

# **DEVELOPMENT AND CONSTRUCTION SECTOR MEDIUM TERM PLANS FOR ACTIVATION OF THE INDUSTRY POST COVID-19 LOCKDOWN**



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Team (29 APRIL 2020)

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## 1. EXECUTIVE SUMMARY

The Construction Covid-19 Rapid Response Task Team is a voluntary body consisting of a wide range of professional and industry representative bodies active within the development, built environment, and construction sectors. The Task Team has identified and presented practical interventions, focused on the short-term reactivation of construction sites and processes that can be put in place by government to support the ailing development and construction sectors. The short-term reactivation measures have focused on health and safety measures to assist the safeguarding of construction workers and suppliers.

The Covid-19 situation, which has occurred at a time when the entire building industry is already in a crisis, brings into focus the urgency and need to review some of the regulatory framework and procurement environment for which Government is responsible. The revival of the building and construction industry hinges on a 're-think of the regulatory framework' This document therefore focuses on medium and longer-term interventions required to support the built environment and construction sectors to ensure that these sectors can contribute to the economic recovery and growth of the country.

National Government through various organs of state directs and funds public infrastructure build, typically through the Department of Public Works & Infrastructure, but also through various other Departments like Human Settlements; Arts Culture & Sports including SOE's and various implementing agents like the DBSA, IDC, Coega etc. All these are governed by procurement directives from National Treasury. The Public Infrastructure build, together with private sector investment, plays a key role in creating employment opportunities in the sector and its regulation determines the successes or failures of the Built Environment sector.

The property development sector, both private and public, is responsible for fixed capital investment that addresses social and market needs and, importantly, reflects medium- to long term confidence in the future of the country. Government on the other hand, which contributes towards public infrastructure build and regulates the sector through various entities, guidelines and provisions plays a key role in creating employment opportunities in the sector. The Covid-19 situation which happened at a time when the entire building industry was in a crisis, brings focus and urgency to the need to review some of the regulatory framework and procurement environment for which Government is responsible.

Development depends on the civil and building construction sectors which are essential and critical assets to any well-functioning country's economy, and political mandate to develop public and private infrastructure. The collective built environment industries, consisting of developers, built environment professionals, civil, landscape and building contractors and their respective materials manufacturers and suppliers make up this industry that serves both public and private sectors. They are responsible for the conceptualisation, development, planning and execution of fixed capital investment in the country.

The industry employs a wide range of role-players ranging from highly educated technical experts to wage-earning labour. More than two thirds of any development process is currently being spent on obtaining statutory approvals, twice as long, if not longer, than it takes to construct a typical development. Construction can only commence once statutory approvals are in place. If one were to support the construction industry, one cannot but address duplication of statutory processes and delays in the statutory approval phase of a project. Such delays also inhibit any national economic turnaround. This document addresses this in more detail.

Bearing in mind that the statutory application process only employs a small group of highly qualified and skilled professionals and government officials, the bulk of the industry is left waiting on the side-lines hoping that by the time approvals are obtained, economic conditions would still warrant the investment and construction.

The current proposed schedule of services to be phased in as per the COVID 19 Risk Adjusted Strategy also creates delays as it only allows Professionals to work on aspects allowed in that specific level. For example, a Land Surveyor cannot start on work needed by other professionals in a lower level. It is important that the entire value chain supporting permissible building and construction projects in each level be included in the permitted resumption of activity.

Similarly, in the case of public sector fixed capital investment projects, not only do these projects need to run the same gauntlet of statutory approvals that private sector projects do, but public projects are further encumbered by extremely slow and cumbersome procurement processes and decision-making leading to regular under-expenditure on capital budgets.

Millions of Rands are wasted in the duplication of standard returnable information required when responding to bids invited by public sector entities, which when one considers that there can only be one winner in a bid, constitutes large amounts of sunk costs and a waste to the economy overall, whereas the capacity of many could be utilised more productively by the public sector.

The increased administration required in the execution of projects and cumbersome decision-making often leading to extended execution periods and regular under-expenditure on capital projects.

In this medium-term plan, the Construction Covid-19 Rapid Response Task Team calls for a fundamental change in how government and the public engage with fixed capital investment. The purpose is the activation of the property and infrastructure development industry so that more construction projects can take place, thereby delivering all the benefits that the construction industry can achieve as an economic multiplier in terms of creating employment both upstream and downstream, providing for social needs, increasing the growth of the rates base and ultimately delivering a visual illustration of the government's and market's confidence in the recovery and the future of the country.

The submission is structured along the following main themes:

- The need for the alignment and merging of all statutory approval processes into a single application process.
- The empowerment of qualified and registered design professionals to self-certify their work, or alternatively peer certification on a rotational basis.
- Restructuring of public procurement processes under the guidance of the quantity surveying, architectural and engineering professions who are responsible for procurement processes in the private sector on a daily basis noting the need to acknowledge the broad intent of the current PFMA & MFMA's. The shortcomings of these policies in the procurement of professional services also should also be acknowledged and reviewed.
- Establishing a supply chain environment which differentiates between procurement of goods and procurement of professional services.
- Creating a regulatory framework which supports the industry to be sustainable rather than contribute to its collapse.
- Increase public-private partnerships for the provision of infrastructure projects.
- Facilitation of development finance to ensure that more projects get to the bankable feasibility stage.

The Construction Covid-19 Rapid Response Task Team is appreciative that the rethink, as proposed in this document, will require alignment of and changes in various statutes and regulations. It would, however, be reticent to, on the one hand, call for support of the construction sector whilst not, on the other, deal with structural impediments preventing fixed capital investment from taking place in the form of construction or other types of built environment development.

In full cognisance of the capacity challenges that exist within the public sector, especially at Local Government level where funds are generally unspent due to the absence of the relevant expertise, achieving a level of success in the short term will depend on the acceptance of and the utilisation of private sector capacity to manage the aforementioned processes. At the same time the opportunity presents to upskill unemployed built environment practitioners who may then be absorbed into these public sector positions as full-time employees thereby replacing contracted persons.

## 2. CONSTRUCTION COVID-19 RAPID RESPONSE TASK TEAM

Leading data and analytics company GlobalData has revised its construction output growth forecast for sub-Saharan Africa (SSA) in 2020 to 3,6%, down from the previous projection of 6% (Q4 2019 update).

GlobalData has further revised down its forecast for South Africa's construction output in 2020 to a negative -4,1%. The report further indicates that the negative impact from COVID-19 will compound other challenges, notably high national debt, skilled labour shortages and low infrastructure spending amid a depressed economy.

The Construction COVID-19 Rapid Response Task Team ("CC19RRTT") is an industry grouping that has been convened to represent the views of the major associations in the construction sector and its entire value chain covering developers, suppliers, manufacturers, built environment professionals and contractors (main contractors and subcontractors).

The overarching synergy between the various role-players lies in the unified focus on the need for the survival and reactivation of the full suite of disciplines involved in delivering fixed capital investment projects for both public and private sector through the civil, building and electrical construction sector. There is consensus that critical to the reactivation of the construction sector is the need for the facilitation and streamlining of all statutory processes that culminate in construction.

