



**IN THE HIGH COURT OF SOUTH AFRICA  
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

Case no:15659/2023P

In the matter between

**KUFANIKIWA CONSULTING (PTY) LTD**

**FIRST APPLICANT**

**IMPUMELELO CONSULTING ENGINEERS  
(PTY) LTD**

**SECOND APPLICANT**

**TPA CONSULTING CC**

**THIRD APPLICANT**

**And**

**MEMBER OF THE EXECUTIVE COUNCIL  
FOR THE DEPARTMENT OF TRANSPORT,  
KWAZULU-NATAL PROVINCE**

**FIRST RESPONDENT**

**DEPARTMENT OF TRANSPORT,  
KWAZULU-NATAL PROVINCE**

**SECOND RESPONDENT**

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**JUDGMENT**

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**PITMAN AJ**

**Introduction**

[1] “*Stare decisis et non quieta movere*”, is a Latin phrase, and legal principle, literally meaning “*stand by the thing decided and do not disturb the calm*”. The application of this intrinsic principle in the law of South Africa forms the backbone of this matter as it is relied upon by the applicants for the relief they seek. It is sometimes called the doctrine of precedent. It is a part of our common law and is retained in South Africa’s constitutional legal dispensation. In its application it means that a legal rule or principle determined in a previous judgement of a higher court is

binding, and not just persuasive, on an equivalent or lower court. How it applies in this matter will become apparent below.

## **Background**

[2] The three applicants bid, together with a number of other entities, on a tender issued by the second respondent (“the Department”) on 4 December 2020 (“the 2020 bid”), for the appointment of engineering service providers for each of the departments 12 Cost Centre’s for a period of three years. The closing date, after a couple of extensions, was 29 January 2021. The tender validity period, after a couple of extensions, was 30 May 2022.

[3] One of the other entities to bid was **Impande Consulting Engineers (Pty) Ltd** (“Impande”). The relevance of this will become apparent.

[4] The applicants’ bids, like that of Impande and a number of others irrelevant at this stage, were determined by the Department to be responsive, and on 2 March 2022 the **Bid Evaluation Committee** (“BEC”) of the Department recommended, *inter alia*, that the applicants and Impande be awarded contracts for specifically identified Cost Centre’s.

[5] However, subsequent to the recommendations of the BEC, the Department published a Notice in a local newspaper, dated 3-4 May 2022, cancelling the entire tender. The reason given was stated as “*Administrative Non-Compliance.*”

[6] On about 3 June 2022, the Department advertised, effectively, the tender again, for the same services, under a new bid number (“the 2022 bid”).

[7] Impande launched a review application against the cancellation together with urgent interdictory relief against any further actions by the department in respect of the 2022 bid. That application was opposed by the first and second respondents. The interdictory relief in respect of the 2022 bid was granted, after argument, by **Bezuidenhout AJ** (as she then was - and of this Division). Bezuidenhout AJ gave a fully reasoned judgement finding that the decision to cancel the 2020 bid process at

the stage it had constituted administrative action. She analysed the judgements of **City of Tshwane Metropolitan Municipality and Others v Nambithi Technologies (Pty) Ltd 2016 (2) SA 494 (SCA)** (“the Tshwane judgement”) as against **Madibeng Local Municipality v DPP Valuers (Pty) Ltd and Another [202] ZASCA, 70 (19 June 2020)** (“the Madibeng judgement”), and concluded that because the tender process was well under way, all individual bids having been already considered, points having been allocated, and the necessary checks and recommendations done progressing to adjudication, the cancellation at that stage “constituted administrative action under PAJA”. She took the view that that decision, not having complied with Regulation 13 of the Preferential Procurement Regulations of 2017, was materially irregular. She therefore interdicted the continuation of the 2022 bid process and adjourned the review portion of the application.

[8] The review portion of that application was eventually concluded by way of the judgement of **Ncube J**, of this Division, delivered on 11 April 2023.

[9] Ncube J had been called upon to decide whether the decision taken by the Department to cancel the whole tender, based on the reason of “*Administrative Non-Compliance*”, was valid, rational and in accordance with prescripts and the law. He was also asked, in the event of setting the cancellation of the tender aside, for a “*substitution order*”, namely an order that Impande be awarded the contract that the BEC had already recommended it be awarded.

