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STADSRAAD / TOWN COUNCIL STELLENBOSCH

DEPARTEMENT : STADSEKRETARIS
DEPARTMENT : TOWN SECRETARY

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Ref: 3/2/4/2/3/4 (Mr CTB Davy, Tel: 808-8106)

1994-03-01

TO ALL ORGANISATIONS PARTICIPATING IN THE STELLENBOSCH DISCUSSION FORUM : FULL MEMBERS

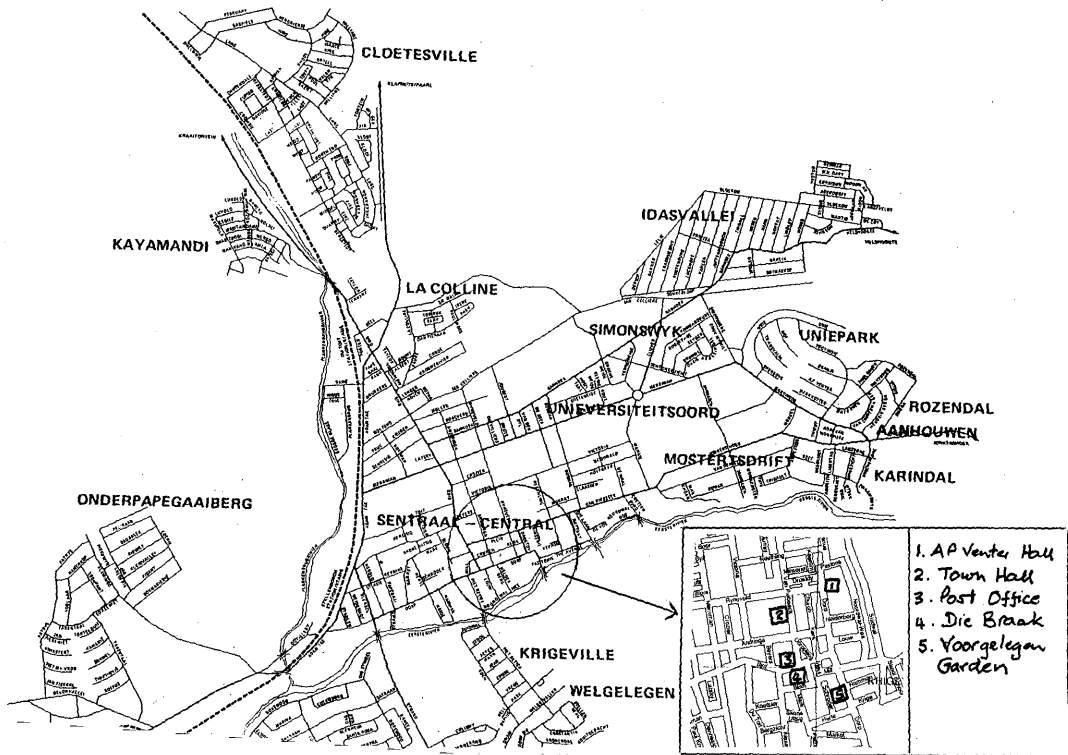
LOCAL GOVERNMENT TRANSITION ACT, 1993 : BOUNDARIES OF TRANSITIONAL METROPOLITAN COUNCIL : WORKSHOP 1994-03-05

1. I confirm herewith that the abovementioned Workshop will now be held on Saturday, 1994-03-05 at 08:30 in the AP Venter Hall, 161 Dorp Street, Stellenbosch.
2. You are requested to bring the documentation that was submitted to you with my circular of 1994-02-16, to the Workshop.
3. The following further documentation are attached for your information:
 - 3.1 Letter from the Stellenbosch Ratepayers Association dated 1994-02-21.
 - 3.2 Map of Stellenbosch indicating where the AP Venter Hall and Voorgelegen Garden is situated in Dorp Street.
 - 3.3 Programme of proceedings for the Workshop.
 - 3.4 Guide to Local Government Transition Act - Natal document.
4. Seating at the meeting will be reserved in the inner circle according to the number of your representatives on the SDF (except those who indicated otherwise) but I will appreciate it if you can let me have the names of your representatives and advisers, if any, **by not later than 16:30 on Thursday, 1994-03-03.**

Yours faithfully


SECRETARY: SDF

workshop/cr



STELLENBOSCH DISCUSSION FORUM

WORKSHOP : BOUNDARIES OF CAPE METROPOLITAN AREA

SATURDAY, 1994-03-05

VENUE: AP Venter Hall, 161 Dorp Street, Stellenbosch (map attached)
TIME: 08:30 for 09:00
PARKING: Enclosed parking area at back of AP Venter Hall (entrance from Dorp Street)
DRESS: Casual
WORKSHOP: Discussion Leader/Facilitator: Prof W Esterhuyse

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PROGRAMME

1. REGISTRATION IN FOYER OF AP VENTER HALL : 08:30 - 09:00
(Tea/Coffee and refreshments to be served during registration)
2. WORKSHOP COMMENCES : 09:00 *M*
 - 2.1 Introduction by Facilitator/Chairperson of the Constitutional Working Committee (CWC) : Prof L du Plessis
 - 2.2 Brief overview of Local Government Transition Act, 1993 pertaining to Metropolitan Government : 09:00 - 09:10.
 - 2.3 Inputs by Consultants/Advisers of SDF members: 09:10 - 11:00
3. Tea/Coffee Break : 11:00 - 11:20.
4. Discussion of inputs of Consultants/Advisers : 11:20 - 12:45
5. Closing remarks/Summary by Discussion Leader/Facilitator : 12:45 - 13:00
6. Lunch - Braai and refreshments at Voorgelegen Garden, Dorp Street : 13:00

* * * * *

Developmental issues

GUIDE LOCAL GOVERNMENT TRANSITION ACT, 1993

METROPOLITAN AND LOCAL GOVERNMENT

(A brief guide to the processes envisaged in the Local Government Transition Act, 1993, prepared jointly by the Natal Provincial Administration, the Natal Municipal Association and the Durban City Council)

Note: This document must not be construed as containing a complete explanation or authoritative interpretations of the Act. It is a guide to and not a substitute for the Act. When contemplating action in terms of the Act, the specific provisions of the Act must be referred to.

1. Background

1.1 The Local Government transition Act was passed by Parliament on 22 December 1993 and it is anticipated that the Act will come into effect on 20 January 1994.

1.2 The Act envisages two phases in the restructuring of local government, namely:-

- * a pre-interim phase, being:-
 - the period from the commencement of the Act (possibly 20 January 1994), until elections are held for transitional councils; and
- * an interim phase, being:-
 - the period from the time elections are held for transitional councils, until final arrangements for local government are enacted.

1.3 The pre-interim phase may be described briefly as a period during which the establishment of nominated transitional councils are negotiated - to function until arrangements can be made for the election of transitional councils.

1.4 The interim period may be described as the period during which elected transitional councils will function - until the Constitution is finalised, local government is restructured and local government elections are held in terms of the finalised Constitution.

2. Processes in the Pre-Interim Phase.

- 2.1 The Transitional Executive Council will establish for each Province a Provincial Committee for Local Government. After the Transitional Executive Council is dissolved, appointments to the Provincial Committee will be made by the newly elected provincial government.

The Committee will be disestablished on the day immediately preceding elections for transitional local councils, transitional metropolitan councils and transitional metropolitan substructures.

(See Annexure One for additional information relating to Provincial Committees)

- 2.2 The Administrator is charged with certain powers, duties and functions in terms of the Act. However, whenever he exercises any power or performs any duty or function, he must do so with the concurrence of the Provincial Committee - by two-thirds majority.

Where such concurrence is not forthcoming, the matter at issue will be decided by the Special Electoral Court.

In addition, in connection with Self-governing territories, the Administrator must consult with the Chief Minister of the Territory.

(On the establishment of a Government for a Province, any reference to the Administrator means a reference to the elected executive authority of the province.)

- 2.3 A negotiating forum must be established for each economically and historically bound area - ranging from a stand alone town to a complex metropolis.

The criteria for the establishment of a forum include:-

- commercial/industrial linkages;
- daily commuting patterns;
- the provision of services within the area;
- the areas of local government bodies, including pre-1971 areas.

In a metropolitan area there will be only one forum, which will negotiate:-

- * the area of the forum;
- * the establishment of a transitional metropolitan council with transitional metropolitan substructures, including:-
 - the powers and duties of a transitional metropolitan council and the metropolitan substructures;
 - the total number of seats in the transitional metropolitan council and the metropolitan substructures; and
 - the nomination of persons for appointment as members of the transitional metropolitan council and the metropolitan substructures.

The Act does not provide for the establishment of forums for individual local authorities in a metropolitan area. However, a metropolitan forum could appoint committees of a representative nature to handle the appointment of members of metropolitan substructures.

