SALDANHA BAAI BAY
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DEVELOPMENT CHARGES POLICY

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List of Abbreviations

Abbreviation	Meaning
CFO	Chief Financial Officer (Director: Finance)
ESA	Engineering Services Agreement
GLA	Gross Leasable Area
HV	High Voltage
IPS	Infrastructure Planning Services
kVA	kilovolt-amperes
LUPA	Western Cape Land Use Planning Act, 2014 (Act 3 of 2014)
LV	Low Voltage
MFMA	Municipal Finance Management Act (Act 56 of 2003), as amended
MFPFA	Municipal Fiscal Powers and Functions Act (Act 12 of 2007), as amended
MV	Medium Voltage
SANRAL	South African National Roads Agency Limited
SPLUMA	Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), as amended

1. Definitions

"**Applicant**" means an applicant whose land development application is approved, in whole or in part, by the person or body authorised to do so in terms of SPLUMA;

"Bulk engineering services" means capital infrastructure assets associated with that portion of an external engineering service which are intended to ensure delivery of municipal engineering services for the benefit of multiple users or the community as a whole, whether existing or to be provided as a result of land development in terms of a municipal spatial development framework;

"Capacity" means the maximum demand for an engineering service that the associated capital infrastructure assets can meet;

"Capital infrastructure asset" means land, property, building or any other immovable asset, including plant and equipment that accede thereto, which is required for provision of an engineering service;

"Condition of approval" means a condition prescribed by the Municipality with regard to the approval of a land development application in terms of land use planning legislation;

"Consent use" means the secondary use right that is permitted in terms of the provisions pertaining to a particular zone, only with the consent of the Council;

"Constitution" means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

"**Council**" means the Council of the Saldanha Bay Local Municipality and includes a councillor or a committee of councillors with delegated authority from the Council;

"Coverage" means the area of a land unit that is covered by buildings, expressed as a percentage of the total erf area of the land unit, and includes stairs and associated landings leading up to storeys above ground floor, canopies, verandas, porches, balconies, terraces and similar features provided that the following portions of buildings must be disregarded in the calculation of coverage, namely:

a) stoeps less than 1,5 metres above natural ground level, entrance steps and landings;
b) cornices, chimney breasts, pergolas, flower boxes, water pipes, drainpipes and minor decorative features not projecting more than 500 millimetres from the wall of the building;
c) eaves not projecting more than 1,0 metres from the wall of the building; and
d) a basement, provided that the basement ceiling does not project above the ground level;

"Developer" means the person, including an organ of state, applying for approval to develop or change the use of land and may become an applicant for the purposes of the MFPFA upon approval of a land development application;

"Development Charge" means a once-off charge imposed by the Municipality on an applicant as a condition of approval of a land development application in order to cover the cost of municipal engineering services required as a result of an increase in the intensity of land use;

"Engineering Service Zone" means, for each engineering service, the area within a municipal boundary which is served by a geographically or technically distinct network of capital infrastructure assets, as determined in accordance with section 9B(2)(e)(i) of the MFPFA and section 8.9;

"Engineering services" means the infrastructure required to supply water, sewerage, electricity, municipal roads, stormwater drainage and solid waste collection and removal required for the purpose of land development;

"Engineering Services Agreement (ESA)" means a written agreement concluded between the Municipality and an applicant who has submitted a land development application in terms of section 45 of the Spatial

Planning and Land Use Management Act, recording their respective rights and obligations regarding the provision and installation of external engineering services and internal engineering services required for an approved land development and matters ancillary thereto;

"Exemption" means an exemption from paying all or part of a development charge, granted by the Municipality in terms of section 9E(1)(b) of the MFPFA for a category of applicants or a category of land development, in accordance with the criteria in section 14;

"External engineering services" means municipal engineering services infrastructure external to the land development site boundary and includes both bulk engineering services and link engineering services;

"Floor area" in relation to any building means the total area of each storey, including portions covered by walls of buildings, floors or paved areas covered by a portion of the building, floors of stairs and landings, any mezzanine, covered balconies, stair shafts, elevator shafts and any other shafts but excluding the following:

a) Open patios (stoeps);
b) Entrance stairs and landings;
c) Any area covered by external fire stairs;
d) Uncovered balconies;
e) Any separate air supply opening without a roof, with in internal areas of less than 10m²;
f) Any open window maintenance platform in an air supply opening;
g) Any projection of less than 1 metre from an outside wall;
h) Any area including a basement, meant only for the parking and loading of vehicles;
i) Any arcade supplying access and circulation of public parking, street or open space through the particular building and which is always open to the public, to a maximum of 50% of the total floor area which is used for such access and circulation purposes;
j) Any covered, paved area outside or directly adjoining a building or below ground floor level where such paved area forms part of a courtyard, pedestrian road, parking area or vehicular access; and
k) Swimming pools, fish dams and fountains that are not covered by a roof;

"Gross Leasable Area (GLA)" means the area of a building designed for, or capable of, occupancy and/or control by tenants, measured from the centre line of joint partitions to the inside finished surface of the outside walls, including internal partitions, usable mezzanines and basements, and ancillary areas dedicated to the occupier, such as kitchens, staff facilities, toilets and storerooms, but excluding the following:

a) all exclusions from the definition of floor area;
b) shared toilets;
c) shared foyers, passages and stairs;
d) lift shafts, service ducts, vertical penetrations of floors;
e) lift motor rooms and rooms for other mechanical equipment required for the proper functioning of the building;
f) interior parking and loading bays;

"Internal engineering services" means infrastructure within the boundary of the land development to service that land development;