[10] Ncube J concluded that the decision to cancel the original tender was “*irrational and unjustified*”. He did not remit the matter back to the Department but instead directed the Department to implement the recommendations of the BEC and forthwith award to Impande the contract for the Estcourt Cost Centre.

[11] An application for leave to appeal was launched by the respondents (also the respondents herein) which application was dismissed by Ncube J on 20 September 2023. It was not pursued further. On 4 October 23, the Department issued a letter of appointment to Impande for the work it had bid on, and had been recommended for, by the BEC.

[12] The applicants herein had sought to be joined in those proceedings and had requested the Department to consent to their joinder. The Department refused to consent, and that option was not further pursued by these applicants so as not to interfere with the procedural timeframes put in place in order to get that review expeditiously to a Court for a final decision.

[13] Five days after Impande was appointed, and on 9 October 2023, the applicants' attorneys requested the Department to undertake to implement the recommendations of the BEC by also awarding contracts to the applicants in respect of the Cost Centre's for which they had been recommended by the BEC. This undertaking was requested on the basis that the Department had implemented the appointment of Impande as a consequence of the Ncube J judgement and that there was *"no basis for the Department to refuse to implement the BEC's recommendations in relation to the applicants"*. The Department did not do so.

[14] This application was then launched in about 19 October 2023 as an *"urgent application"* for Orders directing the second respondent to implement the recommendations of its BEC by *"forthwith awarding"* to the three applicants the contracts in respect of which the BEC had recommended they be appointed. That relief was premised fundamentally on submissions that the decision to cancel the original tender was unlawful for the same reasons raised in the Impande application and that the judgement of Ncube J had decided the lawfulness of the cancellation in terms of PAJA already, on the same facts. It was submitted that it was clear that had the applicants been joined in that application they too would have been successful because they relied upon the same facts and submissions.

[15] The applicants spend a number of paragraphs of this founding affidavit dealing with the facts relating to the cancellation of the tender and submit that, on the basis of those facts, the decision to cancel was justifiably set aside by Ncube J. They submit that the cancellation *"has been reviewed and set aside"* by this Division and on the basis of the *stare decisis* principle, this Court is obliged to follow that decision as it is not wrong, let alone clearly wrong.

[16] The respondents argue that *stare decisis* is of no application, but that if it is, the decision of Ncube J is clearly wrong.

### **The Stare Decisis Principle**

[17] In **Patmore Exploration (Pty) Ltd and Others v Limpopo Development Tribunal and Others, 2018 (4) SA 107 (SCA)** the Supreme Court of Appeal set out the principle, its effect, and the circumstances it may be deviated from as follows:

*“The basic principle is stare decisis, that is, the court stands by its previous decisions, subject to an exception where the earlier decision is held to be clearly wrong. A decision will be held to have been clearly wrong where it has been arrived at on some fundamental departure from principle, or a manifest oversight or misunderstanding, that is, there has been something in the nature of a palpable mistake. This court will only depart from its previous decision if it is clear that the earlier court erred or that the reasoning upon which the decision rested was clearly erroneous. The cases in support of these propositions are legion. The need for palpable error is illustrated by cases in which the court has overruled its earlier decisions. Mere disagreement with the earlier decision on the basis of a differing view of the law by a court differently constituted is not a ground for overruling it.”* (paragraph [3]): and

*“The doctrine of stare decisis is one that is fundamental to the rule of law. The object of the doctrine is to avoid uncertainty and confusion, to protect vested rights and legitimate expectations as well as to uphold the dignity of the court. It serves to lend certainty to the law.”* (paragraph [4]); and

*“The principles of stare decisis required the judge to follow that decision unless satisfied that it was clearly wrong.”* (paragraph [7])

### **Analysis of the facts in casu**

[18] The initial decision to cancel, as published in the newspaper notice cancelling the tender, disclosed the reason for the cancellation as being “*administrative non-compliance.*”

[19] The Department alleges that its records indicate that by closing date **90 bids** had been received. The BEC minutes of 13 December 2021, however, recorded that **92 bids** had been received initially, and ultimately recommended specified bidders for contracts, which recommendation included the applicants and Impande, each at indicated acceptable contract prices. The respondents are not clear on precisely when, and by whom, this alleged difference was first noted. The deponent for the respondents says in her affidavit that the recommendation by the BAC to cancel the tender was due to: *“92 bids were evaluated instead of 90(showing tender irregularity), The tender specifications were in terms of the DDM model, and according to specification awarding per cost centre, however, only 9 bidders were responsive, and The BAC’s final decision was that of cancellation of tender.”* This submission is not born out by the Department’s records, however, as referred to below.

