

Black Construction / BE Professional Companies and their Participation / Transformative Prospects in the Infrastructure Sector

16 November 2017

1. Introduction

Robust dialogue was the order of the day at the 45th Infrastructure Dialogue, which reflected on the progress made towards increasing participation of black companies in the infrastructure sector. During a time of tepid economic growth, growth and profit margins are low in the sector, as the private sector is spending less, government spending remains static and construction projects by state-owned enterprises (SOEs) are reaching completion or being delayed. This makes growing black-owned companies in the construction sector difficult.

Several notable events in the sector may change this context. First, during the 2017 State of the Nation address, President Jacob Zuma stated that government will set aside 30% of appropriate categories of state procurement for purchasing from black-owned enterprises. Second, the dti recently introduced a draft of the Amended Construction Sector Code, which aims to catalyse and increase the pace of implementation of BBBEE in the infrastructure development space. One of the key elements of the code is setting a target for black ownership at 35%. Lastly, seven¹ of the largest construction companies listed on the Johannesburg Stock Exchange have committed to increasing black ownership and the participation of black-owned companies in the construction industry (see section 5). Assuming these commitments are maintained, the projections are that within several years “black firms and equity owners would have a combined turnover of between R21 billion and R27 billion and over the seven years as a whole through the phased-in arrangements, have a cumulative turnover estimated to range between R104 billion and R123 billion”.² What remains to be seen is whether or not these set-aside measures would ensure growth and development.

The discussion covered the lack of transformation, the missed opportunities and the practical challenges in the construction and property sectors. The roundtable discussions produced several proposed solutions that could lead to real transformation in the sector.

The Infrastructure Dialogues are hosted jointly by the [Development Bank of Southern Africa](#) (DBSA), the [South African Cities Network](#) (SACN), the [National Business Institute](#) (NBI) the [Performance Monitoring and Evaluation Department in the Presidency](#), and the [Department of Economic Development](#), with the [Engineering News](#) as media partner.

¹ Murray and Roberts, Aveng, WBHO, Stefanutti Stocks, Raubex, Group 5 and Basil Read.

² <http://www.enca.com/south-africa/government-and-construction-companies-finalise-transformation-deal>

