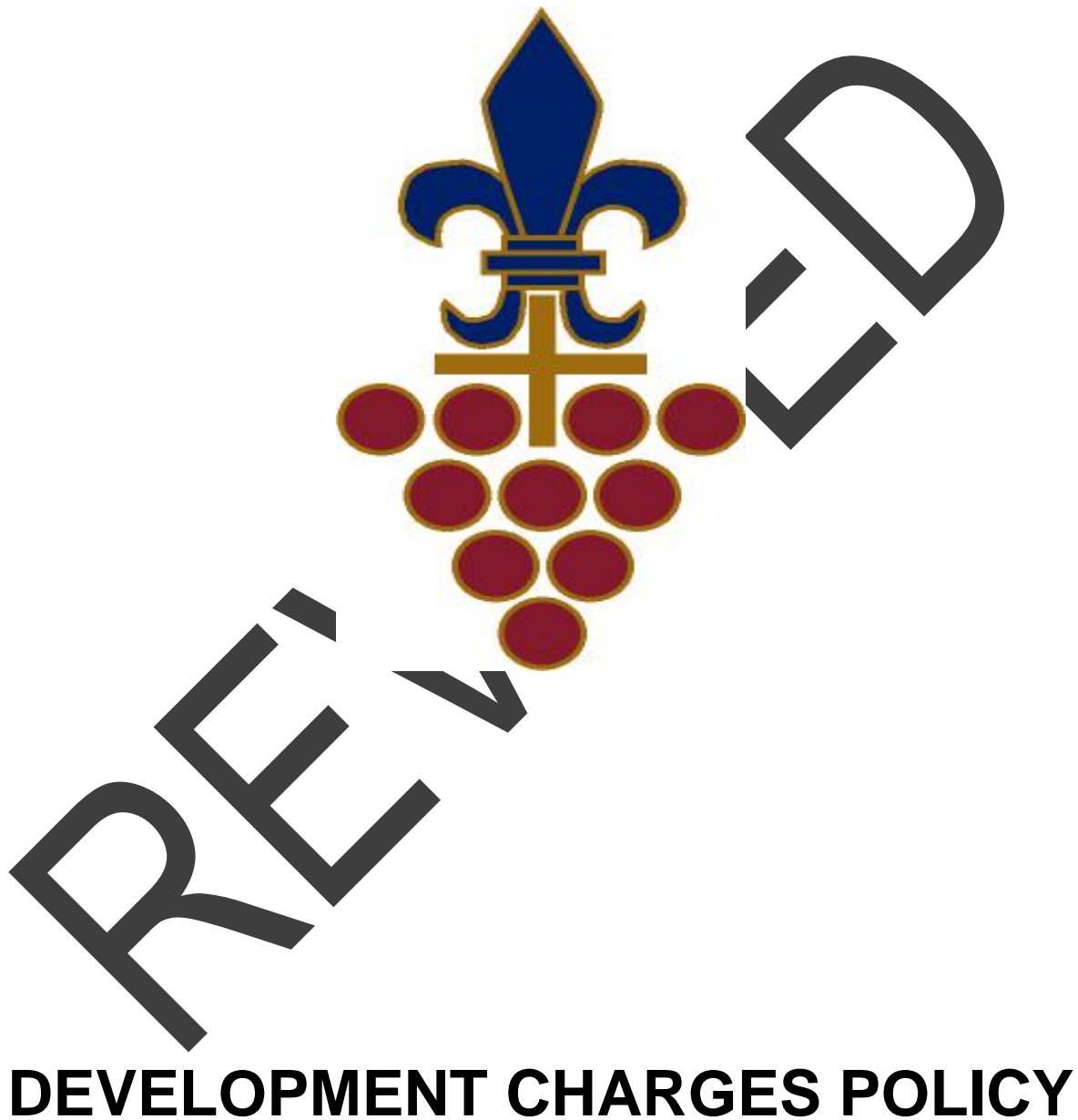


STELLENBOSCH MUNICIPALITY



DEVELOPMENT CHARGES POLICY

2017/2018

REVISED

REVISED

1. DEFINITIONS

In this policy, unless the context indicates otherwise -

- 1.1 **'applicant'** means a person who makes a land development application;
- 1.2 **'bulk service'** means the capital infrastructure assets associated with that portion of an external engineering service which is intended to ensure provision of municipal infrastructure services for the benefit of multiple users or the community as a whole as indicated in the relevant Master Plan;
- 1.3 **'By-Law'** means the Stellenbosch Municipality: Land Use Planning By-Law published in the Western Cape Provincial Gazette Extraordinary of 20 October 2015;
- 1.4 **'capacity'** means the extent of availability of a municipal infrastructure service, based on the capital infrastructure asset or combination of capital infrastructure assets installed for provision of such municipal infrastructure services;
- 1.5 **'capital infrastructure asset'** means a capital asset which is required for provision of a municipal infrastructure service, limited to immovable assets and insofar as movable assets are concerned, specialised vehicles, used for waste collection and disposal only;
- 1.6 **'developer'** means an applicant for land development whose land development application is approved, in whole or in part, by the Municipality or the Municipal Planning Tribunal or municipal official authorised to determine land development applications;
- 1.7 **'development charge'** means a charge imposed by the Municipality on a developer in terms of any applicable law referred to in this policy, or a condition of the approval, payment of which will contribute towards the Municipality's expenditure on capital investment in municipal infrastructure services;
- 1.8 **'engineering services installation agreement'** means an agreement concluded between the Municipality and a developer, recording their detailed and specific respective rights and obligations regarding the provision and installation of the external engineering services required for an approved land development, and regarding the associated development charge;
- 1.9 **'external engineering service'** means an engineering service situated outside the boundaries of a land area and which is necessary to serve the use and development of the land area, provided that in circumstances where the characteristics of a specific area or the design of the relevant engineering service so requires, such services can be located within the boundaries of a land area;
- 1.10 **'impact zone'** means a zone within which the capital infrastructure assets or system of capital infrastructure assets required to provide bulk services to an approved land development are located (see **Annexure A** as far as civil bulk services are concerned);
- 1.11 **'internal engineering service'** means an engineering service within the boundaries of a land area which is necessary for the use and development of the land area and which is to be owned and operated by the Municipality or service provider;

