

# SOUTH AFRICAN WATER WORKS (SAWW)

## REVIEW REPORT OF THE FIVE YEAR PLAN

(2019 TO 2023)

MAY 2020



# TABLE OF CONTENTS

Abbreviations	
Preamble	5
Executive Summary	6
<b>1. INTRODUCTION - The Background of the Concession Contract Agreement</b>	<b>9</b>
<b>2. SITUATIONAL ANALYSIS OF THE CONCESSION</b>	<b>13</b>
<b>3. THE CONCESSION BUSINESS - Revenue Generation Overview</b>	<b>15</b>
3.1 Concession Actual Water Sales Previous Five Years	15
3.2 Water and Sewer Tariff Structure in 2018	15
3.3 Non-Revenue Water Previous Five Years	16
3.4 Projected Water and Sewer Sales 2019 – 2023	16
3.5 Water and Sewer Tariff Structure 2019 – 2023	17
3.6 Electricity Tariff Increase 2019 – 2023	17
3.7 New Financial Model Key Assumptions 2019 - 2023	18
<b>4. CONCESSION FINANCIAL REVIEW</b>	<b>19</b>
4.1 Projected Income Statement 2019 – 2023	19
4.2 Financial Review Matters 2014 – 2018	19
4.3 Forecasted Equitable Share to Council	20
4.4 Projected Balance Sheet and Cashflow Statement	20
4.5 Contribution Funded Capital Expenditure	21
4.6 Concession Tariffs: Municipal Budget Circular 70	27
4.6.1 Concession Tariffs	28
4.6.2 Municipal Budget MFMA Circular 70 for The 2014/15 MTREF	29
<b>5. CONCESSION AREA OF SERVICE – TECHNICAL REVIEW</b>	<b>29</b>
5.1 South African Water Works Area of Service	29
5.2 Bulk Water – Extract from SAWW Master Plan	29
5.3 Bulk Sewer - Extract from SAWW Master Plan	29
5.4 Existing Works and Assets	31
5.5 Technical Operations Report	32
5.5.1 Maintenance Report	32
5.5.2 Sewer Maintenance	34
5.5.3 Water Quality	34
5.5.4 Sewer Quality	34
5.5.5 Population, Meter Distribution (2014 – 2018)	34
5.5.6 Population Growth Projections (2019 – 2023)	35
5.5.7 Water Demand Projections (2019 – 2023)	35
5.6 Concession Capital Investment	36
5.6.1 Projected SAWW Water Funded (Capital Infrastructure)	36
5.6.2 Projected Siza Water Funded (Operational Assets)	36
5.6.3 Developer Funded Infrastructure (2019 – 2023)	36
<b>6. PERFORMANCE AND SERVICE LEVELS (ANNEXURE B2)</b>	<b>38</b>
<b>7. SOUTH AFRICAN WATER WORKS CORPORATE STRUCTURE</b>	<b>40</b>
<b>8. GOVERNANCE AND REPORTING COMPLIANCE</b>	<b>43</b>
8.1 Concessionaire's Reporting Obligation	44
8.2 Council's Obligation	44
8.3 Concessionaire / Council Communication Lines	44
8.4 Concessionaire / Council Communication Compliance	44
8.5 Youth and Community Fund Review	45
8.6 Employee Loan Fund Review	45
8.7 Staff Training and Development Review	45
8.8 SMME Promotion Review	46
8.9 Performance Guarantee Review	46
8.10 Contract Insurances Review	46
8.11 Human Resources Review	47
8.12 Employment Equity	47
8.13 Local and Black Economic Empowerment	47
8.14 Personnel Schedule	48
8.15 Labour Relations and Collective Bargaining	48
<b>9. OCCUPATIONAL HEALTH AND SAFETY – ENVIRONMENTAL COMPLIANCE</b>	<b>49</b>
<b>10. CONCESSION LEGAL REVIEW</b>	<b>51</b>
10.1 Five Year Review – Legal Report Summary	51
10.2 Legal Impact Assessment	52
10.3 Supreme Court Judgement	55
<b>11. KEY RECOMMENDATIONS</b>	<b>56</b>
11.1 Profit Share Structure	56
11.2 SME Investment Works	56
11.3 Five Year Plan Scenarios	56
11.4 Five Year Plan Water Sales	57
11.5 Capital Investment & Dividend Pay-out	57
11.6 Asset Handover Plan	57
11.7 Provision for Bad Debts	57

## LIST OF TABLES

1.	Table One: Concession Population Growth 2014 – 2018	13
2.	Table Two: Water Sales 2014 – 2018	13
3.	Table Three: Free Basic Water for Indigents	15
4.	Table Four: Projected Water Sales 2019 – 2023	16
5.	Table Five: Tariff Structure 2019 – 2023	17
6.	Table Six: Projected Income Statement 2019 – 2023	18
7.	Table Seven: Financial Model Return Threshold by Approximation	20
8.	Table Eight: Projected balance Sheet and Cashflow Statement 2019 – 2023	20
9.	Table Nine: Forecasted Cashflow 2019 – 2023	21
10.	Table Ten: Summary of SAWW Actual vs Forecasted Performance 2014 – 2018	22
11.	Table Eleven: SAWW Actual Audited Financial Statements 2014 – 2018	23
12.	Table Twelve: SAWW Forecast Income Statement 2014 – 2018	24
13.	Table Thirteen: Actual Balance Sheet Audited Financial Statements 2014 – 2018	25
14.	Table Fourteen: SAWW Forecast Balance Sheet 2014 – 2018	26
15.	Table Fifteen: The Current Treatment Capacity of the Concession WWTW's	31
16.	Table Sixteen: Water Maintenance Report 2014 -2018	31
17.	Table Seventeen: Sewer Maintenance Report 2014 - 2018	33
18.	Table Eighteen: Water Quality Report 2014 – 2018	34
19.	Table Nineteen: Sewer Quality Report 2014 – 2018	34
20.	Table Twenty: Population Estimate, Meter Distribution 2014 – 2018	34
21.	Table Twenty One: Population Growth Projections 2019 – 2023	35
22.	Table Twenty Two: Water Demand Projections 2019 – 2023	35
23.	Table Twenty Three: Projected SAWW Water Funded Capital Infrastructure	36
24.	Table Twenty Four: Projected SAWW Funded (Operational Assets) 2019 - 2023	36
25.	Table Twenty Five: Developer Funded Infrastructure 2019 – 2023	36
26.	Table Twenty Six: 5 Year Plan – Capex Funding by Developers 2019 – 2023	37
27.	Table Twenty Seven: Concession Water and Sanitation Coverage Levels 2019-2023	38
28.	Table Twenty Eight: Performance Targets (Annexure B2 per Contract)	39
29.	Table Twenty Nine: Legal Review Impact Assessment	52

## LIST OF FIGURES

1.	Figure One: Siza Water Concession Plan Map	12
2.	Figure Two: Concession Population Estimated Growth 2014 – 2018	14
3.	Figure Three: Water Sales Plan vs Actual	15
4.	Figure Four: Water Loss Statistics 2014 – 2018	16

# ABBREVIATIONS

<b>AFS</b>	Audited Financial Statement
<b>BOD</b>	Borough of Dolphin Coast
<b>DBSA</b>	Development Bank of Southern Africa
<b>DEA</b>	Department of Environmental Affairs
<b>DPLG</b>	Department of Provincial and Local Government
<b>DPW</b>	Department of Public Works
<b>DWAF</b>	Department of Water Affairs and Forestry
<b>ECA</b>	Environmental Conservation Act
<b>FM</b>	Financial Model
<b>IDM</b>	Ilembe District Municipality
<b>IDP</b>	Integrated Development Plan
<b>MFMA</b>	Municipal Finance Management Act (No. 56 of 2003)
<b>MIG</b>	Municipal Infrastructure Grant
<b>MSA</b>	Municipal Structures Act (No. 117 of 1998)
<b>MSA</b>	Municipal Systems Act (No. 32 of 2000)
<b>NEMA</b>	National Environmental Management Act (No. 107 of 1998)
<b>NDP</b>	National Development Plan - 2030
<b>NWA</b>	National Water Act (No. 36 of 1998)
<b>NWP</b>	National Water Policy (of 1998)
<b>NSP</b>	National Sanitation Policy (of 1996)
<b>NWSR</b>	National Water Resource Strategy
<b>NWSRS</b>	National Water Services Regulation Strategy (of 2008)
<b>OHSA</b>	Occupational Health and Safety Act (No. 85 of 1993)
<b>SHE</b>	Safety Health and Environmental
<b>WSA</b>	Water Services Act (No. 108 of 1997)
<b>WSDP</b>	Water Services Development Plan
<b>SAWW</b>	South African Water Works



# PREAMBLE



ILEMBE CONTINUES TO PROVIDE  
EXCELLENT QUALITY WATER TO  
CUSTOMERS AND COMMUNITIES  
IT SERVES



This Five Year Review comes at a very difficult time we are facing as a nation and the world-over. A time where the question of humanity perennial unequal existence, now more than ever before cannot be avoided. As a developing country with the highest unequal living index in the world. One of the major developmental challenges faced by our government is to achieve a universal access to, including efficient utilization of, adequate, affordable, clean, safe, reliable, secure and sustainable potable water services. It is on this long-term strategic thinking that government through the national treasury department had established a Public Private Partnership ('PPP') unit in 2000. The Sembcorp Siza Water Concession (now South African Water Works - SAWW) emanates from the PPP strategic goals of equipping and assisting Ilembe District Municipality ('IDM') (then known as Dolphin Coast) to carry out its mandate of service delivery and ensuring communities it serves have clean, safe, adequate supply of water. The concession is at twentieth anniversary mark of the 30 year contract ending 2029.

Vuthela Ilembe LED, working with Ilembe District Municipality, pursuant to the sterling work done on past review of the concession contract and the Concessionaire performance analysis, re-appointed Masithu Consulting and Project Management ('MCPM') to assist with the 2019-2023 Five Year Plan of the concession. It is crucial and imperative for council to know concessionaire performance on a continual basis, to understand the quality of infrastructure on the ground in the concession area, its design life cycle, post-maintenance and operational costs and infrastructure asset register. This needs to be coupled with the urgent and very imperative preparatory work that IDM needs to embark on to be in a state of absolute readiness, with all the resources required.

Council will be re-inheriting the various assets under the concession, water and sewer infrastructure, treatment works, pump-stations etc upon the culmination of the concession contract and therefore, it is important for Council to be at par with the workings of the concession management and operational activities.

The approach and methodology employed for this 2019-2023 Five Year Review is of a value - adding analytical nature rather than that of auditing. The review amongst various intentions, seeks to examine the working model of the concession, its resources and assets, financial performance, legal compliance both legislatively and environmentally and offer recommendations where necessary.

This report follows the work of annotating review of the SAWW Five Year Plan Report (2019 - 2023)\*. It worth noting that the Five Year Plan was improperly titled 'Five Year Review Report' when it indeed it should be referred to as a 'A Five Year Plan'. The review report is what follows the Five Year Plan report, it is to be read in conjunction with the annotation of the Five Year Plan Report. The Five Year Review Report consolidates the review of the Five Year Plan prepared by the concessionaire in respect of the three key aspects of the concession contract, namely: financial, legal compliance and also the economic climate brought by the impact of COVID-19 on key assumptions used in the Five Year Plan.

\*At the time of this Review Report the updated (as per annotation) Five Year Plan (2019-2023) Report had not been made available.

# EXECUTIVE SUMMARY

One of the major developmental challenges that continues to be faced by our government is to achieve a universal access to, including efficient utilization of adequate, affordable, clean, safe, reliable, secure and sustainable potable water services. It was on this long-term strategic thinking that government through the national treasury department established a Public Private Partnership unit in the year 2000. The South African Water Works Concession (Previously known as Sembcorp South African Water Works Concession) emanates from the PPP strategic goals of equipping and assisting Ilembe District Municipality ('IDM') (then known as Dolphin Coast) to carry out its mandate of service delivery and ensuring communities it serves have adequate, clean and safe supply of water. In 2018, the concession contract was at its 18th year of the 30year contract due to end in 2029.

IDM, citing the need for an impartial review of the concession contract and the concessionaire performance objectively, had appointed Masithu Consulting and Project Management in 2018 to assist with the 2018 Five Year Review of the concession. It was and still is crucial and imperative for council to know concessionaire performance on a continual basis, to understand the quality of infrastructure on the ground in the concession area, its design life cycle, post-maintenance and operational costs and infrastructure register.

Council will be inheriting assets, infrastructure and treatment works, Pump-stations etc upon the culmination of the concession the contract and therefore it is important for Council to be at par with the performance and management of the concession.

The approach that was employed for the previous 2018 Five Year Review was of analytical nature rather than that of auditing. The review amongst various intentions, sought to examine the working model of the concession, its resources, financial performance, legal compliance both legislatively and environmentally and offer recommendations where necessary. The previous 2018 report similar to this current (2019-2023) review report consolidates the review work of the work carried out by the concessionaire in respect of the three key aspects of the concession contract, namely; Technical, Financial and Legal Compliance: The previous Technical Review (2018) included Site visits of treatment works, pump stations, reservoirs and reviewing the following documents: Concession Contract Agreement, the relevant Supplementary Agreements, Concession Master Plan, (2014-201 Five Year Plan, Concession Quarterly Reports, IDM Integrated Development Plan (2017/18) and Water Services By-laws (November 2009), Blue Drop Compliance and Waste Water Treatment Works (Green Drop Compliance), Concession Treatment Works emergency response and Concession Environmental Legal Compliance Audit report (2018) amongst other documents. The Financial Review included an analysis of an array of services reports and financial documents, including: Concession Agreements and Supplementary Agreements, Concession Quarterly Financial Reports, Income Statements, Contribution Report, Capital Expenditure Summary, Trial balance, applicable Tariffs, Audited Financial Statements, Auditors Report, Detailed Annual Budget information, Final Management Accounts, Youth and Community Fund, Social Fund, Schedule of Investment Cost undertaken by SME's, Concessionaires Performance Guarantee and Insurance Policy Documents. The Financial Review had also included identifying relevant



clauses in the concession contract agreement, conducting enquiries into events and transactions with relevant personnel, assessing level of compliance of the Council and the Concessionaire with regard to the concession contract, verifying information and explanations given with reference to original documentation and records and analysis of the concession financial performance.

The Legal Review cutted acrossed two other key review areas: The Concession Contract Agreement as a whole and the Legislative Environment, and in particular any legislative amendments that affect the implementation of the Concession Contract essential work. The review was fundamentally designed to respond to questions about the performance of the Concessionaire and the relationship between the parties and sets out recommendations and consideration by Council. The report was written using the best available information that could be sourced with the resources available.

The methodology of the report had been influenced by, but did not replicate, the methodology of previous case studies on the implementation of the Concession Contract.

The provided mandate with regards to the review of the Concession Contract, included review of: The Agreed Contractual Deliverables, Compliance with regards to National Legislative prescripts and municipal by-laws standards, Historical Contract data, Historical Financial Statements (income statements, balance sheet and, cashflow statements), Concession Financial Model analysis, Projected Revenue Generation, An Evaluation and Assessment of Contract Performance on Agreed deliverables, The Water and Waste Water Master Plan including treatment works operations, Quality Assurance (achieving Blue and Green Drop Status), An Evaluation of Quality Control Mechanism, Management of Business processes in water and waste water infrastructure projects in alignment to that of the districts objectives.

Bulk Water Supply into SAWW Concession Area Bulk water is received from Umgeni Water via the Hazelmere Dam Water Treatment Works. A 450/700mm diameter pipeline from Hazelmere supplies the Avondale reservoir (15,0 MI, TWL 137,5M). This reservoir acts as a balancing reservoir to feed the entire South African Water Works Bulk Water Network and in turn the water reticulation network. The Water and Waste Water Master Plan including treatment works operations, Quality Assurance (achieving Blue and Green Drop Status), An Evaluation of Quality Control Mechanism, Management of Business processes in water and waste water infrastructure

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Water is transported via a long bulk supply main system comprising of 7,1km of 450mm diameter GRP/375mm diameter AC/350mm steel pipeline which has several offtakes supplying the Sembcorp South African Water Works reservoir and reticulation zones. The Avondale reservoir serves a dual purpose, both as a balancing storage reservoir to Umgeni Water for onward conveyance of water into the bulk supply system downstream of Avondale reservoir, and as a service storage reservoir to Sembcorp South African Water Works for the reticulation zone feed directly from Avondale Reservoir.

Existing reservoirs within the SAWW concession area include Avondale, Ballito Terminal, Ballito Lea, Shakashead, Taffeni, Shakasrock, Sheffield, Nkobongo, Shayamoya, Zimbali, Etete and the Honolulu reservoir. The Avondale, Ballito Terminal, Ballito Lea, Shakashead, Taffeni, Nkobongo, Shayamoya, Chakasrock, Sheffield and Etete reservoirs will no longer have adequate capacity when all developments are complete. However, the Zimbali reservoir has adequate capacity for the existing and future developments that it serves.

Costing pertaining to bulk water infrastructure required for construction is based on the storage required. Developers' contributions will allow for construction costs of the proposed bulk infrastructure upgrades. The SAWW concession area is currently served by three wastewater treatment works, henceforth referred to as WWTW, i.e. the Frasers WWTW, Sheffield WWTW and the Shakaskraal WWTW. Frasers and Shakaskraal WWTW will have insufficient capacity to accommodate the increase in flows if developments occur on all serviced areas and will be operating beyond design capacity. Sheffield WWTW is currently underutilized at present and inflow into the treatment works is barely measurable.

The provided mandate with regards to the review of the Concession Contract, included review of: The Agreed Contractual Deliverables, Compliance with regards to National Legislative prescripts and municipal by-laws standards, Historical Contract data, Historical Financial Statements (income statements, balance sheet and, cashflow statements), Concession Financial Model analysis, Projected Revenue Generation, An Evaluation and Assessment of Contract

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Existing reservoirs within the SAWW concession area include Avondale, Ballito Terminal, Ballito Lea, Shakashead, Taffeni, Shakasrock, Sheffield, Nkobongo, Shayamoya, Zimbali, Etete and the Honolulu reservoir. The Avondale, Ballito Terminal, Ballito Lea, Shakashead, Taffeni, Nkobongo, Shayamoya, Chakasrock, Sheffield and Etete reservoirs will no longer have adequate capacity when all developments are complete. However, the Zimbali reservoir has adequate capacity for the existing and future developments that it serves.