- 2.4 The Act also provides for the Administrator to appoint a Local Government Demarcation Board to make recommendations to him regarding the demarcation, re-demarcation or the withdrawal of the demarcation of any area pertaining to local government affairs, including:-
- the area of any negotiating forum;
 - the area of jurisdiction of any local government body, local transitional council, transitional metropolitan council or metropolitan substructure; and
 - wards.

(See Annexure Two for additional information relating to Demarcation Boards.)

- 2.5 Forums established before or after the commencement of the Act may apply to the Administrator for recognition. The Administrator will recognise a Forum if he is satisfied that:-
- * the criteria used to establish the area of the forum includes the matters listed in 2.3 above; and
 - * membership is inclusive and representative, and has been made available to:-
 - all members of local government bodies (ie. all Councillors and members of Local Affairs Committees;
 - representatives of local organisations such as civic associations, residents associations and local structures of political parties.

Bodies such as local chambers of commerce and industry and sakekamers, the Development Bank, Eskom, Water Boards, etc. are entitled to observer status on a forum, with the right to participate but not vote.

2.6 -

- A. Where a forum is recognised by the Administrator, the forum shall negotiate:-

A.1 the extent of the Forum area;

and

A.2(1) in non-metropolitan areas:-

- a transitional local council for the pre-interim period; or
- a local government co-ordinating committee for the pre-interim period.

Where the option of a transitional local council is agreed, the Forum must also negotiate:-

- the total number of seats in the council; and
- the nomination of persons for appointment as members.

Where the option of a local government co-ordinating committee is agreed, the Forum must also negotiate:-

- the powers, duties and functions of the local government co-ordinating committee;
- the total number of seats in the local government co-ordinating committee;
- the representation on the co-ordinating committee of the individual local government bodies and other persons;
- the nomination of persons for appointment as members of the local government co-ordinating committee.

A.2(2) in a metropolitan area:-

- the establishment of a transitional metropolitan council with metropolitan substructures for the pre-interim period;
- the powers, duties and functions of the transitional metropolitan council and the metropolitan substructures;
- the total number of seats in the transitional metropolitan council and the metropolitan substructures;
- the nomination of persons for appointment as members of the transitional metropolitan council and the metropolitan substructures.

or

B. Where an application for recognition of a forum is not made, or a forum is not recognised by the Administrator:-

- B.1 the Administrator may determine the area of a forum and inform all the Town Clerks within the forum area. The Town Clerks (or one Town Clerk nominated by the Administrator) must then arrange an inaugural meeting of the forum.
- B.2 Within 30 days the forum must either confirm the forum area determined by the Administrator, or propose a new area.

The Administrator may then confirm the proposed area or refer the matter to the Demarcation Board.

The decision of the Administrator to confirm an area proposed by a forum or recommended by the Demarcation Board is final.

B.3 The forum must then negotiate the issues set out in A above.

(See Annexure Three for further information regarding Forums.)

2.7 -

A. Where agreement regarding the matters to be negotiated is reached by the forum within 90 days of the commencement of the Act (or within any extended period approved by the Administrator):-

- * the forum must submit the agreement to the Administrator for approval; and
- * the Administrator will make enactments to give effect to the agreement, including:-
 - the establishment of a transitional local council and metropolitan council with substructures;
 - the termination of the terms of office of members of any local government body; and
 - the appointment of persons as members of a transitional local council, transitional metropolitan council and metropolitan substructure.

(Agreement in the forum should be by consensus. If consensus is not reached decisions may be taken by a concurrent majority of two-thirds of both the statutory and non-statutory components of the forum)

or

B. Where a forum does not submit an agreement on the various matters required to be negotiated to the Administrator within 90 days of the commencement of the Act (or within any extended period approved by him) the Administrator will within 30 days facilitate a process of independent mediation and refer the results of the mediation to the forum for a decision as to whether the results are acceptable or not.

B.1 Where a decision is taken by the forum to accept the results of the mediation, the Administrator will make enactments to give effect to the decision.

(Note: A decision of the forum in relation to the outcome of mediation must be taken by concurrent majority of two-thirds of both the statutory and non-statutory components of the forum.)

B.2 Where a forum is unable to arrive at a decision, the Administrator will:-

- in the case of those local government bodies which are not included in a metropolitan forum area and which are graded

8 or lower, apply the concept of a local government co-ordinating committee;

- in the case of those local government bodies which are not included in a metropolitan forum area and which are graded 9 or higher, apply the concept of a local government co-ordinating committee or a transitional local council;
- in the case of those local government bodies which are included in a metropolitan forum area, apply the concept of a transitional metropolitan council with substructures.
- make enactments to give effect to the selected option.

3. Processes in the Interim Phase in preparation for the election of Transitional Councils. *(From the time elections are held for transitional councils to the time final arrangements for local government are enacted by any competent legislative authority.)*

3.1 After considering the representations of any transitional local council or transitional metropolitan council or transitional metropolitan substructure, and the advice and recommendations of the Demarcation Board, the Administrator will:-

- * delimit the areas of jurisdiction of of:-
 - transitional local councils;
 - the transitional metropolitan council; and
 - transitional metropolitan substructures
- * determine the powers, functions and duties of any transitional local council, the transitional metropolitan council and the transitional metropolitan substructures;
- * determine the number of seats in any transitional local council, the transitional metropolitan council and the transitional metropolitan substructures;
- * delimit the areas of jurisdiction of any transitional local council, the transitional metropolitan council and the transitional metropolitan substructures into wards; and
- * make regulations relating to elections.

3.2 Elections for members of all transitional local councils, the transitional metropolitan council and the transitional metropolitan substructures in a province will take place on a day determined by the Minister.

(See Annexure Four for voter and candidate qualifications.)

3.3 The first election will take place on the following basis:-

- * the areas of local government will be divided into wards;
- * half of the wards shall be from the former White, Coloured and Indian local

- authority areas, and half from the former Black local authority areas;
- Voter's rolls shall be prepared for the wards;
- in the case of a transitional local council and a transitional metropolitan substructure:-
 - 40% of the members will be elected on the basis of proportional representation; and
 - 60% of the members will be elected on the basis of one person per ward, ie:-
 - 30% from the former White, Coloured and Indian local authority areas;
 - 30% from the former Black local authority areas.
- in the case of a transitional metropolitan council:-
 - 40% of the members shall be elected according to the national system of proportional representation; and
 - 60% shall be nominated by the metropolitan substructures from amongst their members on a pro-rata basis according to the number of registered voters in their area of jurisdiction. Each metropolitan substructure will be entitled to at least one representative.

(See Annexure Three for powers, duties and functions of Transitional Metropolitan Councils.)

- 3.4 Resolutions of transitional local councils, the transitional metropolitan council and the transitional metropolitan substructures relating to the budget must be taken by a two-thirds majority.

If transitional local councils, the transitional metropolitan council and the transitional metropolitan substructures have not:-

- taken steps to prepare a budget for the subsequent financial year by the last day of April in any financial year; or
- approved the budget for the subsequent year by the last day in of June in any financial year;

the Administrator may carry out the functions of the council in that regard.

- 3.5 Resolutions of transitional local councils, the transitional metropolitan council and the transitional metropolitan substructures relating to town planning must be taken by a majority of all members of the relevant transitional council. Consequently, such resolutions must be taken by the council itself and authority to adopt such resolutions may not be delegated to a committee.

- 3.6 A transitional local council, the transitional metropolitan council and the transitional metropolitan substructures must elect an executive committee.

The executive committee:-

- must be elected on the basis of proportional representation;
- may exercise such powers and perform such duties and functions as the council may determine;

- may refer any matter to the council for decision, with a recommendation regarding the decision that should be adopted; and
- must operate on the basis of consensus. Where consensus cannot be achieved, resolutions shall be taken by two-thirds majority.

4. General

- 4.1 The Administrator may exempt any local government body from the provisions of the Act relating to the pre-interim phase and the transitional measures for both the pre-interim and the interim phase if he is satisfied that the local government body is non-racial and inclusive, and has brought about stability at local level through effective government, orderly financial management and a single local government administration.
- 4.2 After the first election at local government level, it will be competent for a provincial legislature to amend: the Local Government Transition Act, subject to the provisions of Chapter 10 of the Constitution.

PROVINCIAL COMMITTEES FOR LOCAL GOVERNMENT

The Transitional Executive Council will establish a Provincial Committee for Local Government for each Province. After the Transitional Executive Council is dissolved, appointments to the Provincial Committee will be made by the newly elected provincial government.

1. Composition

Six members who shall:-

- be appointed by the Transitional Executive Council;
- be broadly representative of major stakeholders in local government in the province;
- have knowledge of local government;
- reside within the province concerned.

Not more than one member of each major stakeholder may be appointed as a member of the committee.

2. Decision making

All decisions of the Committee shall be taken by a two-thirds majority of all the members.

3. Functions

The powers and functions of the Administrator may only be exercised in concurrence with the Committee, by two-thirds majority.

Where the Administrator and the Committee do not concur, the Administrator must refer the matter to the Special Electoral Court for determination.

