

**A CRITICAL REVIEW OF PUBLIC-PRIVATE
PARTNERSHIPS IN THE MANAGEMENT OF WATER
SERVICES DELIVERY: THE CASE OF NELSPRUIT**

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**A Critical Review of Public-Private Partnerships in the Management of Water Services
Delivery: The Case of Nelspruit**

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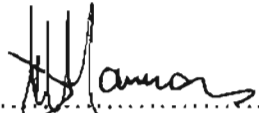
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Abstract

This study sought to investigate the complexities and challenges posed by the adoption of a Private-Public Partnership (PPP) as a mechanism for delivering services in a South African local government context. The rationale of using PPP is to be effective, efficient, accountable and transparent. The study highlights the post-apartheid government's efforts to transform water services delivery through introducing various policies and legislation in order to provide water services to communities that were previously denied access to reliable and portable water supplies.

This study looks at both positive and negative aspects of public service management in general and has identified New Public Management (NPM) as a theory that seeks to address the inadequacies commonly attributed to classic public service management. PPP is an example of emerging model of service delivery from the New Public Management school of thought.

New Public Management, the study's adopted theoretical framework, is concerned with reformation in a public sector organization (in this case the local government), so that it can perform effectively and efficiently. Another area of concern in New Public Management is ensuring that the public sector organizations provide decision makers with sound advice on all aspect of policy: conceptualization, review, implementation, monitoring and evaluation.

The research methodology that this study used was a qualitative approach. Secondary sources of data were employed, while the method of data analysis was content analysis. Themes emerging from the data formed the basis for analysis in line with the adopted theoretical framework.

The findings were based on the four sets of objectives of the study, using research questions as a guide. The process involved applying New Public Management (NPM) concepts to the case study. An examination of the manner in which networks have been managed in Nelspruit. Also examined is the legislative and policy framework that allowed and accommodated the inclusion and operation of PPP. Opportunities and threats surrounding the Greater Nelspruit Utility Company (GNUC) Concession were also identified. Finally, lessons and implications in the usage of the PPP approach as a mechanism of water services delivery concludes the discussion on the findings.

Dedication

This dissertation is dedicated to Mutinta (Timu), Sera and Bethen (Bebe) for being patient with me.

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Abbreviations

ANC – African National Congress

ANCYL – African National Congress Youth League

BOT – Build Operate Transfer

CBO – Community Based Organization

CEO – Chief Executive Officer

COSAS – Congress of South African Students

COSATU – Congress of South African Trade Union

DBSA – Development Bank of Southern Africa

DPSA – Department of Public Service and Administration

DWAF – Department of Water Affairs and Forestry

FBW – Free Basic Water

GEAR – Growth, Employment and Redistribution

GNUC – Greater Nelspruit Utility Company

MDG – Millennium Development Goals

MIIU – Municipal Infrastructure Investment Unit

MSP – Municipal Service Partnership

NGO – Non-Governmental Organization

NPM – New Public Management

NWA – National Water Act

NWP – National Water Policy

PFMA – Public Finance Management Act

PPPs – Public-Private Partnerships

PSP – Private Sector Participation

RDP – Reconstruction and Development Programme

ROT – Rehabilitate Operate Transfer

RSA – Republic of South Africa

SACP – South African Communist Party

SAMWU – South African Municipal Workers Union

UN-HABITAT – United Nations Habitat

WPLG – White Paper on Local Government

WPTPS – White Paper on the Transformation of Public Services

WSA – Water Services Authority

WSSP – Water Supply and Sanitation Policy

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Chapter 1

Introduction

This study sought to investigate the complexities and challenges posed by the adoption of the Public-Private Partnership (PPP) as a mechanism for delivering services in a local government context. Water and sanitation delivery, one of the key priority areas spelled out in the *Millennium Development Goals (MDGs)* (United Nations 2005:33), was used to give the study a contemporary international dimension.

An efficient, transparent, accountable and cost-effective public service is the key to making advances towards meeting MDGs (Kaul 1998a:24-62). A public service organization with such related characteristics is ideally supposed to make progress in service delivery. However, concerns about the slow pace of service delivery, often lagging behind established estimates of backlogs and the inefficiencies that characterize sole government operations in service delivery have led to calls for alternative approaches the world over. Outsourcing, contracting, privatization, commercialization and public-private partnerships (PPPs) represent some of the myriad alternatives to sole government implementation or provision of services.

PPPs being considered to be a reasonable and viable option are fast emerging as a mechanism for augmenting government efforts with those of the private sector in delivering essential public services (Van Niekerk 1998:2). Realization that governments are not always best positioned to provide all goods and services in the most effective and

efficient way, has led to calls for alternative service delivery mechanisms. This realization has come against a background, in many instances, of histories of sole government involvement in delivering essential services. Schools of thought such as the New Public Management, with its stress on efficiency, effectiveness, accountability, transparency, sustainability and equity have leveraged the position of PPPs (Bakker 2003:35). The popularity of PPPs also seems to be emerging from economies of scale¹ and other perceived benefits are increasingly making the PPP route attractive to many governments. PPPs increasingly promise to assist governments in different parts of the world in delivering core services including those with a direct bearing to meeting MDGs (United Nations 2005:34).

To give this study an empirical focus, South Africa was used as a source country for a case study. The reason is that South Africa has in recent years witnessed a growth in PPPs in various sectors (Van Niekerk 1998:2), particularly in municipalities in the provision of essential services like water, sanitation and garbage collection (Gumedé 2005: 15). Also, South Africa has made a commitment to fast-tracking services delivery in partnership with the private sector, and one of the ways of achieving this vision is through PPPs (Van Niekerk 1998:2). The South African local government system's performance in this regard has been noted for PPP intervention, principally because of high levels of backlogs resulting from apartheid days.

¹ Often, PPP initiatives are long-term and involve huge amounts of money. Compared to *ad hoc* and comparatively small-scale initiatives, and if managed well, PPP initiatives can work out to be more efficient, effective and cheaper in the long-term.

1 Problem statement

Municipalities in South Africa are expected to play an important role in service delivery (The South African Constitution 1996:81). Many factors, for example, capacity in terms of administration and financial management, threaten the ability of municipalities to perform their functions. One way of dealing with these threats is to seek alternative service delivery models for meeting their new constitutional responsibilities in delivering basic services to all citizens. PPPs are such models. Four issues regarding PPPs form the basis of this study.

First, the adoption of PPPs is underpinned by certain ideological positions which are generally consistent with neo-liberal policies. Because not everyone shares such ideological views, adopting a PPP is a matter likely to be fraught with controversy and tensions. Further, implementation of PPP initiatives is not a simple matter.

Second, the legislative and policy context should be supportive by way of establishing appropriate legislation, policies and supportive administrative systems. Otherwise, it is unlikely that potential private sector partners would be willing to commit to long-term relationships, which often characterize PPPs.

Third, opportunities and threats exist in respect of PPPs. Opportunities that have been noted include the promotion of accountability, transparency, quality of service delivery and improvement of equity (Department of Water Affairs and Forestry 1997; Leigland and Thomas 1999: i). Perceptions of high tariffs, unemployment, low quality of services, mass disconnection leading to illegal reconnection and profit driven projects have been

cited as some of the major threats confronting PPP initiatives in the water and sanitation sector (Moolla *et al.* 2003:16).

Fourth, given that PPP is a relatively new approach in South African services delivery, it means that lessons are still new. Learning these lessons is of the essence. Specific case studies promise to yield valuable lessons and insights with implications on how PPP initiatives are set up and managed.

1.2 Motivation

In South Africa, PPPs are relatively a new approach to service delivery. Frustrations will emerge as these initiatives evolve. Lessons are also likely to emerge. Both frustrations and lessons need to be carefully recorded. Similar or related PPP initiatives can benefit immensely from there being reflection on the experiences of their predecessors. Studying circumstances surrounding the implementation of particular PPP projects is one way of developing the knowledge necessary for enhanced PPP initiatives elsewhere. A South African example where PPP is the chosen approach to water and sanitation service delivery is Mbombela Municipality, this took place in 1999. This municipality entered into a PPP initiative with international and national private sector organizations to form the Greater Nelspruit Utility Company (GNUC). The GNUC was adopted as a case study because it reflected many of the issues cited in the problem statement.²

² For example, the problems with a PPP have been evident at Nelspruit. The South African Municipal Workers Union (SAMWU) challenged the privatization of water services in Nelspruit in 1997. This led to the process being stalled for almost two years. In 1998, a compromise was reached. The South African government, led by the African National Congress (ANC), promised to assess the possibility of a public-public partnership alternative, but this never happened. Instead the concession was awarded to the Greater

1.3 Aim, objectives and research questions

The aim was to use the case study to understand the complexities and challenges posed by the adoption of the public-private partnership (PPP) as a mechanism for water services delivery in a South African local government context. The objectives were to:

- i. examine the usefulness of new public management as a framework for assessing water services delivery and managing of networks under a PPP approach;
- ii. analyse the implications of the South African legislative and policy context for public-private partnerships in delivering water services at local government levels;
- iii. identify the opportunities and threats that have been experienced in the case study in using the PPP approach in water services provision; and to draw lessons and implications for the use of the PPP approach as a mechanism of water services delivery.
- iv.

To achieve the above objectives, the following research questions were asked:

- i. How useful is new public management as a framework for assessing water services delivery which uses a PPP approach?
- ii. What is the current legislative and policy context for PPP as a mechanism for water services delivery?
- iii. What opportunities and threats characterize the broad environment in which the GNUC concession has been operating?
- iv. What lessons and implications, if any, could be drawn from using PPP in water services delivery?

1.4 Organization of thesis

In Chapter 1, an introduction to the study is provided. In Chapter 2, the policy context is discussed by focusing on the transformation of water services provision in post-apartheid South Africa, through first discussing the background of water services delivery under apartheid and then the water policy context in the post-apartheid era. The regulatory framework for local government is also discussed. Since the focus of the study is on the

Nelspruit Utility Company (GNUC) – a joint venture between BiWater and a black empowerment group, Sivukile (Public Citizen 2005).

management of the PPP in water services delivery in Nelspruit, in Chapter 3 the theoretical framework is provided by elaborating on the management of water services delivery using concepts of new public management. Key concepts concerning service delivery are defined, such as: governance, service provision and public participation. This study also draws a distinction between classic and new public management. It also looks at the theoretical framework examining theories and concepts of new public management, PPP³ and management of networks. In Chapter 4 the research setting is discussed looking at the profile and background of Nelspruit. It also identifies the research method used in this study. In Chapter 5 the findings of the study are analysed. The conclusion and recommendations for the usage of PPP approach to water services delivery are provided.

³ Frustrated by the excessive and archaic methods of the post-apartheid state, Smith *et al.* (2003d:3) explain, as well as by decreasing municipal budgets, local authorities across the country have sought alternative service delivery models for meeting their new constitutional responsibilities in delivery basic services to all citizens.

Chapter 2

Policy Context: water services delivery in South Africa

2 Introduction

In the first part of the chapter the transformation of water services provision in post-apartheid South Africa is reviewed, by first looking at the background of water services delivery under apartheid. The development of policy framework is also discussed, starting with the Reconstruction and Development Programme (RDP) that was later replaced with Growth, Employment and Redistribution (GEAR). In the second part, the legislative and policy context in South Africa is discussed, in relation to the transformation of water services delivery in post-apartheid South Africa. The discussion revolves around the influence of the legislative and policy context on the South African local government system as a central player in service delivery at local levels. In South Africa, local government is responsible for coordinating and managing some service provision at local level. Therefore, understanding how the broad policy context influences local government is central to an analysis of the implementation and management of water services delivery. In other words, what is the position of the current legislative and policy context for PPP as a mechanism for water services delivery?

2.1 The transformation of water services provision in post-apartheid South Africa

South Africa was for a long time ruled in terms of apartheid policies - a pattern of authority, systems, and legislation that informed the planning and management of all sectors of society along racial lines (Abrams 1996:4). Therefore, no discussion of the ongoing efforts to transform water services delivery would be complete without

providing some reflection on the apartheid form of governance and its far-reaching implications on both the management of water as a resource, and its provision as a service.

Water services delivery under apartheid form of government

The introduction of grand apartheid and balkanization⁴ of the country into nominally independent homelands started in the 1960s (Department of Water Affairs and Forestry 1994:4). Investment in water served the white population of South Africa and the rest were left to fend for themselves (Department of Water Affairs and Forestry 1994: 4). The government, using elaborate financial mechanisms, for instance, the services of Development Bank of Southern Africa (DBSA), engaged in some development of water services but the investments were unevenly distributed and inadequate (Department of Water Affairs and Forestry 1994:4). In short, inequities characterized the apartheid era in the delivery of services and water services delivery was a classic example.

The consequence of the apartheid development policies ensured that citizens mostly those other than whites, had no access to reliable and potable water supplies. The situation was compounded by the fact that the Department of Water Affairs and Forestry had no jurisdiction or political mandate in homelands. Each homeland had its own system, and in many ways, there was a lot of polarization and fragmentation in the management of water resources. The provision of water services was equally polarized and fragmented as accountability rested with homeland government structures (Abrams 1996:3).

⁴ Divide (a region or body) into smaller mutually hostile states or groups (Concise Oxford Dictionary 2004).

Access to water for the majority of poor blacks was hindered, both because of costs and lack of infrastructure in black communities. Between 12 and 14 million people in the former homelands were without any formal water supplies and 21 million people were without formal sanitation services (out of the total population of 41 million by then) (Abrams 1996: 3).

Impacts of apartheid policies did not end with the denial of water services to some sections of society. The impacts were also felt in terms of the quality of the water resources in the country and their management. Administrative fragmentation that partly arose from a lack of national authority in the former homelands resulted in serious ecological and institutional implications (Abrams 1996:4-5). Ecological implications included encroaching desertification, deforestation, substantial loss of topsoil, widespread of diffuse pollution, invasion of alien plant species and other ecological disturbances which reduced recharge potential, increased siltation of limited storage facilities and increased danger of periodic serious flooding (Abrams 1996:2). Institutional problems included lack of coordination of initiatives in the water sector, duplication of roles and responsibilities and the resultant problems of lack of efficiency and effectiveness. Since the apartheid system offered no recognition of the rights of the blacks, it follows that their participation in the management of water resources was completely neglected and not provided for in the legislation and policies (Abrams 1996:2).

Water policy context in the post-apartheid era

The policy context for water services delivery in post-apartheid South Africa is arguably a combination of the interaction of relevant policies and legislation. But it is first and foremost critical to appreciate that the post-apartheid policy and legislative context was a reaction to the effects of apartheid. It is important to note that all initiatives undertaken since 1994 to resolve the country's problems have as their point of departure, the Reconstruction Development Programme (RDP) - a blueprint designed to address the many social and economic problems facing the country. Arguably, all post-apartheid policies and laws have been influenced by the RDP, hence it is important to give a brief overview of the RDP (Abrams 1996:2).

The Reconstruction and Development Programme (RDP)

The apartheid policies led, among other things, to a host of inequities resulting from a biased direction in the use of public resources. One major result of apartheid policy was poverty that manifested itself in varied ways, including the lack of access to basic facilities and services and unemployment. Hence, the RDP was designed to redirect public sector spending and the ethos of the public sector as a whole from the practices of the apartheid era to a new ethos contained in the Constitution (Abrams 1996:2). The two main objectives of the RDP were to attain both equity and economic growth, based on the belief that growth is dependent upon equity; that economic stability and investment confidence is not possible in the midst of poverty and its associated anguish, crime and

social disorder; and that infrastructure development is in itself the creation of real asset and constitutes growth (Abrams 1996:2).⁵

The RDP identified the provision of infrastructure for services such as water supply and sanitation as being one of the key elements of its strategy for developing the South African economy along its new path. The way in which services are provided must ensure that services do not simply satisfy people's basic needs but also contribute to the growth of a dynamic economy, which is increasingly able to provide all South Africans with opportunities for a better life (Department of Water Affairs and Forestry 1994:9). The scene was therefore set for the new Department of Water Affairs and Forestry that came into existence in 1994 whose main problem was to address equity in the water sector. The line that divided those with adequate access to water from those without was the same line dividing the rich and the poor. The new Department of Water Affairs and Forestry sought to end the inequity in access to basic water supply and sanitation services (Department of Water Affairs and Forestry 1994:3). However, in mid-1996 another development policy framework was introduced. This was called GEAR.