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Water is transported via a long bulk supply main system comprising of 7,1km of 450mm diameter GRP/375mm diameter AC/350mm steel pipeline which has several offtakes supplying the Sembcorp South African Water Works reservoir and reticulation zones. The Avondale reservoir serves a dual purpose, both as a balancing storage reservoir to Umgeni Water for onward conveyance of water into the bulk supply system downstream of Avondale reservoir, and as a service storage reservoir to Sembcorp South African Water Works for the reticulation zone feed directly from Avondale Reservoir.

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# 1. INTRODUCTION - The Background of the Concession Contract Agreement

In January 1999, the Borough of Dolphin Coast and SAWW (then Semcorp Siza Water, with a controlling interest at that time by SAUR Services of France) entered into a contract whereby SAWW would oversee, manage and implement the provision of water and sanitation services within the then BODC Municipal boundary, on a Concession basis, for a period of 30 years. At the time the concession contract was signed, various policy and legislative change were taking place as the new dispensation was firmly taking form. The changes included the forming regional demarcation of local government through systems and policy shift at national government. The municipal jurisdiction, reformation of municipal structures, regulatory framework, various policy

guidelines et cetera were being introduced. Most of the legislative policy framework transformation were due to government socio-economic redress advancement to balance and eradicate the inequitable share left by the legacy of the previous government. To the effect that the other party to the concession contract Ilembe District Municipality was through inheritance emanating from these government structural conversion in addressing the social service, promote infrastructure growth and development and tackle the immense socio-economic challenges faced by the new democratic government. The relevant policy and legislative prescripts that affects and working of the concession which were borne through the Public Private Partnership (PPP).

A national treasury directive formally established in 2000 under the Public Finance Management Act 1999 (PFMA) and later incorporated the Municipal Finance Management Act 56 of 2000 (MFMA). These various policies in their amended form which are governing law of South African Constitution are, namely:

- Municipal Finance Management Act (56 of 2003)
- Municipal Systems Act (32 of 2000)
- Water services Act (108 of 1997)
- National Water Act (36 of 1998)
- National Environmental Management Act (107 of 1998)

Included were various water provision guidelines and policy frameworks. The concession contract agreement, under Annexure E2 – clause 4.2 especially clause 4.2.1.5 fortunately made provision for the accommodation of government policy change that came into operation with substantial effect on the way the Tariff is calculated and was not catered for anywhere in the Concession Contract. This were the case with the Government Policy as summarised in the General Notice 888 of 2013, which stated the Municipalities are required to review the level and structure of their water tariff carefully with a view to ensuring:

- Water and sanitation tariffs were on aggregate cost reflective - inclusive of bulk cost of water, the cost of maintenance and renewal of purification treatment plants and network infrastructure, and the cost of new infrastructure;
- water and sanitation tariffs were structured to protect basic level of service ; and
- water and sanitation tariffs were designed to encourage efficient and sustainable consumption (e.g. through inclining block tariffs).

If a municipality's water and sanitation tariffs were not fully cost reflective, the municipality should then develop a pricing strategy to phase-in the necessary tariff increases in a manner that spreads the impact on consumers over a period of time.

The guidance had been supplied in various Budget Circulars, including National Treasury MFMA Circular No. 70, Municipal Finance Management Act No. 56 of 2003, Municipal Circular for the 2014/15 Medium Term Revenue and Expenditure Framework ("MTREF) guidelines. As per the guidance in previous Budget Circulars, municipalities were expected to have cost reflective tariffs for the 2014/15 MTREF for both water and sanitation.



The Contract was amended with effect from 30 June 2001, in terms of the Supplementary Agreement. The essential terms of the amendment were to:

- Extend the list of existing works and replace the lease Agreement;
- Reduce the concession fee until 30 June 2006
- Amend the Rental Obligations of the Concessionaire to the Municipal Council;
- Provide for extraordinary tariff increase of 15% (fifteen per centum);
- Provide for payments of rental and nominal rental
- Provide for Concessionaire's investment programme for the water and sanitation system, in the first and current Five Year Plan, to a total amount of R10 million (ten million rand);
- Provide for a reduction of the amount Concessionaire pays to its major shareholder as a management fee by 50% (fifty percent) until 30 June 2006;
- Provide for a reduction of the electricity tariffs charged to the Concessionaire during the period from 1 July 2001 to 30 June 2006, by 7% (seven percent); and
- Acknowledge that the Concessionaire has paid the sum of R3 668 331,00 (three million six hundred and sixty eight thousand three hundred and thirty one rand) on or about 5 June 2001, in consideration of the Rental due until April 2001, and that the differences between the Parties on this matter have now been resolved.

There was a second supplementary amendment dated 14 June 2013. The essential terms of amendment were as follows:

- SAWW to ensure that contracts for subcontracting would be transferred to Ilembe on unaltered terms should the concession agreement be terminated for whatever reason.
- SAWW to submit a valid B-BBEE certificate to the District each year
- The Maintenance bond to be issued (para 55) based on an evaluation by a duly competent engineer
- The acceptance of a base case financial model and the Internal Rate of Return (IRR) of 15% to SAWW. Should the returns exceed 15% then there will be equal sharing of this return between SAWW and Ilembe
- Maintenance programs to be submitted to Council each quarter by SAWW
- Basic sanitation education is to be undertaken by SAWW.

Over the page is the SAWW Concession Plan map, showing the Concession Area. The red outline shows the SAWW Concession area as at 2005. The blue dotted outline shows the proposed extension of the Concession Area by SAWW to Ilembe District Municipality in 2008. This would include granted extensions, pending extensions and approved extensions.

The Supplementary Agreement was then followed by a second Supplementary Agreement.

The essential terms of the amendment were to:

- Provide for Black Empowerment and Socio-economic obligations on the part of the Concessionaire by requiring the annual preparation and submission to Council of a valid B-BBEE verification certificate;
- provide for a final maintenance survey to be conducted by a reputable and suitably qualified independent expert, of all works 24 (twenty four) months prior to the expiry of the contract term;
- provide for the payment of reasonable cost of final maintenance survey and retention of the maintenance surveyor by the concessionaire;
- provision for the replacement of clause 55.1 to 55.6 of the Concession Agreement with clauses 55.1 to 55.16, which make provision for a maintenance bond, a maintenance surveyor and a maintenance survey.

The Concession contract had been the subject of an in-depth case study by Water Dialogues. The following Concession map illustrates the current SAWW Concession Area boundary. The red outline shows the concession area boundary in its current form, whilst the green outline denotes the extension application made by SAWW to IDM.

The specific note, marked "1" on the Concession map makes reference to section on the toe of the Concession area boundary that it will be logistical to include it within the Concession boundary as it did not make, planning, geographic and catchment terrain sense to exclude it from the Concession area. The full report on the 'specific area can be found on Town Planning report of A&F Planning.

The Contract makes provision in clause 5.2.2 for the following as regards inclusion of a New Area during the term of contract; If the New Area is incorporated during the term of the Contract but their Water Services happen to already be incorporated into the current Five Year Plan, then the Concessionaire will continue to provide Water Services to the said Area.

However, should the New Area did not fall within the Five Year Plan, then the parties will have to meet as soon as possible, after proper receipt of notice as prescribed by the Contract, in order to negotiate issues relating to the New Area such as

- The levels and condition of service, including the appropriate tariff;
- The required additional capital investment program, if any;
- The effect of the new Area on the Financial and Technical feasibility, as well as viability, of the Contract. If feasibility will be affected then Council, together with the Concessionaire, will have to find alternative solutions.



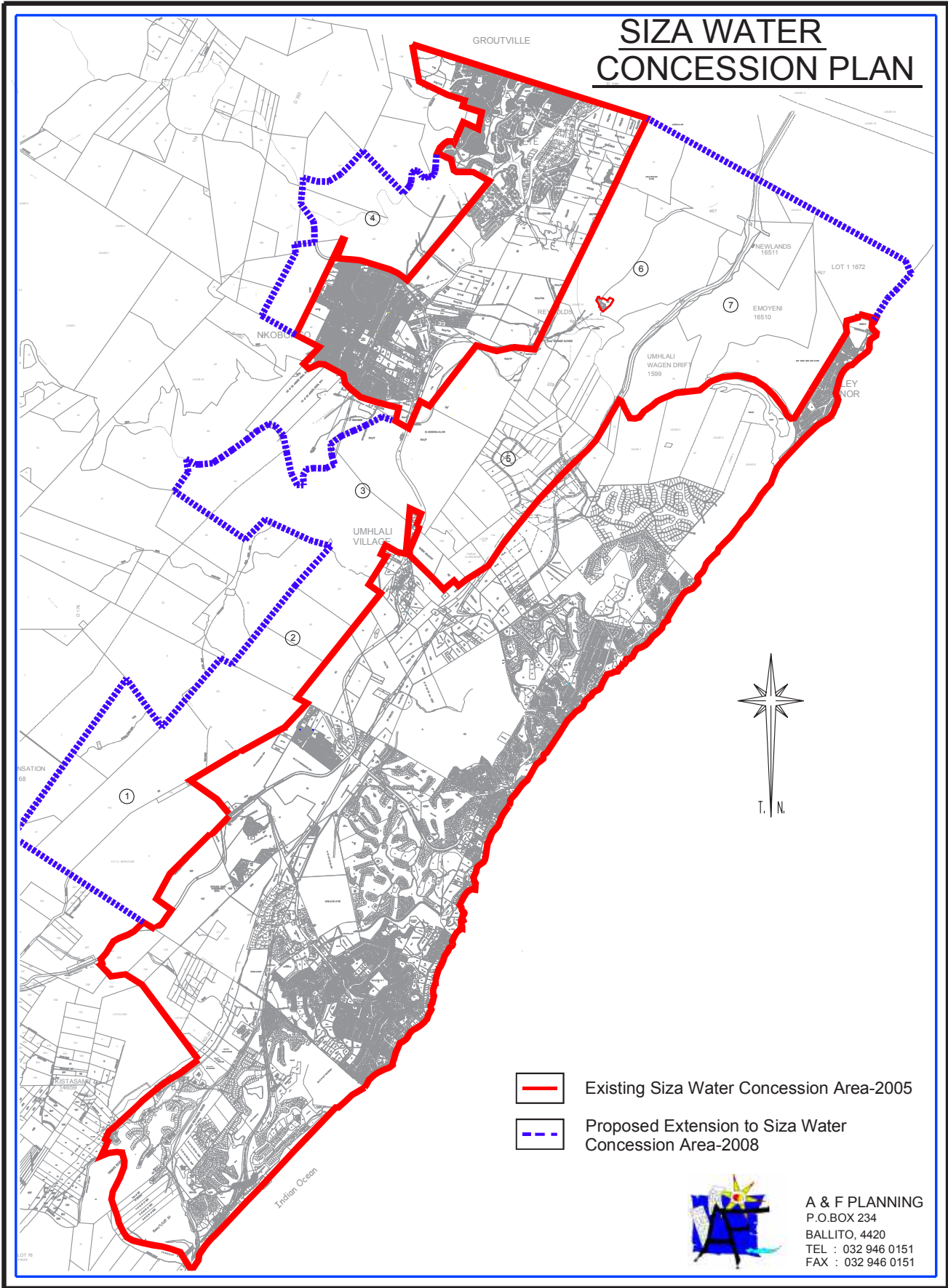


Figure One: Siza Water Concession Plan Map



## 2. SITUATIONAL ANALYSIS OF THE CONCESSION

Over the years the overall service delivery by the concessionaire had been on a positive trajectory. Approximately R97million on infrastructure compared to forecasted amounts of approximately R67million.

Performance on the assumptions monitored by the council showed steady improvements year-on-year as the company makes continual improvements to service and efficiencies. The concessionaire had taken been some measures to try and reduce power costs and reduce interruptions by ensuring that all pumping equipment was operating efficiently and was maintained to give the best efficiency of the motors and pumps. The effects and benefits of this programme are shown through increased in water pressures, a reduction in breakdowns, the reduction in electrical costs and reductions in sewer overflows.

In late 2014 the region service area was affected by one of the most severe droughts of our generation and this resulted in SAWW underperforming financially during the drought. South African Water Works financed the drought intervention from their own funds.

The construction of the Water Recycling facility was a noted intervention. The upgrade of the Hazelmere Dam Wall as well as the completion of phase 1 of the Lower Thukela Bulk Water Scheme has further sought to mitigate the risk of water security which remains stressed owing to changing climate change.

During the 2014-2018 period Umgeni water also sought to increase the bulk water tariff by approximately 38%. In terms of the contract, Bulk Water costs should be passed through in the tariff which has to be approved by the Municipality. SAWW however decided to object to this tariff via the legal avenues available and as such declared a dispute with Umgeni Water regarding this tariff increase to SAWW. The dispute was heard at the High Court in Pietermaritzburg and subsequent judgement resulted in SAWW winning the case. This had resulted in Umgeni Water approaching the Supreme Court of Appeal to review the judgement of the Pietermaritzburg High Court and this matter was expected to be heard during the second half of 2019. Bulk Water costs was a material cost for SAWW, and should the case be granted in Umgeni Water's favour, and in the event SAWW ultimately loses the case they will be seeking to implement this increase in the tariffs. It is worth noting that SAWW had adequately provided for the year to date Bulk Water costs (funds held in trust) that would be due to Umgeni should the final judgement be in Umgeni's favour.

The key to any water and sanitation network is based on the maintenance that is conducted. SAWW states that some of the funds set aside for maintenance were diverted to wards drought relief and thus improvement are needed in the maintenance area.

The population estimates under the concession area depicted in the table and graph below shows a steady increase over the last five-year period. We also notice an increase in non-residential metered units as a result of developments within the concession area.

	Units	2014	2015	2016	2017	2018
Population (estimate)	nr	68,574	71,544	72,551	73,276	74,009
Metered Residential Units	nr	12,292	12,658	13,038	13,168	13,300
Metered Non Residential	nr	1,980	1,966	2,161	2,183	2,204
Standpipe Delivery	nr	36,000	38,000	38,000	38,000	38,000
Umgeni sales to SAWW	kl	4,864,055	3,763,502	3,839,454	4,006,575	4,451,900
Customer water	kl	4,386,847	3,413,467	3,286,743	3,787,141	4,016,919
Water Loss	kl	477,208	350,035	552,711	219,434	434,981
Water Loss	%	10%	9%	14%	5%	10%

Table One: Concession Population Growth 2014 - 2018

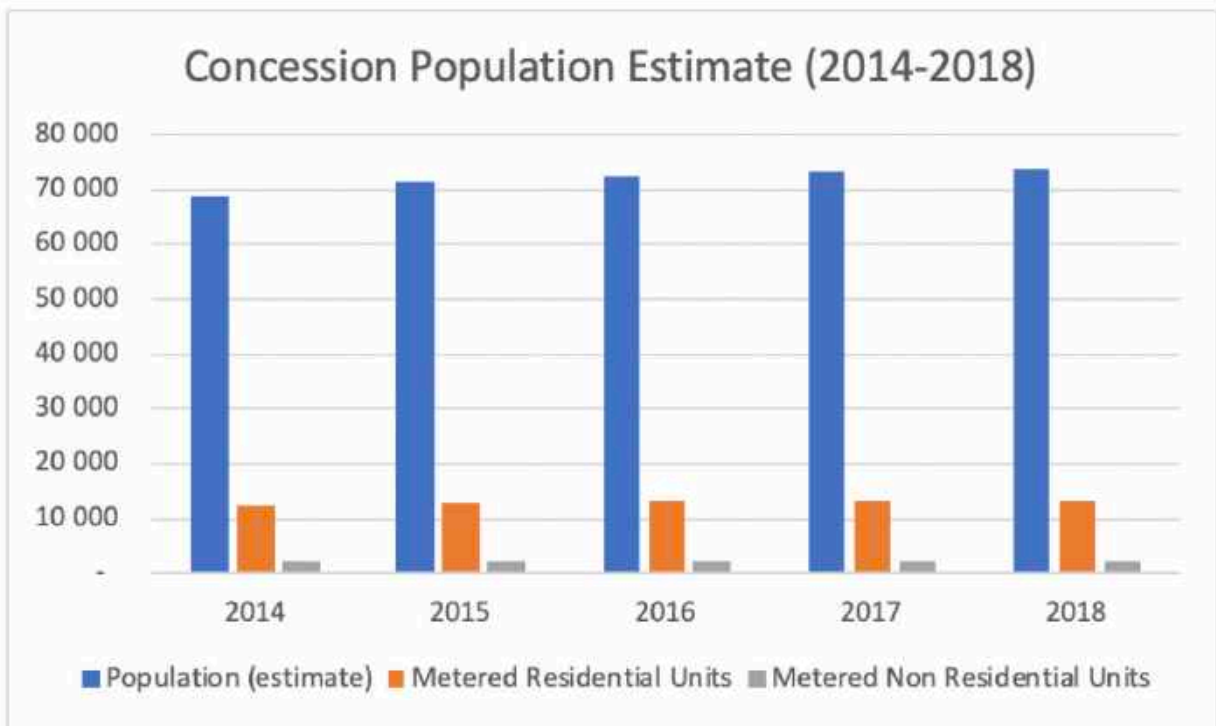
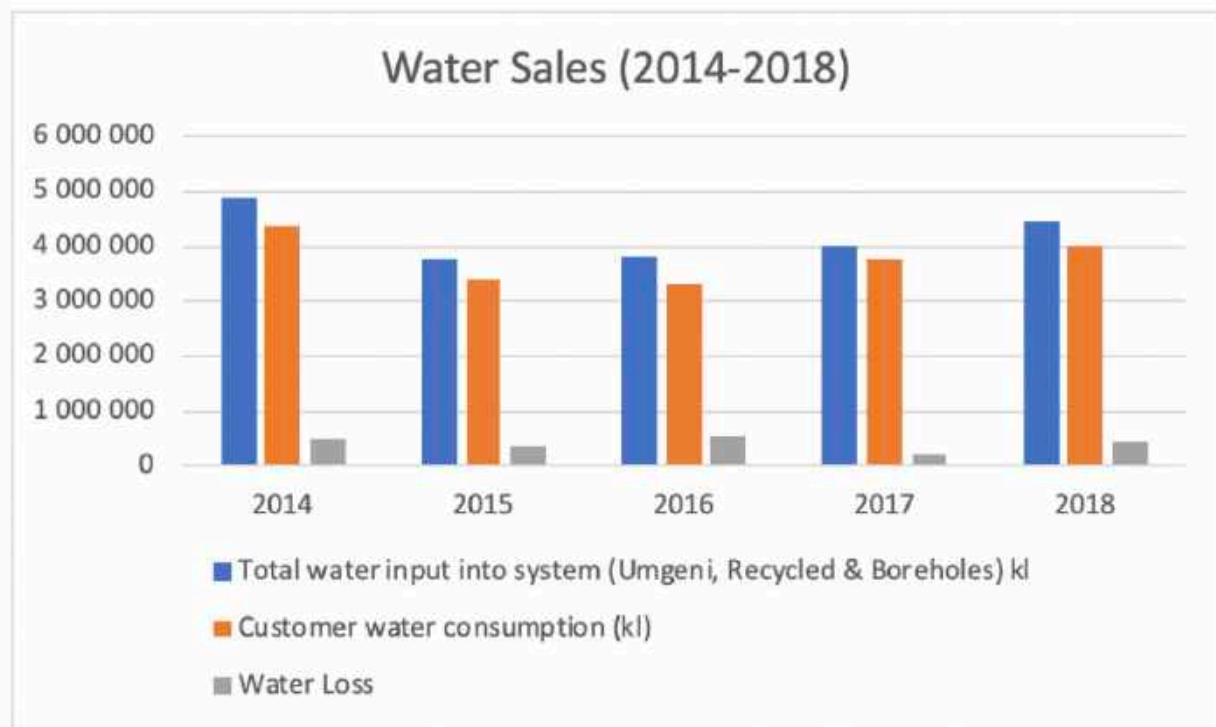