"Land development" has the meaning assigned to it in section 1 of SPLUMA;

"Land development application" means an application for approval of land development as contemplated in section 33, read with section 45, of SPLUMA;

"Land use" has the meaning assigned to it in section 1 of SPLUMA;

"Link engineering services" means the capital infrastructure assets associated with that portion of an external engineering service, which links an internal engineering service to the applicable bulk engineering services;

"**Parent erf**" means the land that is the subject of a land use approval and comprises the registered cadastral extent as at the date of that approval;

"Parent erf approval" means:

(a) the approval of a land development application for the parent erf, authorising the overall or overarching land development of the property or properties including its future sub-developments, and including its layout, subdivision or site development plan, together with any amendment, extension or phasing of that approval; or

(b) an approval that the Municipality has determined to be a new parent erf approval in terms of section 8.16(4);

"Planning by-law" means the Saldanha Bay Municipality By-law on Land Use Planning, 2022;

"Rebate" means a reduction granted by the Municipality in terms of section 9E of the MFPFA on the amount of the development charge payable for a category of applicants or a category of land development, in accordance with the criteria in section 14;

"Sub-development" means any land development in respect of land within a parent erf that takes place after the parent erf approval, including any subdivision, consolidation, sectional title scheme, site development plan, building plan, phase or further approval of a land development application, unless the Municipality has determined in terms of section 8.16(4) that its approval constitutes a new parent erf approval;

"Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as amended;

"Unit impact" means the average demand that a land use, or mix of land uses, is expected to have on an engineering service. It will be used in this policy as a single unit of additional impact per land use (e.g. measured in residential dwellings or m^2 of Gross Leasable Area); and

"User" means a parent erf together with all land development within it, including all sub-developments, as determined in accordance with section 8.16.

2. Introduction

2.1 This policy relates to the levying of development charges for the following services:

- Roads
- Water
- Sewer
- Solid Waste
- Electricity
- Stormwater

2.2 Engineering services not owned by the Municipality are excluded from this policy.

2.3 Internal engineering services and are the responsibility of the applicant.

2.4 The Directors: Infrastructure Planning Services (IPS) and Electrotechnical and Energy Services will be responsible for calculating the Development Charges for all services as part of the land use management process (see Annexure C). The Directors: IPS and Electrotechnical and Energy Services will be the delegated officials representing the Municipality in terms of section 9K of the Municipal Fiscal Powers and Functions Act (MFPFA).

2.5 The Development Charges Policy will apply to the whole of the Saldanha Bay Municipal area.

2.6 In terms of Section 152 of the Constitution, the objects of local government include the provision of services to communities in a sustainable manner and the promotion of social and economic development. Chapter 8 of the Systems Act provides for the general duty of the Municipality to provide municipal services and the manner in which such services are to be provided.

2.7 Social and economic development has a positive impact on the Municipality's finances as it increases revenue from property rates, fees, service charges and tariffs by expanding the base of ratepayers. However, land development associated with this economic growth has an impact on the demand for municipal infrastructure services. Therefore, infrastructure is needed to support sustainable social and economic development in Saldanha Bay Municipality. Without infrastructure, both public and private sector investment in Saldanha Bay Municipality will slow down. The cost to the Municipality of providing this infrastructure is high. Funding to cover these costs is obtained mainly from three sources:

a) Grants are provided by national or provincial government and are generally targeted towards social infrastructure, particularly in support of low-income housing development.

b) Borrowing can financing infrastructure investment and loan repayments and associated financing costs are funded through property rates and user charges paid by all consumers to the Municipality.

c) Development charges are a more targeted and more equitable way of ensuring that the main beneficiaries of infrastructure make an appropriate and fair contribution to that cost, without unduly burdening the Municipality's ratepayers.

2.8 Section 73(2) of the Systems Act provides that:

"Municipal services must—

a) be equitable and accessible;

b) be provided in a manner that is conducive to—

i. the prudent, economic, efficient and effective use of available resources; and

ii. the improvement of standards of quality over time;

c) be financially sustainable;
d) be environmentally sustainable; and
e) be regularly reviewed with a view to upgrading, extension and improvement."

3. Objectives of the Development Charges Policy

3.1 The objectives of this policy are to provide a sustainable and equitable framework for the financing of capital infrastructure assets and to ensure that:

a) The Municipality can provide capital infrastructure assets in a timely and sufficient manner to support land development;
b) Development charges complement other sources of capital finance available to the Municipality and are not utilised as a general revenue source;
c) Development charges are managed in a predictable, fair and transparent manner; and
d) Unnecessary litigation in the administration of development charges is minimised.

4. Principles Guiding the Development Charges Policy

The following principles guide the system of development charges:

4.1 Equity

Everyone should pay their fair share on the same basis and according to the same rules. The same land uses should be treated the same. Exceptions should be avoided, but subsidies to ensure universal access to basic services should be supported.

4.2 Fairness

The "benefit principle" of public finance is that only those who benefit from a product or service should pay for it, and in proportion to the value they derive from it. Existing residents should not benefit from a new land development at the cost of a developer, and a developer or new resident should not unduly benefit at the cost of existing residents. Development charges may not duplicate the recovery of the capital cost of infrastructure from other funding sources.

4.3 Reasonableness

There must be a rational connection between the charge, the cost of bulk services and the relative impact of a land development on those bulk services. Development charges should be calculated based on the estimated cost of infrastructure to support growth, apportioned to each unit of growth relative to the benefit that each derives. Municipalities need to demonstrate that the proposed development charges are informed by appropriate available evidence. The charges must recover the infrastructure costs incurred or to be incurred due to additional land development and are thus a form of cost recovery rather than taxation.

