

**ADDRESS BY THE DEPUTY MINISTER OF THE DEPARTMENT OF PUBLIC
WORKS AND INFRASTRUCTURE SIHLE ZIKALALA ON THE OCCASION OF
THE INTERNATIONAL CONSTRUCTION LAW ASSOCIATION (ICLA)
CONFERENCE, CAPE TOWN ICC, 09 APRIL 2025**

Chairperson of the International Construction Law Association, Dr Wolfgang Breyer;
Board Member of the Construction Law Association, Mr John Bishop;
CEO of the Construction Industry Development Board, Mr Bongani Dladla;
CEO of the Council for the Built Environment, Dr Msizi Myeza;

President of the South African Council for the Project and Construction Management
Professions (SACPCMP), Mr Lufuno Ratsiku;
Professor Abimbola Windapo, University of Cape Town
Professor Aymen Masadeh, the British University in Dubai;
Professor Stefan Leupertz from the Leupertz Baukonflikt Management;

Scholars and Representatives of institutions of higher learning and the legal
fraternity;

Senior Government Officials;

Captains of Industry;

Distinguished Guests;

Ladies and Gentlemen;

In a year in which the International Construction Law Association (ICLA) marks a
decade of its existence, we are honoured as South Africa to host this conference
between today and tomorrow.

This gathering brings together key stakeholders to advance construction law
knowledge and strengthening industry connections.

We look to it to be a marketplace of ideas that will shed light on developments in the
policy space while sharing insights on project delivery innovations.

It is a conference that reminds all of us of the need for greater partnerships and
collaboration across national boundaries given that construction projects are

increasingly conceptualised, designed, and executed by local and international partners.

Despite the blessings of the digital age and the advent of the information revolution with the internet as an enabler, research indicates that the construction industry still faces huge knowledge gaps in the field of construction law between various legal jurisdictions.

In this regard, we hope that South Africa and indeed representatives from our continent will use this platform not only to learn from their international peers, but to share insights of the policy and legislative frameworks that underpin the construction industry in our countries.

As South Africa, we cannot overemphasise the value of the construction sector in addressing our national priorities including job creation, inclusive economic growth, and the delivery of critical infrastructure to our communities.

We see infrastructure delivery to be the bedrock and flywheel of the South African economy, especially after the devastation from COVID-19 and floods that destroyed lives, livelihoods, and critical infrastructure.

To our international guests, we wish to assure you from the outset that South Africa is open for business and that you can all be guaranteed of your return on investments in the South African construction and property sectors.

Each day, our government under the leadership of His Excellency President Cyril Ramaphosa is working hard on ensuring policy certainty, improving the ease of doing business, and simplifying the regulatory framework.

Delivering the Budget Vote Speech a few days ago, the Minister of Finance identified infrastructure as a key pillar of South Africa's growth strategy, employment creation, and scaling-up service delivery.

The Budget committed more than R 1 trillion in public infrastructure spending over the next three years. It focuses on three sectors: R402 billion for transport and logistics, R219.2 billion for energy infrastructure, and R156.3 billion for water and sanitation.

Treasury has also finalised new regulations for public-private partnerships (PPPs) and these will be implemented from the 1st of June this year.

As Finance Minister Enock Godongwane averred, the PPP regulations will:

“reduce the procedural complexity of undertaking PPPs, create capacity to support and manage PPPs, create clear rules for managing unsolicited bids, and strengthen fiscal risk governance. The regulations also make provision for national departments to establish sector-specific PPP units. These units will drive private sector participation (PSP), creating opportunities to optimise the balance sheets of financially distressed state-owned companies.”

In addition, Treasury has now reconfigured the Budget Facility for Infrastructure (BFI) to run multiple bid windows, not just one in a financial year as was the case before.

We also wish to assure this gathering that we are confident that the Land Expropriation Act will pass Constitutional muster as it was never conceived to attack property rights protected in the Constitution.

We are a responsible government that has never sought to deprive anyone of property arbitrarily and we are keen on ensuring that more and more South Africans own property in their names given the long history of asset poverty, especially among the previously oppressed.

The Expropriation Act 13 of 2024 replaces the previous Expropriation Act No 63 of 1975 and aligns expropriation with the Constitution, unlike the 1975 one.