Figure Two: Concession Population Estimated Growth 2014 - 2018



### 3. THE CONCESSION BUSINESS - Revenue Generation Overview

#### 3.1 Concession Actual Water Sales Previous Five Years

We note that the water sales volumes within the Concession area was projected at 22,1million kilolitres for the period 2014 to 2018 and the actual water sales was lower for the same period and sat at 18,8million kilolitres, It is further noted that the water consumption over the past five years from 2014 to 2018 has decreased from 4,386,847 kl to 4,016,919 kl, representing a decline of 8.4% as depicted in the graph below:

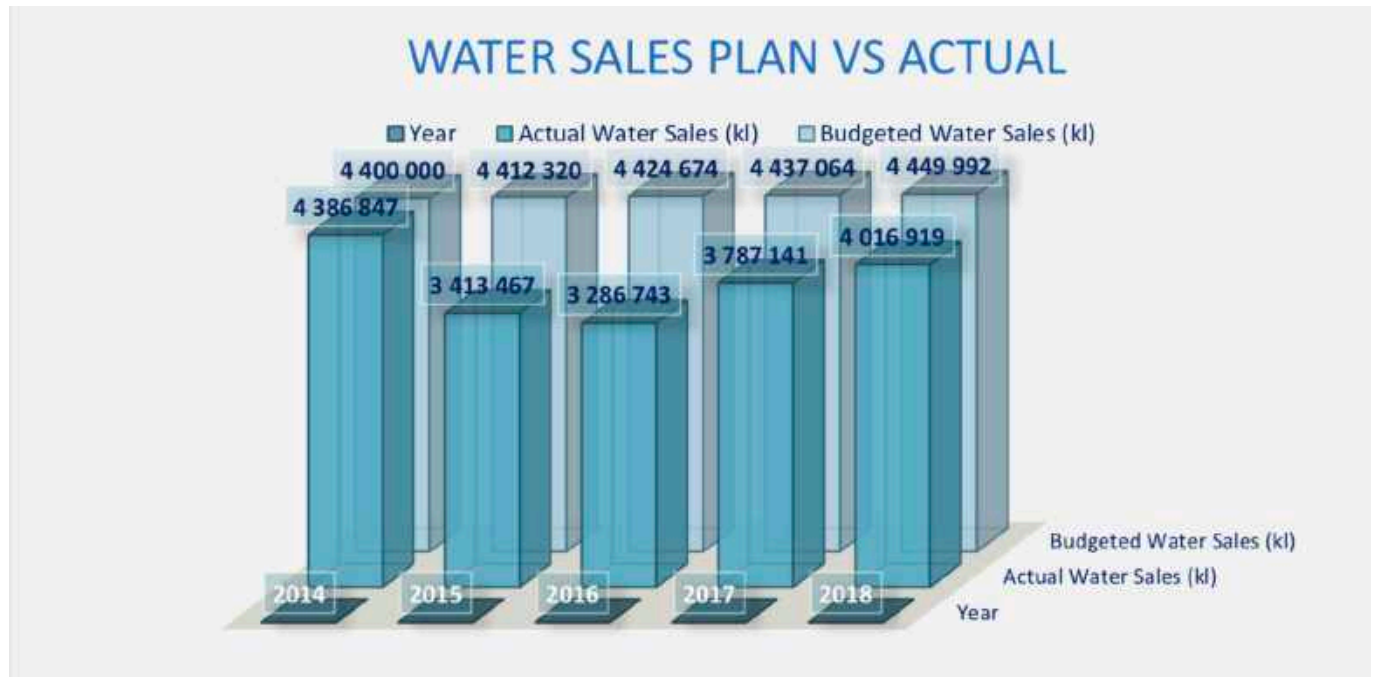


Figure Three: Water Sales Plan vs Actual

#### 3.2 Water and Sewer Tariff Structure in 2018

The water tariff structure is or should be aligned to the policy provisions of Government and Water Services Authorities in so far as water provision is concerned which advocates that “Free basic water will only be provided to only indigent households”.

In line with this structure the SAWW financial model assumed that Council would pay for 10 kl of free basic water for indigents while the rest of the consumers will pay a basic charge of R144.70 per per kl in 2018. The register of indigent households within the concession area should be maintained by SAWW on behalf of Council for this purpose.

	2018
Water Basic 10kl (Non-Indigent)	R144.70
Water Basic 10kl (Indigent)	R0.00
>10 to 30kl	R17.52
>30kl to 40kl	R22.80
>40 kl to 50kl	R36.56
>50kl	R45.70



Table Three: Free Basic Water for Indigents

### 3.3 Non-Revenue Water Previous Five Years

Non-Revenue Water or Water Losses is usually in the region of 10%. The purchases of Bulk Water remain the single largest expense of SAWW. Hence the control of wastage is strictly monitored to reduce costs. SAWW had managed to contain water losses at an average of 9.6% over the period of 2014 to 2018 within the concession area as shown on the table below:

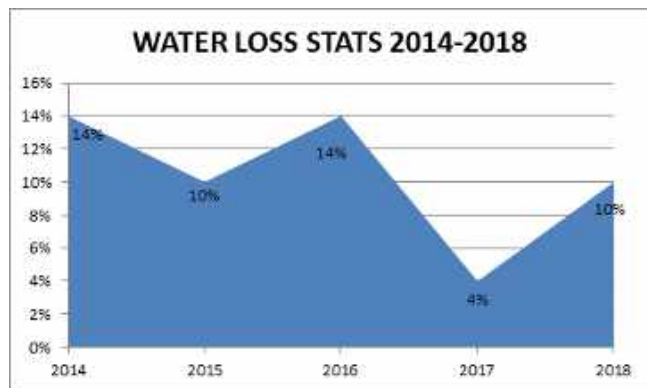


Figure Four: Water Loss Statistics 2014 - 2018

The report was complimentary to the previous developed similar reports and to the Concession's Five Year Plan and the projected financial growth and incremental investment works within the concession area. The review procedures conducted did not constitute that of an audit or review conducted in accordance with the statements of the South African Auditing Standards across the three key streams of review. Consequently, we cannot express any assurance on the SAWW Concession Financial Model and or various parameters used in its formulation.

### 3.4 Projected Water and Sewer Sales 2019 - 2023

The projected growth in water sales for the 5 Year Plan 2019 to 2023 is presented in the table below:

Year	Distribution Input	Distribution Input	Distribution Input
	Kl/ year (2%)	Kl/ year (6%)	Kl/ year (8%)
2019	4 540 938	4 719 014	4 808 052
2020	4 631 757	5 002 155	5 192 696
2021	4 724 392	5 302 284	5 608 112
2022	4 818 880	5 620 421	6 056 761
2023	4 915 257	5 957 646	6 541 302
% increase 5 years	8.2%	26.2%	36%

Table Four: Projected Water Sales 2019 - 2023

We note that water consumption over the past five years from 2014 to 2018 decreased from 4,386,847 kl to 4,016,919 kl, representing a decline of 8.4% or an average decline of 4% per annum. The projected growth in water sales volumes for 2019 to 2023 has been forecasted to grow from 2019: 4,221,981 kl to 2023: 4,768,685kl which represents an increase of 12%. We also note that from 2014 there was severe drought experienced by the region which has started to show signs of improvement, however water levels still remain at lower than reasonable levels of comfort. Considering all the factors above, water sales projected in the five year plan 2019-2023 may be overstated.

Sewer sales volumes have been assumed to grow from 2019: 3,271,696 kl to 2023: 3,695,347 kl, representing growth of 13% over the five year period 2019 to 2023 which is inline with the projected water sales.



### 3.5 Water and Sewer Tariff Structure 2019 – 2023

The water tariff structure as proposed in the financial model is aligned to the policy provisions of Government and Water Services Authorities in so far as water provision is concerned which advocates that “Free basic water will only be provided to only indigent households”.

In line with this structure the SAWW financial model assumes that Council will pay for 10 kl of free basic water for indigents while the rest of the consumers will pay a basic charge of R144.70 for per kl in 2019. The register of indigent households must be maintained by SAWW in the Concession area for Council for this purpose. The water tariff structure assumed in the SAWW FM model is as follows :

	2019	2023
Water Basic 10kl (Non-Indigent)	R144.70	R214.12
Water Basic 10kl (Indigent)	R0.00	R0.00
>10 to 30kl	R17.52	R25.97
>30kl to 40kl	R22.80	R33.79
>40 kl to 50kl	R36.56	R51.17
>50kl	R45.70	R63.95



Table Five: Tariff Structure 2019 – 2023

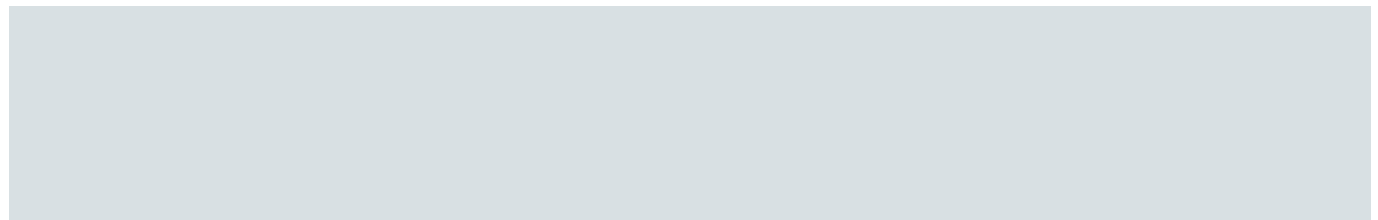
The water tariff is projected to increase by an average of 10.22% per annum over the next five year period from 2019 to 2023. Bulk water price increase is expected to be 13.4% per annum over the same period in respect of bulk water purchases.

The sewer tariff is projected to increase by an average of 7.9% per annum over the period from 2019 to 2023. The water and sewer tariffs assumed in the FM may be considered realistic, as they have pegged just above the Consumer Price Index (CPI) outlook of 6% per annum.

The purchases of Bulk Water remain the single largest expense of SAWW. Hence the control of wastage is strictly monitored to reduce costs. SAWW has managed to contain water losses at an average of 9.6% (shown in the graph below) over the last five years 2014 to 2018 within the concession area as shown on the table below: For the FM, SAWW has set a target of 10% for water losses taking into account the various measures that will be continually be put in place to mitigate water losses over the next five years from 2019 to 2023.

### 3.6 Electricity Tariff Increase 2019 – 2023

Electricity tariffs have been assumed to increase by 15% per annum over the next five year period from 2019 to 2023. Based on this assumption, electricity tariffs are expected to increase by above 10% p.a in the next five years and this appears realistic bearing in mind that the country continues to grapple energy shortages.



### 3.7 New Financial Model Key Assumptions 2019 - 2023

The other key assumptions that have been factored in producing the FM are as follows:

- Average Inflation of 5.2% over the period 2019-2023
- Effective Corporate tax of 32% taking into account non tax deductibility of certain expenses of SAWW
- Salary increase of 11.5% which incorporates planned increase in headcount.
- Concession Monitoring fees in line with average inflation of 5.2%

These assumption were found to be reasonable at the time of preparation of the 5 year plan, however due to changes in the economic environment as a result of the Covid-19 pandemic, a revision to these key assumptions must be considered where appropriate.



## 4. CONCESSION FINANCIAL REVIEW

### 4.1 Projected Income Statement 2019 – 2023

Forecast Income Statement	19-Dec	20-Dec	21-Dec	22-Dec	23-Dec	TOTAL
	R'000	R'000	R'000	R'000	R'000	R'000
Turnover	181 518	202 504	226 430	250 159	277 172	1 137 783
Construction Income	34 955	54 857	40 020	30 504	59 770	220 107
Sundry Income	207	235	355	804	870	2 472
<b>TOTAL INCOME</b>	<b>216 681</b>	<b>257 597</b>	<b>266 805</b>	<b>281 467</b>	<b>337 812</b>	<b>1 360 362</b>
<b>EXPENSES</b>						
Construction Expenses	34 955	54 857	40 020	30 504	59 770	220 107
Operating Expenses	125 395	143 118	162 536	193 073	220 141	844 263
<b>Operating Profit/EBITDA</b>	<b>56 331</b>	<b>59 621</b>	<b>64 249</b>	<b>57 890</b>	<b>57 901</b>	<b>295 992</b>
Depreciation	15 969	17 312	19 357	19 998	21 396	94 033
Net Finance Income	-3 311	-2 585	-2 204	-2 320	-2 436	-12 856
<b>Profit Before Tax</b>	<b>43 673</b>	<b>44 894</b>	<b>47 096</b>	<b>40 212</b>	<b>38 941</b>	<b>214 816</b>
Taxation	14 582	14 366	15 071	12 868	12 461	69 348
<b>Profit After Tax</b>	<b>29 090</b>	<b>30 528</b>	<b>32 025</b>	<b>27 344</b>	<b>26 480</b>	<b>145 468</b>

Table Six: Projected Income Statement 2019 – 2023

The projected net profit is expected to increase from R29.1 million in 2019 to 26.4 million in 2023. Return on equity will average 22.48% and is marginally lower than the 23% which has been achieved in the period 2014 to 2018.

The drought experienced from year 2014 resulted in funds set aside for maintenance being diverted toward drought relief measures. With 8 years of the concession contract remaining, it is recommended that the Concessionaire should budget to catch up maintenance to ensure that assets handed back to Council are in a reasonable working condition.

Construction income and construction expenses are forecasted based on developer funded projects that fall under the concession area. With the change in economic climate caused by the Covid 19 pandemic, there is a possibility that some projects may be impacted. It is recommended that a revision to the estimates be considered by the Concessionaire based on latest available data from developer projects.

### 4.2 Financial Review Matters 2014 – 2018

It was noted that the overall growth in water sales volumes within the Concession area has been assumed to grow from 2014: 4,400,000 kilolitres (kl) to 2018: 4,449,992 kl, representing growth of 1.13% over the last 5 year period or an average of 0.22% per annum.

Sewer sales volumes had grown from 2014: 3,100,000 kl to 2018: 3,162,467 kl, representing growth of 2% over the five year period 2014 to 2018.





### 4.3 Forecasted Equitable Share to Council

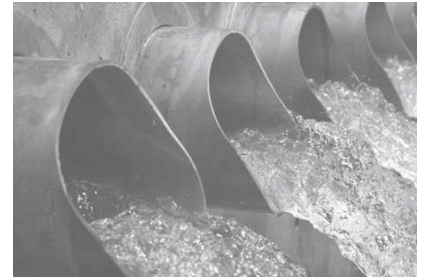
In terms of Clause 61A.5 of the Water and Sanitation Concession Agreement between the parties dated 21 January 1999, as amended by the First and Second Supplementary Agreements, provides that if the “historical returns” achieved by SAWW are in excess of the real return of 15% (“the Return Threshold”), as a result of increased tariffs, addition of new areas, and such other changes to the assumptions, then the amount of such excess is to be shared equally between the parties.

Per current projections and assumptions in the FM, such Return Threshold will only be achieved by approximation in year 2022. Based on the current FM the amounts forecasted to be paid to Council are as per table below:

	Dec-19 R'000s	Dec-20 R'000s	Dec-21 R'000s	Dec-22 R'000s	Dec-23 R'000s
Forecasted Payment to IDM	-	-	-	8 500	13 240

Table Seven: Financial Model Return Threshold by Approximation

It is worth noting that achieving an IRR of 15% bears on a lot of factors and Council must be presented with 3 forecast scenarios: best case, worst case and base case for a more transparent reality of possible outcomes.