Growth, Employment and Redistribution (GEAR)

The introduction of the GEAR policy in mid-1996 was a turning point in the evolution of development policy framework. Although it was intended to be a macro-economic policy, it has become a development policy framework, replacing the RDP in reality as the policy framework (Van Rooyen 2002:8).

⁵ The Reconstruction and Development elaborated a people-centered, grass-root vision of development that was premised on growth through redistribution. One of the central tenets of this model of development was the building of citizenship through public participation in the decision making of service delivery (Smith *et al.* 2003d:3).

According to Smith *et al.* (2003d:3) the Growth, Employment and Redistribution (GEAR) programme was put in place as a macro-economic framework directed at stemming the excesses of the state bureaucracy at the national, provincial and local government levels, but with a platform that prioritized fiscal austerity rather than redistribution (Smith *et al.* 2003d:3). They go on to say that the rise of defaulting local authorities due to the inefficiencies of the apartheid bureaucracy, combined with GEAR inspired state retrenchment and budget cuts for delivery services, catalyzed a trend of water privatization initiatives across the country throughout the 1990s (Smith *et al.* 2003d:3).

Delivery of services was the priority in all spheres of government and the delivery of water services was not an exception. South Africa's water policy has gradually undergone a process of transformation as part of the broader democratization of the country and society. Part of this process has included a major review of environmental legislation in general and water resources and use in particular (Van Wilgen *et al.* 2003:16). In many ways, the transformation of policy and legislation in the water sector has been a response to the apartheid system and a proactive measure to ensure that human rights are upheld as well as the protection of water resources. These legal and policy developments are discussed in the following section.

2.2 Major legal and policy developments for water service delivery in South Africa

Smith *et al.* (2003a:5, 2003d:4) identify seven principal legislative and policy developments that underpin the work of local government in South Africa: the Constitution, the White Paper on Water Supply and Sanitation Policy, the Water Services Act (Act 108 of 1997) and the White Paper on the Revision of the Water Services Act (2001), the National Water Act 36 of 1998, the Public Service Delivery ('Batho Pele'-People First), and the Municipal Systems Act (Act 32 of 2000). These Acts and the White Papers lay down national standards for water provision and provide local authorities with a framework for setting up alternative service provision and management arrangements. Part of the purpose of this regulatory framework is to guide local authorities on how to form partnerships with the private sector while still maintaining government obligation to the public (Smith *et al.* 2003d:5).

The transformation of the legal and policy background to facilitate water services delivery is a result of a mix of different laws and policies (Figure 1). In addition to the policies and Acts as set out in Figure 1, there is also the White Paper on Public Service Administration (Department of Public Service Administration 1997). No doubt, these policies and Acts are informed by many other considerations,⁶ but the focus here is on those that within the context of this study illustrate a direct relationship with water services delivery at the local level. Each of these laws and policies is discussed in turn below:

⁶ For example, environmental factors like poverty and unemployment as well as strategic government imperatives like the Public Finance Management Act that outlines the use of state fiscal resources.

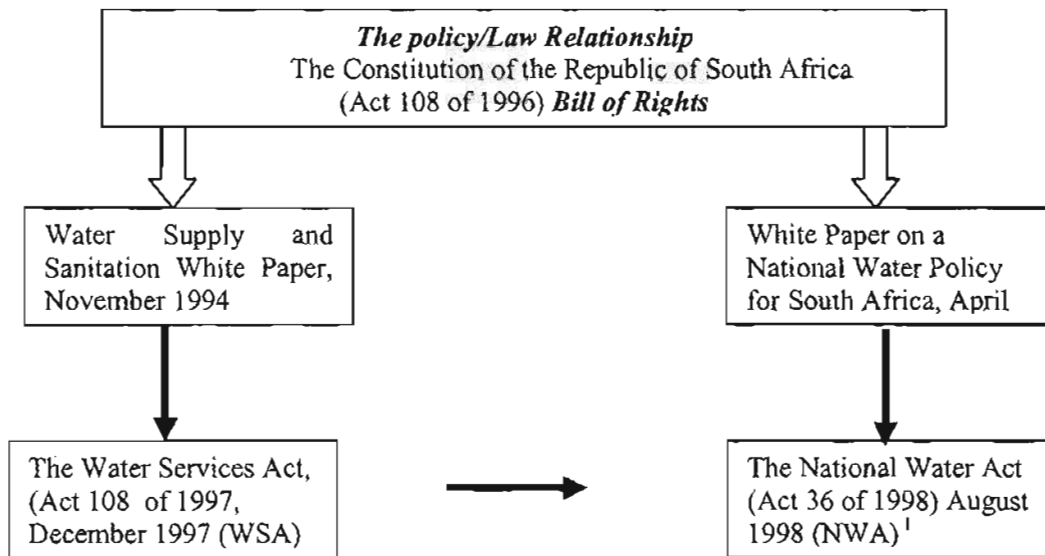


Figure 2: Laws and policies illustrating a direct relationship in water services delivery

Source: Rowlston (1999)

The South African Constitution

A seminal initiative in this regard has been the provision of a clause in the Bill of Rights in the South African Constitution (RSA 1996), which states that:

Everyone has the right to have access to ...sufficient water. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of this right. Chapter 2, Section 27 subsections (1)(b) (2).

The Bill of Rights provides for access to water as a basic right for all (Chapter 2, section 27). Basic provision of water was defined in the RDP as being provision of 25 litres per person a day, available within a 200-metres radius. The focus for this delivery objective is on co-operative governance, in this context referring to the cooperative relations between organs of the state on the management of water services in South Africa (Smith *et al.* 2003a:50). Although municipalities are responsible for providing and charging for services, the power to impose such charges (and limit the price of these charges) may be

regulated by national legislation. This introduced the notion of user fees for essential services (Smith *et al.* 2003a:5).

Another important aspect is the environmental clause in the Constitution Chapter 2, Section 24 subsection (a) and (b). By means of this clause, water is to be protected as an environmental resource from pollution and inappropriate use. This in turn assures that water should also be potable for human and other living organisms' use.

White Paper on Water Supply and Sanitation Policy

The Department of Water Affairs and Forestry recognized the urgent need for new policy in the country. This was because there were no guidelines or common policy⁷ and as a result, both the public sector and the private sector were confused and lacked direction as to how to begin to the vast water needs of the people, especially in terms of access (Abrams 1996:4).

The White Paper on Water Supply and Sanitation Policy, published in November 1994, marked the starting point in the review of water policy⁸ in post-apartheid South Africa. The National Water Policy of April 1997 around which policy principles were based highlighted the following: water management should be demand driven and community based, basic water services are a human right, the principle of 'some for all rather than all

⁷ According to the White Paper on Water Supply and Sanitation Policy, today's inadequate service provision was due to: i. absence of a coherent policy, ii. absence of an institutional framework that established clear responsibilities, iii. the overlapping of institutional boundaries as well as the exclusion of many areas of great need, iv. a lack of political legitimacy and will, and v. critically, the failure to make resources available where they were most needed (1994:6).

⁸ A dominant group that had privileged access to land and economic power had used water. The advent of democracy demanded the national policy on water use and water law be reviewed. The review was to reflect the requirements of fairness and equity, values that were a cornerstone of the South African constitution (White Paper on Water Policy, April 1997).

for some' should be followed, equitable regional allocation of development resources should occur, water has economic value, the user pays principle should be followed, there should be integrated development and environmental integrity (Department of Water Affairs and Forestry 1997: 4)

Water Services Act No. 108 of 1997

From the above mentioned White Paper emerged the Water Services Act No. 108 of 1997,⁹ which dealt with, among others, water services necessary to fulfil the basic right of access to water and sanitation for all. The right of access to basic water supply and sanitation was highlighted by the Water Services Act, directing water services institutions to “take reasonable measures to realize these rights” (Department of Water Affairs and Forestry 1997:7). In the same light, the preamble of the Act states:

There is a duty on all spheres of government to ensure that water supply services and sanitation services are provided in a manner, which is efficient, equitable and sustainable. All government spheres must strive to provide water services and sanitation services. In striving to provide water supply services and sanitation, the three spheres of government must observe and adhere to the principles of co-operative government and although municipalities have authority to administer water supply services and sanitation, the three spheres of government have a duty, within the limits of physical and financial feasibility, to work towards this objective (Department of Water Affairs and Forestry 1997:1).

⁹ South African Government, Water Service Act No. 108 of 1997. (<http://www.dwaf.pwv.gov.za/documents/Legislature/wsa97.pdf> [2005/05/12]. Useful definitions include: Water board – an organ of state established or regarded as having been established in terms of this act to perform, as its primary activity, a public function; water services – water supply services and sanitation services; water service authority – any municipality, including a district or rural council as defined in the Local Government Transition Act, 1993 (Act No. 209 of 1993), responsible for ensuring access to water services; water service institution – a water services authority, a water services provider, a water board and water services to another in terms of a contract where the obligation to provide water services is incidental to the main object of the contract; water services provider – any person who provides water services to a consumer or to another institution, but does not include a water services intermediary.

The Water Services Act (Act 108 of 1997) gives national government the legislative and executive authority to oversee the effective performance of the municipalities in their functions as water service authorities. The Act distinguishes between the responsibilities of the water service authority and the operational responsibilities of the water service provider. In particular, Chapter 2, section 19 encourages water service authorities to seek economies of regional scale through public sector provision before turning to alternative service providers (Department of Water Affairs and Forestry 1997:14-15). The Act has since undergone some amendments, which have raised concerns around the perceived erosion of an important clause that indicated preference for public sector option (Smith *et al.* 2003d: 4)

As a result of successful private sector lobbying, the current legislation makes the public sector and private sector equal competitors in the provision of public services (Smith *et al.* 2003d:4). These concerns were echoed by Van Rooyen (2002:10) when she made reference to clause 19.2 that said that the private sector should only be considered as service providers if all public sector options, after exhaustive investigations, were found not feasible. Van Rooyen (2002:10) observes that the subsequent declaration in June 2000 by the Minister of Water Affairs of a new regulation to amend the Act, known as clause 19.5, redefined a water provider as being anything from local government to the private sector. This subsequent provision now allows for private sector involvement in water services (Van Rooyen 2002:10).

Importantly, it is critical to see this change as a part of a fundamental shift in the ANC government policy in respect of the role of private sector and market forces in the economy (Gumede 2005:91). The changes in the water sector providing for private sector participation were not an isolated case. Similar changes, though to different degrees, have been effected in various sectors including transportation and telecommunications. Generally, these changes came about in the wake of the ANC government's acknowledgement that the RDP did not sufficiently take into account the role of the private sector in services provision. Also, the RDP was focused on redistribution, but as discussed earlier, the focus changed from redistribution to growth, hence the adoption of GEAR programme in 1996.

The White Paper on Revisions on the Water Services Act (2001)

This White Paper introduced a free water policy whereby every household was guaranteed access to 6 kilolitres a month. Local authorities were given two years to implement this policy. Provisional financing for this policy came from national government through the equitable share grant, and by 2003, additional resources (R822 million) had been provided by the National Treasury to help Local Authorities to finance the policy (Department of Water Affairs and Forestry 2002:13).

National Water Act 36 of 1998

The National Water Act 36 of 1998 replaced the 1956 Act.¹⁰ The underlying principles of the Act 36 of 1998, were aligned firmly with the new constitution,¹¹ that is, water was a

¹⁰ It was based on two ideas, the riparian principle which referred to the link between the right to use water and the ownership of land adjacent to that water and a separation between private and public water (Frost 2001:12).

national resource,¹² and that equal access was the right of all citizens and that it was the government's responsibility through integrated management to protect its quality and ensure its sustainable, equitable use (Department of Water Affairs and Forestry 2005).¹³

Public Services delivery ('Batho Pele' – People First)

The White Paper on the Transformation of Public Service (WPTPS), published in November 1995, set out a practical agenda for transforming the delivery of public services. The WPTPS is directly applicable to both national and provincial departments, and it regulated the Public Service Act, 1994. It regulates all areas and employees of the public sector regulated by other legislation, such as local government and parastatals. In line with the constitutional principle of cooperative government, particularly as regards promoting a coherent government, it is expected, therefore, that all sector of public administration should comply with the principles set out in this White Paper (Department of Public Service and Administration 1997:7).

The purpose of the White Paper is to provide a policy framework and a practical implementation strategy for the transformation of public service delivery. The White Paper is about how public services are provided, and specifically about improving the efficiency and effectiveness of the way services are delivered (Department of Public Service and Administration 1997:9).

¹¹ The Constitution expresses the desires of the people of South Africa who created it, is now the highest law of the land, and all law, including water law must follow the spirit and letter of the constitution and should give force to the moral, social and political values that the constitution promotes (The White Paper: 1997).

¹² 'Chapter 2: Bill of Rights' Constitution of the Republic of South Africa, Section 27 (1)(b) 1996. This is a key proposal enshrined in the White Paper on Water Policy (1997:6) that the status of nation's water resources as an indivisible national asset and that national government will act as the custodian of the nation's water resources and its powers in this regard will be exercised as a public trust.

¹³ The Constitution of the Republic of South Africa 1996 (Act 108 of 1996), Preamble.

The White Paper identified eight transformation priorities amongst which Transforming Service Delivery is the key. The eight transformation principles are referred to as 'Batho Pele' principles, which mean that people must come first. The eight principles identified in 'Batho Pele' are: consultation; service standards; access; courtesy; information; openness and transparency; redress; and value for money. These principles were set out in order for the public service to be effective in delivery of services that would meet the basic needs of all South Africans. Improving services delivery was the ultimate goal of the public service transformation programme (Department of Public Service and Administration 1997: 9&, 15).

According to Chapter 11 of the WPTPS, national and provincial departments are required to identify among other things, potential partnerships with the private sector, non-governmental organizations (NGOs) and community-based organizations (CBOs) which will provide more effective forms of services delivery (Department of Public Service and Administration 1997:10-11).

White Paper on Local Government

The first policy document in the new constitutional dispensation to deal with alternative municipal service delivery options is the 1998 White Paper on Local Government. The approach this White Paper took was to start with a set of "guiding principles", which was intended to assist municipalities in choosing the most appropriate service delivery mechanism for their communities. The guiding principles to be applied, in summary,

were: accessibility of services (i.e. regardless of race, gender, disability etc); affordability (including pro-poor tariffs, appropriate service levels depending on economic sustainability and cross-subsidisation); quality of products and services; accountability (council must remain accountable); integrated development (i.e. poverty alleviation, job creation etc to be taken into account); sustainability (financial and environmental); value-for-money (i.e. both the cost of inputs and quality and value of outputs); ensuring and promoting competitiveness of local commerce and industry; and promotion of democracy (Department of Provincial and Local Government 1998a:2).

The White Paper highlighted the need for a change in municipal service delivery, due to the overwhelming need to develop the social, economic and material circumstances of communities and to meet their basic needs. It therefore encouraged municipalities to investigate new ways of delivering services in order to meet this challenge, and in particular urged municipalities to consider outsourcing options. It listed the various outsourcing mechanisms that were available for consideration (i.e. in addition to existing internal service delivery options), namely: corporatisation; public-public partnerships; partnerships with CBO's¹⁴ and NGO's¹⁵; contracting out (ranging from contracting out only specific aspects of a service to contracting out almost all aspects of the service); leases and concessions; and transfers of ownership (privatization) (Department of Provincial Government 1998a:2).

¹⁴ Community based organisations.

¹⁵ Non-governmental organisations.

Municipal Structure Act of 1998

A municipality has the right to govern, on its own initiatives, the local government affair of its own community, subject to the national and provincial legislation (Section 151 (3) of the constitution (The Constitution of the Republic of South Africa 1996:81). With this right, therefore, the municipality has the function and powers assigned to it in terms of Section 156 and 229 of the constitution. In Chapter 5, section 3, subsection a-d of the Local Government Municipal Structure Act No. 117 of 1998, a municipality must seek to achieve the integrated, sustainable and equitable social and economic development of its area as a whole by:- a) ensuring integrated development planning for the district as a whole; b) promoting bulk infrastructure development and services for the district as a whole; c) building the capacity of local municipalities in its area to perform their functions and exercise their powers where such capacity is lacking; and d) promoting the equitable distribution of resources between the local municipalities in its area to ensure appropriate levels of municipal services within the area (Department of Provincial and Local Government 1998b:34). This Act provides for the functions and powers of municipalities and other local government structure, of which water services is one of many primary functions.

Municipal Systems Act No. 32 of 2000

The Act No. 32 of 2000 emphasizes that local governments will provide mechanisms and processes that are necessary to enable municipalities to move progressively towards the social and economic upliftment of local communities, and to ensure universal access to essential services that are affordable to all (The Republic of South Africa 2000:2). Water

is that essential service that needs to be provided to all at affordable rates. The Municipal Systems Act (Act 32 of 2000) is directly relevant to the operations and obligations of local government in South Africa.