4.4 Predictability

Development charges should be a predictable, legally certain and reliable source of revenue to the Municipality for providing external engineering services, as well as a predictable cost to developers. The method by which the development charge is calculated should be clear and transparent, so that developers can, within an acceptable degree of accuracy, predict the value of a development charge for any proposed land development.

4.5 Certainty

Revenue raised through development charges should be dedicated only to the purpose for which it was raised, i.e. for investment in capital infrastructure assets for the services covered by this policy. Municipalities must disclose the amount of development charges collected and how this revenue has been spent. If developers pay the development charge, then they are entitled to the timeous provision of the bulk services the Municipality is obliged to provide. The Municipality should refrain from imposing development charges for infrastructure pursuant to a land use application where it has neither the authority, nor the intention, to provide the associated infrastructure.

4.6 Administrative efficiency

The determination, calculation and operation of development charges should be administratively simple and transparent. There is a trade-off between the accuracy of individual charges and the efficiency of administering them. The costs of calculating and collecting development charges should be proportionate to the revenue generated. The need for administrative efficiency may determine whether the Municipality has the capacity to manage multiple engineering service zones or not.

5. Legislative Framework

Development Charges are an integral part of the broader legal framework for urban land development and municipal finance. The legal framework set out below outlines the legal environment regulating development charges.

5.1 Municipal Systems Act

Section 75A of the Municipal Systems Act further empowers a municipality to *'…levy and recover fees, charges or tariffs in respect of any function or service of the municipality…'*.

5.2 Spatial Planning and Land Use Management Act (SPLUMA)

SPLUMA is the national law which provides a framework for spatial planning and land use management in South Africa and deals with the imposition of development charges.

Section 40(7) provides that a municipal planning decision-maker may, in the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any development charges.

Section 49 of SPLUMA provides that:

'(1) an applicant is responsible for the provision and installation of internal engineering services.

(2) A municipality is responsible for the provision of external engineering services.

(3) Where a municipality is not the provider of an engineering service, the applicant must satisfy the municipality that adequate arrangements have been made with the relevant service provider for the provision of that service.

(4) An applicant may, in agreement with the municipality or service provider, install any external engineering service instead of payment of the applicable development charges, and the fair and reasonable cost of such external services may be set off against Development Charges payable.

(5) If external engineering services are installed by an applicant instead of payment of development charges, the provision of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), pertaining to procurement and the appointment of contractors on behalf of the municipality does not apply.'

5.3 MFPFA

The MFPFA establishes the power for municipalities to levy development charges to cover the cost of bulk infrastructure required to service additional land development, where a municipality chooses to implement development charges through adoption of a development charges policy.

The Act sets out the permissible uses of income from development charges and establishes the principles for the calculation of development charges. A municipality that is implementing development charges must approve a municipal by-law that describes how that municipality intends to levy development charges.

Municipalities that charge development charges are required to do so in terms of a municipal development charge policy, with a set of minimum content and public participation requirements. An engineering services agreement is required to be concluded where bulk infrastructure is required to be installed, either by the municipality or by the applicant (developer). Where applicants install engineering services instead of payment of development charges, the Act regulates how the value is offset against the development charge or, in particular cases, reimbursed to the applicant. A municipality may only provide development charge exemptions or rebates in terms of its development charge policy but must calculate the development charge as if it were payable in all cases. The Act also describes the dispute resolution processes and financial misconduct implications of not complying with the Act.

5.4 Saldanha Bay Municipality By-law on Land Use Planning, 2022 ('planning by-law')

The Saldanha Bay Municipality planning by-law gives effect to the municipal planning competencies conferred on Local Government in terms of schedule 4B of the Constitution. Section 82 of the planning by-law sets out the requirements for the provision of engineering services for land development. Section 83 of the planning by-law sets out the requirements of development charges.

6. Obligation to Impose a Development Charge

6.1 When approving a land development application that will or may increase demand for external engineering services, the Municipality must levy a development charge proportionate to the municipal expenditure required to meet that additional demand. The instances when development charges will be levied are:

a) When the Municipality approves an application in terms of Section 15(2) of the planning by-law and imposes conditions in terms of Section 66 thereof relating to the provision of engineering services and infrastructure and the cession of land or the payment of money;
b) Where no Site Development Plan is available at the time of application, the Municipality will calculate the development charges on the full development potential of the right being applied for. However, when the Municipality, in its conditions of approval of a land development application, defers the calculation of the development charge to the submission of a Site Development Plan in terms of section 56(1) of the Saldanha Bay Municipality Integrated Zoning Scheme By-law, 2021, in which case the development charge or charges will be levied upon the approval of building plans in terms of the National Building Regulations and Building Standards Act 103 of 1977; or
c) Where a land development approval issued prior to this policy coming into effect required development charge payment upon approval of a building plan, development charges will be levied upon the approval of building plans in terms of the National Building Regulations and Building Standards Act 103 of 1977.

6.2 A development charge will be determined by the Municipality in terms of and on the basis of the applicable statutory provisions referred to in section 5 of this policy.

6.3 Where required by the Municipality, the developer must submit, with the land use application, an engineering services report prepared by a professional engineer registered with the Engineering Council of South Africa. The report must:

a) set out the projected demand the land development will place on each engineering service;
b) assess whether existing municipal infrastructure has the capacity to meet that demand;
c) identify the infrastructure required to serve the land development; and
d) include a cost estimate for the required infrastructure.