Democratic South Africa now has a new policy framework which clearly spells out how and when expropriation can take place, setting a standard procedure to all Expropriating Authorities to have uniform procedures when they expropriate for public purpose and/or in the public interest as outlined in the Constitution.

Ladies and Gentlemen, as we convene under the theme, ***"Revealing the Foundation of Modern Project Success: Contracts as Tools for Modernising Collaboration and Resolving Conflict,"*** we are reminded that construction is not merely about bricks and mortar — it is about building trust, enabling transformation, and laying the legal and institutional foundations that underpin sustainable development.

In this regard, our mission as stakeholders is not only to deliver infrastructure but to shape the systems that ensure fairness, accountability, and excellence in every project.

The construction industry has become known for contractual disputes, project delays, and cost overruns which continue to undermine confidence and efficiency.

It is therefore critical that the evolution of construction law takes into account the key global trends as well as key matters affecting the construction industry in South Africa.

These include:

- 1) Rapid technological advancements reshaping our delivery models.
- 2) The importance of contracts to project delivery, safeguarding all parties, enforcing performance and consequence management.
- 3) Other factors affecting the success delivery of infrastructure projects include natural disasters, as we are increasingly experiencing in South Africa and around the world.
- 4) South Africa is committed to play its part in addressing the urgency of climate change by supporting a policy space that encourages the reduction of our carbon footprint, promoting green infrastructure, supporting the green building initiative and the use of sustainable building materials.

- 5) As a signatory to the Paris Agreement on Climate Change, we are implementing the country's Low Emissions Development Strategy in line with the country's Nationally Determined Contributions (NDCs).
- 6) Among other policy initiatives to develop a climate resilient South Africa, is the passing of the Climate Act, No.22 of 2024. The Act mandates all levels of government to map, plan for and address climate adaptation needs.
- 7) The Carbon Tax Act 15 of 2019 provides for the imposition of a tax on the carbon dioxide (CO₂) equivalent of greenhouse gas emissions.
- 8) The Carbon Tax Act is a key policy measure by our government to lower GHG emissions, and mitigate climate change impacts as stated in the 2011 National Climate Change Response Policy and National Development Plan (NDP).
- 9) Launched in 2011, South Africa's Renewable Energy Independent Power Producer Procurement Programme (REIPPPP) is a crucial government initiative to increase electricity capacity through private sector investment in renewable energy sources.
- 10) Under Operation Vulindlela, legislative and regulatory changes are being implemented to encourage private sector investment in electricity generation capacity and promote competition.
- 11) The Electricity Regulation Amendment Act (ERA) signed into law in August 2024 provides for additional electricity, new generation capacity and electricity infrastructure development.
- 12) We are aware that in the construction industry, many livelihoods are significantly affected by the performance of the parties in the construction delivery process. Infrastructure clients complain of poor quality work from contractors; contractors complain of not being able to deliver due to the performance and disempowering actions of infrastructure clients and their professional service providers and implementing agents.
- 13) Poor performance has implications for entire supply chains. An example is when contractors are paid late, or do not get paid at all, then the main contractor delays payments to the subcontractors. As DPWI, we will continue to intensify Operation Reapatala to ensure that clients are paid on time and that there is consequence management on public sector officials who fail to adhere to the 30-day payment policy.
- 14) As we increase delivery of projects through Public-Private Partnerships, we need to assess our readiness and implications to adopt new infrastructure delivery models. The CIDB is leading efforts in promoting the use of the Building Information Modelling (BIM) in the construction sector. As a digital technology, BIM can be adopted throughout all stages of a project lifecycle, allowing for immediate feedback and updates on projects and can help the construction industry improve safety.
- 15) There are also factors that add further strain to the construction industry such as work stoppages, intimidation, and extortion in our construction projects where project role players are restricted access to the construction sites. As government,

we have taken a zero-tolerance approach to organised crime, including extortion, in the construction industry.

