs financially if B1s are removed from DMs. What this means is that in reality the basis for the RSC levy replacement will no longer be valid as the removal of B1s from DMs will see a reduction of 65 percent of GVA on average for DMs.

The *Cities Network Report* recognises that demographic strength and GVA-R are two important indicators of an area's importance to the national economy. Added to this is the size of the municipal budget.<sup>169</sup> Table 7 shows two distinct patterns: B1s have budgets that are considerably larger than that of the DMs. B1s on average contribute the bulk of GVA for the district. Take Amajuba DM for example. The B1 contributes over R7b in GVA towards the region's R9b, meaning that the B1 generates the bulk of economic activity in the region.

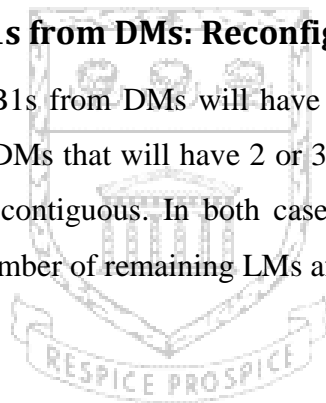
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<sup>169</sup> *Cities Report* (2012) 14.

The situation is similar when comparing the budgets. The total budget for Amajuba DM is R193.514m and the total budget for Newcastle LM is R1,235.141b. The budget for the B1 is a billion rand more than that of the DM. The budget for the district is roughly one sixth the size of the secondary city's budget. This indicates that practically all of the economic activity is concentrated in and around the B1, which is home to almost three quarters of the district population. For Amajuba DM losing 71 percent of their population theoretically should result in a significant downward adjustment in the ES allocation. It is a similar situation for Emfuleni LM in Sedibeng DM. Sedibeng DM has a population of 946 555 and Emfuleni LM has a population of 784 276. The B1 municipality constitutes 83 percent of the population for the DM. The budgets are also similar, the B1 has a budget of R3,555.193b and the DM has a budget of R325.263m. The B1 has a budget that is more than ten times that of the DM.

### **5.7.3 Removal of B1s from DMs: Reconfiguring DMs**

The ANC policy of removing B1s from DMs will have further knock-on consequences for DMs. First, there will be some DMs that will have 2 or 3 LMs remaining. Second, there will be DMs that will become non-contiguous. In both cases re-demarcation may be required. Table 8 reflects DMs and the number of remaining LMs after the B1s have been removed.



**TABLE 8:** LMs remaining in DMs after removing B1s and non-contiguous remaining DMs.

	DM	B1	LMs	DMs-B1s LMs REM.	NON- CONTIGUOUS
1	Lejweleputswa	Matjhabeng	5	4	
2	Sedibeng	Emfuleni	3	2	
3	West Rand	Mogale City	4	3	
4	Amajuba	Newcastle	3	2	
5	Umgungundlovu	Msunduzi	7	6	
6	Uthungulu	Umhlathuze	6	5	
7	Capricorn	Polokwane	5	4	←
8	Ehlanzeni	Mbombela	5	4	
9	Gert Sibande	Govan Mbeki	7	6	
10	Nkangala	Emalahleni	6	4	←
		Steve Tshwete			
11	Frances Baard	Sol Plaatje	4	3	
12	Siyanda	Khara Hais	6	5	
13	Bojanala	Rustenburg	5	3	←
		Madibeng			
14	Kenneth Kaunda	City of Matlosana	4	2	←
		Tlokwe			
15	Ngaka Modiri Molema	Mafikeng	5	4	
16	Cape Winelands	Drakenstein	5	3	
		Stellenbosch			
17	Eden	George	7	6	←

Source: *Capacity Assessment Report 2012*.