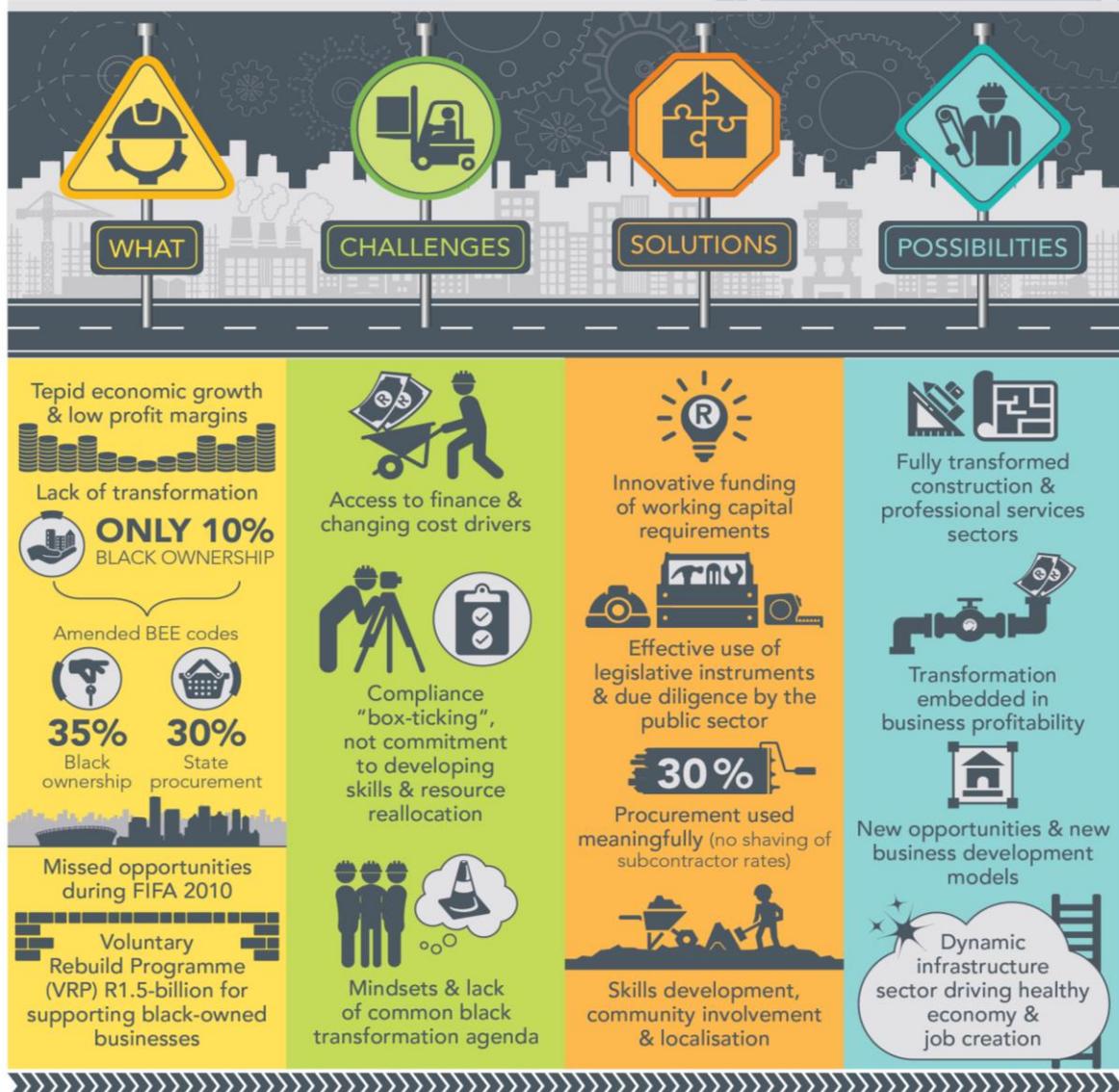
2. Programme and Panellists

Leslie Nyagah of the Department of Economic Development welcomed the audience to the 45th Infrastructure Dialogue, and invited everyone to contribute to the topic under discussion. **Natasia McMahon** of Concor facilitated the Dialogue, after introducing the following panel members:

Mr Malcolm Simpson	Specialist at the Industrial Development Corporation (IDC)
Ms Busisiwe Ngwenya	Director of Compliance at the B-BBEE Commission
Ms Portia Tau-Sekati	CEO of the Property Sector Charter Council
Ms Kelikile “Kile” Kwinana	National President of South African Women in Construction

