

## THE INFLUENCE OF CONTEXT ON THE PHASING OF PUBLIC-PRIVATE PARTNERSHIPS NEGOTIATIONS

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**Abstract:** Public-Private Partnerships (PPPs) are increasingly being used for infrastructure development in both developed and developing countries alike. PPPs are favoured because they promote resource sharing, risk sharing and transfer, and they offer value for money. However, research detailing and describing partnership negotiation process is still relatively sparse; reflecting a need to fully define the process, especially in relation to government's housing delivery process.

This article used multiple case studies to explore how housing public-private partnership negotiations are phased in an Afrocentric context, reflecting on what trigger the beginning and end of each phase. The findings show that in an Afrocentric context - which is characterised by strong social capital, strong ties, strong networks and joint problem solving, negotiations of housing public-private partnerships happen in *five phases*. A finding that significantly challenges existing research, which has never recognised so many. Furthermore, a Housing Public-Private Partnership Negotiation Lifespan Wheel is proposed which provides distinction of the negotiation content in the identified five key phases; a useful tool for negotiators.

**Keywords:** Housing public-private partnerships; negotiation phases; negotiation process; negotiation lifespan; Gauteng, South Africa.

### INTRODUCTION

Literature shows that governments across the world are increasingly seeking and promoting partnerships with the private sector to fund infrastructure projects which, in the past, were "exclusively supplied by the public sector alone" (English & Guthrie, 2003: 493). Public-private partnerships (PPPs) are favoured because they improve efficiencies (Brinkerhoff & Brinkerhoff, 2011:5), promote resource sharing (Sengupta, 2006a:449; Ibem, 2011:206); risk sharing and transfer (Abdul-Aziz & Kassim, 2011:151); and exchange and mutuality. It allows governments to "fund projects at lower costs" (Thia & Ross, 2012:827); spur innovation (Bloomfield, 2006); as well as enhance value for money (Grimsey & Lewis, 2005:346). Government sees it as an alternative commercial arrangement that delivers value for money (Lomax, 1996:351) and affordable option to attract investments, while on the other hand, it affords the private sector an opportunity to participate in the achievement of a common public goal (Ibem, 2011:204).

Extant literature shows that negotiation of public-private partnerships (PPPs) happens in phases (Zartman, 1975:71; Fisher, Ury & Paton, 1979:23; O'Looney, 1992:21); Ahadzi & Bowles, 2004:974; Murtoaro & Kujala, 2007:723), which differ considerably per country, owing and shaped by national specificities (Dechev, 2015: 229). Contextual factors have a bearing on the how partners approach the negotiation process (Burkardt et al, 1997:250; Grimsey and Lewis, 2004:376; &Sengupta, 2006b:270).The country difference perspective is worth our attention because it brings to the fore geo-political specifics that fosters or hinders successful public-private partnership negotiations. Context in its broad sense denotes country difference- uniqueness. Arguably, each country has specificities that not only shape the overall concept, but the approach as well as the characteristics to best fit the legislation systems and strategic perspective. Therefore, gaining clarity of the negotiation process and the phasing process is essential in several ways: i) it offers a sound and systemic approach that negotiating partners should follow to reach favourable and value adding agreements; ii) it suggests a pre-determined step-by-step path that negotiating partners should follow to jointly succeed; and lastly, iii) in a transparent way, it states the do's and don'ts to be observed during negotiations.

Although existing literature shows that negotiations happen in phases, there has been little research into the process of negotiating HPPPs: especially the number and nature of the phases involved. Thus, there is a need to understand

fully what factors characterise these phases, as well as the phenomena that trigger their beginning and end. Given little agreement among these and other scholars on how partnership negotiations should be phased, and where little attention is paid by scholars to the phasing of HPPP negotiations; the process of negotiating housing public-private partnerships is worthy of scholarly attention, especially given the challenges most governments face when handling such negotiations. This article therefore sought to gain a better understanding of the processes' partners follow – especially in terms of phasing housing public-private partnerships negotiations in municipal housing projects. It paid special attention to (i) how context influenced the number of phases that emerged during the partnership negotiation process, focusing on what triggered their beginning and end; (ii) focusing on its bearing on the negotiation activities, negotiation content, negotiation skills that influence each phase, and the negotiation outcomes thereof.

Reference to and focus on Afrocentric context is important because despite the increasing use of public-private partnerships towards service delivery, little attention has been put on the influence of context on the negotiation process in an Afrocentric context. The study therefore explored the number of phases that emerge when partners negotiate HPPP in emerging economies contexts such as South Africa. Five case studies in Gauteng, South Africa, were used to determine the phasing, distinguishing features of each phase in terms of negotiation activities, negotiation content, negotiation skills requirements and outcomes, as well as what triggers their beginning and end. The article is structured as follows: Section 2 provides the literature review on the phasing of partnership negotiations. It also highlights the importance of context on the negotiation approaches, as well as shows how that makes partnership negotiations dynamic. Section 3 discusses the research methodology. This is followed by sections that present the study's findings and analyses. It should be noted that the two propositions are supported by the findings. The last section concludes and offers some recommendations, as well as highlights areas for future research.

### Phasing of partnership negotiations

Phasing is important because it gives structure; it assists negotiation teams to transit from general principles to the details of an agreement. Furthermore, such sequencing allows negotiating teams to move back and forth between the identified phases as and when events require them to shift, even if this means revisiting an earlier phase. Thus, phases serve as an operational roadmap for the negotiating teams. However, it is arguably challenging to phase a negotiation process because of the lack of sharp boundaries that allow negotiation teams to move back and forth between phases (Zartman 1989:117).