### **Numbers of LMs**

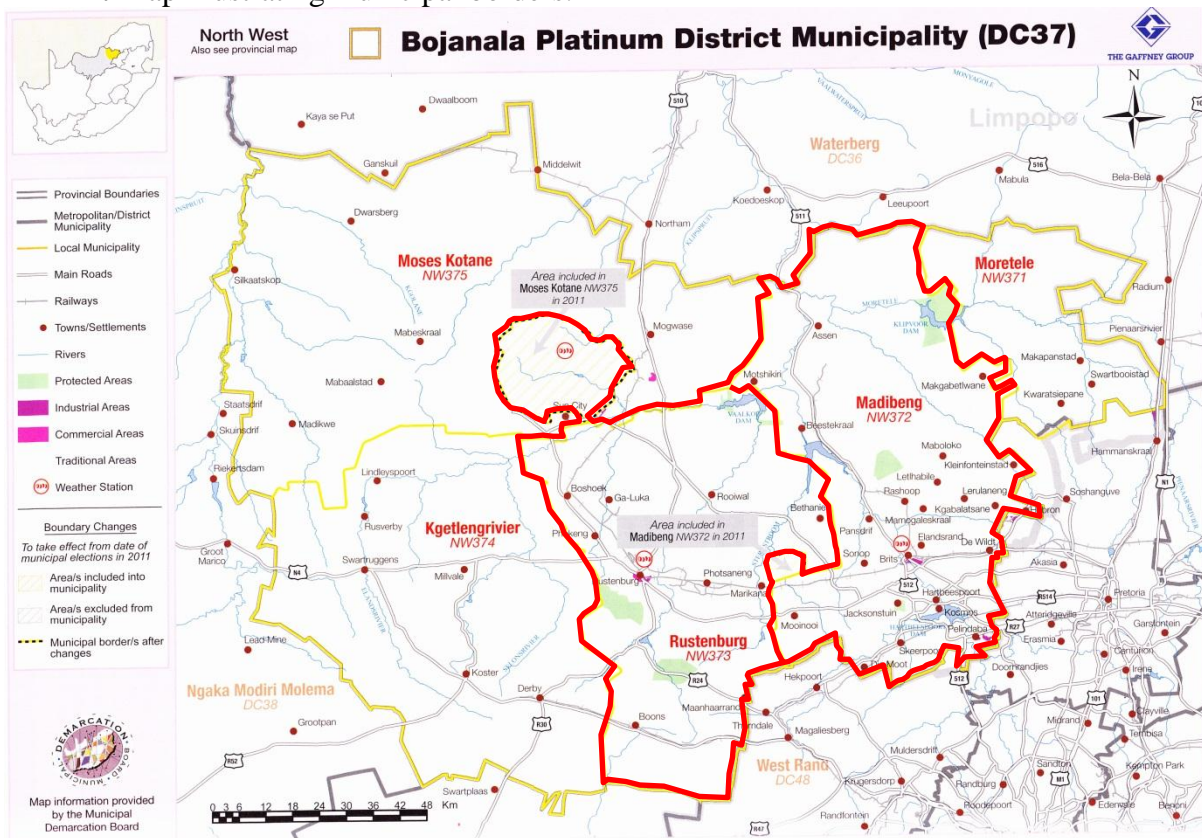
In the examples of Newcastle and Emfuleni the DMs only have three LMs in their area. Removing the B1s from those DMs mean that the DMs are left with only two remaining LMs. In terms of the MDB policy this was the reason Motheo and Metsweding DMs were disestablished, as having only two LMs in a district would be nothing more than a duplication of the LMs. Therefore, in addition to re-establishing DMs after B1s have been removed there may also be further disestablishment of DMs. In total there are 4 DMs that will be left with 3 LMs remaining and there are 3 DMs that will be left with 2 LMs remaining. Disestablishment of at least 3 DMs on this ground is thus on the cards.

### **Contiguity of LMs**

If the ANC policy choice of removing B1s from DMs is approved and implemented there will be 5 DMs that will become non-contiguous. Of these 5 DMs, Bojanala and Kenneth