- 1.12 **'land development'** means the erection of buildings or structures on land, or the change of use of land, including township establishment, the subdivision or consolidation of land or any deviation from the land use or uses permitted in terms of an applicable land use scheme;
- 1.13 **'land development application'** means an application for land development submitted with the Municipality or referred to the Municipal Planning Tribunal or other decision-making body for approval, in accordance with applicable national or provincial legislation, including the National Building Regulations and Building Standards Act 103 of 1977 (including any regulations promulgated thereunder), the SPLUMA, the LUPA and the By-Law;
- 1.14 **'land use'** means the purpose for which land is or may be used lawfully in terms of a land use scheme, existing scheme or in terms of any other authorisation, permit or consent issued by a competent authority, and includes any conditions related to such land use purposes;
- 1.15 **'link service'** means the capital infrastructure assets associated with that portion of an external engineering service which links an internal engineering service to the applicable bulk service;
- 1.16 **'LUPA'** means the Western Cape Land Use Planning Act, 2014, Act. 3 of 2014 (PN 99/2014 of 7 April 2014);
- 1.17 **'Municipality'** means the Stellenbosch Municipality (WCO24) established in terms of Provincial Notice 489 of 22 September 2000 in terms of the Local Government: Municipal Structures Act, 117 of 1998, and includes all political structures or office bearers and municipal staff members to whom authority has been delegated to take decisions in terms of the Municipality's delegation system;
- 1.18 **'municipal infrastructure service'** means any of the following municipal services:
- 1.18.1 potable water;
 - 1.18.2 sewerage and wastewater treatment;
 - 1.18.3 electricity distribution
 - 1.18.4 municipal roads;
 - 1.18.5 street lighting
 - 1.18.6 storm water management;
 - 1.18.7 solid waste disposal;
 - 1.18.8 public transport, including non-motorised transport;
 - 1.18.9 social infrastructure services;
- 1.19 **'Municipal Planning Tribunal'** means a Municipal Planning Tribunal referred to in Chapter 6 of SPLUMA;
- 1.20 **'Social Infrastructure services'** means community services provided in terms of the functions which are the responsibility of the Municipality in terms of the Constitution, which includes, but is not limited to:
- 1.20.1 Early Childhood Development Centres;
 - 1.20.2 Public Open Spaces, parks, sports fields;
 - 1.20.3 Fire Fighting and Emergency Services;
 - 1.20.4 Local Tourism;
 - 1.20.5 Cemeteries;
 - 1.20.6 Burial of animals;

- 1.20.7 Noise pollution; and
- 1.20.8 Municipal health services;
- 1.21 ‘**SPLUMA**’ means the Spatial Planning and Land Use Planning Act, 16 of 2013;
- 1.22 ‘**Systems Act**’ means the Local Government: Municipal Systems Act, 2000, Act 32 of 2000).

2. INTRODUCTION

- 2.1 In terms of Section 152 of the Constitution, the objects of local government include the provision of services to communities in a sustainable manner and the promotion of social and economic development.¹ Chapter 8 of the Systems Act provides for the general duty of the Municipality to provide municipal services and the manner in which such services are to be provided.²
- 2.2 Social and economic development has a positive impact on the Municipality’s finances as it increases revenue from property rates, fees, service charges and tariffs by expanding the base of ratepayers. However, development associated with this economic growth has an impact on the demand for municipal infrastructure services as well as social infrastructure services such as clinics, schools and other public amenities. Therefore, infrastructure is needed to support sustainable social and economic development in Stellenbosch. Without infrastructure, both public and private sector investment in Stellenbosch will slow down. The cost to the Municipality for providing this infrastructure is high. Funding to cover these costs is obtained from three sources:
 - 2.2.1 Grants are provided by national or provincial government and are generally targeted towards social infrastructure, particularly in support of low-income housing development.
 - 2.2.2 Loans are converted into tariffs and are recovered by user fees paid by all consumers to the Municipality.
 - 2.2.3 Development charges are a more targeted and more equitable way of ensuring that the main beneficiaries of infrastructure make an appropriate and fair contribution to that cost, without unduly burdening the Municipality’s ratepayers. Development Charges are the most important form of capital contribution raised by the Municipality to pay for infrastructure.
- 2.3 The general duty of the Municipality to provide municipal services is *inter alia* provided for in terms of Section 73(2) of the Systems Act, which section provides as follows:

“(2) *Municipal services must—*

 - (a) *be equitable and accessible;*
 - (b) *be provided in a manner that is conducive to—*

¹ Section 152(1)(b) and (c).

² Section 73(1).

- (i) *the prudent, economic, efficient and effective use of available resources; and*
- (ii) *the improvement of standards of quality over time;*
- (c) *be financially sustainable;*
- (d) *be environmentally sustainable; and*
- (e) *be regularly reviewed with a view to upgrading, extension and improvement.”*

2.4 The goal of this policy includes the following:

- 2.4.1 Striving to make Stellenbosch the preferred town for investment and business, where investment inflows and new enterprise translate into jobs and prosperity.
- 2.4.2 Establishing the greenest municipality which will not only make Stellenbosch attractive for visitors and tourists, but will also provide a desirable environment for new businesses and appropriate industries.
- 2.4.3 Ensuring a dignified living for all Stellenbosch citizens, who feel that they own their town, take pride in it and have a sense of self-worth and belonging.
- 2.4.4 Creating a safer Stellenbosch, where civic pride and responsibility supplant crime and destructive behaviour.

3. OBJECTIVES

- 3.1 The objectives of this policy are to provide a sustainable and equitable framework for the financing of capital infrastructure assets and to ensure that:
 - 3.1.1 The Municipality is able to provide capital infrastructure assets in a timely and sufficient manner to support land development;
 - 3.1.2 Development charges complement other sources of capital finance available to the Municipality and are not utilised as a general revenue source;
 - 3.1.3 Development charges are managed in a predictable, fair and transparent manner; and
 - 3.1.4 Unnecessary litigation in the administration of development charges is minimised.

4. PRINCIPLES OF THE POLICY

- 4.1 Four key principles underlie the system of development charges. These are:
 - 4.1.1 **Equity and Fairness:** Development charges should be reasonable, balanced and practical so as to be equitable to all stakeholders. The key

function of a system of development charges is to ensure that those who benefit from new infrastructure investment, or who cause off-site impacts, pay their fair share of the associated costs.

This implies that:

- 4.1.1.1 The Municipality should recover from applicants a contribution that is as close as possible to be full and actual costs of the capital infrastructure assets that are needed to mitigate the impacts of land development and to provide services to new land developments;
 - 4.1.1.2 Development charges are levied to recover the infrastructure costs incurred or to be incurred due to land development, and are thus not a form of taxation;
 - 4.1.1.3 Costs which should be covered by development charges can be determined both in relation to the value of pre-installed capital infrastructure assets resulting from historical investments, and the provision of new capital infrastructure assets to meet new capacity requirements; and
 - 4.1.1.4 Development charges are not an additional revenue source to be used to deal with historical backlogs in provision of services, such as backlogs that exist in some historically disadvantaged areas.
- 4.1.2 **Predictability:** Development charges should be a predictable, legally certain and reliable source of revenue to the Municipality for providing external engineering services, and should be clearly and transparently accounted for. In order to promote predictability in municipal finance systems the costs associated with municipal capital infrastructure assets provided expressly to benefit poor households should be established before subsidies are applied in a transparent manner to fund the liability.
- 4.1.3 **Spatial and Economic Neutrality:** The primary role of a system of development charges is to ensure the timely, sustainable financing of required capital infrastructure assets.

