
**A WATER SECTOR PUBLIC-PRIVATE
PARTNERSHIP CASE STUDY:
Ilembe District Municipality (formerly Dolphin Coast) –
Siza Water Company**

Prepared as part of a contract research exercise commissioned through
Palmer Development Group by the National Business Initiative in
partnership with Inwent.

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Preface

This report was commissioned through the Palmer Development Group (www.pdg.co.za) by the National Business Initiative (www.nbi.org.za) in partnership with Inwent (www.inwent.de) to provide some documented contribution to information available on actual and perceived impacts of so-called PPPs (Public-Private Partnerships) in the delivery of services. The intent of NBI and Inwent is to utilise the products of this work to influence capacity-building projects with various stakeholders involved in PPP-related processes.

The report would not have been possible without the contribution of time and information by all those interviewed. For this I am most grateful, especially under circumstances where key informants are suffering from a degree of research fatigue. In all instances efforts have been made to ensure that views expressed have been captured correctly and that opportunities have been provided for comment on this as a working document in its earlier stages.

Extensive use has also been made other reports done on the concession. Drawing on these documents enabled comment to be made about perception changes over time and access to information that would not have been otherwise possible in the confines of this study.

I am also grateful for the assistance of Robynne Hansmann who assisted with local knowledge gained from her role as a Town Planner and researcher and Lucy Paul with editing. Support and insights provided by colleagues at the School of Development Studies, Univeristy of KwaZulu Natal was much appreciated.

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List of acronyms

BODC	Borough of Dolphin Coast
COSATU	Congress of South African Trade Unions
DBSA	Development Bank of Southern Africa
DPLG	Department of Provincial and Local Government
DWAF	Department of Water Affairs and Forestry
IDM	Ilembe District Municipality
IDP	Integrated Development Plan
KZN	KwaZulu-Natal
LED	Local Economic Development
MIU	Municipal Infrastructure and Investment Unit
MSP	Municipal Service Partnerships
NBI	National Business Initiative
PPP	Public Private Partnership
RFP	Request for Proposals
SAMWU	South African Municipal Workers Union
SWC	Siza Water Company
VIP	Ventilated Improved Pit Latrine
WSDP	Water Services Development Plan
WSS	Water and Sanitation Services
WZC	Werner Zuybrands Consulting

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1. Introduction

Two case studies were commissioned by the National Business Initiative (NBI) with the overall purpose of exploring achievements, failures and obstacles to the development of Private-Public Partnerships (PPPs) in South Africa. It is intended that the studies will contribute to existing dialogue on PPPs. Also training needs identified by the case studies are planned to assist the development of capacity building programmes that aim to optimise the positive impacts of PPPs. A conference planned for mid-2004 will bring key role players together to discuss alternative service delivery mechanisms and related capacity building requirements. Lessons drawn from the case studies will contribute to the proceedings.

To ensure that the a variety of national/provincial and local government level issues were illustrated in the case studies the NBI decided that a case study should be undertaken in both of these spheres of government. The sectors chosen for investigation are water and eco-tourism. The water sector enables assessment of PPP impacts on a municipal level basic service. Eco-tourism was chosen because it is a national service that lends itself to public-private cooperation due to the growing market for tourism.

1.1 Objectives

The objectives of the case studies are:

- Identify key areas in PPP development where further investigation and debate are required.
- Provide insight into systems and processes necessary to maximise achievements and limit negative impacts arising from the use of PPPs.
- Increase understanding amongst stakeholders in public and private sectors of alternative service delivery approaches that aim to improve the sustainability and efficiency of public services.
- Contribute to the debate about the usefulness and consequences of PPPs in South Africa and internationally so as to assist in paving a way forward for more consensual and collaborative national PPP strategy.

1.2 Key research questions

The following research questions were agreed upon:

- Why were the two PPPs established, what were their objectives and to what extent have these been met? What have been positive and negative impacts of the PPP? What factors contributed to these?
- Relative to service delivery prior to the PPP what has the PPP achieved in terms of efficiency, quality, accessibility and coverage in service delivery? What were

financial impacts in terms of tariffs charged to consumers, capital finance and financial benefits to the public partner?

- What consequences has the PPP had for labour in terms of job creation, retrenchments, salaries, general working conditions? Have unions or organised labour been involved in the PPP at any level and what is their perspective of it?
- What are perspectives of stakeholders in the water and eco-tourism sectors on how these specific PPPs will impact on future treatment of PPP options in those sectors?
- What are specific training needs and target groups that will benefit?

Two key focus areas identified for the case studies are:

- a) service delivery such efficiency, quality, finances, catchment and affordability
- b) Labour relations issues such as conditions of service, job creation, transfers, retrenchments and working environment.

1.3 Selection of case studies

The water sector PPP selected for investigation is the Ilembe Municipality –Siza Water partnership in Kwa-Zulu Natal involving the awarding of a concession to a provide operator provide water services. In the eco-tourism sector the PPP selected is the South African National Parks (SAN Parks) – Natures Group concession whereby restaurants and shops in the Kruger National Park were outsourced. The reasons these two PPPs were chosen is:

- c) they illustrate issues that arise from the substantial transfer of risk from public to private partners
- d) Because services were in place prior to these concessions being awarded comparison of the impact of the PPPs with a baseline scenario is possible.
- e) The PPPs are two of the few in the country that have progressed to a stage of relative maturity and hence offer the opportunity for some tracking of impact and experiences over time and related reflection that would accompany such an analysis; and
- f) The PPP offers insight into factors such as institutional change in contracting parties and experience of addressing periods of crisis useful in drawing out in terms of lessons and recommendations.
- g) A range of information is available in the public domain to inform analysis;

2. Summary: Ilembe-Siza Water concession¹

In January 1999 the Borough of Dolphin Coast and Siza Water Company (with a controlling interest by SAUR Services of France) entered into a contract whereby SWC 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. The project had its origins in a decision by the BODC in 1996 that it was best able to meet its obligations with respect to WSS by seeking partnerships with the private sector. A three year process then unfolded during which, with support from various government agencies and departments, the BODC investigated PPP options, chose a preferred route and secured the interest of potential service providers. At the contract date the net present value of the concession was estimated to be in the region of R386m (www.miiu.org.za). The concession has been operational for almost four years and is beginning to reach a level of maturity. Due to legislation-induced local government restructuring the BODC no longer exists an entity and therefore the concession contract is now being handled by the Ilembe District Municipality.

3. Methodology

3.1 Baseline vs. current data

In order to assess impact, where data is available, the prior service is compared with that provided after awarding of the contract.

3.2 Selection of indicators

3.2.1 Initial selection

To provide a basis for analysis an initial selection of indicators was made that broadly applied to both water and eco-tourism sectors before and after the partnerships – using the two focus areas identified - labour and service delivery.

a) Service Delivery

Efficiency is assessed by making broad comparisons between the financial, quality and total employee indicators as well as perspectives. These indicators are outlined below:

- Finances
 - Turnover
 - Income
 - Price

¹ A map of the concession area is provided in the annexure.

- Market size
- Quality of service
- Perspectives on service delivery

a) Labour issues

- Total employees/payroll
- Conditions of service
- Skills development
- Perspectives of labour relations

3.3 Semi-structured interviews:

Interviews with five key role-players have taken place during which the objectives of the partnership were assessed. Qualitative and quantitative data was collected for each phase of the partnership using the indicators outlined above.

3.4 Secondary data

Where auditing, surveying or analysis had been undertaken or commissioned by any of the stakeholders this information was analysed for use in the case study.

3.5 Sector- specific indicators

Based on data made available from interviews as evidence and input of stakeholders regarding the usefulness of indicators in reflecting impact - sector specific indicators were selected for comparing the prior service to that provided after the awarding of the concession.

3.6 Methodological issues pertaining to the water sector PPP

In order to access perspectives of stakeholders and documented information on the case study a combination of research approaches has been utilised. In the first instance extensive use has been made of secondary sources such as academic studies, stakeholder reviews and supplemented with electronic and print media sources. This has been complemented by a range of semi-structured interviews with key stakeholders identified in a schematic manner in the overall project methodology (ie deemed to be important “constituency” commentators by NBI/Inwent) and identified by the stakeholders themselves. Some informal canvassing of views of residents of the project was undertaken but by-and-large comment from this perspective is drawn from existing secondary sources as resources did not allow for a more extensive survey methodology. Site visits in the Dolphin Coast and Ilembe area were also undertaken (Groutville, Etete,

Nkobongo, Stanger, Ballito, Sheffield Beach, Shakaskraal, Umhlali, Shakashead) to get first hand experience of delivery sites and facilities of KwaDukuza Municipality, Ilembe Municipality and Siza Water.

Particular effort has been made within this study to obtain quantitative information to enable some analysis in parallel to documenting perspectives of some key stakeholders. It should be emphasised upfront that, despite a considerable level of information available and research conducted, there have been significant constraints apparent in obtaining reliable and comparable information – specifically relating to pre-concession conditions. Matters of governance, as well as issues relating to monitoring and evaluation will also be discussed as these are critical from a stakeholder perspective in examining the concession.

4. Background

Before examining the evolution of the concession in some depth it is necessary to sketch some background information relating to the local area. Information is also provided on how policy, with regard to local government service delivery – and water (and sanitation) service delivery in particular – has developed in South Africa in the last few years. A discussion of stakeholder perspectives on this process will conclude this section of the report.

4.1 Legislative and policy context

Since national democratic elections took place in 1994 there has been a protracted process of municipal restructuring which has comprehensively transformed the form and focus of local governance arrangements. These processes reached their peak with approval of the Municipal Systems (2000) and Municipal Structures Acts (1998) and the related processes of demarcation and local elections which gave effect to the content of this legislation. The combined impact of constitutional imperatives, national policy and voicing of local needs has witnessed much attention been given to the matter of how municipal level government can best give effect to their core business of service delivery in a context of severe inherited inequalities in service provision resulting from apartheid era decision-making. In particular, the matter of provision of water services has attracted much attention both because of government's own focus on this issue and because of its status as an essential, yet scarce, life-sustaining resource. This report examines the evolution of a public-private partnership arrangement to deliver water (and sanitation) services to communities originally falling within the boundaries of the Borough of Dolphin Coast (BODC) municipality to the north of Durban on the north coast of KwaZulu-Natal.²

² Today the area falls within the KwaDukuza Municipality, however, the concession responsibility has been shifted to the Ilembe District Municipality.

4.2 An overview of the “Dolphin Coast” region

4.2.1 Facts and figures

The area of relevance for this project is effectively that which formed part of the demarcated zones for the former Borough of Dolphin Coast (BODC) transitional local authority in the immediate post-apartheid era. The demarcated area, stretching along the coastal freeway between the Tongaat river in the south and Groutville in the north, includes settlements such as Ballito, Chaka’s Rock, Umhlali, Shakaskraal, Etete, Nkobongo, Shakashead, Tinley Manor and Sheffiled Beach (include reference to image/map in annexures). At the time of its incorporation as a municipality it had an estimated population of 34 000 (WZC, 2003). Today this population is estimated to be in the region of 45 000 (www.miuu.org.za/dolphin.html).

The area, like much of South Africa, is characterised by extremes of wealth and poverty. Ballito and surrounds – the dominant formal settlement area – has over the years changed from a relatively small seasonal holiday town into an up-market commuter town for executives and professionals working closer to Durban. During this shift the relatively small inland settlements, set aside for Indian residents in apartheid Group Areas planning, have witnessed the rapid growth of informal settlements on vacant land parcels and planned development of formal low cost housing (Maharaj, 2003). The area within which the concession was demarcated includes largely formal urban dwellings, but does have elements which are formal and informal peri-urban and formal and informal rural.

In order to understand the dynamics of the area, and to access relevant data, it is necessary to look at it in context of the Ilembe District Municipality, which today incorporates the area formerly known as the BODC. Some key Ilembe facts and figures are included in the table below. Where available, information on KwaDukuza, the local council which covers much of the old BODC area, has been included.

Table 2.1 Basic data on Ilembe District

Information category	Ilembe District Municipality	KwaDukuza Local Council
Area (km ²)	3260	
Population	560377	158586 (28% of IDM)
Unemployment	39%	
Households with monthly income below R1500	72%	62%
% urban residents	14%	
% of population <u>with</u> access to “adequate” water supplies	50%	
% of population <u>without</u> “adequate” access to sanitation	75%	

Sources: www.ilembe.gov.za, Ilembe District Municipality IDP (2002) and Ilembe IDP Review (2003) – derived from 1996 census or updated form 2001 census

Despite concentrations of residents in a number of urban settlements such as KwaDukuza (Stanger) and Mandeni the Ilembe population remains overwhelmingly rural or peri-urban with rates of poverty and unemployment increasing in areas outside the major centres. Nevertheless, the area does have a mix of economic activity which provides a basis for much on the income earned – in addition to income residents earn from working as commuters or migrants in the neighbouring eThekweni Municipal area or in coastal towns to the north. Activities include commercial agriculture (mainly in the form of sugar cane growing and milling), tourism services related to coastal (but also some cultural and historical) attractions, large industry processing in the form of Sappi's pulp mill and a range of industrial activities in the Mandeni and Stanger areas (drawn from Ilembe IDP, 2002).

