

PAPER 7

EMERGING MICRO ENTERPRISE (EME) ENGAGEMENT: INSIGHTS THROUGH PRACTICAL EXPERIENCE

Jean Pierre Blignault¹, Gerrie van de Merwe²

AfriCoast Consulting Engineers¹

AfriCoast Consulting Engineers²

ABSTRACT

The practical application of the Emerging Micro Enterprise Development Support Policy (EMEDSP), implemented by the Nelson Mandela Bay Municipality and other local authorities and public entities, is explored by revisiting practical experiences gained on actual construction projects where EME's were engaged in construction activities.

The pursuit of "resilience" to meet the future demands of infrastructure provision in the municipal environment, is intricately linked to the development and improvement of EME (or SMME) engagement in construction projects. It is common knowledge that the engagement of communities, local labour, SMMEs and EMEs is currently one of the most controversial subjects in South Africa. The engagement of these small enterprises is based on sound laws and policies, but the actual implementation is wrought with loopholes and pitfalls. Incorrect, or insensitive application of the policies and principles involved on numerous projects countrywide, has apparently led to suspicion and fear and has opened the door to corruption. The term "construction mafia" has become very common in the media and discussions, and is used by politicians at high level.

The paper endeavours to look into the successes and failures, with respect to EME engagement, on construction projects. The authors were involved in the provision of professional services as Employers's Agent on various projects engaging EME's. Amongst these are the Nooitgedagt Coega Low level Supply Scheme implemented for the Nelson Mandela Bay Municipality, the Nsezi Raw Water Pipeline implemented for the Mhlathuze Water Board in Richards Bay and the Concordia Road Rehabilitation Project in Knysna. These projects, amongst others, are scrutinised to determine how the EME's were engaged, how the local policy was implemented and how this practically played out on the actual construction site. Problems experienced are discussed and solutions proposed. The focus is on lessons learnt and proposals for future improvement.

INTRODUCTION

The engagement of Emerging Micro Enterprises (EMEs) in the construction industry is an important aspect of promoting economic growth, job creation, and empowerment in South Africa. In order to develop resilience in meeting future demands of infrastructure provision, it is imperative that cognisance is taken of the reality of EME engagement in the construction industry and its impact on project success.

Rather than providing formulae and correct procedures in dealing with EMEs, this paper seeks to provide a general overview, based on practical experience and general knowledge, in order to sensitise and make recommendations. It explores the background and definition of EMEs, highlighting their classification and criteria for qualification. Policies and legislation relevant to EME engagement, including the Broad-

Based Black Economic Empowerment (B-BBEE) Act, the Construction Industry Development Board (CIDB) Act, the Preferential Procurement Policy Framework Act (PPPFA), and the Construction Sector Code are briefly considered.

Additionally, we discuss typical illegal practices reported in the industry and provide insights from practical experience on projects involving EMEs. Furthermore, we address the problems experienced and lessons learned, emphasizing the importance of effective communication, well-defined EME policies, experienced EME managers, and training programs. Lastly, we examine the role of the social facilitator and community liaison officer in facilitating successful EME engagement.

BACKGROUND

In the context of the construction industry in South Africa, the term "Emerging Micro Enterprise" refers to small-scale businesses that are relatively new and are starting to establish themselves in the construction sector. These enterprises typically have limited resources, a small number of employees, and operate at a micro-level in terms of project size and revenue. The concept is often associated with government initiatives and programs aimed at promoting economic growth, job creation, and empowerment within historically disadvantaged communities in South Africa. These initiatives are part of broader efforts to address historical inequalities and promote inclusive economic development.

To qualify as an Emerging Micro Enterprise in the construction industry, a business usually needs to meet specific criteria set by relevant authorities or programs. These criteria may vary but generally include factors such as:

Business Size: The enterprise must be classified as a micro-enterprise, which means it has a limited number of employees and generates a relatively low annual turnover.

Business Age: The enterprise should be relatively new or in its early stages of operation, typically within a specified period (e.g., less than five years).

Ownership: The enterprise has a requirement for majority ownership or significant involvement of historically disadvantaged individuals, such as Black South Africans or other designated groups.

Skills Development: The enterprise may be encouraged or required to participate in skills development programs aimed at enhancing the capabilities of its workforce and improving overall productivity.