In Chapter 1, section 68 provides for the protection of the poor by controlling the price of essential services such as water. It sets out to ensure that poor households have access to basic services through: 1) tariffs that cover only operating costs; 2) lifeline tariffs of basic levels of services; and 3) any other direct or indirect method of subsidization of tariffs for the poor households.¹⁶ Further, the Act identifies the sequence of procedures that local authorities must follow in setting up services delivery alternatives. An important point stressed in the Act is the public consultation with labour and communities prior to contracting an external provider¹⁷ (The Republic of South Africa 2000:12). The Municipal Structure Act of 1998 and Municipal System Act of 2000 endorsed private sector partnerships to meet infrastructure backlogs and improve service delivery

2.3 Service delivery – the role of local government

In terms of the Constitution of the Republic of South Africa and Act 108 of 1997, Chapter 7 Section 152 (1) and (2), local authorities have the responsibility of ensuring that local communities are provided with basic services. Part B of Schedule 4 identifies some of these services as including health, solid waste collection, water supply and sanitation. These services are provided in collaboration with other sector departments

¹⁶ This has been implemented very well at Harrismith (Smith 2003c:16).

¹⁷ According to The Municipal System Act and community participation, (2001) one of the objective of the Local Government in terms of section (152)(1) of the Constitution was to encourage the involvement of communities and community organization in Local Government. Chapter 4 of the Municipal System Act (the System Act) deals with community participation.

whose role and policies impact on services delivery (The South African Constitution 1996:81,144). In order for local government to be in the position to deliver services, there was a need to restructure the institutional framework.

2.4 Restructuring institutional framework

The framework of institutions responsible for water resources management and water supply in the past was extremely complex with numerous areas of overlap and conflict, and with many areas remaining unserved. There were eleven ‘governments’, provincial structures, regional service providers, water boards, local governments and a large number of NGOs. The institutional framework of the water sector was in urgent need of simplification and clarification and the White Paper sought to provide this (Abrams 1996:4). The institutional framework of the water sector has therefore been simplified to the following:

Table: 1: Restructured institutional framework

Tiers	Authority	Functions
1 st tier	National Government (Department of Water Affairs and Forestry)	Water resources management, support to local government, setting of norms and standards, monitoring and administration of Water Act.
2 nd tier	Water Boards	Supply of bulk treated water on commercial basis.
3 rd tier	Local government	Supply of water and sanitation services to consumers.

Source: Abrams (1996:5). *Policy Development in the Water Sector-The South African Experience*.

In terms of the constitution, the central government is the custodian of the nation’s water and the national Department of Water Affairs and Forestry has two primary functions:

- a. To manage the country’s water resources, and

- b. To ensure that all people have an adequate water supply and sanitation services (Abrams 1996:4).

Abrams (1996:4) states that in terms of the Constitution, the responsibility for the supply of water is that of local government. It is important to note that whilst local government has the responsibility of supplying water to the consumer, it is the central government's function to ensure that this happens in terms of the norms and standards described in the government's policy. Where local government fails to perform its function, the Department of Water Affairs and Forestry is empowered to direct action to strengthen local government and temporarily perform the functions of local government.

The other reason for restructuring was to create a framework for investment: the policy is that the government will provide capital grants for the construction of basic services, which are defined as being a water supply of at least 25 litres per capita per day at a maximum cartage distance of 200 metres and of adequate quality. The grant includes finances for the training of communities to undertake the governance, administration, operation and maintenance of water services as a local government function (Abrams 1996:5).

It has been observed that the adoption of the new Constitution, to which all law and public policy was subject, meant that all such law and policy was to be reviewed and tested against the new Constitution (Abrams 1996:2). Despite these laws and policies providing for equal access to water some people are not enjoying this constitutional right. This has resulted in the national government, through the local government and the local authorities to look for alternatives in order to deliver water services to everyone.

The foregoing discussion has provided the legal and policy context in which the local government is to deliver services to communities. These services can be delivered by following the legislative framework, which gives guidance on service provision. This framework does not limit participation to the public sector, in water services delivery, but also includes the private sector. This has been due to the fact that PPPs are seen to make an important contribution towards the upliftment of local communities. It is also highlighted in the report by the World Bank (1997:1) that experience in countries that have entered into arrangements for private sector participation shows that, if well designed, these arrangements can bring big improvement in the quality, availability, and cost-effectiveness of services. In the following chapter public service management and the role of policy in water services delivery in South Africa will be investigated. The concept of New Public Management as an effective and efficient approach to implementing water services delivery will be discussed. This is critical because the study focuses on reviewing PPP in the management of water services delivery at Nelspruit.

emphasized enough that “the nature and performance of public service organizations are critical elements in determining developmental success” (Turner & Hulme 1997: 1).

Governance

To avoid different interpretations of some contemporary concepts in public service management used in this study, it is important to define and clarify their usage. The concept of governance is commonly associated with democratic rule, issues of legitimacy, responsiveness and pluralism. It is premised on the idea of offering the opportunity to move from authority and power being rooted in the institution of the state to more fluid ideas of power shared, developed and negotiated between partners (Jonker in Van Niekerk *et al.* 1998:63-66).

Governance does not include only the actions of government; it encompasses how groups within a society organize to make and implement decisions on matters of general concern, and how they connect with the public sector (Peters 2001:1). Hence, governance has been defined as the role of citizens in the policy process and how groups within a society organize to make and implement decisions on matters of great concern (Peters 2001:4). According to Jonker in Van Niekerk *et al.* (1998:66), governance entails processes of multi-stakeholder involvement, or multiple interest resolution, of compromise rather than confrontation, of negotiation rather than of administration impositions.

The purpose of governance includes among other things, the advancement of what is thought to be the welfare of the group, community, society, or state itself. Governance

implies the establishment of the government structures and systems within the context of a state, to ensure that services are rendered to communities to ensure that their general welfare and quality of life are promoted (Van Niekerk *et al.* 1998:64-66). Thus the term 'Governance' relates to the government being more responsive to its citizens, and to its being more effective, which means the need to include more service management and coordination and to leave the actual delivery of services in the realm of private profit and non-profit organizations (Premchand in Mackintosh and Roy 1999:49).

Service provision

Cook (2000:105) explains that the constitutional and practical role of the public service is to assist the duly constituted government in formulating policies, carrying out decisions and in administering public services for which they are responsible. The basic values and principles governing public administration are: i. Services must be provided impartially, fairly, equitably and without bias. ii. People's needs must be responded to and the public must be encouraged to participate in policy making. iii. Public administration must be accountable. iv. Transparency must be fostered by providing the public with timely, accessible and accurate information. It is argued that PPPs are a product of frustration with the traditional public service¹⁸ and government dominated service mechanisms.¹⁹ These traditional public services had been in the form that the public sector provides the goods and services (Webb & Pulle 2002:2).

¹⁸ The traditional inefficiencies of public provision and financing is a key motivation for private provision of infrastructure, focusing on potential savings by addressing leakages, overstaffing, improper maintenance, dated technology etc. Other benefits include addressing the tendency for inefficient pricing and under-recovery of costs so typical of public delivery in developing countries (Partnerships: July 2001 Vol 9).

¹⁹ Mechanism can be explained to be the practice of contracting out service delivery to private or NGOs, setting up operating or performance-based agencies in the public sector and entering into contracts, providing greater managerial flexibility while holding them accountable for specified outputs or outcomes (Kaul 1998b:7).

Public participation

Public service organizations exist to provide and respond to the needs of societies. But they can no longer fulfil this role on their own and in isolation from the people who are served by public service organization. Public participation is a mechanism of ensuring that the various institutions and people in society can play a meaningful role in informing and shaping public service management. The public can inform the priorities, challenge decisions and provide support to certain activities. Public participation helps public service management, not the least being providing legitimacy to public service decisions (Begawan & Darussalam 2003:25).

Through public participation, local knowledge and wisdom can be provided as ways of supporting decisions. Consultation and dialogue with various interest groups can only happen if there is unrestrained engagement between public service organizations and their clients – who are at the same time citizens. Therefore, public participation is about recognizing the important role that societies can play in facilitating public ends and ensuring that public service organizations do not apply draconian approaches in their work (Begawan & Darussalam 2003:25).

In addition to the above concepts, in a democracy, public service management is expected to be transparent, accountable, effective, efficient, sustainable and show a commitment to the public ethos. Kaul (1998b) provides some clarification on each of these concepts (Box 1).

- *“Transparency – public reporting is the practical means by which openness and transparency in government are improved. It is in keeping with customer-oriented approach. Providing information on the financial and management performance of departments enables the public to understand and, where necessary, criticize or support what the public service is seeking to achieve” (Kaul 1998b:62)*
- *“Accountability-the primary thrust of accountability should not just be to explain what was intended to happen and what actually happened, but also to explain why results were as they were. In this, what lessons can be learned and, if necessary, changes made for the future” (Kaul 1998b:24)*
- *“Efficiency and effectiveness- government resources are always under pressure-demand exceeds supply and expectations consistently exceed what can be afforded-there is a continuing requirement to review activities to ensure that resources are used to the best effect” (Kaul 1998b:28)*
- *“Public service ethos- it is a positive climate in which staff identifies with the organizational goals and have a willingness to take a longer-term view of responsibilities. The traditional values of public service emphasise merit, equity, probity, integrity, ethical conduct and political independence. The values of the new culture must also include leadership, quality, productivity and openness” (Kaul 1998b:26).*
- *“Sustainability - There are various definitions of sustainability. In this context of the study, a definition that is appropriate is that sustainability is the continuation of benefits after major assistance from [PPP] has been completed. Ensuring that the projects are sustainable can reduce the likelihood of them collapsing after they have just finished. Sustainability is achieved through participation and ownership, capacity building and training, government policies and realistic duration” (Wikipedia 2005c).*

Box 1: Definitions of key qualities currently expected of public service management

3.2 An overview of classic and new public management

In this dissertation, a distinction is made between two forms of public management: classical and New Public Management. Classic bureaucracy denotes a public service organization that has characteristics such as hierarchical structures, compartmentalized departments, a downward flow of policy and information, detailed rule and clear lines between the organization and its environment (Weber 1893 in Giddens 1989:278). In general, policy is set at the uppermost level of the organization where authority is centralized (Parsons 1995:467). It is these characteristics associated with bureaucracies that have over time led to new approaches to management, both in public and private sectors. Most countries have had the classic form of public service organization at one point in their history.

New Public Management is a school of thought that seeks to address the inadequacies popularly attributed to classic public service management (Begawan & Darussalam 2003: 2). In particular, it is concerned about introducing reforms in public sector organizations so that they can perform effectively and efficiently (Peters 2001:31). Another area of concern in new public management is to ensure that public sector organizations provide decision makers with sound advice on all aspects of policy: conceptualization, review, implementation, monitoring and evaluation (Peters 2001:32).

A central argument is that if public-sector employees are considered to be much the same as workers in the private sector, then the same managerial techniques should work in government as elsewhere (Peters 2001:31). This view also would imply that some cherished traditions of personnel and financial management within government would have to be modified or completely abolished. Kaul (1998b:4) points out that the clear benefits of public service restructuring have also meant that the introduction of management principles from the private sector has ceased to be part of the ideological debate on the role of government in society.

Kaul (1998b:1) explains that the dismantling of large, centralized bureaucracies and the end of the 'command and control' system of public service management is based on principles borrowed from similar restructuring programmes in the private sector. In this sector, there is a perceived need to downsize, privatize and rationalize public functions. This has been due to the effects of globalization that has intensified competition and increased deficit, accumulated debt burdens and changed the public perception with

regard to the role and performance of public institutions and the services they delivered (Kaul 1998b:1).

New Public Management is now based on the fact that the mould of unitary bureaucracy has broken down, and it has become possible for governments to see the adaptation of strategies such as public-private partnerships, or the contracting out of services to private companies or non-governmental organizations in a different light (Kaul 1998b:4). Such measures are now part of choosing more efficient mechanisms for managing public services (Kaul 1998b:4). Far from abdicating responsibility, a government which undertakes such measures is presiding over the prudent delegation of public service to those who can handle it more effectively and thus, ultimately, can provide better service for the public good (Kaul 1998b:5).

3.3 The role of policy in public service management

Policies provide guidelines on how particular societal issues are to be managed and coordinated. In this context, policy denotes an expression of the principles by which society wishes to guide and regulate the management of public services (Kaul 1998a: 24). Therefore, it is important to consider the role of policy in public service management.

The public service requires a clearer political leadership, and by distinguishing the role of senior administrators from that of politicians, strategic objectives will be more easily separated from operational processes (Kaul 1998a: 24). This clarification is one of the roles that policy fulfils in support of public service management. The role of policy in public service management can be achieved by administrative capacity, as the strength of

service can be judged by its ability to ensure provision of achievable, realistic and timely policy advice to government (Kaul 1998a: 24).

Structural changes have been used to great effect in separating policy advice and service delivery functions within the public services. Most particularly, the out-of-service delivery following market testing has allowed the public service to focus on policy. Equally, the development of service delivery agencies within the public service has established business-like units within the public service, with enhanced managerial flexibility and defined service responsibility, providing a clear demarcation between the service provider and the policy makers (Kaul 1998a: 26).

Figure 3 illustrates policy and policy processes. Policy formulation and implementation is not haphazard. Rather, it goes through a series of processes as illustrated in Figure 3. There are many frameworks about policies. In this study, the framework by Kaul (1998a) is chosen because of its simplicity and its strong emphasis on policy as a process:

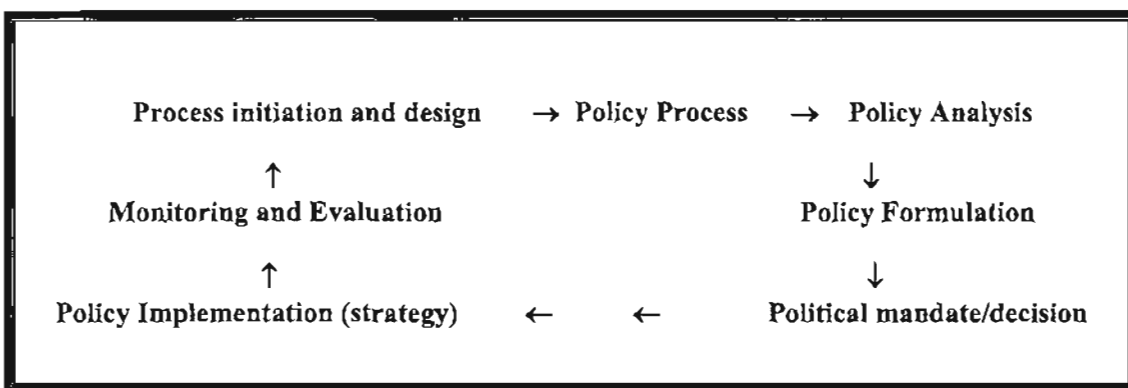


Figure 3: Typical processes in policy formulation and implementation.
After Kaul (1998a:7)

3.4 Approaches to service provision

The goal of public service is to facilitate the provision of and access to services for various members of the public. How a country runs its public service is largely a factor of its culture, the economy, priorities and related socio-economic and socio-political factors. This has resulted in what Kaul (1998b:14) terms 'trends in managing public services', which entail individual countries emphasizing different aspects of managing public services and adopting different approaches to implementation.

The trends that are apparent worldwide are: focusing on the core responsibility of central government, while devolving non-core activities to local government and non-governmental organizations (including public-private partnerships); focusing management attention and accountability more on achieving results, in terms of efficiency, effectiveness and quality of services, and less on compliance with detailed rules; paying increased attention to service needs of programme recipients, such as easier access, simplified procedures, published standards for service times and more courteous services; working more with other levels of government or the private sector rather than working on its own; and fostering the exchange of public management ideas and experiences within and between governments (Kaul 1998b:15).

It is also important to realize that public service organizations are not suited for all activities. Where appropriate, alternatives have to be sought, while at the same time ensuring that complementary mechanisms are identified and fostered. With the growth in democracy around the world, participation has become a very important dimension of

public service. Two approaches are common in providing public services: decentralization and privatization.