The broad objectives of the CC19RRTT are the following:

- To assess the impact of Covid-19 on the built environment and construction sector and charter the recovery thereof.
- To unblock relief measures for the construction sector to remain sustainable.
- To identify infrastructure project opportunities in both the public and private sector.
- To address the regulatory matters which unintentionally impede the industry.
- To address systemic challenges and fast-track intervention.
- To assist in the recapacitating of the State to be able to drive the public infrastructure development processes, efficiently and effectively.

Members of the CC19RRT include the following listed in alphabetical order:

- Association of Architectural Aluminium Manufacturers of South Africa (AAAMSA)
- Association of Construction Health and Safety Management (ACHASM)
- Association of Construction Project Managers (ACPM)
- ASPASA

- Black Business Council in the Built Environment (BBCBE)
- Consulting Engineers South Africa (CESA)
- Clay Brick Association of South Africa
- Concrete Manufacturers Association (CMA)
- Construction Management Foundation (CMF)
- Cox Yeats Attorneys
- Institute for Landscape Architecture South Africa (ILASA)
- Master Builders Association KZN (MBA-KZN)
- Master Builders South Africa (MBSA)
- National Construction Incubator (NCI)
- National Spa & Pool Institute of Southern Africa (NSPI)
- South African Black Technical and Allied Careers Organisation (SABTACO)
- South African Geomatics Institute (SAGI)
- South African Institute of Architects (SAIA)
- South African Institute of Black Property Practitioners (SAIBPP)
- South African Property Owners Association (SAPOA)
- South Africa Women in Construction and Built Environment (SAWIC&BE)
- The Association of South African Quantity Surveyors (ASAQS)
- The Concrete Institute (TCI)
- The South African Institution of Civil Engineering (SAICE)
- Western Cape Property Development Forum (WCPDF)

### 3. CONSTRUCTION SECTOR CHALLENGES

The construction sector is the delivery mechanism by which fixed capital investment projects are delivered to the ground. It is also the sector within the total infrastructure and property industry that creates the most jobs and can channel money to a wide spectrum of employees and labour whilst supporting the fast material supply industry.

From the outset this medium-term intervention proposal acknowledged several challenges that the construction sector faces and argues that the proposed interventions will go some way to ensure that fixed capital projects are implemented by the construction industry. Typical impediments experienced are the following:

- Lack of “line of sight” on the project pipeline on both public and private sector projects due to cumbersome statutory and procurement processes.
- The high costs associating with and entering the construction industry to qualify for large scale projects.
- Institutional capacity to support the construction sector and the slow speed of industry transformation and skills sharing.
- The cost of construction materials, whether locally manufactured or imported, is linked to international supplier price creep leading to high costs to end users and a reduction in viable projects.
- High risks associated with the industry makes it difficult to obtain financing, both operational and development related.
- Address challenges with the availability of state-owned land, which falls under various Departments and State-Owned Enterprises and which could be utilised for the Public Infrastructure Build

These impediments reflect on all sub sectors that form part of the property and infrastructure development sector

### 4. CONSULTING SECTOR CHALLENGES

As with the construction industry, supporting and growing the built environment professions are critical to the future delivery capacity of the country. The current environment is not conducive to maintain sustainability and ensuring that high quality individuals enter the various built environment professions via the relevant tertiary education institutions.



## 4.1 THE PROCUREMENT ENVIRONMENT

In South Africa, the procurement environment for professional services has evolved in the last few years to become unfavourable to achieve a sustainable built environment sector. The directives from National Treasury which governs all procurement process in the country need a serious review. Whilst all public entities are subjected to these directives, as reflected in the PFMA/MFMA policies which dictate Supply Chain Management processes, there seems to be no differentiation between the procurement of goods and procurement of professional services.

The tendering system introduced for professional services is the one detrimental procurement aspects which has undermined the sustainability of the sector. In a sense tendering has made it impossible for fairness and transparency to be achieved, leaving many professionals out of work, this must be reviewed. This procurement system has proven to be complex, long and costly, with time overruns and budget overruns due to questionable appointments of unqualified service providers.

It is also noted that procurement of legal and auditing services by Government does not appear to follow the “lowest cost” approach as is the case with the Built Environment professions. Noting that infrastructure lifecycle will extend way beyond the immediate need, one would expect that quality and experience would be the overriding consideration, and not the lowest price as is currently the case.

Previously public sector work used to be procured via a “Roster System” which allowed a relatively even spread of work and a set criterion for appointments. Government should be engaging with the Built Environment professionals from all sectors in the building and construction industry to find a workable procurement process.

Some of the solutions could include amended procurement processes to be negotiated via the new Procurement Bill FIPDM at Treasury. The CSD at Treasury could be utilised to re-establish the Roster within all departments for all appointments of professional service providers as an example. Policies for women empowerment and gender equality in all built environment professions need to be developed and implemented.

## 4.2 REGULATION OF PROFESSIONAL SERVICES

As mentioned above, the revival of the building and construction industry hinges on a ‘re-think of the regulatory framework’. The Professional Services are regulated via Acts of Parliament and Gazetted fee scales. Since the last few years, there have been no Gazetted fee scales for some professions due to queries by the Competitions Commission. This has led to fee discounting, specifically in the tender environment. This has led to under-cutting of fees and consultants being appointed on the “lowest cost bidder basis” and not their competence or reasonable cost of delivering a competent professional service appropriate to the needs of the project. This has led to a serious decline in quality and eventually, the demise of businesses of professional service providers.

Government should urgently resolve the impasse on the principle of Gazetted Fees with the Competitions Commission to guide both profession and client in their negotiated fee agreements.

Gazetted fees should be published with a view to protect the public and the industry and ensure the provision of quality service from registered professionals. A serious rethink of the regulatory framework in this regard needs to be seriously and urgently considered.

We are aware that Government is now pursuing the “Post Covid Infrastructure Led Economic Growth Recovery Plan” which we understand is the state’s new economic policy direction. We are proposing discussions which include all industry stakeholders, working co-operatively. As has been demonstrated by the Task Team, however, with focus on the delivery of quality professional services.

Consideration should be given to a centralized database (contractors and professionals) – showing capacity - updated and ready for engagement for immediate, medium & long projects and programmes. This could take the form of a CBE stakeholder engagement, but also include other professional groups not represented in the CBE. This should include practices, professionals experienced/skilled/retired, and candidates/mentors.

## 5. NEED FOR ALIGNMENT AND MERGING OF STATUTORY APPROVAL PROCESSES

We turn our attention to the full development pipeline and question whether the important built environment and construction sector, responsible for vast numbers in employment, can function optimally when the application pipeline, feeding the construction sector, is too cumbersome and time-consuming. The World Bank doing business ranks South Africa as 98<sup>th</sup> on its Construction permit system.