Such reference must include:-

- the views of the Administrator;
- the decision of the Committee;
- the representations of any affected local government body, transitional council or metropolitan substructure;
- any other matter considered relevant by the Special Electoral Court.

The Administrator may only exercise a power or function to the extent authorised by the Court. The findings of the Court are final.

DEMARICATION BOARDS

Establishment and composition

1. A Demarcation Board is established for each Province.
2. The Administrator appoints the members and designates a Chairperson and Vice-Chairperson from the membership. The number of members is determined by the Administrator.
 - 2.1 The Chairperson must have extensive experience in law or local government.
 - 2.2 The other members must jointly have knowledge of:-
 - rural, town and regional planning;
 - development economics, including development needs of local communities;
 - municipal finance;
 - municipal services and administration; and
 - other disciplines and skills as may be necessary.
 - 2.3 The membership of the Board must be structured in such a manner as to be balanced, representative, non-racial and gender inclusive.
3. Quorum = the majority of the members.
4. Decisions - by simple majority of members present. The Chairman has a casting vote.
5. The Board may appoint investigatory Committees consisting of Board members and other persons.
6. The Board will be serviced by officers of the Provincial Administration.

Functions

1. At the request of the Administrator, the Board will investigate and make recommendations regarding the demarcation, re-demarcation or the withdrawal of the demarcation of any area pertaining to local government affairs, including:-
 - the area of any negotiating forum;
 - the area of jurisdiction of any local government body;
 - the area of jurisdiction of any transitional council (ie. local government coordinating committee, transitional local council and transitional metropolitan council with substructures);
 - wards within any local government body, transitional local council or transitional metropolitan council and metropolitan substructures.

2. In making recommendations the Board must take into account:-

- * topographical and physical characteristics;
- * population distribution;
- * areas pertaining to local government affairs and services, including:-
 - existing areas of local government bodies;
 - areas existing before 1971 as areas of such local government bodies;
 - the areas of joint services boards;
- * existing and potential land usage, town and transport planning, including industrial, business, commercial and residential usage and planning;
- * economy, functionality, efficiency and financial viability with regard to the administration and rendering of services;
- * development potential in relation to the availability of sufficient land for a reasonably foreseeable period to meet the needs of the existing and potential residents for residential, business, recreational and amenity use;
- * interdependence and community of interest between residents
- * the integrated urban economy as dictated by commercial, industrial and residential linkages.

FORUMS

1. Criteria for establishment

Criteria used to establish the areas of forums must include commercial and industrial linkage, daily commuting patterns, provision of services and the areas of jurisdiction of local government bodies.

2. Membership

Must be inclusive and representative.

Shall be available to:-

- all members of local government bodies;
- representatives of local organisations such as civic associations, residents associations and local structures of political parties.

May include non-voting observers from bodies such as local chambers of commerce and industry and sakekamers, the Development Bank, Eskom, Water Boards, etc.

Forums will continue to function despite the refusal or neglect of any person, body or organisation to participate in a forum.

3. Secretariat

The Forum shall appoint a Secretariat. The local government bodies in the forum area shall be jointly responsible for the costs of the Secretariat.

4. Matters to be negotiated

4.1 The extent of the Forum area for each economically and historically bound area, ranging from a stand alone town with or without satellites to a complex metropolis.

4.1.1 In non-metropolitan areas.

In non-metropolitan areas the Forum must negotiate:-

- a transitional local council for the pre-interim period; or
- a local government co-ordinating committee.

Where the option of a transitional local council is agreed, the Forum must also negotiate:-

- the total number of seats in the council;
- the nomination of persons for appointment as members.

Where the option of a local government co-ordinating committee is agreed, the Forum must also negotiate:-

- * the powers, duties and functions of the local government co-ordinating committee, with the individual local government bodies retaining all other powers, duties and functions within their area of jurisdiction;
- * the total number of seats in the local government co-ordinating committee and the representation on the co-ordinating committee of the individual local government bodies and other persons;
- * the nomination of persons for appointment as members of the local government co-ordinating committee.

(The powers, duties and functions of a local government co-ordinating committee shall be at least those necessary to ensure access to all persons in the area to:-

- *water supply;*
- *sewerage purification;*
- *refuse removal;*
- *roads and stormwater;*
- *health services;*
- *emergency services;*
- *financial administration; and*
- *electricity if agreed upon by all the local government bodies.*

The budget of the local government co-ordinating committee shall include at least 10% of the total assessment rates of the individual local government bodies for 1993/94)

4.1.2 In metropolitan areas

In metropolitan areas, the Forum must negotiate:-

- * the establishment of a transitional metropolitan council with metropolitan substructures;
- * the powers, duties and functions of the transitional metropolitan council and substructures;
- * the total number of seats in the transitional metropolitan council and substructures;
- * the nomination of persons for appointment as members of a transitional metropolitan council and substructures.

(♦ A metropolitan area is any area which:-

- *has multiple local government jurisdictions;*
- *is densely populated having an intense movement of people, goods and services within the area;*
- *is extensively developed or urbanised having more than one central business district, industrial area and concentration of employment;*

→ economically, forms a functional unit comprising various smaller units which are interdependent economically and in respect of services.

◆ The powers, duties and functions of a transitional metropolitan council shall be at least the following, unless the transitional metropolitan council decides not to exercise any such function, duty or power.

1. Bulk supply of water.
2. Bulk supply of electricity.
3. Bulk sewerage purification works and main sewerage disposal pipelines for the metropolitan area.
4. Metropolitan co-ordination, land usage and transport planning.
5. Arterial metropolitan roads and stormwater drainage.
6. Passenger transport services.
7. Traffic matters.
8. Abattoirs.
9. Fresh produce markets.
10. Refuse dumps.
11. Cemeteries and crematoriums.
12. Ambulance and fire brigade services.
13. Hospital services.
14. Airports.
15. Civil protection.
16. Metropolitan libraries.
17. Metropolitan museums.
18. Metropolitan recreation facilities.
19. Metropolitan environment conservation.
20. Metropolitan promotion of tourism.
21. Metropolitan promotion of economic development and job creation.
22. The establishment, improvement and maintenance of other metropolitan infrastructural services and facilities.
23. The power to levy and claim -
 - (1) the regional services levy and the regional establishment levy referred to in section 12(1)(a) of the Regional Services Council Act, 1985, or section 16(1)(a) of the KwaZulu and Natal Joint Services Act, 1990, as the case may be;
 - (2) levies or tariffs from any metropolitan substructure in respect of any function or service referred to in items 1 - 22; and
 - (3) an equitable contribution from any metropolitan substructure based on the gross or rates income of such metropolitan substructure.
24. The receipt, allocation and distribution of intergovernmental grants.

25. *The power to borrow or lend money, with the prior approval of the Administrator, for the purposes of or in connection with the exercise or performance of any power, duty or function.*

- ◆ *For the purpose of negotiating the nomination of members, the statutory and the non-statutory components of the forum must each complete a list of potential candidates, and a committee comprising members of each component shall attempt to reach consensus on the persons to be nominated. At least half of the persons nominated should be acceptable to the statutory component and half to the non-statutory component. In addition, one half of the nominations must include members of the local government bodies comprising equitably weighted representation of the local bodies concerned which shall not disturb the pre-existing relationships within and between those local government bodies. The other half of the nominations must comprise equitable representation of all those sectors of society which in the past did not participate in the electoral process. If the forum fails to reach agreement, the Administrator may appoint a mediator to assist the forum to reach consensus.)*

QUALIFICATIONS : VOTERS AND CANDIDATES FOR TRANSITIONAL COUNCILS OF
LOCAL UNITY

1. Any natural person who is
 - 1.1 a South African citizen - or is
 - 1.2 permanently resident in the Republic -

(The following shall be deemed to be permanently resident: a person

 - (i) who was formerly a South African citizen and who is qualified for the restoration of South African citizenship in terms of the South African Citizenship Act of 1949; or*
 - (ii) who was born to or in a spouse of a South African citizen or former South African citizen and has entered the Republic with the intention of residing permanently therein; or*
 - (iii) who establishes to the satisfaction of the Independent Electoral Commission that he/she is a person who in the prescribed manner satisfies (the requirement) that -*

he/she entered the Republic on or before 1978-12-31;

had been ordinarily resident in the Republic since the date of his/her entrance into the Republic; and

he/she is not a prohibited person in terms of the Aliens Control Act of 1991; or

is the child of a person referred to in paragraph (iii) above and who establishes to the satisfaction of the Commission that he/she was born in the Republic and has been ordinarily resident therein since the date of his/her birth); and
- 1.3 not disqualified by law to vote; and
- 1.4 of or over the age of 18 years; and
- 1.5 not subject to any disqualification prescribed by law;
- 1.6 in possession of a voter's eligibility document (as defined in the Electoral Act)

may vote in an election;

2. Furthermore, for Local Government purposes every natural person who qualifies as set out above and who is ordinarily resident within the area of jurisdiction of a local government

or

is liable for the payment of assessment rates, rent, service charges or levies to the local government concerned,

- 2.1 and who is included in the voter's roll of the local government concerned, shall be a voter for the election of a local government but such voter shall not have more than one vote per local government.