Compliance: The enterprise should meet legal and regulatory requirements for operating in the construction industry, including necessary licenses, permits, and adherence to health and safety standards.

Timeline associated with EME engagement in South Africa

The timeline can be traced back to the early 2000s, following the democratic transition and the introduction of policies aimed at addressing historical inequalities and promoting inclusive economic development.

One significant milestone in the development and promotion of EMEs in South Africa was the enactment of the Broad-Based Black Economic Empowerment (B-BBEE) Act in 2003. This legislation provided a

framework for promoting the participation of historically disadvantaged individuals, including black South Africans, in various sectors of the economy, including the construction industry.

Over the years, the South African government, industry associations, and procurement regulations have further refined and reinforced the concept of EMEs in the construction sector. This includes setting specific targets and requirements for EME participation in construction projects, implementing preferential procurement policies, and providing support mechanisms such as capacity building programs, mentorship initiatives, and access to funding opportunities.

POLICIES AND LEGISLATION

The South African Government promulgated specific legislation to promote economic growth, job creation, and empowerment within historically disadvantaged communities and the following policies and legislation are relevant to the engagement of Emerging Micro Enterprises (EMEs) in the construction industry:

The Broad-Based Black Economic Empowerment (B-BBEE) Act provides a framework for promoting the participation of historically disadvantaged individuals, including EMEs, in various sectors, including construction. The Act includes provisions for preferential procurement, enterprise development, skills development, and ownership requirements to advance the economic empowerment of designated groups.

The Construction Industry Development Board (CIDB) is a statutory body established to regulate and develop the construction industry in South Africa. The CIDB Act provides guidance and regulations for the engagement of contractors, including EMEs, in public sector construction projects. The CIDB assigns grading levels to contractors based on their capacity and capability, and EMEs fall within the lower grading levels.

The Preferential Procurement Policy Framework Act (PPPFA) sets out the regulations and guidelines for the implementation of preferential procurement in South Africa. It includes provisions for preferential scoring and evaluation criteria that give preference to EMEs in the awarding of government contracts. EMEs are typically awarded a higher score in the evaluation process, which increases their chances of securing public sector construction projects.

The Department of Trade, Industry, and Competition (DTIC) has issued sector-specific **Codes of Good Practice** that provide guidelines and criteria for B-BBEE compliance in various industries, including construction. The Construction Sector Code outlines specific targets and requirements for EME participation, skills development, enterprise development, and other empowerment initiatives within the construction industry.

The National Treasury issues regulations and guidelines for **Preferential Procurement** in government procurement processes. These regulations outline the preferential point systems, thresholds, and requirements for EME participation, subcontracting, and joint ventures in public sector construction projects.

TYPICAL ILLEGAL PRACTICES REPORTED IN GENERAL

The introduction of legislation and policies to promote the engagement of SMMEs (QSEs and EMEs) in the construction industry, was initiated to promote economic growth, job creation, and empowerment. Unfortunately, there is always the danger of misuse, corruption and devious practices aimed at self-enrichment by certain parties and individuals, that hinder effective implementation. The following devious practices are amongst those noted to surface within the South African construction industry:

Fronting:

Fronting is a common fraudulent practice where EMEs are used as a front to secure contracts or meet empowerment requirements without genuine participation or control by historically disadvantaged individuals. In these cases, EMEs are falsely represented as the primary contractors, while the actual work and decision-making are controlled by non-qualifying individuals or entities.

Tender Irregularities:

Instances of corruption and bribery may occur during the tendering process for EME contracts. This can involve offering or accepting bribes, manipulation of bid documents, or collusion between contractors and EMEs to secure contracts unlawfully.

Non-Delivery of Services:

Some EMEs may secure contracts but fail to deliver the contracted services or complete the projects. This can lead to financial losses for clients and project delays.

Ghost Employees:

In certain cases, EMEs may fraudulently inflate their employee numbers by listing non-existent or "ghost" employees to meet empowerment criteria. This allows them to qualify for contracts and benefits while bypassing the intended economic empowerment goals.

Payment Fraud:

Fraudulent practices related to payments can occur within EMEs. For example, the EME owner or manager may demand illegal kickbacks or payments from their own employees or subcontractors, reducing their rightful earnings.

Falsified Qualifications:

Some EMEs may misrepresent their qualifications or experience to qualify for specific projects or tenders. This can involve presenting fraudulent documentation or false claims about their technical expertise, leading to compromised project quality.