If, during the evaluation of the application, the Municipality determines that additional information is required, or that a service is a bulk engineering service, the developer must submit an updated report and cost estimate within the period the Municipality specifies. Incorrect cost estimates will be for the account of the developer and will not be reimbursed by the Municipality.

6.4 Subject to paragraph (c), development charges must be paid:

a) where building plan approval is required to give effect to a land development approval, before the building plans are approved;
b) where building plan approval is not required to give effect to a land development approval, before any right to use, develop or improve the land conferred by that approval is first exercised; and
c) where land is to be transferred before the event specified in paragraph (a) or (b), before a clearance certificate is issued in terms of section 28 of the planning by-law.

6.5 The Municipality may authorise phased payments in the land development approval to coincide with specified phasing of the land development, provided that:

a) the timing of the payment of each phase is linked to the triggers provided in section 6.4 of this policy; and
b) the developer provides a written guarantee from a registered financial institution, in an amount equal to the deferred development charge liability, which may reduce as development charges for subsequent phases are paid, subject to terms and conditions agreed in writing by the Municipality.

6.6 When approving a land development application, the Municipality must stipulate at least the following matters relating to the development charge:

a) The total amount of the development charge, including its component charges;
b) The dates on which the payment or payments must be made and the amount of such payments;
c) Whether any internal, link or bulk engineering services are to be installed;
d) Whether the Municipality and the developer have agreed that the developer will install any bulk engineering services; and
e) Bulk engineering services that are required to be built by the developer that are not the responsibility of the Municipality as per section 49(3) of SPLUMA.

6.7 Where the Municipality is to install bulk services, or an applicant is to install internal, link or bulk services, an Engineering Services Agreement (ESA) must be concluded. An ESA may not permit any intensification of land use beyond that which was approved.

6.8 No development charge is payable where an application creates no additional infrastructure impact, including:

a) Rezoning applications to a less intensive zone, i.e. where one land use (primary or consent use) is replaced by a different land use with similar or lesser infrastructure utilisation impacts for all services.
b) Subdivision applications where no additional development rights are created, or which do not result in additional loading onto external infrastructure.

c) Departure applications for building lines or height or other similar parameters, which do not lead to an intensification of land use.
d) Consolidation applications that are not accompanied by an application for rezoning or additional development rights; or
e) Consent use applications which have a similar or lesser impact on infrastructure utilisation than previous rights applicable to the property.

7. Purpose of Development Charges

7.1 Money collected by the Municipality in respect of development charges must be used for purposes of funding or acquiring capital infrastructure assets in a timely and sufficient manner to support current and projected future land development in the area of jurisdiction of the Municipality.

7.2 Development charges are not a general revenue source and money collected in respect of development charges may not be used to fund the operating or maintenance costs incurred by the Municipality in respect of municipal infrastructure services.

7.3 Where the Municipality fails to complete the installation of the engineering services within 12 months after the completion date as stipulated in the Engineering Services Agreement, the Municipality must reimburse the applicant that portion of the development charge which is attributable to the failure, with interest charged at the applicable rate as determined in terms of section 80(1)(a) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), calculated from the date of completion as stipulated in the engineering services agreement, unless the Municipality and the applicant agree to extend the period for completion of the bulk services by the Municipality.

7.4 Where the Municipality completes the installation within such extended period, it has no obligation to refund the development charge to the applicant, or any interest thereon.

7.5 Where the Municipality has good reason to believe that it will be unable to provide the required external services within a reasonable timeframe, the Municipality may require the developer to install the required external services (see section 10) or must decline the land development application. There is no obligation on the Municipality to provide services to land simply because an owner wishes to develop his or her land. Section 152 of the Constitution emphasises the fact that the Municipality must structure its administration and budgeting and planning processes to give priority to the basic needs of the community.

8. Calculation of Development Charges

8.1 Subject to the provisions of this policy, a development charge shall be calculated using the official development charges calculator to cover the cost of bulk engineering services with reference to the estimated increased impact on the external engineering services networks that results from the land development, multiplied by a unit cost.

8.2 The capital costs of internal and link engineering services are for the account of the developer.

8.3 Where a bulk or link engineering service is intended to service subsequent land developments and traverses the internal boundaries of the land development by a developer, the Municipality and the developer must agree that the service be regarded as an external or internal engineering service; or if the Municipality and the developer do not agree, the Municipality's determination applies and this determination must be included in the ESA, where applicable, or alternatively in the conditions of approval.

8.4 The distinction between bulk services and link services is that the extent of link services is often unknown in advance and is highly variable between land developments. Certain land developments may require no link services as they are located on bulk networks, while peripheral 'leapfrog' land developments may require

substantial amounts of infrastructure to link them to the existing or planned bulk services networks. In order to recover the true costs of land development that takes place outside of the planned infrastructure networks, and to maximise the use of existing infrastructure, developers are to pay for link services in addition to the bulk services component.