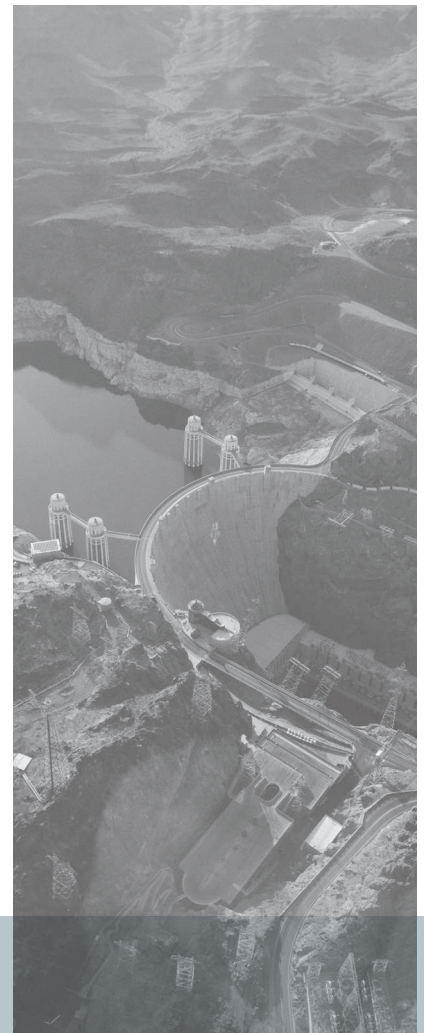


### 4.4 Projected Balance Sheet and Cashflow Statement

Forecast Balance Sheet	Dec-19	Dec-20	Dec-21	Dec-22	Dec-23
Non-Current Assets	71 379	68 573	65 576	64 063	63 054
Current Assets	74 149	40 047	50 553	56 619	63 413
Cash	70 586	44 270	41 924	42 379	52 895
<b>TOTAL ASSETS</b>	<b>216 115</b>	<b>152 890</b>	<b>158 052</b>	<b>163 061</b>	<b>179 362</b>
Current Liabilities	76 119	30 590	33 190	36 011	39 072
Non-Current Liabilities	724	724	724	724	724
Share Capital	8 529	8 529	8 529	8 529	8 529
Reserves	130 742	113 047	115 610	117 797	131 037
<b>TOTAL RESERVERS AND LIABILITIES</b>	<b>216 115</b>	<b>152 890</b>	<b>158 053</b>	<b>163 061</b>	<b>179 362</b>

Table Eight: Projected balance Sheet and Cashflow Statement 2019 - 2023

Financial model will need to be reviewed within these next five years due to outcome of SAWW outcome. Shareholders equity is expected to grow from R130.7 million in 2019 to R131.4 million on 2023 due anticipated profit generation by SAWW Concession offset by dividend payment as well as IDM sharing on profit in year 2022 and 2023 when the IRR of 15% is reached. In line with the growth in shareholders equity, total assets will decline from R216.1 million to R179.3 million mainly due to Capex being offset by higher depreciation from over the same period, 2019 to 2023.





Forecasted Cash Flow	Dec-19	Dec-20	Dec-21	Dec-22	Dec-23
EBITDA	56 331	59 621	64 249	57 890	57 901
Working Capital Movements	-11 356	-11 428	-7 906	-3 245	-3 733
Capex – SAWW Funded	14 247	14 506	16 360	18 485	20 387
Interest Paid/ (Received)	-3 311	-2 585	-2 204	-2 320	-2 436
Taxes Paid	14 582	14 366	15 071	12 868	12 461
Dividends Paid	40 240	48 222	29 463	25 157	13 240
Net Cash in Year	-20 783	26 316	-2 346	455	10 515
Opening Cash Balance	91 369	70 586	44 270	41 924	42 379
Closing Cash Balance	70 586	44 270	41 924	42 379	52 895

Cashflow position will continue to be at strong levels after paying a forecasted dividend of R158 million and a forecasted IDM equitable share of R21.7million. Cash reserves will be R70.5 million in 2019 and R53.0 million in 2023.

Table Nine: Forecasted Cashflow 2019 – 2023

#### 4.5 Contribution Funded Capital Expenditure

SAWW contribution funded capital expenditure for both sewer and water was R55million compared to budget of R27.9 million over the five year period 2014 to 2018. SAWW funded capital expenditure into the upgrading, maintenance and improvement of existing assets and services over the next five years from 2019 to 2023 is projected to be R68.4 million



Table Ten: Summary of SAWW Actual vs Forecasted Performance 2014 - 2018

<b>SOUTH AFRICAN WATER WORKS Summary Income Statement</b>	<b>ACTUAL 2014 - 2018</b>	<b>BUDGETED 2014 - 2018</b>	<b>VARIANCE</b>
	R'000	R'000	R'000
Turnover	619,440	606,496	12,944
Construction Income	47,524	38,950	8,574
Sundry Income	707	642	65
<b>TOTAL INCOME</b>	<b>667,671</b>	<b>646,088</b>	<b>21,583</b>
Construction Expenses	47,524	38,950	8,574
Operating Expenses	404,252	411,002	(6,750)
<b>Total Operating Profit</b>	<b>215,895</b>	<b>196,136</b>	<b>19,759</b>
Depreciation	48,956	37,225	11,731
Finance Income/(Costs)	11,556	-912	12,468
<b>Profit Before Taxation</b>	<b>178,495</b>	<b>157,999</b>	<b>20,496</b>
Taxation	57,317	44,239	13,078
<b>Profit After Taxation</b>	<b>121,178</b>	<b>113,760</b>	<b>7,418</b>
Dividends	42,909	62,500	(19,591)



Table Eleven: SAWW Actual Audited Financial Statements 2014 - 2018

Actual Income Statement	Dec-14	Dec-15	Dec-16	Dec-17	Dec-18	TOTAL
	R'000	R'000	R'000	R'000	R'000	R'000
Turnover	100,023	100,348	116,154	140,733	162,183	619,440
Construction Income	17,174	10,699	5,063	6,287	8,302	47,524
Sundry Income	150	104	147	135	171	707
<b>TOTAL INCOME</b>	<b>117,347</b>	<b>111,150</b>	<b>121,364</b>	<b>147,155</b>	<b>170,656</b>	<b>667,671</b>
<b>EXPENSES</b>						
Construction Expenses	17,174	10,699	5,063	6,287	8,302	47,524
Operating Expenses	66,169	69,987	78,647	87,602	101,847	404,252
<b>Operating Profit</b>	<b>34,003</b>	<b>30,465</b>	<b>37,654</b>	<b>53,265</b>	<b>60,507</b>	<b>215,895</b>
Depreciation	5,602	7,774	10,343	12,363	12,874	48,956
Net Finance Income	323	1,720	2,168	3,508	3,837	11,556
<b>Profit Before Tax</b>	<b>28,724</b>	<b>24,411</b>	<b>29,479</b>	<b>44,411</b>	<b>51,470</b>	<b>178,495</b>
Taxation	9,071	9,346	8,987	13,662	16,252	57,317
<b>Profit After Tax</b>	<b>19,653</b>	<b>15,065</b>	<b>20,493</b>	<b>30,749</b>	<b>35,218</b>	<b>121,178</b>



Table Twelve: SAWW Forecast Income Statement 2014 - 2018

Forecast Income Statement	Dec-14	Dec-15	Dec-16	Dec-17	Dec-18	TOTAL
	R'000	R'000	R'000	R'000	R'000	R'000
Turnover	96,882	111,792	121,610	132,293	143,919	606,496
Construction Income	5,800	11,000	7,650	6,500	8,000	38,950
Sundry Income	105	116	127	140	154	642
<b>TOTAL INCOME</b>	<b>102,787</b>	<b>122,908</b>	<b>129,387</b>	<b>138,933</b>	<b>152,073</b>	<b>646,088</b>
<b>EXPENSES</b>						
Construction Expenses	5,800	11,000	7,650	6,500	8,000	38,950
Operating Expenses	66,731	74,403	82,017	89,743	98,108	411,002
<b>Operating Profit</b>	<b>30,256</b>	<b>37,505</b>	<b>39,720</b>	<b>42,690</b>	<b>45,965</b>	<b>196,136</b>
Depreciation	6,026	7,045	7,538	8,066	8,550	37,225
Finance Costs	375	252	179	106	-	912
<b>Profit Before Tax</b>	<b>23,855</b>	<b>30,208</b>	<b>32,003</b>	<b>34,518</b>	<b>37,415</b>	<b>157,999</b>
Taxation	6,679	8,458	8,961	9,665	10,476	44,239
<b>Profit After Tax</b>	<b>17,176</b>	<b>21,750</b>	<b>23,042</b>	<b>24,853</b>	<b>26,939</b>	<b>113,760</b>



Table Thirteen: Actual Balance Sheet Audited Financial Statements 2014 - 2018

SOUTH AFRICAN WATER WORKS	Dec-14	Dec-15	Dec-16	Dec-17	Dec-18
Actual Balance Sheet					
	R'000	R'000	R'000	R'000	R'000
Share Capital	8,529	8,529	8,529	8,529	8,529
Accumulated Profit	72,340	76,316	91,987	103,451	130,589
<b>Total Share Capital &amp; Reserves</b>	<b>80,869</b>	<b>84,845</b>	<b>100,517</b>	<b>111,980</b>	<b>139,118</b>
Long Term Borrowings	3,540	1,770	0	0	0
Deferred Tax Liabilities	2,452	3,860	2,767	2,433	724
<b>Long Term Liabilities</b>	<b>5,992</b>	<b>5,630</b>	<b>2,767</b>	<b>2,433</b>	<b>724</b>
Trade & Other Payables	17,608	20,397	26,529	40,482	60,177
Current Portion of Loan	1,770	1,770	1,770	0	0
Other Current Liabilities	3,996	4,868	510	22,956	30,980
<b>CURRENT LIABILITIES</b>	<b>23,375</b>	<b>27,035</b>	<b>28,810</b>	<b>63,438</b>	<b>91,157</b>
<b>EQUITY &amp; LIABILITIES</b>	<b>110,236</b>	<b>117,510</b>	<b>132,094</b>	<b>177,851</b>	<b>230,999</b>
Property, Plant & Equip	61,913	71,787	75,221	76,630	73,578
Restricted Bank Balance	96	96	96	96	96
<b>NON-CURRENT ASSETS</b>	<b>62,009</b>	<b>71,883</b>	<b>75,318</b>	<b>76,726</b>	<b>73,675</b>
Stock	2,387	2,612	2,847	3,180	2,852
Receivables	13,805	16,716	27,116	39,840	57,425
Banks & Petty Cash	29,613	25,509	25,042	56,022	73,779
Other	2,422	790	1,771	2,083	23,268
<b>CURRENT ASSETS</b>	<b>48,227</b>	<b>45,627</b>	<b>56,776</b>	<b>101,125</b>	<b>157,324</b>
<b>TOTAL ASSETS</b>	<b>110,236</b>	<b>117,510</b>	<b>132,094</b>	<b>177,851</b>	<b>230,999</b>

Table Fourteen: SAWW Forecast Balance Sheet 2014 - 2018

Forecast Balance	Dec-14	Dec-15	Dec-16	Dec-17	Dec-18
	R'000	R'000	R'000	R'000	R'000
Share Capital	8,529	8,529	8,529	8,529	8,529
Accumulated Profit	62,863	76,612	87,685	96,208	103,947
<b>Total Share Capital &amp; Reserves</b>	<b>71,392</b>	<b>85,142</b>	<b>96,214</b>	<b>104,737</b>	<b>112,476</b>
Long Term Liabilities	6,334	4,934	3,534	2,234	2,284
Current Liabilities	29,288	31,045	32,908	34,882	36,975
<b>EQUITY &amp; LIABILITIES</b>	<b>107,014</b>	<b>121,121</b>	<b>132,656</b>	<b>141,853</b>	<b>151,735</b>
Non-Current Assets	55,957	56,562	56,724	56,658	56,609
Current Assets	28,894	31,552	34,455	37,625	41,086
Cash	22,162	33,006	41,477	47,570	54,040
<b>TOTAL ASSETS</b>	<b>107,014</b>	<b>121,121</b>	<b>132,656</b>	<b>141,853</b>	<b>151,735</b>





## 4.6 Concession Tariffs: Municipal Budget Circular 70

### 4.6.1 Concession Tariffs

The Water Supply Services to the Customer shall be structured in terms of prevailing Regulatory Provisions which provide that the tariffs shall comprise of at least three parts. This is as per Clause 41 of the Concession agreement on Tariffs, namely:

- Lifeline tariff – at least 6kl per customer per month;
- A tariff based on historical cost for quantity in excess of 6 kilolitres, up to a maximum of 35 kilolitres; and
- A tariff based on the marginal cost for quantity in excess of 35 kilolitres.

Every financial year SAWW, proposes water tariff increase by way of a submission to Council for consideration in accordance with the Water Concession Agreement between SAWW and IDM entered into on 29 January 1999, as amended with First Supplementary Agreement dated 31 August 2001 and Second Supplementary Agreement dated 13 June 2013.

For the 2018/19 financial year SAWW proposed to IDM a Water Tariff increase of approximately 9.5% which was approved by Council.

Council however requested SAWW to align its water tariff with the overall 27% increase, which is 10% plus an additional 17% cost reflective charge applicable to the entire district.

Council had requested SAWW to align water tariff tiers in its concession area to that of the entire district. This follows the review by Council of the water tier structure from 6 tier structure to a 3 tier structure to align with future policy position of government and Water Services Authorities in so far as water provision is concerned which advocated that “Free basic water would be provided to only indigent households”.

In pursuit of this policy, Council would only provide 10 kilolitres of free basic water to indigents while the rest of the consumers will pay a basic charge of R144.70 for the first 10 Kilolitres.



## 4.6.2 MUNICIPAL BUDGET CIRCULAR 70 FOR THE 2014/15 MTREF

In terms of the National Treasury MFMA Circular No. 70, Municipal Finance Management Act No. 56 of 2003, Municipal Circular for the 2014/15 Medium Term Revenue and Expenditure Framework ("MTREF) guidelines, Municipalities are required to review the level and structure of their water tariffs carefully with a view to ensuring:

- Water and Sanitation tariffs are cost-reflective – inclusive of bulk cost of water, the cost of maintenance and renewal of purification/ treatment plants and network infrastructure, and the cost of new infrastructure;
- Water and sanitation tariffs are structured to project basic levels of service; and
- Water and Sanitation tariffs encourage efficient and sustainable consumption (e.g. through inclining block tariffs).

if a municipality's water and sanitation tariffs are not fully cost reflective, the municipality should develop a pricing strategy to phase in the necessary tariff increases in a manner that spreads the impact on consumers over a period of time; this guidance has been supplied in various Budget Circulars. As per the guidance in previous Budget Circulars, municipalities are expected to have cost reflective tariffs for the 2014/15 MTREF for both water and sanitation. Should this not be the case, municipalities will be required to clearly articulate the reasons within the budget document including remedial actions in rectifying this position.

SAWW has proposed a water tariff increase of 10% and Council has rejected this proposal instead Council is proposed a 27% increase in accordance with National Treasury MFMA Circular No. 70, Municipal Finance Management Act No. 56 of 2003, Municipal Circular for the 2014/15 Medium Term Revenue and Expenditure Framework ("MTREF) guidelines.

### **INDIGENT HOUSEHOLDS**

Lifeline - Up to 10 kilolitres at no cost, Historical cost - More than 10 kilolitres but not more than 30 kilolitres; and marginal cost - More than 30 kilolitres

### **NON-INDIGENT HOUSEHOLDS**

Lifeline - Up to 10 kilolitres R144.70; Historical cost - More than 10 kilolitres but not more than 30 kilolitres; and marginal cost - More than 30 kilolitres.

This cost reflective charge revenue was to be utilised towards capital investments programme of Council in an attempt to eradicate the backlog and offset the equity spend contributions by National treasury in a move to assist municipalities to be self-sustainable.



## 5. CONCESSION AREA OF SERVICE – TECHNICAL REVIEW

### 5.1 South African Water Works Area of Service

In terms of clause 5 the Council granted the Concessionaire the right to possess, use and have unencumbered access to the Works, and, should they deem it necessary, redesign, upgrade, as well as expand, the Works. In terms of clause 5, the Concessionaire is to supply Water Services directly to Customers and, save as otherwise stated in the Contract, operate within the Concession Area as a private sector Water Services Provider pursuant to the Water Services Act 108 of 1997.

The Concessionaire is therefore entitled to charge each Customer directly for services and may use the monies received as it deems fit.

### 5.2 Bulk Water – Extract from SAWW Master Plan

All bulk water is received from Umgeni Water via the Hazelmere Dam Water Treatment Works. A 450/700mm diameter pipeline from Hazelmere supplies the Avondale reservoir (15,0 ML, TWL 137,5M). This reservoir acts as a balancing reservoir to feed the entire SAWW Bulk Water Network and in turn the water reticulation network.

Water is then transported via a long bulk supply main system comprising of 7,1km of 450mm diameter GRP/375mm diameter AC/350mm diameter steel pipe- line which has several off-takes supplying the Water reservoir and reticulation zones.

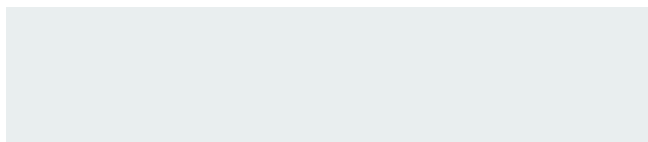
SAWW reservoir and reticulation zones. Umgeni Water is responsible for the management and operation of the Avondale reservoir and the bulk supply pipeline between Avondale and Honolulu reservoir. All the reservoirs and reticulation systems within Ballito and surrounding areas are managed and operated by the SAWW on behalf of the Ilembe District Municipality under a 30 year concession agreement.

The Avondale reservoir serves a dual purpose, both as a balancing storage reservoir to Umgeni Water for onward conveyance of water into the bulk supply system downstream of Avondale reservoir, and as a service storage reservoir to SAWW for the reticulation zone feed directly from Avondale Reservoir. The Avondale reservoir is owned by Umgeni Water and an agreement is in place allowing SAWW for use of the storage.

The Concession area currently serves a population of approximately 65, 000 (Sixty-Five Thousand) households.

### 5.3 Bulk Sewer - Extract from SAWW Master Plan

The Concession's drainage area is characterised by a watershed running roughly parallel to the coastline varying between approximately 1.2km and 2.5km inland of the coastline. To the east of this watershed a number of small catchments drain directly to the sea. To the west, drainage is generally to the west into the Umhlali River, which flows generally north easterly the sea at Tinley Manor. The Concession Area is sub-divided into Coastal and Inland areas:



## COASTAL AREAS

**SHEFFIELD BEACH:** gravitates to The Village pumpstation (formerly PS15) which pumps to Hugh Dent pump station and on to Salt Rock pump station.

**SALT ROCK:** North catchment gravitates to Hugh Dent pump station, which pumps to Salt Rock pump station. Southern catchment gravitates to Salt Rock pump station which in turn pumps to Simbithi pump station.