4.2.2 Development of local governance arrangements

At the start of the PPP process which led to the contracting of the Siza Water Company the institution which initiated the processes was the Borough of Dolphin Coast – a transitional local authority – formed out of the post-1994 municipal restructuring processes. The BODC took its name from the tourism marketing brand developed to package the coastal areas to the immediate north of Durban.

“It was created in February 1995, out of a collection of eleven towns and settlements spread over an area of approximately 160 km² ...” (Maharaj, 2003: p.222)

The BODC, as an interim local government structure, fell away with the formation of new local government structures post the 2000 local government elections. Thereafter, BODC was incorporated into the KwaDukuza Local Municipality. This Municipality had not only a larger area of coverage but also three to four times the number of residents. However, institutional shifts did not end there. During the course of 2003, the Ilembe District Municipality – which is the regional co-ordinating municipal body – responded to the Municipal Structures Amendment Act (2000) and subsequent Ministerial authorisations, which gave finality to municipal functions and powers, by taking over the function of a Water Services Authority and thereby responsibility for oversight of matters relating to regulatory and delivery functions as specified in the legislation. It is for this reason that the IDM is today responsible for the concession.

4.3 The evolution of SA policy on MSPs and WSS

After the 1994 elections the Government determined that a radical overhaul was required of apartheid local government systems. A host of different types of local authorities existed resulting in many hundreds of municipalities, health committees, town councils or related township administration structures existing side-by-side characterised by severe fragmentation within the approaches of local authorities themselves and between local authorities. In order to enable democratic local elections to take place a set of interim local government arrangements were established which brought various types of local authorities under a handful of new municipal categories and initiated the process of integrating local governance institutions within newly defined transitional local authority areas. The White Paper on Local Government produced in 1998 defined a further process of systems rationalisation and redefinition of roles and responsibilities which

culminated in the promulgation of new demarcations in line with the Municipal Structures (1998) and Municipal Systems Acts (2000).

The combined effect of these processes was to create so-called wall-to-wall municipal government in the country. In the case of the region in which the BODC was located this saw the creation of the Ilembe District Municipality with defined responsibilities and the demarcation of four local councils (including KwaDukuza) within its boundaries. Legislation referred to above required municipalities to restructure themselves in line with the new legislative requirements. A key output of this was the development of district and local Integrated Development Plans (IDPs) and procedural prescriptions for a full assessment of service delivery mechanisms required to fulfil the intent of the IDPs. For the first time an explicit case was made in policy and legislation for the formation of municipal service partnerships where deemed appropriate. Key government role players co-operated in the formation of the Municipal Infrastructure Investment Unit (MIIU) to contribute to the facilitation of such service partnerships where appropriate.

In terms of water and sanitation, government gave much attention to systems for their effective delivery as they were seen to be core to the basic needs package. In this regard the Water Act of 1956 was deemed inappropriate for the circumstances of the time. A process was initiated which resulted in the promulgation of the Water Services Act No 108 of 1997. This provided,

“national legislation for the provision of water and sanitation services and set out the roles and responsibilities of the various levels of government in achieving access to basic services.” (Ilembe District Municipality, 2003: p.1).

Subsequent to this, government embarked on a process to define regulations under which frameworks for contracts between water service authorities and water service providers as defined within the Water Services Act (1997) would operate. These processes began to give relatively specific guidelines under which a variety of water service delivery arrangements, ranging from public to fully privatised, could be considered (although, as will be discussed later, it should be noted that the Dolphin Coast concession was conceived and implemented before these regulations were finalised). In the recent past, government has published a Strategic Framework for Water Services (Department of Water Affairs and Forestry, 2003) with the intent that it provide further guidelines in the roll out of water-service related institutions and in the performance of their legislated responsibilities.

Whilst much of the above outline highlights the issue of governance systems for effective water services delivery, there has also been the evolution of policy at a government level with regard to housing and free basic services which has had a fundamental impact on the actors in these processes. In this regard, it is important to keep in mind that the actual practise of managing local delivery and policy is also informed by initiatives such as the models used for the delivery of low income housing and the roll-out of free basic service provision. Free basic service provision in particular has played an increasingly important role in discussions about the most effective systems for delivery of services such as water and sanitation to all households. The impacts of these processes are fundamental as they

relate to matters of systems of service provision, engineering choices, viability and costing to name but a few factors.

4.4 Stakeholder perspectives of the emerging policy framework

Debates continue to rage in South Africa on the manner in which policy affecting municipal approaches to delivery of basic services has developed. Some would argue, for example in articles produced by the Centre for Development and Enterprise, that slow progress has been made on key objectives because implementation frameworks have not yet fully embraced the potential of the private sector (Bernstein & Clynick, 2003, p11). Others, including those associated with the anti-privatisation lobby (such as MacDonald (2002)) make the case that the introduction of private sector-type arrangements in delivery services to the poor does little to reduce poverty. These different perspectives are echoed to some degree by the various stakeholders interviewed for the project and in past work done on the concession. However, for the bulk of the stakeholders interviewed their concerns are more with pragmatic realities of implementation in their context rather than with the “macro-level” debates.

Nevertheless, it is important to reflect on some of the opinions expressed by key groupings on the directions of national policy. Firstly, with regard to labour (noting that the interview conducted was with a regional office bearer and not staff in the concession) there remains a considerable amount of scepticism about what is seen as the increasing role of the private sector in traditional municipal functions. At a national level Cosatu has been outspoken about privatisation processes and takes the view that greater involvement of the private sector is neither good for the poor people that are the target for many policies and for the workers that have to implement them (www.cosatu.org.za). In various submissions on evolving policy frameworks Cosatu and Samwu welcome increasing transparency and explicit shifts in orientation towards the needs of the poor. However, a case is made by these unions that government policy does not go far enough to guarantee a sufficient level of services for poor communities. The unions take the view that the introduction of non-state service providers makes such attempts as there are to provide improved services to the poor unviable.

“We have argued that we believe privatisation will be against the interests of the community, as well as against the interests of workers. Water is a public good, and as such must be left in public hands.” (Cosatu and Samwu, 2003: p.16)

Other stakeholders generally feel that policy is moving in the correct direction and that weaknesses and problems will be dealt with over time (Hultzer (SWC), Naidoo (IDM), Mbanjwa (IDM), Newton (IDM) interviews). Problems identified include:

- Endless and complex municipal restructuring has left many municipalities weakened;
- National policy does not always take into account actual conditions on the ground;
- Funding for municipal local government to implement basic service delivery is limited – the equitable share is insufficient;

- Programmes such as free basic water need dedicated funding and clarity as to exactly how they should be implemented; and
- Improved clarity is needed on regulation within the sphere of MSPs and in terms of the actual services delivered.

5. The WSS prior to the concession³

This section discusses information available on the Dolphin Coast WSS prior to the concession and opinions of stakeholders related thereto.

5.1 The water and sanitation service of the BODC

Prior to the formation of the BODC in 1995, water and sanitation services in the area were managed by the Port-Natal Ebodwe Joint Services Board (JSB) and in some instances by Umgeni Water. Umgeni Water is the regional water supply entity in the catchments supplying water to the Dolphin Coast area and has in many instances acted as bulk supplier and service provider. The Port-Natal Ebodwe JSB was funded out of business levies and provided infrastructure investments in the greater Durban area – but largely outside the area that was under the former Durban City Council. As it (the JSB) had been responsible for infrastructure services related to water and sanitation it also provided for the administration and management of the delivery of such services to customers in designated areas. However, with the implementation of the first phase of transitional local government arrangements the JSB ceased to operate outside local government. It was under these circumstances that the BODC inherited water and sanitation systems that fell within its boundaries (with the exception of Umgeni Water infrastructure and assets for the supply of bulk water to the area).

With the formal incorporation of the BODC in 1996, Umgeni Water provided assistance in provision of management relating to the water and sanitation services (Maharaj, 2003). However, projections in developmental growth (both in terms of high income and low income residents), combined with the very poor state of existing bulk infrastructure, presented the BODC with a growing investment and management responsibility that it felt could best be met through seeking an alternative model.⁴

According to Hemson and Batidzirai (2002), in 1997 there were 3153 water meters in the BODC area, yielding a monthly income of R250 000. Monthly income from water services amounted to R271 000. Net income had been increasing steadily at a low rate. Services in areas other than the areas to the east of the coastal free-way were limited and patchy. Some areas such as Shakashead had no services, whilst other areas had standpipes or borehole systems. The MIU's Dr James Leigland is quoted in Hemson

³ Specific pre-concession indicators that are available are discussed in more detail in the section reviewing the implementation of the concession since 1999 (see Section 6).

⁴ It was estimated that upgrade and new service delivery requirements would cost the service R200m in 1997 prices. (Hemson and Batidzirai, 2002: p18)

and Batidzirai (2002) as providing the following information on the pre-concession service:

- 50% of the population lived in informal settlements and had inadequate services;
- 22 staff were responsible for operations and maintenance (with Umgeni Water providing some technical and managerial support).

Table 3.1 Summary table of pre-concession indicators

Indicator	Available information	Comment
Service coverage	50% of population in formal housing with 3153 homes with metered services	Much uncertainty existed as to population size as situation was dynamic with new informal settlements post 1994
Operational efficiency and quality of service	Over 20% loss from original bulk purchase	Limited information on service quality and efficiency was captured
Prices and affordability	For metered customers: R20 basic charge Volumetric charge of between R2,11 and R2,61 Limited monitoring of boreholes and stand-pipes	Affordability issues not fully tested with patchy service delivery to unserved areas. Households in low-income housing projects with full service delivery struggling with paying of bills
Finance and investment	BODC struggling to reconcile borrowing obligations projected for service expansion and existing budget challenges	BODC reached limits in terms of borrowing for new capital projects required to extend services Financial performance figures not showing net income growth to finance maintenance and service extension
Labour issues	22 employees (excluding Umgeni Water staff) Lack of clarity and training and development prospects	Umgeni Water provided technical and management services on an agency basis.

Sources: WZC, 2003; Maharaj, 2003; Hemson and Batidzirai, 2002, Interviews

5.2 Stakeholder perceptions of the pre-concession era

Stakeholders expressed mixed views on the era before the concession. This in part depended on the nature of the service being received. On the more positive side there was a sense that the price structures were more reasonable (Ratepayers interview) and non-payment cut-offs were not as vigorously enforced (Dawood (IDM Councillor) interview). However, there was appreciation that the combination of housing delivery and extension of services had brought an improved situation to areas that had been dominated by informal settlements before. Ratepayers association members also allude to service problems such as those associated with low pressure, service interruptions and sewer over-flows. On a more technical level a senior DWAF manager interviewed reflected on relatively high levels of water loss and periodic problems with waste-water quality. With regard to employment matters it appears that pre-concession arrangements, whilst not without their problems, were generally on a par with equivalent municipalities

(Mathe (Samwu) interview). Comments made by various municipal officials in other studies (Hemson and Batidzirai, 2002, Maharaj, 2003) reveal that senior Dolphin Coast officials took the view that there were likely to be ongoing difficulties in delivering an effective service to the area if local government attempted to handle the function on its own. Maharaj (2003) refers to comments by the former Town Clerk of BODC in making the point that,

“No technical or management staff were transferred to the municipality, so [the] municipality did not have the experience to provide a comprehensive WSS service. The bulk infrastructure in the geographically fragmented formal towns was in abject condition and service provision was generally inadequate. ...Along with this, were the informal settlement areas, where 50% of the population had virtually no services at all, and capital project investments were desperately required.” (Maharaj, 2003: p.226)

6. Conception phase

This section deals with the processes leading up to a decision to enter into a water and sanitation services PPP by the BODC. It outlines preliminary discussions and processes and stakeholders perspectives. The conception phase is important as it often sets the tone for stakeholder relations on the matter of MSPs through subsequent activities.

6.1 The processes leading up to the concession decision

As has been outlined in the discussion on the pre-concession service, municipal officials and political leadership reached the conclusion soon after the formation of the BODC that they had, at the time, neither the human nor the financial resources to adequately fulfil the function of water services provider in the area (former BODC Town Clerk referenced in Maharaj, 2003). The “parcelling out” of the assets and systems of the former JSB to a variety of different municipal structures with differing levels of capacity did not ensure that knowledge systems, management and technical capacity and related economies of scale were available to the recipient structures (Newton (IDM) interview and Maharaj, 2003). The age of existing infrastructure (much of it beyond its engineering life) and the stress it was under with rapid population growth in the area added to these pressures (Hultzer (SWC) interview).⁵ Hence municipal authorities began a process of seeking advice and support on how to handle the matter of water and sanitation infrastructure and service delivery.⁶ These investigations culminated in a full examination of different service delivery options with the support and funding of the then Department of Constitutional Development (now Provincial and Local Government) and the Department of Water Affairs and Forestry. The Municipality, with the recommendation of its DBSA

⁵ Maharaj (2003) quotes the municipal officials as saying the projected the population would grow to over 250 000 by 2020.

⁶ Maharaj (2003) makes the case that a combination of cash flow problems caused by delays in government transfers for development projects and innovative leadership combined to lead the municipality to the point of examining alternative service delivery options. A Councillor and the Ratepayers body also refer to a technical report on the state of services which was commissioned at the time which warned of significant and escalating investment required merely to maintain existing facilities (Dawood (IDM Councillor) and Ratepayers interviews).

