



# **The Regulatory Environment & its Impact on the Nature & Level of Economic Growth & Development in SA**

***Local Government and Municipal Regulation  
in Post-Apartheid SA***

**DPRU Conference: 27–29 October 2008**

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# Outline

- Local Government system pre-1994
- The genesis of Developmental Local Government
- Local Government Transformation
- Local Government as ‘centre of gravity’
- ‘Embedded autonomy’ of Local Government
- Is Regulation developmental or prohibitive?
- Conclusion

# Introduction

## Definition:

- Local Government – close proximity to its constituents and involved in rendering a wide range of services that materially affect the daily lives of inhabitants in its area of jurisdiction.
- Tremendous progress in addressing the intractable legacy of apartheid
- Local struggles (UDF) to render the system unworkable laid the foundation for integrated developmental local government.

# Introduction Continues...

- The 1970s and 80s culminated into the 1996 Constitution
- Refinement of developmental local government
- Overregulation of local government
- Reliance of government transfers and grants
- Polarity of local government: Rural/Urban divide

# Conceptualisation of Local Government

- Apartheid municipal system was subservient, illegitimate & non-developmental
- Entrenched discriminatory & segregationist settlement patterns
- Reformism – Communal Councils and subsequently Regional Services Councils in the 1980s
- Internal resistance against dysfunctional Local Government system.
- United Democratic Front's (UDF) launching slogan: 'one city one tax base'

# Conceptualisation continues....

- Internal resistance formed basis of democratisation agenda in Local Government Negotiating Forum (LGNF)
- Interim Constitution principle XXIV: ‘a framework for local government powers, functions and other features of Local government shall be set out in Parliamentary statutes or in provincial legislation or in both’.
- The final Constitution and the white paper on Local Government crystallised the developmental local government objects.

# Transitional Arrangements

- The *pre-interim* phase, prescribed the establishment of local forums to negotiate the appointment of temporary Councils, which would govern until municipal elections.
- The *interim phase*, marked beginning the municipal elections and lasting until a new local government system is designed and legislated upon.
- The *final stage*, when a new local government system will be established.

# Legislative and policy developments of local government in South Africa

Phase	Megapolicy	Mesopolicy	Discrete policy
<p>Pre-Interim (1993-1996)</p>	<ul style="list-style-type: none"> <li>• Interim Constitution (1993)</li> <li>• Reconstruction &amp; Development (RDP)</li> </ul>	<ul style="list-style-type: none"> <li>• Local Government Transition Act (1993)</li> <li>• Urban Development Strategy (1995)</li> <li>• Rural Development Strategy (1995)</li> </ul>	<ul style="list-style-type: none"> <li>• Development Facilitation Act (1995)</li> </ul>

# Cont...

<b>Phase</b>	<b>Megapolicy</b>	<b>Mesopolicy</b>	<b>Discrete policy</b>
Interim (1996-2000)	<ul style="list-style-type: none"><li>• Constitution (1996)</li></ul>	<ul style="list-style-type: none"><li>• White Paper on Local Government (1998)</li></ul>	<ul style="list-style-type: none"><li>• Municipal Demarcation Act (1998)</li><li>• Municipal Structures Act (1998)</li></ul>

# Cont...

Phase	Megapolicy	Mesopolicy	Discrete policy
Final (2000)			<ul style="list-style-type: none"><li>• Municipal System Act (2000)</li><li>• Municipal Finance Management Act (2003)</li><li>• Property Rates Act (2004)</li></ul>

Provide democratic and accountable government for local communities

• Ensure the provision of services to communities in a sustainable manner

Promote social and economic development

• Promote a safe and healthy environment

Encourage the involvement of communities and community organisations in the matters of local government

# Transformation continues....

- “Local Government has a critical role to play in rebuilding communities and environments, as the basis for a democratic, integrated, prosperous and truly non-racial society”. [**White Paper on Local Government (1998) Dept of Constitutional Development**]
- “Emphasis is placed on Local Government for the coordinated implementation of state programmes, and the Constitution mandates the national and provincial spheres to support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and perform their functions”. [**McCan, M. (2003) IGR & Cooperative Governance**]

# Local Government as Centre of Gravity

- Basic tenets of local government planning are coordination and integration to achieve local economic development and provision of basic services.
- Implementation of multifaceted IDP to integrate national, and provincial strategies and community interests
- Service delivery obligations expose technical and institutional weaknesses in municipalities
- Local sphere lags behind other spheres in transformation agenda i.e. gaps between PFMA and MFMA.

# 2006-2011 LGSA

- Mainstreaming hands-on support to local government structures to improve municipal governance, performance and accountability.
- Addressing the structure and governance arrangements of the State in order to better strengthen, support and monitor Local Government structures.
- Refining and strengthening the policy, regulatory and fiscal environment for Local Government and giving greater attention to the enforcement measures.

# Support & Regulation of Municipalities

- Cooperative governance – IGRFA of 2005
- Upper spheres are duty-bound to support, monitor and intervene in municipalities
- Critical principles:
  - provision of basic services
  - continuity of services; and
  - Affordability
- Failure due to capacity, maladministration or governance problems result in interventions by upper spheres.

