



**EMAKHAZENI LOCAL MUNICIPALITY**  
**BULK CONTRIBUTION DRAFT POLICY**  
**2021/2022**

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## DOCUMENT TRACKING

Rev	Author	Description	Date Submitted
Rev 01	Skotane Development Consultants (Pty) Ltd  <b>Signature:</b>	Bulk Contribution Draft	02/03/2022

Approval of the Project Inception Report indicates an understanding of the purpose and content described in this document. By signing this document, each individual agrees that work should be initiated on this project and necessary resources should be committed as described herein.

Approver Name	Title	Signature	Date

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## **ACRONYMS AND ABBREVIATIONS**

**S.D.F:** Spatial Development Framework

**S.P.L.U.M.A:** Spatial Planning and Land Use Management

**G.L.A:** Gross Leasable Area

**F.A.R:** Floor Area Ratio

**GLA:** Gross Leasable Floor Area

**Ha:** Hector

**E.S.A:** Engineering Service Agreement

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## DEFINITIONS

In this Policy, any word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates –

**'Applicant'** means the person making the application for a change in land use rights;

**'bulk engineering services'** means capital infrastructure assets associated with that portion of an external engineering service which is intended to ensure delivery of municipal engineering services for the benefit of multiple users or the community as a whole, whether existing or to be provided as a result of development in terms of a municipal spatial development framework (as defined in the Spatial Planning and Land Use Management Act);

**'By-Law'** means the Emakhazeni Local Municipality on Spatial Planning and Land Use Management By-Law, 2016;

**'Coverage'** means the area of a property covered by buildings as seen vertically from above and expressed as a percentage of the area of the erf, but excluding a structure without a roof or covered by hail net.

**'Condition of approval'** means condition(s) imposed by the Emakhazeni local Municipality in the approval of a land development application, including any conditions contained in Act, By-Law and Policy that form part of the approval and/or are referred to in the approval of the land development application.

**'Developer'** means an applicant, as defined in the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), whose land development application is approved, in whole or in part, by the person or body authorised to do so in terms of applicable legislation;

**'Development contribution'** means a charge levied by a Municipal Planning Tribunal or authorised official in terms of section 40(7)(b) of, and contemplated in section 49 of, the Spatial Planning and Land Use Management Act, which must –

- (a) contribute towards the cost of capital infrastructure assets needed to meet increased demand for existing and planned external engineering services;
- (b) with the approval of the Minister, contribute towards capital infrastructure assets needed to meet increased demand for other municipal engineering services not prescribed in terms of the Spatial Planning and Land Use Management Act;

**'Engineering service'** means an engineering service to provide one of the following: water, sanitation, electricity, municipal roads, stormwater and public transport, excluding bus rapid transit infrastructure or transport facilities located in the roadway;

**'Engineering Services Agreement'** means a written agreement concluded between the Municipality and the land owner on which a land development application has been brought in terms of section 45 of the Spatial Planning and Land Use Management Act, recording their detailed and specific respective rights and obligations regarding the provision and installation of external engineering services and internal engineering services required for an approved land development and matters ancillary thereto;

**'External engineering service'** means an engineering service situated outside the boundaries of a land area required to serve the use and development of the land area and is either a link engineering service;

**'Floor Area Ratio'** means the sum of the total area covered by a building at the floor level of each storey.

**'Gross Leasable Area'** means floor area that is designed for the occupation and control by a tenant, or that is suitable therefore, measured from the centre line of joint partitions and the internal surface of external walls.

**'Infrastructure'** means facilities and systems needed to provide bulk engineering services;

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

**'Link engineering service'** means an external engineering service required to connect an internal engineering service to a bulk engineering service and includes the land required for the link engineering service;

**'The Act'** means the Municipal Fiscal Powers and Functions Act, Act 12 of 2007, as amended;

**'The Municipality'** means, for the purposes of this policy, the Emakhazeni Local Municipality and its associated Municipal Owned Entities;

**'Transport'** means the public transport systems and related infrastructure and facilities within the Municipality that are wholly or partially operated and funded by the Municipality as well as non-motorised transport.

**'Spatial Development Framework'** means the Emakhazeni Spatial Development Framework.

## 1. INTRODUCTION

This document describes the Bulk Services Contribution Policy of the Emakhazeni Local Municipality in terms of Engineering Services rendered by the Municipality.