Double Dipping:

Double dipping occurs when an EME receives financial benefits or incentives from multiple sources for the same project or scope of work. This fraudulent practice violates the intended allocation of resources and undermines fair competition.

It is important to note that while these criminal activities and fraudulent practices exist, they are not representative of all EMEs. Many EMEs operate with integrity and contribute positively to the construction industry. The examples mentioned highlight the need for robust oversight, ethical business practices, and strict enforcement of regulations to combat fraud and ensure genuine empowerment in the construction sector.

APPLICATION IN PRACTICE

Practical experience on projects engaging EMEs

The following projects are some where the authors gained personal practical experience from involvement in construction projects that engaged Exempted Micro Enterprises (EMEs). The insights shared later-on were gained from involvement in, inter alia, these projects.

Extracts from actual; sight meeting minutes were probed with respect to the comments under the project headings:

Concordia Phase 1 - Rehabilitation of Concordia Road:

During site meetings, it was noted that the contract required 0% of the contract value to be completed by EMEs. However, the contractor, agreed to assist and facilitate the payment of Small, Medium, and Micro Enterprises (SMMEs) through their contract. The selection and procurement of SMMEs were to be done by the Knysna Municipality. Additionally, the Main Contractor committed to utilizing local

labour as much as possible, emphasizing their focus on supporting the local community.



FIGURE 1: Concordia Road Phase 1 - EME's digging holes for the erection of Guardrails posts.

Nsezi WTW Raw Water Pipeline Construction:

In this project, a significant effort was made to involve the local community. A total of 76 general workers were employed from the local community, working for the Main Contractor, a joint venture (JV) and its sub-contractors. The project aimed to achieve a community participation goal of 30% for the construction contract. This goal was successfully reached by utilizing sub-contractors and EMEs for various specialized works, such as concrete works, general construction and supply, cathodic protection, and sand supply. This approach not only provided employment opportunities but also contributed to the empowerment and development of local businesses.

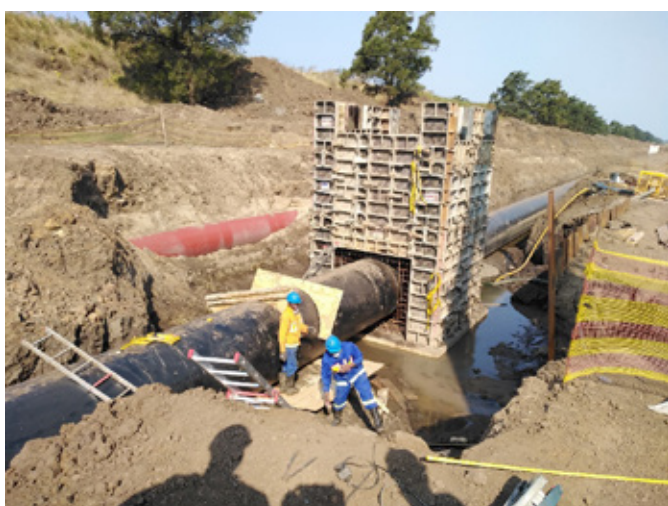


FIGURE 2: Nsezi Pipeline - EME's assisting with fixing of formwork prior to the concrete pour.

Nooitgedagt Potable WTW Phase 3 Extensions:

The requirement was that 25% of the value of the works be subcontracted to EMEs registered on the Nelson Mandela Bay Supplier Database and from the Sunday's River Municipality. During the progress meetings, specific focus was placed on the engagement of EMEs and their interaction with

the contractor. Strict control of EMEs was highlighted to ensure smooth collaboration. Any disputes between EMEs and the contractor were to be escalated to the employer for resolution. The appointment of a social facilitator ensured effective communication and engagement with EMEs.



FIGURE 3: Nooitgedagt WTW - EME's assisting with steel fixing.

Augmentation of Markman Sewer:

This project aimed to involve EMEs to meet the requirement of 25% participation. Eleven EMEs were identified, with six from the ward and five from the municipality. Compliance checks were conducted, and compliant EMEs were selected for participation. A suitable Community Liaison Officer (CLO) was to be appointed once the work commenced to facilitate social facilitation. The project's approach emphasized the utilization of local EMEs and their contribution to the project's success.