This implies that:

- 4.1.3.1 Development charges should be determined based on identifiable and measurable costs so as to avoid distortions in the economy and in patterns of spatial development;
- 4.1.3.2 Development charges should not be used as a spatial planning policy instrument;
- 4.1.3.3 Costs recovered should be dedicated only to the purpose for which they were raised; and
- 4.1.3.4 Development charges should be calculated where possible on a sectoral or geographic scale to more accurately approximate costs within a specific impact zone.

- 4.1.4 **Administrative ease and uniformity.** The determination, calculation and operation of development charges should be administratively simple and transparent.

5. LEGISLATIVE FRAMEWORK

Development Charges are an integral part of the broader legal framework for urban land development and municipal finance. This legal framework has undergone substantial changes at national, provincial and municipal levels with the introduction of the SPLUMA, LUPA and the By-Law.

5.1 **Policy context**

This policy is consistent with the Final Draft Policy for Municipal Development Charges (Version 10) issued by the National Treasury on 15 December 2015 and which reflects a broadly shared understanding of the role, purpose and legal nature of Development Charges across the country.

5.2 **Applicable legislation**

The Systems Act

5.2.1 The general power of the Municipality to recover charges is provided for in Section 75A. In terms of Section 75A(2) charges are levied by the Municipality by resolution passed by the Municipal Council with a supporting vote of a majority of its members.

5.2.2 All development charges levied in terms of the general power of the Municipality, as envisaged in terms of Section 75A, will be levied in terms of a Council's Resolution by virtue of which this policy is approved.

5.2.3 When the development charges are determined pursuant to a Council's Resolution envisaged in terms of Section 75A(2), regard must at least be had to the factors provided for in Section 40(3), (4) and (5) of the LUPA read with the changes required by the context. See **Paragraph 5.2.7** below.

LUPA

5.2.4 The LUPA came into force on 1 December 2015 pursuant to Proclamation No 30 of 2015 (Western Cape).

5.2.5 In terms of Section 40(2) the Municipality may, when it approves a land use application³ subject to conditions, impose reasonable conditions which arise from the approval relating to the provision of engineering services and infrastructure and the cession of land or the payment of money.⁴ The aforementioned type of conditions may require a proportional contribution to municipal public expenditure according to the normal need therefore arising from the approval, as determined by the Municipality.

5.2.6 Municipal public expenditure is provided for in Section 40(4) as follows:

³ A land use application is defined in LUPA as an 'application to a municipality contemplated in Chapter IV'.

⁴ See Section 40(2)(a) and (b).

“40(4) Municipal public expenditure contemplated in subsection (3) includes, but is not limited to, municipal public expenditure for municipal service infrastructure and amenities relating to—

(a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;

(b) conservation purposes;

(c) energy conservation;

(d) climate change; or

(e) engineering services.”

5.2.7 Section 40(5) provides as follows:

“40(5) When determining the contribution contemplated in subsections (3) and (4), a municipality must have regard to at least—

(a) the municipal service infrastructure and amenities for the land concerned that are needed for the approved land use;

(b) the public expenditure on that infrastructure and those amenities incurred in the past and that facilitates the approved land use;

(c) the public expenditure on that infrastructure and those amenities that may arise from the approved land use;

(d) money in respect of contributions contemplated in subsection (3) paid in the past by the owner of the land concerned; and

(e) money in respect of contributions contemplated in subsection (3) to be paid in the future by the owner of the land concerned.”⁵

SPLUMA

5.2.8 In terms of Section 49, an applicant is responsible for the provision and installation of internal engineering services and the Municipality is responsible for the provision of external engineering services.

5.2.9 Section 49(4) and (5) provides as follows:

“40(4) An applicant may, in agreement with the municipality or service provider, install any external engineering service instead of payment of the applicable development charges, and the fair and reasonable cost of such external services may be set off against development charges payable.

⁵ Section 83(7) of the By-Law contains a similar provision.

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

Stellenbosch Municipality : Land Use Planning By-Law

5.2.10 In terms of Section 83(1) of the By-Law, an applicant (as defined in Section 1 of the By-Law) must pay development charges to the Municipality in respect of the provision and installation of external engineering services. The external engineering services for which development charges are payable must be set out in the policy and be reviewed annually by the Municipality. The amount of development charges payable by such applicant must be calculated in accordance with a policy adopted by the Municipality.⁶

5.2.11 The provision of engineering services is prescribed in detail in Chapter 8 of the By-Law. Specific reference is made to Section 66(4) and (5).
National Land Transport Act 5 of 2009

5.2.12 Although public transport infrastructure is not typically included as one of the engineering services covered by development charges, this act allows the Municipality to raise a user charge from '*land, buildings or other developments that generate the movement of passengers, including land or buildings of which the State is the owner, in its area*', provided that this money goes into the Municipality's '*land transport fund*'.

6. OBLIGATION TO IMPOSE A DEVELOPMENT CHARGE

6.1 When the Municipality approves a land development application (as defined in this policy) which will or may result in intensified land use with an increased demand for such municipal infrastructure services, the Municipality must levy a development charge proportional to the municipal public expenditure according to the normal need arising from such approval. The instances when development charges will be levied will include:

6.1.1 When the Municipality approves an application in terms of Section 15(2) of the By-Law and imposes conditions in terms of Section 66 thereof relating to the provision of engineering services and infrastructure and the cession of land or the payment of money;

6.1.2 The approval of building plans in terms of the National Building Regulations and Building Standards Act 103 of 1977.

6.2 A development charge will be determined by the Municipality in terms of and on the basis of the applicable statutory provisions referred to in **Paragraph 5.2** above read with this policy.