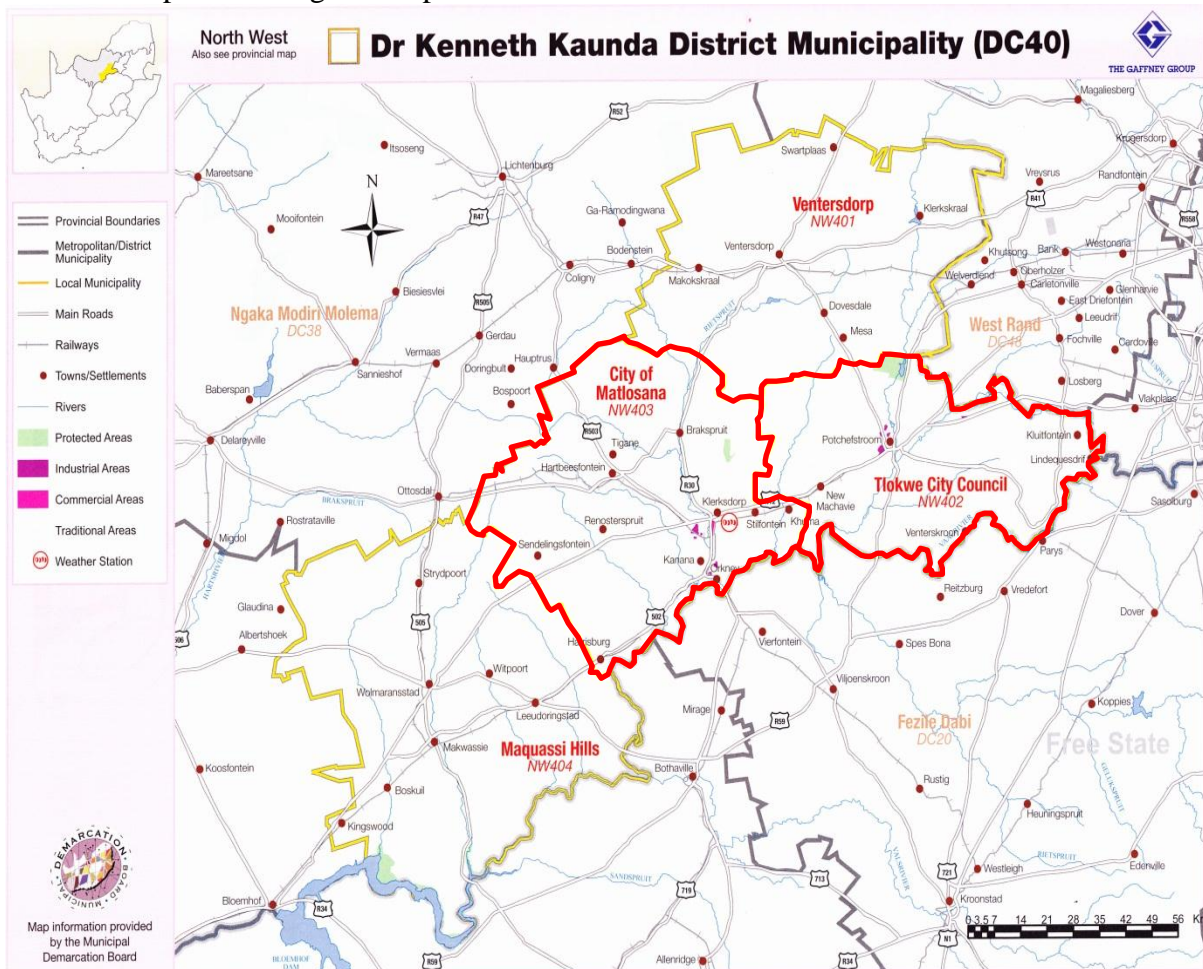
Kaunda will have 3 and 2 LMs remaining respectively. In LP the removal of Polokwane LM from Capricorn DM will see Lepelle-Nkumpi LM separated from the rest of the LMs in the district. In MP the removal of Emalahleni LM from Nkangala DM separates the remaining LMs from each other. It is the same for Bojanala, Dr Kenneth Kaunda and Eden DMs. The example of Bojanala DM is interesting because removal of Madibeng LM from the DM isolates Moretele LM from the remaining LMs in the district against the provincial borders of LP and GP. Maps 1 and 2 below show the non-contiguity that will occur as a result of the policy choice of removing B1s from DMs.

**MAP 1:** Map illustrating municipal borders.



Source: MDB Website.

**MAP 2: Map illustrating municipal borders.**



Source: MDB Website.

From the above map we can see that the removal of the City of Matlosana and Tlokwe LMs clearly separates Venterdorp and Maquassi LMs from each other. Not only is the DM left with only 2 remaining LMs, those LMs are not contiguous. A better option may be to incorporate Venterdorp LM into Bojanala DM and Maquassi LM into Ngaka Modiri Molema DM. They may even be absorbed into the newly created A2s.