Decentralization of services delivery

The rationale for decentralization is that power over the production and delivery of goods and services should be handed over to the lowest unit capable of dealing with the associated cost and benefits (Kaul 1998a:29). Moving resources and responsibilities to lower levels of government is another potentially powerful means of introducing internal competitive pressure, particularly for the provision of public goods with inter-jurisdictional spill-overs (Kaul 1998a:29). Local governments acquire the flexibility to match supply to local preferences or demand, while local accountability and inter-jurisdictional competition in supply provide potential restraints. Decentralization holds a number of benefits for improving the policy-making environment, which could include the proliferation of policy actors inside and outside government and the resources they bring along (Pressman & Wildavsky 1973:45).

Privatization

Privatization has been seen in some contexts as a way of governments abdicating responsibility (COSATU & SAMWU 2003) but the search for alternatives to service delivery has been clarified (NALEDI²⁰ 2001:7). Cases where services have become costly and therefore unaffordable have led to calls for a common ground that means finding a balance between the two possible extremities: neither exclusive public nor private control at sector. Also, there is growing realization that it is appropriate that

²⁰ National Labour and Economic Development Institute.

public sector organizations engage other actors and seek alternative means in an attempt to provide meaningful development (NALEDI 2001:4).

It has been argued by the Minister of Water Affairs and Forestry (2005) that it is the function of government to ensure that adequate water supply and sanitation services are provided to people, particularly to the poor and the vulnerable. This mandate cannot be delegated, outsourced or privatized. In order to achieve this mandate, a number of tools may be employed. One option is that of public-public partnerships, in which, for example, a public utility water board such as Rand Water can be contracted by local government to provide water services. This is an option that brings a range of skills, expertise and access to funding, while still retaining a high degree of public accountability. Another option, one which has raised temperatures and voices, is the use of the private sector to provide these skills and resources. In reality, the private sector has helped provide water services in South Africa for many years. It has provided consultancy services and technical support to local authorities; it lends money to water boards and municipalities. More controversially it has been engaged to manage water services in Nelspruit and other municipalities (Kasril 2006:1).

3.5 Growing criticism of public services in relation to delivery

Generally, the role of public service organizations is to administer and manage development (Cook 2000:105), but the way they do their work and how they engage others has been called into question. Even with ongoing attempts to improve delivery in public service organizations, criticisms appear to be unrelenting. Taking on inappropriate roles has been one of the major criticisms partly because effectiveness and efficiency

have tended to suffer. Bureaucratic inertia has been another major criticism. There is growing realization that despite being the authorities, it is appropriate that public sector organizations engage other actors and seek alternative means in attempts to provide meaningful development (Turner & Hulme 1997:2). Others see new public management as offering alternatives to classic public service management. Decentralization, privatization, the efficacy of the market, popular participation and the role of civil society and non-governmental organizations are some of the concepts commonly found in new public management (Begawan & Darussalam 2003:2,4,13).

In short, societal contexts provide both special opportunities and constraints for public service organizations. One constraint is that public organizations tend to be limited in their capacity and the attendant opportunity being the need to recognize these limitations in designing of public organizations is a growing call (Esman 1985:1). Rendering effective, quality and efficient public services is likely where there is a functional partnership between public sector organizations and others outside the public service realm. One of the key developments in support of broader participation in the management and administration of public service organizations is the concept of Public Private Partnerships (PPPs). Before discussing PPP, the leading school of thought in critiquing public service delivery, this is called New Public Management, will be discussed.

3.6 New Public Management and service provision

According to Bakker (2003:25) New Public Management is rooted in the conviction that the private sector is more efficient and effective than the public bureaucracy. She further

states that where privatization is not possible, proponents of New Public Management advocate the application of (ideal-type) principles of business management to public sector functions in other words, the commercialization of public administration (Bakker 2003:25). Current economic realities have led many governments to review the programmes they deliver and the way they deliver them:

There are many different methods of service delivery, encompassing a wide range of activities, arrangements and financing options. These include corporatization, contracting out, devolution and privatization. The uses of different forms of service delivery are part of a new public management paradigm aimed at fostering a performance-oriented culture in a less centralized public sector. The new public management provides innovative solutions to meeting the demands of the public who are increasingly aware of service delivery options and value for money (Kaul 1998b: 6).

Different trends of New Public Management which also have been identified by Kickert *et al.* (1997:32) are the wish to increase the primacy of politics over bureaucracy and the tendency to introduce more business-like management into government.

It has been observed by Mackintosh and Roy (1999:50) that “each country [needs] to find its own level of smooth functioning, depending on the tradition of administrative culture as well as the levels of perception of trust between the public and private sectors to specify the location of managerial authority and responsibility”. Mackintosh *et al.* go on to observe that “... the traditional incrementalist approach has yielded place to new managerialism and organizational aspects” (1999:51). One of the common alternative approaches to service delivery is the notion of public-private partnership.

3.7 Public-private partnership

According to Begawan and Darussalam (2003:4) public-private partnership (PPP) is a popular way to designate different contractual arrangements between the state and the private sector in the area of services delivery. The term 'public-private partnerships' (PPPs) is rarely defined explicitly, despite growing literature on the topic (UN-HABITAT 2003:163). According to Webb and Pulle (2002:4) there is no hard and fast definition of PPPs. In general, PPPs constitute a partnership between the public sector and the private sector for the purpose of designing, planning, financing, constructing and / or operating projects which would be regarded traditionally as falling within the remit of the public sector. Infrastructure projects such as roads and bridges are prime examples (Webb & Pulle 2002:4).

Against such a background, PPPs can be defined as agreements in which private sector bodies establish a long-term contract with public sector entities for the construction or management of public sector infrastructure facilities (Begawan & Darussalam 2003: 4). The trend toward PPP is due to three main factors: lack of government resources, low-quality public provision and pressure to liberalize the economy (Begawan & Darussalam 2003:4). PPPs typically incorporate the following features:

- The public sector entity transfers facilities to the private sector (with or without payment in return) usually for the term of the arrangement.
- The private sector entity builds, extends or renovates facilities.
- The public sector entity specifies the operating features of the facility.
- Services are provided by the private sector entity using the facilities for a defined period of time (usually with restrictions on operations and pricing).
- The private sector firm agrees to transfer the facility to the public sector (with or without payment) at the end of the arrangement (Begawan & Darussalam 2003: 4).

The other understanding as explained by Webb and Pulle (2002:5) of PPPs, entails a sharing of responsibility between government and the private sector: for example, the private sector contributes designs, construction, operations, maintenance, finance and risk management skills, while the government is responsible for strategic planning and industry structures, obtaining permits, some customer interface issues, regulations, community service obligations and (sometimes) payment on behalf of the service users. Three key features of the infrastructure of PPPs that have been identified by Webb and Pulle (2002:5) are:

- A private partner invests in public infrastructure, and provides related non-core services to the government or to the community on the government's behalf.
- The government retains responsibility for the delivery of core services such as teaching and clinical services, and
- The government and the private party working together under long-term arrangements, whereby the payments to the private sector party depend upon its continuing to deliver the specific services to the agreed performance standards. Failure to meet these standards results in the private partner not being paid.

Conditions such as transparent procurement processes, effective contractual arrangements and effective regulations in which PPPs operate, give them levels of accountability and insistence of output specification and contracted levels of services and customer satisfaction. It is clear that accountability in most public authorities will greatly be improved by PPPs, if conceptualized and implemented within a sound development policy framework. The expected increase in private sector accounting standards, asset management, credit control and control procedures will provide a platform for higher government accountability. Most departments and municipalities would do well to study the expectations of private sector delivery, and actually implement some of the

performance dimensions in the current New Public Management practice (Partnerships 2001:4).

There are a number of reasons governments are attracted to PPPs. These include the potential for achieving value for money, early project delivery, gains from innovation, obviating the need to borrow to finance infrastructure investment, and access to improved services. The relevant government agency is responsible for assessing whether a project offers value for money compared with the most efficient form of public delivery. Some governments might find PPPs politically attractive, in that, PPPs entail private sector supplying public services (Webb & Pulle 2002:7).

It has further been observed that the South African government may not be in position to effectively address the huge water and sanitation services backlog alone (Magagula 2003:64). The involvement of the private sector and non-governmental organizations and all interested parties in projects is crucial in services delivery. Partnerships ensure that delivery reaches the intended community timeously (Magagula 2003:64). Public-private partnerships are essential in addressing the huge water and sanitation service backlog (Magagula 2003:64).

Kessler (2004:1) looks at PPPs from a social perspective, arguing that the most important rationale for private service provision is that it creates opportunities for private sector investment and participation, thereby reducing poverty. Private firms increase capital investment in services used by poor people thus improving quality and expanding access. Especially where government has failed to invest in marginalized people either because

of budget constraints or political neglect, private capital is claimed to be the only viable method for reaching excluded citizens. PPPs can be used in a host of public service areas including education, health, water and sanitation as well as in the construction of public infrastructure such as roads, hydroelectric power schemes and other important infrastructure. Because PPPs tend to involve many parties, it has been noted that it is important for all those involved in the process to pay attention to the management of networks.

3.8 Management of networks

One of the trends in New Public Management is the inclusion and managing of networks. Policy networks have been explained as being patterns of social relations between interdependent actors, which take shape around policy problems and form the context in which policy processes take place (Klijn in Kickert *et al.* 1997:14). Management of policy networks will therefore be important when trying to trace the role they played in the public-private partnership in water services delivery in Nelspruit.

Kickert *et al.* have stated that:

Public management is the 'governance' of complex networks, consisting of many different actors, such as parts of national, provincial and local government, political and societal groups, pressure, action and interest groups, societal institutions, private and business organizations, etc. The management of such public networks is a form of external government 'steering', steering having a broader meaning than strict administrative control, being more adequately defined as 'directed influencing'. Public 'governance' is the directed influencing of societal processes in a network of many other co-governing actors. These actors have different and sometimes conflicting objectives and interests. Government is not the single dominant actor that unilaterally imposes its will. Hierarchical, central top-down steering does not work in networks, which have no 'top'. The monocentric and monorational style of coordination and management cannot be applied in a network (1997:39).²¹

²¹ Agranoff and McGuire (1999:12) further state that network settings are not based in a central authority and cannot be guided by a single organizational goal. The primary activities of the network manager

Powell in Agranoff and McGuire (1999:12) says networks are key elements of public and public-private management because of the involved and multi-sector nature of public organizing. Powell goes on to give examples of systems “structured like medieval kingdoms, walled off and protected from hostile forces” and sums up by saying that the hallmark of the post-bureaucratic or post-Fordist model of organizing is flexibility and capacity for innovation (Powell in Agranoff & McGuire 1999:12).

Advantages associated with networking are the general diffusion of information among several organized entities and disciplines, an increasing culture of trust as diverse organizational representatives learn to work together, increasing education requirements and levels of cognitive complexity brought to bear on problems, expanding knowledge bases that complicate abilities to reach solutions, and rapid shift and replacement of technologies (Agranoff & McGuire 1999:12). This is achieved in Public-Private Partnerships through collaboration.²²

This chapter has reviewed literature on public service management and the role of policy in services delivery in South Africa. The review has illustrated the notion of PPP as being an outcome of enduring attempts to improve services delivery in the public sector. From

involve selecting the appropriate actors and resources, shaping the operating context of the networks, and developing ways to cope with strategic and operational complexity.

²² Wondolleck and Yaffee (2000:18) in the book called *Making Collaboration Work*, explains that collaboration has a role to play in responding to each of the thematic changes. It can help create the networks of relationships that relate administrative or political boundaries to those defined by problems. It can assist in the development of rich pools of knowledge that draw from diverse sources and provide a framework for interdisciplinary learning and problem solving. Building bridges between public and private parties can generate a diversity of ideas and approaches, so that decision makers have a menu of responses available to deal with changing conditions, problems, and values.

the review, it was apparent that experiences in water delivery during apartheid were not only strongly influenced by classic bureaucracy, but over time experiences served to reinforce bureaucratic tendencies such as inertia, rigidity and lack of public consultation. Hence, attempts to reform the water delivery in post-apartheid South Africa have had to address a number of interrelated imperatives including the recognition of human rights, providing administrative effectiveness and considering the environment. Clearly, bureaucracy is but one of the many key concepts being applied in New Public Management.

Since the study also critically examines the management of water services delivery at Nelspruit using PPP, the policy instrument discussed in this chapter, namely New Public Management, enabled the researcher to use the policy theory and examine how it affects the implementation of water services in Nelspruit. The theory of New Public Management offers another angle of examining elements of efficiency, effectiveness, accountability and sustainability of the partnership. In order to enhance efficiency, effectiveness and sustainability, the New Public Management concept advocates the good management of networks, because to manage networks encourages participation and consultation in the policy process.

Chapter 4

Research methodology

4 Introduction

This chapter outlines the research setting and research methods used in this study. The chapter comprises two parts. The first part focuses on the research setting by providing the profile and background information about the case study. The second part describes the research methods used in the study. The nature of issues addressed in the study, which are deeply embedded in the socio-economic and behavioral context, required a qualitative approach to the study. Secondary sources of data were employed, while the method of data analysis used was content analysis.

4.1 Profile and background of Nelspruit

South Africa's local government system was rationalized following democratization in 1994. Rationalization of local government happened in line with the new Constitution, which recognized local government as one of the three tiers of government: the other two being national and provincial. Rationalization of local government entailed drawing new borders to set areas of jurisdiction for service provision and administration purposes (Department of Provincial and Local Government 1998). Nelspruit, the principal town of Mbombela District Municipality, is also the provincial capital of Mpumalanga, one of South Africa's nine provinces, located in North Eastern South Africa (Brown 2005:5).

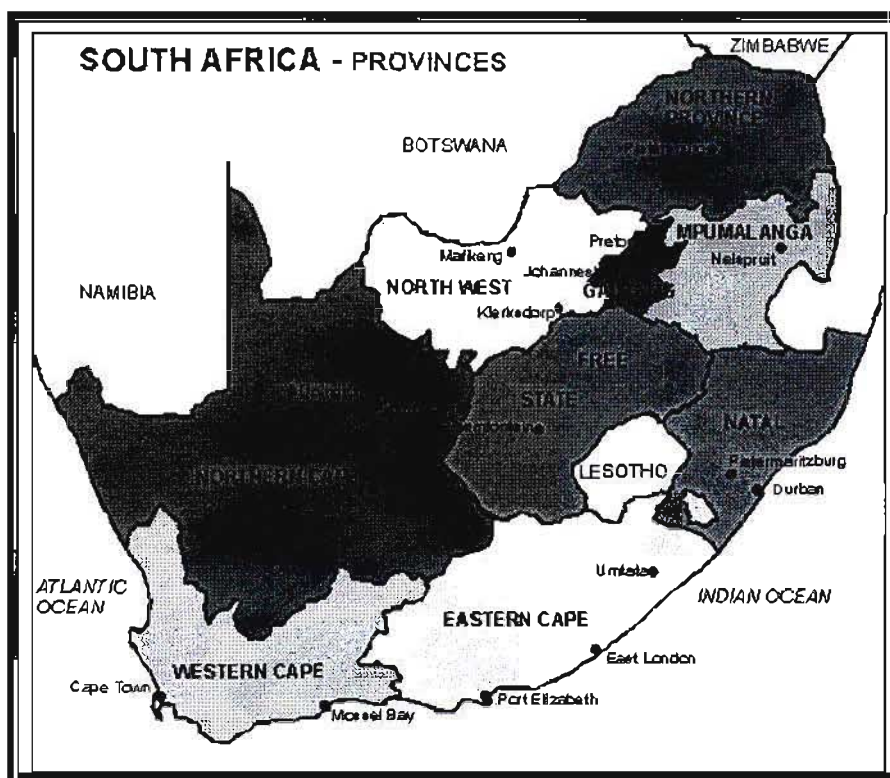


Figure 4: Map of South Africa showing the province of Mpumalanga and the provincial capital, Nelspruit.

Source: <http://protea.worldline.co.za/specprov.htm>

During the apartheid era, the former KaNgwane homeland authority had been given large cash infusions by the central government. With this money, it was possible to install some infrastructure such as waterborne sewerage and yard taps within homelands area. Over the years, however, this infrastructure was severely neglected. In the context of water services, the situation deteriorated to the point whereby most communities relied on communal standpipes (Smith *et al.* 2003b:4). With the advent of the new local municipality, many residents in the former homeland lacked access to water and relied on water tanks or communal standpipes, water was not always available all day, and low water pressure was an ongoing problem (Van Niekerk *et al.* 1998: 1).