# Support & Regulation continues...

- DPLG & Treasury are two Depts. suitable for effective monitoring and regulation
- Municipalities get grants & transfers from the national fiscus
- Equitable Share is expected to grow from R12.4 billion in 2007/08 to R24.9 billion in 2010/11. R6.5 billion over 2007 baseline
- DPLG allocated R3.8 billion in addition to the R8.7 billion for MIG
- Is this a 'carrot' to be developmental or 'stick' to exert pressure

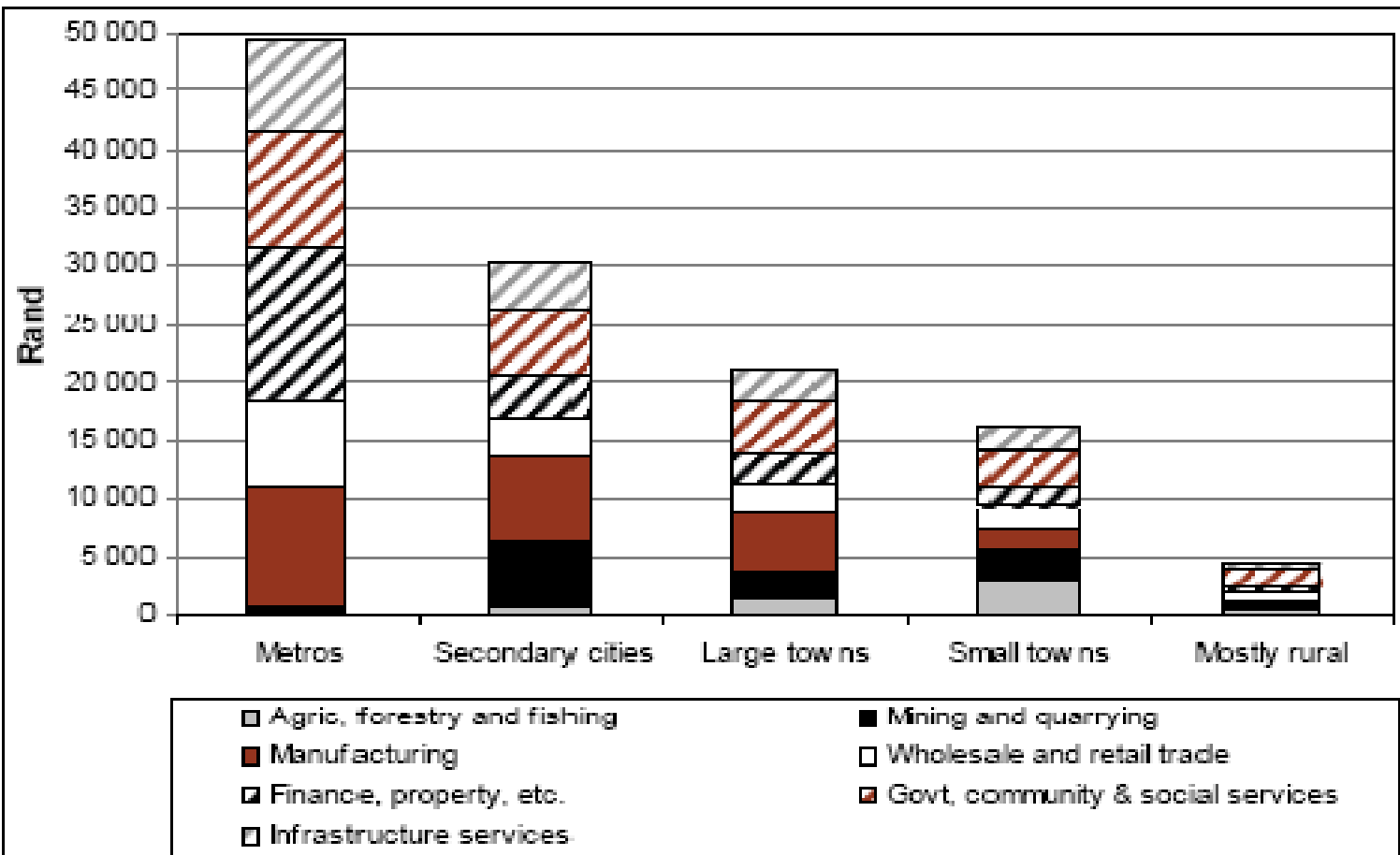
# Is Regulation Developmental or Prohibitive?

- Regulatory instruments include:
  - Municipal Borrowing (1999)
  - Municipal Public-Private Partnership (2005)
  - Municipal Investment Regulations (2005)
  - Municipal Asset Transfer Regulations (2008)
- These instruments are based on the MSA & Property Rates Act

# Is Regulation Developmental or Prohibitive Cont.....

- Realisation of municipal overregulation by numerous sector depts. based on provision of basic services
- Urban-rural polarity regarding economic base & revenue generation

# Contrast between Urban & Rural municipalities



Source: National spatial development strategy

# Examples of Municipal investments & Partnerships

Municipalities can use existing assets & competences to generate revenue through investments and partnerships:

- The Johannesburg water management contract increased revenue by 46 % in four years and power and chemical consumption decreased by 9 and 57 %, respectively.
- Cape Town Epping Fresh Produce Market increased its revenue from R3.5 mil to R6 mil per annum after establishing PPP.