### 5.8 Concluding remarks

The likely impact of the ANC policy choice of removing B1s from DMs will have significant impact on DM councillors. PR councillors will be slashed by half. Overall the number of councillors that may lose their positions is not significant but it will affect major politicians because 65 percent of the mayors are members of the PECs. There should be no impact on



service delivery as DMs are not active in the BIs. As a result, personnel should not be affected directly in this way. However, personnel may be affected based on the reduction in the budgets of DMs by at least 50 percent. The policy choice will have an impact on DMs as it would require a re-configuring of DMs based on both remaining numbers of LMs and the split that creates non-contiguous LMs in the DMs.



## **Chapter Six: Conclusion: The likely impacts of the policy option on the practice of DMs and the adoption of the policy.**

### **6.1 Introduction**

The preferred ANC policy choice for reform of the two-tier system of local government is the removal of strong LMs from DMs. The policy choice is likely to have a significant impact on the practice of DMs in relation to (a) councillors, (b) political party (ANC), (c) services, (d) personnel, and (e) finances. The final question is how the likely impacts will/may influence the adoption and implementation of the policy choice. Will the likely impacts on the above-mentioned factors constrain or facilitate the adoption and implementation of the policy choice? The likely impacts will constrain the adoption and implementation of the policy choice if it threatens/impacts on vested interests. It will facilitate adoption and implementation of the policy choice if it cost-saves and improves service delivery. Any kind of policy debate or attempted reform must be based on empirical information. By assessing the likely impacts we may determine the policy space for manoeuvre.

### **6.2 PR Councillors**

For PR councillors in the 17 DMs adoption and implementation of the policy choice will have a significant impact. More than half the number of PR councillors will be slashed. This inevitably means a reduction in the number of politicians elected. How significant will the problem be? Compared to all PR councillors for the 44 DMs the problem may not be very significant because the total loss of councillors will be 24 percent. However, any loss may/will lead to resistance against the adoption and implementation of the policy choice. Looking at past practice there was a minimal reduction in the number of councillors in 2000 when 842 TLCs were reduced to 284. Since 2000 there has been no reduction in the number of councillors. Full-time councillors earn a salary of between R400,000 and R800,000 all-inclusive per year and part-time councillors earn between R100,000 and R400,000 depending on their municipality's grade.<sup>170</sup> Most if not all of the executive leadership of DMs come

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<sup>170</sup> Republic of South Africa (2011) Determination of upper limits of salaries, allowances and benefits of different members of municipal councils. (Proclamation No. R. 1064, 2011) December 14 (Regulation

from PR councillors. A significant reduction in the numbers of PR councillors in the 17 DMs will thus impact on the vested interests of those councillors. This likely impact will need to be managed. But what are the options? The options are limited because there is one formula used for determining the number of councillors. If the formula is increased it will automatically increase councillor numbers for all municipalities. Will these ANC members support a policy that will see them lose their positions and with it their livelihoods? Self-preservation may surface and councillors who stand to lose their positions may lobby against any such proposal. The loss of councillors will have a significant impact on vested interests and will therefore constrain the adoption and implementation of the policy choice.

### **6.3 Political impacts on ANC**

RECs are demarcated to adhere strictly to district and metro municipal boundaries and by removing a B1 from the DM the REC may have to be split as the new A2s (similar to metros) will get their own RECs. This would necessitate the establishment of 21 new REC's by splitting the 17 DMs. By removing the B1s from DMs the split will dramatically reduce the population and economic activity in DMs. This will lead to contestation for control of the newly created A2 as the DM will be left with negligible population numbers and resources. This contestation will prove problematic as current mayors of the 17 DMs are likely to opt for control of the new A2s. This is because the new A2s will have the bulk of the population, voters, budget and GVA-R, which may lead to contests with sitting mayors of B1s.

Mayors for DMs are well remunerated, NT estimates that on average mayors earn a total package of R1 179 120 and executive mayors earn a total package of R 1 486 311 per year.<sup>171</sup> These mayors are important members of the ANC. Will these mayors support a proposal that sees them lose well over a million rand a year in salaries? There will thus be a significant impact on vested interests and may constrain the adoption and implementation of the policy choice. However, this should not prove to be an insurmountable obstacle.

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Gazette No. 34869) 7.