Prior to the incorporation of township and traditional areas such as KaNyamazane, Msogwaba, Mpakeni and Mastulu, Nelspruit had approximately 24, 000 residents, and experienced an annual growth rate of 4,6% (Maralack 2003:5). As a result of the demarcation of new municipal boundaries, the population in Nelspruit’s jurisdictional areas increased to 202,000 residents and the population growth rate rose sharply to an estimated 6,5% (Maralack 2003:5). All the new incorporated areas are located more than 20 km from the town of Nelspruit and were previously poorly serviced under the homeland government. Hence the expansion of the borders of the municipality revealed a great mismatch in water services and infrastructure (both water provision and sanitation) within former white areas and former homelands (Maralack 2003:6).

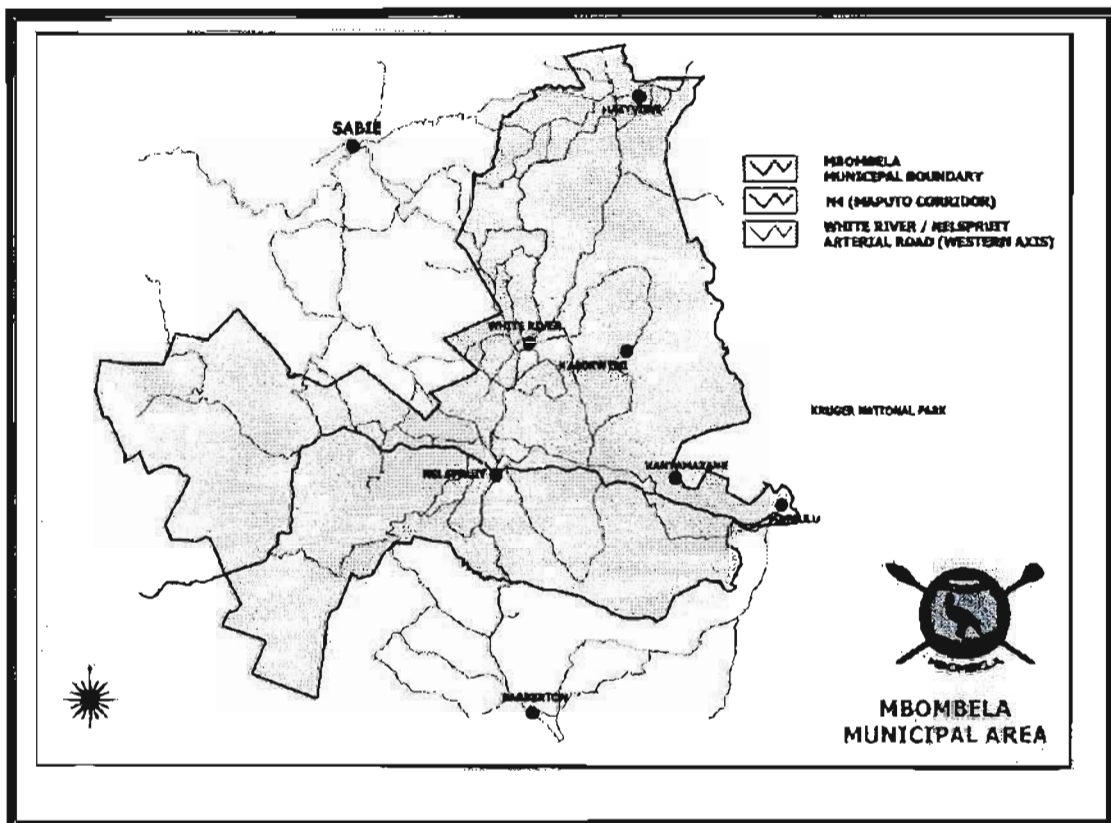


Figure 4.1: Map of the Mbombela Municipal
 Source: Brown (2005:5).

The 1994 demarcation of Nelspruit increased the population and significantly changed the profile of communities to be served by local municipality. Many of the incorporated areas had never received water and sanitation services, and the Council's system of infrastructure and services provision was suddenly inadequate. For example, the number of residents per length of water pipe increased from 110 to 601, and the number of residents per length of sewer pipe from 96 to 830 (Smith *et al.* 2003a:4).²³ It was apparent that the municipality would have difficulties in overcoming this shortfall with existing tariff revenues coming from the town of Nelspruit alone. It was obvious that the new residents in adjoining townships areas would be unable to help cover costs for the required investment (Smith *et al.* 2003a:4). Addressing the disparities in water services was thus one of the major challenges that the new Nelspruit Local Authority had to face. A public-private partnership, between the municipality and a British company was a way of addressing the multiple challenges that faced the municipality.

In Nelspruit, the public-private partnership for the provision of water was affected through the establishment of a partnership between the Municipal Council and a British Water Company called BiWater.²⁴ According to the Nelspruit Municipal Council, it was the first municipality in South Africa to establish such a comprehensive project with a private partner to deliver basic water services to residents (Maralack 2003:1). Quoting the CEO,²⁵ “[t]he needs of our communities are so great and the council does not have the

²³ During the demarcation process the local elections in 2000 the Nelspruit area was once again renamed and consolidated into Mbombela Municipality (Smith *et al.* 2003a:9).

²⁴ In 1999, the Nelspruit Local Authority contracted the British-based multinational BiWater to provide its water services for the next 30 years. This arrangement, known as the Nelspruit Water Concession, is the first of its kind in the South African water sector (Smith *et al.* 2003:1).

²⁵ The name of the CEO is Mr Roelf Kotze and he was quoted in Nelspruit Town Council, 1997b.

resources to meet them. Therefore, we have opted for a partnership with the private sector to render sustainable services of an acceptable standard” (Nelspruit Town Council, 1997b in Maralack, 2003:1). The Nelspruit partnership was forged to provide access to water in areas that were newly incorporated into Nelspruit because of the 1994 demarcation that increased the population from 24,000 to 230,000 (Smith *et al.* 2003a:9). Accessibility to water was therefore improved through the overall level and quality of services delivery to the townships which were incorporated into the concession areas (Smith *et al.* 2003a:19).

4.2 Research method

Data analysis method

The research methodology was qualitative, using the research method called content analysis. According to Kother in Ngulube (2003:229) content analysis is concerned with investigating the contents of documentary and verbal material. Content analysis has been described as being a technique for gathering and analysing the content of the text and it includes, books, journals, newspapers or magazine articles, speeches, official documents, films or videotapes, and the internet (Neuman 2000:292). By identifying themes and issues related to the research topic and question from the secondary data, the researcher is able to analyse and come up with answers to the research question[s].

It has further been highlighted that content analysis is non-reactive because the process of placing words, messages, or symbols in a text to communicate to a reader or receiver occurs without influence from the researcher who analyses its content (Neuman 2000:293). The advantages of content analysis lie in the understanding that a researcher will reveal the content (i.e., message, meaning, symbols, etc) in a source of communication (i.e., a book, article, etc). It lets him/her probe and discover content in a

different way from the ordinary way of reading a book or watching a television programme. With content analysis, a researcher can compare content across many texts and analyse it with quantitative techniques (e.g. charts and tables) (Neuman 2000:293).

It has been observed by Woodrum in Neuman (2000:293) that:

Content analysis remains an underutilized research method with great potential for studying beliefs, organizations, attitudes, and human relations. The limited application and development of content analysis is due more to unfamiliarity with the method and to its historic isolation from mainstream social science than its inherent limitation.

The main reason why the researcher used secondary data was because there have already been many studies undertaken in the area of water service delivery and PPP in Nelspruit.

Giddens (1989:675-6) has observed documentary research to be:

One form that systematically uses the printed or written materials for investigation. The documents used in research virtually always include information and findings produced by previous writers in the field in question. Many investigations are as much concerned with collecting together and analyzing materials from the work of others as with generating wholly new data.

Therefore, enough data has been accumulated to enable the researcher to analyse it using policy theories and concepts for interpretation.

Ragin in Neuman (2000:418) says, “qualitative researchers examine patterns of similarities and differences across cases and try to come to terms with their diversity...”

Neuman (2000:418) adds that researchers of qualitative data sort through various explanations, discussions, and descriptions, and evaluate merits of rivals, seeking the more authentic, valid, true or worthy among them. With the approach of difference,

qualitative research is often inductive, because researchers rarely know the specifics of data analysis when they begin a project.

According to Neuman (2000:427), another method of analysis uses empirical evidence to illustrate or anchor a theory; this is done by the researcher applying theory to a concrete historical situation or social setting, or organizing data on the basis of prior theory. Pre-existing theory provides the empty boxes. In this study, the theoretical framework provided empty boxes that needed to be filled up with information on what really transpired at Nelspruit with PPP as a mechanism of water services delivery. These were theories of New Public Management, PPP and management of networks. Neuman (2000: 427) states that, the researcher sees whether evidence can be gathered to fill the boxes. The evidence in the boxes confirms or rejects the theory, which he or she treats as a useful device for interpreting the social world. The theory can be in the form of a general model, an analogy or sequence of steps.

The two variations involved of the illustrative method, according to Neuman (2000:427) are: first, the theoretical model illuminates or clarifies a specific case or single situation and second, there is a parallel demonstration of a model in which a researcher juxtaposes multiple cases (i.e., unit or time periods) to show that a theory can be applied in multiple cases. This method has been adopted in this study in order to provide illustrations according to the theoretical framework and the PPP in Nelspruit concerning water services delivery.

Chapter 5

Findings and analysis

5 Introduction

A presentation and discussion of findings of the study are given. The aim was to use the case study to understand the complexities of and challenges posed by the adoption of PPP as a mechanism for water services delivery in a South African local government context. In this chapter, the four objectives and attendant research questions are discussed. Also lessons learned and implications arising from the study are discussed.

5.1 New public management and public private-partnerships

The GNUC PPP represents a public service and private sector compromise and the desire to work together in providing an important service: water and sanitation. It is a compromise in the sense that it presents opportunities to meet the profit imperatives for the private sector investors²⁶ and the constitutional responsibilities for the public sector partner (Nelspruit Municipality). This particular PPP, as with others, both in the water and other sectors, is premised on the view that such a partnership is consistent with the theories of New Public Management. In this section, this view is tested by examining the material and experiences of attempts to apply a PPP approach to water services delivery using some key concepts in New Public Management. The objective is to *examine the usefulness of New Public Management as a framework for assessing water services delivery and managing of networks using a PPP approach.*

²⁶ The concessionaire is a joint venture between NUON, a Dutch utility company, and BiWater, a British multinational water company, forming Cascad. Cascad holds 48% of shares of the Greater Nelspruit Utility Company (GNUC) (Smith 2003a:12).

New Public Management

A fundamental premise for this study was that the move towards PPP as an option for service delivery could be seen in the context of New Public Management. One of the trends in New Public Management is to manage in an effective, efficient and accountable way. Kaul (1998b:6) has observed that the use of different forms of service delivery are part of a new public management paradigm which is aimed at fostering a performance-oriented culture in a less centralized public sector. In addition, it has been argued that instruments used to organize and motivate personnel are as applicable in the public sector as they are in the private (Peters 2001:31). Along similar lines, Turner and Hulme (1997:188) have noted that the ability to use such instruments provides the opportunity, perhaps necessity, for the public sector to respond with management reforms that are oriented to performance improvement. Acknowledging performance management and efficiency in water services delivery within the context of a PPP means treating water as an economic good (Brown 2005:13). By implication, this means that water should be priced to reflect its true cost, because water subsidies distort the market and do not encourage efficiency in the use of water. Management practices in the private sector also advocate efficiency and cost recovery.

In view of the above, what evidence can be presented from the experiences of the PPP in Nelspruit to suggest consistency with the principles of New Public Management? A number of pointers exist to suggest that the GNUC PPP is consistent with the New Public Management school of thought concerning service provision. There are a few examples

that can be highlighted concerning attempts to promote efficiency, customer management and the management of networks.

Attempts towards efficiency, one of the cornerstones of New Public Management (and hence PPPs) in the PPP under investigation might be seen through attempts at improving customer management and debt collection. It is a known fact that one of the long-standing problems faced prior to the establishment of the PPP was poor debt collection and communication with customers (Moolla *et al.* 2003:17). Under the current PPP arrangement, some noticeable changes suggestive of efficiency have been noted. For example, according to Moolla *et al.* (2003:17) “despite the high levels of non-payments, officials at GNUC pointed out that there ha[d] been a reduction in outstanding debt since the introduction of the concession. Debt [was] lower under GNUC – R17 million compared to R90 million under the local authority”.

The marked improvement in debt collection did not come from without. It has been strongly linked to improved customer management, yet another important facet of New Public Management. In other words, improved customer management has been one of the main reasons for high levels of debt collection. Customer management has been broadly understood to mean ongoing interaction between officials from the utility company (including sub-contractees) and the community members. Offices have been established in different locations and this has further enhanced a sense of visibility of the utility company among community members much more than was the case before (Moolla *et al.* 2003:17). Customer care offices have been set up in Nelspuit, Kanyamazane, Matsulu,

and Msogwaba. Staff have been appointed in each office to deal with queries from customers, e.g. billing, payment plans and even how to minimize water bills (Moolla *et al.* 2003:17).

Establishment of offices means that there is now more contact by community members with debt collectors and the introduction of incentives such as negotiated payments and debt write-offs has turned some customers into good debtors (Smith *et al.* 2003b:13). Customer advisors are readily available to provide counsel on management of debt, the rights of households and individuals in respect of water services. Improved customer management has arguably contributed to *effectiveness* and *efficiency* and the staff at the head-office supports *accountability* (Moolla *et al.* 2003:17).

Accountability was another key element of New Public Management (Kaul 1998b:24). Overall, all players in the PPP are now increasingly playing the role that suits them, given their expertise, mandate and authority. For example, while BiWater is more concerned with the day-to-day operations, the role of the Municipality has been transformed from being a service provider cum debt collector to being overseer of the tariffs and strategic adviser in line with the municipal, provincial and national interests and expectations on water services delivery. In this way, the various parties to the PPP are suitably positioned to explain not just the intentions but also what actually happened and why it happened in the manner it did.

Innovation, this is another important dimension of New Public Management. Innovation is a concept often closely associated with both effectiveness and efficiency. According to Drucker (1995:19) innovation means change that brings about a new dimension of performance and way of doing things. In the PPP being studied, there is no question about there being innovation. The process of meter reading in the concession area is an example. Prior to the PPP, the task was pursued in a traditional way. Municipal employees were the only ones involved. Understaffing and a large operation area coupled with limited financial resources meant that the municipality's capacity was overstretched.

Under the PPP, meter reading is one of the operational aspects that have been transformed – an innovation on the part of the PPP. Meter reading has received prioritization, as it is central not only to debt collection but also to the long-term financial viability of the partnership. Now meter reading, unlike in the past, is done more consistently on a monthly basis using subcontractors employed jointly by the local authority and GNUC in Nelspruit (Moolla *et al.* 2003:17). The use of subcontractors is an important innovation in this regard. Also, whereas the municipality previously accepted the responsibility of distributing bills, in the current arrangement, this task has been outsourced to the post office which has better suited capacity, infrastructure and expertise to perform the task throughout the concession area (Moolla *et al.* 2003:17).

Networks

A secondary requirement for addressing the first objective, the managing of networks, is an assessment of how the GNUC concession has managed its networks. The concept of networks underpins the recognition that all aspects of policy do not occur in a vacuum.

Rather, they take place in a socio-political and economic landscape characterized by a diversity of views on any one policy issue (Colebatch 2002: 4). It is on this basis that there is an ever-increasing demand for high standards of coordination, collaboration and consultation at all levels of policy. The concept of managing networks is central to New Public Management (Klijn in Kickert *et al.* 1997:14), hence the focus given in this study.

An aptitude to manage networks encourages participation and consultation in the policy process, for instance, in implementation. Kickert *et al.* (1997:39) state that public management is the governance of complex networks, consisting of many different actors, such as parts of national, provincial and local government, political and societal groups, pressure action and interest groups, societal institutions, private and business organizations. The primary activities of network management involve selecting the appropriate actors and resources and developing ways to cope with strategic and operational complexity (Agranoff & McGuire 1999:12). New Public Management that is characterized by managing policy networks involves dialogue and advocacy.

In the case of Nelspruit, many different actors were, and continue to be involved. A major stakeholder group is the local people who represent a variety of interests. According to Van Rooyen (2002:6), the importance of participation of the stakeholders and the empowerment of local communities has been vital in the Nelspruit PPP. This has meant that those user communities such as water user associations and river associations should participate in the water management.