3. Any person who is entitled to be included in the voters' roll shall be entitled to be nominated or elected as a member of the Council of the local authority unless:-

3.1 he is a member of the National Assembly or the Senate;

3.2 he is disqualified to be elected as a member of the National Assembly;

3.3 he is disqualified to be elected by a competent court;

3.4 at 15:00 on the day immediately preceding nomination day, he is indebted to the local government concerned in respect of any assessment rates, service charges or any other monies for a period longer than 3 months; or

3.5 he is an employee of the local government concerned or any other local government. *(A method of obtaining exemption from 2.5 is provided for.)*

SUMMARY
CHAPTER 10 OF THE CONSTITUTION FOR THE
TRANSITIONAL PERIOD

LOCAL GOVERNMENT

(Note: This document must not be construed as constituting a complete explanation of Chapter 10 of the Constitution or containing authoritative interpretations of that Chapter. It is a summary of and not a substitute for Chapter 10.)

Establishment and status of local government

1. Local government shall be established for residents of areas demarcated by law. *[174. (1)]*
2. Laws relating to the areas of local government may make provision for categories of metropolitan, urban and rural governments, with different powers, functions and structures. *[174. (2)]*
3. Local government shall be autonomous, and the legislature shall not encroach on the powers, functions and structures of Local Government to such an extent as to compromise the fundamental status, purpose and character of local government. *[174. (3), (4) & (5)]*

Powers and functions of local government

1. Local Government shall be assigned such powers and functions as may be necessary to provide services for the maintenance and promotion of the well being of all persons in its area of jurisdiction. *[175. (2)]*
2. Local government shall make provision for access by all persons residing in its area to water, sanitation, transportation facilities, electricity, primary health services, education, housing and security, within a safe and healthy environment: provided that such services and amenities can be rendered in a sustainable manner and are financially and physically practicable. *[175. (3)]*
3. Local government shall have:-
 - * the power to make by laws; and
 - * executive powers to allow it to function effectively. *[157. (4) & (5)]*

4. Local government may delegate functions to local bodies or submunicipal entities within its area. [175. (6)]

Council resolutions

Budgets must be decided by a two-thirds majority of all members of the Council. Town Planning matters require an absolute majority. [176]

Executive Committee

1. Councils shall elect an Executive Committee.
2. The number of members and the quorum of the Executive Committee shall be determined by the Council.
3. The Executive Committee:-
 - * shall be elected by proportional representation;
 - * will exercise the powers and perform the duties and functions determined by the council;
 - * must endeavour to function on the basis of consensus. Where consensus cannot be achieved a two-thirds majority will be required;
 - * may, instead of exercising a power or performing a duty or function, agree by a majority decision to submit its recommendations to the council for decision.

[177]

Administration and finance

1. Local government:-
 - * must ensure that its administration is based on sound principles of public administration, good government and public accountability;
 - * will be competent to levy and recover such property rates, levies, fees, taxes and tariffs as may be necessary to exercise its powers and perform its duties and functions.
2. Within each local government area, rates, levies, fees, taxes and tariffs must be based on a uniform structure.
3. Local government will be entitled to an equitable allocation of funds from provincial government. The Financial and Fiscal Commission will make recommendations regarding the criteria for such allocations.

[178]

Elections

1. Elections for Local Government must take place at intervals of not less than 3 and not more than 5 years. [179. (1)]
2. The electoral system will include both proportional and ward representation. [179. (2)]

Voters

1. A natural person who -
 - * is eligible to vote in terms of Section 6 of Chapter 2 of the Constitution;
 - * is ordinarily resident within the area of the local government, or is liable for the payment to the local government of property rates, rent, service charges or levies;
 - * is registered on the voter's role. [179. (3)]
2. A voter shall not have more than one vote per local government. [179. (4)]

Candidates

1. Must:-
 - * be eligible to vote; and
 - * qualify to be elected as a member of the National Assembly under the Constitution.
2. Must not:-
 - * be an elected member of the National Assembly or the Senate;
 - * be an employee of a local government, unless exemption is given by the executive council; or
 - * be disqualified in terms of any other law. [179. (5)]

Code of Conduct

An enforceable code of conduct for members and officials of local government will be provided for by law. [180]



STADSRAAD / TOWN COUNCIL STELLENBOSCH

KANTOOR VAN UITVOERENDE HOOFD/STADSKLERK
OFFICE OF CHIEF EXECUTIVE/TOWN CLERK

Stadhuys/Town Hall
Pleinstraat/Plein Street
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Ref: 3/2/4/2/3/4 (Mr CTB Davy, Tel 808-8106)

417.3 (19/1)

1994-02-16

TO : ALL ORGANISATIONS PARTICIPATING IN THE STELLENBOSCH DISCUSSION FORUM (SDF)

LOCAL GOVERNMENT TRANSITION ACT, 1994 : BOUNDARIES OF TRANSITIONAL METROPOLITAN COUNCIL : WORKSHOP 1994-02-26

1. As agreed by the Constitutional Working Committee (CWC) on 1994-02-15, all organisations participating in the SDF are invited to a Workshop on the abovementioned matter to be held on Saturday, 1994-02-26 at 08:00 in the Banqueting Hall, Town Hall Complex, Plein Street, Stellenbosch.
2. The following documentation is attached for your information:
 - 2.1 Discussion Document - Working Group I - of the Cape Metropolitan Negotiating Forum (CMNF)
 - 2.2 Comments on proposals of CMNF document as well as press statement by the Mayors of the Fringe Towns.
3. Any further documentation your organisation wish to submit for discussion on the matter and the number of representatives (and advisers) who will be attending, must be submitted to the Secretariate not later than 16:30 on Monday, 1994-02-21.
 - 3.1 It is important that all the relevant documentation be circulated and studied beforehand.
 - 3.2 We also need to know how many persons will be attending the Workshop for the necessary seating arrangements.
 - 3.3 If we do not hear from you regarding the lastmentioned matter then seating will be provided according to the number of your representatives on the SDF as indicated in the attached schedule.

Yours faithfully


SECRETARY, SDF

cmnf/cr



STADSRAAD / TOWN COUNCIL
STELLENBOSCH

KANTOOR VAN DIE BURGEMEESTER
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14 February 1994

The Secretariat
Cape Metropolitan Negotiating Forum
2 Ansom Road
7925 OBSERVATORY

Sir

**COMMENT : DISCUSSION DOCUMENT WORKING GROUP 1 - PROPOSED
BOUNDARY FOR THE CAPE METROPOLITAN NEGOTIATING FORUM AND
TRANSITIONAL METROPOLITAN COUNCIL**

We refer to your provisional proposals relating to the proposed boundary of the Cape Metropolitan Negotiating Forum and the Transitional Metropolitan Council.

In view of the fact that your proposals have implications for the *Fringe Area* as a whole, the mayors of the towns of Franschhoek, Gordon's Bay, Paarl, Somerset West, Stellenbosch, Strand and Wellington decided to jointly address this issue. Furthermore, as you would appreciate, the town councils of the above towns are, at this stage, not in a position to speak on behalf of all the inhabitants of their respective towns or the rural communities of the various districts in the *Fringe Area*. Consequently it has been decided by the mayors of the above towns that a decision as to whether the *Fringe Area* or part thereof has to be incorporated into a metropolitan area, needs to be a product of discussions and consultations with as many of the stakeholders in the *Fringe Area* as possible. Discussions in this regard are underway.

Against the background of the complexity of the issues at stake and the need for the stakeholders to be in position to take an informed decision, the above town councils have decided to appoint a team of consultants to prepare an independent and professional report relating to the factors that need to be considered in the demarcation of the Cape Metropolitan Area. The report is expected to be completed by the end of February 1994 after which it will be submitted to your Forum, the Administrator, and interested and affected parties, as an input for further negotiation and decision-making.

In view of the urgency of the matter and the need for the stakeholders in the *Fringe Area* to participate in the process of evaluating the desirability of being included or excluded in a future metropolitan area, the consultants have been requested to prepare a summary of their evaluation undertaken thus far and to comment on your Forum's proposals of January 1994. This summary and comment is attached hereto and is to serve as our comment on the proposals of your Working Group 1. For your records we also include herewith a copy of a press statement issued by us in which our position relating to the incorporation of the *Fringe Area* into the *Cape Metropolitan Area* and the procedure that we wish to follow as regards consultation with the various stakeholders within the *Fringe Area*, is addressed.

Based on the provisional findings of our consultants, it is our considered opinion that the incorporation of our towns and the surrounding agricultural areas would not conform to the guiding principles of the Local Government Transition Act as it relates to the demarcation of metropolitan areas and the establishment of Transitional Metropolitan Councils. On behalf of the town councils of Franschhoek, Gordon's Bay, Paarl, Somerset West, Stellenbosch, Strand and Wellington we wish to inform you that we cannot therefore support your recommendation as per par. 6 of your report of January 1994 relating to the adoption of the boundary of the Western Cape Regional Services Council as the boundary of both the Forum Area and the area of jurisdiction of the Transitional Metropolitan Council.