[20] The BEC’s tender evaluation report submission, dated 11 October, also records that **92 bids were received on 29 January 2021**. Two were specifically identified as failing pre-qualification. That report recommended, inter alia, the appointment of the applicants as follows:

- a) **Applicant 1**, the Ixopo Cost Centre at a bid price of *“R78 070 912.50 including 15% of VAT for the Period of 3 Years. This to be negotiated to market price of R43 714 052.20.”*
- b) **Applicant 2**, the Vryheid Cost Centre at a bid price of *“R54 841 503.60 including 15% of VAT for the Period of 3 Years. This to be negotiated to market value of R36 954 212.20.”*
- c) **Applicant 3**, the Metro Cost Centre, at a bid price of *“62 106 854.00 including 15% of VAT for the Period of 3 Years. This to be negotiated to R36 954 212.20.”*

[21] In paragraph 7 of the report the Chairperson of the BEC, signs below the following, above the date of 2 March 2022:

*“The Technical BEC Committee is aware that the tender had to be evaluated according to the approved specification, however, the following items have been highlighted for noting:*

- i. *Stage 3 (Mandatory Requirement), of the document requested for the copies of the audited and certified financial statement, however the committee identified that some bidders highlighted that they do not have to be audited as per the Companies' act, this was verified by Provincial treasury, and they confirmed the bidders statement.*
- ii. *BMK was eliminated from the list because one of the Directors did not declare interest.*
- iii. *Ibhongo was regarded as non-responsive upon evaluation by the SCM, however, BEC regarded the reason as invalid, the document was sent back however the Technical committee found them non-responsive on functionality.*
- iv. *New horizon was regarded as non-responsive due to functionality.*
- v. *The Technical BEC is aware of the alignment process of the DDM model however the evaluation was according to the approve specifications of awarding per cost centre, only 9 bidders were responsive. Vryheid and KwaDukuza had no allocation.*

*With the above highlighted areas of concern, the BEC committee recommends a cancellation of the contract.”*

[22] The minutes of the BAC dated 25 April 2022 record the reasons for the cancellation of the 2020 tender as being “*administrative non-compliance.*” There is no reference by either the BAC or the BEC to the alleged initial bid number discrepancy as being a reason for the cancellation. There is no consideration at all of the possibility that the recording of 90 bids on that particular document may have been simply a mistake.

[23] The applicants refer in the founding affidavit, to regulation 13 of the Preferential Procurement Regulations of 2017. It is common cause that it was of application in casu. It reads as follows:

*“Cancellation of tender.*

- (1) *An organ of state may, before the award of a tender, cancel a tender invitation if-*
  - (a) *due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;*
  - (b) *funds are no longer available to cover the total envisaged expenditure;*

(c) *no acceptable tender is received; or*

(d) *there is a material irregularity in the tender process.*

(2) *The decision to cancel a tender invitation in terms of sub-regulation (1) must be published in the same manner in which the original tender invitation was advertised.*

(3) *An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.”*

[24] The deponent for the respondents says, as set out above, that the decision to cancel was made in terms of regulation 13 because there were “*material irregularities in the tender process*” in that 90 bids were received but 92 evaluated. She says at paragraph 18 of the answer “*In terms of regulation 13 of National Treasury, the Respondents were obliged to cancel a tender, if.....there was material irregularity in the tender process.*” What is immediately apparent is that she is wrong. The regulation is not mandatory but permissive. Cancellation based on an incorrect understanding that such is obligatory, rather than permissive is, in my view, on its own, arbitrary and not rational or lawful.

[25] Like in the Impande application, however, in addition to justifying the cancellation in terms of regulation 13, it was argued that the cancellation process was not an administrative decision which could be challenged under PAJA. This is argued on the basis that no award had been made because the bid process was still incomplete, particularly by the time the bid validity period had expired. (30 May 2022 as set out above).

[26] Bezuidenhout AJ, as set out above, found that the decision, the same decision being impugned herein, constituted administrative action. Ncube J did not state as much, but on a reading of his judgement it must be accepted that he also did. I am of the view that upon consideration of the facts herein, the decision to cancel the tender amounted to an administrative decision. I conclude that both Bezuidenhout AJ and Ncube J were correct in that regard.