FIGURE 4: Markman Sewer - EME's assisting with pipe laying operations.

Road Upgrade at Flemming and MPT Area, Port Elizabeth:

In this project, EME sub-contracting played a crucial role. Various EMEs were appointed for different tasks, such as asphalt surfacing, building of stormwater MH's, concrete works, and supply and installation of kerbs. The selection of EMEs was based on compliance and their registration on the National Treasury Central Supplier Database. This approach allowed for the engagement of EMEs in specific areas of expertise, contributing to the project's overall success.



FIGURE 5: Flemming Road - EME's laying kerbs.

PROBLEMS EXPERIENCED AND LESSONS LEARNED

This section discusses some of the problems experienced and the lessons learned from practical experience gained from the project involvement mentioned. These were compiled from general comments by the project managers involved and are not necessarily project specific.

Practical experience has shown that the following important elements should be incorporated into the EME engagement strategy on any construction project to facilitate successful implementation:

- a. Communication:** One of the significant challenges faced is the need for effective communication and upfront engagement with the community. It is crucial to inform the community well in advance about the EMEs and their involvement in the construction projects. This helps in managing expectations, addressing concerns, and avoiding conflicts that may arise from miscommunication. A robust communication strategy that involves transparent and proactive engagement with the community to ensure their understanding and support for EME participation in construction projects is thus required.
- b. EME Policy:** That the Employer should have a well-defined EME policy is crucial for successful implementation. One example of problems experienced when policies are not adhered to is when various community forums provide lists of EMEs, leading to the formation of splinter groups and new demands during the course of the construction project. The EME policy should be clearly understood by all stakeholders, including community forums, contractors, and EMEs. A strong and effective Social Facilitator who can address concerns, mediate disputes, and maintain alignment with the EME policy is of great assistance in this regard.
- c. EME Managers:** EMEs require experienced individuals to manage their operations effectively. Contractors need knowledgeable EME managers who can navigate the challenges specific to EMEs on projects. Additionally, involving an independent quantity surveyor (QS) to adjudicate EME issues has proven beneficial in building trust between all parties involved. It has proven essential to employ experienced EME managers on contracts who can effectively manage EMEs' operations and address challenges.
- d. Training:** Providing formal training sessions for EMEs, such as on the General Conditions of Contract (GCC), has been highly appreciated and beneficial. It helps EMEs enhance their understanding of contract

terms and project requirements, improving their overall performance. Both formal and informal training programmes, tailored to the specific needs of EMEs, including technical and managerial skills development, should be incorporated in construction projects.

Further challenges (with lessons learned), experienced in general on the sites mentioned before and compiled through interviewing the project managers involved, include:

- a. EME labourers may face underpayment or exploitation by EME owners/managers. The involvement of an independent party (like an independent quantity surveyor) can help resolve disputes and ensure fair treatment.
- b. Time management and effective project management within EMEs can be areas of concern that need attention and support.
- c. Ward-based EMEs demanding exclusive work opportunities within specific areas can create logistical and fairness challenges. Ensuring fairness in procurement processes is crucial.
- d. EMEs often lack necessary resources such as equipment and materials. Contractors providing the required resources at a cost deducted from the EME's package can help overcome this hurdle.
- e. The percentage requirement for EME participation (e.g., 30%) should be applied practically, considering the nature of the work. Unrealistic demands can be addressed through effective communication and engagement.
- f. Instances of EME owners demanding payment to "go away" undermine the purpose of EME engagement. Strict measures and accountability should be in place to prevent such fraudulent practices.
- g. The engagement of EMEs on construction projects may create additional work for consultants/engineers. Consideration should be given to compensating them appropriately for the extra effort.

Recommended solutions based on practical experience may include

- a. Clients/Employers should have a well-defined EME policies that are correctly implemented. This may include upfront identification of work packages for EMEs.
- b. Establish proper tender processes for EME sub-contractors to ensure fair selection and participation.
- c. Set up EME advice centres with retired engineers or experienced contractors to assist EMEs with tendering and provide mentorship during construction management and administration.
- d. Require EMEs to register with relevant bodies such as the Construction Industry Development Board (CIDB), South African Revenue Service (SARS), and the Department of Labour. Verify their technical qualifications, experience, or relevant skills for the specific construction work.