Several scholars have reported differently on the influence of context on public-private partnership negotiations, and their phasing thereof. Zartman (1975) observed that negotiations in American context happen in three-phases. However, although his Incremental model which was informed and influenced by his western culture (University of South Carolina and New York University, America), he observed a similar number of phases as did Fisher, Ury and Paton's (1979) Principled Negotiation Process (PRP) model which shared similar contextual backgrounds (Harvard, American scholars), although their models differ considerably in terms of detail and approach to the negotiation phasing process. Considering that they come from a similar American context, which is characterised by individualistic, frugal and weak ties (Hofstede 1986), as well as being less hierarchical and more egalitarian (Adair et al. 2004). Thus, their somewhat different orientation and detail in phasing can be partly explained by their different international exposure which altered their world view. Although both proponents are from America, the latter have vast international conflict resolution experiences, which span and cover Europe, Asia, Africa and the Middle East. These scholars have reported differently on the influence of context on the number of phases observed when partners negotiate partnerships. Zartman's model emphasises the incremental nature of negotiations, postulating that negotiations are marked by turning points, and are characterised by concessions because of trust. On the other hand, Fisher et. al. (1979) placed more emphasises on the importance of actions of rational being, arguing that consideration should be given to alternatives when negotiating.

Yet, O'Looney's (1992) Behavioural Analysis (BA) model, which is based on similar Western culture influence (Georgia, America), observed only two phases. His model emphasises the need for accountability and flexibility during negotiation. His contribution is that parties negotiate based on interests rather than positions. Over and above that, Ahadzi and Bowles's (2004) propose a public-private partnership (PPP) Procurement Negotiation Model, which recognises four phases, and is influenced by an Eurocentric context (Finland). The model posits that parties have to work together to jointly create value. Their claim is that partnerships should promote efficiency and value for money, as well as to promote a multicriteria analysis. They tend to take a long-term view on the approach and emphasise that context should promote certainty. However, Murtoaro and Kujala's (2007) propose a

Negotiation Analysis Approach (NAA) model which only recognises three phases instead of four as observed by Ahadzi and Bowles (2004), who share a similar European context (United Kingdom). This model is different in that it prompts negotiating opponents to make a move in response to an offer. The proponents claim that in those contexts, a party determines negotiation's attractiveness based on self-interest; behaviour to maximise benefits.

The table below summarises the various negotiation models and their phases, country of influence, show their contextual similarities and differences, underlying assumptions, as well as their contribution to literature.

**Table 1: Overview of contextual assumptions based on the previous contributors on negotiation phases studies.**

Theory	Phases	Key Proponents/Contributors	Principle	Context	Contextual assumptions	Contribution
Behavioural Analysis Model	Two	O'Looney (1992)	Integrative	America (Georgia)	Western culture, characterised by individualistic, frugal and weak ties. Parties negotiate based on interests rather than positions.	Need for accountability and flexibility during negotiations.
Principled Negotiation Process Model	Three	Fisher, Ury and Paton (1979)	Integrative	America (Harvard) with international exposure.	Western culture, with international exposure.	Partner's interest key. Consideration of alternatives when negotiating. Actions of rational being.
Incremental	Three	Zartman (1975)	Integrative	America (South Carolina and New York) with vast international and Africa-specific conflict resolution experience.	Western culture and world view influenced by his exposure to African conflicts.	Negotiations are incremental, marked by turning phases. Characterised by concessions as a result of trust.
Negotiation Analysis Approach	Three	Murtoaro and Kujala (2007)	Distributive	Europe (Finland)	Eurocentric, characterised by individualistic, frugal, and weak ties. Opponents have to be prompted to make a move in response to an offer.	Party determines negotiation's attractiveness based on self-interest behaviour to maximise benefits.
PPP procurement negotiation	Four	Ahadzi and Bowles (2004)	Integrative	United Kingdom	Eurocentric, characterised by individualistic, frugal, and weak ties.	Parties have to work together to jointly create value. Partnerships

model					Opponents have to be prompted to make a move in response to an offer.	should promote efficiency and value for money. Promotes multi-criteria analysis. Long-term view. Certainty.
Proposed Housing Public-Private Partnership model	<b>Five</b>	This study's findings	Integrative	South Africa	Afrocentric culture, characterised by strong social capital, strong ties, strong networks and ubuntu.	Parties are considerate and calculative when sharing resource. Parties cooperative.

**Contextual considerations**

Different scholars show that context influences negotiations meaningfully (see Adair et. al. 2004; Kramer, Pommerenke and Newton 1993).Context provides for “historical” and “regulatory” analyses (Burkardt, Lamb and Taylor 1997), reflection on “governance preferences” (Christensen et al. 2018, 207) as well as an opportunity to consider “somewhat different orientations” (Kriesberg 2009, 10). These factors are important and should be understood in context. This position is in line with Dechev (2015, 229) who arguesfor researchers to pay attention to contextual factors because “implementation of PPPs in different countries has national specificities.” It may therefore be inferred that a negotiation process unfolding in a Western context would follow different phases to those in an African or Asian context.It is therefore important to consider how the negotiation processes manifest themselves in such unique and complex contexts, because this may give rise to*different forms* of negotiation processes, and result in different number of negotiation phases.

*The following proposition is thus advanced:*

**Proposition 1:** The number of phases observed when negotiating housing public-private partnerships differs according to national contextual factors.