[27] In arriving at that conclusion, I have considered the judgement of Wallis JA on behalf of the SCA in the Tshwane judgement. In that matter, the facts were different.



After the initial tender was put out, the city decided to, for various reasons irrelevant hereto, change the nature of the services needed. Hence, the original tender was cancelled. In addition, the terms of the tender permitted it. As set out by Wallis JA in that matter, *“In cancelling tender CB204/2012 the City was doing no more than exercising a right it reserved to itself not to proceed to procure those particular services on the footing set out in that tender.”* Wallis JA also held that in that matter the *“decision not to procure services does not have any direct, external legal effect.”* On the basis of, inter alia, **Grey’s Marine Hout Bay (Pty) Ltd & others v Minister of Public Works & Others, 2005 (6) SA 313 (SCA)** para [21] he found that that is an essential element of an administrative action. In casu, the same tender has been advertised and invited a second time after the cancellation. That is common cause. As a result, the parties would have to tender a second time precisely as they had previously done, at obviously significant additional cost and inconvenience. In my view the decision to cancel the tender, on the facts herein, has a direct, external legal effect as required for it to constitute administrative action.

[28] In the Madibeng judgement, the Constitutional Court, at paragraph [17], said the following:

*“... the Municipality argued that divergent views had been expressed by this court, on the one hand, in Head of Department, Mpumalanga Department of Education v Valozone 268 CC and Others [2017] ZASCA 30 and on the other, in City of Tshwane Metropolitan Municipality and Others v Nambiti Technologies (Pty) Ltd [2015] ZASCA 167; [2016] 1 All SA 332 (SCA); 2016 (2) SA 494 (SCA) and SAAB Grintek Defence (Pty) Ltd v South African Police Service and Others [2016] ZASCA 104; [2016] 3 All SA 669 (SCA). This is not correct. The question cannot be determined in the abstract. In Nambiti and SAAB this court held that the cancellation of a tender by an organ of state prior to its adjudication does not constitute administrative action under PAJA. The ratio common to these judgments was that in such circumstances, the cancellation of the tender constitutes the exercise of executive authority. The court reasoned that the decision of an organ of state to procure goods or services is an executive act and the reversal of that decision, without more, is of the same nature. (See Nambiti paras 25 and 31 and SAAB paras 18-21.) Both these judgments recognised, however, that the position would be different when a public tender is cancelled during the tender process, as would be the case on the Municipality’s*

version. On its case, the Municipality cancelled the tender after the award thereof had been set aside and it was ordered to reconsider the matter. This was also the factual position in Valozone. In such a case 'principles of just administrative action are of full application' (Nambiti para 32) or, put differently, principles of administrative justice continue to govern the relationship between the organ of state and the tenderers (SAAB paras 16-18 with reference to Logbro Properties CC v Bedderson NO and Others [2003] 1 All SA 424 (SCA); 2003 (2) SA 460 (SCA)). Thus, a decision of an organ of state to cancel a tender after it was awarded, would generally be reviewable under PAJA".

[29] I am alive to the fact that *in casu* the tenders had not been formally awarded but the process had reached such a state of progress that that was imminent. But for the irrational and, as I find herein, unlawful cancellation at that late stage, the appointments would have followed. That is not denied by the respondents. Distinct from the Tshwane matter, is the fact that the stage of the tender process was therefore so advanced as to be practically complete. The successful bidders had been identified. The tender evaluation process had been completed. That is common cause, and the respondents did not try to argue otherwise. Counsel for the respondents argued, however, that because the BAC had not yet signed off on the recommendations, no reviewable administrative action had taken place. In my view that cannot be correct. The BAC, and then the BEC, decided to unjustifiably cancel the tender and conveyed that by publication as required. During argument Counsel for the respondents handed up a document called "Guideline for Bid Committee Members – Practice Note Number: SCM-03 of 2006 as being a summary of the tender process applicable. Underlined by the respondents is a portion of paragraph 3.3 which deals with the BAC and says "*The committee should consider the reports and recommendations made by the evaluation committee. The former committee must consider whether the recommendation made by the latter, sufficiently indicates that all relevant factors have been taken into account, and that the recommendation made represents a logical, justifiable conclusion, based on all relevant information at the evaluation committee's disposal.*" What that sets out, in my view, is that the BAC considers the BEC report and determines if it appears rational based on all relevant factors. It is, as argued by the applicants, simply an oversight role. *In casu* that oversight role required a consideration by the BAC of what the BEC set out as set

out in paragraph [21] above. What is set out in paragraph [21] above by the BEC had no bearing on the applicants and, in my view, provided no rational basis to cancel the entire tender process.