3. Overview

BLACK PARTICIPATION AND TRANSFORMATION in the Infrastructure Sector



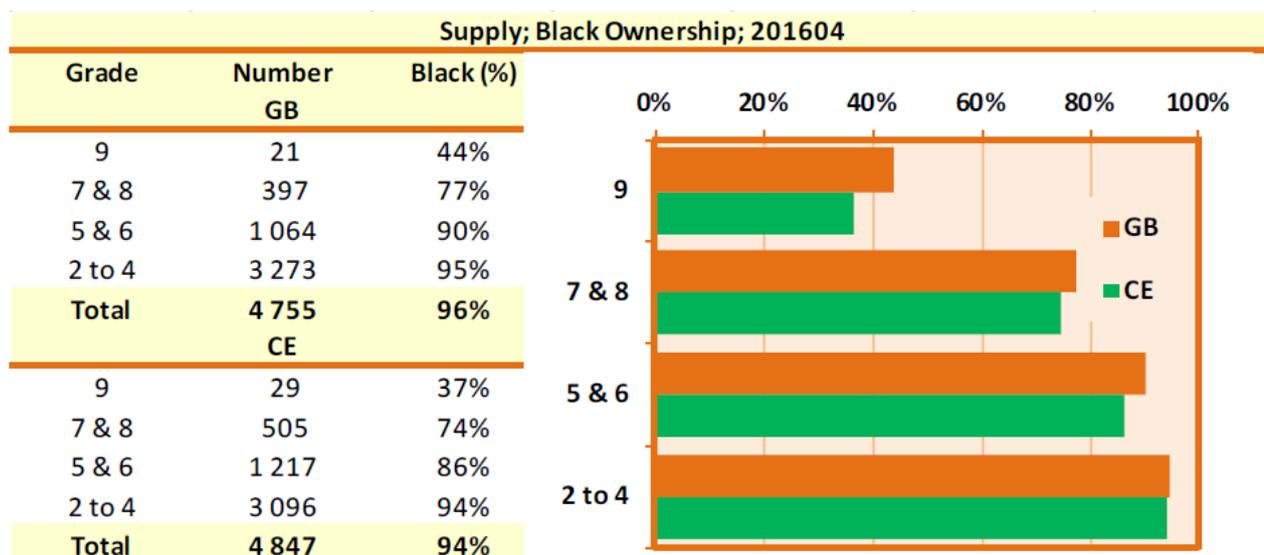
4. Lack of Transformation

All agreed that transformation is not happening, and the construction and property sectors are not representative of South Africa’s demographics. As one speaker asked, “are we really for transformation, or are we going backwards?”.

“For a black woman to make it in construction, you first have to deal with your white male counterpart, the black male and then you are talking a black woman. You have another 2–3 steps to get to where you want to get to. The road is still very long for black women in construction to get to where they need to get to.”

The Construction Industry Development Board (CIDB) has developed a Register of Contractors to check process within the sector. Details of black ownership of CIDB registered contractors (defined as ownership control of 50% or more) are shown in Figure 1.

Figure 1: Black ownership of CIDB registered contractors (Q4: 2016)

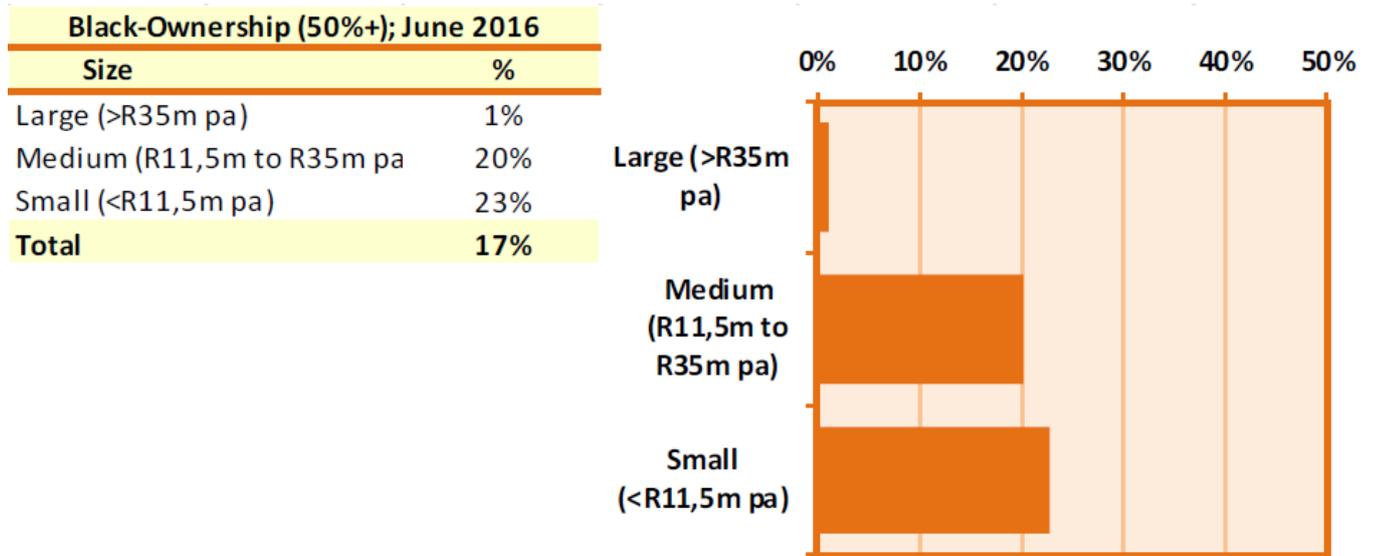


There is very little movement between the grades, and very few women are found at Grade 9. And not one male nor female-owned CIDB company are registered in the North-West province.