6.3 A developer must pay to the Municipality the full amount of the applicable development charge prior to the exercise of any rights to use, develop or improve

⁶ See Chapter VIII of the By-Law.

the land arising from the approval of a land development application, unless in the case of a phased land development –

- 6.3.1 The Municipality authorises phased payments in the land development approval conditions, to take into account the timing of the proposed phases of the land development; and
 - 6.3.2 The developer provides a written guarantee from a registered financial institution, in an amount and subject to terms and conditions agreed in writing by the Municipality.
- 6.4 When approving a land development application, the Municipality must stipulate at least the following matters relating to the development charge –
- 6.4.1 The total amount of the development charge, including its component charges as contemplated in **Paragraph 8**;
 - 6.4.2 The dates on which the payment or payments must be made and the amount of such payments;
 - 6.4.3 Whether the Municipality requires the developer to install the required link services, as contemplated in **Paragraph 10**;
 - 6.4.4 Whether the Municipality and the developer have agreed that the developer will install any bulk services, as contemplated in **Paragraph 10**; and
 - 6.4.5 Where the developer is to install link services and/or bulk services instead of the payment of some portion or all of a development charge –
 - 6.4.5.1 The nature and extent of the link services and/or bulk services to be installed by the developer;
 - 6.4.5.2 The timing of commencement and completion of the link services and/or bulk services to be installed by the developer;
 - 6.4.5.3 The amount of the developer's fair and reasonable costs of installation, or the process for determining that amount, including the process, after installation, for making any adjustments to an amount specified as determined by the Municipality; and
 - 6.4.5.4 The engineering and other standards to which the installed external engineering services must conform.
- 6.5 The Municipality and a developer may, and in the circumstances provided for in **Paragraph 10** must, conclude an engineering services installation agreement to give detailed effect on the arrangements contemplated in this **Paragraph 6**, provided that an engineering services installation agreement may not permit any intensification of land use beyond that which was approved.
- 6.6 The impact zones with reference to which the Municipality will calculate development charges in respect of civil services, are those indicated on **Annexure A** hereto.

- 6.7 The development charges calculated in terms of **Annexure A** exclude development charges for electricity consumption and infrastructure as provision relating thereto shall be described in a separate policy, conditions of approval or resolution/s of Council.

7. PURPOSE OF DEVELOPMENT CHARGES

- 7.1 Money collected by the Municipality in respect of development charges must be used for purposes of funding or acquiring capital infrastructure assets in a timely and sufficient manner to support current and projected future land development in the area of jurisdiction of the Municipality, and where calculated with reference to a particular impact zone, must be used for capital infrastructures assets in that impact zone.
- 7.2 Development charges are not a general revenue source and money collected in respect of development charges may not be used to fund the operating or maintenance costs incurred by the Municipality in respect of municipal infrastructure services.

8. CALCULATION OF DEVELOPMENT CHARGES

- 8.1 Subject to the provisions of this policy, a development charge shall be calculated with reference to the estimated increased load placed on the external engineering services networks that results from the development in a specific impact zone.
- 8.2 The capital cost of internal engineering services is for the account of the developer.
- 8.3 The development charge shall be calculated in two parts: a *pro rata* estimate based on the project's impact on bulk services (in terms of **Annexure A**); and the actual costs of link services, where they are required. The overall development charge liability is the sum of these two parts.
- 8.4 The purpose of introducing the distinction between bulk services and link services is that the extent of link services is often unknown in advance and is highly variable between developments. Certain developments may require no link services as they are located on bulk networks, while peripheral '*leapfrog*' developments may require substantial amounts of infrastructure to link them to the existing or planned bulk services networks. In order to recover the true costs of development that takes place outside of the planned infrastructure networks, and to maximise on the availability of existing infrastructure, developers are to pay for link services in addition to the bulk services component.
- 8.5 Where the implementation of an approved land development will entail the installation of bulk services and link services, the Municipality must calculate the amount of a development charge separately for each of the bulk services and link services components, on the basis that there is no duplication of costs for the two components of external engineering services but that the total amount of the development charge reflects the aggregate amounts for bulk services and link services.

- 8.6 Where the implementation of an approved land development will not necessitate the provision of link services, no development charge will be imposed in respect of link services. In the event that the implementation of an approved land development requires the provision of link services and the Municipality in its entire discretion provides and installs these link services, the developer shall remain liable for the full costs thereof.
- 8.7 Subject to **Paragraph 6.2** above and for purposes of calculation of the bulk services component of a development charge, the Municipality must –
- 8.7.1 Determine a unit cost for each municipal infrastructure service, which unit cost must include all land cost, professional fees, materials, labour and reasonable costs of construction, but must exclude the value of any debts incurred by the Municipality for purposes of funding existing capital infrastructure assets, to the extent that such debt has not been repaid by the Municipality;
- 8.7.2 Apply a formula, which formula will –
- 8.7.2.1 Be aimed at determining the impact of the proposed land use on municipal infrastructure services, taking into account current and planned capacity, relative to the impact of the land use occurring at the date of approval of the land development application; and
- 8.7.2.2 Calculate the amount payable by multiplying the unit cost referred to in **Paragraph 8.7.2.1**, by the estimated proportion of the municipal infrastructure services, including current and planned capacity, that will be utilised by the proposed land development.
- 8.8 The basis upon which development charges will be determined, as envisaged in **Paragraph 8.7**, will be as recorded in the report of iCE Tygerberg Consulting Engineers, which report is incorporated into this policy with reference thereto and attached hereto as **Annexure A**. The aforementioned report does not provide for the calculation of development charges in respect of all components of municipal infrastructure services. Development charges in respect of any component of municipal infrastructure services not provided for in **Annexure A**, will be determined and calculated in terms of a separate policy, conditions of approval or Council's Resolution/s.
- 8.9 For purposes of calculation of the link services component of a development charge, if any, the Municipality will use the actual costs of installation of the required link services, as the basis for determining the amount payable.
- 8.10 The Municipality must adjust the unit cost for each municipal infrastructure service on an annual basis during the budget preparation process referred to in Section 21 of the Local Government: Municipal Finance Management Act 56 of 2003, to take account of inflationary impacts and must publish the adjusted unit costs within two months of approving the municipal budget. The Municipality will use the Contract Price Adjustment Factor to determine the annual effect of inflation.
- 8.11 The Municipality must re-calculate the unit cost for each municipal infrastructure service at least once every five years or within such longer period as is approved in advance by the Council of the Municipality, to take into account the current and

planned capacity for each municipal infrastructure service at the date of re-calculation, and any other relevant factors.