The Emakhazeni Local Municipality is characterised by a growing economy and a growing population. This results in continual urban expansion and intensified development. This contributes positively to the municipal fiscus through the increased contribution of property rates and services charges. However, this development also has an impact on the demand for engineering services resulting in the need to support development with increased capital investment in infrastructure provision. This has significant cost implications for the Municipality. So, as per Section 73(2)(c) of the Municipal Systems Act, these services must be provided in a financially sustainable manner, including through imposing, inter alia, charges to pay for services. Bulk Contributions (Bulk contributions) are required to cover the capital costs of providing infrastructure and to ensure that the main beneficiaries of infrastructure make an appropriate and fair contribution to that cost, without unduly burdening the Municipality's ratepayers. Other aspects, such as the operating costs of infrastructure, are covered by other revenue sources such as municipal property rates and consumption tariffs

The aim of the Emakhazeni Local Municipality Bulk Contribution Policy is to simplify and integrate the Bulk Contributions process and charges for roads and stormwater, water and sewerage, electricity and public transport services across the Municipality. It is intended to speed up the rate of development by providing greater clarity around an existing capital funding instrument that allows for the timely provision of essential bulk infrastructure required to service the needs of new development. It also aims to give further effect to section 127(1) of the Emakhazeni Local Municipal Spatial Planning and Land Use Management By-Law (2016), which indicates that the Municipality must develop a policy for development charges and may levy a development charge in accordance with the policy, for the provision of –

- (a) The engineering services contemplated in this Chapter where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme; and
- (b) Open spaces or parks or other uses, such as social facilities and services, where the commencement of the amendment scheme will bring about a higher residential density.

The policy rescinds all previous Municipality Bulk Contributions, engineering services contributions and bulk contributions, policies and calculators (including those of Municipal Owned Entities) from the date of its approval by Council and will be the single source for the application and calculation of Bulk Contributions going forward. All developments approved after the date of approval of the policy, will be subject to this policy.

## 2. Infrastructure Context Overview

Bulk infrastructure in the Municipality is provided by the Infrastructure, Planning and Social Development Department. The department is responsible for the provision of roads and stormwater, electricity, and water and sanitation infrastructure respectively.

Historically, the departments responsible for the bulk contribution charges have planned and implemented infrastructure separately. This has filtered through to the calculation and charging of Bulk Contributions, resulting in different approaches across the Municipality. This resulted in the Municipality failing to levy bulk contribution charges through the land use management processes.

The development of a single bulk contribution policy aims to address the failure by the Municipality to levy bulk contribution charges.



### 3. Principles Guiding Bulk Contributions in the Municipality

The following principles apply to the implementation of this policy in the municipal area and must be taken into account by all decision-makers implementing this policy.

- 3.1. **Equity.** Developers and land use applicants should pay their fair share, on the same basis and according to the same rules across the Municipality. Similar land uses should be treated similarly and the same rules and principles should apply to all land development applications.
- 3.2. **Fairness.** Only those who benefit from a product or service should pay for it, in proportion to the value they derive from it. The contribution a developer should make is based on the expected impact of the development on the infrastructure. The developer is not asked to contribute to backlogs or to provide infrastructure in excess of the impact the land use change will have. A new development does not have to subsidize existing communities or other new developments but the Municipality may seek to require that a developer install infrastructure to meet the planned standards needed to accommodate future demand, provided that the developer may only be compelled to do so where the proposed development is not accommodated in current infrastructure masterplans. There should not be duplication in the recovery of the capital cost of infrastructure from more than one funding source; capital costs recovered through Bulk Contributions cannot also be recovered through property rates or service tariffs
- 3.3. **Justified.** The approval of enhanced land use rights will result in the requirement for new or upgraded infrastructure, and/or take up spare capacity in existing infrastructure. It is therefore justified that the beneficiary of the enhanced rights contributes towards the capital cost of the infrastructure used. This additional load will be determined on the basis that existing communities should not have to subsidize new land developments by allowing free use of previously provided infrastructure for those developments
- 3.4. **Reasonableness.** There must be a rational connection between the contribution, the cost of infrastructure and the relative impact of a development on that infrastructure. Contributions should be calculated based on the estimated cost of infrastructure to support growth, apportioned to each unit of growth relative to the benefit that each such unit derives. Bulk Contributions are intended to recover the infrastructure costs incurred or to be incurred because of growth; they are not a form of taxation. As far as possible the amount of the development contribution should be calculated to achieve full cost recovery. This is in line with the SPLUMA principle of sustainability, which requires that decision makers must 'consider all current and future costs to all parties for the provision of infrastructure ... in land developments'
- 3.5. **Predictability.** Bulk contributions should be a predictable, legally certain and reliable source of revenue to the Municipality for providing infrastructure, and a predictable cost to developers.
- 3.6. **Certainty.** Bulk Contributions revenue should be dedicated only to the purpose for which it was raised, so municipalities must disclose the amounts collected and how the revenue is spent. If developers pay the Bulk Contributions, then they are entitled to demand of the Municipality the timely provision of the engineering services that it must provide, within the requirements of the Municipality's capital budgeting system. This complies with the SPLUMA principle of good administration which requires that policies, legislation and procedures must be clearly set out in order to inform and empower members of the public.
- 3.7. **Administrative efficiency.** The determination, calculation and operation of Bulk Contributions should be administratively simple and transparent.