ROLE OF THE SOCIAL FACILITATOR AND COMMUNITY LIAISON OFFICER

The employment of Social Facilitators and Community Liaison Officers, on projects that engage EMEs, has proven to be of great value in addressing the problems experienced on construction sites. This is of particular importance with providing effective communication, highlighted as an important element of the EME engagement strategy on any construction project.

The Employer's Social Facilitator and the Contractor's Community Liaison Officer play crucial roles in the engagement of Emerging Micro Enterprises (EMEs). While their specific responsibilities may vary, their overall objective is to facilitate effective communication, build relationships, and address community-related concerns throughout the EME engagement process.

Employer's Social Facilitator:

The Employer's Social Facilitator acts as a liaison between the employer and the community.

Their responsibilities may include:

- Engaging with the local community and stakeholders to understand their needs, concerns, and expectations related to the construction project. This involves conducting community meetings, consultations, and workshops to ensure open dialogue and transparency.
- Keeping the community informed about the project's objectives, timelines, potential impacts, and opportunities for EME participation. This includes providing regular updates and addressing any queries or misconceptions related to EME engagement.
- Identifying and facilitating partnerships between the employer, EMEs, and relevant community organizations or forums. This can help in establishing effective collaboration, fostering trust, and maximizing the positive socio-economic impact of the project.
- Addressing conflicts or disputes that may arise during the engagement process. The Social Facilitator acts as a mediator, facilitating dialogue and finding mutually beneficial solutions to resolve issues between the community, EMEs, and the employer.

Contractor's Community Liaison Officer:

The Contractor's Community Liaison Officer is responsible for managing the interface between the construction project and the local community.

Their roles and responsibilities may include:

- Engaging with the community to establish rapport, understand their concerns, and communicate the contractor's commitment to responsible construction practices and EME engagement.
- Working closely with community forums, EME associations, and relevant stakeholders to identify and engage potential EMEs for participation in the project. This includes assessing their qualifications, capabilities, and compliance with project requirements.
- Coordinating training programs and capacity-building initiatives for EMEs to enhance their technical and managerial skills. This may involve arranging workshops, mentorship programs, or access to resources and expertise.
- Regularly monitoring the performance and progress of EMEs, ensuring adherence to project requirements, quality standards, and timelines. The Community Liaison Officer prepares reports on EME engagement, including the social and economic impact of the project on the local community.
- Building and maintaining positive relationships with EMEs, community leaders, and other stakeholders. The Community Liaison Officer serves as a point of contact for EMEs, addressing their concerns, providing guidance, and facilitating effective communication between the contractor and the EMEs.

HOW TO AVOID LOOPHOLES AND PITFALLS

Here are some measures that can help minimize risks and ensure a successful EME engagement process:

- a. Establish clear policies and procedures for EME engagement that align with relevant legislation, codes of practice, and company objectives. These policies should outline the criteria for EME qualification, evaluation, selection, and ongoing monitoring.
- b. Conduct thorough due diligence and verification processes to ensure that EMEs meet the defined criteria for participation. This includes confirming their legal status, ownership, B-BBEE compliance, registration with relevant authorities, and technical capabilities.

- c. Implement transparent and fair procurement processes that provide equal opportunities for qualified EMEs. Advertise tenders widely, ensure clear evaluation criteria, and establish evaluation panels with diverse representation to avoid bias or favouritism.
- d. Invest in skills development and capacity building programs for EMEs to enhance their technical and managerial capabilities. This can include providing training, mentorship, and access to resources to help them meet project requirements effectively.
- e. Maintain open and effective communication channels with EMEs, stakeholders, and communities. Ensure that EMEs are informed about project expectations, timelines, deliverables, and any changes that may arise during the engagement process.
- f. Implement regular monitoring and reporting mechanisms to track the progress and performance of EMEs. This includes regular site visits, quality inspections, progress reports, and adherence to contractual obligations.
- g. Establish a robust compliance and risk management framework to identify, assess, and mitigate potential risks associated with EME engagement. Regularly review and update policies and procedures to address emerging challenges and changes in regulations.
- h. Consider involving independent auditors or adjudicators to assess the compliance and performance of EMEs. This helps ensure impartiality and fairness in the evaluation of EME participation, adherence to contractual obligations, and resolution of disputes.
- i. Foster a culture of continuous improvement and learning by regularly evaluating the effectiveness of EME engagement strategies and implementing lessons learned from past experiences. Share best practices within the organization and industry to enhance the overall EME engagement process.