A focus on Africa is welcome because, despite increasingscholarly interest in negotiations elsewhere (notably America and Europe), there is a dearth of research on negotiation processes in Africa. Hofstede (1986) has shown that context influences observed characteristics.Thus, it is suggested that exploration of negotiationsin a different context might offer valuable and insightful perspectives and reveal what is uniquely African. Contrary to Western culture, Hofstede’s characterisations are based on strong social capital, strong ties and strong networks. Adair. et al. (2004) also add that American culture is less hierarchical and more egalitarian. Moreover, negotiation theory highlights the pivotal role that *culture* plays in negotiations (Adair et. al. 2004).Although Hofstede has been criticised heavily for using representative samples, this article, similar to Eringa et al.’s (2015) validation study, supports the country difference approach. They established that South African results differed completely from that of other countries (Netherlands, Germany, China and Qatar).

Thecontextual approach based on country difference is necessary because this article seeks to:

- (i) Understand the phenomenon of negotiation in an African context, which is characterised more by cooperation than competition;
- (ii) Explore negotiations in a South African context, where the principles of collectivism and loyalty are ranked highly, as opposed to the Western culture of individualism (Hofstede1986); and
- (iii) Show how negotiation could be best set up in a context where hierarchy is observed and centralisation of decision is encouraged.

The following proposition therefore builds on the discussions above:

**Proposition 2:** Contextual factors influence the phasing of HPPP negotiations, activities and outcomes differently in each partnership.

**Research design and methodology**

In order to examine the influence of context on the phasing of housing public-private partnership negotiations, multiple case studies were used. The use of multiple case studies in this qualitative research study was considered appropriate for conducting process-related investigations (Huy 2012) and is useful tools for understanding how partners negotiate partnerships. The multiple case study was also chosen because of its inductive, systematic nature, and specific framework. This enabled the employment of embedded designs which in turn promoted multiple levels of analyses (Eisenhardt 1989).

Case study design principles are useful to inductively explore:

- (i) How partnership negotiations were phased in five HPPP projects run by two metropolitan municipalities in Gauteng, the City of Johannesburg and the City of Tshwane, as well as one local municipality, the Midvaal Local Municipality; and
- (ii) How contextual and conditional factors influenced the phasing of the partnership negotiation process.

Eisenhardt and Graebner (2007) posit that it is advisable to build theory in this way because it reveals nuanced alternative interpretations of relationships that are replicated across most of the cases. The approach also afforded the researcher an opportunity to conduct within-case and cross-case analyses (Eisenhardt 1989) in order to understand the phenomenon’s depth.

The selected five cases were diverse in context and outcomes, although similar in terms of characteristics predicted by project context and partnership structuring literature (see Table 2). They were selected because of their unique contextual and conditional factors. Moreover, the projects were initiated at different times by different role players. Four were initiated by the private sector and one by the public sector. The projects were also at different stages of implementation, followed different approaches and yielded different results.

At the time of the study, all projects had passed the planning stage and were either completed/extended or were still being implemented. All five projects aimed to address housing challenges, by accommodating people who wanted to buy properties through mortgaged finances and low-income housing groups, but who could not afford to provide for their own housing as they had been relocated from adjacent informal settlements for incorporation into these “new” mixed housing development projects.

**Table 2: Short description of the distinctive features of the five case studies**

	<b>Cosmo City</b>	<b>Olievenhoutbosch x36</b>	<b>Rama City</b>	<b>Savanna City</b>	<b>Thorntree View</b>
<b>Initiator</b>	City of Johannesburg	ABSA Devco	Rama Horizon Development	Basil Read	Valumax
<b>Constraints</b>	Public sector did not have expertise and enough capital to roll the project.	Public sector did not have land, expertise and finance	The community did not have finance and expertise	Public sector did not have land	Public sector did not have land, expertise and finance
<b>Negotiation context</b>	Shortage of housing, resistance from adjacent communities	Shortage of housing, no economic opportunities	Shortage of housing, land claim/redistribution programme	Land availability agreement	Land swap deal

Development Stage	Completed	Completed	Under implementation	Under implementation	Completed, and scope extended
Results/ Outcomes	Successful mixed housing development with amenities	Mixed housing development with few amenities, and social housing component not done	Mixed housing development without amenities	Mixed housing development without amenities, project	Successful mixed housing development with amenities

Twenty-two negotiators from the three municipalities, four companies and one land-claim community participated in the interviews. These respondents represented all the parties that were actively involved in the negotiations of the five case studies. More than half of the respondents participated in individual interviews, and the remainder in group interviews. To ensure confidentiality, all respondents were assigned pseudonyms.

The respondents provided insight into: i) how the public and private sector respondents approached negotiations; ii) how they negotiated; iii) how contextual and conditional factors influenced the negotiation process; and how these factors influenced the phasing of the negotiations.

This qualitative research relied heavily on both primary and secondary data sources. Secondary data sources comprised both current and historic data, such as minutes of planning and implementation meetings, correspondence, project reports and updates, annual reports, flyers, information brochures, maps and PowerPoint presentations. The use of the different data sources assisted in triangulation, which is central in collaborating data, especially because negotiations of most of these projects started more than ten years ago and reliance on interview data, given the associated memory bias, might have been limiting.

An interview and observation protocols were developed for use during data collection. Semi-structured interview questions were defined in line with the research question(s), since there was little existing data or information to explain:

- (i) What is the bearing of context on the phasing of housing public-private partnerships negotiation process; and what triggers the beginning and end?
- (ii) How does a contextual factor influence the negotiation process, activities, and outcomes?
- (iii) Sourcing of secondary data occurred in two stages:
- (iv) Data was requested from the organisations prior to and during, interviews; and
- (v) Additional data was sourced from official reports and company websites which provided press releases, brochures, annual reports, and details of media coverage.