In the construction sector, most large entities are hovering around 10% black ownership, which is lower than the target of 25%.³ Black people are not owners in the large construction entities. A similar picture emerges for built environment professionals, where the total number of companies with black ownership stood at 17% as at end June 2016 (up from 15% in December 2015). Of these, just 1% are large companies, with a turnover of more than R35-million per year. Just over half (51%) of all employees are black, but only 13% of the professional staff are black.

³ CIDB. 2017. Construction Monitor: Transformation. Q4: 2016. Page 3. Available at: <http://www.cidb.org.za/publications/Documents/Construction%20Monitor%20-%20January%202017.pdf>
www.infrastructuredialogues.co.za

Figure 2: Black ownership in the built environment sector as @ end June 2016



Source: CESA Membership Database, www.cesa.co.za, June 2016

In the property sector, about 10% of the 38 000 estate agents are black, and about 10% of small entities in the commercial sector are black.

The lack of transformation also manifests in where developments are taking place. The lack of development in provinces means that people are flocking to urban areas, putting pressure on an already ailing infrastructure. And in cities, development occurs in areas that do not need development, not in under-resourced areas. Ways need to be found to attract development to these under-resourced areas, and to look at the types of development. For instance, retail has driven development in townships but has had the unintended consequence of cannibalising spaza shops.

5. Missed Opportunities

Infrastructure development is supposedly one of the greatest drivers of the economy, job creation and development SMMEs. However, over the past 23 years, opportunities to transform the infrastructure sector were missed. The 2010 FIFA World Cup was the biggest missed opportunity that could have enabled black-owned construction companies to grow into sustainable SMMEs. After being found guilty of collusion, seven white-owned construction companies set up the Voluntary Rebuild Programme (VRP), which is an agreement with government to contribute to transformation. The companies will contribute R1.5-billion (over and above the penalties imposed by the Competition Commission) and set up a trust to monitor the contribution.

How the roll-out of the programme is going to happen is being worked out. There are still loopholes to close and questions to answer, such as how much money is available and what it is going to be used for (e.g. bridging finance, guarantees). A participant suggested that one reason for the slow roll-out could be that the emerging companies were not involved in the drawing up and signing of the settlement agreement between government and the construction companies.

6. Practical Challenges

Given the largely unsuccessful transformation project, much of the discussion revolved around looking at the practical challenges.

Access to funding

The general agreement was that access to funding will always be a challenge. What is important is to make sure that the available funds are channelled in the right direction and are driving transformation in the process. Some participants highlighted the serious perception among black business that DBSA will only fund projects that are outside of South Africa. A contributing factor to the funding problem is the timespan of projects, as cost drivers can change on a project that lasts 3–4 years.

Subcontractors

The biggest part of procurement is the contractors, but most developers use contractors with very poor BEE levels – six out of the top 10 developers were dropped because their contractors had very poor BEE levels. Companies also get around the requirement to develop contractors by giving projects to entities such as the DBSA or IDT as implementation agents. To address this, the mandate of the implementing agents needs to be reviewed, and an arrangement is needed between the client and the implementing agent.

At the same time, government appears to be no longer focusing on the contractor development programmes, which is a concern. There was general agreement that part of the problem with the lack of transformation is that most companies do compliance instead of being committed to developing skills and reallocating resources to black/woman-owned firms.