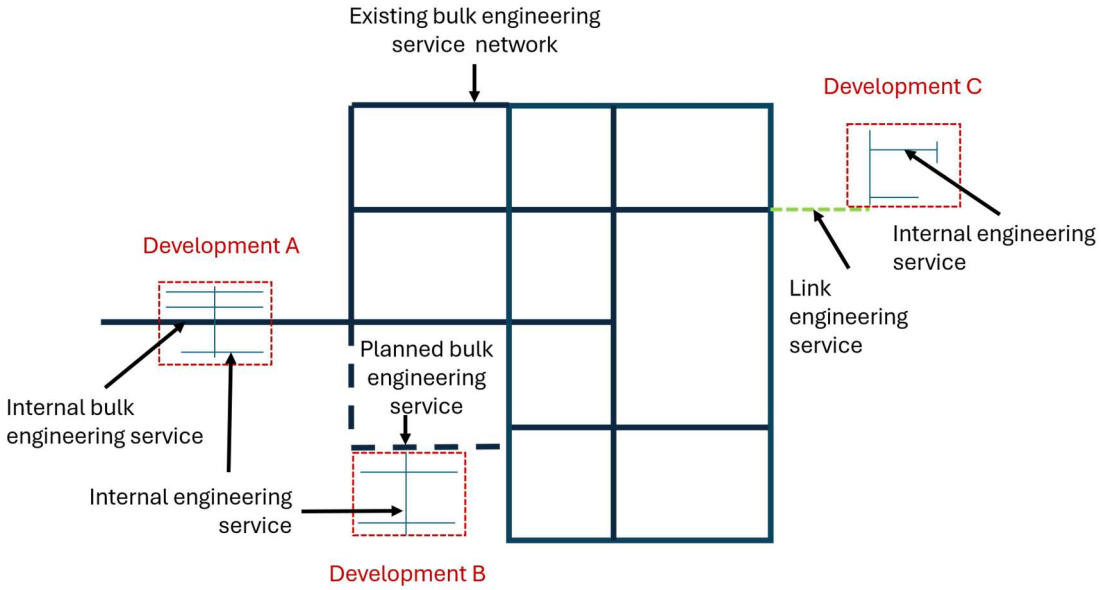


Figure 1: Distinction between bulk, link and internal engineering services

8.5 The Municipality must calculate the amount of a development charge separately for each of the bulk engineering services, but the total amount of the development charge must reflect the aggregate amounts for all bulk engineering services. The costs used must be inclusive of all land costs, professional fees, materials, labour, reasonable costs of construction and Value Added Tax.

8.6 The Municipality must notify the developer of the calculated development charge, including the basis for the calculation, and any link services required, as part of the comment submitted to the developer after advertisement, and provide the opportunity for the developer to query the charge or amend the land use application in terms of section 52 of the planning by-law.

8.7 In the event that the implementation of an approved land development requires the provision of link services and the Municipality in its discretion provides and installs these link services, the developer shall remain liable for the full costs thereof.

8.8 The basis upon which the unit cost for each engineering service will be determined is as follows:

Municipal roads: The growth costing method will be used, employing road master planning to serve the anticipated demand over 20 years. Capital cost items include municipal roads, land acquisition, bridges, intersection upgrades, street lighting, pedestrian sidewalks and cycle lanes.

Water: The growth costing method will be used, employing the latest bulk and reticulation water master planning of the Municipality to serve the anticipated demand over 30 years. Capital cost items include water sources, treatment capacity, bulk pipelines, pump stations and reservoirs from the bulk water master plan and bulk and reticulation pipelines, pump stations and reservoirs from the reticulation water master plan. The capital cost of spare capacity in existing bulk water infrastructure (pipelines, pump stations, reservoirs, etc.) which is reserved for future growth will be considered where that infrastructure was constructed within the preceding 10 years.

Sewer: The growth costing method will be used, employing bulk sewer master planning to serve the anticipated demand over 30 years. Capital cost items include bulk sewers, sewage pumping stations, rising mains and treatment capacity. The capital cost of spare capacity in existing bulk sewer infrastructure (bulk sewers, pump stations, rising mains, treatment capacity, etc.) which is reserved for future growth will be considered where that infrastructure was constructed within the preceding 10 years.

Solid waste: A combination of the Current Replacement Cost method (for existing airspace) and growth costing method (for future airspace and facilities) will be used. Waste generation rates for Saldanha Bay will be calibrated against existing land uses and landfill weighbridge records. Waste generated by existing residents and businesses, as well as waste imported from neighbouring municipalities will be excluded from the calculation. Capital cost items include transfer stations, landfill cells, landfill rehabilitation, material recovery facilities, and immovable assets associated with these facilities (roads, buildings, weighbridges, fencing, etc.). Collection and disposal vehicles are excluded from the calculation.

Electricity: The Current Replacement Cost method will be used, drawing current replacement costs from the Municipality's digital assets register of electricity assets. Costs are based on replacement costs that include professional fees, installation and commissioning for shared upstream assets, whether new upstream investment is required or not. These include the municipal High Voltage (HV) networks, HV/Medium Voltage (MV) supply networks, MV networks, MV/Low Voltage (LV) supply networks, and LV networks. The nominal service capacity of each network segment is determined based on standard After Diversification Maximum Demands and the diversity at each voltage level. The unit cost of each segment, expressed as R/kilovolt-amperes (kVA), is calculated by dividing replacement cost by the system capacity.

Stormwater: The Current Replacement Cost method will be used, drawing current replacement costs from the Municipality's digital assets register of bulk stormwater assets, including stormwater pipes, culverts, channels, storage/attenuation structures, inlets and junctions. The values for the unitless Rational Method coefficient 'C' were obtained from the SANRAL Drainage Manual 6th Edition Table 3.7 and the land use coverage and erf sizes were obtained from municipal billing analysis, which in turn is based on the Municipality's cadastral and Finance databases.

8.9 Different unit costs may be calculated for certain services in different towns within the Saldanha Bay Municipal Area where this is justified by a difference in unit capital costs. Each town for which a separate unit cost has been calculated will thus be regarded as an Engineering Service Zone for the purposes of this policy. The boundaries for these Engineering Service Zones for the relevant services are shown in Annexure D. For all other services not covered in Annexure D, an average unit cost will be applied across the entire municipal area.