(and later MIIU) advisors, placed public adverts stating its intention to seek to enter into a Municipal Service Partnership (MSP). The DBSA and MIIU provided technical and advisory support to the Municipality throughout this process (Bassa (MIIU) interview). A councillor representing the area (Dawood (IDM Councillor) interview) and Maharaj (2003) both explained that efforts were made to equip senior BDOC officials and politicians to participate in choice making on MSPs. This was through exposure to a series of information sessions and trips to other municipalities in South Africa and abroad.

The Council discussions leading up to the issuing of a public notice caused considerable disquiet amongst labour from a variety of unions (Mbanjwa (IDM) interview). The actual issuing of the public notice without full agreement being reached with unions aggravated tensions and resulted in demands for greater union-employer discussion on the matters. At a community level, a number of forums were held in different residential areas to discuss the intended process.

6.2 Stakeholder perspectives on this process

Generally, the perception of stakeholders interviewed (supported by information gathered from other sources on the process) suggests that there was support at a political and administrative leadership level for the decision to examine a possible MSP for water and sanitation services. This was reinforced by national policy dialogues on basic needs delivery and general municipal reform which proposed engagement of private sector capital and expertise where appropriate (Bassa (MIIU) interview and Maharaj, 2003). At the time objections that were lodged came in the main from Cosatu-affiliated union structures. The sections below outline perspectives on the immediate pre-concession phase as obtained from secondary sources and interviews conducted for the purposes of this report.

6.2.1 Municipal officials

Municipal officials active in the process at the time were of the view that they were making choices in the best interests of the people of the area (views referenced in Maharaj, 2003). They also argue that every effort was made to involve stakeholders in the processes (Naidoo (IDM) interview). The municipal officials dealing with the concessionaire today are generally of the view that, under the conditions of the time, the process that was followed was an appropriate one. However, according to a senior Ilembe District Municipality official (previously active in the BODC and SWC), the move to call for expressions of interest for a MSP did begin to raise expectations of stakeholders that not only could the municipality get out of a tight spot, but it could also fast-track the delivery of a more extensive and better quality service (Mbanjwa (IDM) interview). There was also a view expressed that not all stakeholders were sufficiently empowered to contribute to the processes.

A number of the municipal officials interviewed made the point that the lack of certainty with regard to municipal restructuring should have been taken more into account during this period. Whilst there was no national clarity on future structures and systems in the

mid 1990s, the fact that plans were being made for considerable institutional adjustments was widely known (Naidoo (IDM) interview). In this regard, questions were asked as to what extent the decision to proceed could not have been delayed whilst relevant policies were finalised.

6.2.2 Councillors and community

A Councillor involved in the process made the point that,

*“There was substantial resistance to the concession as it was labelled as privatisation by the unions. The issue was also resisted by the community as there was a concern that prices would increase when water was sold for profit. There was also the perception from the community that a company would be more efficient and hard-line in implementing cut-offs for non-payment. Discussion was held with unions and at some point Bonnie Maharaj [ANC Councillor and Deputy Mayor at the time] met with Sam Shilowa [then Cosatu President] in an attempt to avert a dispute. Tensions developed as the local workers were supportive but the national players opposed the move.”*⁷ (Dawood (IDM Councillor) interview)

A case was also made by the Councillor that more effort to build capacity of community role-players could have been made. This is reinforced by community members quoted in the Hemson Batidzirai study (2002):

“At first we were told about Umgeni Water; thereafter we were told Umgeni had bad quality water which is not all right for us. There was not enough consultation and we could not foresee the problems we are experiencing now.” (community member from Nkobongo quoted in Hemson and Batidzirai, 2002: p.105)

6.2.3 Labour

As has already been stated, Cosatu affiliated unions were generally sceptical of the proposals. A member of the Cosatu-affiliated South African Municipal Workers Union (Samwu) suggested in an interview that in many cases decisions have already been taken to proceed with some form of private service delivery when public notices are issued and inadequate preparatory discussions are undertaken with stakeholders (Mathe (Samwu) interview). The interviewee also made the point that preliminary processes are often off the record and not transparent (Mathe (Samwu) interview). This is reinforced in Maharaj (2003) where reference is made to Municipal leadership acknowledging that unions remained unhappy with the decision to seek MSP options. More recently a Cosatu and Samwu paper on the White Paper on Water Services has said in no uncertain terms,

“We don’t believe it can be in the public interest to give a 30-year contract to a private company to deliver services as they have done in places like

⁷ In the interview with Mathe (Samwu KZN), the point was made that workers were attracted by the “short-sighted” option of cashing in their pensions at the same time as being guaranteed continued employment. This choice made them less sympathetic to the principled position of the national union movement. Hemson and Batidzirai (2002) outline how unions other than Samwu did not express much opposition in principled terms to the process but focused on securing worker benefits in the process. However, Mathe (Samwu) (interview) claims that had Samwu not voiced such objection to the process it is likely that such significant levels of worker protection would not have been won.

Nelspruit and Dolphin Coast. Evidence has been steadily mounting of numerous problems with public-private partnerships and privatisation initiatives.” (Cosatu and Samwu, 2003, p.16)

In specific terms issues raised by the workers directly concerned with the process included:

- Job security
- Conditions of service
- Uncertainty and lack of trust

The latter issue was particularly important as it was unclear what the precise outcome of the concession process would be and who would be the new employer entity that they would be dealing with. The fact that some unions took principled stands against what was described as privatisation also increased levels of concern amongst workers. Without any real examples of such concessions to look at in South Africa staff felt to some degree dis-empowered in the process (Mathe (Samwu) and Mbanjwa (IDM) interviews).

6.2.4 Concessionaire management

In terms of the framework of this report, the experience of SWC as a potential interested party is primarily reflected in the report section covering the contract phase as they only became actively involved from the time of the issuing of the call for expressions of interest (deemed to be step one of the contracting process in this exercise). However, in terms of SWC’s major shareholder – Saur Services – the view expressed from comparative experiences was that circumstances and processes leading up to PPP decisions differ markedly from place to place (Hultzer (SWC) interview). The point was also made, that in comparative terms, it appeared that levels of consultation and discussions were more extensive than in many other circumstances.

6.2.5 Concluding comments on perspectives of conception phase

It is important to reflect that a significant number of those interviewed made the point that they did not feel there were other viable alternatives to seeking partnerships. Hence the decision taken was not necessarily founded on a view by all stakeholders that partnerships would guarantee improved sustained performance in service delivery (Mathe (Samwu), Dawood (IDM Councillor) and Ratepayers Association interviews). It is also clear that on reflection there were differing expectations of what would constitute sufficient and effective consultation with stakeholders.

7. Contract phase

This section of the report examines the contracting process from the issuing of a public notice to the contract coming into effect. Considering the lack of experience of the domestic partners in the process with regard to PPPs and their limited track record in the country the contract was to be a learning experience but at the same time had to lay the

foundations for a thirty year relationship that would meet the objectives of various parties.

7.1 The call for proposals and decision making processes

In summary terms the steps leading up to the contract were as follows (adapted from Hemson and Batidzirai, 2002; Hultzer (SWC) interview):

- BODC inherited WSS (March 1996)
- BODC decides to seek WSS partnership and approaches DBSA for assistance (November 1996)
- Public notice of intention to seek MSP options for WSS (including call for expressions of interest) followed by shortlisting of prospective bidders and preparation of RFP (late 1996)
- Request for Proposals issued to four shortlisted entities (February 1997)
- SWC selected as preferred bidder – contract negotiations entered into (November 1997)
- Concession contract signed (January 1999)
- SWC commences operations (April 1999)

The formal contract phase can be seen to have been initiated with the Request for proposals (RFP) prepared with the assistance of the DBSA in February 1997. This provided interested parties with information on the present service system and projections for new projects in the pipeline (eg low income housing) as well as a terms of reference outlining the sort of services that would be expected and possible terms under which such services could be considered (Maharaj, 2003 and WZC, 2003). Explicit conditions relating to labour were outlined in this documentation in an effort to assuage concerns of unions. The preparation of the RFP was done in parallel to shortlisting of those entities that had submitted expressions of interest previously. Of the fifteen expressions of interest received, five (four with foreign partners) were requested to respond to the RFP documentation (Maharaj, 2003).⁸ The submissions from the entities were evaluated by a technical panel of municipal officials and supported by expert advisors appointed through the DBSA. This panel made its recommendations to the executive political structure of the BDOC which in turn authorised officials to proceed with negotiations with the preferred bidder in the form of Siza Water Company.⁹

Bids were evaluated on a range of factors. These included the capabilities and experience of the consortiums and consortium partners, technical operational responses, detailed financial projections relating to investment and pricing and company structure (including

⁸ The bidders included participation by Umgeni Water (initially disallowed, but later included after it was clarified that the bid was through a wholly-owned subsidiary and not Umgeni Water as the bulk utility), SAUR (a French subsidiary of the Bouygues Group – in part owned by France’s state-owned national electricity company), Suez-Lyonnaise des Eaux (also French), Vivendi (French) and Thames Water (English).

⁹ SWC is an amalgam of five companies: SAUR Services Limited (58%), Metropolitan Life (23%), Investment Progress Holdings (5% - empowerment partner), NANO Investments (5% - empowerment Partner), WDB Investment Holdings (5% - empowerment partner).

matters of black economic empowerment) (WZC, 2003 and Mbanjwa (IDM) interview). Maharaj (2003) quotes the former BODC Town Clerk, Town Secretary and Deputy Mayor as outlining the key benefits of SAUR's (SWC's) selection in the following manner:

- It would source foreign direct investment;
- SAUR would be able to apply its specialist WSS knowledge to improve services and efficiencies;
- SAUR's size would enable it to achieve economies of scale through alignment with other operations;
- SAUR's information technology and software was attractive;
- SAUR had a black economic empowerment partner; and
- SAUR had a community social upliftment clause in its bid.

Through this process the role of the MIIU (and the DBSA) should be highlighted. Maharaj (2003) states that senior municipal officials believed it necessary that external support to the process be sought to ensure adequate information was available to make decisions. The MIIU had been established to assist municipalities in public private partnerships. Grant funding from the MIIU and Department of Water Affairs and Forestry, amounting in total to R2,4m, was made available for technical support for the contracting process (Maharaj, 2003).

7.2 The contract¹⁰

The contract was drafted by the parties (BODC and its advisors and SWC) during protracted negotiations (Masefield (DWAF) interview). It provided for a 30 year arrangement and drew extensively from similar contracts elsewhere (Bassa (MIU) interview). Section 5.1 of the original agreement (Appointment of Concessionaire) states:

- “5.1.1. Subject to the terms and conditions of the Contract, the COUNCIL hereby grants to the CONCESSIONAIRE, the following exclusive right and authority during the term of this Contract to:*
- 5.1.1.1. process, use, manage, operate, occupy, and have free and unencumbered access to the Works;*
 - 5.1.1.2. redesign, upgrade and expand the Works;*
 - 5.1.1.3. supply the Water Services directly to Customers;*
 - 5.1.1.4. charge each Customer directly for the supply of Water Services and to apply all monies so collected as it deems fit; and*
 - 5.1.1.5. save as otherwise stated in this Contract, operate within the Concession Area as a private sector water services provider pursuant to the Water Services Act.*

¹⁰ This section refers, in the main, to the original contract of 1999, this was subsequently adjusted through a supplementary agreement drafted in late 2001. Relevant aspects of the supplementary agreement are discussed in the chapter on implementation.

and in each case to do such other things which are necessarily incidental thereto.” (Dolphin Coast and SWC Concession agreement, 1999)

The contract is drafted along the lines of many commercial contracts, although it includes a number of specific aspects of relevance to WSS concessions. Much detail is covered in the contract with regard to matters of the rights of various parties in relation to existing and new assets. For instance the contract specifies that all existing assets at the start of the concession are to be transferred in full back to the Municipality at the end of the concession. Any new capital and operating assets are to be offered to the Municipality in advance of disposal and that disposal of assets in the last years of the concession is to be done only with the express approval of the Municipality. Such clauses are common place in concessions where specific obligations are carried by the concessionaire relating to commissioning party’s assets and where management of the concession requires investment in upgrading or acquiring new assets.

The report also specifies technical standards, the basis of tariff formulation and processes related thereto and covers issues relating to personnel. In this context SWC committed to specific requirements around conditions of employment, staff development, to the creation of a Youth and Community development Fund and to further empowerment (employing local labour, contracting to local (especially disadvantaged) firms and procuring from small and local enterprises. Further sections of the agreement require the concessionaire to provide performance guarantees and insurance and to provide regular information and reports to the Municipality with regard to a host of performance issues. The agreement concludes with details on the liability of various parties and specifies terms under which the contract could be terminated or extended.

The following sections of the document provides a summary of how the agreement handled issues core to this study.