- 16) Since the National Construction Summit of Crime-Free Sites in November 2024, there has been significant strides in tackling criminal activities that disrupt construction sites. Over 745 extortion cases have been reported, leading to 240 arrests and increased law enforcement operations in key hotspots. This is a major victory in reclaiming our construction sites.
- 17) As part of the interventions towards resolving the crisis of organised crime at our construction sites, the Department has assigned the SACPCMP to lead the assignment to enhance and professionalise social facilitation. This includes making sure that social facilitation has a registration category with defined competencies and standards. This will reduce mushrooming of extortionists who in some instances are reported to be facilitators of project disruptions. The process is underway forecasting to conclude the framework by the 30th of June 2025.
- 18) Alternate dispute resolution mechanisms are critical for effectively dealing with disputes in terms of cost and time. Furthermore, we need to consider the establishment of an Ombudsman for the Construction Industry.
- 19) Planning, procuring, and delivering infrastructure projects is vastly different than for other types of projects which has been recognised through the Public Procurement Act (Act No. 28 of 2024). The CIDB plays a crucial role in developing standards for infrastructure procurement.
- 20) The challenges that SMME's face include lack of access to finance, lack of access to work, lack of access to skills. The development of SMME's is accelerated through actual infrastructure projects. The cidb B.U.I.L.D Programme provides for the B.U.I.L.D Fund and the Enterprise Development Standard and the Skills Development Standard to be implemented in infrastructure projects. The B.U.I.L.D Programme enables clients to drive development through procurement and is fully compliant with all relevant procurement prescripts and policies. Furthermore, the cidb has developed a National Contractor Development Framework that guides infrastructure clients on implementing contractor development programs on construction projects.

The cidb, as an entity of the Department of Public Works and Infrastructure has been instrumental in promoting transformation, enforcing ethical and professional standards, and amplifying the contribution of the construction industry to inclusive economic growth.

The CIDB Act (38 of 2000) is under amendment and provides an opportunity to enhance this critical entity's role for the development of the construction industry. The public consultation process has yielded valuable insights.

Going forward, the Department and cidb continue to engage stakeholders across government, industry, and civil society to ensure that this legislation is not only fit for purpose, but also agile, inclusive, and future-ready.

Another policy initiative of the Department that is still being consulted on is the possible establishment of the Office of the Engineer-General of South Africa (EGSA). It has been motivated by the number of structural and/or infrastructural hazards that have been experienced in the construction industry.

The George building disaster last year brought to the fore current challenges in enforcing accountability in the aftermath of disaster in the construction sector. Often, it is unclear which office is responsible for investigation and generation of a binding report. This results in many hands on the pot, leading to the prolongation of the process to publish a report to help the state to act on wrongdoers.

The need for an independent body to oversee and coordinate engineering activities and infrastructure development is becoming more pressing as the country grapples with challenges related to urbanisation, climate change, technological advancements, economic growth, and economic transformation. An Engineer General (EG) would provide the leadership required to bridge gaps in regulation, ensure compliance with engineering standards, and oversee large-scale engineering projects that are critical to South Africa's economic growth.

If established, the Office of the Engineer General will be responsible for providing overarching engineering governance, coordinating the development and maintenance of infrastructure, and promoting excellence in engineering education and practice.

Let us seize this opportunity to shape a legacy for inclusive development, safety, and excellence — where infrastructure delivery is not only faster and fairer, but also smarter, more collaborative, and fundamentally people-centred.

The work of the International Construction Law Association (ICLA) is commendable and we encourage you to keep up the focus on bringing industry role players together to find solutions for the development of successful construction projects.

Seventy years ago, South Africans from all walks of life, black and white, gathered in Kliptown, Johannesburg to adopt the Freedom Charter which became a cornerstone policy of the ANC-led Congress Alliance and liberation movement. The Freedom Charter became a cornerstone of our Constitution.

The preamble of the Freedom Charter declared,

“We, the People of South Africa, declare for all our country and the world to know:

that South Africa belongs to all who live in it, black and white, and that no government can justly claim authority unless it is based on the will of all the people.”

We can assure Africa and the world, that each day, brick by brick, from the ruins of racial division, we are constructing an inclusive, united, non-racial, non-sexist, democratic and prosperous society.

There will never be a genocide in our country that targets one group of people or will we tolerate legislation that exclude any section of our society from reaching its full potential.

Thirty years after our democratic breakthrough, we are implementing inclusive policies that seek to redress the injustices of the past to give meaning of a South Africa that belongs to all, black and white, male and female.

Please join us in growing the South African construction industry and ensuring that it leaves no one behind.

I thank you.