By implementing these measures, construction industry stakeholders can minimize loopholes, promote transparency, and maximize the positive impact of EME engagement in South Africa.

CONCLUSION

In conclusion, the engagement of Emerging Micro Enterprises (EMEs) in the South African construction industry is a vital aspect of promoting economic growth, job creation, and empowerment within historically disadvantaged communities. The concept of EMEs originated as part of government initiatives to address historical inequalities and foster inclusive economic development. Various policies and legislation, such as the Broad-Based Black Economic Empowerment (B-BBEE) Act and the Construction Industry Development Board (CIDB) Act, have been established to regulate and support the participation of EMEs in the construction sector. However, challenges and illegal practices, such as fronting, tender irregularities, and non-delivery of services, have been reported. These incidents highlight the need for robust oversight, ethical business practices, and strict enforcement of regulations to ensure genuine empowerment and combat fraud in the construction industry.

Effective engagement of EMEs in construction projects requires the incorporation of, inter alia, elements such as effective communication, a well-defined employer's EME Policy, contractor's employment of EME Managers and EME training in the implementation strategy. Social Facilitators and Community Liaison Officers play an important role in this regard.

In the endeavour to achieve resilience in meeting future demands of infrastructure provision it is important to seriously consider the engagement of EMEs and all factors involved.

RECOMMENDATIONS

Based on practical experience gained from involvement in construction projects that engaged Emerging Micro Enterprises (EMEs), the following recommendations can be made:

1. Establish clear and well-defined EME policies that are correctly implemented. This includes upfront identification of work packages for EMEs and ensuring fair selection and participation through proper tender processes.
2. Set up EME advice centres with retired engineers or experienced contractors to assist EMEs with tendering and provide mentorship during construction management and administration.
3. Require EMEs to register with relevant bodies such as the Construction Industry Development Board (CIDB), South African Revenue Service (SARS), and the Department of Labour. Verify their technical qualifications, experience, or relevant skills for the specific construction work.
4. Employ experienced EME managers on contracts who can effectively manage EME operations and address challenges specific to EMEs on projects.
5. Provide formal training sessions for EMEs, tailored to their specific needs, including technical and managerial skills development.
6. Ensure effective communication and upfront engagement with the community regarding the involvement of EMEs in construction projects.
7. Implement strict measures and accountability to prevent fraudulent practices such as fronting, tender irregularities, non-delivery of services, and payment fraud.
8. Address logistical and fairness challenges related to ward-based EMEs demanding exclusive work opportunities within specific areas.

Overall, these recommendations aim to promote the successful engagement of EMEs in the construction industry, ensuring their fair participation, economic empowerment, and contribution to the development of historically disadvantaged communities in South Africa.

DEFINITIONS

The following explanation of the abbreviations SMME, QSE and EME commonly used in the South African construction context are provided to clarify the terms used in this paper:

SMMEs (Small, Medium, and Micro Enterprises) refer to a broad category of businesses that fall within the small, medium, and micro size range. The classification of SMMEs is based on various factors such as annual turnover, number of employees, and asset value.

QSEs (Qualifying Small Enterprises) are a specific subset of SMMEs that meet certain criteria to qualify for specific benefits and incentives. In the South African context, QSEs are defined by the Broad-Based Black Economic Empowerment (B-BBEE) Codes of Good Practice. QSEs typically have higher annual turnover and employee thresholds compared to micro-enterprises, but they are still considered smaller in scale compared to larger enterprises. Currently in South Africa, a company with an annual turnover between R10 million and R50 million may qualify as a QSE if all the criteria are met.

EMEs (Exempted Micro Enterprises) are the smallest category of enterprises within the SMME framework. These entities have the smallest annual turnover and employee thresholds and enjoy certain exemptions and benefits under the B-BBEE legislation. EMEs are subject to simplified requirements for B-BBEE compliance and are granted automatic Level 4 B-BBEE recognition. Currently, a company with an annual turnover less than R10 million may qualify as an EME, if all criteria are met.

REFERENCES

Qaba, A., (2018)., *Emerging Micro Enterprise Development Support Policy*. Economic Development, Trade and Agriculture, Nelson Mandela Bay Municipality.