7.2.1 Tariffs

According to Section 40 of the concession agreement,

“The determination, amendment and approval of all Tariffs shall be undertaken by the COUNCIL in accordance to all prevailing Regulatory Provisions and the provisions of this contract.” (Dolphin Coast - Siza Water Company, 1999: p.59)

These tariffs were to be reflected in a negotiated tariff schedule which was attached to the agreement for the first year of operations. The agreement specifies that the tariff should include,

“a lifeline tariff for a quantity of at least 6 (six) kl per Customer per month for a basic water service”. (ibid, 1999, p.58)

The agreement also sets out terms in which either party can call for a tariff review (Annexure E2 of the agreement): under the terms there are annual reviews, five year reviews and the potential for extra-ordinary reviews. The Council is empowered to reject calls for an extra-ordinary review if it deems the request to be linked in any way to under performance of the concessionaire.

7.2.2 Personnel

The agreement makes provision under section 46 for the transfer of an agreed¹¹ list of personnel under conditions which would secure their existing terms and conditions (with the exception of pension arrangements as it was not possible for the Municipality to secure amendments to Municipal pension rules to allow for continued participation by non-municipal employees). Limitations placed on the concessionaire with regard to employee matters include:

- Agreeing not to terminate employment of any employee based on operational requirements (ie no downsizing) resulting from the contract;
- Allowing for continued rights of freedom of association and collective bargaining;
- Reaffirming commitment to relevant labour legislation;
- Agreeing to negotiate new benefit arrangements at same or improved levels;
- Agreeing to implement a training programme costing in the region of at least three percent of wage bill;
- Implementation of affirmative action.

The contract also specifies the requirement for the concessionaire to set up a social fund to assist employees in financial difficulty due to circumstances beyond their control.

7.2.3 Water services delivery

Part D of the agreement goes into considerable detail in setting performance parameters for the actual service in terms of systems and standards. Annexure B3 of the agreement provides specific technical standards to be enforced – that can be revised as the concession progresses. In this regard standards of delivery and maintenance must meet approved levels. This part of the agreement also specifies conditions under which the concessionaire can cut-off services (in terms of an agreed procedure in Annexure B4). The conditions include:

- Illegal connections (ie those not authorised by the concessionaire);
- Delays in payment (according to terms of Annexure B4)

Annexure B4 covers a range of customer service issues and ties the concessionaire down to specific (if perhaps rather generous) commitments. For instance, the agreement specifies faulty meters must be replaced within 180 days of being reported, written complaints must be responded to within 10 days and account queries must be handled within 20 days of notification.

7.2.4 Monitoring and evaluation

The contract sets out obligations for both concessionaire and Municipality with regard to monitoring and evaluation. The concessionaire is obliged under Part H to collect specified information about its finances, its operations and its performance and to provide this information to the Municipality as requested and in terms of regular reports. The Council, in Part I agrees to manage its regulatory role in such a manner that does not

¹¹ Agreed on the basis of negotiation between the parties, based on prior agreement with union officials.

hinder the effective operations of the concession through delays etc. Section 62.7 of the contract states that,

“The COUNCIL shall co-operate with the CONCESSIONAIRE to facilitate implementation of the Contract and in exercising its powers of monitoring, inspection and regulation in a reasonable manner having regard to especially the rights and interests of Customers.” (ibid, p.94)

It was understood by both parties in terms of the agreement that the stipulated concession fee amount would cover costs of Council building up capacity to undertake effective monitoring and evaluation in the future.

7.2.5 Finance and investment

The contract specifies terms under which the concessionaire will manage Council assets, including rental arrangements where appropriate. It also specifies ownership conditions of stand alone new capital investments made during the concession period (they will vest with the concessionaire) and of improvements to existing facilities (which revert to the Municipality at the end of the concession period unless agreed otherwise). Annexure B1 of the agreement outlines negotiated concession fees, payments etc. The original contract specified a first year fee of R554 850 and indicated that this would escalate in line with CPI for the first five years of the agreement. Future concession fee arrangements would be negotiated in terms of future five year plans. In addition to the fee, the agreement specifies a performance guarantee and maintenance bond aimed at protecting the interests of the Municipality should the concessionaire fail under specified circumstances to meet the requirements of the agreement.

7.2.6 Other

The agreement also covers matters such as the setting up of a youth development fund and empowerment procedures with respect of working with small contractors. In governance and participation terms there is very little specified in the contract. Clearly the concessionaire needs to account for its activities to the Municipality. However, the specifics of how this should work, whom should be involved and to what degree such information should be public is not clear. There is also no specific provision for customer consultation in any defined manner on core issues of performance, nature of service, tariffs etc.

7.3 Stakeholder perspectives on the contract phase

7.3.1 Municipal officials

Council officials indicated that there was general satisfaction with the formulation of the contract, but conceded that, in hindsight, greater effort could have been invested in testing information that formed the basis of the contract. The fact that the concession survived later crises was testament, not only to the maturity of stakeholders, but also of the solidity of the contract (Naidoo (IDM) interview). A word of caution was sounded in that much still depends on successfully negotiating each five year arrangement as the concession progresses. The contract will be further tested by policy and institutional

change and further supplementary agreements should not be ruled out. According to one official, contracts should be viewed as living documents and not cast in stone for eternity (Newton (IDM) interview).

7.3.2 Councillors and community

Community representatives in the form of Ratepayers Association members indicated that they had little direct insight into the contract and felt both excluded and disempowered despite efforts that were made to report on progress at public meetings. Community members quoted in Maharaj (2003) and Hemson and Batidzirai (2002) echoed the sentiment that there was insufficient consultation in the processes and were generally not in a position to comment on specific elements of the contract. A ward councillor who had been active in Council committees dealing with the concession made the point that the contract could have been based on improved viability information (related to growth estimates) and should have introduced alternative charging systems for sewer services other than the volumetric system (Dawood (IDM Councillor) interview). The councillor also makes the point that much of the focus of discussions around the contract was on unions and that community structures were less effectively included – it was expected that they would participate through political representatives.

7.3.3 Labour

Labour, in the form of national structures Samwu and Cosatu reacted most strongly to the signing of the contract. In a press statement issued shortly after the concession agreement was made public a Cosatu statement was issued which read,

“Cosatu is shocked and disappointed to be notified that the Minister of Local Government and Constitutional Affairs, Vali Moosa, last week gave a go-ahead for the privatisation of water delivery on the KwaZulu-Natal’s Dolphin Coast” (Cosatu, 1999)

The Union went on to accuse government parties of behaving in bad faith – by arguing that agreed procedures had not been followed in seeking approval for the concession from tri-partite negotiation forums at a national level. However, despite maintaining this objection to deal on the basis of a principled “anti-privatisation” stance, union officials concede that the contract provided comprehensive protection for workers transferred (Mathe (Samwu) interview). A point of concern was raised about transfer of pensions where existing municipal pension fund rules did not allow for the continued membership of people not in the employ of local government and where workers generally took the option of cashing in pension benefits to use for consumption needs at the time leaving them without pension protection they had built up over time (Mathe (Samwu) interview).

7.3.4 Concessionaire management

Management of SWC expressed similar views to those of the Council officials in respect of the contract and related processes. They feel the contract lives up to international best practise and has stood the test of time (Hultzer (SWC) interview). It was also conceded by the SWC official that stakeholder buy-in could have been more actively sought and that external reviews of the contract by neutral parties could have been of benefit, especially considering the crisis the concession experienced in its early period of operations relating to rising interest rates and development falling short of projections.

7.3.5 Concluding comments on the perspectives of stakeholders on the contract phase

Stakeholders directly involved in the contract negotiations have, despite the crisis that led to a supplementary agreement being signed, suggested that the contracting process was generally sound. Drawing from Hemson and Batidzirai (2002) and interviews it can be seen that labour, in the form of Cosatu affiliated unions, took both a strategic and pragmatic perspective. On the one hand the process, and more especially its conclusion, was not supported in line with Cosatu's anti-privatisation stance. However, shop stewards and regional organisers active at the local level participated directly and actively in the processes to secure an improved outcome for the workers understanding that pragmatic engagement had to operate side-by-side with national positions of principle. Both SWC management and Council officials interviewed expressed the view that had unions not participated it would have substantially destabilised the process. Nevertheless, stakeholders having the benefit of the hindsight point out that flaws in the originating documentation underlying the contract contributed substantially to the problems the concession encountered in 2001. Rate payer structures suggested that this could have been the result of a lack of transparency in contracting discussions and processes (rate payers interview). Others suggest that the fact that the concession survived the crisis is testament to the solid nature of the original contract (Hultzer (SWC) and Naidoo (IDM) interviews). An official of the MIIU reflected that building stakeholder capacity for stakeholder engagement with contract discussions was critical and that perhaps there would be value in having some of the originating studies subjected to reviews before contracts were finalised (Bassa (MIIU) interview).

8. Implementation phase

The concession has been in operation since agreements were signed in January 1999. This section examines the operational performance in relation to contract obligations and available information on pre-concession arrangements and reports on stakeholder perceptions of a variety of issues relating to WSS delivery within the concession area. In terms of this report the following categories of relevance to the stakeholders have been selected for examination from a qualitative and quantitative perspective, where information allows:

- Extent of and type of service coverage
- Quality of service and product
- Pricing and affordability
- Employment and labour relations
- Financial performance and investment

The report will also look specifically at monitoring and evaluation as well as governance aspects in that these have emerged as central in the concession experience in the Dolphin Coast. However, before proceeding to look at these specific matters some background information is provided below on SWC's approach to meeting their obligations and how this approach has evolved over time.

8.1 SWC's approach to water and sanitation services¹²

According to Siza Water's Customer Services Manager (Hultzer (SWC) interview) a range of factors influence SWCs approach to delivery of WSS services in the concession area:

- Contractual obligations to the Municipality
- The inherited infrastructure, systems and delivery arrangements
- Performance in relation to shareholder expectations (delivering profit and reinforcing status of SAUR as a leader in the sector)
- The interests of the Municipality and its customers
- SWC's eagerness to build a reputation as a good service provider

Clearly, the contractual obligations are paramount as they define the essence of what a concession is about and should ideally reflect other relevant factors. In this regard, the negotiations which resulted in the deal being concluded involved extensive discussions on SWC's approach and its obligations. There was consensus in the discussions that a number of key priorities needed to be addressed in the first five year programme of the concession. The most pressing of these identified by SWC (and built into their approach were):

- Upgrading and rehabilitating infrastructure to deliver an effective service to existing customers (within allowable budgets)
- Extending services to un-serviced communities and those in new developments programmed for delivery in the first five years of the concession
- Introducing new management, information technology and customer services arrangements
- Reducing inefficiencies, waste and water loss (Hultzer (SWC) interview)

As is common along much of South Africa's coastline, the wealthier (mostly white) customers reside in close proximity to the sea whilst poorer (mostly black) residents live in a variety of settlement types scattered along inland transport routes. SWC noted that systems in place, based largely on previous apartheid development approaches, enabled wealthy white customers (in eastern areas) to have (in most cases) full service metered water delivery with water-borne sanitation. This was specified as a level 4 service by SWC and a set of water and sewer tariffs were set by the Municipality in the agreement (in negotiation with SWC) to enable more effective cost recovery as well as allowing for a measure of income coverage for SWC in relation to risks they perceived in delivery of services to western area customers that were largely serviced with stand-pipe arrangements and did not have access to water-borne sanitation. This was specified by SWC as a level 2 service.¹³ A different set of tariffs were approved by the Municipality for this set of customers. It should be noted that a considerable number of households in the western area did receive a level 4 service, but in many areas (as will be discussed

¹² See service differentiation information on concession map in annexure.

¹³ The Municipality in partnership with Provincial Housing uses grant funding from central Government to provide basic infrastructure in low income township establishment processes – SWC then becomes responsible for the ongoing operation and maintenance of these services (Mbanjwa (IDM) interview).

later) this was not sustained and households reverted to a level 2 service when affordability constraints made level 4 payments unviable. The table below summarises some of the characteristics related to the two service options in broad terms.

Table 6.1 Service delivery options table

Category	Level 2 (largely west)	Level 4 (largely east)
Household characteristics	Low cost housing unit or informal unit	Formal family or holiday home
Basic water service package	Water drawn from community stand-pipe	Individual metered household connection
Use monitoring system	Pre-payment meters at stand-pipes	Site meters
Payment	Pre-payment ¹⁴	Post-consumption billing
Basic sanitation package	VIP ¹⁵	Water-borne sanitation
Sanitation charge system	None	Volumetric charge (based on proportion of water consumed)
Original developer	Provincial subsidy housing or individuals	Private sector or individuals
Basic site-related infrastructure costs paid by ...	State through housing subsidy and national government grants	At expense of developer

SWC make the case (Hultzer (SWC) interview) that they do whatever they can to upgrade delivery and services within the affordability limits imposed through tariffs agreed to by the Municipality. However, 90% of the concession income is generated off the bulk of the level 4 customers in Ballito (Hulzer (SWC) interview). Clearly upper-income households operate on a higher consumption pattern and as consumption increases so do charges. It could therefore be argued that customers that fall into this bracket are more attractive to the concessionaire as service margins are better. This in turn places some stress on customer service to areas where revenue income is low and is an issue SWC admitted they continue to struggle with on a day-to-day basis.

8.2 Implementation performance indicators: Quantitative measures and qualitative assessments

This section looks at performance of the concessionaire in relation to contractual obligations and the performance of the previous operator. It aims to track available comparable data, discuss some technical aspects of performance and record stakeholder perspectives.