Thus, the sourcing of data from multiple sources enabled the collection of both current and historical data and enhanced the triangulation of findings.

An interpretive approach was used to identify emergent themes, in line with the theoretical framework and the research questions, and also to identify any data from outside the framework. This enabled a holistic understanding of case studies.

Atlas.ti 8 was used to analyse data. It has several advantages. Firstly, it allows the researcher to use recorded interviews and pictures at the same time. Secondly, it stores the notes, codes and memos to be analysed. The data was coded and categorised using in vivo procedures, according to the theoretical framework. Hybrid coding was also employed to capture codes from open coding and documents.

Constructs were drawn from extant literature, but a few emerged from collected data. The identified themes were:

- (i) Dynamics in the phasing of negotiations;
- (ii) The influence of contextual factors on the phasing of partnership negotiation processes; and
- (iii) The influence of conditional factors on the phasing of partnership negotiation processes.

In line with Eisenhardt's (1989) advice, the process of analysis began with case-specific context, so that a better understanding of emerging patterns and concepts could be gained before attempting to generalise cross-case findings. However, for the sake of logical flow, the within-case and cross-case analyses were interwoven to produce a coherent narrative. Within-case analysis generated quotes which were populated to Atlas.ti and analysed per theme. This was followed by cross-case analysis which grouped and abstracted identified themes. It was important to focus on each partnership as a separate case; to identify unique patterns from the different data sources. In this regard the case-oriented, cross-case analysis approach recommended by Rodríguez, Chambers, González and Scheurich (2000) proved very helpful, and showed the alternative strategies used to negotiate partnerships. Cross-case analysis also forces the researcher to look at phenomena from different angles, instead of forming premature conclusions.

In the context of this study, cross-case analysis shaped a broader understanding of *why* the outcomes of the negotiation processes varied, which in turn helped to map out different outcomes. Moreover, it revealed a range of different dimensions and options when negotiating public-private partnerships. Thus, rich and holistic illustrations emerged which helped build a comprehensive framework for the understanding of negotiation experiences. Although some researchers argue that the findings from case studies cannot be generalised beyond the cases, it should be recognised that such findings may be useful and relevant to other contexts for "comparability" and "translatability" (Yin 2003) and "conceptual generalisation" (Yin 2013). Furthermore, whilst acknowledging that the approach had its limitations because of the complex nature of the process, it should also be noted that the cases shared two common factors: the need for both parties to address contextualised resource challenges; and the desire of both the public sector and private sector to work together for a common goal.

Interview data was coded on a line-by-line basis. Whilst the aim was to outline and connect this data to pre-set categories, it was important to be open-minded and thereby ensure that new categories were also captured. Thus, the intensive analysis gave a detailed picture of how the negotiation process was handled and revealed prevailing patterns which were subsequently linked to the conceptual framework identified during the literature review and sampling stages.

## DISCUSSION

### Phasing the negotiations of Public-Private Partnership in municipal housing projects

The article propositioned that *the way and number of phases observed when negotiating housing public-private partnerships differs according to national contextual factors*. This proposition was supported. The findings, based on within-case and cross-case analyses show that negotiations in all case studies, except one, occurred in five distinct phases.

The phases are:

- (i) Phase 1: Partnership conception and initiation;
- (ii) Phase 2: Partnership negotiation;
- (iii) Phase 3: Partnership cementing;
- (iv) Phase 4: Partnership implementation; and
- (v) Phase 5: Partnership conclusion/extension.

This finding reflects a clear departure from the two, three and four phases/stages outlined by O'Looney (1992), Fisher et al. (1979), Zartman (1975), Murtoaro and Kujala (2007), and Ahadzi and Bowles (2004) respectively.

The approaches used in the four cases are similar, although one case was initiated by the public sector and the rest by the private sector. The government's call to action and strategic drive served as a driving force, propelling all partners to participate - contributing toward resolving the housing crisis. Essentially, negotiations in the Rama City occurred in four phases because initial negotiations were hurried.

The community was still so excited about winning its land claim against the government and wanted to get the ball rolling without concretising issues. Thus, the first and second phases happened almost simultaneously. Overall, the increase in the number of observed phases could be associated with the collective negotiation characterised by the

desire for a win-win outcome, an attribute which Hofstede (1986) associated with the African culture which is characterised by cooperation, close ties, cooperation and ubuntu (humility).

These findings depart from Ahadzi and Bowles' (2004) four-phases approach in the sense that bid evaluation functions are moved from the second phase to the first phase. In this case, bid evaluation forms part of establishing working relations instead of focusing on core partnership details. The difference emanates from the understanding that bid evaluation involves partners trying to evaluate if there are common grounds for working together or not, and adjudication to determine the feasibility of such proposed partnership. Another distinction is that award forms part of the third phase in HPPPs, not a separate distinct phase (fourth phase) as proposed by Ahadzi and Bowles (2004).

The findings on the five phases are summarised below, reflecting on their significant characteristics and inherent dynamics per phase.

### **Phase One: Partnership conception and partnership initiation**

The striking difference between this and the other four phases is that negotiations in this phase are emergent and unstructured, as the focus is primarily on "courting" each other to participate in a partnership, as well as evaluating the potential benefits identified in the proposal. It can further be characterised as *conceptual* because it dealt with abstract and hazy ideas, and the negotiation content was *broad*.