“There’s a challenge of finding these businesses and being able to confirm that they are who they say they are. [...] SAIBPP has developed a business directory platform to try and bridge that gap, and not just a directory but a directory that will also do the vetting (close the trust deficit gap).”

Mindsets

One of the barriers to transformation in the infrastructure sector is mindsets. For example, clients who will only appoint a black professional company if a white professional company is involved in the consulting aspect. Some participants mentioned the entitlement mindset that is found in both government and business, where people are looking for that “extra”, e.g. give me 100% grant funding because I am black. Mindsets may partly explain the lack of transformation, but participants pointed out that black business also does not have a common agenda for transformation. The comparison was made with the Afrikaaner apartheid agenda, which was not a nice agenda but was very clear. The suggestion was made that black businesses and black people need to self-examine, to address mindsets and to agree on a transformation agenda that is not a legislative box-ticking exercise.

7. Transformative Solutions

Participants agreed that the private sector is important, but the public sector has the muscle to drive transformation. And sector charters and procurement set-asides may be useful tools but are not the only means of achieving transformation. The roundtable discussions came up with some innovative suggestions on how to increase transformation.

Fund working capital

As companies grow, accessing working capital becomes more difficult, as banks do not look favourably on the construction sector. Therefore, innovative ways must be found for funding working capital requirements.

- Set aside some of the money in the VRP to use for working capital and performance guarantees. This money will allow participants to go to the Industrial Development Corporation (IDC) and ask for matching funding. In this way, participants will get access to funding and the VRP will have a greater impact.
- Develop enterprises using the incubator model, whereby established companies mentor start-up companies, providing them with room to operate and favourable lease agreements.
- Give payment guarantees, i.e. the government gives a guarantee that companies can use to get access to materials or funding. An example in the property sector is where the Department of Public Works gives leases and contracts that are linked to the ownership, so a 100% black-owned business will get a 10-year lease, which enables the business to get access to funding.

“How do we unlock funding and make sure that the funds that are available are being channelled in the direction we want them to be channelled and are driving transformation in the process.”

Use legislative instruments effectively

The legislation gives government departments the right to increase the generic percentage requirement for awarding contracts, if they apply for a deviation through their line ministry. For instance, increasing the generic 25% to 51% black-owned companies for a tender. Municipalities can influence transformation by insisting that companies (the “usual suspects”) partner with businesses that can improve their BEE scores. Before approving any developments, municipalities should insist on the participation of black-owned companies throughout the entire value chain. The feeling was that the private sector will not include black players of their own accord.

An integral part of using instruments effectively is monitoring and evaluation. However, this requires government departments to be willing to do the work – it is no use requiring 51% black-owned companies but then not checking their credentials (through interviews and inspections) before giving out contracts, especially large contracts. The instruments are available to deal with misrepresentation (“fronting”), such as fines and being banned from doing business again with government.

Improve procurement

Part of the inclusive economic growth agenda in South Africa has been to leverage public procurement as an instrument to promote transformation, small enterprise development and local industrial development. The South African National Roads Agency Limited (SANRAL), under their Vision 2030, is designing the contracts and procurement process in order to allow more black companies to tender and participate in the roads sector.

Participants pointed out that often the way in which government implements projects is hampering progress. It is not uncommon, at all levels of government, for a project to be five years in planning but suddenly there is no time once the budgets are released. As a result, due diligence is not done. There was some discussion about who is the weakest link (the private sector, the financial sector or government). What emerged clearly was that, on the one hand, government needs to work on its project timings and align the funding and, and on the other hand, industry practitioners need to make sure that they are doing the due diligence and delivering quality projects.

Make 30% meaningful

The discussions revealed different interpretations of what the 30% is supposed to achieve. Some see it as relegating black contractors to being subcontractors, while others see it as an opportunity to jump-start businesses, especially in this highly competitive, capital-intensive sector. Nevertheless, all agreed that the 30% must be used properly. One of the ways to make the 30% meaningful for empowerment is for subcontractors to receive the same rates as the main contractor tendered. In other words, the main contractor must not “shave” rates (e.g. my rate is R1, but I will give you a rate of 70 cents). Another suggestion was for government clients to pay the 30% directly to the subcontractors, which will help subcontractors with their working capital.