8.2.1 Extent and type of service coverage

Before getting into a detailed discussion of service coverage, it should be taken into account that both the present and former municipal structures have struggled to get an

¹⁴ Introduced in 2001.

¹⁵ Although those households that did originally receive water-borne sanitation connections are able to still utilise system provided they collect the water and it is not blocked through lack of water throughput.

accurate sense of population size. A variety of reports examined and respondents interviewed suggested data obtained from official sources was not accurate (WZC, 2003; Maharaj, 2003; Hultzer (SWC), Naidoo (IDM), Newton (IDM) interviews). SWC is at present working on the basis of an estimated population in the region of 34 000 for the concession area (the original RFP placed estimates in 1997 at 34 645 but there seems to be some consensus that this was a bit on the high side). Nevertheless, despite these uncertainties with regard to base figures, an external review of the achievement against targets of the SWC noted that,

“The contract specified a number of operational and maintenance requirements that Siza had to fulfil. These were studied and the consultants are satisfied that Siza has implemented measures to deal all of them them.”

(WZC, 2003: p.24)

The parameters for service delivery options and targets to be met (particularly with respect to the first five years of the concession) specified in contract documentation are key to assessing progress made in service coverage. The table below (interpreted from WZC, 2003) summarises, in broad terms, the commitments made and related achievements. It should be noted that the agreed five year period runs until 2005.

Table 6.2 Five year performance targets (service coverage)

Area	WSS percentage coverage targets	Achievement
Eastern coastal zone (Ballito, Salt Rock etc)	100% level 4 service by year 5 Septic tank areas - Existing septic tanks to be reticulated when situation demands	Achieved – focus on planning for next five year period (new residential and commercial growth)
Shakaskraal	100% level 4 service by year 5 (90% for sanitation)	Achieved
Umhlali (Foxhill and Taffeni)	100 % level 4 service by year 5 Existing septic tanks to be reticulated when situation demands	Largely achieved
Shakashead	200 sites level 2 services and 250 sites with level 4 service by year 5 Upgrading of level 2 service to effective level 4 service on customer demand	393 level 2 sites and 130 level 4 sites
Nkobongo	1362 sites to be provided level 2 service by year 5 Upgrading of level 2 service to level 4 service on customer demand	Progress on programme
Etete	1749 sites to be provided level 2 service and 1200 sites with level 4 service by year 5 Upgrading of level 2 service to level 4 service on customer demand	514 level 2 sites completed

Source: derived from WZC, 2003

SWC figures, as quoted by WZC (2003), show that in April 2001 there were 9501 units (customers) serviced through either level 2 or level 4 arrangements. By April 2002 this had increased to 9902. In the early period of the concession the focus remained that of attempting to deliver sustainable level 4 services to as many households as possible. But with increasing failure of households to cope with costs associated with this, many of

them switched to using standpipe water and water-borne sanitation systems became unusable (Hultzer (SWC) interview). On this basis in 2000 and 2001 SWC, in consultation with Council authorities, shifted to working with the level 2 provision that was standard to low income housing projects and took a greater role in delivery of additional standpipes along with, at the start of 2001, pre-payment meters. WZC (2003) quotes an increase in standpipes servicing Nkobongo of 43 during this period (from 7 to 50). In this model residents are able to upgrade to level 4, if their circumstances allow, as infrastructure is in place. However, officials of IDM and SWC indicated that there is very little upgrading taking place as communities remain economically depressed (Hultzer (SWC) and Mbanjwa (IDM) interviews).

Both the shift from level 4 provision to level 2 provision and the use of pre-payment meters has not been without controversy and difficulty. Maharaj (2003) documents frustration in communities at receiving a lower level of service than they expected. These adjustments should not be seen separately from the difficulties the concessionaire encountered in 2001 when a substantial adjustment to the contract had to be negotiated including reducing investment commitments and increasing tariff levels. However, despite the problems encountered, in broad terms, a case can be made that delivery is on track in terms of approved commitments.

8.2.2 Quality of service and product

A range of measures are available to assess matters of quality. For the purposes of this document the focus will be on the technical measures of what would constitute an effective operation (water loss, product standards, breakdowns) and customer complaints. It is important to note here that the very limited monitoring systems of the operations prior to the concession and a lack of accessible records make pre-concession comparisons difficult. According to SWC staff it took most of their first year to establish effective measures to really reflect accurately on the state of the service. As it took a period of time before SWC was able to effectively intervene to improve services, early readings could be seen as a reflection of the state of the service prior to the concession. Table JJGC (below) summarises some of the key performance measures over time (drawn from a combination of sources, but in the main WZC, 2003).

Table 6.3 Quality of service summary performance table¹⁶

Measurement category	Prior to concession estimates	2000/2001	2001/2002	Latest results
Water loss as % of bulk purchase	20	11.4	16.1	
Bacteriological quality (% conformity)		89	97	100
Chemical quality (% conformity to standards)		98	100	100
Total bursts (no of incidents)	Not recorded	144	188	161
Total leaks (no of incidents)	Not recorded	188	94	53
Total faulty meters	No recorded	245	151	173
General maintenance actions	Not recorded	297	752	857
Customer complaints ¹⁷ (Target = ave of 15 per month)	Not recorded	32	26	30
Days to respond to complaints (ave per complaint)	Not recorded	9.7	5	13

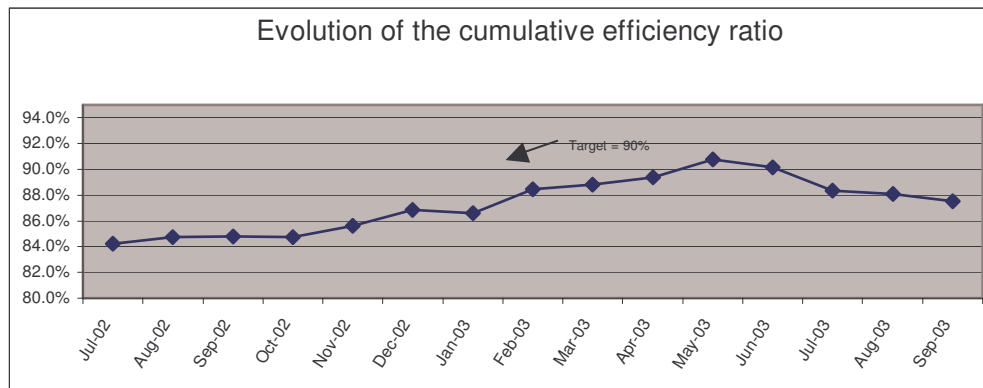
Sources: WZC, 2003; SWC monthly reports, Sept 2003; Maharaj, 2003

With regard to technical performance measures SWC is generally making progress to improve its efficiency and to ensure its systems run effectively. However, despite a considerable investment programme to replace old pipes and re-engineer poorly designed sewer systems, problems have not been entirely dealt with. A far more active maintenance programme has thus been introduced which has meant far more problems are picked up on a regular basis and SWC management maintain that they are finally making inroads into breakdown reductions resulting from poor historic maintenance and investment (Hultzer (SWC) interview). With regard to water quality and water loss measures, SWC now operates within accepted global norms and consistently so – an improvement on performance of the service before (Dawood (IDM Councillor) and Ratepayer interviews). The figures below, taken from SWC's internal reporting system, give an indication of the operating efficiencies which the Company has prioritised.

¹⁶ SWC admitted to WZC (2003) that figures are generally worse in western areas of Nkobongo, Shakashead and Etefe.

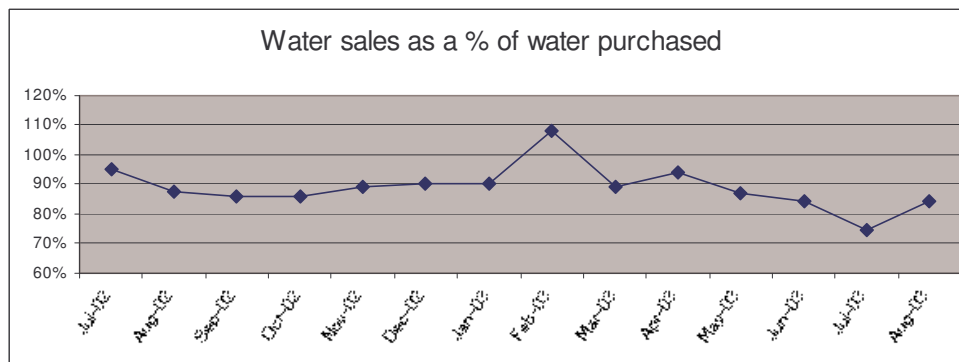
¹⁷ The most common complaints are those related to: (1) Sewerage overflow, (2) No water, and (3) Pressure queries

Figure 6.1 Cumulative efficiency ratio over time (July 2002 – September 2003)



Source: SWC Monthly report (Sept 2003)

Figure 6.2 Water sales as a % of water purchased (July 2002 – August 2003)



Source: SWC Monthly report (Sept 2003)

With regard to customer service matters, efforts have been made by SWC to introduce effective systems and to meet requirements as per the contract. Generally SWC’s response times to complaints, queries and requests for new services are in line with planned levels. However, they do concede that there remains a challenge to secure ongoing customer service improvements in townships (WZC, 2003). For example, some standpipe areas had poor quality pre-payment meters installed and it has taken time to effect the replacement of these as revenue becomes available (Hultzer (SWC), interview).

Stakeholder perceptions of the quality of the service are generally positive. A number of those interviewed made the point that initial teething problems appear to have been sorted out and noticeable improvements continue to take place (Dawood (IDM Councillor), Mbanjwa (IDM), Ratepayers interviews). Faulty meters, incorrect billing and burst and blocked pipes were raised as some of the most pressing issues (Dawood (IDM Councillor) and Ratepayers interviews).

Research done into customer perceptions in areas such as Nkobongo, Ete and Shakashead suggests that there remains considerable disquiet about the lack of affordable options related to on site water and water-borne sanitation as well as the pre-payment meter system (Hemson and Batidzirai, 2002). In this sense it would be difficult to make a

case that people are happy with the level 2 service arrangements as expectations exist of a higher level of service.

8.2.3 Pricing and affordability

Pricing and affordability issues are foremost in the minds of many stakeholders when it comes to municipal services. Government policy has paid much attention to these matters and much of this effort has been directed at water services since failure to provide safe water to the bulk of South Africans was one of the more destructive consequences of apartheid policy. The issue of pricing and affordability has attracted additional attention within the SWC arrangement due to the fact that the concession entered a crisis phase in late 2001 when the concessionaire indicated it was unable to meet its obligations to the Municipality (KwaDukuza at the time) in terms of lease payments which formed a part of the original contract. The outcome of this crisis was a supplementary agreement to the original contract which adjusted the obligations of SWC under the contract and also led to the Municipality agreeing to an adjustment of tariffs. This aggravated consumer concerns. Level 4 customers, who were already unhappy with volume-based sewer charges that had under pre-concession arrangements been incorporated at a much lower rate into general rates collection, were particularly vociferous in their concerns (Ratepayers interview).

The crisis could be attributed to a number of factors. These included:

- A financial crisis at Umgeni Water (the bulk supplier) related to governance problems and debt incurred from rural water schemes which resulted in the utility imposing a price increase of over 20% on all its customers (water service providers had been planning on increase figures closer to inflation levels). SWC, and other service providers, had no choice but to pass the bulk of these increases onto customers.
- Projected development growth of level 4 customers in greater Ballito/Zimbali area did not take place due to weak economic conditions in the country and high interest rates discouraging construction. This rendered the original Bosch and Associates projections, incorporated into the RFP and contract, as too optimistic. The result of this was SWC's revenue model was way off track. In order to continue to meet obligations SWC needed to compensate for lack of customer growth through increased tariff income by price increases.¹⁸

¹⁸ Siza's original growth estimates were for 8% annual growth in water volume demand. This was based on plans for new hotels and a variety of elite housing developments. With these not materialising SWC adjusted their growth forecast to 4.5%. A complicating factor in the area is that many new developments rely on seasonal tourist visitors resulting in customer growth not always translating into sustained volume consumption growth – although SWC still has to provide infrastructure for maximum demand periods. If consumption patterns were more even it is likely that this could have an impact on the structure of WSS payments and their level. Although it should be noted that the area – at least in terms of its eastern areas is becoming more of a node of permanent residents and commuters and is beginning to lose its seasonal shifts. (WZC, 2003; Hultzer (SWC) interview)

- The rise in interest rates during this time and weakening currency levels put SWC under pressure in terms of meeting its own debt obligations. In order to restructure its debt it needed to secure increased income as a matter of urgency – income that could only come from one source, namely tariffs.¹⁹ (drawn from interviews, Maharaj, 2003; WZC, 2003)

Pricing comparisons are notoriously difficult to do on an accurate basis as arrangements are often complex with differing bands of service attracting different pricing. Furthermore, public entities often subsidise prices from other sources leading to reduced transparency in actual costs. Nevertheless, some comparisons can be made but these should rather be seen in terms of general trends rather than specific arrangements.