<sup>171</sup> National Treasury (2011) *Budget and Expenditure Review 2006/7 – 2012/13* 239.

## 6.4 Services

There should be no real impact on DM services as DMs are not active in B1s. The removal of B1s will thus not have any disruption on service delivery. From a total of 17 DMs 12 are not WSAs/WSPs. Of the five remaining C2s, two are WSAs only and three are both WSAs/WSPs. This constitutes a small number of DMs and will therefore not have a significant impact on water services. It may, however, have a significant positive impact on service delivery in the B1s as it would mean a less complex governance regime that a single-tier municipality provides.

Steytler noted that single-tier local government is considered the preferred option for large, high-density urban populations, which describes current metros, and would be suitable for the next level of urban concentrations: creating of new category As by removing secondary cities from DMs.<sup>172</sup> He stated further that a single-tier system would be suitable for this next level of urban concentration because it leaves one municipal authority to focus on and specialise in developing the local economy and reducing poverty.<sup>173</sup> Steytler asserted that the underlying point the White Paper was making was that local government needed specialist municipalities that focus on urban issues such as distribution of resources, strategic land-use planning, coordinated public investment in infrastructure and developing a city-wide framework for socio-economic development.<sup>174</sup> This is also the fundamental basis for NT's *Cities Support Programme*, which has as its main objectives the management of the urban built environment, economic development and altering the economic geography of the cities.<sup>175</sup> Improving service delivery for B1s may therefore facilitate the adoption and implementation of the policy choice.

## 6.5 Personnel

Adoption and implementation of the policy choice will impact on personnel because of affordability and finances. As will be seen from the next section there will be a significant

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<sup>172</sup> Steytler (2009) 86.

<sup>173</sup> Steytler (2009) 86.

<sup>174</sup> Steytler (2007) 6.

<sup>175</sup> National Treasury (2012) *Cities Support Programme* 5-7.

reduction in funding to the DMs. Implementation of the policy choice will therefore have cost implications because DMs generate little own revenue and receive the bulk of their finances through transfers. The adjustment in the transfers to DMs will have a significant impact on the finances of DMs. The size of the DMs will be reduced (they will have significantly less people) and they will have less financial resources (reduction in transfers). Looking at operating expenditure for municipalities, employee costs account for the largest portion of operating expenditure, averaging at about 30 percent.<sup>176</sup> Difficulties may arise in the case of Municipal Managers (MM) (and other senior managers). Will reduced DMs be able to afford MMs and other personnel? A further problem is the possible disappearance of DMs. In addition there are a possible 7 DMs that may be disestablished as a result of the policy choice because they will have 2 or 3 LMs remaining. There are also 5 DMs that will become non-contiguous as a result of the policy choice. Of these 5 DMs, 2 will also have between 2 and 3 LMs remaining. What happens to the district MM if the local already has one? These likely impacts will therefore restrain adoption and implementation of the policy choice because there will be resistance to it. People will want to protect their jobs.

## 6.6 Finances

DMs generate very little own revenue. The bulk of funding for DMs comes from national transfers. The two main transfers are the ES and RSC replacement. The adoption and implementation of the policy choice will have significant impact on DM finances. The ES is calculated based on size of the population, councillors, households, their income and whether they are serviced or not.<sup>177</sup> Removing B1s from DMs would reduce these components within DMs. Removing B1s from the DMs would have significant financial implications for DMs as in most cases the B1s will take the bulk of the revenue base with them. Theoretically, DMs should receive less money through the ES from NT if B1s become stand-alone municipalities. This should necessitate a review of the fiscal policy for DMs.

Removal of B1s from the DMs will affect the ES calculation as the I-Component uses population and number of poor households in calculating the transfer. The I-Component in

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<sup>176</sup> National Treasury (2011) 63.

<sup>177</sup> National Treasury (2012a) 3.

the ES is meant to assist DMs to fund the cost of their municipal administration. Theoretically, when district population and household numbers decrease so should the ES they receive and thus funds to pay salaries for personnel.