9. ACTUAL COSTS

- 9.1 Notwithstanding the provisions of **Paragraph 8.7**, the Municipality may at its own instance or on request by a developer, increase or reduce the amount of the bulk services component of a development charge so as to reflect the actual cost of installation of the required bulk services, where:
- 9.1.1 Exceptional circumstances, as determined by the Council, justify such an increase or reduction; or
- 9.1.2 a particular land development exceeds the size or impact thresholds set out in the applicable Municipal Development Charges By-Law or as determined by Council from time to time.
- 9.2 Where the Municipality adjusts the amount of the bulk services component of a development charge on the basis of actual costs in terms of this section
- 9.2.1 the developer is responsible for the costs of performing the calculation of such adjustment, which must be carried out by a registered professional civil engineer appointed by the developer with appropriate experience and expertise having regard to the nature and extent of the proposed land use; and
- 9.2.2 the actual cost must include, where applicable and without limitation, land costs, professional fees, materials, labour, the reasonable costs of construction and any tax liabilities: provided that all such costs would otherwise have been borne by the municipality, in the provision and installation of the bulk services concerned.

10. INSTALLATION OF EXTERNAL ENGINEERING SERVICES INSTEAD OF THE PAYMENT OF DEVELOPMENT CHARGES.

- 10.1 The Municipality may agree with a developer that the developer installs all or part of the external engineering services required for an approved land development instead of the payment of the applicable development charge. Provided that the Municipality may require, in its Development Charges By-Law, that all developers must install the required link services, if any, instead of the payment of that component of the development charge.
- 10.2 Where a developer installs external engineering services to the technical standards required by the Municipality, as reflected in the applicable conditions of approval of the land development application or as agreed with the Municipality in writing, the developer may set off the fair and reasonable cost of such installation, as determined by the Municipality, against the applicable development charges.
- 10.3 Any capital infrastructure assets forming part of an external engineering service installed by a developer instead of payment of any part of a development charge shall, upon installation, become the property of the Municipality, and-

- 10.3.1 the developer shall bear the responsibility of ensuring that ownership or other relevant rights to the affected capital infrastructure assets is or are transferred to the Municipality;
 - 10.3.2 the Municipality must include the applicable capital infrastructure asset gain in its next adjustments budget, in accordance with regulations relating to asset gains, made in terms of the Local Government: Municipal Finance Management Act 56 of 2003.
- 10.4 The Municipality may require that a developer installs external engineering services to accommodate a greater capacity than that which would be required for the proposed land use alone in accordance with any master plan approved by the Municipality, in order to support planned future development in the vicinity of the approved land development. Where the total fair and reasonable cost of installation of such required external engineering services exceeds the development charge payable by the developer, the Municipality may reimburse the developer the amount in excess of the development charge, in accordance with a written agreed payment schedule, provided that such infrastructure has been provided for in accordance with an approved master planning programme for such service and which has been approved as a capital project in terms of the budget of the Municipality.
- 10.5 When a developer installs external engineering services instead of payment of a development charge, he or she must adopt the most cost-effective and efficient approach to meet the Municipality's technical standards. When a developer installs external engineering services on behalf of the Municipality, the developer shall be obliged to comply with Chapter 11 of the Local Government: Municipal Finance Management Act, 56 of 2003 as far as the procurement of goods and services is concerned.

11. NON-PROVISION BY THE MUNICIPALITY.

- 11.1 Where the Municipality has agreed to install the required external engineering services and fails to do so within a period of twelve months from the date for completion stipulated in such agreement, the Municipality must return the development charge paid by the developer, to the developer, with interest charged at the applicable rate for debts owed to the state.
- 11.2 Notwithstanding the provisions of **Paragraph 11.1**, the Municipality and the developer may agree to:
- 11.2.1 an extension of the time period for the installation of the required external engineering services by the Municipality: provided that such extended time period may not exceed twenty-four months and provided further that where the Municipality completes the installation within such extended time period, it has no obligation to return the development charge paid by the developer, to the developer; or
 - 11.2.2 an engineering services installation agreement, or revised engineering services installation agreement, in terms of which the developer agrees to install the required external engineering services in whole or in part and, where agreeing to install in part, the time period within which the municipality will install those external engineering services for which it remains responsible: provided that the extended time period for installation by the Municipality may not exceed twenty-four months and provided

further that where the Municipality completes its portion of the installation within such extended time period, it has no obligation to return that portion of the development charge paid by the developer which pertains to the external engineering services installed by the Municipality, to the developer.

12. WITHHOLDING CLEARANCES AND APPROVALS.

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

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

13. EXEMPTIONS

13.1 The Municipality may only exempt a developer from the payment in full or in part of a development charge where it does so in accordance with a development charges exemption policy approved by the Municipal Council.

13.2 A development charges exemption policy referred to in **Paragraph 13.1** –

13.2.1 may permit the Municipal Council to approve individual exemptions from the obligation to pay a development charge, for developers or land development applications falling within one or more categories as specified in the policy;

13.2.2 must include a mechanism to ensure that the revenue to be forgone as a result of any exemption approved by the Municipal Council is reflected in the Municipality's budget; and

13.2.3 must provide for budgetary provision for the realisation of the revenue forgone to be made, from another realistically available source of revenue.

13.3 The Municipal Council may not delegate the power to approve the development charges exemption policy or an individual exemption from the obligation to pay a development charge, to an official, a Municipal Planning Tribunal or any other person or body.

13.4 Before the Municipality grants an individual exemption in terms of this **Paragraph 13** and in accordance with the Municipality's Development Charges Exemptions Policy, it must:

13.4.1 calculate the applicable development charge as if it were payable; and

13.4.2 ensure that the monetary value of the exemption, together with the amount of any other payment or payments received by the Municipality towards the capital costs of external engineering services for an approved land development, is at least equal to the development charge calculated in accordance with **Paragraph 13.4.1**.

ANNEXURES

1. Annexure A : Development Charges Calculation Report

STELLENBOSCH MUNICIPALITY

DEVELOPMENT CHARGES POLICY

ANNEXURE A:

Development Charge Calculation Report

(Engineering input to Policy and Calculations)

(Draft 5 - 27 March 2017)

1. INTRODUCTION

iCE was appointed as a sub-consultant to STBB to provide the engineering input into the project for updating the policy and calculations for the charging of Development Charges by Stellenbosch Municipality.

The policy aspects and legal premise is addressed by STBB . This engineering report and annexures will be incorporated into the overall report and policy by STBB by reference.

iCE provided the previous report and policy in 2011. Subsequent to then, planning legislation has changed and the National Treasury Department compiled a "Policy Framework for Municipal Development Charges" Final Draft Version 7, and subsequent revisions currently at Version 10. Most of the principles therein are the same as previously, but there are many improvements which have clarified certain questions and unclear areas.

This report and calculations are based thereon. Not every aspect therein will be repeated but the main principles as they relate to the engineering aspects and cost calculation are reported on, and how they have been interpreted and applied to the situation of Stellenbosch Municipality.