Table 6.4 WSS price comparisons (nominal Rands)

Category	Service type/volume bands	Pre-concession (1998/1999) R/kl	SWC post Feb 1999 R/kl	SWC 2000/2001 R/kl	SWC 2002 (note change in volume for FBS) R/kl	SWC April 2003 R/kl	SWC projected 2003/2004	IDM projected 2003/2004 R/kl
Basic water charge	Level 2		0	0	0	0	0	0 (for 0-3kl) 18,47 (for 4-6kl)
	Level 4	20	20	24,60	32,82	39,52	43,04	
Volumetric water charge	0-10kl (0-6kl from 2002)	2,11	0	0	0	0	0	0
	10-35kl (7-30kl from 2003)	2,51	2,33	2,74	3,46	4,17	4,54	4,32
	36kl + (31kl + from 2002)	2,61	2,92	3,60	4,45	5,35	5,89	4,54
Water dispensers (Pre-paid)	Level 2 areas – R/kl from pre-paid meters	n/a	3,53	3,94		5,45	5,90 ²⁰	n/a
Basic sewer charge	Level 4 only	54	36	3,94	74,10		76,60 (west) 98,95 (east)	

Sources: WZC, 2003; Maharaj, 2003, Hemson and Batidzirai, 2002; Mbanjwa (IDM), Hultzer (SWC) and Naidoo (IDM) interviews; IDM, 2003

The price comparisons in the above table give a sense of nominal changes since the concession became operational. For level 4 customers these are broadly similar (in some

¹⁹ It should be noted that SWC maintained it was not an option for a corporate bailout by Saur as this would have even more widespread ramifications in terms of both the concessionaire and public entity obligations. In fact it was made clear by SWC, that failure to alter tariffs upward and reduce some other obligations (discussed elsewhere) would leave them with little choice but to move to termination (Naidoo (IDM) interview).

²⁰ Customers are charged a one-off fee of R65 for a pre-paid meter card. The cards are then recharged by customers as and when they wish. According to SWC officials it is most common for residents using pre-paid meters to re-charge their cards with R10 payments. A sum of R10 will enable water consumption of approximately 1,7kl and lasts and average family about two weeks (SWC official, follow up to Hultzer (SWC) interview).

cases lower) than equivalent services for water in neighbouring eThekweni Municipality (and the Durban Metro prior to this). The explicit basic sewer charge and related volumetric sewer charge (based on 80% of water consumption) is a major point of differentiation, both with eThekweni and other IDM municipalities. However, an examination of the investment imperatives and national policy directives which propose increasing transparency in sanitation charges, as well as the fact that SWC has been required to make on-going capital investments in sewer management and treatment would suggest that a case could be made for such charges in established high consumption communities. In affordability terms, the experience from level 4 customers in areas such as Nkobongo has been that even the basic sewer charges are unaffordable with the result that consumers get cut off and revert to pre-paid meter systems (Hultzer (SWC) and Mbanjwa (IDM) interviews). The introduction of 6kl “free” water in 2002 adjustments has been criticised in that it has not yet been incorporated into metering system for those on level 2 using pre-paid meters (arguably the most needy/poorest customers) and with poor customers on level 4 service, whilst they do get 6kl free, they still have to pay the basic monthly connection fee.²¹

“... there has been no inflation-linked increase of tariffs, except in 1999.

There have been high escalations in the tariff schedules. In addition, a basic connection charge has been introduced, debunking the concept of “free water”.” (Maharaj, 2003: p.272)

Affordability issues remain an ongoing challenge – not just for SWC, but also for IDM as the water services authority and many other municipalities around the country. Free basic services have not been introduced in a similar manner in all areas and service providers continue to struggle with introducing this in a sustainable manner whilst ensuring that they improve collection rates for services more generally. Hindson and Batidzirai (2002), Maharaj (2003) and others are highly critical of the formulation of the free basic water policy at a national level, but also of the manner it has been tackled by service providers. Both these authors do detailed analysis of the poorest communities in the concession area and make a sound case as to the inappropriateness of the service delivery models that have to accommodate free basic services. Communities are needing to allocate high levels of very limited and inconsistent monthly income to service charges and transport with the result that the combined effect of basic service delivery and new housing has not contributed to their capabilities to escape from poverty. The crisis the concession experienced in the 2000/2001 period carried through to substantial increases for all customers. Whilst level 4 customers experienced a 52% increase between 2001 and 2003 (for the 7-30kl band) and carried a greater share of rising costs, prep-paid meter users also encountered a 38% increase during the same period. This raises some concerns in relation to the degree to which customers, especially those poorest of the poor, should be protected from the ramifications of exogenous or endogenous price shocks. This issue takes on added importance in a context where free basic water has not yet been extended to pre-paid water-meter customers (although plans are being developed to do so).

²¹ Discussions are advanced between SWC and IDM on the incorporation of a “free water” element to pre-paid customers and is likely to be operational in 2004 (Hultzer (SWC) and Naidoo (IDM) interviews).

Another contentious issue is that of cut-offs. For those households on level 4 service who do not pay within 60 days of the issuing of a bill their supply is cut off. It costs the households R200, over-and-above settlement of the account to get the supply reconnected. If meters are tampered with by households it will cost them an additional R2000 to get the meter repaired and the supply reconnected. With the decision by customers to shift to level two services (ie not to use their household supply either because of budgetary reasons or because of being cut off) the concession company has seen a marked decline in the number of households in arrears and a decline in cut-offs. SWC has responded by increasing the supply of pre-paid meters to areas, despite the presence of a level 4 service. The consequence of this for SWC is that significant risk is removed from the service environment as poorer customers move onto the pre-paid system. However, affordability issues remain a concern as do the social consequences of not having household connections (such as women having to spend time and energy to walk to collect water supplies).

8.2.4 Employment and labour relations

Disputes over the treatment of labour issues were critical elements in the negotiating of the contract for the concession. At a national level the then Minister of Constitutional Development participated in framework agreement discussions with national union bodies as part of a central government attempt to secure upfront buy-in into its plans to restructure state enterprises and enable municipalities to draw private sector service providers into meeting municipal obligations (Naidoo (IDM) and Dawood (IDM Councillor) interviews). However, despite some broad agreement, the government of the day and national union bodies have not reached a common understanding of approaches to municipal service partnerships (see archive documents at www.cosatu.org.za). Hence when the Dolphin Coast project was proposed Cosatu and Samwu objected both at a local and national level. A series of local and national discussions were facilitated with a focus on two different sets of issues: on the one hand there was the principle of increasing private sector involvement and its consequences for workers and the poor, and on the other hand was the issue of protection of workers rights should the concession proceed (Mathe (Samwu) interview).

Key concerns of the unions in the specific location of the concession were mainly centred on the threat of job losses and concerns about the loss of benefits and job security. These aspects were explicitly dealt with in the contract agreement (as discussed previously) in order to ensure labour were comfortable with the arrangement. Furthermore, as part of the suspensive conditions attached to the contract it was agreed that an employee share ownership scheme would be arranged whereby employees would be allocated four percent of the SWC shareholding.

In terms of numbers SWC has been consistent with retaining what it believes is an essential level of staffing. The introduction of dedicated management and technical staff when the concession was operationalised in fact increased the number of staff over and above those that were transferred. A number of staff have resigned or passed away and there was one dismissal to date of the original complement transferred.

Table 6.5 SWC Permanent staff numbers

01/04/99	April 2001	April 2002
24 ²²	36	36

Source: WZC, 2003

All stakeholders recognise that, aside from initial teething problems and a few incidents, conditions for staff are meeting expectations (Mathe (Samwu), Mbanjwa (IDM), Dawood (IDM Councillor) interviews). A strong focus of SWC has been on training and development of staff. This has seen a considerable number of staff at all levels improving their qualifications enabling them to take on more responsibility. As wages are the second most important contributor to tariff levels (WZC, 2003), SWC has focused on ensuring that staff are obtaining additional skills to respond flexibly to increases in demand rather than employing additional staff (Hultzer (SWC) interview). Staff get improved salaries where such additional skills are utilised. A point made by the regional secretary for Samwu is that in comparison to municipal training schemes SWC has done very well (Mathe (Samwu) interview). He attributed this to commitments made in the contract and indicated that it was generally very difficult to get municipalities to meet their obligations. This is reinforced by the WZC report which states,

“While Siza employees were significantly capacitated, no training of KwaDukuza employees took place during this same period. Based on the under-staffed working conditions and lack of training of the KwaDukuza staff, the staff transferred to Siza seem to be in a much more fortunate position than their municipal colleagues.” (WZC, 2003: p.38)

Compared to a municipal environment in which hierarchies dominate and duties are specifically defined it is clear that one of the strategies SWC had to follow, with the requirement to carry all the employees of the former entity, was to improve their capabilities to contribute in different ways to the company through multi-skilling. This did enable staff to improve their wages but no figures could be obtained to examine the degree to which the wage gap between workers and senior managers had been impacted.

Both Maharaj (2003) and Hemson and Batidzirai (2002) interviewed staff and found that there were areas of dissatisfaction. In some instances there are concerns that work loads have increased substantially without commensurate remuneration increases. Concerns were also raised about lack of transformation in senior management to reflect local population realities. Hemson and Batidzirai also document some complaints about unresponsive management.

8.2.5 Financial performance and investment

The financial and investment performance of the concession can be said to have been a positive one largely due to agreement by the parties to re-negotiate the terms of the contract in 2001. Had this not been done, the project would have collapsed and alternative would needed to have been found to deal with the consequences. This

²² BODC and Umgeni staff transferred into SWC from first day of operations.

subsequent agreement dealt in a fundamental manner with issues relating to finance and investment. In specific terms it involved the following:

- Halving the annual concession fee that was to be paid to the municipality in terms of the original agreement between 1 July 2001 and 31 March 2004 and a similar halving of the projected concession fee calculated in the original agreement for the period 1 April 2004 to 30 June 2006 (An estimated saving to the concessionaire in the region of over R1,25 million);
- Payment of outstanding rental obligations to the municipality through additional revenues captured through an extra-ordinary tariff increase phased in two periods;
- Adjustment of concessionaire investment commitments for the first five year period to R10 million;
- SWC to reduce its management fee to SAUR Services by 50% until 30 June 2006;
- Settlement of outstanding debts (an amount of R3 668 331) to the council through additional funds secured by SWC from investors and/or borrowing.

The degree to which the concession was in crisis can be seen in terms of the supplementary agreement making provision for rapid termination should parties not perform in terms of the adjusted agreement:

“7.4 If the parties have not reached an agreement ... within 60 days after which either of the Extra-ordinary Tariff Increases should have come into operation ... but did not so come into operation, the Parties hereby agree, as they are entitled to do in terms of clause 68.2 of the Concession Contract, that, the Concession Contract will automatically terminate on such 60th day without the attribution of fault to either party.” (KwaDukuza Municipality - Siza Water Company, Supplementary Agreement 2001: p.5)

The operation, as per SWC’s initial projections, is expected to continued to run at a loss into the next five year period, but its should then begin to steadily move into profitability during that five year period (Hultzer (SWC) interview). The change in terms under the 2001 supplementary agreement is not expected to accelerate the move into profitability as the changes merely ensured that SWC could meet its original obligations (Hultzer (SWC) and Naidoo (IDM) interviews). It has been pointed out by Maharaj (2003) that little has been forthcoming from SWC in terms of capital sourced from equity investment into the concessionaire or debt incurred directly by the concession company. Investment funds have been secured through managing revenue (from tariffs) to under-take necessary capital works, developer contributions and loans from various lending entities (Hultzer (SWC) interview).

The external review of the concession by WZC (2003) is generally positive about the work done by SWC in investment terms to date. Significant funds have gone into replacement of pipes that had been operating beyond their engineering life and were often the cause of breaks in service and water loss. The other key focus has been that of water treatment and related sewer systems. Being a coastal tourism region, and subject to careful DWAF monitoring, SWC has progressively upgraded transfer systems for sewerage and the actual treatment facility with the result that less overflows into the ocean and rivers is taking place and quality of the treatment plant output has been

improving (Hultzer (SWC) and Mbanjwa (IDM) interviews). Nevertheless, some commentators remain sceptical about the degree to which the experiences to date could be given a clean bill of health:

“A new tariff deal was structured as SWC failed to pay its annual lease bill to the municipality at the end of 2001. ... The municipality essentially bailed the concessionaire out of commercial failure, which is a common practice that seems to pervade privatisation attempts in developing countries. ... If this pilot project was allowed to fail, it would have had negative implications for the continuity of the private sector participation in other municipalities”
(Maharaj, 2003: p.272-3)

A key point to note in this context – and one reinforced by municipal officials, concessionaire management and external parties – is that the investment environment under the concession compared to previous operations or other Ilembe services is fundamentally different. Whilst SWC is obliged under the contract to make investments in upgrading and maintaining capital equipment and in terms of meeting other performance criteria (efficiency and quality), its predecessor and the present systems operated by IDM are generally starved of capital investment (Naidoo (IDM), Mbanjwa (IDM), Newton (IDM), Bassa (MIU), Masefield (DWAF) and Hultzer (SWC) interviews). The result of this is that there is very little investment in maintaining existing capital equipment. Any new funds (sourced from grants in the main) go towards the pressing need of extending services to unserved areas. The result is that municipal systems now operated by IDM suffer from efficiency problems and are increasingly unreliable. Dealing with this problem has been identified as important by municipal officials, however, they indicate that winning a case for capital upgrades and maintenance of core systems and established networks is politically untenable in a situation of such dire need by many communities (Naidoo (IDM) interview).