It is in the RSC replacement grant that the effects of the policy choice will be felt most acutely because it is calculated as a quantum of the revenue previously raised on business payroll and turnover taxes. With B1s being centres of economic activity removing them from DMs means removing a large part of the DMs income-generating sector. With B1s being self-sufficient DMs used the replacement grant mostly to support other LMs. However, if B1s are removed from DMs the replacement grant reduces and with it the DMs ability to support the other LMs. This would effectively make the RSC replacement grant unusable. It would be counterintuitive to now recalculate the replacement grant based on the numbers in sparsely populated DMs. Funding from the RSC replacement will be literally wiped out. For DMs a reduction of almost half of the population and economic activity should see a similar reduction in the funding they receive. There will be reduction of politicians. DMs will have fewer councillors, which will mean a reduction in transfers to DMs.

Will the new scheme cost less or more? Adoption and implementation of the policy choice will see some savings. There will be savings because of removal of duplication at B1 level. B1s will be able to administrate their own planning and development. There will be savings on things such as meetings and intergovernmental relations duties. NT will save on transfers to DMs based on reduced councillor and personnel numbers. If the new scheme costs more it will constrain adoption and implementation of the policy choice. If it costs less it will facilitate adoption and implementation of the policy choice.

## **6.7 Reduction and reconfiguring of DMs**

A knock-on effect of removing B1s from DMs is that of the 17 DMs there are 3 (Sedibeng, Amajuba and Dr Kenneth Kaunda DMs) that will be left with only 2 LMs in the district. There are also 4 DMs that will be left with only 3 LMs in the district if the B1s are removed, i.e., West Rand, Bojanala, Frances Baard and Cape Winelands DMs. According to Palmer in such circumstances where there are only 2 or 3 LMs in a district the span is too small for DMs to be efficient considering they are expected to build up high level expertise to support

LMs.<sup>178</sup> This is consistent with the MDBs policy that having only 2 or 3 LMs in a district is nothing more than a mere replication of the LMs themselves and therefore leaves the DMs redundant. We can cite the disestablishment of Motheo and Metsweding DMs as examples of this. Will the reduction of 3 DMs with 2 LMs remaining and the disappearance of at least 3 DMs due to non-contiguity be constraining or facilitating factors? The answer is yes they will be constraining factors because the reduction and disappearance of these DMs would affect the vested interests of senior politicians. It would also threaten the job security of personnel and the finances of DMs. The answer is also no they will be facilitating factors because most of the DMs are small in number and the disestablishment of DMs has happened before in Motheo and Metsweding DMs. There is also a cost-saving that will occur as mentioned in section 6.6 above, which is in itself an important consideration.

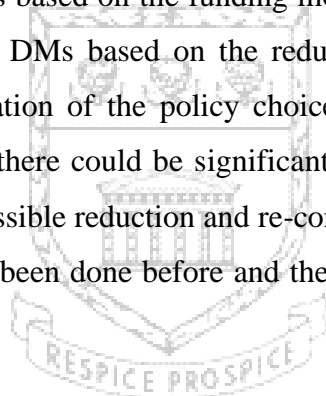
## 6.8 Conclusion

The central policy choice must be considered in light of the above-mentioned likely impacts. The policy choice is a feasible one. It will not be too hard to implement it as overall the impact will not be too dramatic. Abolition of the two-tier system of local government will have a far more dramatic effect. Removing BIs from DMs will have an impact on councillors, political party, services, personnel and finances of the DMs. Therefore, the numbers of PR councillors within the 17 DMs that will be affected, politicians, personnel numbers and finances, as have been listed. Among the politicians there are high level members of the ANC who stand to be affected. Practice indicates that senior members are deployed to district councils and that many mayors in the DMs are chairpersons of ANC RECs. These are significantly powerful people who will be affected by the preferred ANC policy choice and as powerful politicians they are sure to lobby against it. Of the 17 DMs 16 are held by the ANC with Cape Winelands held by the DA. Of the 17 DMs 6 mayors are Chairpersons of ANC RECs, 1 is Deputy Chairperson, 5 are members of PECs, 1 is REC Deputy Secretary and 3 are ordinary ANC members. If we consider for example the debate on the future of provinces, whether to abolish, we see that it has publically disappeared completely from ANC discourse. However, strong opposition against it has led to deep

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<sup>178</sup> Palmer (2009) 100.