Promote localisation and community involvement

A legitimate expectation among communities is that local labour should be used for projects (“localisation”). However, this is not always the case and, instead of using the unskilled and semi-skilled community members, contractors bring in workers from outside. An example given was a development in Limpopo bringing in cleaners from Johannesburg. The lack of localisation can result in contestations and in developments being stopped (e.g. Fourways in Johannesburg). Participants pointed out that community participation needs to go beyond localisation, to include involvement in designing and developing the project, thereby ensuring ownership of infrastructure by the community.

The general feeling was that all stakeholders should be involved in the design and development of projects. Developers must change their mentality from “we know what they want” to consulting the community involved and other relevant stakeholders, as community priorities are often different to the developer’s idea of community priorities. The example of Melrose Arch was cited, where the minibus taxi industry was not involved, and the developers did not include taxi ranks (“we can’t take that space because it costs so much”). Considerations such as taxi ranks, shelter for commuters, must be included from the start of the process. The counterpart is that communities need to respect and take ownership of the infrastructure that is built.

Change how we do business

Transformation needs to be embedded culturally and financially into the way we do business. Businesses report to shareholders and talk about profits and losses. Therefore, transformation will remain a nice-to-have unless it is embedded into the way in which we measure and report business. There was some discussion about why businesses need incentives to transform, given the history of the country – all have the responsibility to create a certain type of future, and so why does business not just invest in our country? In other words, should the approach be the carrot or the stick?

The VRP model is a stick approach; it was created with a specific target in mind, as a punitive measure whereby companies must contribute money to be used for transformation. Participants suggested that alternative, carrot-based approaches are needed, ones that are aligned with business objectives and imperatives. If not, fronting will continue, and more resources will have to be spent on monitoring and policing, whereas if profitability depends on transformation, shareholders and businesses themselves will do the monitoring and policing.

The lack of transformation can result in an inability to see opportunities, as illustrated by the example of a shopping centre in a town close to Newcastle in KwaZulu-Natal. The established property developers were not interested in developing the shopping centre because their view was that the town's communities did not have the income to justify the building of a shopping centre. Other enterprising people decided to go ahead with the development, which was a success. The established property development business model was unable to distinguish the genuine economic activities and opportunities in the town – the model did not correspond to the reality.

The point was also made that the enterprising people who built the shopping centre would have struggled to get money, as established funding sources and banks (like the established property developers) understand only the existing business model. Therefore, part of changing the way we do business is to look at mobilising capital differently, starting with looking at the available pools of capital. Burial societies and stokvels were mentioned, although (like pension funds) they must be used prudently in order to preserve the capital for savers. Using these funds that are available in the community could also ensure community involvement.

“We can learn from what Malaysia did with its employment transformation policy for the BBBEE. The vision was not just a government vision, but the vision of everyone, even those on the street. Each department had to buy in to the action plan and had to report to government's monitoring department to say this is how we are implementing government's transformation policy. It was also not for the private sector to come up with enterprise development but also government had to say how do we intervene and ensure as government that enterprise development is put in place.”

8. Conclusion

A strong construction sector is needed to build efficient and appropriate infrastructure for a healthy economy. True transformation will require more than set-asides to grow young enterprises and increase inclusivity, especially in a struggling economy. Out of the robust discussions at the 45th Infrastructure Dialogue emerged a consensus that it is time to lay the groundwork to have a fully transformed construction and professional services sector. Increasing the participation of black professionals and companies will transform the dynamics across the entire project cycle, from project preparation to construction and maintenance. Everyone must be involved, the private sector, the public sector and communities. Changing how we do business means changing mindsets in order to see what is really going on in the economy and so be able to identify new opportunities for business. This is the only way for the country to go forward.