**SHAKAS ROCK:** The coastal areas gravitate to four pump stations namely Shakas Cove, Martinique, Santorini and Thompson's Bay. The rising main between the Salt Rock pump station and the Simbithi pump station acts as a common pipeline. The Thompson's Bay pump station pumps to the Santorini pump station, which together with the Shakas Cove and Martinique pump stations pumps into aforementioned common rising main which discharges into the Simbithi pump station.

**SIMBITHI:** The Simbithi Eco Estate and Simbithi Golf Estate together with Ballito Hills all gravitate to the Simbithi pump station. The Simbithi pump station effectively pumps all the sewage from the coastal areas of Sheffield Beach, Salt Rock, Shaka's Rock and the two Simbithi Estates to Frasers WWTW.

**BALLITO:** sewage from the Ballito area gravitates to four pump stations situated along the coast, and the Ballito

Library Pump station situated approximately 0,5km inland. Essentially, sewage is pumped northwards from the Salmon Way pump station, to Hawkins Road pump station, Emberton pump station and the Willard Beach pump station, which discharges to Ballito 10 pump station (formerly PS "X"). From here it is pumped to Frasers WWTW

**COMPENSATION:** the area around Compensation and the Umhlali Golf estate is served by the Compensation pump station, which pumps directly to Frasers WWTW. This pump station also serves Ballito Gardens and the Ballito Business Park.

**ZIMBALI AND SEAWARD ESTATES:** Zimbali coastal area gravitates to Zimbali 3 pump station which pumps and gravitates to Zimbali 1 pump station which then pumps inland to Extension 3 (Seaward) pump station. Seaward Estates gravitates to Extension 3 (Seaward) pump station which then pumps up to a high point from where it gravitates to Frasers WWTW.

**ZIMBALI WEST AND SOUTH AND ZIMBALI LAKES:** Zimbali West and South gravitate to the Zimbali Area D pump station from where the effluent is pumped and gravitates to the Zimbali Lakes pump station. The Zimbali Lakes pump station in turn pumps up to a high point from where it gravitates to Frasers WWTW.

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## INLAND AREAS

**SHAKASHEAD:** Gravitates to Shakashead pump station, which discharges to the Lali Park pump station.

**UMHLALI:** Gravitates to the Lali Park pumpstation, which is then pumped to the Shakaskraal WWTW.

**SHAKASKRAAL:** A small sewered portion of Shakaskraal gravitates to the Shakaskraal (formerly Mellowood Park)

pumpstation, which pumps directly to the Shakaskraal WWTW. The remaining sewered areas of Shakaskraal gravitate directly to the WWTW.

**WOODMEAD (PHASE 1):** Gravitates in an easterly direction to two pump stations on the eastern boundary of Woodmead. Pump station 1 will pump to pump station 2, which will discharge to gravity main to Shakaskraal WWTW.

## 5.4 Existing Works and Assets

The Concessionaire is responsible at its own cost to supply Water Services to all Customers within the Con- cession Area, as well as for the maintenance and management of the Existing Works. The Concessionaire will also be responsible for the expanding of such Works to ensure that the supply of Water Services is met.

The table below shows the details of the Concession reservoirs including their TWL – Top Water Level and capacity. There are fourteen reservoirs within the Con- cession area, all being managed and operated by SAWW exception to Avondale reservoir which is owned and managed by Umgeni Water.

The supply of Water Services may, subject to any Regulatory Provisions and with prior approval of the Council, differentiate on an equitable basis between different Customers of Water Services and different geographic areas within the Concession Area, taking into account, among other factors, the socio-economic and physical attributes of each area.

The western part of the concession area (Inland) is predominantly an area of low unit consumption and sometimes without water- borne sewage and this reduction now gives the western area one of the lowest water charges in the country.

Table Fifteen: The Current Treatment Capacity of the Concession WWTW's

WWTW	CURRENT TREATMENT CAPACITY	ULTIMATE DESIGN CAPACITY / EXPANDABLE TO
Frasers	12,0 Ml/day	18,0 Ml/day
Shakaskraal	1,2 Ml/day	Not expandable
Sheffield	60 Ml/day	18,0 Ml/day

A Lease Agreement was entered into by the Concessionaire and Council in terms of which the Existing Works are leased to the Concessionaire. The Council was required to register the Lease Agreement against the title deed of each particular property within 6 (six) months after the Effective Date.

The Lease Agreement and the Schedule of Existing Works were amended by the Supplementary Agreement. The Concessionaire does not have a right during the term of the Contract to dispose of any Existing Works but shall return all Existing Works no longer required in respect of Water Services to the Council in the absence of any agreement to the contrary.

No assets have been disposed of by the Concessionaire since the inception of the Concession in the past fourteen (14) years. In July 2008, SAWW advises, that the average customer on the western side of the concession area received a 45% reduction in their water bill as a result of these measures.

During the 2014/2015 tariff increase SAWW was instructed by the IDM to implement only 2 tariffs categories that for Indigent consumers as per the Ilembe Indigent Policy and that for those that are not indigent. SAWW will need to build a database of consumers that are indigent in the coming months and thereafter send this to IDM to ratify and implement the Indigent Tariff.

From the discussions that have also taken place IDM will pay SAWW for this on a monthly basis from the Equitable Share Grant that it receives.

The Concessionaire will keep a detailed record of all Contracts it enters into in connection with the supply of Water Services and the Works, this includes a detailed Concession Area asset register.

## 5.5 Technical Operations Report

### 5.5.1 Maintenance Report

<b>Pipework</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Burst Water Mains	u	45	41	44	43	42
Burst Water connections	u	46	90	151	152	150
<b>Total bursts</b>	<b>u</b>	<b>91</b>	<b>131</b>	<b>195</b>	<b>195</b>	<b>192</b>
Leaking Water Mains	u	30	29	22	26	44
Leaking Water connections	u	70	120	193	229	273
<b>Total leaks</b>	<b>u</b>	<b>100</b>	<b>149</b>	<b>215</b>	<b>255</b>	<b>317</b>
<b>Network Maintenance</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Total Length of pipe (Km)	Km	269	269	269	285	285
Length of pipe inspected	Km	27,3	39,3	50,5	47,3	52,1
<b>Meter Changes</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Meter Raised	u	5	2	-	-	-
Meter Relocated	u	15	18	13	26	27
Meter Changed	u	230	248	87	108	146
Meter Stolen & Replaced	u	-	-	-	-	-
<b>Total Meter Changes</b>	<b>u</b>	<b>250</b>	<b>268</b>	<b>100</b>	<b>134</b>	<b>173</b>
<b>Meter Maintenance</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Meter Leaking	u	30	94	119	120	164
Meter Disconnected	u	29	9	13	15	22
Meter Faulty	u	3	28	105	102	102
<b>Total Meter Maintenance</b>	<b>u</b>	<b>62</b>	<b>131</b>	<b>237</b>	<b>237</b>	<b>288</b>
<b>New connections</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Technical Investigation	u	74	56	86	71	92
New Connections	u	55	46	75	82	82
<b>General maintenance</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Fire Hydrants	u	113	216	42	98	174
PRV's/ Air valves	u	64	33	67	141	193
Network valves	u	199	130	16	67	186
Reservoir cleaning	u	2	0	8	0	0
Fitting repairs / Other	u	0	0	0	0	0
Standpipe Maintenance	u	146	203	263	71	231



<b>Duration of Water Interruptions</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
0 - 3 Hours	u	14	22	15	10	24
3 - 6 Hours	u	21	26	15	23	13
6 - 12 Hours	u	11	21	15	6	1
12 Hours Over	u	1	0	0	3	1
<b>Total Interruptions</b>	u	<b>47</b>	<b>69</b>	<b>45</b>	<b>42</b>	<b>39</b>
<b>Standpipes</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Shakashead		45	45	45	45	45
Shayamoya		90	90	90	90	90
Nkobongo		53	53	53	53	53
Etete		107	107	107	107	107
Taffeni		0	0	1	1	1
<b>Total</b>		<b>295</b>	<b>295</b>	<b>296</b>	<b>296</b>	<b>296</b>
<b>Standpipes Reported Faulty</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Shakashead		3	2	6	11	8
Shayamoya		9	7	0	8	6
Nkobongo		4	7	16	11	17
Etete		13	11	23	1	17
<b>Total</b>		<b>29</b>	<b>27</b>	<b>45</b>	<b>31</b>	<b>48</b>
<b>Standpipes New/Rebuilt</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Shakashead		0	0	0	3	11
Shayamoya		0	0	0	5	10
Nkobongo		0	0	0	4	19
Etete		0	0	0	12	15
Taffeni				1	0	0
<b>Total</b>		<b>0</b>	<b>0</b>	<b>1</b>	<b>24</b>	<b>55</b>

Table Sixteen: Water Maintenance Report 2014 -2018

### 5.5.2 Sewer Maintenance

<b>Sewer Maintenance</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Leaks	u	21	12	21	25	11
Blockages	u	155	210	222	228	178
Damages	u	9	12	6	6	8
<b>Total Network Maintenance</b>	u	<b>185</b>	<b>234</b>	<b>249</b>	<b>259</b>	<b>197</b>
<b>New Sewer Connections</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Technical Investigation	u	61	47	70	68	68
New Connections	u	39	31	55	57	60
<b>Gigajet Usage</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Hrs used	hrs	920	0	0	36	40
Meters cleaned	M	17 100	0	0	8 300	8 000

Table Seventeen: Sewer Maintenance Report 2014 - 2018

### 5.5.3 Water Quality

<b>Total number of samples taken</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Samples Taken	u	780	1 560	2 100	2 100	2 100
Confirmed Results	u	759	1 490	2 039	2 044	2 070
Conformity Ratio	%	97%	96%	97%	97%	99%

Table Eighteen: Water Quality Report 2014 – 2018

### 5.5.4 Sewer Quality

<b>Frasers Discharge Quality</b>		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Samples taken	u	360	720	1 440	1 440	1 440
Confirmed results	u	355	715	1 430	1 432	1 428
Chemical Conformity - Frasers	%	99%	99%	99%	99%	99%

<b>Shakaskraal Discharge Quality</b>						
Samples taken	u	360	360	360	360	360
Confirmed results	u	354	350	352	348	355
Chemical Conformity	%	98%	97%	98%	97%	99%

Table Nineteen: Sewer Quality Report 2014 – 2018

### 5.5.5 Population, Meter Distribution (2014 – 2018)

This table gives the population statistics for the past five years, projections below.

	<b>Units</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Population ( <i>estimate</i> )	nr	68,574	71,544	72,551	73,276	74,009
Metered Residential Units	nr	12,292	12,658	13,038	13,168	13,300
Metered Non Residential Units	nr	1,980	1,966	2,161	2,183	2,204
Standpipe Delivery	nr	36,000	38,000	38,000	38,000	38,000
Total water input into system (Umgeni, Recycled & Boreholes)	kl	4,864,055	3,763,502	3,839,454	4,006,575	4,451,900
Customer water consumption	kl	4,386,847	3,413,467	3,286,743	3,787,141	4,016,919
Water Loss	kl	477,208	350,035	552,711	219,434	434,981
Water Loss history (2014 to 2018) and target ( 2019 to 2013)	%	10%	9%	14%	5%	10%

Table Twenty: Population Estimate, Meter Distribution 2014 – 2018

### 5.5.6 Population Growth Projections (2019 – 2023)

AREA	Units	2019	2020	2021	2022	2023
Coastal strip (Ballito, Salt Rock, etc) (Population served by metered connections)	Head	28,303	29,000	29,703	30,413	31,130
Tinley Manor (Population served by metered connections)	Head	970	1,036	1,102	1,168	1,234
Shakashead (Population served by metered connections)	Head	872	872	881	890	898
Shakaskraal/Nkobongo (Population served by metered connections)	Head	3,172	3,172	3,204	3,236	3,268
Etete (Households served by metered connections)	Head	2,292	2,338	2,385	2,432	2,481
Low Cost Housing-all areas (Population served by prepaid connections)	Head	39,140	40,705	42,462	44,219	45,976
<b>Total population</b>	Head	<b>74,749</b>	<b>77,123</b>	<b>79,736</b>	<b>82,358</b>	<b>84,987</b>

Table Twenty One: Population Growth Projections 2019 – 2023

### 5.5.7 Water Demand Projections (2019 – 2023)

Years	Kl/year (2 %)Umgeni + Recycle	Kl/year (6 %)	Kl/year (8 %)
<b>2019</b>	4 540 938	4 719 014	4 808 052
<b>2020</b>	4 631 757	5 002 155	5 192 696
<b>2021</b>	4 724 392	5 302 284	5 608 112
<b>2022</b>	4 818 880	5 620 421	6 056 761
<b>2023</b>	4 915 257	5 957 646	6 541 302

Table Twenty Two: Water Demand Projections 2019 – 2023

## 5.6 Concession Capital Investment

### 5.6.1 Projected SAWW Water Funded (Capital Infrastructure)

	2019	2020	2021	2022	2023	Total
<b>Water</b>	<b>5,235,300</b>	<b>1,720,000</b>	<b>7,050,000</b>	<b>8,100,000</b>	<b>8,950,000</b>	<b>31,055,300</b>
<b>Nkobongo yard connections</b>	<b>1,500,000</b>	<b>3,780,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>5,280,000</b>
<b>Sewer</b>	<b>4,170,300</b>	<b>3,900,000</b>	<b>4,700,000</b>	<b>5,500,000</b>	<b>6,350,000</b>	<b>24,620,300</b>
<b>Installation of Salt Rock gravity line</b>	<b>-</b>	<b>1,500,000</b>	<b>1,750,000</b>	<b>2,000,000</b>	<b>2,200,000</b>	<b>7,450,000</b>
<b>Total</b>	<b>10,905,600</b>	<b>10,900,000</b>	<b>13,500,000</b>	<b>15,600,000</b>	<b>17,500,000</b>	<b>68,405,600</b>

Table Twenty Three: Projected SAWW Water Funded Capital Infrastructure

### 5.6.2 Projected Siza Water Funded (Operational Assets)

<b>SUMMARY - SIZA WATER CAPITAL INVESTMENT 2019 - 2023</b>	<b>TOTAL</b>
<b>Computer Equipment</b>	<b>4 125 874</b>
<b>Furniture &amp; Fittings</b>	<b>797 500</b>
<b>Tools &amp; Equipment</b>	<b>9 800 000</b>
<b>Motor Vehicles</b>	<b>856 000</b>
<b>TOTAL</b>	<b>15 579 374</b>

Table Twenty Four: Projected SAWW Funded (Operational Assets) 2019 - 2023

### 5.6.3 Developer Funded Infrastructure (2019 - 2023)

	2019	2020	2021	2022	2023	Total
<b>Water</b>	<b>25 310 000</b>	<b>11 818 320</b>	<b>8 700 000</b>	<b>7 812 000</b>	<b>21 318 000</b>	<b>74 958 320</b>
<b>Sewer</b>	<b>9 645 350</b>	<b>43 039 000</b>	<b>31 320 000</b>	<b>22 692 000</b>	<b>38 452 000</b>	<b>145 148 350</b>
<b>TOTAL</b>	<b>34 955 350</b>	<b>54 857 320</b>	<b>40 020 000</b>	<b>30 504 000</b>	<b>59 770 000</b>	<b>220 106 670</b>

Table Twenty Five: Developer Funded Infrastructure 2019 - 2023



5 YEAR PLAN - CAPEX FUNDED BY DEVELOPERS 2019 to 2023

		2019	2020	2021	2022	2023	Total
<b>Water</b>							
Advanced Oxidation (W)	Frazers WWTW	12,500,000					12,500,000
Taffeni 2.5 Meg Res (Design, Monitoring & Construction) (W)	Taffeni	6,810,000					6,810,000
Tafeni Booster and pipeline(Zululami, Elaleni, Bluegum, Seaton) (W)	Sheffield	6,000,000	1,500,000				7,500,000
Construction of new 5 MG (2 cells of 2,5) (W)	Zimbali Lakes		8,586,000				8,586,000
Lakes reservoir connection link 250mm x 780m (W)	Zimbali		1,732,320				1,732,320
Construction of new 5MG Cell (2 cells) (W)	Bogmore			8,700,000			8,700,000
Ballito Hills reservoir 7,5 Meg (W)	Ballito				5,580,000		5,580,000
Homestead 1.5 Reservoir (W)	Umhlali				2,232,000		2,232,000
300m x 200mm pipeline from Honolulu to Woodmead (W)	Woodmead					990,000	990,000
Future reservoirs for Seaten Delaval (tafeni res and others) (W)	Sheffield					9,900,000	9,900,000
Future connection to future Tafeni reservoirs 1,8km (W)	Sheffield					10,428,000	10,428,000
<b>Sewer</b>							
Xmas bay SPS & Rising Mains	Sheffield	3,075,350					3,075,350
Install 800m of 315mm sewer gravity in Lagoon Drive	Salt Rock	1,570,000					1,570,000
Ballito Hills sps and rising main & sewer gravity into Frazers	Ballito	5,000,000	22,719,000				27,719,000
Fish bone rising main between Salt Rock and Hugh Dent	Salt Rock		4,320,000				4,320,000
Upgrade existing sewer gravity to Compensation sps 800mm x 2km	Compensation		14,000,000				14,000,000
Tie in point from Compensation to frazers 600mm (size?)	Ballito		2,000,000			5,000,000	7,000,000
Shakashead sewer rising Main to Compensation (2.6km )	Shakashead			11,600,000			11,600,000
Upgrade existing Umhlali trunk gravity to Compensation sps (2km )	Compensation			12,760,000			12,760,000
Lali Park sps Rising Main and gravity to Shakashead sps	Umhlali			6,960,000			6,960,000
Shakashead SPS upgrade and turn around 6.51 M/d	Shakashead				15,252,000		15,252,000
Upgrade Compensation SPS (3M/day)	Compensation				7,440,000		7,440,000
Redesign & Convert Shakaskraal WWTW into an SPS	Shakaskraal WWTW					18,200,000	18,200,000
Lali Park sps Construction and turn around	Umhlali					15,252,000	15,252,000
<b>TOTAL</b>		<b>34,955,350</b>	<b>54,857,320</b>	<b>40,020,000</b>	<b>30,504,000</b>	<b>59,770,000</b>	<b>220,106,670</b>