Conception comprised all planning and pre-negotiation activities, such as formulating the approach/strategy; defining organisational vision; and costing the initiative. In this phase, parties took a lot of time examining the submitted documents, redrafting and re-examining the content of the proposals. Negotiations in the first phase tended to be *lengthy* because negotiators were not focused and lacked direction because they had not yet familiarised themselves with the negotiation process, approach and content. The need to address contextual challenges limited the speed of negotiations. Similarly, lack of negotiation experience among negotiating partners (South Africa is relatively low and behind in the negotiation curve) and attempts to clarify negotiation content also significantly slowed the negotiation pace. Most activities in this stage were *inward looking*, with little external focus, albeit with some assistance from field and technical experts. In this stage, partners explored options to determine how they could resolve the contextual and conditional challenges facing the project.

However, partners also looked *outward*, to court "suitors". This involved partnership initiation, whereby an organisation makes public its intentions to seek partners, informed by its adopted strategy and approach. Negotiation activities are relatively high at this stage because several processes run concurrently. Although the first phase tended to take longer to negotiate, the process gained considerable momentum in the subsequent phases when negotiators were clear about the process, content and approach. Presumably, in the initiation stages, parties tend to be calculative and play their cards closer to their chest. In cases where they share information, they do not openly share strategic information fearing that they may be taken for a ride.

The frequency and intensity of negotiations varied per phase. Both gradually rose as the negotiation process progressed and dropped accordingly in the final phases. The levels dropped in the final phases because agreements had been implemented, and organisations started to pay more attention to the negotiated content, lest they incurred fruitless and wasteful expenditures. Similarly, the awareness that negotiators can return and renegotiate a point which they have already negotiated and agreed upon in the earlier phases, made leaving ends untied not a big challenge during the partnership negotiations process. However, efforts should be made in the latter phases to tighten those loose ends.

Furthermore, the slow negotiations pace (average of seven years) dictated to the private sector to renegotiate – most building material prices and specialist's charges would have gone up in line with annual price increases and inflation. Thus, the rising cost meant that the private sector had to raise its bid costs or reduce its initial planned housing yield or product size. Whichever way one may look at it, the direct implications are that the state unintentionally reduces its project total yield and house size, to be in line with the project cost structure. It therefore makes sense that in most instances, the private sector initiated renegotiations of partnership terms because almost all the projects took longer to conclude negotiations, which had a negative impact on their financial position, it raised interest costs on the borrowed funds.



Hence, to make these partnerships *viable* for the private sector and less costly overall to the public sector, the public sector should *speed up internal processes* related to township establishment, township proclamation, township layout and detailed designs approvals. In instances where government delays the planning process, it in a way foregoes the chances of having more houses built through the partnership because of escalation related costs. On the other hand, where the public sector pursues partnership in instances where the land belongs to the private sector, the government benefits by implementing the project closer to the Central Business District (CBD), but at the end of the day will have less number of houses, of smaller sizes, of better quality and located in more functional places. This is a political risk municipalities have to manage during the negotiation stages.

Delays that resulted in renegotiations had been found to be the result of:

- (i) Slow township establishment and planning processes;
- (ii) Lack of budget during the construction stages;
- (iii) Changes in the political landscape (Sarmiento and Renneboog 2016); and
- (iv) High staff turnover.

Renegotiations were considered important as these were an attempt to counter and readjust to the level of the costed risks in response to the impact of delays (Cruz and Marques 2013), and rising costs, due to economic pressures associated with the 2007/08 economic meltdown. It can thus be said that delays affect the numbers and are not sustainable.

### Phase Two: Partnership negotiations

The second phase was characterised by an *increase* in negotiation activities, with partners keen to reach quick *agreements* regarding project implementation. This included decisions as to who would be responsible for certain roles and responsibilities in the partnership, based on contextual demands, especially the financing of certain activities, or the bearing of particular risks.

This phase was significantly different from the partnership conception and initiation phase, where negotiations focused more on clarifying what each party thought the partnership would achieve. Thus, the second phase proved to be one of the *most complex* of all phases in the partnership negotiation process because it involved particularly vigorous bargaining and agreement seeking. Negotiations during this phase were intense because all decisions had to be informed by careful consideration of options, based on available information. Attention shifted to “number games”. Essentially, parties subjected proposals to heavy scrutiny. Such negotiated agreements were informed by detailed studies, conducted by specialists. There was also greater attention given to negotiation content, which in this phase was much detailed and focused. It progressively built upon earlier negotiations, by either (i) confirming, (ii) reviewing or (iii) changing earlier agreements to concretise those earlier negotiated items. The same could be said about the process in the subsequent phases.

The second phase was also characterised by sharing high quality content partnership documents, useful to assist partnership-proposal-receiving partners to review deliverables. Most of the activities in this phase were similar to Murtoaro and Kujala's (2007) second phase. Partners discussed:

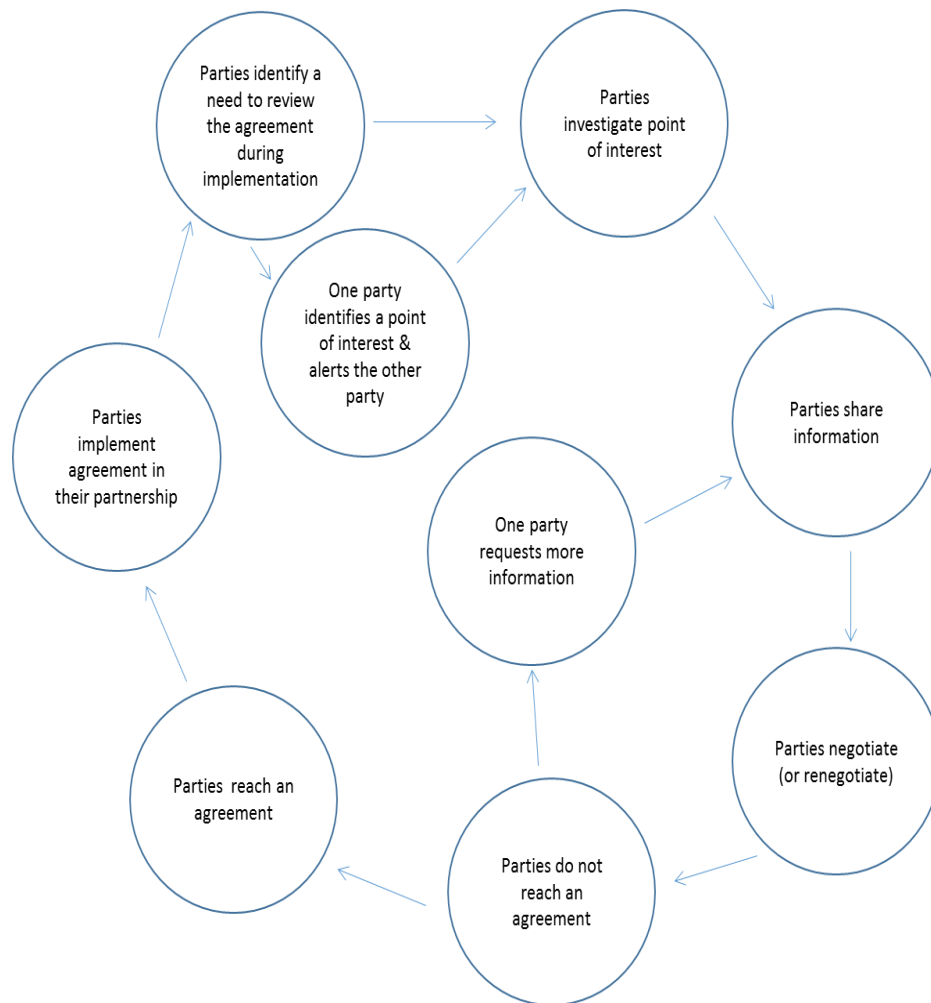
- (i) Roles and responsibilities;
- (ii) Level of contributions,
- (iii) The sharing of costs and risks; and
- (iv) Structural/governance arrangements of the partnerships.

Arguably, high quality content demonstrated the partnership-proposing partner's commitment to the partnership. Partners used the gathered information to consider their options. The information assisted them to determine and define their primary position, and secondary and/or fall-back position. Negotiation literature refers to these acceptable positions as a settlement or bargaining range. This phase can be termed the *deal breaker*; it is where the main agreements are reached. Partners persuade and coerce each other.

The findings showed that the process required that both negotiating partners have a sound appreciation of what can be achieved through their contributions. For instance, the public sector's mandate to contribute certain resources

was mostly premised on their legislated mandate and project requirements, so that they could derive value from such contributions. The public sector negotiated based on the grants and subsidies, and they negotiated to cover the cost of constructing bulk infrastructure so that they could direct developments. In instances where the public sector provided bulk water and sewer infrastructure through grants and subsidies, they negotiated that the poor households be incorporated and integrated into the development so that the poor were not left settled on the periphery.

Essentially, concepts were revisited (renegotiated) until a point where agreements were reached (see Figure 1). This finding is in line with Zartman’s (1975) turning point concept discussed above.



**Figure 1: Illustration of the housing public-private partnership negotiation process**

From this phase onwards, the trend starts to show that negotiations are not linear, but iterative. Renegotiations were common. Agreements reached in the preceding phase(s) were changed, revised or amended in the subsequent phase(s). However, such changes, revisions or amendments only affected agreements reached up to that point.

It shows that the parties had to jump through some hoops before moving forward. Figure 2 below illustrates the negotiation agreement iterations.

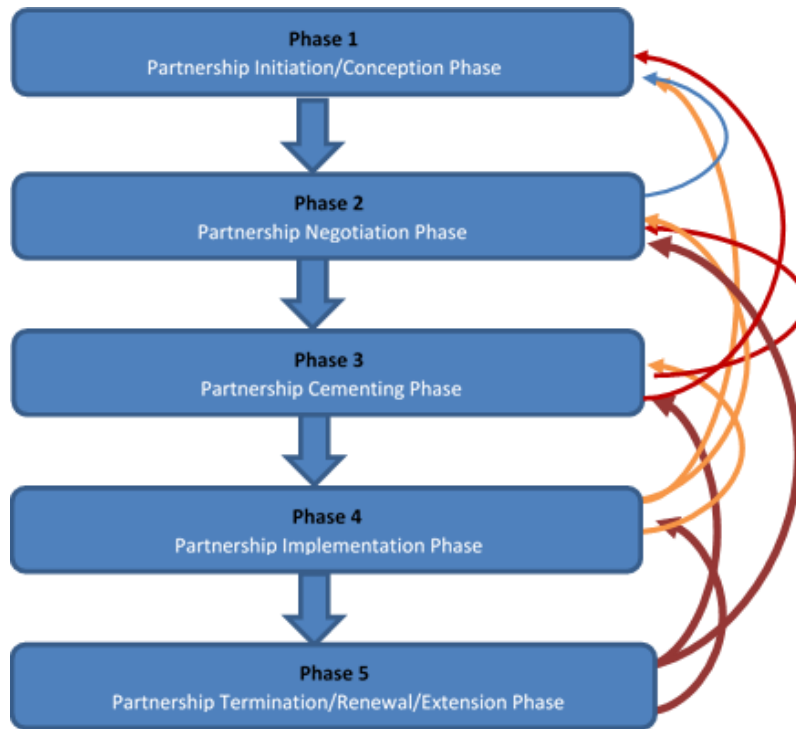


Figure 2: Illustration of the phases and the iterative nature of negotiations

The findings clearly illustrate that although there were *clear-cut steps* in the partnership negotiation process, the process was far from being sequential (see Figure 2 above). Hence, the partnership negotiation process should be modelled as an *involved, dynamic and complex process*, a view already captured in the extant scholarly literature by several researchers (see Lowndes and Skelcher 1998; Koppenjan, 2005; Sebenius 1992; Sengupta, 2006a; Sengupta, 2006b).