National Government through various organs of state contributes towards public infrastructure build, typically through the Department of Public Works & Infrastructure, but also through various other Departments like Human Settlements; Arts Culture & Sports including SOE's and various implementing agents like the DBSA, IDC, Coega etc. All these are governed by procurement directives from National Treasury. The Public Infrastructure build plays a key role in creating employment opportunities in the sector and its regulation determines the successes or failures of the Built Environment sector.

At the same time National Government regulates the sector through various pieces of legislation usually Gazetted to provide the legal framework for the various entities operating in the sector. Professional Services categorised into Built Environment Councils (Architecture, Engineering, Landscape Architecture, Project Managers, Property Valuers and Quantity Surveyors, all represented under the auspices of the CBE are also governed by these guidelines and provisions. We note however, that Land Surveyors, Town & Urban Planners, Environmental Scientists and Geoscientists form an integral part of the Built Environment Profession but still fall legally within the ambit of Departments of Land and Rural Development, Dept of Science & Technology and Dept of Environment, Forestry and Fisheries (DEFF) etc.

As part of "re-thinking the Regulatory Framework, these professions need to be included as being necessary and needing integration into the Built Environment Professions if we are to streamline the Regulatory Effort.

The Covid-19 situation which happened at a time when the entire building industry was in a crisis, brings into focus the urgency and need to review some of the regulatory framework and procurement environment for which Government is responsible. The revival of the building and construction industry hinges on a 're-think of the regulatory framework"

Development-related application processes are internationally known to be cumbersome and aimed at ensuring alignment with overarching development visions, be it at national, provincial, or municipal scale. The process of granting development rights, and the process of utilising such granted rights, needs to find a balance between entrenched societal expectations,

politically mandated spatial changes, and market and industry realities of the day. Fixed capital investment, whether private or public sector projects, also need to pass feasibility tests in which time plays a major role.

Finding this balance becomes very difficult when legislation, addressing various societal, environmental, and economic growth goals, are not aligned in themselves to a central growth vision, or where urgency is not reflected in processes and stipulated timeframes.

Non-aligned legislation turns the well-meaning public official into an activist for whatever goal the official subscribes to or field of technical expertise the official stems from.

What is lacking in the plethora of South African legislation is the central theme of the importance of growth and time.

The correction of social injustices and structural reforms unique to South Africa can only be achieved by facilitating growth and directing such growth to address past injustices. Without growth, change will remain an unachievable, distant hope.

Private sector investment can either be the proverbial nuisance of change, or the energy by which new opportunity can be created. Public infrastructure is either a grudge purchase by the public purse, or a growth investment opportunity.

The tone already set by the President and his leadership team in dealing with the Covid-19 crisis, and the difficult decisions that have had to be taken, leads the CC19RRTT to the conclusion that the submission of innovative thinking will be taken seriously.

## 5.1 DEVELOPMENT RIGHTS – A SOUTH AFRICAN PERSPECTIVE

Various countries have dealt with the challenges of the need for growth and timing of statutory processes in different ways.

In South Africa, different legislation and approval processes, all which impact on fixed capital investment projects, vest in different spheres of government. It is only small-scaled localised developments that are dealt with by a single approval authority, i.e., a municipality. Medium to large developments, that generate large-scale investment and job creation, would typically require approvals from two, or even all three spheres of government overseeing different legislation – in some cases, even approval from State Owned enterprises is needed.

The Integrated Urban Development Framework (IUDF)\* which was published by the Minister of Cooperative Government, and which provides overarching development parameters in the country towards an integrated spatial vision, does not seem to be cross-referenced in the statutory approval processes. In fact, in most cases Municipalities contradict the parameters outlined in the IUDF.

Add to this the proliferation of 278 municipal by-laws, unique to each individual municipality, it becomes clear that complexity and duplication of planning, environmental, heritage and water rights, processes collectively disincentivise growth and investment. The process of obtaining development rights and approvals has become too complex, time-consuming and expensive to the point of actively discouraging investment.

Whereas we accept that we want to be seen as having a world class legislative system and embrace all that is deemed best practice, our processes and requirements as a developing nation often exceed those of so-called developed nations. A better balance needs to be found between the statutory and facilitative role that the state should play in South Africa.

One may argue that the status quo is designed to allow all possible impacted parties to give input into any new fixed capital investment project. The need for fairness and transparency is not being questioned, noting the protection that our Constitution affords all citizens. It should however be remembered that the same process, and fragmented statutory decision-making process, does afford any party wishing to undermine specific investment the opportunity of objecting, appealing and reviewing each individual statutory decision resulting in multiple opportunities to oppose investment. If the overarching development parameters were the guiding principle, understood by all, and allowing for inclusion of all stakeholders in decision-making processes, the contestation would be reduced or channelled better.

The current mis-aligned statutory framework does not promote urgency, nor does it support the desperate need to create investment opportunity and the direct Construction specific jobs and indirect jobs in other industries required to address the levels of poverty in the Country.

## 5.2 INTERNATIONAL AND LOCAL PERSPECTIVE

Countries focused on growth and investment have tried to address the encumbrances caused by statutory application processes in different ways.

In China authorities follow the route of pro-actively identifying growth nodes and addressing environmental and heritage concerns at local area level to the extent that the development application only deals with design and building plan approvals.

The pro-development ideology of Shanghai, as example, elevated the City to arguably the world's largest construction site in the late 1990's. *"The new development ideology adopted since the economic reforms has transformed China's local governments into the developmental state responsible for local growth. Performance of the developmental state is predominantly gauged by economic and physical growth."*<sup>1</sup>

The role of the local authority as investment and growth facilitator is clearly defined and measured on an ongoing basis. There appears to be a clear reporting line on projects completed vs the reporting on building plans passed, as is the case in South Africa.<sup>2</sup>

he new development ideology adopted since the economic reforms has transformed China's local governments into the developmental state responsible for local growth. Performance of the developmental state is predominantly gauged by economic and physical growth.

Rwanda, a reasonably small geographical area, has elected to follow the route of a "land use master plan" which clearly sets out the goals envisaged as part of the national growth strategy. Land is proactively zoned for development by government. Individual applications for land use change are possible but are assessed within a suite of legislation underpinned by the national growth strategy.<sup>3</sup>

Reflecting on urban development in Brazil with a more complex suite of application processes, Avila notes that the depth of regulation tends to have the unintended consequence of increasing costs and reduces affordability: *"Although the arguments for zoning are valid, other outcomes beyond its manifested intention have been produced. One of them is the increase of land and housing prices in high regulated areas. The maintenance of desirable urban*

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<sup>1</sup> Jieming Zhu; Urban Studies; June 2004: *"From land use rights to land development rights: Institutional Change in China's Urban Development"* p1261.

<sup>2</sup> STATS SA reports on building plans passed and does not appear to report on projects completed as measured by NBR required occupancy certificates for habitable buildings.

<sup>3</sup> Ericson E & Lindberg A: 2018: *"Development opportunities in the land management process in Rwanda"* p8.