Table Twenty Six: 5 Year Plan - Capex Funding by Developers 2019 - 2023



## 6. PERFORMANCE AND SERVICE LEVELS (ANNEXURE B2)

The Concession Contract Annexure B2 – Performance and Service Levels makes reference to Coverage of Services and the respective timeframe a particular area within the concession area must or should have achieved a level 4 service coverage. Summary of the current service provision position within the concession area is given in the table below, taken from SAWW Five Year Plan - 2014:

Table Twenty Seven: Concession Water and Sanitation Coverage Levels 2019-2023

Area	Water Service Level	Sewer Service Level
Ballito	100% Level 4	100% Level 4
Zimbali	100% Level 4	100% Level 4
Compensation Beach	100% Level 4	100% Level 4
Willard Beach	100% Level 4	100% Level 4
Salt Rock	100% Level 4	70% Level 4, 30% Level 3
Chakas Rock	100% Level 4	100% Level 4
Umhlali Beach	100% Level 4	100% Level 4
Thompsons Bay	100% Level 4	100% Level 4
Sheffield Beach	100% Level 4	50% Level 4, 50% Level 3
Tinley Manor	100% Level 4	100% Level 3
Shakaskraal	100% Level 4	100% Level 4
Foxhill & Tafeni	100% Level 4	100% Level 3
Shakashead	5% Level 4, 95% Level 2	5% Level 4, 95% Level 2
Nkobongo	10% Level 4, 90% Level 2	10% Level 4, 90% Level 2
Etete	2% Level 4, 98% Level 2	2% Level 3 & 4, 98% Level 2
Shayamoya	10% Level 4, 90% Level 2	100% Level 2





Table Twenty Eight: Performance Targets (Annexure B2 per Contract)

Town	Water Supply	Sanitation Collection
Ballito	100% level 4 service by year 5	100% level 4 service by year 5
Zimbali	100% level 4 service by year 5	100% level 4 service by year 5
Compensation Beach	100% level 4 service by year 5	100% level 4 service by year 5
Willard Beach	100% level 4 service by year 5	100% level 4 service by year 5
Salt Rock	100% level 4 service by year 5	100% level 4 service by year 5
Shakas Rock	100% level 4 service by year 5	5 100% level 4 service by year 5
Umhlali Beach	100% level 4 service by year 5	100% level 4 service by year 5
Shell eld Beach	100% level 4 service by year 5	Existing septic tanks to be reticulated when situation demands it (See note 1 below)
Tinley Manor	100% level 4 service by year 5	Existing septic tanks to be reticulated when situation demands it (See note 1 below)
Shakaskraal	100% level 4 service by year 5	100% level 4 service by year 5
Umhlali including Foxhill & Tafeni	100% level 4 service by year 5	Existing septic tanks to be reticulated when situation demands it (See note 1 below)
Shakashead	200 sites will be provided with level 2 service and 250 sites with level 4 service by others by July 1998 Upgrading of level 2 service to level 4 service on effective demand	200 sites will be provided with level 2 service and 250 sites with level 4 service by others by July 1998 Upgrading of level 2 service to level 4 service on effective demand
Nkobongo	1 200 sites will be provided with level 2 service by other parties by July 1998 Upgrading of level 2 service to level 4 service on effective demand	1 200 sites will be provided with level 2 service by others by July 1998 Upgrading of level 2 service to level 4 service on effective demand
Etete	3 160 sites will be provided with level 2 service and 1 200 sites with level 4 service by others by December 1999 Upgrading of level 2 service to level 4 service on effective demand	3 160 sites will be provided with level 2 service and 1 200 sites with level 4 service by others by December 1999 Upgrading of level 2 service to level 4 service on effective demand

## PERFORMANCE TARGETS

The Concession Annexure B2 – sets the performance target for target service for service coverage. The table above shows which areas are still incomplete as per the set performance target from the Concession Contract. SAWW, according to the set performance target has achieved 75% Level 4 Water Service.

Coverage levels and 50% Level 4 Sanitation Service Coverage Levels. On the Five Year Plan (2018), SAWW advocated for a review of the performance targets for service levels as they are outdated and SAWW further explains that the first supplementary agreement and the subsequent Five year reviews had set different priorities

## 7. SOUTH AFRICAN WATER WORKS CORPORATE STRUCTURE

The concession contract provided relevant information together with information gathered during interviews with SAWW management and operational staff. The SAWW corporate structure is a fundamental point of departure in understanding the operational environment of the concession. The Concession is a single purpose company in the Republic, which is incorporated in terms of the Act, with its head office and main place of business within the Concession area for the duration of the Concession Agreement. As agreed by the Parties in the Concession Agreement, the Memorandum and Articles of Association of the Concessionaire should in no way be modified during the duration of the Contract, except as agreed to by Council. The initial members of the Concessionaire, as well as their shareholdings, can be found in Annexure

A of the Concession Agreement, which is a shareholder's Schedule. However, prior written approval from Council would be necessary in order for shares in the share capital of the Concessionaire to be transferred to any person or entity, particularly those that would have the effect that the entity or person that has control of the Concession immediately before such transfer, loses such control; economic climate, the rate of construction had slowed. For the duration of the Contract, SAUR, then, were to retain the 25% (twenty five per centum) beneficial ownership plus 1 (one) share of the total issued share capital of the Concessionaire. On the said Effective Date, the account of R7 160 000,00 (seven million one hundred and sixty thousand rand) share capital and share premium was to have been fully subscribed by the Concessionaire.

The Articles of Association of the Concessionaire were to provide that the Concessionaire may not, without the prior written consent of Council, have the power to:

- Enter into a partnership/merger/joint venture with any another entity;
- Acquire or incorporate any subsidiaries or associate Companies, and for the first 5 (five) years of the Contract;
- Have any shareholders save for the original shareholders.

### **INTRODUCTION OF NEW SHAREHOLDERS INTO OMBRECORP TRADING (RF) PROPRIETARY LIMITED AND FURTHER INVESTMENT IN SA WATER WORKS HOLDING COMPANY (RF) PROPRIETARY LIMITED**

#### **I. INTRODUCTION**

Shareholders are referred to the SENS announcement released by Rex Trueform on 28 September 2018 (the "28 September announcement"), wherein the company advised that it had, through its wholly-owned subsidiary, Ombrecorp Trading (RF) Proprietary Limited (formerly Ombrecorp Trading Proprietary Limited) ("Ombrecorp"), subscribed for 33.78% of the issued share capital of SA Water Works Holding Company (RF) Proprietary Limited (formerly SA Water Works Holding Company Proprietary Limited) ("SAWW"), which company acquired, through a wholly-owned subsidiary, 73.425% of the ordinary issued shares in the share capital of Sembcorp Siza Water (RF) Proprietary Limited ("Sembcorp Siza") (the "Sembcorp Siza acquisition"). In the same announcement, the company stated its intention to introduce additional third party shareholders into Ombrecorp (with Rex Trueform retaining a majority stake), and the intended acquisition of Silulumanzi (RF) Proprietary Limited (formerly Sembcorp Silulumanzi (RF) Proprietary Limited) ("Silulumanzi") by SAWW via its wholly-owned subsidiary, SA Water Works (RF) Proprietary Limited (formerly SA Water Works Proprietary Limited) (the "SAWW subsidiary").

#### **II. INTRODUCTION OF THE NEW OMBRECORP SHAREHOLDERS**

A subscription agreement (the "subscription agreement") has been signed between Rex Trueform, Ombrecorp, The Community Chest of the Western Cape (the "Community Chest"), Cornerstone Institute (RF) NPC ("Cornerstone"), Desmond Tutu HIV Foundation NPC ("Desmond Tutu HIV Foundation"), the Trustees for the time being of the District Six Museum Foundation Trust ("District Six Museum Foundation") and the Trustees for the time being of the Wheatfield Estate Foundation Trust ("Wheatfield") (collectively the "new Ombrecorp shareholders") whereby Rex Trueform and each of the new Ombrecorp shareholders will subscribe for new shares in Ombrecorp at a value of R1 per share, as the value of the assets of Ombrecorp approximates the value of its liabilities (the "new Ombrecorp shares"), as follows:



<b>SUBSCRIBER</b>	<b>Shareholding in Ombrecorp after the issue of the new Ombrecorp shares (%)</b>
Community Chest	6
Cornerstone	15
Desmond Tutu HIV Foundation	6
District Six Museum Foundation	6
Wheatfield	15
Rex Trueform	52

Rex Trueform's shareholding in Ombrecorp will be diluted from 100% to 52% due to the introduction of the new Ombrecorp shareholders into Ombrecorp. Salient details of the new Ombrecorp shareholders are as follows:

#### **Community Chest**

Community Chest manages social investment funds on behalf of corporate donors and foundations and is an inclusive development thought leader with a 90 year track record of delivery. Projects designed and managed on behalf of public and private sector entities are focused on Education, Income Generation, Health and Community Development. The Community Chest supports over 300 community based organisations annually and has a fulltime team of 36 employees as well as a network of field associates in the pursuit of delivering to the strategic development frameworks of the National Development Plan and the Sustainable Development Goals.

#### **Cornerstone**

Cornerstone, a tertiary education institution, is a non-profit company based in Cape Town, which focuses on education and the development of future leaders. There are currently more than 500 students who are enrolled in both undergraduate and postgraduate programmes in a multiple of disciplines, including education, entrepreneurship, psychology, sociology, theology and media studies, who are benefitting from Cornerstone's support.

#### **Desmond Tutu HIV Foundation**

Desmond Tutu HIV Foundation is a registered non-profit company established in association with the Desmond Tutu HIV Centre, an accredited research centre within the Faculty of Health Sciences, University of Cape Town. Pairing internationally acclaimed research with community-driven development programmes, Desmond Tutu HIV Foundation collaborates with those most at risk to find innovative solutions in the prevention and treatment of HIV and related infections. Desmond Tutu HIV Foundation strives to improve the health and wellbeing of the communities it serves while contributing to local and national health policy.

#### **District Six Museum Foundation**

District Six Museum Foundation was established in 1989 and launched as a museum in 1994. District Six Museum Foundation is committed to telling the stories of forced removals and assisting in the reconstitution of the community of District Six and Cape Town by drawing on a heritage of non- racialism, non-sexism, and anti-class discrimination.

#### **Wheatfield**

Wheatfield, a non-profit organisation, aims to empower South Africa's youth by providing financial and general support with regard to furthering their education. Over 100 students are assisted each year in various study disciplines. In addition, Wheatfield supports various feeding schemes and old age homes in the greater Cape Town area.

### **III. RATIONALE FOR THE INTRODUCTION OF THE NEW OMBRECOP SHAREHOLDERS**

The credentials of these long-established not-for-profit organisations are important for the corporate social investment and transformation imperatives of the company.

### **IV. INTRODUCTION OF NEW SHAREHOLDER INTO SAWW**

Pursuant to the introduction of a new SAWW shareholder, being SAWW Manco Proprietary Limited (formerly K2018080976 South Africa Proprietary Limited) ("SAWW Manco"), Ombrecorp's shareholding in SAWW was diluted from 33.78% to 15.16%.

## V. ADDENDUM TO SUBSCRIPTION AGREEMENT

Shareholders are advised that an addendum to the subscription agreement as set out in the 28 September announcement has been signed by the parties thereto, being Ombrecorp, SAWW and 27 Four, with the material amendments to the original subscription agreement being that Ombrecorp no longer has an option with regard to a second subscription for additional shares in SAWW (the "additional SAWW shares"), but now will subscribe for additional SAWW shares and advance

further funding to SAWW, in the aggregate amount of R83 673 025. As a consequence of the subscription for the additional SAWW shares by Ombrecorp, Ombrecorp will hold 30% of the issued share capital of SAWW (the "Ombrecorp subscription").

## VI. FURTHER ACQUISITION BY SAWW

As was the stated intention in the 28 September announcement, SAWW has acquired, via the SAWW subsidiary, [i] 100% of the ordinary issued share capital of SA Water Works Utilities Proprietary Limited (formerly Sembcorp Utilities South Africa Proprietary Limited) ("SA Water Works Utilities") – which holds 52% of the ordinary issued shares in Silulumanzi - and [ii] 48% of the ordinary issued shares in the share capital of Silulumanzi, from Sembcorp Utilities (Netherlands) NV (the "Silulumanzi acquisition").

SA Water Works Utilities has been in existence since 1998 and provides operation and maintenance services to Silulumanzi. Silulumanzi conducts a water concession business, operating in the municipal boundaries of the City of Mbombela Local Municipality and the greater parts of Nelspruit and, since 1999, has provided water and water services to residential, commercial and industrial consumers pursuant to the concession agreement executed between the City of Mbombela Local Municipality and Silulumanzi's predecessors-in-title.

The total purchase consideration for the Silulumanzi acquisition was R723 753 934, which consideration was funded via the issue of preference shares in the SAWW subsidiary with a value of R400 000 000 to Nedbank Limited, shareholder loan facilities afforded by certain other SAWW shareholders (being 27 Four and SAWW Manco) on commercial terms and at market-related rates, and the subscription of further shares in SAWW by such SAWW shareholders, in the aggregate amount of R323 753 934.

As previously advised, Ombrecorp will now, in terms of the Ombrecorp subscription, subscribe for the additional SAWW shares and advance further funding to SAWW on normal commercial terms, which subscription and funding shall be financed as follows:

- Rex Trueform will advance a further shareholder loan on normal commercial terms in the amount of R11 673 025 to Ombrecorp (the "Rex loan");
- additional funding in the form of a term loan facility of R72 000 000 (the "27 Four funding") will be advanced to Ombrecorp by 27 Four Life Limited (previously Prescient Life Limited) ("27 Four") in terms of a term loan facility agreement entered into between Ombrecorp and 27 Four (the "term loan agreement"). The facility provided by 27 Four pursuant to the term loan agreement will be secured by a cession and pledge in securitatem debiti by Ombrecorp to 27 Four of its shares in, and loan claims against, SAWW, a cession and pledge in securitatem debiti by Rex Trueform and the new Ombrecorp shareholders to 27 Four of their shares in, and loan claims against, Ombrecorp (the "shareholder cession and pledge"), and a cession and pledge in securitatem debiti by Ombrecorp to 27 Four of its bank accounts. 27 Four will furthermore be accorded certain payment preferences in relation to the 27 Four funding, and Rex Trueform will waive its right to accelerate the repayment of the Rex loan as a result of any event of default under the agreement pursuant to which the Rex loan was advanced for as long as there is outstanding indebtedness under (and as defined in) the term loan agreement (the "27 Four Payment Preferences").

## VII. FINANCIAL INFORMATION

The consolidated profit after tax, total assets and net asset value of the companies acquired by SAWW (via the SAWW subsidiary) in terms of the Silulumanzi acquisition are R65 197 104, R301 481 818 and R196 978 976 respectively, based on the consolidated audited financial statements of SA Water Works Utilities and the audited financial statements of Silulumanzi for the financial year ended 31 December 2017, which financial statements were prepared in accordance with International Financial Reporting Standards. SAWW will hold an effective 100% of Silulumanzi.

The discounted free cash flow generated by the assets acquired by SAWW (via the SAWW subsidiary) has a value of R650 000 000, based on a valuation performed by SAWW during September 2017, which valuation was based on forecasts and the audited financial statements of SA

Water Works Utilities and Silulumanzi for the financial year ended 31 December 2016. The total purchase consideration of R723 753 934 adjusts the valuation for the net cash as at 31 December 2017, an interest escalation amount and transaction costs.

8. NOTIFICATION IN TERMS OF SECTION 45(5) OF THE COMPANIES ACT 71 OF 2008 Notice is hereby given that, in terms of the provisions of section 45(5) of the Companies Act 71 of 2008 ("the Companies Act"), and pursuant to the special resolution passed at the annual general meeting of Rex Trueform held on 30 November 2018 approving the authority of the board to provide direct or indirect financial assistance to, inter alia, subsidiaries of the company, the board has adopted resolutions on 12 February 2019 in terms of section 45(2) of the Companies Act authorising the company to provide financial assistance to Ombrecorp by way of the company entering into the shareholder cession and pledge with 27 Four, and agreeing to the 27 Four Payment Preferences. The board resolutions in this regard were adopted in compliance with the provisions of section 45 of the Companies Act.

#### VIII. CATEGORISATION

The Sembcorp Siza acquisition, introduction of new Ombrecorp shareholders and the Ombrecorp subscription constitute, in aggregate, a category 2 transaction for Rex Trueform in terms of the JSE Listings Requirements and accordingly do not require approval by Rex Trueform shareholders.

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## 8. GOVERNANCE AND REPORTING COMPLIANCE

The Concessionaire will co-operate with the Council in order to facilitate the meeting of obligations relating to the Council's exercise of power in respect of the monitoring, inspection and regulation of the supply of Water Services in the Concession Area.

The activities and the performance of the Concessionaire in respect of the supply of Water Services, and the operation and maintenance of the Works, are to be monitored very closely by the Council in accordance with the Contract. As such, the Council is required to:

- Approve and promulgate in consultation with the Concessionaire, the necessary Regulatory Provisions in respect of Water Services;
- Monitor the provision and condition of the Water Supply Services;
- Perform inspection on the Works and monitor the impact of water supply on the environment;
- Collect the necessary information from the Concessionaire and Customers with regards to Water Supply Services;
- Collect information in respect of quality quantity and sustainability of Water Supply;
- Collect information on the nature and viability of the supply of Water Services;
- Collect information with respect to design, construction and functioning of the Works and Customer installations;
- Monitor the performance of the concessionaire against the criteria set out by Council in terms of the Contract and;
- Review the operating procedures of the Concessionaire's emergency plans every 2 (two) years.

Council also required to Assess the Concessionaire's compliance with the co-operation requirements of the monitoring provisions of the Contract. Assess the current Concession Contract monitoring regime against requirements in the Contract set out in Clause 80 of the Concession Contract. The Concessionaire is required to co-operate with Council and any other Competent Authority in ensuring compliance with Regulations pertaining to Water Supply Services. The Concessionaire is also required to ensure that its sub-contractors comply with the provisions of the Contract.