## **4. Objectives**

4.1. The Municipality requires the payment of bulk contributions to cover the costs of municipal external engineering services required to accommodate increased demand for such infrastructure that arises from intensified land use. It is not practical to calculate the precise costs imposed by each new development on the Municipality's infrastructure, so a policy is needed to determine a fair and efficient method to determine a cost to be covered by each development, so that the full costs of serving increased demand are shared fairly among those creating that demand.

4.2. The municipality recovers the cost to it of bulk infrastructure by providing for a portion thereof in the tariffs for the service in question as well as by means of bulk service contributions. This policy provides a framework for the determination of bulk service contributions on an equitable basis thereby allowing tariffs to be set at a more affordable level and shortening the period of recovery of the capital cost of bulk infrastructure, thus reducing long-term debt, improving the municipality's balance sheet and its credit rating and further enabling the municipality to develop a capital reserve for new and replacement bulk infrastructure

4.3. The Municipality may only use the revenue from bulk contribution to increase municipal external engineering services to support growth and development in the municipal area. This revenue may not be used for other purposes.

4.4. The policy supports the Municipality in executing its mandate to do "municipal planning" in terms of section 156 read with Schedule 4 Part B of the Constitution, informed by its municipal spatial development framework and in accordance with the Municipality Spatial Planning and Land Use Management By law, 2016.

## **5. Legislative Framework**

### **5.1 The Water Service Act 108 Of 1997.**

Emphasizes firstly the right of access to basic water supply and the right to basic sanitation necessary to secure sufficient water and an environment not harmful to human health or well-being as well as the setting of national standards and norms and standards for tariffs in respect of water services. The preparation and adoption of water services development plans by water services authorities is imperative and a regulatory framework for water services institutions and water services intermediaries.

The Act also provides for the establishment and disestablishment of water boards and water services committees and their duties and powers, the monitoring of water services and intervention by the Minister or by the 5 relevant Province, financial assistance to water services institutions, the gathering of information in a national information system and the distribution of that information, the accountability of water services providers and the promotion of effective water resource management and conservation

### **5.2. The Constitution of the Republic of South Africa 1996.**

In terms of section 156(1) of the Constitution municipalities have executive authority in respect of, and the right to administer the local government matters listed in part B of Schedule 4 and part B of Schedule 5 and any other matter assigned to it by national or provincial legislation, which includes municipal planning, stormwater management, water and sanitation, cleansing, local amenities, park and recreation, municipal roads, public places, refuse removal and solid waste disposal. Section 229 of the Constitution then provides that municipalities may impose rates on property and surcharges on fees for services provided by or on behalf of the municipality; and if authorised by national legislation, other taxes, levies and duties appropriate to local government or to the category of local government

into which that municipality falls, but no municipality may impose income tax, value-added tax, general sales tax or customs duty. This enables municipalities to receive money to fund their obligations. It also provides that when a municipality imposes rates on property, surcharges on fees for services provided by or on behalf of the municipality, or other taxes, levies or duties, it may not do so in a way that materially and unreasonably prejudices national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital or labour; and may be regulated by national legislation.

### **5.3. Spatial Planning and Land Use Management Act (SPLUMA).**

In terms of section 122, an applicant is responsible for the provision and installation of internal and link engineering services and a municipality is responsible for the provision of external engineering services. In section 127(2) SPLUMA provides that an application is approved by the Municipal Planning Tribunal subject to, amongst others, the payment of a development charge or an amendment scheme comes into operation, the applicant or owner of the land to which the scheme relates, must be informed of the amount of the development charge and must, subject to section 124, pay the development charge to the Municipality.

### **5.4. Draft Municipal Fiscal Powers and Functions Bill (MFPFB).**

The draft MFPFB confirms the power for municipalities to levy Bulk contributions to contribute towards the cost of bulk infrastructure required to service additional land development. The draft Bill empowers municipalities to withhold approvals or clearances for non-payment of Bulk contributions. It sets out the permissible uses of income from Bulk contributions and establishes the principles for the calculation of Bulk contributions. All municipalities must have a by-law that describes how that municipality intends to levy Bulk contributions. Municipalities that charge Bulk contributions are required to do so in terms of a municipal BULK CONTRIBUTION policy, with a set of minimum content and public participation requirements. An Engineering Services Agreement (ESA) is required to be concluded where bulk engineering services are required to be installed, either by the municipality or by the developer. The ESA, inter alia, covers the nature, timing and standards for the engineering services. Where developers install engineering services instead of payment of Bulk contributions, the draft Bill regulates how this is procured, how the value is ascertained and how this value is offset against the development contribution or, in particular cases, reimbursed to the developer. A municipality may only subsidise Bulk contributions in terms of its BULK CONTRIBUTION policy but must calculate the BULK CONTRIBUTION as if it were payable in all cases. The draft Bill also describes the financial management and reporting requirements to be followed in accounting for Bulk contributions.