*characteristics enforced by zoning restrictions to development creates exclusiveness, increasing housing prices.*<sup>4</sup>

Yet, although subject to the same legislative framework, the well documented example of Curitiba in the south of Brazil is illustrative of proactive interventions for the promotion and guidance of growth. With one of the highest development contribution levies in Brazil, private developers gladly offset the higher levies against the time saved and speed to market that can be achieved in this city.

There is arguably not a single international system that addresses all concerns in terms of line of sight and certainty on development approvals, nor the speed by which approvals are obtained within statutory timeframes.

What is however clear is that the real driving force is the relevant government's approach, vision, and urgency toward the principle of growth.

In China, as has been shown, the answer is found in the growth mandate given to local level government and the oversight measurement of growth.

In Rwanda, the growth vision is entrenched in a land use master plan that proactively supports growth.

In Brazil it is the willingness of a specific local authority to actively drives growth through the speed of processing applications and the proactive investment in infrastructure.

In South Africa we follow a fragmented approach hoping that all spheres of government would somehow follow the same growth vision:

- The Department of Agriculture Land Reform and Rural Development appears to focus on the protection of the agricultural land surrounding urban areas and actively works against urban sprawl. Examples of local authorities not engaging or engaging only to be ignored in later land use applications play out in the area of Spatial Development Frameworks.
- A plethora of top-down legislation in the form of the Municipal Systems Act and the Spatial Planning Land Use Management Act driven Spatial-, District- and Local Development Plans seldom address market realities and needs whilst, although well intended, the various Built Environment Performance Plan directives aimed at aligning

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<sup>4</sup> Avila PC; Nov 2006; World Bank; *Inputs to a Strategy for Brazilian Cities: Urban Land Use Regulations in Brazilian Cities Impacts on Urban Land Markets and Access of Low Income People to Land and Housing*; p221

municipal infrastructure spend does little to create an infrastructure-led economic growth strategy.

- Environmental, heritage, water use and planning processes, do not speak to each other and are not aligned in terms of time frames and decision-making authority.
- Not all local authorities have adopted municipal planning by-laws and it is questionable whether these municipalities can in fact legally receive and process any development applications with the double-edged challenge of corruption and the dire shortage of technical skills.
- Building plans, which should in effect be a health and safety process to protect the consumers, has been elevated to a qualitative assessment process where building plan examiners are expected to repeat land use planning processes to measure value impacts on surrounding areas.
- Consistent standards of interpretation of law, regulation and statutory consents need to be achieved through all Surveyor General Offices. Such is also applicable to many Municipalities.
- Various processes, where the responsibility is clearly placed on the shoulders of the relevant professional, still results in micromanagement by different government institutions, often by under qualified or inexperienced officials.

Legislative and administrative acronyms abound, delivery and fast-track approvals of investment projects do not exist. Professionals have been reduced to performing administrative compliance functions dictated by an overly bureaucratic system and unable to contribute to their full potential, irrespective of training, professional accreditation and professional indemnity insurance being in place.

The current legislative environment under which fixed capital investment stands lacks a clear unified growth vision which can be used to test the functionality and practicality of all legislation and policy currently hindering service delivery, investment and related construction and job creation.

The proposed District Development Model by COGTA is possibly one of the delivery models that may address the problems alluded to above

## 5.3 PRACTICAL ILLUSTRATION OF NON-ALIGNED LEGISLATION (URERU / WCPDF RESEARCH)

The UCT Nedbank Urban Real Estate Research Unit and the Western Cape Property Development Forum with its various associate bodies have invested substantial research time in plotting what is now known as the Cape Town Property Development Process Model. This



is a snapshot indicative model using a generic development project against which various statutory application processes have been plotted.

The model does have a regional context in that a local land use by-law was used to plot the land application process originating out of SPLUMA, as well as local building application processes. It is acknowledged that it does not offer insight into every micro detail such as the Land Survey Act or the Deeds Registries Act which could lead to even longer timelines where subdivision and registrations of sectional title schemes may be relevant. Nor does it reflect land transfer processes.

Legislation analysed in this specific model include, *inter alia*, the following:

- National Building Regulations and Building Standards Act 103 of 1977
- Municipal Planning By-Law (City of Cape Town 2015)
- Roads and Ribbons development Act 21 of 1940
- National Spatial Planning and Land Use Act 16 of 2013
- National Heritage Resources Act 25 of 1999
- National Environmental Management Act 107 of 1998
- Western Cape Land Use Planning Act 3 of 2014
- National Water Act 36 of 1998

The full model is attached as an electronic reference. A printed version will be available on request.

The conclusions from the research highlight the following:

- A typical 10,000 m<sup>2</sup> mixed use scheme triggering all statutory requirements will, without any appeal being activated, take at least 72 months to complete. Of this, at best 23 months will be spent on development rights applications assuming that all statutory timeframes are adhered to. 18 months will be spent during construction.
- Any appeal on any statutory application aspect could lead to the doubling of the statutory application process timeline.
- Public participation processes are duplicated per piece of legislation offering multiple opportunities to object, appeal and review each fragmented application processes individually.
- Although some legislation does allow for concurrent decision-making, agreements between various departments and spheres of government are not in place to activate these provisions.
- Different visions and agendas of various departments and spheres of government result in silo-driven decision-making,

These high-order findings can be projected onto a typical public sector project such as a school, hospital, or inclusionary housing scheme. Public and private sector investment suffers the same delays when it comes to obtaining development rights. Political promises of quick delivery of infrastructure and investment are generally unsubstantiated and cannot be achieved due to the process that new development will have to follow.

Based on the findings of the Cape Town Property Development Model the following should be considered as constructive interventions:

**Investment:**

- Local authorities, as custodians of the fixed capital investments, should be mandated and empowered to oversee the full suite of legislative fixed capital investment application processes impacting on property development and infrastructure projects except where these fall within the mandate of SOC's.
- Local authorities must be tasked to deliver growth and support for the national development vision. Such must be publicly reported and measured nationally.
- The Cape Town Property Model created by the UCT Urban Real Estate Research Unit and the Western Cape Property Development Forum should be used to guide the alignment of legislation.
- Thereafter a specific model should be created for areas under the control of Traditional Councils and Authorities.

**Statutory applications and facilitation of investment:**

- Local authorities should be mandated, funded and measured on the delivery of growth whilst provincial and national spheres are to focus on high order supply and movement infrastructure.
- Municipalities should proactively zone / upzone land earmarked for growth as well as proactively plan for bulk rights. This includes both greenfield and brownfield development opportunities allowing applicants to prove compatibility with current zoning.
- All statutory application processes must be aligned to have a single public and departmental comment period.
- A planning Ombudsman should be considered to allow for best practice.
- A single decision-making process must be followed where the input from all processes culminate in a single holistic decision.
- A single appeal authority must be set in place for internal appeals followed by administrative review proceedings in Courts.
- Relevant departments not satisfied by the decision may appeal the matter to the relevant national minister newly tasked with hearing appeals.

- The integrated application process, from submission to decision, must be designed to take no longer than 6 months in total.