## 8.1 Concessionaire's Reporting Obligation

Clauses 60.1; 60.2; 60.3 and 60.4 set out the Concessionaire's reporting obligations:

- The Concessionaire shall within 60 (sixty) days completion of each 12 (twelve) month period, commencing with the first year, produce an annual report on service levels covering the preceding 12 (twelve) month period, which shall be delivered to the Council ;All of the Concessionaire's operations shall be dealt with in the Report, the format of which will be developed within the first year of the Contract between the Council and the Concessionaire;
- The existence of the annual report should be made known to Customers and a copy of it should be available for inspection by the Customers during normal working hours. A Customer or any other authority requesting the annual report should be able to have it delivered to them free of charge;
- Three (3) copies of the annual report should be delivered to the Council by the Concessionaire no later than 120 (one hundred and twenty) days after the end of each financial year;
- The annual report should contain the Concessionaire's complete audited financial statements for each financial year, the audit report, a detailed income statement, and the capital and expenditure including particulars in respect of grant funding received by the Concessionaire.

## 8.2 Council's Obligation

In terms of Section 18 of the Water Services Act , a Water Services Authority must report on the implementation of its development plan during each financial year. The drafting of the development plan is the responsibility of the IDM.

The Water Services provider plays a role in terms of section 23 of the Water Services Act, which requires that a Water Services Provider give such information concerning the provision of Water Services as may reasonably be called for by a Water Services Authority.

## 8.3 Concessionaire / Council Communication Lines

In consultation with both Council and the Concessionaire it was evident the communication lines and the hierarchy of communication is not as clear and timeous as set out in the Concession Contract. The Concessionaire has expressed its reservation in so far as the response to its inquiries is concerned stating on numerous occasions Council delayed with a response and at times does not respond at all, even to written correspondence. Council's view was slightly different in that Council being a government body it needs to conform to statutory and policy mandate in its operations as a municipality and certain responses and correspondence can only be done by a certain individual with the relevant authority. Council also expressed its uncertainty in the working of the Concession, this ranged from Procuring of services, Capital Investment apportionment on projects, Human Resource and the general management and operations of the Concession.

## 8.4 Concessionaire / Council Communication Compliance

Both parties viewed this differently sighting the different nature and structure of their respective organisations. The Concessionaire has a straight forward line structure and communication is quick and timeous. On the other hand Council has a very complex internal organisational structure synonymous with local government operations.



Therefore, lines of communication and information process flow are not as direct and straight forward. Council however on certain issues tends to procrastinate its responses to the Concessionaire. This whether is due to issues of organisational internal structure or blurred lines of communication and responsibilities has a dire effect on document flow, information flow and decision making process which affects both Council and the Concessionaire. This has unfavourable outcomes on the operations of the Concession which directly hinders service delivery on the respective relevant communities.

## **8.5 Youth and Community Fund Review**

The Contract requires the Concessionaire to undertake the following corporate social responsibilities:

In terms of clause 51.1 the Concessionaire was required to, within 6 (six) months calculated from the Effective Date, implement and establish a fund for the upliftment and development of the youth and community within the Concession Area. This was to be done by providing Technical training and assistance in various areas and rendering financial support for the upgrade of existing training, educational, medical and sporting facilities, as well as by providing adult literacy programmes and financial assistance to selected persons within the Concession Area.

In order to facilitate the above-mentioned objectives, the Concessionaire undertook to provide an amount to the value of R75 000 (seventy five thousand rand) per annum (as of 2018) for the duration of the Contract to enable it to meet its annual objectives. The sum of R75 000 (seventy five thousand rand) was to be revised annually.

### **REVIEW OUTCOME**

During the five year review 2014-2018 the Concessionaire allocated R1,856,856 to various Community Development projects. This amount was R294,711.70 in December 2014 and has been increased annually by the concessionaire to an amount of R423, 426.46 in December 2018.

## **8.6 Employee Loan Fund Review**

The Concessionaire was required to, within 3 (three) months calculated from the Effective Date, establish an employee loan fund in order to assist employees experiencing financial difficulty due to circumstances beyond their control. The amount of money that was to be given to an individual will be at the discretion of the directors of the Concessionaire.

### **REVIEW OUTCOME**

On enquiry from concessionaire an employee loan fund is in place to assist employees in difficult circumstances, we however could not verify the contents thereof and this item had been flagged for follow up items.

## **8.7 Staff Training and Development Review**

Clause 48.2.4 of the agreement states, The annual budget for training and development shall form part of the Concessionaire's annual business planning process and be approximately 3% of the total salary and wage bill.

### **REVIEW OUTCOME**

The salaries and wages bill for 2018 was R25, 423, 597.00 and the budget for training costs was R1,078,840 translating to approximately 4.2% of the salaries and wages bill.

It was noted that a training plan is kept by the Concessionaire we however could not satisfy ourselves that such training plan was submitted to council. This matter had been flagged as a follow up item.

The Concessionaire had to submit a copy of the reviewed training plan and training performance criteria at least twice annually to Council that is at the beginning of the year and in the middle of the year.

## 8.8 SMME Promotion Review

Clause 53.9 of the agreement states, The Concessionaire will through direct contracting and through its sub-contractors promote a policy of allowing 15% of the total investment of works for small, medium and emerging ("SME") contractors. The schedule was inspected with an amount spent on SME's and noted an amount of R 3, 359, 122.56 had been spent on SME's of which R 1, 740, 414.00 was in respect of capital expenditure as at 31 March 2014. The capital expenditure spent on SME's accounted for 13% of the total capital expenditure closed during 2018. It is noted that a minimum of 15% target spend on SME's towards investment works was required for the Concessionaire to be complaint with the provision of Clause 53.9. We were unable to inspect the same for later years, this item had been flagged as a follow up item.

## 8.9 Performance Guarantee Review

Clause 54.1, 54.2 and Annexure D1 of the Agreement states, The Concessionaire will for due fulfilment of the contract obtain at its costs and deliver a Performance Guarantee in favour of Council from a reputable bank or financial institution approved by the Council.

The Guarantee shall be in in accordance with the following:

Year 5 to Year 10: 15% of Turnover; Year 11 to Year 15

12% of Turnover.

### REVIEW OUTCOME

The FNB Performance Guarantee was inspected, that is in favour of Council. The Performance Guarantee is for R 17, 700, 000.00 which equates to 12.03% of the audited turnover for the previous year (2017) in accordance with the contract. This will however need to be increased in following years.

## 8.10 Contract Insurances Review

Clause 56 and Annexure D2 of the Agreement states, The Concessionaire shall effect and maintain for the duration of the contract insurances reflected on the insurance schedule marked as Annexure D2 in accordance with the terms and conditions reflected therein.

Annexure D2 lists the items to be covered in the insurance contract as follows:

- Public Liability including product liability
- Professional indemnity
- Employers Liability Cover
- Material Damage All risks
- Motor insurance to cover third party liability and passenger

### REVIEW OUTCOME

Inspected the all risk insurance documents expiring 30 September 2020 from Hollard Insurance company and noted an amount of R50million Limit of liability.

The insurance policy does not have a loss payee provision in the insurance contract in respect of claim in excess of R500, 000 stipulating that these claims be paid into a trust account opened in the joint name of the Concessionaire and Council. Also further to note that no notices of insurance claims by the Concessionaire have been submitted to Council as required by the contract.

Based on the insurance documents provided and reviewed, the following needs to happen:

- The professional indemnity should be increased to R10million in compliance with the contract.
- a provision need to be incorporated into the insurance contract in respect of claims in excess of R500,000 stipulating that such claims be paid into a joint trust account.
- the practicality of setting up a trust account to be looked closely by Council
- Insurance claims by the Concessionaire should be regularly submitted to Council in accordance with the contract.

### 8.11 Human Resources Review

Every employer is required to implement affirmative action measures in terms of the Employment Equity Act 55 of 1998, in order to achieve employment equity in South Africa. Affirmative action measures, as provided for in legislation, are measures designed to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the workplace of designated employers.

### 8.12 Employment Equity

These must include measures to identify and eliminate employment barriers, including unfair discrimination, adversely affecting people from designated groups; measures to further diversity in the workplace based on equal dignity and respect of all people; and making reasonable accommodation for people from designated groups in order to ensure that they enjoy equal opportunities and are equitably represented in the workplace.

The purpose of the Act would then be to ensure that there is equitable representation of these categories of people in all occupational categories and levels in the workplace. It is important that a company's policy make provision for their recruitment, assessment criteria, demotion, promotion, dismissal, selection criteria et cetera, in order to prohibit unfair discrimination. The Concessionaire is not only required to provide for black economic empowerment in terms of the law but also for empowerment of the local community in terms of the Contract.

In terms of clause 49, the Concessionaire shall comply with the Regulatory Provisions in respect of employment equity and implement and adhere to certain principles in respect of its employment practices, such as that preference should be given to the employment of previously disadvantaged individuals from communities within the Concession Area, based on the operational needs of the Concessionaire, as well as training and development requirements.

The Concessionaire should maintain and employ a staff complement that is representative in terms of the demographic composition of the community within the Concession Area.

The Concessionaire already has a designated staff training and development fund for up-skilling and growth and development of internal staff.

### 8.13 Local and Black Economic Empowerment

The Concessionaire is required to promote economic empowerment. More specifically, in terms of clause 53.1, it was to involve the Residents by procuring some of its items from companies in the local community. Further, it was to favour small, medium and emerging contractors in its choice of sub-contractors or supplementary staff.

In terms of clause 37.2, the Concessionaire will utilise labour within the Concession Area, unless a special skill or experience is required that is not readily available in the Concession Area or South Africa, on reasonable terms. Further, in terms of clause 53, the Concessionaire is required to make use of local content in respect of materials, goods and services required for the supply of Water Service and Works. For this purpose, "local content" refers to the inclusion of South African raw materials, parts and components manufactured or distributed from within the Concession Area, or from South Africa.

## 8.14 Personnel Schedule

Clause 46.1 states that a provisional personnel schedule identifying the Council Employees to be transferred to the Concessionaire, with effect from the Effective Date, is annexed to the Concession Contract and marked Annexure C1.

The number and categories of Employees set out in the personnel schedule annexed hereto and marked Annexure C1, will not be changed, except as contemplated in clause 46.3 and clause 46.4, but there may be replacements of persons referred to in Annexure C1, provided that each substitute shall fall within the same or similar category of employment and similar remuneration package as the person substituted, with due regard to the category of the person to be substituted. Substitutions shall only be effected with the prior written consent of the Concessionaire.

### REVIEW OUTCOME

The personnel schedule is outdated and old and as expected only 2 of the 24 original employees still remained (2018) on the personnel schedule. Others have pass on and or left the employ of the Concessionaire.

## 8.15 Labour Relations and Collective Bargaining

Clause 46.10 the Concessionaire undertakes not to terminate a contract of employment of any Employee, based on operational requirements in respect of the supply of Water Services and/or the operation and maintenance of the Works, as a direct result of the conclusion of the Contract.

To allow continued enjoyment by each Employee of the rights to freedom of association and collective bargaining rights enjoyed prior to the Effective Date, in as far as the composition of collective bargaining mechanisms in the sector or industry to which the Concessionaire belongs, allows for the enjoyment of such rights.

The Labour Relations Act regulates labour relations, collective bargaining, and participation in decision-making, as well as dispute resolution, in order to give effect to section 27 of the Constitution. etc of all people; and making reasonable accommodation for people from designated groups in order to ensure that they enjoy equal opportunities and are equitably represented in the workplace.

The purpose of the Act would then be to ensure that there is equitable representation of these categories of people in all occupational categories and levels in the workplace. It is important that a company's policy make provision for their recruitment, assessment criteria, demotion, promotion, dismissal, selection criteria, et cetera, in order to prohibit unfair discrimination. The Concessionaire is not only required to provide for The Act statutorily entrenches the organisational rights of a representative trade union, gives binding effect to collective agreements and entrenches the right to strike and recourse to a lockout. The Act promotes collective bargaining by providing for a series of organisational rights for unions and by fully protecting the right to strike.

### REVIEW OUTCOME

The Concessionaire staff are free to participate in any collective bargaining of their choice. Currently 50% of the SAWW workers belong to an internal union "Workers Forum for SAWW. SAMWU and the Workers Forum for SAWW have their union subscription deducted from their salary. IMATU does not have a much of an enrolment within the Concessionaire's staff.





## 9.OCCUPATIONAL HEALTH AND SAFETY – ENVIRONMENTAL COMPLIANCE

In terms of clause 48, the Concessionaire is obliged to develop and implement all the necessary training plans for all Employees transferred and/or employed by it at all levels and in sufficient quality. These training plans should be undertaken in accordance with Regulatory Provisions applicable, in order to provide the knowledge and skills required to meet the Technical, Commercial, Economic and Social objectives of the Concessionaire, as well as to meet individual staff development. The Concessionaire will then develop and publish a training plan which will identify the objectives to be achieved.

The annual budget for training and development shall form part of the Concessionaire's annual business process and be approximately 3% (three per centum) of the total salary and wage bill of the Concessionaire.

Training should involve at least an induction orientation, which includes the Concessionaire's organisation and culture, core values, job safety and human resources. All employees should receive induction training specific to their positions. Employees in positions for which there is a specific requirement for certification and periodic renewal (e.g. water

treatment plant operators) should receive training to meet certification and renewal requirements. All Employees shall have an appraisal meeting with their immediate supervisor/manager, at least once annually, at which past performance and future objectives will be reviewed.

The Concessionaire would support the development of Employees with potential in appropriate ways, which may include mentorship and exchange visits with Sembcorp group operations worldwide. The Concessionaire will review the annual training plan and training performance criteria at least twice annually, and submit a copy thereof to Council.

According to the Occupational Health and Safety Act 85 of 1993, every employer has the responsibility to provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of his employees. The employer should ensure that all employees are informed regarding the scope of their authority, as contemplated in section 37 (1) (b). The Compensation for Occupational Injuries and Diseases Act 130 of 1993 makes provision for an employee who meets with an accident that results in his disablement or death, or injury in the workplace.

### REVIEW OUTCOME

The review scope included the relevant environmental and health and safety legislation pertaining to SAWW environmental aspects and risks as identified by the organisation's Environmental, Health and Safety Systems. The operational areas covered in the Audit scope were:

- Systems, administration and support (SAS)
- Water reservoirs and reticulation networks (WRRN)
- Sewer reticulation network and pump stations (SRN)
- Waste Water Treatment Works (WWTW)

The following areas of compliance were covered in the Review Scope:

#### ISO 14001 Elements

- Environmental Policy;
- Environmental Aspects;
- Legal and other requirements;
- Evaluation of compliance;
- Non-conformity,
- Corrective and preventive action;
- Management review and associated procedures

#### OHSAS18001 elements

- Planning for hazard identification;
- Risk Assessment and determining controls;

- Legal and other requirements;
- Evaluation of compliance;
- Incident Investigation;
- Non-conformity;
- Corrective and preventive action;
- Management review and associated procedures.
- Pollution prevention
- Hazardous chemical substances, receipt storage and use
- Asbestos Management, identification, maintenance and removal
- Waste transportation and disposal – general and hazardous
- Emergency response and planning.
- Resource conservation
- New Developments and Environmental Impact Assessments (EIA's)
- Health and Safety requirements relating to plant, equipment and administration, AIA surveys.
- Permit Requirements:
- Water Use / Registration;
- Certificate of Registration for the storage of flammables

After reviewing the SAWW SHE Audit report dated February 2013, it was noted that the following incident findings from the SHE Audit Report were still open from 2010:

Incident investigation process. recommendations:\*

- Investigations must be carried out by persons appointed under this regulation, as well as the H&S Rep and or appointed H&S committee member;
- The investigation must be placed within 7 days of the incident and be completed as soon as possible;
- Any incident requiring medical treatment must be reported within 7 days to the Department of Labour on form WALL (Diseases) or WCL2 (Injuries), copies of these documents to be available on site;
- Annexure I must be completed for all injuries requiring more than First Aid treatment, this document must be kept onsite for a minimum of 3 years; The employer and chairperson of the H&S committee must endorse the reports.

Electrical Equipment in Confined spaces recommendations;

- All electrical equipment in hazardous locations must be listed in a register and must be examined and tested every two years by a master electrician;
- It must be confirmed whether or not the two way radios are intrinsically safe;
- The lighting that can be used for confined space entry must be specified in the procedure and on the work permit.

Incidents and corrective action procedure” states that a formal system for reporting incidents is in place but does not comment on the corrective action procedure. This procedure is not adequate or not implemented correctly, since 17 findings were not closed off from 2010.



# 10. CONCESSION LEGAL REVIEW

## 10.1 Five Year Review – Legal Report Summary

### INTRODUCTION:

This report forms part of a technical and financial assessment of the 5 Year Review of the Water and Sanitation Concession Agreement between the iLembe District Municipality and Siza Water (Rf) (Pty) Ltd. The 5 Year Review is dated 25 August 2019 and is currently in draft form.

The Legal Report has been designed with the sole objective of reviewing the aspects of the 5 Year Review to establish areas of non-alignment between the Concession Agreement and the prevailing legislative/regulatory frameworks.

For avoidance of doubt, this Legal Report does not seek to review the Concession Agreement, but to assess areas in the 5 Year Review that impact on or trigger certain provisions of the Concession Agreement and prevailing legislation and policy frameworks.

In this regard, focus is placed on the following aspects:

- Change of ownership
- Water Services Area
- Performance and Service Levels
- Quality specifications and operational standards
- Grants
- Transformation
- Performance monitoring
- Drought

The above aspects have been selected primarily because they either represent potentially contentious areas in the Five-Year Review or are triggers in the both the Concession Agreement and the prevalent legislative and policy framework. Below is an assessment/demonstration of their impact on the relationship between both parties in the stated context.