[30] Ncube J found that the reason for the cancellation based on “*material irregularity*” was not the reason published and given and was raised at the stage of the application only. He pointed out, correctly, that there is no indication on any of the documents evidencing the BEC’s handling of the tender, (or the BAC for that matter) that the whole tender process should be cancelled for reasons related to the 92 versus 90 bids issue or on the grounds of “*material irregularity*”. He decided that the respondents could not include a new reason and had to rely on their original reason as published. Bezuidenhout AJ also dealt with this issue in some detail, noting that the Department had been anything but co-operative in supplying evidence of the actual reason/s for the cancellation. Bezuidenhout AJ concluded, again correctly in my view, that the evidence does not establish that the BEC ever deliberated on the alleged bid number discrepancy issue. As was pointed out, in the matter of **Head of Department, Mpumalanga Department of Education v Valozone 268 CC and Others, [2017] ZASCA 30**, missing bids and possible irregular bids did not necessarily constitute material or serious irregularities justifying cancellation of the entire tender process in any event. Ncube J found that the alleged “irregularities” relied upon by the respondents in Impande (the same as herein) were not so material as to vitiate the entire tender process. He, correctly in my view, found that a material irregularity of the type required by regulation 13 is one which could lead to substantial injustice and/or unfairness. That did not happen in this bid process.

[31] The respondents argued that the application was not urgent and should not have been enrolled as such. I am satisfied that it was, and remains, urgent. The respondents delivered an answering affidavit on 31 October 2023, and had more than enough time to supplement it, if they wished, before the opposed hearing on 2 February 2024. No prejudice to the respondents was argued or is established.

[32] The respondents raised, in the answering affidavit, an argument that all bidders should have been joined and that that failure constituted a fatal non-joinder. The point was not raised in the respondents’ heads of argument. I agree with the

applicants' argument that the balance of the bidders have no direct interest in the applicants' claims herein. I see no merit in that argument.

[33] The respondents argued that the bid validity period constituted a material dispute of fact. That, in my view, is not so. It is common cause that the bid validity period terminated on 30 May 2022. The decision sought to be impugned was made in April 2022. I see no merit in that argument.

[34] I therefore conclude that neither the judgment of both Bezuidenhout AJ nor Ncube J were clearly wrong. Their judgements decided the issues of whether the cancellation constituted administrative action and, having found it did, Ncube J found it was reviewable. Those issues are exactly the same as the issues between these applicants and the respondents. I conclude that I am bound by the decisions of Bezuidenhout AJ and Ncube J on that basis. The fact that in Ncube J's matter the applicant was different makes no difference. The factual and legal issues *vis a vis* the parties therein were exactly the same as the issues between the parties herein. In any event, I am of the view that both Bezuidenhout AJ and Ncube J were right on the issue that the decision to cancel constituted administrative action falling foul of PAJA. I also agree that Ncube J's determination that the decision is manifestly reviewable as being arbitrary, irrational, and unjustified. I conclude that those judgements are in the circumstances binding on me according to the doctrine of *stare decisis*. Even if they were not, however, I would have found as both Bezuidenhout AJ and Ncube J did on those issues, for the reasons set out above.

### **The relief**

[35] Ncube J did not remit the matter back to the respondents after setting aside the cancellation of the tender. He granted an Order effectively substituting his decision for that of the Department. He did so in terms of the powers given to him by section 8(1)(c)(ii)(aa) of PAJA, finding that exceptional circumstances warranted such an approach. In doing so he applied the principles set out in **Mwelase and Others v Director-General for the Department of Rural Development and Land Reform and Another 2019(6) SA 597 (CC)** at paragraphs 46 and 47, and **Trencon**