**5.5. The Emakhazeni Local Municipality Spatial Planning and Land Use Management By-Law (2016)** contains specific empowering provisions allowing the decision-maker to require a contribution in respect of engineering services when approving the following land development applications:

- A land use consent
- A scheme amendment, or rezoning,
- Township establishment
- Extension of township boundary
- A subdivision
- The Removal, Amendment of restrictive title conditions

## **6. Municipal Stakeholders**

The key municipal stakeholders affected by bulk contributions generally fall into two categories: those making development applications, which may be private or public entities, and those responsible for the collection of the contribution and the provision of engineering services, which is the Municipality.

In addition, the existing businesses and residents of the Emakhazeni Local Municipality have an interest in the policy ensuring that they are not cross-subsidising new development.

In the drafting of this policy, key Emakhazeni Local Municipality and Nkangala District Municipality officials were included on the Project Steering Committee that oversaw the drafting of the Policy

## **7. Administrative Process**

**Responsibilities of the Developer/Applicant** According to the Emakhazeni SPLUMA By-Law 2015 on Chapter 7 deem it necessary that every land development area must be provided with engineering services. Additionally, it is the Applicant's responsibility to provide and install internal engineering services required for a development at his/her cost when a land development application is approved. It is the Municipality's responsibility to install and provide external engineering services, subject to the payment of development charges first being received, unless the engineering services agreement referred to in section 117 of the SPLUMA By-law provides otherwise.

## **8. Scope of Bulk Contributions**

The primary purpose of bulk contributions is to cover the capital costs arising from the provision of engineering services to meet the demands of new developments. The By-Law defines engineering services in a manner consistent with the Spatial Planning and Land Use Management Act. For this policy however, the Municipality may determine a bulk contribution liability for the following engineering services that are provided by the Municipality:

- Water
- Sanitation
- Storm water

The Municipality will not factor into its bulk contribution calculation the costs of engineering services provided by other spheres of government or by state-owned entities. Thus, for example, the costs of designated provincial or national roads cannot be included in the calculation, but developments abutting a provincial or national road will still be required to pay a bulk contribution for use of the municipal road network.

Where a new development straddles or abuts the boundary with another municipality the Municipality may agree with that municipality that a portion of the bulk contribution revenue is transferred to that municipality.

## **8. Triggers for Development Contributions**

8.1. The bulk contributions will be levied through the land development application process; thus, the contribution will be imposed by the Municipality as a condition of a land development approval given by the Municipal Planning Tribunal or authorised officials.

8.2. In terms of the Municipal Spatial Planning and Land Use Management By-Law (2016), the following land development applications are subject to bulk contributions:

- A land use consent,
- A scheme amendment, or rezoning,
- Township establishment,
- Extension of a township boundary,
- A subdivision,
- The Removal, Amendment of restrictive title conditions

8.3. For land development applications not noted above, the By-Law and the Land Use Scheme provide that the Municipality may impose conditions that it may deem expedient. This may include the

levying of engineering services contributions by the Municipality, subject to the network impact(s) of the proposed land use change. At this point these applications will not trigger a bulk contribution.

8.4. Should amendments be made to the By-Law that impact the range and nature of land development applications referred to in above then this policy must be understood to apply to the new categories and/or definitions of land development applications introduced by that amendment.

8.5. Land development applications resulting in an equal or lesser impact than the existing land use, will not be subject to bulk contributions

8.6 Where the Municipal Planning Tribunal or authorised official approves a land development application that gives rise to a more intensive use of land then it must require that a development contribution is made as a condition to the approval. The determination of the bulk contribution liability will be made by the Municipality.

## **9. Use of Development Contributions**

9.1 Bulk Contributions may only be used for the capital funding of the external engineering services described in Section 7 – Scope of Bulk Contributions.

9.2 Bulk Contributions collected for an engineering service shall be used to provide new infrastructure for that service, or to pay off loans taken out to fund existing infrastructure for that service.

9.3 If adequate external engineering services exist to service a development, the bulk contributions collected from that development may be used to provide infrastructure elsewhere in the Municipality.

9.4 In the case of bulk contributions raised to cover Public Transport costs, a generalised transport contribution will be charged across the entire municipal area and a zone-specific transport contribution will be charged in specific transport zones in which transport master planning has been undertaken. The zone-specific transport bulk contribution may only be used in those public transport zones in which they are raised.

## **10. Calculation of Development Contributions**

### **10.1 Calculation Principles**

10.1.1. Developers are responsible for the provision of internal and link external engineering services. The bulk contribution relates only to the cost of bulk engineering services. The link services to be provided for a development will be determined by the Municipality and specified in an Engineering Services Agreement (ESA).

10.1.2. The bulk contribution liability must be proportional to the extent of the demand that the land development is projected to create, for existing or planned bulk engineering services; and must be calculated on the basis of a reasonable assessment of the costs of providing existing or planned bulk engineering services.