### **Technical standards**

- All public sector projects must have a “gate review” to ensure compliance accepted technical standards to ensure that adjudication does not only focus on the lowest cost determination.
- All technical standards must be complied with through an independent oversight body created by the respective profession per technical field.

### **Oversight and support**

- National and provincial departments identified in legislation must fulfil their respective oversight, monitoring and support functions to assist local authorities from achieving their local growth targets, such support and oversight already allowed for in the Constitution.

### **Administration**

- Submission processes should allow for digital lodgement/submissions.
- Vacant posts should be staffed with external resources able to illustrate industry experience and knowledge.
- A mechanism should be created whereby staff suspended for corrupt practices should have a percentage of salary docked until the matter has been dealt with. Similarly, staff found not guilty should be paid the docked salary component with due interest and a predetermined “pain and suffering” compensation.
- Staff disciplinary procedures should be fast tracked to conclude matters to allow the businesses to proceed with urgency.
- All technical posts must be filled by registered professionals.

### **Corruption:**

- A national hotline must be set up to report councillors that become involved in any procurement related activity.
- Corruption must be treated with zero tolerance.

## **6. INSTITUTIONAL CAPACITY & SELF-CERTIFICATION BY REGISTERED PROFESSIONALS**

One of the key factors to enable development and to ensure the sustainability of the Built Environment sector, is the efficiency of Statutory Approval processes. The current situation in the various spheres of government and in metros and municipalities reflects a fragmented approval process which is mired in long-drawn out processes and often characterised by the lack of transparency and dependence on the whim of officials who often flout their very own processes and Spatial Development Framework provisions. This causes risk and frustrates building and development opportunities in the sector, causing construction delays and costing the developer, in both private and public sector, and design consultants valuable time and money.

The statutory approval processes need alignment with national strategic objectives and urban development parameters, which therefore requires an urgent “re-think”.

Available information points to the following:

- The average time for approval of SDPs takes between 12 to 24 months.
- The average time for approval of drawings for simple projects e.g. Houses is 12 months in larger more complex municipalities.
- The average time for approval of drawings for complex projects e.g. Multi-story Office Buildings is 12 to 24 months.
- In municipalities where electronic submissions have been introduced there are some improvements in the processing and follow up of applications with a promise of 30 x days, e.g. Cape Town.
  - However, the 30 x days starts when the municipality deems the application to be “complete”. It can take months to reach this status after which it often takes 30 days to stamp the drawings electronically!
  - Nevertheless, the electronic submission process has improved systems and needs to be rolled-out nation-wide where feasible.

The impression in the industry is that Municipalities are understaffed with many vacant posts. Another impression is that the officials, who are certainly not incompetent, some with years of experience, appear reluctant to make decisions or recommendations which may result in legal processes or reflect badly on themselves. There is too much political interference in the approval processes, accompanied by cumbersome and punitive Treasurer General’s Auditing processes. While commendable, this has brought some decision-paralyses in state entities.

Further, there is a multitude of interpretations of the Municipal by-laws and NBR which causes huge delays.

Various efforts have been made by professional bodies to engage with Municipalities, at times right up to the Mayors’ office helping in processing applications for the City, offering

professional time on an hourly basis. To date no such offer seems to have been acted upon in any municipality in the country.

### **On Self-Certification**

There is no reason why municipalities cannot establish a “planning and approval directorate” which co-opts registered and accredited private professionals to assist with approvals and unlock the blockages municipalities face. This would offer some form of managed self-certification”, meaning professionals do not necessarily approve their own projects, but private professional practitioners are given this role to assist the Municipalities. This has not yet been tested in South Africa on a broad scale and it is about time. On the other hand, structural engineers do certify their own work and therefore the idea of designs disciplines self-certifying their work is not so foreign as may be thought.

Streamlining approvals process, unlocking the applications currently in the system and not yet processed due to the lockdown, will be an important first step in “reviving the built environment and construction industry”, allowing already planned projects to come on stream. This would unlock millions of Funds currently facing the risk of evaporating due to a collapsing building industry. This is an urgent appeal for action towards unlocking development potential and the creation of jobs.

Managing of Infrastructure projects to ensure value for money and sustainable infrastructure requires the expertise and experience of built environment. It is a known fact that public institutions struggle to attract the calibre and number of professionals to the Public Sector, despite offering highly competitive remuneration packages when compared to that paid by the private sector.

The performance of the development and construction sector over the last 3 years followed by the current Covid-19 Pandemic have resulted in a significant contraction in the job opportunities for professionals in the private sector. Alternatively, the private sector has huge spare capacity to demonstrate a rapid response to deliver infrastructure. However, this capacity will not necessarily result in a faster and more efficient response to infrastructure delivery, unless the private and public sector come together and develop different protocols to achieve the objectives of the State but still provide effective, efficient and sustainable infrastructure.

Countries such as Australia and New Zealand are currently exploring the possibility for self-certification by built environment professionals of their own work. Some attention is also being given to the outsourcing of certain functions to the professions, such as building plan approval.

Noting that the key theme in this document is the importance of time and urgency in processing applications, the opportunity now exists for South Africa to consider similar interventions.

Where a specific profession is not yet ready to accept the principle, a strategy must be tabled, identifying key interventions and timelines by which the profession will be ready to accept the responsibility of self-certification.

Professions requiring a higher level of scrutiny can create a peer review mechanism and “panel of experts structure” that can guide professionals, specifically younger and less experienced practitioners.

The same structure allows for higher levels of interactions with the various tertiary education institutions from which professionals stem. The purpose would be to ensure “fit for purpose” training based on future professional liability.

Underpinning the concept of self-certification lies the professionalisation of the various disciplines and placing a quality management obligation on the various professions. Government takes on the role of setting and auditing standards, thus streamlining the work of the professions and government in a complementary manner.

The benefit to government in allowing self-certification is the following:

- Time saved and speed of delivery of projects
- Release of critical manpower and resources to be allocated to public sector projects
- The creation of investment confidence
- Professionalisation of various fields of speciality
- Realising of development policy

The following explains the concept of self-certification in various development-related fields as examples of possible interventions:

## 6.1 ENVIRONMENTAL ASSESSMENT PRACTITIONERS

The National Environmental Management Act (NEMA) places the responsibility for independence and interrogation on the environmental assessment practitioner (EAP). The EAP makes an argued submission of findings to the relevant delegated authority on which the EAP recommends the approval or non-approval of the NEMA application. As part of this process the EAP proposes certain conditions that are relevant to the proposed development.

NEMA further requires EAP to be registered as professionals leading to the need for a council to oversee the work of registered EAPs. It follows that EAPs will be able to obtain the necessary professional indemnity insurance available to various professions.

The opportunity exists to place the decision-making authority on registered EAPs and for the relevant government entity to fulfil a guidance, oversight and auditing function.

Appeal processes can either follow the current route of appeal to the MEC or National Minister, as the case may be, or the appeal authority may be vested in a newly created central appeal authority that will oversee the full suite of statutory application processes envisaged in a previous section of this document.