8.10 The Municipality must escalate the unit cost for each municipal infrastructure service annually to take into account the impact of inflation, using the Consumer Price Index published by Statistics South Africa, applicable at the time of budget preparation. The escalated rate will take effect on 1 July every year.

8.11 The Municipality must recalculate the unit cost for each municipal infrastructure service at least every five years, but may do so more frequently, using one of the permissible unit costing methodologies, to take into account the current and planned capacity for each municipal infrastructure service at the date of recalculation, and any other relevant factors. In the year in which the recalculated unit costs are introduced, no escalation will be applied.

8.12 For each engineering service, the development charge is calculated by multiplying the applicable unit cost by the additional impact of the proposed development rights relative to the existing development rights. Where that difference is zero or negative, the development charge for that service is zero.

8.13 The additional impact will be the impact of the maximum permissible land use rights being applied for less the impact of existing development rights. Should the developer wish to reduce the development charge

by limiting the land use rights authorised at the date of approval, the application may be amended in terms of section 52 of the planning by-law.

8.14 For electricity, the total impact will be the lesser of that calculated in terms of clause 8.13 of this policy or the notified maximum demand and available capacity will be capped at this level. Should the developer or subsequent landowners wish to increase the notified maximum demand, additional development charges will be payable, calculated in the manner described in clause 8.12 of this policy.

8.15 The development charge will be recalculated at the time the payment is due using the unit cost applicable at that time, whether escalated or recalculated, and the applicant will be liable to pay the resulting development charge.

8.16 For the purposes of this policy, users are determined and engineering services are classified as follows:

(1) Each parent erf constitutes one user, comprising all land, erven, portions, units, sections, buildings and land uses within it, including all phases and sub-developments.

(2) A user remains one user irrespective of—

  (a) whether the land development is implemented in one phase or in several phases;

  (b) any subdivision, consolidation or opening of a sectional title register in respect of the parent erf after the parent erf approval;

  (c) the number of owners, applicants, developers, erven, units or sections within the parent erf; and

  (d) the number of approvals, site development plans or building plans granted in respect of the parent erf.

(3) Land outside a parent erf does not form part of the user constituted by that parent erf, and is deemed to constitute one or more separate users, as determined by the Municipality, whether or not a land development application has been approved in respect of that land.

(4) A land development application that relates wholly or partly to land within an existing parent erf is a sub-development of that parent erf, unless the Municipality determines that the approval of that application constitutes a new parent erf approval, having regard to—

  (a) whether the land development authorised by the existing parent erf approval has been completed;

  (b) whether the internal engineering services for the existing parent erf have been completed and taken over by the Municipality or the relevant service provider;

  (c) whether the land development application relies on engineering services installed for, or required by, the existing parent erf approval; and

  (d) any further criteria determined by the Municipality.

(5) Where the Municipality determines in terms of clause 8.16(4) of this policy that an approval constitutes a new parent erf approval, the land to which it relates constitutes a separate user from the date of that approval and ceases to form part of the earlier user.

(6) Engineering services are classified as follows:

  (a) an engineering service situated within the boundaries of a parent erf that is necessary for the use and development of that user only is an internal engineering service;

(b) an engineering service situated outside the boundaries of a parent erf that links the internal engineering services of that user to the applicable bulk engineering service is a link engineering service;

(c) any other external engineering service that serves, or is intended to serve, multiple users or the community as a whole is a bulk engineering service; and

(d) a bulk or link engineering service that is intended to serve subsequent land developments and is situated within, or traverses, a parent erf is classified as an internal or external engineering service in accordance with clause 8.3 of this policy and section 9I of the MFPFA.

(7) The classification of land as one user does not affect liability for a development charge in respect of any land development application relating to that land, calculated in accordance with clause 8.12 of this policy and section 9A(4) of the MFPFA on the additional demand that the land development is projected to create for bulk engineering services.

(8) Where it is uncertain whether land forms part of a particular user, or whether an engineering service is an internal, link or bulk engineering service, the Municipality must determine the matter having regard to the purpose of this section and the criteria in clause 8.16(4) of this policy, and that determination applies, subject to clause 8.3 of this policy and section 9I of the MFPFA.

9. Exceptional Circumstances

9.1 The Municipality may decide to increase or decrease the calculated impact of a land development on external engineering services, to reflect the actual anticipated demand for one or more of the required external engineering services where—

a) in the case of 'off-grid' or 'green' infrastructure, there is guaranteed independence, on the part of a land development, from one or all engineering services, and this is registered as a restrictive condition against the applicable title deed or deeds;
b) the unit impact on one or more engineering services is more than double the unit impact indicated in Annexure A, for the land use which is the subject of the land development application; or
c) the Municipality believes that the impact on one or more engineering services may be more than double the unit impact indicated in Annexure A and requires a specialist engineering report, prepared by a registered professional engineer, at the developer's cost, that determines the actual anticipated impact of the land development, in which case the calculated impact in the specialist report will be used and not the impacts as depicted in the official calculator.