The management of networks in the case study may be illustrated by examining the process followed to form the PPP. Public participation in the form of local affected communities was undertaken through meetings organized through councillors (Maralack 2003:12). One of the major stakeholders in the PPP initiative was the South Africa Municipal Workers Union (SAMWU). The Union's role in garnering local support for the PPP and the concession was pivotal. SAMWU²⁷ conducted a series of workshops with local community-based organizations such as African National Congress Youth League (ANCYL). SANCO, the Congress of South African Students (COSAS) and other local stakeholders (Maralack 2003:10-11). Moolla *et al.* (2003:9) explains that at the beginning of the programme, the PPP was discussed at several community meetings to address issues such as the need for the concession, the financial stress on the municipality, the need for the involvement of the private sector with both organizational and technical expertise in the water sector, affordability and the impact that a resumption of payments would have on financial sustainability. Therefore, considering and involving different stakeholders in the early stages of policy formulation and implementation of service deliverance in the GNUC was vital, and decisions undertaken such as noted above were consistent with the notion of managing networks.

However, some questions have been raised about the extent and nature of the management of networks in the Nelspruit PPP. In a study by Maralack (2003:9), it was observed that stakeholders were not fully consulted nor sufficiently involved in the strategic and operational complexity of implementation processes. Also, despite the

²⁷ South African Municipal Workers Union.

consultation processes that were pursued, a lot of opposition was encountered from some groups:

The main opposition came from the African National Congress Youth League (ANCYL), Congress of South African Trade Unions (COSATU) and the South African Communist Party (SACP). To coincide with the public announcement of the preferred tender, the national trade union coalition, Cosatu and the SACP planned a stay away and marched to the Nelspruit Civic Center on October 27, 1997 (Maralack 2003:9).

One of the reasons for the opposition was the perceived view that the due process was breached:

The unions argue that the Nelspruit local authority did not follow due process prior to making the decision to privatize the delivery of an essential service. It is their contention that the local authority digressed from an agreement reached by the South African Local Government Association that all avenues and alternatives have to be examined and evaluated and all stakeholders have to be part of the decision-making process prior to decision in favours of privatization (Maralack 2003:10).

Even the pronouncement by Sivukile's and BiWater's Mpumalanga representatives that they would work with staff and communicate with the community was not effective:

The first [step] would [be to] work closely with unions and staff associations on all matters that concerned staff development, [and the] second [step was that in] their endeavors to provide affordable and reliable services, they would consult with the community on regular basis, thereby ensuring that their needs would be adequately catered for (Maralack 2003:9).

This was not the case and Maralack (2003:14) concluded that the promotion of greater involvement by community-based organizations (CBOs), such as trade unions, in ongoing decision making strategies was important to establish a consistent, sustained and credible consultative process. This spirit of consistent and sustained consultation lies at the core of managing networks.

Notwithstanding the above problems, a general review of the concession in Nelspruit lends credibility to the theory of New Public Management. All the innovations described above could not be implemented prior to the PPP for many reasons. Water service delivery in Nelspruit and outlying areas was previously entirely a public service responsibility with no remit for the private sector. Previously, not only was there an acute shortage of meter readers (in other words, staff shortage), the innovation to subcontract or outsource debt collection was not an option. All meter readers had to be public service employees, but previous staff shortages meant that debt collection as well as other aspects of customer management remained shoddy.

Engaging the post office to distribute bills and subcontractors to read meters epitomizes some of the innovations, which proponents of New Public Management associate with new mechanisms of service delivery such as PPP. The involvement of the post office represents a key operational and strategic decision in this particular PPP. It exemplifies the potential contribution and the value of functional relationships between different stakeholders. The post office helped the PPP achieve some degree of renewal through a partnership that shares power; by creating better accountability arrangements; by making better use of resources; by re-investing in quality services that are user-driven; through development of entrepreneurial action and through inter-jurisdictional cooperation (Kaul 1998b:6). The author also states that, thus, these options offer governments better insights into the relationship between the state and the public and provide opportunities to redefine these relations (Kaul 1998b:6).

5.2 PPP and the legislative and policy frameworks

In Chapter 2, an overview of the policy and legislative context in broad terms was provided, and various legal and policy developments that have influenced and affect the delivery of water services in South Africa were identified. Various studies about Nelspruit identify these frameworks as the legislative and policy context of water services, within which the local government system uses the PPP to deliver water. In this section the discussion is narrowed to focus on specific legislative and policy decisions on the PPP approach in Nelspruit.

In this section the objective is to analyse the implications of the South African legislative and policy context for public private partnerships in delivering water services at local government levels. This objective emanated from two key considerations. The first was the recognition that PPPs do not operate in a vacuum. They are conceived of, and implemented, in a socio-political context. The second was the view that central to any socio-political context are the policy and legislative frameworks that are in place. Policy indicates the political values and intentions of the government (Van Rooyen 2002:5). No initiative, including those under the PPP approach, could proceed outside the context of the legislative and policy framework.

To begin with, one should recognize that all the attempts to transform water services delivery cannot be divorced from the country's history. Also, as shown in Chapter 2, efforts to transform water services delivery have been made at different levels of government. Plummer (2000:7) explains:

The policy framework in South Africa for service delivery, and private sector participation generally, is established at the broadest level by the Constitution, the RDP (Reconstruction and Development Plan), the Growth Employment and Redistribution (GEAR) and the White Paper on Local Government. The RDP states the role of the local government in the integration of settlements once divided under apartheid. The GEAR encourages municipalities to take initiatives to enhance private sector investment in infrastructure. Without removing accountability for all service delivery, the framework gives the local level of government the authority to choose how they will deliver services.

The Water Services Act of 1997, specifically clause 19.2 of the Act which indicated the preference for the public sector option, was amended in June 2000 with the inclusion of clause 19.5 which re-defined a water provider as being anything from local government to private sector (Van Rooyen 2002:10). The Act provided a framework for Private Sector Participation (PSP)²⁸ in service delivery. The municipality i.e. WSA²⁹ can enter into a variety of partnerships, for example public-public; public-private or public-NGO or community groups (Brown 2005:8). Collectively and individually, the new policy and legislative environments allowed the local government to initiate new regulative measures and facilitate public-private partnerships, resulting in Municipal Service Partnerships (MSP) and the Private Sector Participation (PSP) frameworks (Sinclair 1999:585). This meant that opportunities were created for previously unrecognized entities, especially the private sector, to engage in water services provision. This development was important for the initiatives that were later to be implemented in the form of a PPP between the private sector organizations and the Mbombela Municipality

²⁸ Plummer (2000:7) says the option to pursue partnerships in all spheres of government is preferred for a number of reasons: the state has come to realize that it does not have the financial and managerial resources to handle the infrastructure requirement alone; public-private partnerships help in mobilizing private finance which is not available from other sources while releasing money from the fiscal budget for other social priorities areas; and the private sector is able to introduce efficiency gains, skills and technologies which are not inherent in the public sector.

²⁹ Water Service Authority.

whose shared goal was to improve water services delivery in the greater Nelspruit and outlying areas.

According to Sinclair (1999:585), local authorities in South Africa have been struggling to meet the demand for delivery of municipal services to very large sectors of the population who, for historical reasons, have been severely underserved or never been served at all. Sinclair (1999:585) states further that the ability of local authorities to meet the demand for more and improved municipal services is hampered by their inability to raise the necessary investment capital and, in some cases, their lack of management expertise. Consistent with this observation, the White Paper on Local Government (WPLG) explicitly recommends that municipalities look to alternatives for accelerating the delivery of basic services, and cites public-public, public-private and community partnership as options for consideration (Plummer 2000:9). The recommendation of the White Paper served and continues to encourage innovations in local municipal services delivery. The developments in Nelspruit, particularly the decision to implement a PPP, are consistent with the provisions of the aforementioned White Paper.

A major argument for private sector involvement in services delivery is the amount of investment at its disposal compared to public service organizations. This argument is strengthened in view of the fact that the resource capacity of most local authorities makes it impossible for them to meet their capital requirement. Plummer (2000:7) states:

It is estimated that only about 15% (100-150 municipalities out of 843)³⁰ would meet such conditions, and the remainder are limited to obtaining loans from DBSA or grant financing from national government. Despite the scarcity of these loans, past experiences shows that many of these grants have been spent ineffectively. In many situations, high levels of service have been provided to a limited number of recipients without regard to affordability, replicability or sustainability.

In other words, it is highly unlikely that the amount of investment in water services delivery which came along after the formalization of the PPP would have been possible under different circumstances, especially with a public agency as the only agent. BiWater's involvement in the Nelspruit PPP represents, in the context of South Africa, an unparalleled innovation in the delivery of water services through a PPP on such a large scale with so much investment on the part of the private sector partner. This illustrates the importance of the view that PSP may be the only real and viable option of accessing capital by municipalities.

Not everything about the current legislative and policy environment is seen in a positive light by everybody. For example, Plummer (2000:70) has observed that:

The regulatory and policy framework in South Africa is undergoing constant development and change. At this stage the regulatory framework defines the minimum level of service to be provided to all South African people, and allows municipalities to grant concession and establish contracts with the private sector. However there is no independent regulator for the water sector and it is not clear at this stage what regulatory body is intended or what role DWAF will play in the regulation of water and sanitation services in the future.

³⁰ It should be noted that as a result of demarcation, the process has reduced the number of municipalities from 843 to: 6 Metropolitan, 46 districts and 232 local municipalities and 26 district management area (MIU 2000 in Plummer 2000:8 and Johnson 2004:2).

Van Rooyen (2002:12), whose focus was on the ideology underlying all development policies in South Africa, concerning delivery of water in order to show flaws in the policy framework, argues that, while Free Water Policy was introduced through the revision of the White Paper on Water Services Act 2000, whereby every household was guaranteed access to 6 kilolitres a month, this has not been so because:

For an average South African household of eight people, this transfers to 25 litres of free water per person per day. This free water supply was supposed to be implemented from July 2001, but by February 2002 only 26 million South Africans received the 6000 liters of free water per month per household. The reason for not all receiving the free water was that households with arrears do not qualify for free water. Many municipalities also still have an indigence policy that means people must qualify to get free water (Van Rooyen 2002:12).

Brown (2005), whose studies specifically looked at what the significance was and the outcome of subsidies were with regard to improving the access of poor to water services, has explained that:

By 2000, there was a growing realization with DWAF that the pursuit of an orthodox cost recovery model, which required customers to meet the cost of delivery, was having negative impact on the health and well-being of the low income communities who could not afford enough water to meet health and hygiene requirements. In February 2001 it was announced that the government had approved a policy that would ensure that poor households are given a basic supply of water free of charge. The level agreed was 6000 litres per household (this is calculated on the assumption of an eight person household), and was in line with Water Services Act 1997 (Brown 2005:8-9).

An important aspect of the current legislation is the implementation of the vision of Free Basic Water (FBW). Brown (2005:10) in her findings on FBW observes that there is a great deal of disparity between provinces in terms of providing FBW to poor households. In Mpumalanga province as a whole, only 36% of the poor population is currently served by FBW; this is the lowest in South Africa, but implementation rates do however vary by

municipality. In the Mbombela Municipality, according to DWAF figures, 64% of the total population is served by FBW; the figure is 40% of the poor population (DWAF 2005). In the adjacent Umjindi Municipality just 24% of the poor population is served; this level also needs to be viewed in the light that Mbombela has ten times as many indigents (331,682) to serve as Umjindi (35,255). The Mkomazi Municipality (adjacent to Mbombela) has yet to implement FBW³¹ (Brown 2005:10). This is the legislative and policy context in which the local government operates in order to implement water services.

From the above, it is arguable that the legislative and policy context in South Africa is evolving towards becoming more conducive for collaboration between the private sector and the public service organizations, in this case, local municipalities. Collaboration between private and public sector entities partly hinges on creating enabling policy framework changes in which the public sector operates (Turner & Hulme 1997:188). In the context of this study, this enabling policy framework is being promoted in ways that encourage local municipalities to respond to great demand for improvement of municipal services (Sinclair 1999:585; Plummer 2000:10; Gotz & Harrison 2005:44).

The innovation by Nelspruit Municipality to engage a private sector organization of international repute is itself indicative of the extent to which the changes are being made. The developments in Nelspruit, such as the formation of the PPP, despite the obstacles it faced, illustrate the South African government's decision to play the role of a facilitator rather than an implementer in services delivery. As has been noted, the role of

³¹ See Appendix 1

government in relation to water services provision has shifted from providing water to providing a legislative and regulatory framework, or a so-called enabling environment (Van Rooyen 2002:6).

Importantly, the current direction in policy and legislation suggests a much friendlier environment than before for PPP in delivering essential services, especially at municipal levels. This situation is consistent with changes implemented since 1996 which give due recognition to the private sector as a partner in the development process (ANC 1996; Adalzadeh 1996). This gradual shift in economic policy has provided room for neo-liberalism tenets, the result of which has been the embracing of initiatives such as privatization, commercialization and the use of innovative approaches such as PPPs in delivering essential services across the various social and political sectors.

5.3 Opportunities and threats surrounding the GNUC concession

In this section, the concern is with broader external environment in which the GNUC concession³² has been operating since inception in 1999 as a PPP initiative. More specifically, the following question is raised: what opportunities and threats characterized the broad environment in which the GNUC concession has been operating?

Opportunities and threats in the context of this study are the respective advantages and disadvantages associated with the case study, considered from an external perspective.

Opportunities refer to the prevailing conditions or developments which have the capacity

³² Through a concession agreement, a private operator is responsible for developing or rehabilitating and operating a State-owned asset or service for a prescribed period. Concessions include agreements such as a build-operate-transfer (BOT) or rehabilitate-operate-transfer (ROT) scheme (The Water Page: 2005).

to facilitate water services delivery in Nelpruit and surrounding areas. Threats, on the other hand, comprise developments or are conditions that may stifle the survival of the GNUC concession as a PPP initiative and its quest to promote a quality and affordable water services delivery.

Opportunities

Opportunities can be seen from two perspectives: facilitating and resultant conditions. The former comprise those conditions and developments whose existence has facilitated the establishment of the GNUC concession. The latter refer to those conditions and developments emerging from the establishment of the GNUC concession and its operation as a PPP initiative.

Moolla *et al.* (2003:4) state that the provision of basic services to deprived communities is an overriding policy objective for most of South Africa's local governments that aim to improve the living conditions of residents. Therefore, the placement of water as a priority issue in the development agenda of the South African government represents an important opportunity for the concession under study. Alongside other basic services, water and sanitation form part of the deliverables services to which the ANC government has committed itself. This is in recognition that these services, as well as black people's rights, were deliberately denied to them in accordance with the apartheid ideology. A related opportunity is the fact that at the advent of the PPP in Nelspruit, there was an acute shortage of water services against the backdrop of a growing and critical demand. Dilapidated infrastructure and inadequate supply were some of the major challenges that were encountered at the time of the formation of the PPP. An opportunity that continues

to exist is the level of unmet demand for water, and the possibility to improve the water delivery system as has been exhibited by the innovations and work undertaken so far:

The engineering achievements have been central to the extension and upgrading of services. GNUC has laid 91 kilometres of water mains in the township areas and 8 kilometers in rural areas. It has also laid 18 kilometers of sewer mains and 17 kilometres in rural areas. As a result, most residents in the township areas have gained 24-hour access to water supply and higher levels of infrastructure, namely waterborne sanitation and yard taps. Since, 1999, the KaNyamazane township has had 6000 connections installed out of a total of 8 500 (70% of the township) 4000 which are metered. In Matsulu, 4 500 households are connected to the network out of 9 000 erfs (50% of the population), 2 250 of which are metered. In both townships, households that are metered are supplied through the standpipe system and network fed by Jojo tanks (Smith et al. 2003a; 19)

Another opportunity is the existing conducive policy and legislative environment. Different laws and policies have been put in place in order to facilitate water service delivery using different approaches. An important aspect in this connection has been the provision for private sector participation in water services provision. For a long time, the legal and policy environment was such that only public service organizations could engage in water services provision. Municipalities were allowed to form water utility companies,³³ but even such utilities were run by municipalities without private sector participation. Formation of partnerships with other actors was unheard of as doing so contravened the law at that time. The establishment of the GNUC concession is an illustration of innovation on the part of the municipality and its partners. Further, the PPP illustrates the taking advantage of an opportunity in the legal and policy environment.³⁴

³³ For example Water Service Authority (WSA).

³⁴ The Act that was amended to facilitate private sector participation was the Water Services Act of 1997 in June 2000 by replacing clause 19.2 with clause 19.5.