**Construction (Pty) Ltd v Industrial Development Corporation of South Africa Ltd and Another 2015 950 SA 245 (CC).**

[36] On that basis he found that a *“substitution order is justified...It will serve no purpose to remit the case to the Department. Considering the fact that the BEC has done the evaluation and made a recommendation to award the Estcourt Cost Centre to Impande, the decision of the Department is a foregone conclusion...The tender has been cancelled twice in three years affecting urgent required service delivery to the public. The remittal of this matter back to the Department will cause further delays in the provision of services to the public and that exercise will be prejudicial to Impande.”*

[37] The matter before me is not drafted as a review, however. It calls for orders on the basis of decisions already taken in respect of which I am bound. On the evidence, the three applicants herein are in exactly the same position as Impande was when Ncube J made his decision. The BEC had evaluated the numerous bids and had concluded that the applicants should be offered the appointments set out in paragraph [20] above. In my view, like Ncube J, their appointments constituted a foregone conclusion. As set out above, the tender has been initiated again for the same services and with the same requirements. That is evidence that the services are required still. That has not changed. None of the applicants were determined as being unsuitable for such contract. It would, in my view, be manifestly unfair to expect them to go through that process again in the circumstances.

[38] I therefore conclude that the applicants are entitled to Orders compelling the respondents to implement the recommendations of the BEC of 13 December 2021, alternatively 2 March 2022.

[39] That being said, however, it is necessary that I deal with the following. The recommendations of the BEC are found in the Bid Evaluation Report dated 2 March 2022. The relevant section of that document reads *“The Bid Evaluation Committee recommends that the following bidders be awarded the following Cost Centre’s...”* and then repeats essentially what is set out in paragraph [20] above in respect of each applicant. Each proposed *“appointment”* sets out the price (as tendered) but

recommends a lower market value/price or figure, down to which each tenderer must be negotiated. In other words, the offer to each, by the second respondent, for each relevant contract, was to be in the lesser amount. That is how the applicants, in their papers, see and understand it and it is on that basis that they seek the appointments. I say so because in paragraph 35 of the founding affidavit the applicants record that the BEC recommended appointments to them in the lesser amounts. Counsel for the applicants, in his heads of argument, submits the same.

[40] The applicants are, in my view, therefore entitled to Orders, pursuant to the review of the cancellation of the tender, compelling compliance with the recommendations of the BEC as they are recorded in the Report at the lesser value determined by the BEC and referred to above.

[41] Whilst the Orders I intend making were not sought in the specific terms I set out in the Orders, I make them under the rubric of paragraph 6 of the Notice of Motion where I am asked to grant such further and/or relief as may be appropriate. It is, in my view, necessary and appropriate to direct the price to be offered to the applicants in relation to the recommendation of the BEC as accepted by them so as to result in certainty and to ensure, as far as is possible, no further unnecessary delays.

[42] On the question of costs, I am of the view that the respondents, in opposing the application, should not be penalised with costs on an attorney and client scale, as asked for by the applicants. I have considered the arguments of the applicants in relation to the alleged dilatory and belligerent attitude of the respondents, but I do not agree that a punitive costs order is the inevitable result thereof *in casu*.

[43] In the result, I make the following Orders:

- 1) The Second Respondent is directed to implement the recommendations of the Bid Evaluation Committee of 13 December 2021, alternatively 2 March 2022 by forthwith offering the applicants the contracts, for the relevant Cost Centre's as bid on by them, as follows:

- a) **Applicant 1**, the Ixopo Cost Centre for the period of 3 Years at a price of R43 714 052.20 including VAT.
  - b) **Applicant 2**, the Vryheid Cost Centre for the period of 3 Years at a price of R36 954 212.20 including VAT.
  - c) **Applicant 3**, the Metro Cost Centre, for the period of 3 Years at a price of R36 954 212.20 including VAT.
- 2) The second respondent is directed to, within 10 days of written acceptance of the offers by the applicants, issue letters of appointment to each relevant applicant for the appointment and provision of professional engineering services for the three-year period for the relevant Cost Centre.
  - 3) The second respondent is directed to conclude written Service Level Agreements with each relevant applicant for the provision of professional engineering services for the three-year period for the relevant Cost Centre within 21 days of issuing and signing the letters of appointment referred to in (2) above.
  - 4) The respondents are to pay the costs of this application jointly and severally.

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**PITMAN AJ**

Date reserved: 2 February 2024

Date delivered: 22 March 2024

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REF: K056/23