Insofar as your recommendation is concerned that the adoption of the boundary would serve for the *Pre-Interim Phase* only and that it would be subject to further investigation, the councils have decided that such a proviso would be unacceptable as it would compromise the position of the *Fringe Area* and would undermine the opportunity provided for in the Local Government Transition Act to consider these matters from a neutral base. Also, as mentioned above, we are not in a position to speak on behalf of all the stakeholders in the *Fringe Area*.

We wish to emphasise that we do not wish to be in conflict with your Forum on these matters and that we strongly subscribe to the principle that our mutual interests should be served by a negotiation process which is positive and which would help to build understanding and consensus among us.

Our standpoint not to be included in the future Cape Metropolitan Area should not be seen as an attempt by us to circumvent our responsibilities to the region. We believe that if the directives that have been provided in the Local Government Transitional Act were to serve as the guiding principles for decision-making, the best interests of both the *Primary Area*, the *Fringe Area* and the region as a whole, would be served.

We therefore regard the comments of our consultant team on your proposals as an input into the process of discussions and negotiations.

It is trusted that other stakeholders in the *Fringe Area* would shortly be in a position to take part in this debate with the view to reaching consensus on these matters within the very limited time available to us.

Yours faithfully



J. VAN SCHOOR
CHAIRMAN
MAYORS FORUM

FRANSCHHOEK, GORDON'S BAY,
PAARL, SOMERSET WEST,
STELLENBOSCH, STRAND,
WELLINGTON



STADSRaad / TOWN COUNCIL STELLENBOSCH

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MAYORS FORUM OF FRANSCHHOEK, GORDONS' BAY, PAARL, SOMERSET WEST, STELLENBOSCH, STRAND AND WELLINGTON

PRESS STATEMENT

26 January 1994

BOUNDARY OF THE FUTURE CAPE METROPOLITAN AREA

During the past number of weeks, opinions have been expressed and standpoints have been taken in the media by a number of parties relating to the demarcation of a metropolitan area for the Western Cape region.

This press statement is issued to put into perspective the position of Franschhoek, Gordons' Bay, Paarl, Somerset West, Stellenbosch, Strand and Wellington relating to these matters.

In the first instance the position of the town councils of the above towns must be viewed against the background of the constitutional reform process as is determined by the Interim Constitution, specifically as it relates to the restructuring of local government. In the latter regard it is important to note that in accordance with the Local Government Transition Act, local negotiating forums must be established and the geographical areas of such forums must be determined during the pre-interim phase of the restructuring of local government. The pre-interim phase will apply in the period 20 January 1994 up to the election of local government.

In accordance with the Local Government Transition Act, proposals for the composition of negotiating forums and the demarcation of forum areas, must be submitted for consideration to the Administrator of the Cape within 90 days of the promulgation of the Local Government Transition Act.

As was recently reported in the media, a working group of the Cape Metropolitan Negotiating Forum has proposed that the boundaries of the Western Cape Regional Services Council be provisionally adopted as the boundaries of the Cape Metropolitan Area and that the final demarcation thereof, be undertaken during the interim phase. In accordance with these proposals, the above-mentioned towns as well as the agricultural areas surrounding them, would be incorporated into the Cape Metropolitan Area.

It was also reported in the media that discussions have already taken place between the Cape Metropolitan Negotiating Forum and the town councils of Stellenbosch, Somerset West, Strand, Gordons' Bay, Paarl, Franschhoek and Wellington relating to the above matters. On behalf of the above-mentioned town councils, we wish to record that such a statement is incorrect as such discussions was considered premature by the councils concerned.

Against the background of the principles entrenched in the Interim Constitution and the Local Government Transition Act with regard to the democratic decision-making procedures, the town councils of the above-mentioned towns have decided that they cannot commit their towns to membership of the Cape Metropolitan Negotiating Forum, and therefore also, cannot accept the proposal for the incorporation of the towns and the surrounding agricultural areas in a future metropolitan area, not even for provisional purposes.

This standpoint is based on the view that these issues have not been considered by the communities that would be affected by it. In particular, we feel very strongly that any decision of the existing town councils regarding the incorporation or not of the said towns in any future metropolitan government area would, at this stage, run contrary to the decision-making procedures provided for in the interim constitution and the Local Government Transition Act as it would undermine the democratic processes provided for. In the latter regard it must be noted that the pre-interim phase of local government reform, specifically provides the opportunity to negotiate these matters.

It is therefore the considered opinion of the town councils of the above-mentioned towns, that the opportunity provided for in the Local Government Transition Act to consider these delicate and complex issues in an informed and democratic manner, should be respected.

After careful consideration of the relevant information at present available to us, we are furthermore of the opinion that the incorporation of our towns and the surrounding agricultural areas, would be in conflict with the guidelines for the demarcation of metropolitan areas as per the Local Government Transition Act. It is therefore of decisive importance that this matter be scientifically investigated and thoroughly considered before any decision is made relating to the future metropolitan area.

Due to the necessity for the affected communities to be in a position to take an informed decision about these issues, we have decided that an independent and professional report must be prepared relating to the relevant factors that need to be considered in the demarcation of the Cape Metropolitan Area.

The above-mentioned report is at present being prepared by a team of consultants appointed for this purpose and will be submitted for consideration to all the affected forums and interested and affected parties during February 1994 with the objective that a recommendation be made to the Administrator in accordance with the stipulations of the Local Government Transition Act.

We believe that this procedure would enjoy the support of the negotiating forums of our respective towns and the surrounding rural communities as well as the Cape Metropolitan Negotiating Forum.



J. VAN SCHOOR
CHAIRMAN MAYORS FORUM OF FRINGE TOWNS

CONTACT PERSON:

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**EVALUATION OF AND COMMENT ON THE PROPOSALS
OF THE CAPE METROPOLITAN NEGOTIATING FORUM
FOR THE DEMARCATION OF THE BOUNDARIES OF THE
FUTURE CAPE METROPOLITAN AREA**

PRELIMINARY EXECUTIVE SUMMARY

14 FEBRUARY 1994

PREPARED BY:

Prof. A.J.M. de Vries, Graduate School of Business, University of Stellenbosch

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Prof I. van der Merwe, Department Geography, University of Stellenbosch

Messrs Van Wyk & Louw Inc., Consulting Engineers, Cape Town

CONSULTANTS FOR THE MAYORS OF

**FRANSCHHOEK
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PAARL
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STELLENBOSCH
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WELLINGTON**

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1.0 BACKGROUND

In accordance with the interim constitution adopted during December 1993, first, second and third tier government structures are to be extensively restructured. On local government level, the geographical extent of their areas of jurisdiction, relationships with neighbouring authorities and the inter-relationship with second and first tier government, will be revised.

The restructuring of local government in terms of the provisions of the *Local Government Transition Act, 1994* (LGTA) commenced on 20 January 1994 when this act was promulgated. The LGTA must be seen as an integral part of a new constitutional dispensation which will become operative after a general election in April 1994 when the *Constitution of the Republic of South Africa* will come into effect.

Restructuring of local government is to take place in three phases, namely the *Pre-interim Phase* (20 January 1994 until approximately November 1994 when the first local authority elections will be held), the *Interim Phase* (from date of first election until next general election 3-5 years) and the *Final Phase* (after next general election).

The LGTA makes provision for *Transitional Local Authorities*, the establishment of negotiating forums and the demarcation of forum areas which will also be the areas of jurisdiction of the transitional councils. Provision is made in the LGTA for the establishment of *Transitional Metropolitan Councils* and *Substructures* (municipalities) in metropolitan areas and various forms of autonomous *transitional councils* in non-metropolitan areas.

In terms of the LGTA, the establishment of *Local Negotiating Forums* and the demarcation of the *Forum Areas* must be completed within 90 days of the promulgation of the LGTA (20 April 1994).

A *Cape Metropolitan Negotiating Forum* (CMNF) has already been established to negotiate the creation of structures of the future local government in the *Cape Metropolitan Area*.

Proposals for a boundary for the *Cape Metropolitan Negotiating Forum* and the *Transitional Metropolitan Council* have been prepared by Working Group 1 of the CMNF, for discussion purposes. Interested and affected parties have been invited to comment thereon before 7 February 1994. Extension of time until 14 February 1994 has been granted to the towns of Franschhoek, Gordon's Bay, Paarl, Somerset West, Stellenbosch, Strand and Wellington.

A *Working Group* of the CMNF proposed that the boundary of the *Western Cape Regional Services Council* (WCRSC) be adopted as the boundary of both the *Cape Metropolitan Forum* and the area of jurisdiction of the future *Transitional Metropolitan Council* with the proviso that the said area would only serve as such for the *Pre-Interim Phase*. It is further recommended by the Working Group that the boundary be fully re-investigated before elections are held for the *Transitional Metropolitan Council*.