Oversight authorities aggrieved by the EAP's decision will appeal the decision and may in certain instances institute disciplinary complaints with the relevant Council against the EAP.

Actions required to realise this proposal:

- Make necessary changes to NEMA placing the decision-making authority on the EAP.
- Ensure that EAPs are professionally registered.
- Ensure that EAPs are obliged to have professional indemnity insurance.
- Set up the appropriate appeal mechanisms.

## 6.2 NATIONAL BUILDING REGULATIONS APPROVALS

Building plan applications and decision-making is governed firstly by the National Building Regulations and Building Standards Act 103 of 1977 (NBR) which focuses on the quality and safety of the building. Thereafter building application processes and additional content required to be submitted is defined by the relevant local authority's land use and building application by-laws and regulations.

Building plans, due to their technical nature, are typically prepared and submitted by a qualified design professional, be it an architect or engineer.

These professions are governed by a registration process overseen by the relevant built environment council who oversees academic training standards, ongoing professional training and professional discipline and conduct.

In addition, a professional undertaking the risk of preparing designs for development and construction purposes would have professional indemnity insurance in place.

The current situation requires these professionals, assisted by additional professionals such as Town Planners, Traffic Engineers and Landscape Architects, to submit applications to verify compliance with a zoning scheme, any other municipal planning by-law or municipal regulation. Only thereafter are building plans assessed and decided by building control officers in terms of the NBR. The full process not only deals with the statutory approval but becomes part of the gatekeeping culture of the specific municipality to either support or delay fixed capital investment. This speaks to whether the specific local authority is open for business or not.

It is proposed that a similar process of professional self-certification be introduced for the built environment professionals, whereby a building plan can be approved by a group of qualified, registered and insured professionals. In practice a group of professionals will assess their designs in terms of all relevant legislation and certify compliance and adherence.

Copies of designs will be submitted to the local authority for record purposes only which can then be used to update property data leading to changes in valuation rolls.

Local authorities will in turn fulfil an auditing and oversight function whereby professionals who do not adhere to relevant legislation can be declared to their various professional councils. Private individuals who have material issues with new developments will be able to declare disputes with developers and their consultants via the standard court procedures, or a generally accepted Alternative Dispute Resolution (ADR) process.

As per the proposals on EAPs the net effect of this proposal is that professionals will self-regulate, their respective councils will have a greater oversight and the market will determine the relevant risk that is to be covered through professional indemnity insurance.

At the same time local authorities can release spare capacity which can be allocated to driving public projects to fruition.

Actions required include the following:

- Amend both the NBR and SPLUMA to allow for professional certification by professionals during building plan application processes.
- Draft a local authority guideline as to the necessary processes and reallocation of spare resources.
- Ensure that the various built environment councils are duly mandated to provide disciplinary interventions where required.



## 6.3 LAND SURVEY ACT

When lodging diagrams and general plans with the Surveyor-General for approval, Professional Land Surveyors warrant that their submissions comply with the Land Survey Act No. 8/1997 and the Regulations framed thereunder as well as all relevant Statutory Approvals and Consents.

Similar arguments to that already presented are relevant here:

- Land surveyors are professionally registered.
- Land Surveyors are personally liable for all the work>
- Land Surveyors carry indemnity insurance and are registered with a Statutory Professional Council viz The South African Geomatics Council who are legally responsible for instituting disciplinary action against its members in respect of improper conduct to the extent of removing a person from the registration roll.
- The Surveyor Generals Office carries no liability – hence even more reason for Land Surveyors never to make a mistake.
- The reservation of cadastral work in terms of the Geomatics Profession Act and the Land Survey Act for the category of Professional Land Surveyor only, ensures a high standard of work ethic, professional competence, liability and responsibility which translates in an efficient cadastre ensuring, security of tenure and the protection of the rights of the general public, such forms the backbone to property investment and the general economy. The significantly low number of court cases regarding boundary disputes is testimony to this and relieves the burden on our judicial system.
- Land Surveyors are “quasi-judicial officers” in that Courts do not concern themselves where Boundaries of land are. The public can enforce their boundaries without recourse to expensive court cases and delays. They simply engage the services of a Land Surveyor who certifies to certain facts

## 6.4 DEEDS REGISTRIES ACT & ELECTRONIC DEEDS REGISTRATION SYSTEM ACT

The current closure of the Deeds Office has had tremendous impact on a variety of interest groups, not least current and prospective property owners, the conveyancers, and banking institutions.

International precedent has been set in Sweden since 2017 by experimenting with placing its land registries on a blockchain and streamlining transfer of property. The Republic of Georgia currently has its registry system on Blockchain, with many other countries following. Although

new legislation in South Africa starts to open the door to new technology, the process and participation of conveyancers, who, like land surveyors, certify the correctness of their work and carry full liability, should be clarified.

The argument on professional liability, insurance and possible sanction is true in this case as well.

## 6.5 HEALTH AND SAFETY CERTIFICATION

All Construction projects are required to be registered through either a construction work permit (CWP) or a notification with the Department of Employment and Labour (DEL). Either the CWP or general notification is required to ensure that the necessary health and safety guidelines have been followed, and the Principal Contractor's H&S plan has been approved and it is safe to commence work. A letter to the DEL indicating whether the project is an emergency project will assist with the turnaround time for the CWP to be issued.

Once the project commences the professional H&S agent (PrCHSA) inspects and audits the project to ensure the work being done and is following the agreed plan. Reports following each visit are provided to the principal agent and client to indicate such compliance.

As with the case of the other professions, a self-certification and self-regulatory approach will assist with urgency, removal of red tape and the delivery of construction projects.

The attached Annexure 2 gives practical illustration to the process that can be followed.

## 7. PROCUREMENT

The construction industry has identified the public procurement process as one of the stumbling blocks to service delivery and pipeline certainty by both professionals and the construction industry alike. Various government entities continue to blame the under expenditure of capital budgets on cumbersome and bureaucratic driven procurement processes instituted by National Treasury. Ongoing changes to procurement policies and processes are also blamed on regular changes set by National Treasury.

National Treasury on the other hand blames the various spheres of government and individual entities for not following guidelines and being side-tracked by their own bureaucracies or by nefarious interests of individuals, lack of experience and competence. Self-instituted cumbersome approval process of variation orders and the extension of time claims processes cause further delays and undermine the successful completion of projects.

Either way, public procurement processes are renowned for lack of urgency and not offering any guarantee that value for money will necessary be delivered. Public procurement processes should be reviewed.

Due to its history and the exclusion of the majority of the population from economic opportunity, the democratic leadership has identified public procurement as one of the opportunities of correcting the ills of the past. This principle is not being question and should be celebrated as one of the successes of the new democracy.

The reality is that public procurement has also become one of the stumbling blocks to growth due the vast levels of corruption that have developed within the public procurement space. Naturally, the tendency has been to regulate and to continuously close loopholes that may exists. The reality is that one cannot legislate or audit a country out of this problem. The only option is to seek growth whilst creating a culture of notifying relevant authorities when corruptions occurs. The professions should also play their part in identifying and rooting out corruption in own ranks, and amongst the clients that they engage with. A zero tolerance towards corruption should become the accepted norm in the whole South African society.