8.2.6 Monitoring and evaluation

The concession agreement made specific provision for systems of monitoring and evaluation to be in place for the contract. In this regard, as the municipality did not have the necessary skills, it was agreed that the concession fee would be used to contract in technical and financial evaluators to provide a monitoring and evaluation service for the municipality. In terms of this arrangement SWC were required to submit monthly records on technical, service delivery, customer and financial matters to both municipal officials and the external assessors. After a few minor problems were resolved this system was instituted. However, when the 2001 crisis erupted, it became apparent that municipal officials had neither the dedicated time nor in some cases the expertise to conduct ongoing monitoring and evaluation, either on the basis of the original reports from SWC or in terms of the interpretation reports from the external companies. This was in part due to their attention being diverted by the processes of municipal restructuring, but also related to changing personnel. Despite this problem having been identified over two years ago, all parties agree that it remains an area of weakness needing much further attention.

8.2.7 Governance

“Water governance refers to the range of political, social, economic and administrative systems that are in place to develop and manage water resources, and the delivery of water services, at different levels of society.”
(Rogers and Hall, 2003: p.7)

Governance arrangements in terms of the concession have been touched upon throughout the report but have not been dealt with explicitly. In this regard governance is taken in its broadest sense as referring to the relationship between formal systems of government and other stakeholders and citizens, as well as the nature of management and operations within the concession company as a private entity. To quote Rogers and Hall (2003) again:

“Governance matters a great deal for economic, social and environmental outcomes. Some necessary conditions for good governance are inclusiveness, accountability, transparency, predictability and responsiveness.” (ibid: p.9)

In the light of this discussion, a number of concerns arise from a cursory examination of the governance issues in the case-study concerned:

- Systems of reporting on the concession and its progress have not been at their strongest as they depend very much on monitoring and evaluation systems and furthermore, through the various periods of institutional change, reports have not been regularly tabled for discussion on an ongoing basis with relevant Council committees.
- SWC’s annual reporting framework is not yet in line with core recommendations of the King II and, whilst having started to come to terms with triple bottom-line accounting, could still make improvements in this regard.
- SWCs relationship with its customer base has not been formerly developed to create layers of community or customer-based forums where interaction takes place to improve services and deal with every-day problems (WZC, 2003).
- The evolution of IDMs WSA and WSP responsibilities is far from complete and careful management of both contracting parties is required to ensure improved service delivery is the result.

Global trends in the WSS sector are requiring greater accountability and transparency in operations and management. It is critical that South African role-players align themselves with these processes to ensure optimum benefit from concessions and other types of arrangements to the citizens in areas in which they operate.

8.3 Stakeholder perspectives on the implementation phase

8.3.1 Municipal officials

To a large degree there is satisfaction amongst municipal officials that implementation of the concession agreement since operations began in 1999 has been in line with performance expectations. There appears to be a perspective, shared with management of SWC, that the crisis period the concession encountered in 2001 was the result of a lack of

experience in the parties drawing up the originating documentation and was more the result of unexpected exogenous factors than internal flaws. A key point raised in the discussions has been that the municipal officials dealing with the concessionaire have changed three times in the space of four years which has to some degree made the interaction between SWC and municipal officials less effective than might have been otherwise (Newton (IDM) and Mbanjwa (IDM) interviews). A senior IDM official suggested that one of the key challenges was to re-establish effective reporting lines and ensure that monitoring frameworks were effective (Naidoo (IDM) interview).

8.3.2 Councillors and community

Price and the nature of the service levels remain an ongoing issue of concern for communities and councillor representatives (Maharaj, 2003 and Dawood (IDM Councillor) and Ratepayers interviews). The imbalance in pricing arrangements and systems of service delivery between the concession area and areas such as those around KwaDukuza (now falling under the IDM water and sanitation services) is also a matter of concern. An IDM official quoted a community leader as stating that whilst there is now an integrated local government administration in the region it is peculiar that residents in different areas are subject to different pricing and service regimes (Mbanjwa (IDM) interview). However, in terms of quality of services in the SWC area there is an appreciation of the fact that the concessionaire does seem to be responsive and is progressively dealing with problems (Ratepayers interview).

8.3.3 Labour

The senior Samwu official interviewed made the point that in general terms the experience for workers in the SWC had been positive, although it was suggested that this is the exception in privatisation processes rather than the rule (comparisons were made with parastatal restructuring at Telkom where thousands have been retrenched) (Mathe (Samwu) interview). However, in terms of a strategic national perspective by Cosatu and Samwu the perspective is still a critical one:

“The 30 year concession that the Dolphin Coast Municipality signed with Siza Water, a subsidiary of Saur International of France, has run into problems. Because the company experienced a shortfall in revenue, the contract was re-negotiated and tariffs were raised. This was done so the company would not lose out on the profit it had anticipated.” (Cosatu and Samwu, 2003: p.16)

A concern was also expressed about the creation of less distinct job descriptions as workers were exposed to more training. Multi-skilling workers was viewed as a way of “getting extra work for little extra pay”.

8.3.4 Concessionaire management

From the perspective of SWC management (drawn from an interview with Hultzer (SWC)) the concession is steadily moving onto a firmer and firmer footing. It is argued that under concession arrangements where handovers are often complex it usually takes more than a handful of years to really see the benefits beyond improved management systems. In this sense it is pointed out that many of the changes first implemented (such

as improved information management and upgrading or maintenance of infrastructure) are not visible to customers and some stakeholders – yet these are likely to bring improved service and efficiency benefits to residents in the longer term. According to SWC management, during such times much pressure is placed on municipal leadership as unrealistic expectations are often raised at the start of concessions where people expect more immediate changes. In this regard, the SWC management recognise that the survival of the concession during its crisis period had much to do with effective administrative and political leadership in working to resolve matters.

8.3.5 Concluding comments on the perspectives of stakeholders on implementation to date

Whilst the implementation of the concession contract to date has not been without its problems, stakeholders seem to be of the opinion that it has begun to live up to expectations. However, there remains a view that more meaningful change in price and nature of services offered would be the true test of effectiveness. In this regard some respondents made the case that the concession was accepted only because municipal service delivery has not lived up to expectations (Ratepayers, Dawood (IDM Councillor) and Mbanjwa (IDM) interviews). This view was echoed by a senior IDM official who made the case that if policy and funding frameworks made allowance for more municipalities to have capital and skills they could just as well handle the service (Naidoo (IDM) interview). Furthermore, in terms of WSS policy changes nationally and locally (in terms of IDM becoming a Water Services Authority and Water Services Provider) there was a view that the concession arrangement removed the best potential revenue generator from the public service provider hands.

However, there appears to be strong local acceptance that the concession will run to its full projected completion date and that SWC is now part of the service delivery environment for the foreseeable future. Both SWC management and IDM officials make the case that, after a period of poor communication and interaction, they are aiming to build a stronger partnership to ensure that there is greater alignment and improved management (Naidoo (IDM) and Hultzer (IDM) interviews). Nevertheless, it is clear that hurdles remain such as the extension of free basic water to pre-paid meter users and the building of a long term strategic relationship between the main partners.

9. Lessons learnt

Considering the concession has been in operation for almost five years, there is much that could be learnt from experiences related to it. In the first instance reference is made to the lessons identified by the stakeholders in discussion. This is then supplemented with lessons drawn from the evaluation process of this study and documents related thereto.

9.1 Summary lessons

Table 7.1 Table of lessons learnt identified by stakeholders

Stakeholder	Lessons identified
Municipal officials	<ul style="list-style-type: none"> • Institutional and policy certainty is important in ensuring risk reduction to both concessionaire and municipality • Capacity building for all stakeholders is essential • Crisis periods will occur – they do with municipalities so why not with concessions? – capacity is needed to handle these and resolve them • Monitoring and evaluation systems must be built up • Concession arrangements enable maintenance and upgrading of core infrastructure – municipalities struggle with this as trend is to spend grant income on extension of service and little income is sourced from operational income to reinvest • Policy clarity is required on issues such as free basic water, allocation of grants in concession areas etc
Councillor	<ul style="list-style-type: none"> • Easier for non-Council structure to enforce payment • Concessionaire invests capital and maintenance funds whilst municipalities struggle to do this • WSA capacity building for municipality will assist in ensuring better performance in future • A forum should be created in concession area which meets regularly to discuss service issues and should involve councillors, municipal officials, concession management and community structures • Buy in of labour and community is important to ensure concession can operate • Correct forecasting is essential
Concession manager	<ul style="list-style-type: none"> • Institutional and policy certainty is important in ensuring risk reduction to both concessionaire and municipality • Municipalities need capacity building to perform in terms of their contract obligations • Boundaries of concession area need to be very carefully thought through • Leadership capacity (officials and political leaders) is essential in making a concession work (both in its early stages to protect it from unwarranted attacks and when crisis periods occur) • Improved regulation is required in terms of how municipalities handle their own investment processes related to WSS so as not to create an imbalance reflected in prices • Policy clarity is required on issues such as free basic water, allocation of grants in concession areas etc • The presence of a trusted broker such as MIIU is important
Ratepayers	<ul style="list-style-type: none"> • Pre-concession stakeholder processes must be more thorough to equip for participation and to deal with crisis periods • Private concession routes do not mean cheaper services but do bring service quality improvements • Transparency and involvement in contract processes is important • Monitoring and evaluation are important and generally not handled well by municipalities • International companies do not necessarily bring anything special – South Africans could do this

Stakeholder	Lessons identified
	<ul style="list-style-type: none"> • Procedures for setting up such arrangements should be more specific in terms of levels of involvement • Citizens remain on the outside of Siza decision making processes – working through Council structures is not enough
Labour	<ul style="list-style-type: none"> • Pre-concession stakeholder processes must be more thorough to equip for participation and to deal with crisis periods • Transparency and involvement in contract processes is important • At a minimum the rights of existing service employees must be protected in contract form • National dialogue is very important as there is no consensus on the issue of privatisation • Involvement of workers in shareholding secures their buy in
MIIU	<ul style="list-style-type: none"> • Pre-concession stakeholder processes must be more thorough to equip for participation and to deal with crisis periods • Information on which concession deals are based must be independently tested • Institutional and policy certainty is important in ensuring risk reduction to both concessionaire and municipality
DWAF	<ul style="list-style-type: none"> • Ongoing effort is required to secure municipal capacity to ensure management of concessionaire is handled effectively (especially monitoring and evaluation) • Policy direction is needed in more precise terms on free basic services and use of municipal grants

Other lessons documented in various studies and gained from the process of this project include the following:

- Effort needs to be made to manage expectations of all parties at the start of the concession. Understanding evolution paths and how these will impact on stakeholders is essential
- Include non-Council stakeholders in formal capacity building processes such as learning trips and seminars
- Ensure a full independent review of all information feeding into contracts (over and above contracted advisors)
- Dispute/crisis resolution mechanisms must be given priority in capacity building and contractual processes – crises are bound to happen in both the originating entity and in the concession company
- Trusted broker role of DBSA/MIIU is essential from perspective of concessionaire and municipality
- Different service providers, systems and price scales side-by-side creates problems
- Institutional know-how is often lost in municipal restructuring processes
- Informal relationships of trust and understanding are essential
- Greater focus on economy of scale matters must feed into processes

- Dealing with matters such as by-laws is an ongoing challenge and impacts on the concession directly – it must be accorded some priority
- The concessionaire and municipality should increasingly move to more precise longer term tariff commitments and targets rather than only utilise inflation-based adjustments
- Customer relations and communication must be upgraded and worked on continuously
- Fulfilling contract obligations is time-consuming and expertise intensive – more time and capacity needs to be set aside for this to make sure plans are not rushed through and important issues not neglected
- The contract documents must talk to governance expectations of the various parties to the agreement and other stakeholders
- Concessions or similar arrangements should consider having built in protection mechanism for the poorest customers when price shocks occur

9.2 Replicability of lessons

It is important to note that not all lessons learnt from this project are replicable in other environments. It has been argued by Maharaj (2003) that the replicability of experience is limited as,

“the possibilities for a more facilitative environment for privatisation [than that pertaining at the BODC at the start of the concession] seems highly unlikely, however, considering Dolphin Coast’s charismatic status over a significant period time.” (Maharaj, 2003:p.284)

Maharaj goes on to argue that the concession arrangement is not sustainable in that it has received undue attention and support without which it could not have progressed:

“The imminent project failure had prompted the municipal authorities to intervene to vastly increase the WSS tariffs and decrease lease payments. The project continued solely on the municipality’s cushioning of the concessionaire from failure.” (Maharaj, 2003: p.284)

Despite these reservations, stakeholders are of the view that other municipalities, WSS stakeholders and stakeholders in general could gain from an examination of the experiences, both positive and negative. SWC and the various incarnations of local government over time have played host to many delegations seeking to gain from the local experiences. Stakeholders also make the point that the concession is a work in progress – whilst many of its parameters are formalised in contractual terms the changing environment will require adjustments, some of them painful to either parties or other stakeholders, in the future. In this sense support and learning must be an ongoing enterprise and not limited to pre-concession and early concession processes. Parties involved in the concession are also not averse to the concession being subject to piloting of new initiatives and processes such as more innovative service delivery arrangements provided risk is shared adequately with relevant national government role players.