The mayors of Franschhoek, Gordon's Bay, Paarl, Somerset West, Stellenbosch, Strand and Wellington have elected not to commit their constituencies to membership of the *Cape Metropolitan Forum* as they have not been in a position to take an informed decision in this regard.

Furthermore, in view of the specific provisions that have been made in the Local Government Transition Act, 1994 Clause 7(1) "*Negotiating Matters*," the councils of the above towns are of the opinion that it would be undemocratic to commit their constituencies to any forum or to take any decisions relating to a forum area without proper consultation and negotiations. In particular, consultations must be conducted through the forums already established in the towns in question.

It is therefore the considered opinion of the mayors of the above-mentioned towns that the opportunity afforded to negotiate these matters as is contemplated by the Local Government Transition Act, should be respected and adhered to.

In order for interested and affected parties to consider and negotiate these matters in an informed manner and, due to the complex nature of the subject, the mayors of the above-mentioned towns appointed the consultants listed above to prepare a report on the relevant factors that need to be considered in determining the outer boundaries of the future Cape Metropolitan Area.

A first draft report has been completed and it is expected that the final report will be finalised before the end of February 1994.

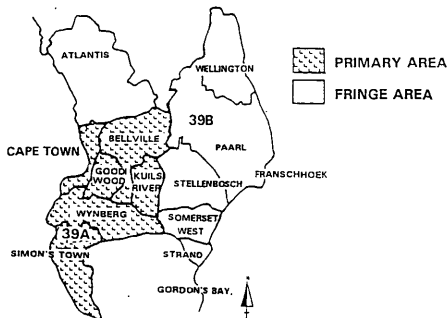
Due to the urgency of the matter, the consultants have been requested to summarise the preliminary findings of the draft report in order to serve as an input into the process of discussions and negotiations with interested and affected parties and in order to comment on the proposals of the Working Group of the Cape Metropolitan Negotiating Forum.

Accordingly, it is reported as follows:

2.0 PROPOSAL OF THE CAPE METROPOLITAN NEGOTIATING FORUM

The metropolitan area referred to by the CMNF's Working Group comprises the boundary of the Western Cape Regional Services Council.

In the Guide Plan for the Cape Metropolitan Area and a number of statutory and non-statutory urban and regional planning documents, the geographical area of the WCRSC has, in the past, been divided into two sub-regions for planning purposes, namely the *Primary Area* and the *Fringe Area* as is shown on the map below.



LOCALITY OF PRIMARY AND FRINGE AREAS

It is proposed that for purposes of assessment and reference, the above two terms are used to describe these geographical areas.

In accordance with the proposals of the CMNF, the *Fringe Area* (Franschhoek, Gordons' Bay, Paarl, Somerset West, Stellenbosch, Strand and Wellington as well as the agricultural areas surrounding them and local villages and urban settlements within the area), would be incorporated into the future Cape Metropolitan Area.

3.0 SUMMARY OF PRELIMINARY FINDINGS OF THE REPORT

It is proposed that, as a point of departure, the decision as to whether the *Fringe Area* should form part of the Cape Metropolitan Area, be tested against the guidelines provided in the Local Government Transition Act, namely:

- Definition of a metropolitan area.
- Criteria for the demarcation of a metropolitan area in context of the definition thereof.
- Duties and functions of a metropolitan council.

The progress that has been made to date, provides a convincing argument that the *Fringe Area* does not qualify to be included into the Cape Metropolitan Area (CMA) as is contemplated by the Local Government Transition Act for the following reasons:

3.1 DEFINITION

In terms of the LGTA a "metropolitan area" means an area that:

- * comprises an area of jurisdiction of multiple local governments;
- * is densely populated and has an intense movement of people, goods and services;
- * is extensively developed and urbanized and has more than one central business district, industrial area and concentration of employment; and
- * economically, forms a functional unit comprising various smaller units which are interdependent economically and in respect of services.

If the *Fringe Area* is tested against the above definition it is clear that, relative to the *Primary Area*, the *Fringe Area*:

- * is not densely populated in a manner that generates an intense movement of people, goods and services within the area;
- * is not extensively developed and urbanized and although the *Fringe Area* has more than one central business district and industrial area, they are located in different towns far from each other and there is not a concentration of employment across the entire *Fringe Area* or in terms of the interrelationship with the *Primary Area*;
- * does not economically form a functional unit which is interdependent of other units in respect of services.

3.2 CRITERIA

In the LGTA the eight criteria below are listed as guidelines for the demarcation of areas pertaining to local government affairs. In terms of the definition of a metropolitan area as is defined in the LGTA, these criteria can be used to test whether the *Primary Area* or any part thereof would qualify for inclusion into a future metropolitan area.

If the demarcation of the *Fringe Area* is tested against the evaluation of the criteria provided as guidelines in the LGTA to help determine boundaries for transitional councils and if these criteria are considered in context of the definition of a *metropolitan area*, the evaluation shows that the *Fringe Area* does not qualify to be included into a metropolitan area as is contemplated by the LGTA.

Specific reference is made to the following:

3.2.1 Topographical and physical characteristics:

If the *Fringe Area* is to form part of the CMA, its cohesiveness would be seriously undermined which would impact negatively on service provision and administrative efficiency.

The *Fringe Area* does not form a compact urban area and is characterised by dominantly agricultural and rural land uses.

3.2.2 Population distribution

The *Fringe Area* is far less densely populated than the *Primary Area*.

In accordance with recent MDF* proposals, the future population growth should be concentrated in the existing settlements in the *Fringe Area* and urban development in the *Primary Area* should be densified to avoid urban expansion into the *Fringe Area*. (The IMDF refers to the *Inner* and *Outer* metropolitan area).

It can therefore be argued that, the *Fringe Area* therefore does not qualify for inclusion into the metropolitan area on the basis of this criteria.

3.2.3 Existing demarcation of areas pertaining to local government affairs and services.

The *Cape Metropolitan Area* as defined and demarcated in the past differs fundamentally from that which is contemplated in the LGTA due to the fact that it was, in the past, primarily defined and demarcated for **planning purposes** and/or administrative purposes.

Existing demarcated boundaries therefore do not provide a basis for the inclusion of the *Fringe Area* into the metropolitan area.

* Metropolitan Development Framework
The MDF Coordinating Working Group was established during 1991 and has been incorporated as a working group of the Urban Development Commission (UDC) of the Western Cape Economic Development Forum (WCEDF). The WCEDF brings together most of the key stakeholders of the Western Cape in order to reach consensus on major development decisions. The MDF Coordinating Working Group was established in order to prepare a Metropolitan Development Framework (MDF), i.e. a set of documents identifying the key development goals of the WCRSC's area of jurisdiction, and policy and spatial strategies or guidelines to achieve these goals. An "Interim MDF" (IMDF) - "They Way Forward" was published during December 1993 for comment.

3.2.4 Existing and potential land usage, town- and transport planning, including industrial, business, commercial and residential usage and planning.

Fundamental to the proposals of the *IMDF*, is that the *Fringe Area* is not to be integrated with the urban complexes of the *Primary Area*, and *vice versa*.

As argued in the *IMDF* report, the integration of the *Fringe Area* towns with *Primary Area* urban complexes to form a cohesive urban area and functional unit is not desirable due to the value of the agricultural land surrounding the *Fringe Towns* and the importance of retaining their unique identities.

Therefore the co-ordination of land use and transportation, to promote the positive performance of urban systems in the *Fringe Area*, does not require a single metropolitan authority and it can be argued that it would not positively contribute to the interests of either the *Primary Area* and/or the *Fringe Area*.

Planning can therefore be dealt with on a sub-regional and regional basis as the interconnection and co-ordination of metropolitan roads and regional roads require co-ordination between a metropolitan/sub-regional transportation body and provincial/regional authorities.

As regards environmental conservation it needs to be noted that although the *Primary* and *Fringe Areas* both form part of the Fynbos Biome, the *Fringe Area* has unique geographical characteristics (distinct from the *Primary Area*) dictating different urban development and natural resource utilisation/conservation responses. There are therefore no advantages from an environmental management or conservation perspective in placing the *Fringe* and *Primary Areas* under a single metropolitan authority. It can be argued that the management of the Fynbos biome is best dealt with on a regional scale and in accordance with planning models designed to promote biological diversity.

3.2.5 Economy, functionality, efficiency and financial viability with regard to the administration and rendering of services.