lobbying by major politicians. The big question is: how difficult will it be to get this proposal approved and implemented? If we reflect on whether the factors enable or inhibit the approval and implementation of the proposed reform it appears that the factors may mostly inhibit as there remains vested interests to protect and maintain. But, as most policy initiatives affect vested interests the big question is: how significant are these vested interests? In this policy option the vested interests are not significant enough to outweigh the value of the policy purpose. First, the number of PR councillors to be affected is 156. It is a significant number within the context of the policy parameters but not that significant when weighed against a total number of over 9,000 councillors. Second, the splitting of the RECs may be resisted initially but that resistance should dissipate after the first wave. Third, services are unlikely to be affected and therefore unlikely to be changed. Fourth, there will be reductions in personnel numbers based on the funding model. The positive effect will be the savings in national transfers to DMs based on the reductions (personnel and councillors). Fifth, adoption and implementation of the policy choice will necessitate a re-think of the current finance model. Overall there could be significant savings on national transfers from NT. Finally, the numbers for possible reduction and re-configuration are not significant based on total number of DMs. It has been done before and therefore cannot be viewed as a major restructuring of DMs.



In conclusion, the benefits to be gained from this policy option outweigh the negative effects and its adoption and implementation are therefore feasible in comparison to the other option of total abolition, which would have a much more dramatic impact. Based on this the recommendation is to adopt and implement the policy.



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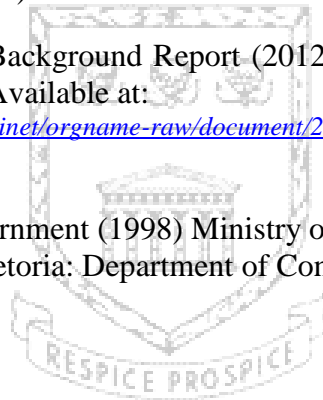
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## 8. Annexures

Annexure 1: Represents C1 and C2 categorisations per province. Districts highlighted are WSAs only. Remaining C2s are both WSAs/WSPs.			
PROVINCE	C1	C2	WSAs/WSPs (Bs/entities)
<b>EASTERN CAPE</b>	Cacadu		All B municipalities
		Alfred Nzo	
		Amathole	
		Chris Hani	
		OR Tambo	
		Joe Gqabi	Elundini LM; Gariep LM; Maletswai LM; Senqu LM; Amatola Water
<b>FREE STATE</b>	Fezile Dabi		All B municipalities
	Lejweleputswa		All B municipalities
	Thabo Mofutsanyana		All B municipalities
	Xhariep		All B municipalities
<b>GAUTENG</b>	Sedibeng		All B municipalities
	West Rand		All B municipalities
<b>KWAZULU NATAL</b>		iLembe	
		Sisonke	
		Ugu	
		uMgungundlovu	
		uMkhanyakude	
		uThukela	
		uThungulu	
		uMzimyathi	uThukela Water
		Zululand	Abaqulusi LM; Water and Sanitation SA (WSSA)
		Amajuba	Uthukela Water
	Waterberg	Bela Bela LM; Exxaro; Eskom; Modimolle LM; Magalies Water; Lepelle Water; Mookgopong LM; Thabazimbi LM	
<b>LIMPOPO</b>		Capricorn	
		Mopani	
		Sekhukhune	
		Vhembe	
<b>MPUMALANGA</b>	Ehlanzeni		All B municipalities
	Gert Sibande		All B municipalities
	Nkangala		All B municipalities
<b>NORTHERN CAPE</b>	John Taolo Gaetsewe		All B municipalities
	Namakwa		All B municipalities
	Siyanda		All B municipalities
	Frances Baard		All B municipalities
	Pixley Ka Seme		All B municipalities
<b>NORTH WEST</b>	Bojanala		Kgeteng River LM; Madibeng LM; Moses Kotane LM; Magalies Water; City of Tshwane; Rustenburg LM; Rand Water
	Dr Kenneth Kaunda		Midvaal Water Company
		Dr Ruth Segomotsi Mompati	Sedibeng Water; Botshelo Water
		Ngaka Modiri Molema	Ditsobotla LM; Ramotsele Moiloa LM; Mafikeng LM
<b>WESTERN CAPE</b>	Cape Winelands		All B Municipalities
	Overberg		All B Municipalities
	Eden		All B municipalities
	West Coast		All B municipalities
	Central Karoo		All B municipalities

Source: National Blue Drop Report 2011.