Clearly each concession scenario is likely to be different. For instance, in the former Dolphin Coast area concession examined in this report, the restructuring process that took place impacted directly on a limited number of staff without strong union affiliations. In a context where greater numbers of staff were to be involved and the union presence was strong it is possible that different outcomes could have resulted. Other factors include those relating to the specific socio-economic and demographic contexts which have impacts on models of service provision and the complexity of the operating environment. For example, relatively new and unstable residential areas present different challenges to older districts. In this context much caution should be exercised to make sweeping statements on the relevance of one concession experience in a different context. The difficulties experienced in Nelspruit or the Eastern Cape in similar endeavours reinforce the fact that circumstances and local conditions matter.

9.3 Some reflections on international experience²³

It is worthwhile to briefly touch on international experience before advancing on to recommendations. A scan of material on water and sanitation service delivery in the rest of the world suggests that there is a plethora of different approaches that various countries have adopted. The move away from traditional state managed service delivery first took root in developed country contexts as governments began to restructure public services²⁴ motivated by a variety of circumstances (and ideological perspectives) including:

- Budgetary constraints limiting re-investment;
- Efficiency limitations in large bureaucratic entities; and
- Pressure from the private sector to introduce markets in traditional monopoly environments.

However, it did not take long, for the then rather limited experience of the involvement of the private sector in the full chain of activities relating to the supply of WSS, to find its way into donor and multi-lateral organisation programmes for developing countries. The case that was being made was simple: weak developing country states were making little inroads into the delivery of basic water and sanitation services to their citizens. Despite considerable experimentation and testing of new partnership models in the past two decades there remains much still to be done to advance the supply of basic services. Involvement of the private sector in developing country WSS has been patchy with failure being as common, if not more common, than success. However, lessons have been learnt through these processes and there is increasing recognition that private sector involvement by itself is no panacea. In this regard much of the literature examining these experiences places emphasis on matters such as (drawn from Rogers and Hall, 2003):

- Governance systems relating to the exercise of state power;
- Governance systems of the private role players involved in WSS;

²³ This section consists of the author's interpretation of a series of articles reflecting on international experience. A selection of references can be found at the end of the article.

²⁴ Although a country such as France has had private involvement in WSS for over 150 years (The Economist, 2003)

- Coherence and appropriateness of policy frameworks, especially with regard to pricing, legislation governing WSS and service models (investment and infrastructure intensive vs alternatives such as community-managed networks);
- Effectiveness of regulation; and
- Concerns at the continued exclusion of the poor from access to basic services.

Today, even where the private sector is not involved directly in the management of WSS, it is likely to be heavily involved in providing contracted services to WSS providers through supply of specialist engineering support, construction of facilities, machinery and finance to name but a few (Muller 2003). In this sense an undeclared partnership has been operating in much of the service pipeline for a considerable period of time. There exists a strong rationale, in these circumstances, for government to draw on new approaches to “good governance” by seeking to make these partnerships relevant and appropriate with those still outside the serviced environment. Equally governments have much to learn and reflect on in terms of citizen engagement and participation in the process of governance to enhance accountability and service quality. Increasing recognition that the rigidity of past frameworks – whether they were state-centred or partnership based – circumscribed innovation and flexibility has today stimulated a vibrant debate on what is in the best interests of citizens. WSS PPPs should not be structured in a manner that leaves them immune to these processes and neither should state-centred delivery systems or those where private sector involvement dominates. Water’s status as a “special” public good requires that above all else role-players involved in its management and delivery must act with transparency and openness ensure that actions purported to be in the interests of all do not merely reinforce patterns of exclusion so common throughout the world today. Franceys and Weitz (2003) conclude their review of international examples by arguing that,

“...civil society, poverty aware intermediaries, are needed for their flexibility and commitment to serve the poorest whereas the private sector is needed to disturb the old system of service provision and manage it more efficiently, all under the oversight of government as economic regulator and facilitator. None of these ‘partners’ appears capable of meeting the needs of the poorest in the rapidly growing urban areas on their own.” (Franceys and Weitz, 2003: p.1096)

10. Recommendations

Emerging from this study, the following key recommendations are proposed:

- South Africa still has a very complex and evolving situation with respect to regulation of WSS. Recent policy and legislative processes have begun to address this but considerable effort needs to be put into upgrading these systems – especially where they concern WSP arrangements. According to DWAF sources more often than not it is municipal service providers that do not conform to regulatory requirements – but as different WSP systems proliferate the management and regulation of these will become more complex for WSAs and other role-players. Setting common national standards on matters of pricing,

quality, service provision, service delivery options, customer rights have been part of recent policy processes but actual enforcement remains limited. Regulation can of course become a problem if taken too far to exclude local innovation, but it could contribute to risk reduction and greater certainty for stakeholders. The issue of how municipalities handle grants and their own budget allocations needs serious attention so that deterioration of delivery systems does not threaten long term sustainability. Lack of policy clarity in this regard will continue to see municipalities opting for short-term service extension at the cost of maintenance and core capital works.

- An opportunity exists for municipalities to be innovative with public private partnerships and for them to test a variety of different models. Management contracts appear to be underutilised in a context where municipalities struggle to perform their core functions. Innovation could also extend to joint ventures or other arrangements with private and other public or semi-public entities. From the Dolphin Coast environment it appears that inclusion of new service opportunities in the concession combined with direct technical support for municipal operations could be explored to the benefit of both parties and customers and citizens more generally (especially where concerns exist about concessions cherry-picking). National structures could contribute to such innovation partnerships where a measure of risk is shared by all parties. This innovation should not just be about services and pricing, but also involve matters of governance and participation.
- Role-players active in the WSS environment could do more work to address pre-conditions which enable both effective public, public-private and private service delivery. An essential element of these pre-conditions is the leadership capacity amongst officials, politicians and technical support operations in municipal environments. This remains a matter of concern in many instances and could result in abuse by one or other party as has been seen in international experiences.
- Core partners involved in the processes must subject themselves to ongoing evaluation and learning to ensure that opportunities for improvement are not missed. This involves shared learning and empowerment. So for instance it is clear that private role-players could benefit from improved knowledge and understanding of community participation processes that public bodies might be more familiar with.
- Building capacity to enable stakeholders and parties to agreements to deal with crises is critical. Changes in policy contexts, institutional flux, economic instability and other unforeseen risks all contribute to an environment in which change is guaranteed over extended concession periods. Contract flexibility, for example in defining five year planning horizons, is essential. However, this needs to be complemented, in the absence of effective regulators and obvious mediating parties, with support enabling parties to emerge from points of crisis on a stronger rather than weaker footing.

- Some consideration needs to be given to the matter of protecting the poor from the impact of price shocks in the provision of a basic need such as water. This needs to be informed by national policy, which should make more explicit regulatory provision on matters concerning both exogenous and endogenous shocks with resultant price impacts. Whilst it is municipalities that need to agree to price frameworks, and whilst it is also true that municipalities are not by any means immune from such shocks, options do exist to deal with this matter specifically in contracts relating to obligations of various parties in concessions. This is particularly true in a context where free-basic water has not been effectively extended to all households in need.

11. Conclusion

The water and sanitation service concession in the former Dolphin Coast area has begun to mature into a more effective partnership. This maturing is taking place after the partnership has been through periods of severe strain and stress from policy and institutional changes, unforeseen exogenous shocks and close scrutiny by a range of stakeholders. Despite the upheaval that came with these circumstances the concession is showing some considerable improvements to the previous service, comparable services and its early period of operations. However, expectations of all stakeholders remain very high and there remains a measure of disquiet about the degree to which all parties feel opportunities have been maximised. The level of leadership shown by contract parties and stakeholders over the next few years will determine whether or not the partnership creates new opportunities, especially in terms of rising levels of service to the poor, or merely delivers the minimum in terms of contract obligations.

Stakeholder perspectives documented in the report and supporting analysis makes a clear-cut case for ongoing and innovative support to those parties interested in and affected by municipal service partnerships such as the Siza Water concession. This support needs to be broadened to equip a wider body of stakeholders and carry with it a strong governance enhancement agenda.

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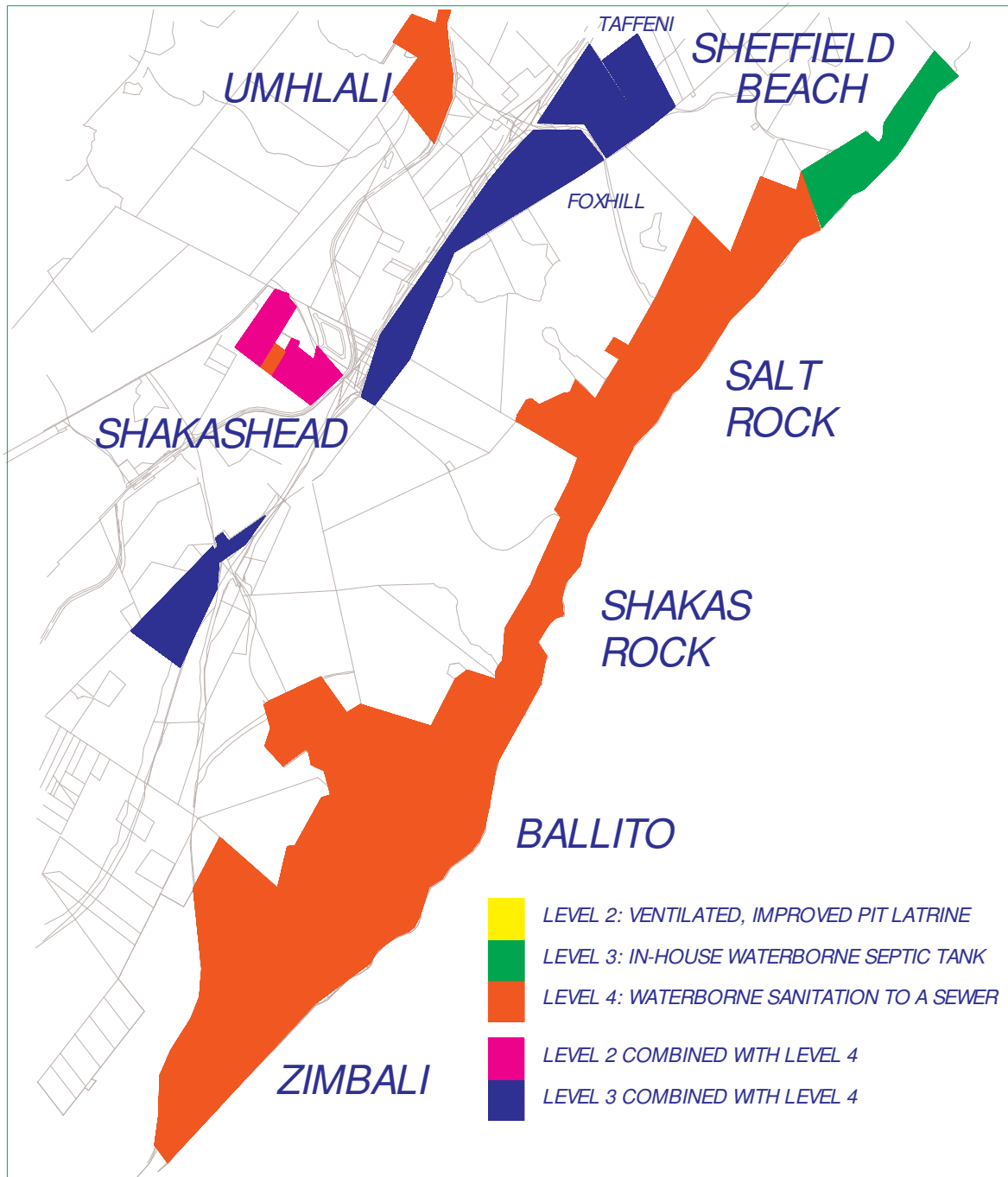
Web sites/resources

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- www.ilembe.gov.za
- www.miu.org.za
- www.pppcentre.com
- www.queensu.ca/msp
- www.saur.com

Annexures

List of interviews

Name	Organisation	Position	Date interviewed
Mark Hultzer (SWC)	Siza Water	Manager: Operations	16/10/03 24/11/03
Mike Newton (IDM)	Ilembe District Municipality	Director: Planning and LED	21/11/03
Rina Freeman, Tina Cooke and George ?	Ballito and Shakasrock Ratepayers Association	Former committee members	20/11/03
Cllr F Dawood (IDM Councillor)	Ilembe District Municipality	Councillor	20/11/03
Angela Masefield	DWAF	Deputy Regional Director	19/11/03
JC Mathe (Samwu)	SAMWU	Regional Secretary	18/11/03
Sandile Mbanjwa (IDM)	Ilembe District Municipality (also former employee of Siza Water and Umgeni Water)	Manager: Water and Sanitation	21/11/03
Asha Bassa (MIIU)	MIIU	Business Development Manager	04/11/03
Jogie Naidoo (IDM)	Ilembe District Municipality	Head: Technical Services	08/12/03



SIZA WATER CONCESSION AREA

COASTAL STRIP, SHAKASHEAD AND UMHLALI

LEVEL OF SEWAGE SERVICE AS PROPOSED IN THE FIVE YEAR PLAN