The negotiation span was reduced considerably in this phase. Parties saw it necessary to share the information as they had reciprocated and gained each other’s trust. On the other hand, the intensity and frequency of negotiations rose accordingly in the second phase because parties had better ideas of what they wanted to achieve in the partnership, they had established rapport and were interested in concluding the deal and delivering on the outcomes (see Figure 3). The diagram further shows that in case of scope extension negotiations, the levels and frequencies of negotiations rise once again (shown by the dotted ring).

Level and Frequency of Negotiation

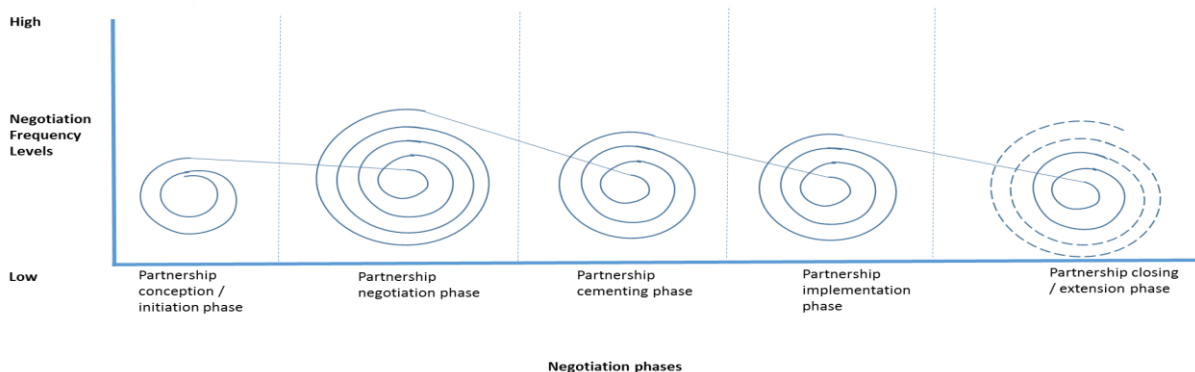


Figure 3: Illustration of negotiation frequency and intensity level per phase.

### Phase Three: Partnership cementing

In the third phase, negotiated agreements are officially cemented with signed commitments. The main activity in this phase is related to the development and *signing* of implementation protocols. Although the study showed that Phase Three is not one of the more complex phases, it is still important because it *formalises* all the negotiated agreements through signed documents. These may include i) memoranda of agreements, ii) memoranda of understanding, iii) land availability agreements, iv) land development agreements and v) service level agreements.

Reaching agreements was seen as a big milestone among parties and marked the commencement of the partnership. The Midvaal Municipality municipal manager, who was head of planning and housing when the Savanna City project was initiated, indicated that:

*“It is normally just a negotiation and once you reached an agreement on something, it’s a done deal signed off, politically signed off, and it’s commenced with [sic].”* (Respondent 20)

The signing of agreements is evidence that parties invested their time at the beginning of a project to clearly define roles and responsibilities. In the five cases studied, signed agreements were not only between the main partners, but other stakeholders as well.

Content in this and the subsequent phases was slightly *concrete*; there was clarity of purpose on what was to be implemented. The activities focused on *solidifying* what had been negotiated in the previous phases.

The importance of designing an appropriate partnership structure can never be underestimated. In a multiparty political system as in South Africa, where achievements and gains must be logged, political parties use signing ceremonies to: i) communicate achievements; ii) signal political strategic thrust; iii) cement partnership relationships; iv) display political victory; and v) gain trust and attract voters.

### Phase Four: Partnership implementation

From a practical perspective, the fourth phase in a partnership negotiation process is cumbersome, the trickiest and most challenging of all the phases. Over and above that, content in this phase was specific, detailing each partner’s contribution, roles and responsibilities.

Negotiators’ main focus in this phase is to ensure that partners *implement* agreed commitments. Thus, in this phase, coordination of activities becomes critical because it involves dealing with multiple stakeholders and multiple issues at the same time. As mentioned, partnerships on large scale housing and human settlements projects or developments do not only involve the construction of houses, but also require provision of other related services, and the construction of other support infrastructure which is either costed and covered in the project budget or requires external stakeholders to finance.

Negotiations in this phase are challenging because the circle has expanded to include new implementation stakeholders. Thus, the negotiation process now involves the main parties (from the first phase); the main support stakeholders (from the second and third phases); and the implementing agents attached to the main parties and support stakeholders. In turn, this necessitates the coordination of different stakeholders that follow different budget cycles. One finance manager who was responsible for the Cosmo City housing project indicated that:

*“The coordination of financials is very important and is also ... very tricky because they have different financial years. The City’s runs from July to June, and the Province runs from April to March. We coordinate to make sure that it happens. And then all other departments, they all have their overall high-level plans and annual budgets and all that sort of things [sic]. So you always have to try continuously to fight to get the finances from them to put it [sic] in the investment, and again at the right time which can become very tricky.”* (Respondent 14)

The nature of such integrated development requires many role players and stakeholders who participate and contribute to the project. Thus, the process becomes dynamic and ever-more complex because each stakeholder

brings their own interests and restrictions which, in one way or the other, either contribute benefits or derail the achievement of project goals.