A wide range of services (such as bulk water supply, sewage treatment and refuse disposal) are currently provided by the municipalities of the *Fringe Area*, independently of the WCRSC, and the study shows that a metropolitan authority will not necessarily provide these services more cost effectively and/or efficiently than what is presently being done. For example:

■ Bulk Supply of Water

There is much evidence that it would be more cost effective, desirable and practical to undertake the planning, co-ordination and implementation of bulk water supply as it relates to the *Primary Area* and the *Fringe Area* on a national and regional basis. Planning and implementation of the internal bulk water supply systems can be more successfully undertaken by the *Primary Area* and *Fringe Area* separately. In the latter regard it must be noted that the two areas differ fundamentally relating to bulk water supply considering the specific demands of agriculture in the *Fringe Area* and the completely different demands of an intensely urbanised *Primary Area*. The co-ordination that will be required can be very successfully undertaken on a sub-regional basis.

Bulk water supply would therefore not be an over-riding determining factor in the demarcation of the metropolitan area, from the perspective of the *Fringe Area* and the *Primary Area*.

- **Bulk Supply of Electricity**

Separate networks supply the *Fringe* and *Primary Area*. The interconnection of the two systems makes no sense technically. There are distinct disbenefits that could result from providing a single network, such as the duplication of services with a resultant increase in costs. Co-ordination can be very successfully undertaken on a sub-regional level.

- **Bulk Sewage purification works and sewage disposal pipelines for the metropolitan area**

Since the towns of the *Fringe Area* have their own independent sewage treatment works which are managed efficiently, it is not considered practical to consider the inclusion of the *Fringe Area* in the future Cape Metropolitan Council's jurisdiction for this function.

Furthermore, against the background of the proposals of the MDF as it relates to the policy to pursue inward compaction of urban development, there is no basis for considering the inclusion of the *Fringe Areas* sewage system into the metropolitan area.

- **Refuse Dumps**

A central metropolitan authority, deciding on policy and budget, runs the risk that it cannot be sufficiently responsive to the specific individual needs of the *Fringe Area* towns and districts as regards waste disposal. Due to the weak representation of the *Fringe Areas* rural constituency on the central metropolitan government, the rural population of the *Fringe Area* could find themselves in a position that they have very little effective leverage to provide direction in the planning of these matters.

- **Cemeteries and crematoriums; Ambulance and fire brigade services and Civil protection**

It can be argued that such facilities and services will be best managed on a local level, due to the efficiency of existing service provision in the fringe towns and the distances from the *Fringe Towns* to the *Primary Area*.

The potential problems associated with the location of large regional cemeteries in the *Fringe Area* are similar to that of the location of waste disposal sites referred to above.

Mutual and sub-region wide interests can be very effectively addressed jointly by the *Fringe Area* and the *Primary Area* on a planning and implementation level. Adequate structures can be created for this purpose in order to ensure that the interests of the people in the *Primary Area*, the *Fringe Area* and beyond, are served.

The inclusion of the *Fringe Area* into a metropolitan area therefore does not contribute towards the promotion of the objectives of criteria No. 5.

3.2.6 Development potential in relation to the availability of sufficient land.

Sufficient land is available for future urban development in the *Primary Area* until the year 2010 (in accordance with the findings of the Interim MDF).

Urban expansion is to be directed away from the fertile agricultural belt surrounding the *Primary Area* in the short and long term in terms of the MDF's proposals as well as many other authoritative planning studies and proposals widely accepted.

Sufficient land exists in and around the towns in the *Fringe Area* to accommodate anticipated urban growth. The considerations as it relates to the co-ordination of mutual interests referred to under paragraph 3.2.5 above also applies to this criteria.

The *Fringe Area* therefore does not have to be included into the metropolitan area to serve criteria No. 6.

3.2.7 Interdependency and community of interest between residents.

Due to the distances separating the communities in the towns within the *Fringe Area* from each other on the one hand and from those in the *Primary Area* on the other hand, as well as the differences relating to economic activity, language, etc. there is not an interdependency and community of interest between the communities of the *Fringe Area* and the *Primary Area* as is contemplated by this guideline of the LGTA as there are significant differences in the socio-cultural characteristics of the areas.

To ensure responsiveness and commitment to the specific needs, preferences and interests of people within the *Fringe Area* and the *Primary Area*, it is of decisive importance that interdependency and community of interests between residents not be eroded by subjecting all the communities in the *Fringe Area* and the *Primary Area* to one overarching authority.

There is a real danger that this could happen if the *Fringe Area* is included into the Cape Metropolitan Area.

It is of decisive importance that the following practicalities be considered.

- * Within the *Primary Area* ($\pm 1\,470\text{km}^2$) there is, with the exception of the Table Mountain/Cape Point axis (which is a fairly homogeneous nature conservation area) relatively little land between the existing municipalities which the metropolitan government would have direct control over, especially in the longer term.
- * In the *Fringe Area* the opposite is true. The municipal areas within the *Fringe Area* occupy a relatively small percentage of the total $\pm 3\,750\text{km}^2$ that the *Fringe Area* covers. This means that the metropolitan government would have direct control over land which is the furthest away from their central control (one can accept central control to be located in central Cape Town). Also, it is clear that it would be very difficult, costly and ineffective for a metropolitan government to exercise the necessary control, on the ground, within the *Fringe Areas*.
- * As is the case with the present Western Cape Regional Services Council, this problem is usually addressed by establishing decentralised offices. In effect this amounts to the duplication of local authority functions with all the disbenefits associated with it.

- * Furthermore, regional offices cannot adequately address the public expectations as they do not provide accessibility for the communities to their elected representatives.

Criteria No. 7 would therefore not be served if the *Fringe Area* is included into the area of jurisdiction of a metropolitan area.

3.2.8 The integration of the urban economy.

The economies of the *Fringe Area* towns are well-balanced as well as being based to a greater degree than the *Primary Area* on agriculture, agro-industries, tourism and high-tech industries. Furthermore, according to Wesgro* (1992) the *Fringe Area* towns have good economic development potential.

Preliminary findings indicate that only approximately 20% of the *Fringe Area's* population are currently dependent on employment on a daily basis in the *Primary Area*. Furthermore, the *Fringe Area* would be linked less strongly to the *Primary Area* economically in the future if strategies to avoid long distance commuting between employment and living areas are implemented (in accordance with *Interim MDF* proposals).

As regards the duties of a metropolitan council to promote economic development and tourism, the following considerations are of importance relating to the *Fringe Area*, namely:

- **Metropolitan promotion of economic development and job creation**

Economic development needs to be addressed on a local, metropolitan, regional and national level.

As far as the *Fringe Area* is concerned, this function needs to be addressed on a region-wide scale which would include the metropolitan area. However, the differences between the economies of the *Primary Area* and the *Fringe Area*, i.e. industrial/commercial/services as opposed to agro-industries, would need to be considered.

Wesgro (1992) specifically distinguishes between the economic development opportunities of the *Fringe Area* as opposed to the *Primary Area*.

It can therefore be argued that it is not necessary or desirable that economic development of both the *Fringe* and *Primary Areas* should be promoted by a single metropolitan authority.

- **Metropolitan promotion of tourism**

Region-wide tourism could be effectively addressed by a special purpose body, as nation-wide, region-wide and local scales of interest are inextricably linked. The interests of tourism would therefore not necessarily be best served on a metropolitan scale to the benefit of the sub-region.

It needs to be noted that it is likely that the devolution of functions relating to tourism planning and promotion, will be taking place in accordance with the new mechanisms created on regional government level.

- * Wesgro is an independent, non-profit organisation established to promote economic development in the Western Cape.

Furthermore, the promotion of tourism can be very successfully managed on a planning and administrative level between various autonomous local authorities as local interests are more enthusiastically served on the local level.

It is argued by the consultants that the *Fringe Area* and the *Primary Area* do not form an integrated economy to the degree that the *Fringe Area* should be included in a single metropolitan area as is contemplated by the LGTA. To attempt to bring about such an artificial integration, would also be contrary to international tendencies and would be counter productive in the region as a whole.

3.3 FUNCTIONS AND DUTIES

The Local Government Transition Act lists 22 *duties* and *functions* which a metropolitan council can perform. These could be increased if the metropolitan council would so decide.

An assessment of these duties and functions (refer to par. 3.2 above) indicates that without exception, there is not a convincing argument that could be put forward why any of the 22 *duties* and *functions* listed under Section 2 of the LGTA, has to be performed by a metropolitan council in the *Fringe Area* in order to serve the objectives of the LGTA.

The question can therefore be asked why a particular area such as the *Fringe Area* needs to be included within the area of jurisdiction of a metropolitan council if there is no need for such a council to perform the duties and functions listed in the LGTA in such an area.

4.0. CONCLUSIONS

The consultants have come to the conclusion that, in terms of the definition of a metropolitan area read together with the guidelines for the demarcation of the areas of jurisdiction of local government structures and the duties that could be performed by metropolitan councils as per the schedules of the Local Government Transition Act, the *Primary Area* qualifies in all important respects to be regarded as the *Cape Metropolitan Area* as is contemplated by the LGTA.

There is convincing evidence that, if the *Fringe Area* would be added to the *Primary Area* in order to establish a metropolitan area for the Cape as is provisionally proposed by the Cape Metropolitan Negotiating Forum, the objectives of the LGTA would not be served. The addition of the *Fringe Area* to the *Primary Area* for the purposes of establishing a single metropolitan government, would very seriously erode the ability of both areas to function in a manner that would contribute to the interests of the regions as is contemplated in the LGTA.