10. Installation of External Engineering Services to Offset the Payment of Development Charges

10.1 The Municipality may enter into an Engineering Services Agreement (ESA) for the developer to install all or part of one or more bulk engineering services required for an approved land development to set off the payment of the development charges. The ESA must be consistent with the conditions of approval of the land development. A pro forma ESA is provided in Annexure B. The ESA must include:

a) The nature and extent of the internal engineering services installed by the developer, where applicable, and the link and/or bulk engineering services to be installed by the Municipality or developer;
b) The timing of commencement and completion of the link services and/or bulk services to be installed by the Municipality or developer;

c) The estimated costs of installation and the process, after installation, for determining the final amount to be offset;
d) Dispute resolution mechanisms;
e) The engineering and other standards to which the installed engineering services must conform;
f) The fair and transparent process by which the contractor will be appointed to undertake construction of the required engineering services;
g) The process to confirm the quality and functionality of the installed engineering services;
h) Any capacity in the external engineering services in excess of that required for the land development, that the Municipality requires to be installed by the developer; and
i) The party responsible for the ownership of any installed internal engineering services after completion.

10.2 Where a developer installs bulk engineering services to the technical standards required by the Municipality, as reflected in the ESA, the Municipality may set off the fair and reasonable cost of such installation, as determined by the Municipality in accordance with the provisions of the ESA, against the total development charge liability for all engineering services. Servitudes on private property can only be claimed at the rate determined by a qualified property valuer approved by the Municipality. Any infrastructure either provided on municipal property not related to the bulk services or not listed in the ESA (e.g. temporary parking) is excluded.

10.3 Any capital infrastructure assets forming part of bulk engineering service installed by an applicant instead of payment of any part of a development charge shall, upon installation, become the property of the Municipality, and:

a) the applicant must ensure that ownership or other relevant rights to the affected assets are transferred to the Municipality and that the assets comply with municipal standards before the value of the assets can be recognised as an offset against the development charge liability; and
b) the Municipality must include the applicable capital infrastructure asset gain in its next adjustments budget, in accordance with regulations relating to asset gains, made in terms of the Local Government: Municipal Finance Management Act 56 of 2003.

10.4 The Municipality may require a developer to install external engineering services, including both bulk and link engineering services, to accommodate a greater capacity than that which would be required for the proposed land use alone in accordance with any master plan approved by the Municipality, in order to support planned future land development in the vicinity of the approved land development. Only the pro-rata portion of the link engineering services in excess of that required in terms of minimum engineering standards to service the land development will be considered 'excess' link engineering services and may be added to the value of any bulk engineering services installed to set off against the development charge.

10.5 Where a land development is phased, and approval has been granted to pay development charges or provide infrastructure in phases, any link services required to provide capacity for the land development as a whole will not be treated as excess infrastructure for any phase and will therefore not be reimbursed or converted to credits.

10.6 Where the total fair and reasonable cost of installation of such required bulk and excess link engineering services exceeds the total development charge payable by the developer, the Municipality must agree to reimburse the developer for the difference between the development charge and the value of the qualifying infrastructure provided and agree to submit the value of that reimbursement to the Council for inclusion in the annual budget or adjustment budget processes in terms of Chapter 4 of the Local Government: Municipal Finance Management Act 56 of 2003.

10.7 Before reimbursement can take place, the Council must first approve the reimbursable value as submitted to it by the Municipality in terms of clause 10.6 of this policy. If approved by the Council,

reimbursement must take place within three years of the excess value being included in the capital budget of the Municipality, with no interest or escalation applied to the reimbursable value. If reimbursement is not approved by the Council, the applicant loses their right to reimbursement and a credit to the same value must be offered to the developer.

10.8 The Municipality must maintain a register of all development charge credits.

10.9 When an applicant intends to redeem these credits against subsequent land developments, this intention must be made known at the time of application and the available credit and credit used must be indicated in the conditions of development approval.

10.10 Should the Municipality not agree to reimburse the applicant for any excess infrastructure required, nor the applicant be willing to waive their right to reimbursement in exchange for credits, the Municipality must decline the application.

11.Withholding Clearances and Approvals

11.1 The Municipality shall be entitled to withhold any consent, clearance or approval in respect of a land development where development charges owed by the applicant remain unpaid or the applicant fails to install external engineering services in accordance with an ESA entered into with the Municipality.

11.2 The Municipality shall not be obliged to allow any internal or link services to be connected to the bulk services of the Municipality until all development charges have been paid by an applicant.

12.Administration

12.1 The Directors: IPS and Electrotechnical and Energy Services are responsible for the calculation of the development charges, determining which bulk infrastructure is required for land development and negotiating with developers regarding provision of engineering services. The Directors: IPS and Electrotechnical and Energy services and, where relevant, Corporate services must provide all the documents impacting on development charges payable to the CFO (Revenue Department) for financial record keeping timeously, including:

a) signed agreements;
b) Council approval of any rebates or exemptions;
c) conditions met by developer and Municipality; and
d) budgetary information needed for the Municipality's budget process.

12.2 The Director: Finance (CFO) is responsible for receiving the development charges, maintaining accurate records of credits and allocating the funds received to specific municipal votes per service. Any spending of development charges revenue must be in terms of an approved budget as per section 15 of the MFMA. The Capital Replacement Reserve must be debited with all rebates or exemptions to ensure rebates or exemptions are funded by the Municipality. All transactions (initial payable amount, rebate or exemption, conditions met by developer, payments received, conditions met by the Municipality and refunds) must be recorded in the development charges register per land development per service kept by the Revenue Department and reflect the credit payable if relevant at each month end. The aforementioned register will enable the monitoring and reporting requirements as stipulated in this policy and relevant legislation. The register reconciled with the financial system will serve as the single source for all development charges information.

12.3 The Director: Corporate Services is responsible for record keeping of land development applications and Engineering Services Agreements.

13.Delegations

13.1 The Council will provide written delegations to the Directors: IPS and Electrotechnical and Energy Services to calculate development charges, determine which bulk infrastructure is required for land development, and negotiate with developers regarding provision of engineering services.