2. DEFINITIONS

'bulk service' means the capital infrastructure assets associated with that portion of an external engineering service which is intended to ensure provision of municipal infrastructure services for the benefit of multiple users or the community as a whole; as indicated in the relevant masterplans.

'development charge' or 'DC' means a charge imposed by the Municipality on a developer in terms of any applicable law referred to in this policy, or a condition of the approval, payment of which will contribute towards the Municipal's expenditure on capital investment in municipal infrastructure services;

'external engineering service' means an engineering service situated outside the boundaries of a land area and which is necessary to serve the use and development of the land area; but which can fall within the site boundary where the characteristics of the site and the design so require.

'internal engineering service' means an engineering service within the boundaries of a land area which is necessary for the use and development of the land area and which is to be owned and operated by the Municipality or service provider;

'link service' means the capital infrastructure assets associated with that portion of an external engineering service which links an internal engineering service to the applicable bulk service;

3. PRINCIPLES OF PAYMENT FOR INFRASTRUCTURE & PREMISE FOR DEVELOPMENT CHARGES

The principles for payment for infrastructure to developments are as follows:

- Internal services must be provided and paid for by the developer.
- Link services must be provided and paid for by the developer, but it can be agreed that the Municipality installs these services and recovers the costs thereof from the developer.
- Bulk services must be provided by the Municipality, but the Municipality can recover the costs thereof from the developer, or it can be agreed that the developer installs these services in lieu of the charges applicable.

The premise for the above is that those who benefit from the services must pay for their portion thereof.

The resulting mechanism to achieve the above, is for the Municipality to levy a Development Charge for the provision of Bulk services to developers or the parties increasing the usage of bulk infrastructure, and for the provision of Link services for that development. This must be done in a fair and equitable manner to both parties. This report addresses and calculates the Development Charge for the Bulk Services portion. The Link services portion will need to be calculated on a case by case basis.

4. IDENTIFICATION OF BULK INFRASTRUCTURE:

Bulk infrastructure for the purposes of calculating DC's, has been identified as the following:

4.1 Water

- Raw water dams
- Water purification works
- Connections to CCT bulk water mains
- Reservoirs
- Pump-stations and rising mains
- Main feeder and distribution lines 200dia and larger
- Ancillaries

4.2 Sewer

- Main gravity collector sewers 200dia and larger
- Major pump stations and rising mains
- Waste-water treatment works
- Ancillaries

4.3 Stormwater

- Outfall culverts and canals
- Outfall pipes of 600dia and larger
- Attenuation facilities
- River works

4.4 Solid Waste

- Landfill sites infrastructure

- Landfill sites closure and rehabilitation
- Composting plants
- Transfer and drop-off stations
- Refuse truck plant

(not included is transport to internal or external landfill sites, as this is Operation and Maintenance covered by tariffs).

4.5 Roads

- Class 2 and 3 roads
- Selected Class 4 roads that serve the same function as Class 2/3
- Major intersections on above roads including traffic signals (not included are intersections to individual developments and additional lanes/widenings/signalisation due to individual developments, as identified and quantified in a TIA approved by the Municipality.)
- Bridges/underpasses
- Central public taxi ranks (not for individual developments)

4.6 Community Facilities

(This is a new category of infrastructure to be included. Although not included in other municipalities' DC's, collecting such as part of DC's reduces the need for the Municipality having to source funds by other means.)

- Community halls
- Libraries
- Municipal offices *
- Fire-stations *
- Public toilets *
- Neighbourhood /community/regional parks
- Community sports fields
- Stadiums
- Cemeteries

This infrastructure is especially required for the general residential population, but those marked with an asterisk also serve commercial and industrial areas.

5. DIVISION OF MUNICIPALITY INTO AREAS

5.1 Main areas

Stellenbosch Municipality is divided into specific towns/nodes. The nature of infrastructure and characteristics of different areas are such they will each have different amounts of infrastructure per unit of consumption.

It was therefore decided to divide the municipality into the following four main areas, for the purpose of calculating DC's:

- Stellenbosch Town
- Dwars River
- Franschhoek
- Klapmuts

This was decided on, on the basis of the main infrastructure essentially being self-contained for each of these areas.

Raithby was considered as a fifth area, but it was found that the resulting DC was extremely high compared to the average. This is due to the high sensitivity to a number of factors such as the low number of units being served by long link services and roads. After discussion with officials it was decided that Raithby should be treated in the same manner as other small-scale, isolated, rural/outlying "island" developments, as outlined below.

5.2 Outlying or island developments

The DC's to outlying or island developments as described above, should be calculated on an ad-hoc basis as and when they arise. Planning of bulk services based on actual layouts and consumption will need to be carried out, and the calculations based on the same principles of this report, in addition to the costs of the link services. Even though the DC's are still expected to be extremely high, they will be more accurate and better appropriated to the actual users, rather than broad assumptions based on high-order planning, to which the calculation has been found to be so sensitive on such a small scale.

There are some existing areas that are slightly remote from the town but that feed into or will feed into the town's infrastructure. Examples are Koelenhof and Vlotenburg outside Stellenbosch area, Wemmershoek outside Franschhoek and the northern node of Dwars River. These have been included with the town or main area that they connect to.

6. METHODOLOGY FOR CALCULATING DC'S

6.1 Calculation method

The basic principle behind a DC is that it must equate to the proportion of the total cost of providing all the respective bulk infrastructure that the development in question will use.

It must take into account whether there is already spare capacity within the existing network that it will use (which the developer must therefore pay for), or whether there is an existing shortfall which first needs to be made up (which the developer must not pay for) before the additional capacity for the development in question is created (for which the developer must pay). It can also be a combination of these scenarios.

The way in which all of the above can be encapsulated in a fair and equitable manner is as follows for each respective service:

- Choose a planning horizon in the future (say 20 years)
- Use town-planning scenarios and engineering masterplanning to determine what new services are required, such that at that point in the future, the joint capacity of existing and future services matches the number of consumption units that will be in place, being the existing amount plus the future development amount.
- Estimate the costs of the existing and future infrastructure, as though it was all being constructed at the present day, i.e. replacement cost for existing infrastructure or present-day cost for future infrastructure.
- Establish the number of consumption units that the total infrastructure will cater for i.e. existing consumption plus future consumption
- From the above calculate the cost per unit consumption factor
- The DC for the development in question is then calculated by multiplying the nett additional consumption needed for that development, by the cost per unit consumption factor.