## 10.2 Legal Impact Assessment

Table Twenty Nine: Legal Review Impact Assessment

Review Item	Clause	Legislate & Policy Framework	Comments
<b>Shareholding</b>	10, 11 ANNEXURE A - SHAREHOLDER SCHEDULE	<ul style="list-style-type: none"> <li>• Mergers and Acquisition compliance requirements as per provisions in the Companies Act</li> <li>• Requirements of the Competition Act- MOI</li> <li>• BBBEE targets</li> </ul>	<ul style="list-style-type: none"> <li>• Schedule should be amended to reflect current structure</li> <li>• Compliance with relevant legislation when there is a change in control</li> <li>• What are council's considerations prior to the approval of a change in control?</li> <li>• Risk assessment and analysis of new controlling shareholder</li> <li>• Due diligence assessment of new controlling shareholder</li> </ul>
<b>Water Services Area</b>	5.2	<p>The MSA – Sections 77, 78 and 83</p> <ul style="list-style-type: none"> <li>• A municipality is required to review and decide on the appropriate mechanism to provide a municipal service.</li> <li>• The determination must be done by way of an assessment in terms of the criterion for deciding on mechanisms to provide municipal services.</li> <li>• The incorporation of a new area to which the IDM has an obligation to service should be treated separately within the framework of section 78 of the MSA.</li> </ul>	<ul style="list-style-type: none"> <li>• What legal considerations should Council undertake prior to engaging the Concessionaire on expanding the Water Service Area?</li> <li>• Is it an automatic or inherent right that all new water service areas outside the Concession Area should be serviced by the Concessionaire?</li> <li>• Would it enhance competition and the benefits that come with it?</li> <li>• Has a cost-benefit analysis been undertaken to justify the automatic enhancement of the Concessionaire's added benefit?</li> <li>• Can a distinctive treatment be drawn between "new service areas" within the already established Concession Area, but not rendered serviceable in 1999; and "new service areas" that were never part of the Concession Area but have since become part of the service area by virtue of policy and/or legislative action</li> </ul>
<b>Performance Levels and Services</b> • conditions of service • coverage of service	26,27 ANNEXURE B2 - PERFORMANCE AND SERVICE LEVELS	<ul style="list-style-type: none"> <li>• The MSA – sections 73(2), 81(1)(e)</li> <li>• The WSA – sections 4(3), 11(1)</li> <li>• The PAJA – sections 1, 3(1)</li> <li>• GNR. 980 of 19 July 2002: Water Services Provider Contract Regulations – clause 13</li> <li>• The Drinking Water Quality Management and Regulation Framework – Minimum Requirements for Blue Drop Certification Programme 4th Edition</li> <li>• Compulsory National Standards for the Quality of Potable Water</li> <li>• SANS 241 Drinking Water</li> <li>• Consumer Protection Act, 2008.</li> </ul>	<ul style="list-style-type: none"> <li>• Policy requirements and strategic service delivery targets should inform performances indicators</li> <li>• National water quality testing norms and standards should be incorporated into the Agreement and regular monitoring criteria as a performance target and service level.</li> <li>• Service levels are currently ambiguous to some extent</li> <li>• What are the service levels for settlements and the responsibility of the Concessionaire in that regard?</li> <li>• How does IDM strike a balance between availability, equity, conservation, financial and environmental sustainability?</li> </ul>



Review Item	Clause	Legislate & Policy Framework	Comments
Quality specifications and operational standards	26, 27 ANNEXURE B3 - QUALITY SPECIFICATIONS AND OPERATING STANDARDS	<ul style="list-style-type: none"> <li>Guidelines for Engineering Services and Amenities in Residential Township Development (Guidelines for the provision of engineering services and amenities in residential township development issued by the Department of National Housing in collaboration with the National Housing Board) published by the CSIR, Division of Building Technology- ISBN 0-7933-5206-2: 1994.</li> </ul>	<ul style="list-style-type: none"> <li>Are these still applicable or are there better standards?</li> <li>Is there adequate monitoring of the specifications for works, maintenance, and service standards as reported in the 5 Year Review in the entire concession area</li> </ul>
<b>Tariff -</b> <ul style="list-style-type: none"> <li>Tariff policy</li> <li>Water supply services tariff structure</li> <li>The grant support procedure</li> </ul>	40 & 45.1 ANNEXURE E1 - TARIFF SCHEDULE (SECTION 3- FIVE YEAR TARIFF REVIEW)	<ul style="list-style-type: none"> <li>The MSA- section 74</li> <li>The WSA- Section 10</li> <li>Norms and Standards in Respect of Tariffs for Water Service Authorities and Bulk Water Service Providers 9 October 2015</li> <li>MFMA Circular No. 70 Municipal Finance Management Act No. 56 of 2003- Municipal Budget Circular for the 2014/15 MTREF</li> <li>DORA Grants Frameworks</li> </ul>	<ul style="list-style-type: none"> <li>Section 3 of Annexure E1 sets the parameters for the 5 Year Review</li> <li>Plan for the supply of Water Services should be derived from the integrated development plan (there must be a link)</li> <li>An assessment of: the IDM's current policy, the tariff framework set out in the Agreement, and the prescripts contained in the legislative and policy frameworks; to ascertain: <ol style="list-style-type: none"> <li>The IDM's compliance with the legislative and policy instruments</li> <li>Areas of alignment between the IDM's policy and the legislative and policy instruments; and</li> <li>Areas of alignment of the prescripts contained in the legislative and policy instruments and the Agreement.</li> </ol> </li> <li>The outcome of the process will inform the applicable framework for the concession going forward.</li> <li>Section 3 of Annexure E1 creates an expectation that grants are automatically available to the Concessionaire</li> <li>DORA Grants Frameworks should dictate the utilisation of grant funding.</li> <li>Section 3 should therefore be interpreted in line with the requirements of DORA and the applicable grants frameworks</li> <li>Paragraph 3.2.2.3. of Annexure E1 suggests that the grants referred to are those that provide support to indigent customers and previously disadvantages areas.</li> <li>It is not clear whether such grants or support relate to infrastructure investments or subsidies to the identified categories. The latter is a more preferred and logical interpretation in view of the restrictions of DORA</li> </ul>

Review Item	Clause	Legislate & Policy Framework	Comments
Performance Monitoring	62	<ul style="list-style-type: none"> <li>· The MSA – sections: 11(3), 38, 41 &amp; 81 (l)</li> <li>· National Water Services Benchmarking Initiative - Benchmarking outcomes for 2004/5 -December 2005 (SALGA).</li> </ul>	<ul style="list-style-type: none"> <li>· There is a substantive divide between the regulatory (monitoring) regime provided for in the Agreement and what has actually prevailed within the legislative and policy environment.</li> <li>· Of critical concern is the absence of a framework upon which the Concessionaire's performance can be objectively measured without necessarily placing re-active reliance on the information in the reports periodically provided by the Concessionaire.</li> <li>· Effectively, the requirements of the MSA on the IDM impose strict obligations with regard to the development of a performance monitoring and evaluation system.</li> <li>· Therefore, in absence of a clear monitoring framework for the Concession, the IDM is deemed to be in breach of its statutory obligations in terms of the MSA.</li> <li>· Should such a framework exist for the municipality in general but not be adapted to the Concession, then the requirement is that the said monitoring framework should be incorporated into the provisions of the Agreement</li> </ul>
Drought	44.4	N/A	<ul style="list-style-type: none"> <li>· There is a general persistent view in the 5 Year Review, that Council's failure to undertake drought mitigation measures exposed the Concessionaire to unexpected costs and therefore affected the Concessionaire's investment plans and financial projections.</li> <li>· It is not clear where the Concessionaire derives the notion that it is Council's responsibility to mitigate drought situations.</li> <li>· What is clear however is that the Concessionaire appears to propagate the fact Council's failure in this regard and the Council's inability to transmit grant funding poses a possible avenue for a damages claim in the near future.</li> <li>· 44.4 provides for situations where a surcharge would be imposed on customers in drought situations where the customer fails to adhere with restrictions.</li> <li>· Even then, Council must not approve the surcharge and may with reason decide otherwise</li> <li>· Further assessment and discussion with all stakeholders, on this, is required before approving the 5 Year Review.</li> </ul>

### 10.3 Supreme Court Judgement

SAWW in their 5 year Plan Report dated 21 August 2019 under the 'Situation Report' make mention of the court case but not of the judgement that favours SAWW (then Siza Water) and how favourable outcome and the gains thereof will be discharged. The Order is as follows which is an extract:

[56] Accordingly the following order is made:

(a) The order of the high court is amended to read:

1 The decision of Umgeni Water proposing to impose a tariff increase of 41,4 per cent on the cost of supply of bulk water to the Applicant on 12 November 2014 for the financial year commencing on 1 July 2015 and the subsequent approval of a tariff increase of 37,9 per cent by the Minister is hereby reviewed and set aside.

2 Pending any further determination of tariffs for the supply of bulk water Siza is ordered to pay for bulk water supplied to it by Umgeni Water at the same tariff as that at which Umgeni Water supplies bulk water to all other water services providers.

3 Umgeni Water and the Minister are directed to pay the costs of this application jointly and severally, the one paying the other to be absolved, such costs to include the costs occasioned by the employment of two counsel.'

(b) The appeal is dismissed with costs, such costs to be paid jointly and severally by the appellants, the one paying, the other to be absolved and to include the costs consequent upon the employment of two counsel.

SAWW would need to provide IDM with a written appraisal notice as the concession partner in this concession contract agreement of this favourable judgement and also revise their 5 year Plan Report including the Financial Model ('FM') as part of the SAWW 5 Year Plan (2019 - 2023). The legal fees that SAWW (then Siza Water) utilised came from the CAPEX of the concession and thereby affected the Capital Investment Programme during the case period. SAWW is contractually required to provide IDM with a written plan and notice how the gains from the Court Order would be disbursed and factor the same to reviewing the FM before concluding this 5 Year Plan (2019-2023).



# 11. KEY RECOMMENDATIONS

## 11.1 Profit Share Structure

The concession when ratified in 1999 was based on a profit share structure of an Internal Rate Return (IRR) of 15%. Since then the legislative environment of government has evolved and new legislative prescripts have since come into law related to local government and water services. This also includes the afore mentioned Government Notice 888 by Water Services Act which promulgates the government structures especially local government must implement 'Cost Reflective Tariffs' for their paying customers. In terms of clause 61A.5 of the Concession Agreement of January 1999 as amended by the First and Second Supplementary Agreements, provides that if "historical returns" achieved by SAWW are in excess of the real returns of 15% ("the return threshold"), as a result of increased tariffs, addition of new areas. And such other changes to the assumptions, then the amount of such excess is to be shared equally between the parties. Recommended Review Based on the current financial projections presented by SAWW for

the period to 2023, the IRR return threshold of 15% will only be achieved in 2022. This is only when IDM will be in a position to share the excess of the real returns. The proposal is for the review of the current structure of the concession financial model based on the IRR to the proposed recommendation that going forward profit sharing be based on 'Return on Equity' in excess of 15%, shared equally between Council and the Concessionaire.

The review would entail an in-depth review of the current Financial Model and a comparative financial analysis using current applicable parameters benched marked against the expected cash-in-flows and cash-out-flows going forward. Thereafter a comprehensive analysis would determine a realistic 'Return on Equity' percentile the Council and the Concessionaire would evenly be sharing that would be in excess of 15%.

## 11.2 SME Investment Works

In terms of Clause 53.9 of the Concession Contract, the Concessionaire will through direct contracting and through its subcontractors promote a policy of allowing 15% of the investment in works for small, medium and emerging ("SME) contractors.

### RECOMMENDED REVIEW

Council was urged to consider the review of the amount spent towards SME's to be aligned to prevailing Broad Based Black Economic Empowerment legislation, which advocates for 30% procurement contract spend on black owned SME.



## 11.3 Five Year Plan Scenarios

- In the light of the current economic crisis facing our country as a result of COVID 19 a revised Financial Model for the remainder of the five year period 2019-2023 may need to be considered by South African Water Works.
- Two additional versions of the five year business plan need to be presented to council, which are Best Case Scenario and Worst Case Scenario. These scenarios together with the base case scenario will give council more insight on both extremes of possible outcomes.



## 11.4 Five Year Plan Water Sales

In light of tough economic conditions and the impact this will have on private funded projects, it is recommended for these figures to be revised accordingly as this will impact Water Sales that have been included in the current five year plan.

## 11.5 Capital Investment & Dividend Pay-out

With the impact of COVID19 putting a strain on finances, it is recommended that South African Water Works produce a revised capital investment plan which will prioritise the supply of water as the foremost important due to the constitutional obligation to supply water and sanitation. A revised planned dividend pay-out to shareholder which shall be just and equitable in the light of our economic condition must also be considered.

## 11.6 Asset Handover Plan

In accordance with the concession agreement, assets forming part of the concession agreement are to be handed over to council on termination date of the concession agreement. With eight years remaining in the concession contract it is recommended that a comprehensive list of all assets and condition thereof be compiled by South African Water Works and such register needs to be kept up to date and must be tabled to council on an annual basis. This will assist Council and South African Water Works in terms of understanding assets forming part of the concession agreement and which are subject to the handover.

It is also of importance for Council to satisfy itself with the existence and condition of these assets and itself of through an appointed consultant, it is recommended that these assets shall be inspected and verified every 3 years by a suitable qualified expert.

## 11.7 Provision for Bad Debts

We recommend a review of the bad debts figures in the 5 year plan amidst financial difficulties which are expected to face private and corporate customers of the concessionaire due to negative economic conditions expected as a result of the COVID 19 pandemic.

## 11.8 SAWW Service Area Expansion

A review discussion in the extent of the Concessionaire's area of jurisdiction will need to take place urgently to for improved service delivery for consumers where the developments straddle the boundary between IDM and SAWW service areas. Developments such as Pencarrow and Manor Estates are affected by this and a letter was sent to SAWW by IDM to that effect. The Concessionaire is reminded, in common law, they are obliged to negotiate the adjustments with the municipality.

## 11.9 Annexure B2 – Service Levels

It is IDM's view that the technical specifications as referred on Annexure B2 of the contracted are outdated in terms of the current practice and would require revision to be included in the Five Year Plan. The levels of service as referred to on Annexure B2 also need to be revised to ensure that the communities are uplifted through upgraded levels of service. Funding for these activities would be tabled for discussion between IDM and SAWW, however this would need to be annexed into the Five Year Plan.

### **11.10 Bulk Water Supply**

Installation of bulk water supply for RDP housing developments within the SAWW concession area needs to be reviewed by the two parties to ascertain funding for this infrastructure.

### **11.11 Grant Funding**

The R 303million grant funding that the Concessionaire has planned for expenditure in the next five years was highlighted as incorrect and needs to be revised. The value is from an old business plan that was discussed with IDM and SAWW previously. The Concessionaire and IDM would need to review the Nkobongo and Shayamoya scope of works and infrastructure needs.

IDM would like to understand the Concessionaire's plans around the upgrade of Sheffield WWTW.

### **11.12 Outsourcing of New Connections, Disconnections and Re-connections**

IDM is interested to know more about the continuation of outsourcing new connections and disconnections/reconnections at fixed rates agreed upon by both parties. It was further indicated that SAWW has already been assisting IDM finance department with this work satisfactorily over the past 12months to eradicate the backlog from 2015. This task has therefore been included in the Five Year Plan and Five Year Review. Work will be carried out on a Service Level Agreement ('SLA') basis as the needs arises.

### **11.13 Desludging of VIP's**

One key issue that was raised by IDM is the that of desludging of the VIP's. The IDM expressed its dissatisfaction with the SAWW's reluctance to provide this service to consumers within its area of jurisdiction. This has resulted in community unrest leading to interventions by the IDM in terms of desludging the VIP latrines at their own cost. The IDM strongly believes that the desludging of these toilets is the responsibility of SAWW.

### **11.14 Upgrading of Sanitation Level**

IDM believes there's an urgent need to phase out the VIP sanitation system and upgrade communities to a better level of service that is hygienic, safe, dignified and efficient. SAWW must include this upgrading of the sanitation system in the Five Year Plan.

### **11.15 Infrastructure Asset Assessment**

A comprehensive infrastructure asset assessment needs to be undertaken, as a matter of urgency. This will provide sufficient lead time to determine the condition of the physical infrastructure that is within the concession area and ensure any components that are about to reach end of life are replaced and faulty infrastructure is attended to. A detailed useful life of all the assets needs to be compiled. The concession contract does make provision for this towards the end of the concession period, however there is a need to address this matter earlier to afford the Concessionaire adequate lead time to address the infrastructure issues.

### **11.16 Supreme Court Judgement**

The Supreme Court judgement on the case between the Concessionaire and Umgeni Water means that the Concessionaire is in a position to purchase water at a lower cost and therefore, there is a need for the Concessionaire to review their financial projections to reflect this. Necessary adjustments are to be made to reflect the implications of the reduction in the purchase cost of water.

The above item subsequently triggers the need for a review of the financial model so as to ensure that profit sharing is realised at the correct time.

### 11.17 Tariffs

It was highlighted any increases in tariffs by the Concessionaire would be presented to IDM and approved by Council before being implemented. There is a need to ensure that the tariffs are cost reflective and there is alignment of the IDM and SAWW tariffs. The estimated bulk tariff increases around 13,5% per annum stated in the Five Year Plan review are reportedly too high and need to be revised accordingly.

### 11.18 Contract Agreement Review

There is an inherent need to review the entire contract agreement to incorporate the key issues around service levels revisions, infrastructure asset assessments and profit sharing amongst other key topical issues.

### 11.19 PPPFA Compliance

One the area of concern raised was the Concessionaires compliance or lack thereof with the PPPFA and B-BBEE procurement regulations. This was highlighted to be a key issue that needed to be monitored closely. It is understood that Enterprise Ilembe is responsible for monitoring compliance and due consultation will be required. IDM envisages a contractual commitment that the Concessionaire must procure in line with the Radical Economic Transformation objectives and as per the prevailing Broad Base Black Economic Empowerment legislation. It is believed that the Concessionaire does not fully follow this legislation. A full review will need to be established to ensure SAWW complies with the PPPFA and B-BBEE and such a model or plan is incorporated into the Five Year Plan.

### 11.20 Drought Relief

The concession contract requires a review to address the issue of drought relief. The Concessionaire is requested to clarify their disaster management protocol in dealing with the unforeseen events such as drought and COVID-19 pandemic. There was an undertaking between IDM that SAWW would not stop any planned infrastructure projects as part of their Five Year Plan without consultation and approval of IDM.

The Concessionaire advised of the funds owed to them by IDM due to drought relief measures implemented by the Concessionaire a few years ago. IDM is however at odds regarding this assertion. The issue would need to be dealt with outside of the Five Year Plan.





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