Furthermore, while the ANC and its allies like COSATU and South African Communist Party (SACP) were initially inclined to socialism and communism, after post 1994 realities have led to a fundamental ideological shift for the ANC. This has led to an appreciation of the role of private sector in the South African society. This economic policy shift was demonstrated in the ANC's discussion paper released in 1996 (ANC 1996³⁵). In general, the discussion paper sought to explain and demonstrate that a cooperative relationship between government and the private sector was a key precondition for success in the ANC's pursuit of democracy, economic equality and enhanced services delivery.

Against such a background, one of the major developments has been the acceptance that the public service is not suited to fulfilling all responsibilities in society. It can undertake some, but other responsibilities can be outsourced or even entirely left to other agents, with the public sector retaining its mandate as a regulatory authority. To this end, alternative mechanisms of working together between the public and private sectors have been advanced. In this particular case, the GNUC concession represents one of these alternative approaches, namely a PPP. Therefore, the ANC's recognition of the important roles that the private sector plays in South Africa, as well as the realization of possibilities of partnerships between the private and public sector in services delivery, needs to be noted as an opportunity. Otherwise, the GNUC concession and many other PPPs would not have been established, as there would have been no supportive ideological and legal climate.

³⁵ ANC, 1996. The State and Social Transformation. www.anc.org.za

The earlier mentioned conducive and policy environment could not have occurred without the democratization of the country. Thus, another major facilitatory opportunity has been the democratization of the South African society and government. The democratic dispensation paved the way for new laws and ideologies in the governance of the society and public institutions. As a major component of the country's governance system and its proximity to communities and its role in service delivery, the South African local government system has since 1994 received unparalleled attention in the history of the country. More funding than ever before has been injected into the South African local government system, alongside efforts aimed at building capacity (Smith *et al.* 2003b:12).

Further, the democratic dispensation in South Africa has meant among other things the mainstreaming and rationalization of the role of the local government system in South Africa. The holding of the first municipal elections³⁶ in 2000 legitimized local municipalities, because they became for the first time democratically constituted authorities whose roles included the management of services delivery at the local level. This rationalization and mainstreaming of local government is yet another opportunity for the GNUC concession.

Therefore, one of the major facilitatory opportunities is a revamped local government system, preceded by the municipal elections held in 2000. Revamping the local government system continues to be central to the implementation of various initiatives aimed at promoting service delivery at the local level. Rationalization and integration of

³⁶ The same can be said about the forthcoming local government elections (March 2006).

local municipalities throughout South Africa led among other things to the setting of new boundaries for municipalities. Not only did these developments accord with a democratic dispensation, but they also legitimized the Mbombela Municipality as an authority at local level. The demarcation of borders for municipalities is yet another opportunity. Considered from a business management perspective in terms of return on investment, the GNUC concession area now has a sizeable population to cater for and from which to expect realistic returns. Given the importance attached to the profitability by the private sector partners as well as the municipality, the extension of borders is an opportunity, but a challenge at the same time.

Another opportunity is the provision of funding from the national government. There has been recognition in the country that the local government system needs considerable support financially and otherwise in order to begin its work. Subsidies to municipalities mean that there are now more financial resources aimed at service delivery and operations of municipalities from central government. In the context of this study, without the financial support that the Mbombela Municipality has received from the national government, it is unlikely that it would have entered into the PPP with the private sector.

Partnering with private sector organizations has brought in additional financial resources. It has also led to a pool of resources, experience and expertise involving local municipalities and international private sector entities. BiWater has especially brought to the PPP its experience of long years of providing water services to large populations over large spatial areas and operating in a competitive private sector environment on an

international scale. Working in such an environment requires paying attention to detail, minimizing costs while maximizing profits and these are some of the attributes being brought into the PPP. Also, the involvement of Sivukhile, a black economic empowerment company, is consistent with the ANC government's position on promoting economic equality.

A common concern about PPPs is the perceived threats to employment opportunities and the abrogation of the rights of employees and communities alike (Kessler 2004:1; Van Niekerk 1998:3). An opportunity the concession has created was to demonstrate that job retention and job creation is possible under a PPP initiative. The establishment of the GNUC concession led to the municipality transferring approximately 141 workers to the GNUC as part of the concession agreements. No worker was retrenched in the transition period and the workforce later increased to 225. According to PriceWaterHouseCooper (2005:35) in the GNUC concession projects, all the existing jobs were retained and an additional 100 jobs were created. This illustrates that with good management, the concession has the opportunity to create further jobs, and to facilitate skills transfer.

There is no doubt that the GNUC concession operates in a context in which there is a ready market – water being a basic necessity at household level and central to economic production. Moreover, the concession area is characterized by a considerable backlog in water delivery infrastructure. Therefore, there is a demand not only a compelling opportunity, to meet the water shortfalls in parts of the concession area. Also there is a demand to ensure that appropriate systems and infrastructures are established to make that task a reality.

Another opportunity within the context of the GNUC concession is giving effect to the notion of governance. Governance in this context means the nature of management and operations within the concession company (Robbin 2004:36). According to Smith *et al.* (2003a:19), governance has taken the form of improvements with respect to decision-making around water distribution in the concession area. Despite the difficulties with GNUC communication strategies with township communities, the quality and frequency of communication is better than it had previously been under the Nelspruit Local Authority (Smith *et al.* 2003b: 13). Furthermore, the local authority, in its desperation not to see this contract fail, has cooperated with BiWater in working through the difficulties of managing the concession. Even though expansion has created opportunities for local residents to access clean water and sanitation, problems have been seen as outweighing the advantages of using PPP as a mechanism of service delivery (Smith *et al.* 2003b: 13).

Another important opportunity for the GNUC service concession is its ability to have a positive impact on the lives of more than 240,000 people in the concession area. The concession has the unique opportunity to contribute in some measure to development. Two years after becoming operational, the concession's performance was thus described:

In terms of the social impact of the concession, there [was] an important improvement in the quality of services, with a reduced cost to users and an increase in access to water services for 120,000 people who previously did not have any access. The Nelspruit/BiWater services concession was hailed as a PPP success story, although it [was] only in the second year of its 30 year concession (Price WaterHouse Cooper 2002:35).

In a parallel study undertaken to establish the accessibility in the concession area, it was reported that half of the urban residents expressed satisfaction with the water supply (Adams & Moila 2003:19). Through the concession, water service delivery was reportedly fast tracked and many Mbombela residents had easy access to water, for example, a metered connection in the yard or communal standpipe (Adams & Moila 2003:17). All residents also received (at least) 6 kilolitres of water free of charge. In the same study, rural residents felt water supply was unsatisfactory (Adams & Moila 2003:17). In another study undertaken around the same time (Moolla *et al.* 2003:4), similar findings were made, noting that the primary objective that the PPP model was adopted for delivery of water and sanitation for Nelspruit was to eradicate the backlog of services in marginalized areas such as kaNyamazane and Mpakeni and to improve the overall improvement in the service.³⁷ In the context of this study, the rural sections of the concession area present an opportunity in which the concession can produce positive impacts on development, e.g. poverty alleviation and facilitating general improvements in the quality of life by providing water and sanitation services (Moolla *et al.* 2003:4). The above examples illustrate resultant opportunities that can be associated with the GNUC concession.

Threats

What are some of the threats confronting the GNUC concession as a PPP mechanism for water and sanitation services delivery? What conditions are likely to hamper the success of the concession and the ideals it stands for?

³⁷ See the profile of Nelspruit on page 46

Potentially, as with most situations, many threats can arise in an initiative such as the GNUC concession. As illustrated earlier, the opportunities for the concession are immense. Governmental approval of PPPs as one way of ensuring and fast tracking service delivery in a democratic South Africa is a key advantage to the concession (Smith *et al.* 2003a:12). It reduces many potential threats, especially those related to an unsupportive legal and policy context. However, a careful consideration of the case study suggests that the threats facing the concession are much less about the context and more about the socio-economic characteristics of the bulk of the service recipients or customers of the GNUC concession. The following analysis explains the claim.

One of the major threats relates to the question of the long-term sustainability of water services being provided through the GNUC concession. The concession, as with any business, was established based on the assumption that there would be sufficient profits from its operations. Another assumption is that the communities and other recipients of the concession's services would be willing to pay for the services rendered. In short, the concession cannot run without adequate return on investment cost recovery.

However, the socio-economic conditions of some of the people in the concession area seem to challenge the above assumptions. The majority of the households in the concession area are poverty stricken. As much as water is a basic necessity of life, some of the households cannot afford regular payments due to lack of reliable sources of income (Van Rooyen 2002:23). The concession area has high levels of unemployment, especially in the areas not previously serviced:

Comparison in levels of employment between the core and the periphery indicates a sharp contrast. While the unemployment rate in the core of Nelspruit is 11,3% between 43% and 48% of the resident in the outlying areas do not have formal jobs. The informal sector has become an important source of employment for residents in the peripheral areas (between 32% and 38%). Furthermore, approximately 50% of total households have a joint income of less than R500 monthly (Maralack 2003:6).

Studies have shown that unemployment in the concession area deterred payments for water services (Brown 2005:14; Maralack (2003:6). It was established in both studies that the underlying reality was that many of the people, especially in the recently incorporated and previously unserved areas, could not have access to clean and safe water because they could not afford to pay for it. In a parallel study, Van Rooyen (2002:23) observed that in reality, poor people are prepared to pay for water, but they lack the ability. Therefore, one of the major threats that the concession faces relates to the ability by some residents within the concession area to meet their water and sanitation bills. That some households are without members with reliable sources of income makes them potential bad debtors in the eyes of the concession. Consequently, as explained by Adams and Moila (2003), since income generated through payments of such services is ideally supposed to be put back into service provision projects, non-payments compromised the sustainability of service provision because it likely to be difficult to continue rendering and extending these services when communities fail to pay for them. Not surprisingly, maintenance of existing water services, especially in rural areas is reportedly problematic (Adams & Moila 2003:19). In summary, it can be said that one of the major threats is the fact that the concession provides services to a 'high risk' clientele. Even at the formation of the concession, one of the longstanding concerns under the previous arrangement was poor payments for services which led to huge arrears (Moolla 2003:17).

Moolla *et al.* (2003:16) state that the non-payments of water services is related to the question of affordability, contending that:

GNUC's tariffs for water could only be affordable to the poor households who consumed approximately less than 15 kilolitres per month because of the subsidy received from central government through the equitable share grants. Had it not been for this grant there was little likelihood that water services would have been affordable and therefore non-payment levels would have been higher than it was currently used.

Moreover, the inability by some community members to pay their water bills is not a simple matter. It is not simply that the tariffs charged by the concession are not affordable or are very high. The matter is complex and this complexity is illustrated by the remarks by auditors made after a performance review of the concession:

The issue of non-payments is not related to tariffs (as in comparison with other municipalities, Nelspruit has amongst the lowest water tariffs), but to the fact that these households who are now receiving services have never had to pay for services in the past (PriceWaterHouseCooper 2002:49).

In a related argument, the complexity of non-payment has been noted, but in relation to the emotions underlying it. According to Begawan and Durassalam (2003:10), for some sections of the population in the concession area, the reason for non-payments is a reflection of their perceived grievances with the concessionaire:

The reason for non-payments is complex. A large number of household's linked non-payments to grievances with the quality of services they received from [BiWater]. These grievances included: water bills that were perceived as excessively high and non-reflective of what households felt they consumed; complicated water bills that did not indicate what they consumed over and above the 6 kilolitres free,³⁸ failure to inform households of installation of water meters; and harsh treatment of township residents by BiWater personnel.

³⁸ See the White Paper on Revision on the Water Service Act (2001) above.

Further, Adams and Moila observe:

Some could not afford to pay, others simply refused. Because previously residents paid a flat rate for services rendered and now they were expected to pay for the services such as water, electricity and so on. In many areas therefore many people had access to water and electricity through illegal connections and hence did not pay for these services (Adam & Moila 2003: 19).

The above quotations partially illustrate the deep seated reasons behind the non-payments. Naturally, different perceptions, which lead to reluctance or even outright refusal to pay for water and sanitation services, if not managed carefully, raise the prospects for conflict. The perception of unfairness in the way that the concessionaire has been conducting its business, particularly billing, and the decision by some residents in the concession area not to settle the bills is indicative of the existence of a conflict situation. Conflicts of non-payment have become evident in Nelspruit (Smith *et al.* 2003b:10). This has been partly attributed to oversights in the policy design. Consistent with the views by Hill and Hupe (2002:169), what happens at the implementation stage will influence the actual policy outcome. This means that the probability of a successful outcome will be increased if, at the stage of policy design, thought is given to potential problems of implementation. In line with this view, Moolla *et al.* (2003:19) contend:

There appears to have been no systematic study on affordability levels either before or after the PPP was entered into. This is a serious omission in a profit-driven undertaking of this magnitude for it begs the question about the integrity of the business plans and the formulae used to determine if this was profitable venture. Moreover, it compels us to question the assumption on which payments levels were anticipated. Was it assumed that jobs would be created and living standards raised? Which were the sources of growth that were identified? The ratio of employed to unemployed persons would have been an early indicator that payments could not be sustained beyond a certain level.

Studies undertaken by Smith *et al.* (2003a), Begawan and Darussalam (2003) and Moolla *et al.* (2003) reflect an understanding of the grievances underpinning non-payments. But grievances are only a part of the problem as Smith *et al.* (2003a:35) explain:

The grievances alone do not explain this level of non-payments and must be attributed to economic, political and social reasons. Regarding the economic situation of these two townships, both Matsulu and KaNyamanzane have an indigence rate of 62% with unemployment rates of 36% and 30% respectively. Considering the socio-economic situation of these townships, in many instances people are simply too poor to pay. Even though service users can access the first 6 kilolitres of water free, many households' water bills are still very high, at times reaching R300 to R500 a month.

For some people in the concession area, there is the question of affordability. An illustration of this view is given by McDonald (2002:9) who explains how out of 7 million people who had gained access to water since 1994, 1,26 million were unable to afford this water and another 1,2 million had to choose between paying for water and buying food. The situation in the concession area is a microcosm of the national scenario. The average monthly household income in black rural areas and townships is R1000. Moolla *et al.* (2003:15) state that household income is between R800 but less than R1500 per month.

The long-term success of the GNUC concession partly hinges on the support given by key stakeholders to the initiative. As noted in Chapter 3, PPP is seen by some as offering a possible balance between state and market provision (Moolla *et al.* 2003). But, here too, opinions³⁹ are divided over whether this is an appropriate solution in the case of an

³⁹ SAMWU argued that there was an alternative to privatization, through public-public partnership (Public Citizen 2005) and the study done by Smith *et al.* (2003c) at Harrismith has proven the possibility of this partnership in water service delivery.

essential good like water (Moolla *et al.* 2003:4). The concerns that were raised during the formative stages of the GNUC concession demonstrate the vulnerability of the concession to differing deeply held ideological positions among key stakeholders and this is that are a fertile ground for conflict:

We have argued that we believe privatization will be against the interest of the community, as well as against the interest of workers. Water is a public good, and as such must be left in public hands (COSATU and SAMWU 2003:16).

The above quotation illustrates the fundamental difficulties presented by different ideological orientations among key stakeholders. Therefore, another threat facing the PPP is the possibility of unresolved tensions arising among key stakeholders.

From the foregoing discussion, there is no denying the importance of the role played by non-payments and the threat this poses to the aspirations and operations of the GNUC concession. Despite the innovations described earlier, e.g. improved liaison with communities, debt write-offs, deferred payments, negotiated payments, and establishment of offices for queries from customers like billing and how to minimize water bills, some observers are becoming convinced that non-payments, alongside the socio-economic and political undercurrents may be the greatest threat to the GNUC concession:

Non-payments for services is proving to be a major problem in the Nelspruit PPP. Only 25% of households from the 'old areas' are currently paying for their services. This, it is pointed out, is not a 'concession problem'⁴⁰ but a 'principle problem', which is putting pressure on the concessionaire. (Price WaterHouse Cooper 2002:48)

⁴⁰Municipal boundaries have changed since the concession was signed and this explains why some areas are served by a private company, and others by the municipality itself (both a Water Service Authority (WSA) and WSP), though all fall within Mbombela Municipality (Brown 2005:5).

In addition to the threats largely emanating from the socio-economic situations of the people in the concession area, there are threats linked to the skills, competences and expertise of the people in South Africa's local government system. Since 1994, South Africa has been facing a desperate shortage of the professional and, technical skills and expertise required by a democratic and revamped local government system. The grievances, which were highlighted earlier, partly point to the problems with the skills of people involved in performing certain functions within the concession, e.g. billing. In short, the absence of appropriate expertise – a problem identified generally in South Africa's local government system – is a potential threat for the GNUC concession.