The Covid-19 crisis and the national need for growth and investment, leading to the creation of desperately needed jobs, bring public procurement into the limelight. The opportunity exists to enrol the quantity surveying and engineering professions to manage public procurement on behalf of all government entities. It is also imperative that the quantity surveying profession forms part of the team on engineering procurement and projects. Once norms and standards have been set for end requirements, professionals should be co-opted and empowered to manage the procurement of fixed capital investment projects on behalf of government.

An alternative interim procurement strategy should be based on a system that will give equal weighting to the need for fairness, equitable, competitive and cost-effective procurement with specific focus on long term cost effective solutions, sustainable transformation and a fair allocation of work to all the players in the industry on the basis of capacity, competence, localisation and performance.

Private sector projects on the other hand, albeit driven by the concept of profit, allows procurement processes to be driven by various professions, mostly the quantity surveying and engineer professions. Procurement standards and processes are simple and deliver substantial value for money. All participants at the table share in similar goals underpinned by the concept of profit which does simplify the process drastically although it does create barriers to entry for new participants.

The Covid-19 crisis and the national need for growth and investment, leading to the creation of desperately needed jobs, bring public procurement into the limelight. The opportunity exists to enrol the quantity surveying profession supported by the engineering professions to manage public procurement on behalf of all government entities. Once norms and standards have been set for end requirements, these professions should be mandatory inclusions in the procurement of any fixed capital investment projects on behalf of government.

Similar to the self-certification by other professions, this process would require professional registration, insurance and personal liability on individuals managing procurement processes. The respective professional bodies will provide oversight and institute correctional and disciplinary action where needed.

The opportunity exists for National Treasury to engage with the various professional bodies and to set the new norms and standards for public procurement throughout the country.

## 8. ALTERNATIVE INFRASTRUCTURE DELIVERY & PUBLIC-PRIVATE PARTNERSHIPS ON INFRASTRUCTURE

There can be no doubt that growth will depend to some extent by the release of private capital into the South African economy.

The precedent has been set by South Africa's Renewable Energy Independent Power Procurement Programme. Having been described as "*the most successful public-private partnership in African in the last 20 years*"<sup>5</sup> the South African government now has first-hand experience in harnessing private sector technology, innovation and capital to the benefit of the country as a whole.

Further examples can be found in the Gautrain project.

The opportunity exists to create a similar programme to assist severely strained and technically under resourced municipalities in the provision and maintenance of bulk infrastructure capacity. Not only will this unlock the private sector energy, it will further create the basis for ongoing training of government employees for the design and maintenance of similar infrastructure.

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<sup>5</sup> Sense & Sustainability; April 2019; <https://www.senseandsustainability.net/2019/04/02/south-africas-reipp/>

A formal municipal PPP programme will assist in addressing the backlog of infrastructure and proactively create development capacity for further private sector investment.

By overseeing and providing the requisite guarantees to private sector investors funding such a programme, National Treasury will be able to assist local authorities in achieving the goals set out in their respective Integrated Development Plans and Built Environment Performance Plans.

## 9. DEVELOPMENT FINANCE

Bearing in mind that the implementation of any fixed capital investment project is a vote of confidence in the future of the country, one can question the high-risk premium placed on development finance in South Africa. Banking institutions attempt to de-risk projects on the short term thereby placing a high interest rate and equity expectation on private sector projects. The result is that private sector developers can only implement tried and tested projects. This closes the doors on concepts such as inclusionary housing or the experimentation on mixed use medium- and high-density projects. The development finance model in South Africa arguably does not incentivise and support the private sector in achieving the inclusionary growth vision of government.

Lessons can be learnt from, *inter alia*, Brazil, which in its Minha Casa Minha Vida (My House My Life) programme created innovative finance structures through the national fiscus for private developers to access soft finance. For instance, qualifying development could obtain development finance at substantially reduced rates, passing on the benefit to end users and in the process growing property ownership in the country.

Further support can also be given by well-heeled municipalities raising funding against their balance sheets and offering beneficial development finance facilities to qualifying developments in the specific municipality.

All these finance opportunities should be unpacked with the development industry to seek out opportunity leading to investment and growth, thereby supporting the construction sector in create jobs.

The challenges we face are not of necessity a shortage of funds, but rather one of developing more confidence in the public- private partnership. It is a well enough known fact that there are sufficient funds available locally to catalyse foreign investment, just not enough assurances that such investments will be secured and provide adequate levels of return, as they are in

reality not public funds but monies accumulated in private long term savings and investment vehicles.

## 10. INDUSTRY THINK-TANKS ON CRITICAL ISSUES

Public / private sector industry think-tanks are creative collaboration spaces that seek out to provide innovative solutions to unravelling state monopolies and public needs. With emphasis on creative, growth and job creation out of the box thinking can be implemented towards new thinking, not least on aspects that have challenged the industry for the last number of years. There are several topics that be placed into this environment, where both industry and government can workshop practical solutions on a multi-sectoral basis.

### 10.1 CREATION OF A “PROTECTED SPACE” FOR EXPERIMENTATION ON THE ALIGNMENT OF LEGISLATION AND LEGISLATED PROCESSES

The current legislative framework, specifically that which relates to statutory rights and procurement, do not lend themselves to experimentation and trial and error. Where creativity is attempted the cumbersome, time consuming and costly judicial system kicks in.

It is proposed that a number of “protected spaces” be defined where new legislation can be conceptualised and tested in a real-life scenario. Such proclaimed areas will be dealt with in a similar manner to the Industrial Development Zones, where bespoke regulation can be developed to facilitate innovation and decision making.

### 10.2 UNSOLICITED BIDS

The principle of unsolicited bids appears to be a foreign concept in public procurement. Where attempts have been made to encourage creative thinking, standard procurement processes, and culture, have tended to undermine any such initiatives.

Key to the concept of unsolicited bids is the acceptance that “government does not always know best”. It should accept that the private sector has the uncanny ability to identify opportunity and to search out creative and innovative thinking.

The Covid-19 crisis has offered insight into this principle with the number of private entities offering solutions in terms of the provision of ventilators for hospitals. There can be no doubt that there have been creative and affordable solutions tabled, which might not have occurred had the current crisis not presented itself.

Current interpretation of the procurement regulations appears to force government entities from taking the intellectual capital and packaging such for public tender. Not only does this lead to the loss of intellectual capital but creates a disincentive for any private sector entity from approaching government with innovative solutions without having been called for through public tender.

The opportunity exists to unpack the concept of unsolicited bids, and to call on the various professions to assist in assessing fair value for money. In such instance, where cost effective solutions are tabled, proposers should not be penalised though having to engage in new public tender processes.

If South Africa is to grow, it should become attractive to innovative thinking and the public procurement space should facilitate this.