10.1.3. The bulk contribution for each service is calculated as the total impact on the service, multiplied by the unit cost for that service applicable in the current financial year. This calculation is undertaken for each engineering service covered by this policy. The calculation of the total bulk contribution is given by the generic formula:

$$\text{Development charge} = \sum_{i=1}^N \text{total impact on service}_i \times \text{unit cost of service}_i$$

Where: *N* is the total number of services covered by this policy.

10.1.4. In turn, the total impact that a development will have on demand for municipal bulk services is calculated by the generic formula:

$$\text{Total impact on service} = \sum_{i=1}^N \text{unit impact for land use}_i \times (\text{proposed units} - \text{existing units})$$

Where: *N* is the total number of land uses in the proposed development.

The data inputs required to calculate the bulk contribution are therefore:

- Proposed land use changes (submitted as part of application)
- Unit impact (described below)
- Unit cost (described below)

## 10.2 Determination of Unit Impacts for Land Uses

10.2.1 The proportional impact of developments relative to one another is estimated through the use of standard unit impacts for each land use. The standard unit impacts for the Emakhazeni Local Municipality are based on national engineering norms and standards and validated against land use and consumption data for Emakhazeni. The standard land uses used in the calculation of bulk contributions is a rationalised list of the land uses described in the Emakhazeni Land Use Scheme. The determination of which land use categories apply to the development will be made by the Municipality, at its sole discretion.

The measurement for the impact on each of the engineering services is provided in the table below:

Engineering Service	Measure	Unit of measure
<b>Electricity</b>	After Diversity Maximum Demand (ADMD)	kVA
<b>Roads</b>	Modified vehicle trip generation	Equivalent trips/peak hour
<b>Water</b>	Average Annual Daily Demand (AADD)	kℓ/day
<b>Sanitation</b>	Average Annual Daily Outflow	kℓ/day
<b>Stormwater</b>	Runoff coefficient (C)	(unit-less runoff coefficient)
	Development area (site area)	m <sup>2</sup>
<b>Transport</b>	Public transport passenger trips per peak period	PT trips/peak period

Table 1: Engineering Services

## 10.3 Determination of Unit Costs

To be determined.

## 11. Payment of Development Contributions

11.1 Payment of bulk contributions is due at the payment points set out in the conditions of the land development approval granted by the Municipal Planning Tribunal or authorised official as prescribed in the By-Law.

11.2 The Municipality may withhold any approval or clearance it is empowered to grant or issue in terms of any other legislation in respect of either the land owner or land development area in question, including the approval of a building plan in terms of the National Building Regulations and Building Standards Act until the bulk contribution envisaged in subsection (1) above has been settled in full or where the obligations in terms of the applicable Engineering Services Agreement have been fulfilled.

11.3 Payment must be made into the account specified by the municipal cashiers for expenditure in line with this policy.

11.4 The Municipality will issue receipts for all payments received and will record each payment made in the municipal accounts, specifying the amounts received for each engineering service.

11.5 If the application lapses in terms of SPLUMA any bulk contributions already paid will not be refunded.

11.6 Where the developer opts not to proceed with development, the Municipality shall only refund any bulk contributions received where the permitted land use change is reversed to reflect the permitted land use applicable before the land development application was made and all professional and administrative costs relating to this reversal of the permitted land use shall be borne by the developer.

## **12 Installations of External Engineering Services to Offset the Payment of Bulk Contributions**

12.1 The Municipality may agree in writing that a developer installs any external engineering services required to serve the development, including both bulk and link engineering services, on behalf of the Municipality and the fair and reasonable cost of installing a bulk engineering service may be set off against the external engineering services bulk contributions payable, on condition that:

12.1.1 An Engineering Services Agreement (ESA) is entered into between the developer and the Municipality, which separately specifies the link infrastructure to be provided by the developer and the bulk infrastructure to be provided to offset the payment of bulk contributions;

12.1.2 The ESA will stipulate the manner in which the value of the installed engineering services will be valued so that the amount of bulk contribution payable can be reduced accordingly;

12.1.3 where there is such an ESA to install all or part of the external engineering services, the terms of that agreement shall comply with all other relevant legislation (i.e. Section 124 subsection 1, 2,3 & 4 of the Emakhazeni Spatial Planning and Land Use Management by-law 2015; and

12.1.4 the amount that may be set off for any bulk engineering service may not exceed the total bulk contribution amount calculated for that bulk engineering service, provided that, for the purposes of this sub-clause:

12.2 Where a developer installs external engineering services, as contemplated in section 12.1, through one or more contractors appointed by the developer:

12.2.1 the Municipality may require a developer to consult with specified municipal officials prior to making a decision on appointment of a contractor, so that the Municipality has an opportunity to make representations regarding the fairness and reasonableness of the costs of installation of the goods and services procured by the developer;

12.2.2 the Municipality may designate one or more officials of the Municipality to participate as an observer in the developer's deliberations on any bid received by the developer from prospective contractors, in order to satisfy itself that the decision-making process is fair;

12.2.3 the developer must keep a record of the procurement process followed and the contract awarded for the installation of any external engineering services, and append a copy of that record to the Engineering Services Agreement concluded with the Municipality;