To illustrate the challenge presented by lack of capacity, Moolla *et al.* (2003:9) point out that the DBSA assisted the municipality in conducting various public information sessions from November 1996. However, Maralack (2003:12) has observed that the Nelspruit local authority did not establish a specific institutional structure to enable it to deal with issues related to either local economic development in general or water and sanitation in particular. Instead, it depended on local councillors to facilitate community participation and involvement in their constituencies, which resulted in some councillors playing contradictory roles. Some councilors supported the concession scheme in the Council and simultaneously supported the alliance and its endeavor to employ an alternative scheme. It is these sort of challenges that have been confronting the municipality and by extension, the GNUC concession. However, as mentioned earlier,

initiatives such as Project Consolidate⁴¹ will go a long way in fighting this inadequacy by identifying areas that need to be capacitated.

5.4 Lessons and implications

Four objectives were set for the study. Three of the objectives have been addressed above. The fourth objective – *to draw lessons and implications for the usage of the PPP approach as a mechanism of water services delivery*, is the last one to be discussed in this Chapter. The question addressed in this section is: what lessons and implications, if any, could be drawn from using PPP in water services delivery?

A number of lessons and implications can be drawn from this study. These lessons and implications revolve around the following: the importance of a supportive legal and policy context; the inherent conflict and complexity in PPPs and the need for their proper management; concerns about job losses with the establishment of PPP initiatives; and local conditions that would dictate the pace and scope for a PPP to be implemented. By no means are these all the lessons to be learned, but they are representative of some of the key issues within the context of this study.

Importance of a supportive legal and policy context

This study demonstrates the importance of a legal and policy context for the success of PPP initiatives. The shift from RDP to GEAR led to the introduction of new policies which permitted private sector participation in service delivery and opened up parastatals

⁴¹ This is a two-year project launched in 2004 aimed at streamlining national, provincial and local government to bolster service delivery and ameliorate capacity constraints.

to private sector investment (privatization). Without these changes, it is highly unlikely that the private sector partners in the GNUC would have come forward because their prime interest was securing and growing their capital. It is important for the affected government to explicitly acknowledge the need for assistance from the private sector in delivering desired goods and services. Such an acknowledgement is essential to demonstrate the needed political will and is key to ensuring that appropriate institutions, policies and laws are established to support PPP processes.

A supportive legal and policy context is an essential but not a sufficient condition for successful PPP initiatives. Public-private partnerships need to be underpinned by a well-resourced administrative system. For example, in South Africa, within the National Treasury, a PPP coordinating unit was established to help, among others, in establishing standards and guidelines for PPP initiatives. Again, this illustrates both political will to use PPPs as a mechanism in South Africa.

A major lesson in regard to policy and legislation is that PPPs need to be regulated, but there must be enough incentive to do business compatible with that in the private sector. Private sector partners cannot commit themselves to long-term service delivery relationships without profit, and government expects to get high levels of service delivery. A good policy and legislative and administrative system is essential for effective PPP operations.

Tensions will always be there ... they just need to be managed through engagement

For some, a PPP is seen as a mechanism less sympathetic than others to the plight of the poor (Bond 2005:1). The tensions and conflict described in this case study are symptomatic of deeply entrenched beliefs about the role of government and the private sector. In South Africa, PPPs are considered in some circles to be private sector friendly at the expense of the original goal of redistribution that the ANC adopted in its early days in government.

GEAR was arguably a precursor to PPPs in the sense that it signalled government's willingness to engage the private sector in various initiatives (Van Rooyan 2002: 9). However, the fact that GEAR was adopted as a radical departure from RDP with little consultation (Gumede 2005:91) created tensions not only within the ANC but also amongst its allies. This translated into tensions and mistrust in the way the PPPs were perceived.

A lesson to draw from this study is that PPPs denote change. But not all people are comfortable with change, especially if it is seen as being threatening to the status quo. In this particular study, it was found that tensions were heightened partly because the matter at hand - water and sanitation – is an essential delivery priority for the government and constitutes a fundamental right. It is not strange therefore that the GNUC-PPP initiative has been accompanied by controversies. But this is neither strange nor unexpected. By their very nature, PPPs are political; what is important is ensuring that the tensions are managed. Also, because some of the tensions are founded in skepticism about PPP as a

service or goods delivery mechanism, it is important for PPP initiatives to produce demonstrable results both in the short and the long term. In the case of the GNUC, one of the short-term results was the provision of employment opportunities, over and above the original employment levels when the municipality was solely responsible for water services delivery. As with all partnerships, PPP must be founded on a spirit of trust, accountability and trust among all those involved.

Tensions ought to be anticipated at the level of actual delivery of services. In this case study, there were reports and concerns about shoddy service delivery. Van Rooyen (2002:18) has noted a number of issues in this respect: cases of wrong billings (being charged for a period when there was no connection), disconnections without prior notices, meters running when there was only air coming out of the taps and taps running only between 4pm and 7pm. In short, concerns related to the actual delivery of the service can contribute to aggravating the tensions.

Complexity of a PPP should not be underestimated

This study has shown that the implementation of a PPP is a complex activity: the problem of non-payments in the case study illustrates this. It was not just a case of individuals and households refusing to pay. Deep-seated reasons such as the prolonged influence of a culture of a flat rate system or concerns about water quality (including reliability of supply) play an important role in influencing the decision to pay or not. Shoddy service delivery has also been noted as being one of the commonly cited reasons for not paying (Van Rooyen 2002:18). Complaints about poor service delivery have included receipt of bills without water supply, limited periods of supplying water (4 pm

to 7pm), instances of no flow of water but customers charged for the air flow and disconnection without prior notices or warning (Van Rooyen 2002:18). This wide range of concerns cannot be solved using a one-off technical solution, but require a dedicated and long-term strategy.

Another illustration of the complexity of and challenges faced in a PPP is the imperative to balance the profit motive with the constitutional rights of the citizens. To the private sector partners of the GNUC, those being supplied water services are seen as customers. They have to pay their water bills in order for the GNUC to remain a viable venture. On the other hand, the involvement of the public sector partner of the GNUC (Mbombela Municipality) implies that the people supplied with water services by the GNUC are not just customers, but also citizens whose rights of access to water are enshrined in the Constitution. This challenge is not applicable only to the GNUC, as similar concerns have been noted in the water sector in other parts of South Africa. In a study on Rand Water's work in Harrismith, it was noted that "it [Rand Water] has had great difficulty in trying to balance cost-recovery imperatives with the constitutional requirements to extend equality to previously disenfranchised households, a battle that has still not been won" (Smith *et al.* 2003c:25). Further, Amanziwethu Water Services⁴² (an autonomous business unit) has made strides in determining water payment capabilities in its catchment area. To do this, it has been able to identify the poor in order to ensure that their access to 6 kilolitres is not denied. This has made it possible for Amanziwethu Water Services to tailor its credit control measures to be more harsh on those who can

⁴² This is a Public-Public Partnership involving the Harrismith Municipality and Rand Water.

afford to pay. This illustrates that it is possible to solve the rights versus profit making dilemma if those involved in management are innovative and strategic in their approach.

Fear of job losses and stakeholders' engagement

The traditional concern about PPPs is it is thought that they often do not create enough employment because they advocate a reduced work force in their pursuit of efficiency, cost saving and profits. This study has demonstrated otherwise. Not only did the PPP absorb all the staff from the previous establishment, but more jobs were created under the GNUC than under the previous authority. As noted by the Development Bank of South Africa (2000:35), "one of the fears associated with PPP is that they result in job losses. However, the opposite happened because of the need to address service deficiencies resulted in the private sector creating more jobs instead of shedding them."

An important lesson is that while concerns may be legitimate under certain circumstances, it is important to note that this may not be true in all situations. In this particular case study, an agreement was reached with the SAMWU that no jobs would be lost. Dialogue played an important role in reaching this agreement. It is therefore important in the case of PPPs that they are founded as a result of transparent processes in which key stakeholders participate unfettered. Only then can any fears be made explicit and decisions taken to allay them.

Local conditions will dictate the pace and scope of PPP implementation

The other lesson that has emerged from this study is that while blueprints can guide general processes of PPP initiatives, particular PPP projects should be cognizant of local conditions. This is because PPP blueprints may not be applicable to the different contexts in which various municipal councils are situated and operate. In this particular study, it is evident that the dire poverty that characterizes the catchments for the GNUC has posed serious challenges to the PPP as well as and issues such as high unemployment levels and attendant lack of reliable sources of income:

PPPs may not be a viable option for some of South Africa's municipalities in so far as service delivery is concerned. A cautionary approach, however, may be advisable where levels of unemployment and poverty are high and there is an absence of a blueprint for rapid economic development. Any venture in the field of service delivery that is profit-driven is bound to face severe challenges in the way of non-payment if feasibility studies are not undertaken prior to the negotiation of contracts. These problems have the potential to not only plunge municipalities into financial hardship when the contracts cannot be fulfilled but also to thwart the development of whole communities. Since the impact on the poor of such occurrences is devastating, it would be in the interest of all to explore other options as well (Moolla et al. 2003:19).

The above statement supports the argument for PPP initiatives to adapt to local conditions and accepting that it will take some time before the people accept that they have to pay for services. Until such a time is reached, it is important to utilize opportunities such as subsidies, entailed in the concept of free basic water services, in setting the rates.

This chapter has presented the findings of the study. The performance of the GNUC PPP was examined in terms of some key concepts of New Public Management, highlighting areas where this was evident. As a 'theoretical lens' for examining PPP initiatives, New

Public Management offers very useful concepts for testing. It has also been established that under the current legislative and policy context, the inclination towards neo-liberal policies is supportive of a variety of approaches to essential services delivery – PPPs being one of them. A major implication is the view that private capital and market forces as have an important role to play in post-apartheid South Africa. Opportunities and threats facing the PPP initiative in Nelspruit have also been discussed. Threats have been attributed to the socio-economic characteristics of most of the service recipients or customers of the Nelspruit/BiWater concession. The last section addressed the fourth objective of the study, by focusing on the lessons learned for the use of the PPP approach as a mechanism for water services delivery. In the next chapter, the study conclusions are drawn and recommendations made.

Chapter 6

Conclusions and recommendations

6 Introduction

The aim of the study was to understand and demonstrate the complexities of and challenges posed by the adoption of a public-private partnership (PPP) as a mechanism for water services delivery in a South African local government context. The GNUC – a PPP initiative involving international and national private sector partners and the Mbombela Municipality was adopted as a case study.

The following objectives guided the study to: (1) examine the usefulness of new public management as a framework for assessing water services delivery and managing of networks under a PPP approach; (2) analyse the implications of the South Africa legislative and policy context for public private partnerships in delivering water services at local government levels; (3) identify the opportunities and threats that have been experienced in the case study in using the PPP approach in water services provision, and (4) draw lessons from and identify implications for the usage of the PPP approach as a mechanism for water services delivery. .

Applying principles of New Public Management enhances the management of networks, whose role is vital because they enhance communication, therefore influence the policy outcome (Turner & Hulme 1997:77).

Regarding the first objective, it was found that the Nelspruit PPP represented a public service and private sector compromise and a desire to work together in providing an

important service, namely, water. It became apparent that this partnership was consistent with the theories of New Public Management, in which the trend is to manage in an effective, efficient and accountable way. According to Kaul (1998b:6) different forms of service delivery are part of New Public Management paradigm, PPP being one of them, which generally aims at fostering a performance-oriented culture in a less centralized public service. A number of pointers with regard to the consistency of the PPP with the principles of New Public Management were identified. These included attempts to promote efficiency, customer management and the management of networks. In this case study, a PPP arrangement has demonstrated the ability to be an effective and efficient mechanism in providing water services. The experience of the Mbombela Municipality suggests that water tariffs, while a contentious issue, can under PPP arrangement, offer vast opportunities for engaging stakeholder network. This presents opportunities to set negotiated and affordable tariffs and to increase accessibility to water services especially for the poor residents.

The second objective was to analyse the implications of the South African legislative and policy context for a public-private partnership in delivering water services at local government levels. It was established that the Constitution, the RDP and the GEAR programme generally established the policy framework in South Africa for services delivery, and for the private sector to participate at the broadest level. The RDP promoted the role of the local government in the integration of settlements once separated under apartheid, and the GEAR programme encouraged municipalities to take initiatives to enhance private sector investment in the infrastructure and in services delivery. The study

also established that the participation of the private sector was due to the amendment of the Water Services Act of 1997 in June 2000 with clause 19.2 of the Act that had previously explicitly indicated the preference for the public sector option, being replaced by clause 19.5 that redefined a water provider as being anything from local government to the private sector.

With regard to the third objective, opportunities and threats were the advantages and disadvantages associated with the case study and were considered from an external perspective. Opportunities have been referred to as the prevailing conditions or developments with the capacity to facilitate water services delivery in Nelspruit and surrounding areas. The opportunities were seen from two perspectives: those that were facilitating and those that were resultant. The former comprised the conditions and developments whose existence had facilitated the establishment of the GNUC concession. The latter referred to those conditions and developments that emerged from the establishment of the GNUC concession and its operation as PPP initiatives. Threats took the form of conditions that were likely to hamper the successes of the concession and the ideals it stood for. These were identified as being socio-economic conditions of the service recipients or customers of the GNUC. Lack of employment and unreliable sources of income were shown to be significant in the poor residents' ability to pay for water services,

This study has revealed lessons that have emerged for the use of a PPP approach as a mechanism for water services delivery. Several lessons have been discussed and what has

emerged is that PPPs may not always be viable for some of South Africa's municipalities in so far as service delivery is concerned. This maybe the case in those municipalities yet to develop the capacity to engage the private sector on the same level as themselves without feeling intimidated. A cautious approach, however, maybe advisable where levels of unemployment and poverty are high and there is an absence of a blueprint for rapid economic development. For instance, Harrismith resorted to a Public-Public Partnership in order to address the indigent problem through subsidization. This was done by determining who could afford to pay and who could not, and by tailoring its credit control measures to be more harsh on those who could afford to pay.

6.1 Recommendations

The Nelspruit Water Concession serves as both a mentor and student in PPP initiatives within the water sector in South Africa. Nelspruit was one of the first water services delivery PPPs in South Africa and this provides important feedback and lessons for peer learning. It is important for Nelspruit to continue receiving significant support to overcome the barriers hindering sustainability in the pro-poor arrangement of Free Basic Water (FBW).⁴³ This is due to the fact that FBW, according to Brown (2005:47), has brought problems, as it is not a simple solution, but an immensely complicated undertaking: in its interpretation, its application and its management of finances and other resources. Through miscommunication about FBW it has contributed to the culture of non-payment. Non-payment of water services (a combination of affordability and a culture of non-payment) is the biggest threat to the survival of GNUC.

⁴³ See Appendix 1 for details of people receiving free basic water.

While FBW exacerbates issues of non-payment, in order to resolve this problem, I recommend and support what Smith *et al.* (2003b:21) have suggested namely that:

A starting point is to involve communities more widely in the service delivery process so that they can better understand how service delivery works, what it means to be a responsible 'customer' and how to hold their provider accountable. These steps are part of democratizing service delivery and must be steered more conscientiously by the local authority and its political representatives.

Effective administration structures need to more community centered. This can be achieved through establishing offices in the communities, so that people can easily reach the provider with their problems and queries about water services delivery.

From a research point of view, it is time for comparative studies to be undertaken which could highlight the various challenges in the delivery of water and other services at local government levels. Such studies could be undertaken as part of a broader research programme whose resources, time and expertise could be specifically tailored to investigating the challenges of implementing PPP initiatives in service delivery at local levels. The implementation of such initiatives could meet academic research needs but importantly, could provide empirically based information to benefit future PPP initiatives.

Appendix 1

Percentage of the Poor Population currently in receipt of Free Basic Water by Province, June 2005.

Province	Total Poor Population	Served by FBW	% Served (Total)
Western Cape	1,671,093	1,422,868	85 %
Eastern Cape	5,481,547	2,225,281	41 %
Northern Cape	524,831	397,988	76 %
Free State	1,951,829	1,801,350	92 %
KZN	8,297,337	3,965,046	63 %
North West	2,406,752	1,372,778	57 %
Gauteng	4,055,972	3,646,410	90 %
<i>Mpumalanga</i>	<i>2,257,622</i>	<i>802,027</i>	<i>36 %</i>
Limpopo	4,731,809	2,148,962	45 %
Totals	29,378,792	17,782,710	60.5 %

Source: *DWAF in Brown 2005:10*

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