## 10.3 TRANSFORMATION

The Construction Sector has made significant progress with transformation of the sector, but it is recognised that the speed of transformation is not fast enough, and the Covid-19 pandemic has highlighted that the transformation may not have been sustainable. As part of the alternative interim procurement strategy, proposals are made on how to ensure a rapid response to infrastructure delivery while at the same time promoting collaboration between the established and emerging businesses to ensure sustainable transformation.

The participation and profile of women in the Building and Construction Industry falls short of the National strategic objectives of transformation and this needs to be urgently addressed, both in the construction sector and with professional bodies. Currently there is no policy for women empowerment and gender equality in all built environment professions and this needs to be urgently address. The Task team includes SAWIC&BE, which is a good sign that Women are now an integral part of the industry, however, more needs to be done to support and promote women businesses. Strategies to support women in the professional bodies need to be developed and implemented.

Transformation on the other hand, needs to impact on the demographic profile of the building and construction industry, including Property Owners and Developers some who have are an integral part of the Task Team. May this body become a channel and a platform for

transformation and upliftment of all practitioners and designated groups into a transformed built environment and construction sector.

As noted above, Public Infrastructure build plays a key role in creating employment opportunities in the sector and its regulation towards transformation will determine the successes or failures of the Built Environment sector.

President Ramaphosa in his address to the nation on 21 April 2020 stated as follows:

*“Building on the cooperation that is being forged among all social partners during this crisis, we will accelerate the structural reforms required to reduce the cost of doing business, to promote localisation and industrialisation, to overhaul state owned enterprises and to strengthen the informal sector.*

*We will forge a compact for radical economic transformation that ensures that advances the economic position of women, youth and persons with disabilities, and that makes our cities, towns, villages and rural areas vibrant centres of economic activity. Our new economy must be founded on fairness, empowerment, justice and equality”*

*In an effort to build a just post Covid-19 construction industry which redresses the imbalances of the past and commits itself to a truly transformed inclusive future reflective of the country’s demographics in terms of meaningful economic participation the industry commits itself and will be united behind government’s vision of forging a compact for radical economic transformation.*

*The envisaged structural reforms and proposed progressive changes to the legislation governing the approval of developments thus facilitating fixed capital investment and the attendant institutional re-alignment will provide a conducive environment to promote both public and private sector investment. The industry undertakes that this envisaged investment will be driven by and benefit economic players in the sector who are committed to and implement transformation programmes aligned with radical economic transformation.*

*The new post Covid-19 economy that government is preparing the country for will be characterised by inclusivity which must be the principle central across all the economic sectors including the construction industry.”*

## 10.4 ACCESS TO FINANCE

The Covid-19 pandemic has had a serious impact on the available cashflow of most business. All projects require an initial investment from the Professionals or the Contractors to achieve the required progress and gateways as prescribed in the Framework for Infrastructure Delivery and Procurement Management.



In the medium terms and for the state to accelerated infrastructure delivery and employment creation, a review of the Public Finance Management System will be required. Practical solutions which are common practice in the public sector include:

- Advance payment to kickstart a project. Advance payment guarantees offered against the loans as negotiated by the state with the banking sector could be considered.
- Fixed monthly cashflow agreements based on the design or construction programme, allowing for partial completion of a deliverable as opposed to full completion to unlock a payment. This is specifically important for the Professionals.
- Prompt payment of invoices with a payment performance guarantee, where National Treasury can make direct payment to a service provider and recover the payment from the Institution by offsetting such payments from any transfers to the Institution.
- Promulgation of prompt payment regulations to free up cash-flow.
- Agreement with SARS for VAT associated with invoices to Institutions of the State be payable when paid or alternatively recovered by SARS directly from the Institution.

## 10.5 AVAILABILITY OF LAND

The Department of Public Works and Infrastructure is the custodian of national property and land. At the same time various state-owned buildings and land resides with various Departments and state-owned enterprises. This includes Transnet/PRASA/SAPS/SANDF etc. Some of this land is underutilised and yet remains unavailable for public infrastructure build even though such land may be in inner city areas, but most importantly in township areas.

PRASA and TRANSNET for example owns prime tracts of land along the station precincts which are ideal for residential densification near the station precincts. To date it has proven difficult to access this land for developments by Human Settlements as an example, with negotiations taking years to conclude, if at all.

It is the view of the Task team, that DPWI should intervene and facilitate the availability of land to compliment the efforts for inclusive development and densification as outlined in the Integrated Urban Development framework referred to in the document above. Provincial and local authorities must also be encouraged to release well located surplus land for development so as to assist with growth, but also importantly, to facilitate social integration between communities.

There should be a coordinated effort where available state-owned land should be considered for informal settlement upgrades, de-densification and urban renewal. This is a critical aspect of inclusive urban development and would open further opportunities for the Public Infrastructure build.

## 11. CONCLUSION

The effects of COVID-19 are dire and have highlighted the importance of universal access to essential services to the nation's resilience in the face of a global disaster. It poses an additional risk not only to the development and construction sector but also to our economy, which was already in dire straits before the outbreak and lockdown. Where we see a possibility to save the sector, its people and its developmental role in our society, such opportunity need not be missed.

Post COVID-19 the South African construction sector will be one of the building blocks on which economic recovery and job creation can be achieved.

If nothing is done to revitalise this sector, we will find ourselves, facing an even more significant loss of expertise and then having to import the very same people with the skills and knowledge for the future development of our infrastructure at significantly higher costs, something we can ill afford.

COVID-19 should not be allowed to further destroy the development and construction sector. Hence the industry after careful consideration, is committed to working with government towards ensuring that a return to work will achieve the envisioned economic growth and not play a role in reversing the substantial gains that the country has made in controlling and managing the spread of the deadly virus.

The impact of Covid-19 on economies will require changes in the way business is conducted and this applies to the Built Environment and construction industry as a sector. Prior to the lockdown, there was a lack of programmes, budgets, and strategies to address problems in the construction industry. New requirements are now emerging, necessitating increased measures of compliance with Health and Safety guidelines to accommodate social distancing. The question is how the funding of these measures will be addressed. It may be easy for contractors to price for these measures, but the impact on the Design Professional will be felt and some recognition of the additional cost burden must be found and addressed.

It is therefore imperative, that Fee Guidelines be urgently Gazetted, and the supplementary services or additional costs of compliance be articulated so that the business of Professional Services can be sustainable.

Monitoring and reporting mechanisms for infrastructure expenditure and professional appointments also need to be developed as way of ensuring that the industry can be energized, and objectives are met.

While the term “Social Distancing” is the internationally recognised measure which is central to curbing the spread of the Virus, hopefully at the end of it all, we can rephrase it and propose something like ‘Spatial Distancing’, which is 2m, so that in Africa we can re-establish the “social relations” which are so central to our being and our national character in South Africa.

We look forward to your quick response and urgent engagement

A handwritten signature in black ink, appearing to read 'John Matthews', with a stylized flourish at the end.

John Matthews

Chairperson

Construction COVID-19 Rapid Response Task Team

# CONSTRUCTION COVID-19 RAPID RESPONSE TASK TEAM



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