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Speakers Biographies

Mr Malcolm Simpson is a specialist at the Industrial Development Corporation. Malcolm graduated in Chemical Engineering in 1979 from the University of Natal/KZN and worked on technology development during the 1980s. In the 1990's Malcolm changed course from technology development to consultancy and took up a position in London. As a result of the "Fall of the Wall" he took the opportunity to work on a number of interesting government and private sector reform assignments in the Commonwealth of Independent States (Russia, Armenia, Ukraine) and Central Europe (Poland and Hungary). In 2003 Malcolm returned to South Africa and took up a position at the National Treasury. In 2006 Malcolm was appointed Deputy Director General responsible for the roll out of the infrastructure required for successful delivery of the 2010 FIFA World Cup. After another engineering stint in the private sector Malcolm returned to work in Government serving as the acting Director General of the Department of Economic Development from August 2015 to June 2017. Malcolm now works as a specialist at the Industrial Development Corporation.

Ms Portia Tau-Sekati is the CEO of The Property Sector Charter Council. The Council is entrusted with developing the strategy and programs that become an enabler for the stakeholders of the property sector to achieve transformation as outlined in the Property Sector Charter. Portia has extensive knowledge and experience in dealing and lobbying government. She has also gained reputation in the market as an expert on issues of transformation in particular in the property sector. She has led and facilitated the discussions on transformation targets with the major property stakeholders and aligned property sector requirements to BBBEE Codes of Good Practice. A process which has enabled the property sector to obtain its own Sector Charter and the Amended Property Sector Code under section 9 (1) of BBBEE Act. Portia has won numerous awards over the last decade for her leading role in women in construction, transformation initiatives and leadership in the property sector.

Ms Busisiwe Ngwenya is with the Compliance Unit at the B-BBEE Commission. Previously with the Competition Commission dealing with SME and Consumer issues providing advice, education and interpretation of law; Busisiwe moved to Maxum Incubator at the Innovation Hub providing advisory, incubation, coaching and leasing services to start-ups. Busisiwe joined the dti Consumer and Corporate Regulation Division dealing with special projects, strategy, secretariat and corporate governance and transferred to Compliance Unit at the B-BBEE Commission, overseeing and responsible for strategy, compliance, stakeholder relations, education and research projects.

Ms Kelikile Kwinana is the National President of South African Women in Construction. "Kile" as she is affectionately known, is a driving force advocating for the meaningful participation and empowerment of women, especially the previously disadvantaged groups, in the mainstream of the

economy of the built environment. After a stint in the corporate sector, Kile founded and led general building, civil works, renovations, maintenance and project management company Ntando-Thando Holdings. From that ‘boots on site’ position Kile has become a director of several companies and institutions governing the Built Environment. These leadership roles include: Treasurer General and Chairperson of the Finance Committee of the Black Business Council in Build Environment; Co-Chairperson of the Infrastructure Committee and Convener of Women Programs at the Black Business Council; Chairperson of the Investment Committee at Social Housing Regulatory Authority; and the Women Advisory Council of Human Settlements. Kile is currently working closely with women on the Olievenhoutbosch Ext 36 Housing project and the Sokhulumi Rural Housing Project, the 2017 Govin Mbeki National Award-Winning programme of the Gauteng Department of Human Settlements intended for the development of business and technical skills for Women in Construction.

INFRASTRUCTURE *Dialogues*

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Dialogue in Pictures



Picture above: 45th Infrastructure Dialogue Facilitator and Speakers
From left to right: Mr Malcolm Simpson (Specialist: Industrial Development Corporation),
Ms Kile Kwinana (National President of South African Women in Construction), Ms
Natasia McMahon (Concor), Mr Kaemete Tsotetsi (Economic Development Department)



Picture above: 45th Infrastructure Dialogue speakers (not available for group photo)
From left to right: Ms Portia Tau-Sekati (CEO, Property Sector Charter Council),
Ms Busisiwe Ngwenya (Compliance Unit, B-BBEE Commission).

Pictures below: 45th Infrastructure Dialogue – Dialogue participants listening, speaking and participating