6.2 Input to calculations, and assumptions

For each service, available service masterplans were used, and the town-planning/ future development scenario it was based on used. The planning horizon for different services may differ, but the planning scenario and therefore consumption amount will be consistent with the horizon used. Therefore the resulting cost per unit-consumption will be an accurate assessment of what to multiply the development's required consumption by. In addition, should planning change and different routes/infrastructure be required these DC's are still applicable, as the cost thereof per unit consumption will be similar. The intention is for the DC areas to be aligned with the latest SDF.

In all cases, cost estimates include the construction costs, P&G's, contingencies, professional fees and land costs as described for the individual services below. VAT is not included. It is to be noted that DC's are to cover initial capital costs only, and not ongoing operation and maintenance costs and depreciation – all of which are recovered via rates and tariffs.

Land-costs can vary considerably, depending on location, extent and existing zoning or usage. After discussion with the Municipality, based on recent expropriation history, varying costs for each area were used.

Historical usage is based on information where available. Where not available, and for future usage, accepted design tables and guidelines are used, adjusted for local circumstances where appropriate, all as indicated below for the individual services.

The information used and assumptions made for each service are as follows:

6.2.1 Water:

The unit of consumption used is kl/day.

For pipelines, reservoirs and pump stations the master-planning of GLS Consultants was used. For the other services, information obtained from the Municipality was used together with previous experience.

Land costs were only used for reservoirs and a typical length of connector pipe, WTW, pump stations and ancillaries, as it is assumed that the remainder of pipes will be in road reserves allowed for elsewhere,

6.2.2 Sewer:

The unit of consumption used is kl/d.

For pipelines, pump-stations and ancillaries, the master planning of GLS was used. For other services, being mainly the WWTW, information obtained from the Municipality was used together with previous experience.

Land costs were only used for WWTW and a typical length of connector pipe, and pump stations as it is assumed that the remainder of pipes will be in road reserves allowed for elsewhere.

6.2.3 Stormwater:

The information regarding the existing system was obtained from Element Consultants. In the future development areas, attenuation facilities to restrict the run-off from new developments from post-development to pre-development, was based on a typical pond design and area requirement. Together with this a reduced proportion of conduits and ancillaries per unit area of the new development areas was used.

The unit consumption used is the runoff coefficient multiplied by the area (i.e. $C \times ha$). Consumption units were estimated by dividing existing areas into high, medium and low run-off zones and multiplying by appropriate C factors respectively. A similar ratio was assumed for future developments.

6.2.4 Solid Waste:

The unit of consumption used is tons per week (t/wk).

Information was obtained from the Municipality. There is only one existing landfill site (Devon Valley) and this is very close to full capacity. Because there are no other suitable sites for a new landfill once this one is full, the refuse will have to be transported to sites outside the municipality. This will be an outsourced, ongoing operational cost and is therefore not included in the DC calculation as it will be recovered via tariffs. Only capital and land costs for the existing landfill is allowed for, together with capital and land costs to set up transfer stations, composting/recycling facilities and purchase trucks/plant.

6.2.5 Roads:

The existing road network, as well as masterplanning of future roads, have been drawn up by iCE in conjunction with the Municipality. These drawings are attached.

The costs hereof have been estimated, and include land costs for the reserves required at the values referred to in a previous section.

The heavier traffic generated by industrial and commercial traffic and resulting more expensive layerworks have been taken into account by the calculation of a different weighting to the average cost per unit consumption factor.

The unit of consumption is trips per day (trips/day). Consideration was given to trips in the peak hour. The former was decided on because trips/day is more readily understood and accepted, and the variations in interpretation leading to large differences is much less, and also because it would tend to make the commercial levies disproportionately high compared to the actual influence of their traffic on the overall road system. Too high a DC could lead to legal challenges and also stifle development. A commercial development will in any a case be expected to pay, over and above DC's, for the immediate intersection upgrades and widenings that are identified and quantified by an approved TIA, that are in addition to that allowed for in the DC calculations.

The trips per day have been calculated using the existing zonings/land uses and areas, and the expected mix of land use in the future development areas. Assumptions have been made on the average footprint coverage and unit densities, and the resulting number of units of GLA multiplied by trips per day obtained from the various accepted guidelines in this regard, and based on local circumstances.

6.2.6 Community Facilities:

For this category Provincial Guidelines as obtained from the Municipality townplanning department were used. Only categories of community infrastructure for which a Municipality is responsible were used, and are as listed in a previous section. The guidelines indicate how many, what size and the land requirements of each facility is required per number of the population.

The consumption-unit used is therefore "persons".

Land is valued as referred to in a previous section. The building coverage on the site was estimated based on various existing, and accepted current building costs used.

Some of this infrastructure also serves commercial and industrial developments, such as fire-stations, municipal offices and public toilets. The costs of those particular categories have been spread over those land-uses as well.

6.3 Special Considerations

6.3.1 Grants and subsidies:

Grants and or subsidies obtained for bulk infrastructure must be subtracted from the costs. These have been allowed for by examining the pattern of grants obtained over the last 5 to 10 years, as supplied by the Municipality, to obtain an average amount of grants per year, and then dividing by the required future infrastructure value divided by 20 years. The resulting percentage is then subtracted from the costs.

In addition, when provincial class roads are constructed, these are subsidised by the PGWC roads department. To allow for this, the portion obtained from PGWC for the provincial class roads portion in each area has been calculated and included in the percentage grants allowed for under roads.

6.3.2 Loans:

Outstanding loans used for bulk infrastructure that are still being paid for by the Municipality must be subtracted, as the repayments are recovered from rates and tariffs charged to end-users/owners. This is so that there is not a double-recovery from end-users which would be contradictory with the accepted principles.

6.4 Formula

All of the above culminates in the following formula to calculate the cost per unit consumption factor:

$$W = \frac{K_{tot}}{E_{tot}} - \frac{Lex}{E_{ex}}$$

where

W = cost per unit consumption factor.

$$K_{tot} = K_{ex} + K_{fut}$$

= cost of existing infrastructure + cost of future infrastructure.

$$E_{tot} = E_{ex} + E_{fut}$$

= existing consumption + future consumption

Lex = outstanding existing loans

For each service, this factor is multiplied by the nett additional consumption to be used by the development. This in turn is calculated for each land-use in the development and added up.

The land-use categories are covered in the next section, and the consumption rates to be used for each consumption-unit as well as its multiplication by the factor, is obtained from the "DC per land-use" tables in the Appendices.

The entire calculation, as well as deductions and other credits to be allowed for, can be carried out using a "DC Calculator Spreadsheet" to be provided to the Municipality, as described in a later section.

7. DIVISION INTO LAND-USES

In order to calculate the DC's for a development the consumption required by that development for each service must be calculated. This is done by firstly dividing the development into land-use categories and number of units or areas in those categories, and then by applying accepted consumption rates to those units or areas.