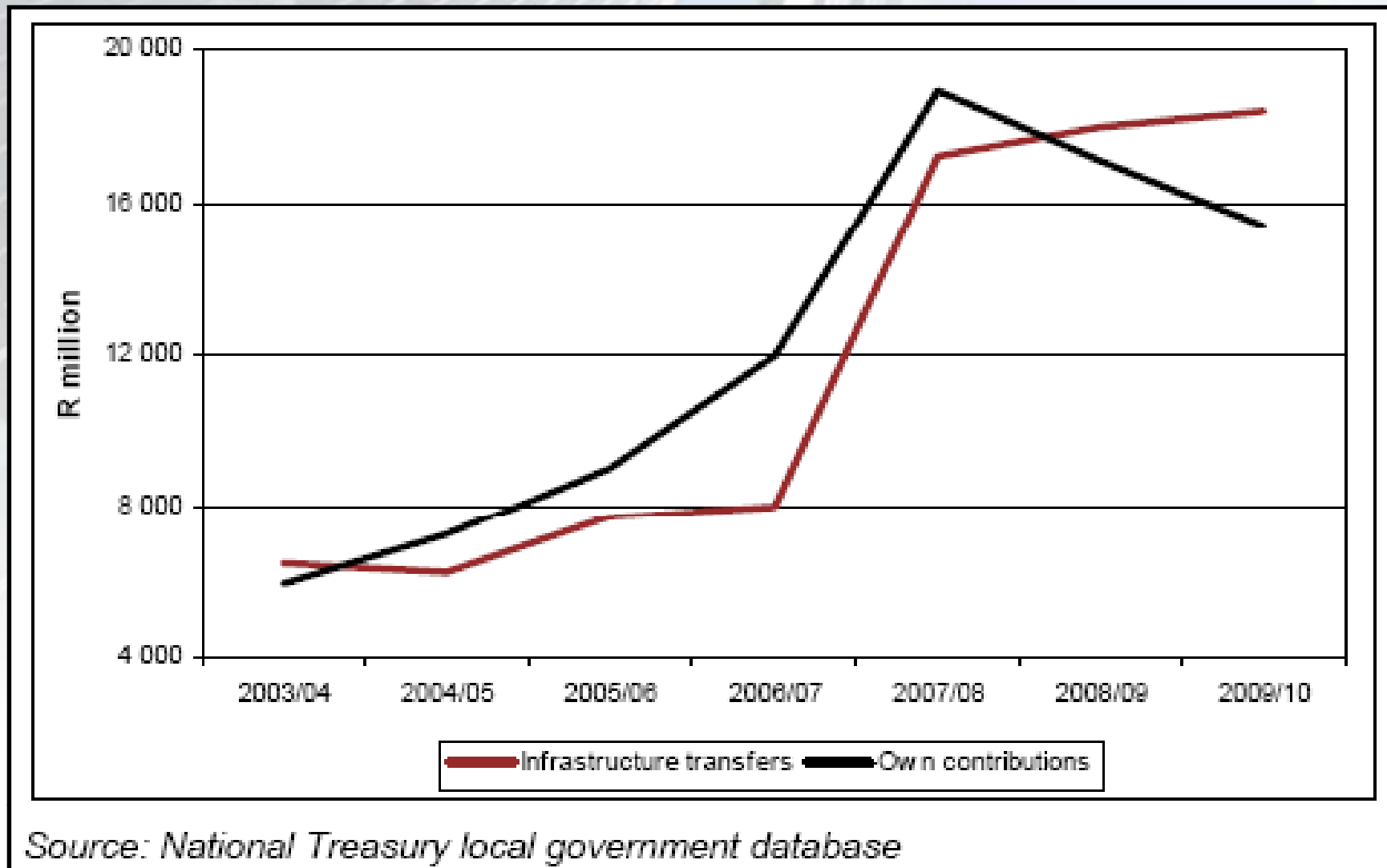
# Regulatory Environment

- Municipalities have some latitude within the regulatory framework
- Perhaps approval must be obtained from the provincial level as opposed to national
- After all, provincial treasuries are responsible for financial recovery plans after section 139 interventions.

# Long-term Planning

- Govt applies multi-year budgeting long-term planning is therefore obligatory
- However, grant dependency syndrome obscures long-term planning
- Growth in MIG provides an incentive for municipalities not to borrow
- Municipalities report positive expenditure towards end of financial year e.g. Buffalo City Municipality only spent R42.3 million of its total budget of R109.4 million, leaving R67 million just a month before financial year end

# Growth in capital transfers



# Conclusion

- Remarkable progress is evident despite problems bedevilling the local sphere
- Refinement of Developmental Local Government within constitutional mandate is necessary
- Uniform norms and standards are essential but some latitude to leverage on investments must be encouraged
- Urban municipalities must leverage on their existing economic base thus allow more allocation to struggling rural municipalities.



**Thank you**