12.2.4 The Municipality may appoint an appropriately qualified independent third party to assess the bid process conducted by the developer, including an assessment as to whether the costs of installation claimed by the developer are fair and reasonable;

12.2.5 The developer must keep accurate records of payment made to contractors to verify final payment certificates;

12.2.6 the developer must permit the Municipality to have access on reasonable notice to all relevant records relating to the construction process, including but not limited to records relating to the procurement process, and the contractual documentation, notices, invoices, progress reports and other records;

12.2.7 the developer must appoint an independent, registered professional consulting engineer to certify the monetary value of the external engineering services installed, and the valuation performed must take account of the value of any immovable property used for purposes of installation of external engineering services and which is to be transferred to the Municipality;

12.2.8 the engineer appointed in terms of subparagraph 12.2.7 must also confirm whether the external engineering services installed conform to the technical standards set by the Municipality, and must deliver a certificate to that effect to the Municipality, or notification as to the defects;

12.2.9 the Municipality may appoint an independent, registered professional consulting engineer to verify the valuation and certification carried out by the engineer in terms of subparagraphs 12.2.7 and

12.2.8; and 12.2.10 the Municipality may impose, as conditions of approval, or agree with the developer in the ESA, other appropriate procurement and cost-related safeguards on a case-by-case basis, depending on the circumstances.

12.3 Where the developer does not appoint a contractor, and installs external engineering services, as contemplated in section 12.1, itself, the provisions of sub-regulations 12.2.6, 12.2.7, 12.2.8, 12.2.9, and 12.2.10 are applicable.

12.4 The costs that may be included in the valuation of the work in terms of section 12.2.7 and 12.2.9 are land costs, professional fees related to the technical design of the infrastructure (which may include master planning), materials, labour and reasonable costs of construction but may not include professional fees relating to other aspects of the development or other regulatory processes such as environmental impact assessments, traffic impact assessments, heritage assessments and water use licences.

12.5 No engineering services installed by a developer may be accepted by the Municipality until there has been a final site inspection by an authorised representative of the Municipality and the following have been provided by the developer:

12.5.1 A detailed breakdown of the costs incurred;

12.5.2 A consulting engineer's Certificate of Completion;

12.5.3 As-built drawings in the formats required by the Municipality;

12.5.4 Record drawings, with a covering letter detailing the project, list of drawings, format of digital drawings and, where applicable, the number of disks provided;

12.5.5 Such laboratory tests, conducted by an independent laboratory, as the Municipality may require and in line with the applicable national standards; and

12.5.6 A guarantee in the amount of 10 (ten) % of the value of the new works for a further defects liability period of 12 (twelve) months.

12.6 If there is an ESA in terms of which the developer agrees to install any external engineering services required to serve the development the Municipality may at its discretion waive the bulk contribution payment for the installation of external engineering services and, where deemed



necessary, may require a guarantee from a bank up to the value of those services. In this case the balance of the bulk contribution amount will still be payable on completion of the installation of external engineering services if the value of the engineering services installed is less than the calculated value of the bulk contribution.

12.7 Should the cost for installing such bulk engineering service(s) as contemplated in section 12.1 exceed the amount of the bulk engineering services bulk contribution as determined by the Municipality, then the Municipality may in its sole discretion refund the owner of the land; provided that the necessary funds are available on the Municipality's approved budget or can be recovered from subsequent developers connecting to the same external engineering services, provided further that these developments are clearly likely to connect to the external engineering services to which the refund pertains and:

12.7.1 Will take place within three years from completion of the external engineering services; or

12.7.2 Will take place more than three years from completion of external engineering services where the consent of the Council of the Emakhazeni Local Municipality has been obtained.

12.8 A refund provided in terms of section 12.7 may be made in terms of money or the provision of additional capacity in a particular external engineering service, at the discretion of the Municipality.

12.9 Should the cost for installing such bulk external engineering service(s) as contemplated in section 12.1 be less than the amount of the bulk contribution amount as determined by the Municipality, then the developer is liable for the payment of the difference between the certified value of the work and the calculated bulk contribution, in line with Section 11 of this policy.

12.10 Where offset repayment is due in terms of section 12.7 and the municipality, after reasonable effort, is unable to locate the developer after a period of three (3) years, the money will be forfeited by the developer and disbursed to the relevant bulk contribution accounts.

12.11 All capital infrastructure assets installed by a developer and set off against the liability for payment of bulk contributions must be transferred to the Municipality in a manner consistent with the following requirements:

12.11.1 any immovable property upon which the capital infrastructure assets are installed must be transferred to the Municipality or the developer must issue an undertaking in terms satisfactory to the Municipality, that the Municipality will have reasonable access to the capital infrastructure assets installed by the developer at all times, which undertaking must, at the discretion of the Municipality, be registered by the developer as a servitude in favour of the Municipality; and

12.11.2 Any immovable property that is to be transferred may not be so transferred until the land development area is lawfully occupied by the purchasers, tenants or other lawful occupants.