13.2 The Council will provide written delegations to the Senior Managers: Roads and Stormwater, Water and Sanitation, Bulk Water and Solid Waste and Senior Manager: Electrical to provide comments on applications pertaining to engineering services subject to the approval of the respective Directors: IPS and Electrotechnical and Energy Services.

14.Rebates and Exemptions

14.1 Rebates and exemptions are authorised by the Council through approval of this policy and no rebates or exemptions not contemplated in this policy may be granted.

14.2 The Municipality should seek to:

a) minimise the number and value of any rebates or exemptions it provides for the payment of development charges; and
b) apply any rebates or exemptions in an equitable, transparent and administratively feasible manner.

14.3 A developer may make a written application for a rebate or exemption only if it qualifies in terms of clauses 14.4 or 14.5 of this policy, and must provide the Municipality with sufficient project details for the Municipality to make a determination.

14.4 Development charges are payable only in respect of the impact attributable to the portion exceeding the stated thresholds for the following land uses:

a) early childhood development centre up to 50 children;
b) house shop up to 20 m^2 per erf;
c) second dwelling up to 150 m^2 per erf; and
d) bed and breakfast or guest house establishments up to the first four bedrooms of an existing dwelling.

14.5 Rebates apply to applications for the following land use changes, according to the given formula:

a) Provincial state-subsidised housing, up to the extent to which a capital grant is available for the land development, according to the formula:

$$Percentage\ rebate = \frac{Total\ capital\ grant\ funding\ available\ for\ bulk\ engineering\ services\ to\ serve\ the\ development}{Total\ cost\ of\ bulk\ engineering\ services\ required\ to\ serve\ the\ development} \times 100$$

b) a private developer using privately owned property for gap housing purposes, according to the formula:
$Percentage\ rebate = 50\%\ x\ \frac{Total\ number\ of\ residential\ units\ restricted\ to\ households\ earning<R2\ \ ,000\ per\ month}{Total\ number\ of\ residential\ units\ in\ the\ development}$
c) a Social Housing Institution constructing social housing:
$Percentage\ rebate = 20\%$
d) township businesses in approved Municipal Spatial Development Framework priority areas:

$Percentage\ rebate = 10\%$

14.6 When a land development application qualifies for an exemption or rebate in terms of one of the above criteria, the Municipality must:

a) calculate the full development charge liability prior to applying the rebate or exemption in the development charge calculation;

b) make budgetary provision for the realisation of the associated revenue forgone from another realistically available funding source; and
c) include the value of the exemption or rebate in a running list of all exemptions and rebates granted in the financial year to be reported on in the annual report and financial statements.

15. Monitoring, Evaluation and Review

15.1 The Municipality must, through its annual budget, adjustments budget, in-year reports and annual reporting, disclose for each financial year:

a) the total amount of any development charges received by the Municipality;
b) the value of all external engineering services installed by developers set off against development charges; and
c) a list and the total amount of all rebates and exemptions granted by the Municipality in terms of this policy.

15.2 The Municipality must compare the development charges revenue with the value of external engineering services provided using development charges as a funding source and the total value of external engineering services provided in the financial year to evaluate the effectiveness of the policy.

15.3 This policy should be reviewed when the need to do so arises. Triggers for the review of this policy may include situations where:

a) The engineering service provision responsibilities of the Municipality are amended; or
b) The indicators outlined above reflect an under- or over-recovery of bulk infrastructure costs.

16.Dispute Resolution

16.1 A person whose rights are affected by a decision specifically regarding development charges taken by the Municipality may appeal against that decision in accordance with the mechanism provided for in section 62 of the Municipal Systems Act.

16.2 A dispute arising in relation to any matter regulated by an ESA must be resolved in accordance with the dispute resolution mechanism provided for in that agreement.

17.Transitional Arrangements

17.1 Where developers have previously installed external engineering services in excess of the development charge liability and been granted credits expressed as a number of residential units, either through conditions of land development approval or a Council resolution adopted prior to this policy coming into effect, these credits will be converted to a monetary value by multiplying the number of units of credit by the unit cost rate prevailing prior to this policy coming into effect. The Municipality must keep a record of these monetary values in parallel to the system of recording credits granted under this policy.

17.2 For applications in process, three time periods are specified for the submission and approval of applications: prior to this policy being adopted; between the date of adoption of this policy and this policy coming into effect; and after this policy has come into effect. The unit costs and unit impacts (‘Rates’) to be applied, and the method of unit cost escalation for each of these cases are shown in the table below.

Table 1: Applicable rates and escalation methodology for applications in progress

		Application approved:		
		Before adoption	**From adoption until commencement**	**After commencement**
Application submitted:	**Before adoption**	Rates prior to this policy, escalated using historical method		
	From adoption until commencement	N/A	Rates prior to this policy, escalated using historical method	Rates subsequent to this policy
	After commencement	N/A	N/A	Rates subsequent to this policy

17.3 Stormwater, as a new service, will not be charged for applications submitted before this policy is adopted.

17.4 Applications for the extension of land development rights will result in a new development charge being calculated in terms of the policy in force at the time of application.

17.5 Applications for amendments to development rights may result in additional development charges if the amendments result in additional impact calculated in terms of the policy in force at the time of application.

18. Commencement

This policy comes into effect on 1 July following the Council resolution adopting this policy.

Annexure A: Unit Impacts

Annexure B: Pro Forma Engineering Services Agreement

Annexure C: Process Flow Diagram

Annexure D: Engineering Service Zones