The study shows that the latter is not only the case for the *Fringe Area* as a whole, but that there is also convincing evidence that it would be true for any of the towns of the *Fringe Area* especially if the role of the individual towns and their districts are considered in context of their value as rural entities of a composite *Fringe Area*.

Furthermore, the study shows that the *Fringe Area* fails all the major tests for inclusion into a metropolitan area as is contemplated in the LGTA. Also, the *Fringe Area's* and *Primary Area's* individual and collective relationship with second and first tier government would be affected in a manner contrary to the objectives of the LGTA.

In the latter regard, the study shows that a metropolitan area the size (approximately 5 200 km²) of the existing Western Cape Regional Services Council's area of jurisdiction and the composition thereof, could impact negatively on the functions of the future regional government. In the latter regard it can be argued that the functions and duties to be performed by the metropolitan government, in terms of the proposals of the CMNF, such as economic development and land-use planning, environmental conservation, bulk water supply, electrical supply, tourism, arterial roads and transportation planning, etc. on the scale as proposed, are regional functions.

If the metropolitan government has to assume responsibilities for these duties and functions on a scale such as is proposed by the Cape Metropolitan Negotiating Forum, the relationship between third, second and first tier government could be negatively affected in the future Western Cape region. What is intended to be a metropolitan area as is contemplated by the LGTA can become a major sub-region that could completely throw regional planning in the Western Cape out of balance.

In the opinion of the consultants, the benefits that are being sought by the establishment of a metropolitan area, which would include the *Fringe Area*, could be achieved more efficiently by co-ordinating the interests of both the *Primary Area* and the *Fringe Area* on a regional and sub-regional level.

In the view of the consultants, the spirit of the constitution as regards the principles of inclusivity and representivity, will be seriously undermined if a metropolitan government is established over the *Fringe Area*. For example, the *Constitution of the Republic of South Africa, 1993*, requires local government councils (including metropolitan councils) to adopt their budgets with a majority of at least two-thirds of its members.

If a geographical area such as the *Fringe Area* is included within a metropolitan area and if it does not qualify to be included in terms of the criteria contemplated in the LGTA, it follows logically that the people in the *Fringe Area* can per definition and in terms of the LGTA, not be democratically represented. Although the geographical extent of the *Fringe Area* is almost 2½ times the size of the *Primary Area*, the number of inhabitants (and the number of voters) is a minority. (The number of inhabitants in the *Fringe Area* represents ± 15% of the total population in the *Primary* and *Fringe Area*. Therefore, even if the people in the *Fringe Area* were to reach 100% consensus on a budgetary matter, they would technically have no influence in opposing a decision of the metropolitan government, if the latter takes an opposing view on a particular issue, as it would not be possible for the *Fringe Area* to get more than 1/3 support within such a metropolitan council).

In the opinion of the consultants, a situation where the *Fringe Area* was included in the Cape Metropolitan Area, would be flawed in terms of the spirit of the constitution if the *Fringe Area* does not qualify to be included, in terms of the guidelines prescribed by the LGTA.

It needs to be stated that if a standpoint is taken by the people in the *Fringe Area* in favour of the exclusion of the *Fringe Area* from a future Cape Metropolitan Area, such a standpoint should not be seen as an attempt by the *Fringe Area* to circumvent their responsibilities as it relates to the region.

In the first instance, the directives provided by the various political leaders of this country as is manifested in the new constitution and the LGTA, should be the guiding principle for decision-making and action. Policies and actions which are not guided by these principles, would run against the grain of the direction already provided in the agreed to constitution. Such policies and actions are therefore likely to be counter-productive.

If a decision, not to be included into the future Cape Metropolitan Area, is founded upon the principles and guidelines of the constitution and the Local Government Transition Act, such a decision would per definition serve the best interests of all concerned. If the *Fringe Area* is to be included into a future Cape Metropolitan Area on the basis of considerations other than the principles and guidelines of the constitution and the Local Government Transition Act, such a decision would, in the long term, prove to be a disservice to all concerned.

In the demarcation of the area of jurisdiction of the Cape Metropolitan Transitional Council and the establishment of local government structures outside the future metropolitan area, it is proposed that it is recognised that:

- * the LGTA makes provision for a new system of local government which has to be determined through a process of investigation, negotiation and consensus-seeking in the spirit of the agreed to interim constitution;
- * in the spirit of the constitution and the LGTA, the opportunity for negotiations should be utilised to the fullest, so that negotiation of matters of mutual interest becomes a positive process which helps build understanding and consensus;
- * the phase of negotiation provided for in the LGTA, should not be clouded by short-term political, local or self-interests;
- * objectivity should be retained and long-term implications of the decisions taken at this stage, should be a guiding principle;
- * the process should be guided by the spirit and framework of the LGTA, as has been endorsed by the major stakeholders and organisations in local government;
- * local government should ensure that investment decisions of various sectors (ie. transportation, housing, engineering services and public facilities) are co-ordinated to promote democratically agreed to policies, as well as ensuring the equitable distribution of resources;
- * in accordance with the spirit of the LGTA and the constitution, the process should give rise to a local government system that is responsive, accountable, transparent, equitable and accessible;
- * the local government system agreed to should ensure that the utility expectations of communities are met as it relates to public goods and services and that they are delivered efficiently and effectively;

The consultants are of the opinion that a metropolitan government that would assume responsibility for the *Fringe Area* as well as the *Primary Area* would run a very serious risk of being unable to deliver on the requirements of responsiveness, accessibility, efficiency and especially inclusivity and representivity from the perspective of the people who live in the *Fringe Area*.

This would not only create a problem for the *Fringe Area*, but for the entire region and could undermine the efficient functioning of the future Cape Metropolitan Council seriously.

In the opinion of the consultants a structure needs to be devised in terms of which the interests of all the people in the *Fringe Area* are served as is contemplated by the new constitution and the LGTA, whilst at the same time, an equitable contribution by the people of the *Primary Area* and the *Fringe Area* is made towards serving the interests of the region as a whole.

The consultants are further of the opinion that, from a regional planning perspective, there is merit in demarcating a geographical area that could serve as an "interface" between the rural hinterland and the metropolitan area itself. This "interface area" has unique characteristics distinct from both the *Primary Area* (metropolitan area) and the rural hinterland. It can therefore be argued that there is a real need for the formal demarcation of a sub-region (*Fringe Area*) in the interests of the region as a whole. The boundaries of such a sub-region will have to be investigated in context of the criteria agreed upon for its establishment. Indications are that such a sub-region could extend beyond the existing boundaries of the *Fringe Area*. In so doing, a balanced dispensation could be achieved between local government and regional government.

STELLENBOSCH DISCUSSION FORUM

REPRESENTATIVES PER ORGANISATION

Full Members	SDF	CWC	DWC	SC
1 African National Congress (ANC) (ANC Youth & Womens Lesque included)	5	3	3	1
2 Democratic Party (DP)	4	2	2	1
3 Kaya Mandi Town Council	4	2	2	1
4 National Party (NP Students Branch and Womens Action included)	5	3	3	1
5 Pan African Congress of Azania	4	2	2	1
6 SA National Civics Org (SANCO)	4	2	2	1
7 S/bosch Housing Action Committee (SHAC)	4	2	2	1
8 S/bosch Ratepayers Association	4	2	2	1
9 S/bosch Town Council/Management Committee	6	3	3	1
<p>Notes</p> <p>Full members to be seated in inner circle at meetings Full members are allowed two observers to be seated in outer circle Expert advisors may be used with consent of meeting</p>				

Observer members	SDF	CWC	DWC	SC
1 Farm and Rural Workers Support Ass	2	1	1	-
2 Jamestown Area Committee	2	1	1	-
3 Johannesburg Management Committee	2	1	1	-
4 Kaya Mandi Development Forum	2	1	1	-
5 Kylemore Management Committee	2	1	1	-
6 Kylemore Ratepayers & Residents Ass	2	1	1	-
7 Pniel Management Board	2	1	1	-
8 Rotary Club of Stellenbosch	2	1	1	-
9 Stellenbosch Agricultural Society	2	1	1	-
10 Stellenbosch Chamber of Business	2	1	1	-
11 Stellenbosch Council for Church Co	2	1	1	-
12 Stellenbosch Relations Committee	2	1	1	-
13 Stellenbosch Rural Council	2	1	1	-
14 Stellenbosch Sakekamer	2	1	1	-
15 Trade Unions (COSATU)	2	1	1	-
<p>Notes</p> <p>Observer members to be seated in outer circle at meetings Observer members have participatory rights but shall not be entitled to vote</p>				

Independent Facilitators	
1	CVR Honey
2	S Adams
3	L du Plessis
	Chairperson
	Vice-Chairperson
	Chairperson : CWC