The land use categories used in this report and proposed to be used in the DC calculation, have been aligned with those categories of the new municipal zoning scheme. Some of these have been further divided into sub-categories, in order to reflect the different consumption rates used for those sub-categories.

These are listed as follows:

7.1 Residential

Single residential > 1000m²

Single residential > 500m²

Single residential > 250m²

- Single residential < 250m²
- Less formal residential > 250m²
- Less formal residential < 250m²
- Group residential > 250m²
- Group residential < 250m²
- Medium density residential > 250m²
- Medium density residential < 250m²
- High density residential - Flats
- High density residential - Student Rooms
- 7.2 Commercial
 - Local business – Office
 - Local business – Retail
 - General business – Office
 - General business – Retail
 - Community
 - Education
- 7.3 Industrial
 - Light industrial
 - General industrial – light
 - General industrial – heavy
 - Noxious Industry - heavy
- 7.4 Other
 - Resort
 - Public Open Space
 - Provide Open Space
 - Natural environment
 - Utility services
 - Public Roads and parking
 - Transport Facility
 - Limited use
- 7.5 Special

The consumption values to be used are as contained in the “DC per land-use” tables in the Appendices. The consumption rates used have been taken from accepted industry guidelines and norms and specific local information.

In the case of Residential these are expressed per dwelling unit, in the case of Commercial and Industrial per 100m² GLA (Gross Lettable Area), and for road reserves and open areas per ha of area.

A specific category created for this municipality is that of Student Room, due to the large amount thereof and high effect on service usage. A flat can be defined as a dwelling unit that is self-contained with bathroom(s), a kitchen and living area. A student room is a room in a boarding house or large house where there are communal bathrooms and a shared kitchen. In the case of cottages, flats or rooms being added to existing dwellings, DC's should be applied where the number of bedrooms on the erf exceeds five, and for the usage in excess of that.

Separation of local/general business into office and retail sub-categories is also important due to the high difference in trips per day for each. In this case retail means shops, restaurants, medical and tourist facilities. For the same reasons as not using trips in the peak hour as outlined in the previous section, a more moderate factor of trip generation rate is used for retail which has been adjusted in accordance with accepted traffic engineering norms. This does not mean that the DC's will not cover the total cost amount, but that the total cost will be more evenly spread over all the categories.

8. OTHER PRINCIPLES TO BE APPLIED

8.1 Deductions from, and services in lieu of DC's

After calculation of the DC's for all the services, certain deductions must be made for the following cases:

- Should the developer implement and pay for services that are part of the master planning that are required for his development and possibly also for other developments, the cost must be subtracted. Examples of this are bulk roads or services through or in the vicinity of the development, stormwater attenuation facilities that he creates on his site that limits run-off to pre-development flows, and community facility infrastructure.
- Land from the development that is given off for any of the infrastructure that is covered by DC's.
- Deductions as an incentive for implementing environmentally friendly "green" measures that reduce consumption, that are specifically approved by the municipality as having a pre-determined quantifiable reduction in consumption.
- In all cases the maximum deduction is the amount of DC payable for that type of service. (In other words the individual DC amounts for different services must be ring-fenced)
- All of the above must be recorded and contained in a Services Agreement to be drawn up between the Municipality and Developer.
- Should the cost of any of the above be more than the DC payable for that service, then the Municipality may re-imburse the developer, if such infrastructure implementation is in accordance and consistent with the Municipality's budget and masterplanning programme for that service. Should it not be so, then the developer will have to either cover the additional costs, or such infrastructure would have to wait until the time when the Municipality's budget allows for it.

8.2 Enabling Legislation and applications giving rise to DC's

The enabling legislation for ongoing DC's is covered elsewhere in the policy. Previously DC's were only applicable where there was a rezoning /subdivision or new rights accruing.

However masterplanning and DC calculations are based on new infrastructure being required for increased usage or consumption of services. Even though a certain area has always had certain zoning rights, it could be that historically the services were designed for an average lesser take-up of those rights, as it was the norm at that time and, as such, the original developers did not pay for the new infrastructure required. (An example of this is increased ownership of cars).

Therefore from an engineering point of view, the trigger for payment of DC's needs to be extended to cases where an application or alteration results in an increase in service usage above the norm which historically it has been in that area, and for which the original services would originally have been designed for and therefore now be insufficient for the increased usage.

9. RESULTS AND RECOMMENDATIONS

Based on the above principles and methodology, the calculations result in the "DC per land-use" tables in the Appendices.

The results show that the DC's increase from those at present for Stellenbosch. Apart from the new items added, this is due to updated and more accurate information and calculations. A comparison with other municipalities shows that they are higher than those for Cape Town (as they have always been) and Theewaterskloof, but lower than Breede Valley and

Swartland. Therefore the new proposed DC's are balanced and in line with other municipalities surrounding the metropole, falling in the middle band thereof.

Regarding area differentiation, Stellenbosch Town, Franschhoek and Klapmuts are in line with the average, with Stellenbosch Town being slightly higher, and Franschhoek and Klapmuts slightly lower. Dwars River is further below the average. There are various reasons for each. It must be noted that Stellenbosch Town has about 71% of the infrastructure, Klapmuts 14%, Franschhoek 9%, and Dwars River 6%.

After discussions with officials, the opinion is that the DC's should reflect the efficiency of servicing different areas, and therefore that the differentiation calculated should be applied between the four areas.

The figures calculated were based on 2016 costs, but for the attached "DC per land-use" tables, they have been escalated to the 2017/2018 year. The factors in that table must be escalated annually, by using the accepted industry CPI escalation factors obtained from Statistics South Africa.

10. IMPLEMENTATION

Implementation of Development Charges must be in accordance with the principles of this report and the policy, using the figures in the attached tables. To enable officials to calculate and inform the developers what their Development Charges will be, after an application has been received, a computerised spreadsheet calculator has been compiled.

This consists of three sheets:

- i. Front page where the administrative information is entered, and where a summary of the DC's applicable is brought forward from the calculation sheet.
- ii. Calculation sheet where the technical information is entered and DC's calculated
 - New categories and usage to be entered
 - Existing categories and usage to be entered
 - Nett increase in usage then calculated and multiplied by the factors to calculate DCs payable
- iii. Table showing the land use categories together with consumptions and factors used in the calculation sheet. (Only the table for the specific area for that application is printed.)

APPENDICES

DC's per land-use tables (2017/18 values)

- Stellenbosch Town
- Dwars River
- Franschhoek
- Klapmuts

Existing & Future road infrastructure drawings

- Stellenbosch Town
- Dwars River
- Franschhoek
- Klapmuts