12.12 All capital infrastructure assets transferred to the Municipality must be in good working order.

12.13 Capital infrastructure assets installed by a landowner that become the property of the Municipality as contemplated in section 12.10.1, will be accounted for in accordance with the generally recognised accounting practice as provided in Section 122 of the Municipal Finance Management Act.

### **13. Subsidies**

13.1 The Municipality may only subsidise the following land developments through a reduction in the bulk contributions liability, either in full or in part where:

13.1.1 existing municipal services or components thereof are established or planned and have been or will be financed from national or provincial transfers to the extent that the grant funding covers the infrastructure costs and to the extent that the type of development qualifies for that grant funding;

13.1.2 The land development provides social, cultural or economic services that are specified annually by the Municipality for the purposes of implementing this section of the policy;

13.1.3 The land development provides inclusionary housing units in terms of the Municipality's inclusionary housing policy, which are rental units and subject to a capped rental amount;

13.1.4 The Council of the Emakhazeni Local Municipality has determined that the land development in question will introduce fundamental improvements to the economic growth and job creation trajectory of Emakhazeni and the Nkangala District Municipality and is in line with the Municipality's then applicable municipal spatial development framework.

13.2 Where a subsidy is applied the Municipality will calculate the revenue foregone and identify an alternative revenue source to cover that amount.

13.3 Where a development has a mix of land uses, subsidies may only be applied pro rata to qualifying land uses and not to the development as a whole.

#### **14. Administrative Process**

14.1 All land development applications will be submitted to the Emakhazeni Local and Nkangala District Municipality Town Planning department.

14.2 The application will be evaluated by the Nkangala District Planning Tribunal in terms of the Emakhazeni Local Municipality Spatial Planning and Land Use Management By-Law 2016, taking into consideration all comments received, and a decision taken.

14.3 During the post-decision phase, bulk contributions (if applicable) will be calculated by the Emakhazeni Local Municipality's infrastructure department.

14.4 The applicant will be informed of the Municipality's decision, including the bulk contribution amount payable, if applicable.

14.5 In accordance with the By-Law, a land owner may enter into an Engineering Services Agreement with the Municipality prior to the payment of any bulk contributions.

#### **15. Monitoring, Evaluation and Review**

15.1 The Municipality will put in place a system of monitoring the implementation of this policy and evaluation of the bulk contribution calculation, payment, expenditure and offset system.

15.2 The Municipality will revise this Policy where necessary, for example where amendments to the By-Law affect the application of this policy the policy must be amended accordingly to ensure that there is no inconsistency between the By-Law and the bulk contribution Policy.

15.3 The Municipality will separately account in the municipal budget and related financial reports for all:

15.3.1 Amounts received by the Municipality to discharge bulk contribution liabilities; and

15.3.2 Expenditure incurred for purposes of providing external engineering services, which is funded from bulk contribution revenue; and

15.3.3 The value of external engineering services transferred to the Municipality to offset bulk contribution liabilities.

## 16. Dispute Resolution and Appeal Process

16.1 Where a developer or other party to a land development application wishes to challenge the manner in which this policy is applied, he/she may appeal against any decision of the Municipal Planning Tribunal or authorised official or other relevant authority in accordance with the appeal provisions set out in SPLUMA by law.

### Appendix: Standard Unit Impacts

#### ➤ Abbreviations/ symbols

- ❖ T/Week- Solid Waste/ Garbage Collection Trip Per Week
- ❖ Kl/Day- Kiloliters of Water Per Day
- ❖ Ha\*C Unit-Less Coefficient Run Off by Meter hector

#### ➤ Definition

1. **“Commercial”** in relation to a use right means a use right for the express purpose of making a profit with no or limited social or charitable objectives
2. **“Residential”** means **use in a structure or portion of a structure which is a person’s permanent principal residence**. It does not include use in motor homes, travel trailers, other recreational vehicles, or transient accommodations.
3. **“Industrial Purposes”** means purposes normally or otherwise reasonably associated with the use of land for the manufacture, altering, repairing, assembling or processing of a product, or the dismantling or breaking up of a product, or the processing of raw materials, including a noxious activity;
4. **“Industrial Use”** means a land unit, which in the Council’s opinion, is used as a factory whether or not such enterprise is a factory as contemplated in the definitions of “factory” in the General Administrative Regulations made in terms of Section 35 of the Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983), as amended, under Government Notice R 2206 of 5 October 1984, and in which
  - a) an article or part of such article is made, manufactured, produced, built, assembled, compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted (including spray painting), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, chilled, frozen or stored in cold storage; or livestock (including poultry) are slaughtered; or
  - b) electricity is generated for the use in processes referred to in (a) and (b) above (and (includes)
  - c) an office, caretaker’s quarters or other uses which are subservient and ancillary to the use of the land (unit) as a factory an industrial use but does not include a public garage, service of filling station, noxious trade, light industry, warehouse, workshop and other property on or in which the following activities mentioned in (i) to (v) are carried out:

- i. inside and secondary to a shop, solely for the purpose of selling by retail from that shop;
  - ii. an agriculture industry; ((bb) by a farmer, solely in connection with farming operations on a farm operated by himself)
  - iii. solely in connection with consultative professional services;
  - iv. in respect of facilities used solely for teaching and instruction in primary, secondary or tertiary educational institutions; and
  - v. on a property used temporarily and solely for carrying out building work or an activity connected therewith.
5. **“Other” uses that are not aligned to definitions mentioned 1-4**
6. **“Special” land uses that are not generic in most cases not listed in the land use scheme and land uses that are granted to developments that of a special/ unique nature**
7. **“Community”** Means purposes normally or otherwise reasonably associated with the use of land for cultural activities, social meetings, gatherings, non-residential clubs, gymnasiums, sport clubs or recreational or other activities where the primary aim is not profit-seeking, excluding a place of amusement.
8. **“Community Facility”** Means premises used for cultural activities, social meetings, gatherings, non-residential clubs, gymnasiums/ fitness centers, sports clubs or recreational or other activities where the primary aim is not to profit seeking and excludes a place of entertainment. (aside from the schemes definition it includes, including play equipment, street furniture, crèches, clinics, indoor sports facilities or community halls.
9. **“Industrial”** Means purposes normally or otherwise reasonably associated with the use of land for the manufacture, altering, repairing, assembling or processing of a product, or the dismantling or breaking up of a product, or the processing of raw materials, including a noxious activity. Note that this category excludes extractive activities (these would fall under mining).

## Appendix: Standard Unit Impacts

[Under development]

Land uses classification			water		Sewage		Storm water		SOLID WAIST		road	
	Land use	Unit	Kl/day	Cost price	Kl/day	Cost price	Ha*C	Cost price	T/week	Cost	Trip/day	Cost
residential	Single Residential >1000m2	DWELLING UNIT	1.2		0.7		0.048		0.04		4.0	
	Single Residential >500m2	DWELLING UNIT	0.8		0.65		0.028		0.04		4.0	
	Single Residential >250m2	DWELLING UNIT	0.7		0.6		0.023		0.04		4.0	
	Single Residential <250m2	DWELLING UNIT	0.6		0.5		0.018		0.04		4.0	
	Less Formal Residential >250m2	DWELLING UNIT	0.6		0.5		0.023		0.04		0.75	
	Less Formal Residential <250m2	DWELLING UNIT	0.45		0.4		0.018		0.04		0.75	
	Group Residential >250m2	DWELLING UNIT	0.7		0.6		0.023		0.04		3.75	
	Group Residential <250m2	DWELLING UNIT	0.6		0.5		0.018		0.04		3.25	
	Medium Density Residential >250m2	DWELLING UNIT	0.7		0.6		0.023		0.04		2.75	
	Medium Density Residential <250m2	DWELLING UNIT	0.6		0.5		0.018		0.04		3.25	
	High Density Residential - Flats	DWELLING UNIT	0.45		0.4		0.008		0.04		2.75	
	High Density Residential - Student Rooms	DWELLING UNIT	0.18		0.15		0.004		0.015		1.0	
	Accommodation	BEDROOM	0.2		0.1		0.0085		0.006		1.1	
co m m e r c i	Local Business Office	100M2 GLA	0.400		0.350		0.008		0.040		9.00	

	Local Business - Retail	100M2 GLA	0.400		0.350		0.008		0.040		9.00	
	General Business - Office	100M2 GLA	0.400		0.350		0.008		0.040		9.00	
	General Business - Retail	100M2 GLA	0.400		0.350		0.008		0.040		9.00	
	Community	100M2 GLA	0.400		0.350		0.008		0.040		9.00	
	Education	100M2 GLA	0.400		0.350		0.008		0.040		9.00	
industrial	Light Industrial	100M2 GLA	0.400		0.350		0.015		0.040		6.00	
	General Industrial - Light	100M2 GLA	0.400		0.350		0.015		0.040		6.00	
	General Industrial - Heavy	100M2 GLA	0.400		0.350		0.015		0.040		6.00	
	Noxious Industrial - Heavy	100M2 GLA	0.400		0.350		0.015		0.040		6.00	
Other	Resort	100M2 GLA	0.4		0.350		0.008		0.040		9	
	Public Open Space	HA					0.2					
	Privet Open Space	HA					0.2					
	Natural Environment	HA					0.2					
	Utility Services	100M2 GLA	0.4		0.350		0.008		0.040		9	
	Public Roads And Parking	HA					0.7					
	Transport Facility Limited Uses	HA					0.7					
Σ P.C.B	To Be Calculated Based On											

	Equivalent Demand											
<b>Community facility</b>		Person	0.02		0.01		0.005		0.006		0.8	

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