This study showed that any of four scenarios may occur at this juncture:

- (i) Parties may implement agreements as agreed, perhaps with variations as further negotiated;
- (ii) One party may take advantage of the situation;
- (iii) One party may find excuses not to implement agreements; and
- (iv) A party may completely renege on negotiated agreements.

The negotiation process during the implementation phase proved to be easier when partners collaborated to resolve challenges.

In line with extant literature, the findings also showed that in instances where there were delays in the projects, the private sector renegotiated either to reduce the number of houses to be constructed (housing yield) or the size of the structures (houses) in line with the total project value. The findings further showed that long-term township maintenance, management and operations were largely disregarded during negotiations in most of the partnerships. Therefore, negotiation teams should ensure that they include the negotiations of such because they offer a huge potential to promote sustainable neighbourhoods. It therefore shows that negotiations require negotiators to learn new skills and apply them as their organisations embark on new trajectories which require paradigm shifts from the traditional approach on two fronts:

- (i) Individual negotiators building requisite capacity to handle complex partnership negotiations; and
- (ii) Organisations preparing employees to adapt and adopt new ways of implementing large-scale projects through partnerships.

These two shifts can be linked to extant literature which shows that negotiators who understand their task and exchange information tend to reach high “joint outcomes” (Wiltermuth, Tiedens and Neale 2015). On the other hand, negotiators with low epistemic motivation tend to make more concessions and reach low joint outcomes. Evidently, negotiating partnerships required the parties to use multi-pronged approaches because of the number of stakeholders involved in the project conceptualisation, project design, project planning, project financing, service provision, construction and project monitoring and evaluation stages. It therefore implies that officials should be equipped with skills that will enable them to respond to the needs of the different stakeholders.

### **Phase Five: Partnership conclusion/extension**

In the fifth phase, the parties had two options when their partnership came to an end. The first, which was not the most commonly followed, was to conclude and terminate the partnership because time had elapsed, and it had delivered the partnership objectives. The second option involved broadening the scope of the partnership to include aspects which were not covered by the initial negotiations but were required in the partnership – as well as address variations which arose during the implementation of the negotiated partnership agreements. For example, in one case study, the parties agreed to include a water reservoir which was not part of the initial agreement.

Although timeframes stipulated precisely when a partnership should cease, it emerged that no partnership analysed in this study ended when it was due. Worryingly, some such partnerships are still active today, more than twelve years after they began. This shows that it is difficult to precisely negotiate implementable actions, especially where there are budgetary constraints and scope creep. Arguably, the inability to adhere to timelines was caused by delays associated with:

- (i) Planning and implementing such complex large-scale projects;
- (ii) Budgetary constraints; and
- (iii) Reneging stakeholders.

Thus, the projects were rolled over several times, a contravention of the Municipal Finance Management Act (MFMA) (South Africa 2003). In a way this adversely affected the level of public sector trust because low private sector commitment to the partnership was cited.

Sometimes project scope extensions were part of the conceptualised precinct development. For instance, when planning for developments, the private sector would take a holistic view by securing or partnering in land adjacent to vacant land, so as to take advantage of already laid infrastructure. This would then enable low-cost development of the vacant land as it would already be serviced.

Over and above that, negotiation duration dropped considerably during this final phase and negotiation content was focused; partners were now clear about what they wanted to achieve and how. The conceptualisation of deliverables was also easier. Negotiations were faster, parties had already built higher trust levels with each other. Intensity and frequency rose, buoyed by their recent success. This means that this last phase can also be illustrated as being abstract at times, especially in cases where partners agreed to extend their partnership or renegotiate new terms.

This phase also provided an opportunity for partners to review how they had negotiated the partnership terms as well as implemented them. Negotiations focused on evaluating the impact and efficacy of the chosen methods, how to best close the partnerships, and whether there was a need to include other deliverables or extend into other parts of the same development.

The findings also showed the importance of phasing negotiation content towards mitigating risks associated with partnerships on such large-scale housing projects. Deliberately focusing negotiation content allowed partners to only discuss issues which had a bearing on a specific phase. Therefore, the public and private sector should strive to phase partnership negotiation content in such a way that risks are *mitigated* per phase. Furthermore, phasing content allowed negotiators to find each other and share risks on the elements of a partnership, rather than to conclude all the contents in one go. This is important, considering that the public-sector housing agenda is driven by complex social undertones that seek to promote the implementation of racially-integrated-mixed-income-groups development, and promotion of mixed housing typologies which are meant to trigger the secondary housing market, an approach which differs considerably with the private sector's objectives that are highly defined by profit drives.

Lastly, negotiators paid particular attention to contextual factors when negotiating, because these played a crucial role in determining the content and route the negotiation process would take. Put differently, negotiations are situational and involve dynamics of time and place.

### **The bearing of contextual factors on the phasing of housing public-private partnership**

The findings also supported the second proposition: *Contextual factors influence the phasing of HPPP negotiations, activities and outcomes differently in each partnership.* As extant literature suggests, when negotiating and structuring partnerships, cognisance should be taken of prevailing conditions and resource needs because these can influence the direction of the negotiations.

Some of the influential contextual factors observed in these five case studies are:

- Enabling and supportive government policies and legislation – availability of state grants and subsidies allowed municipalities to have a voice during the negotiations;
- Supportive political climate – there was political will to see the project as planned;
- Cumbersome planning and approval processes at local level – private sector pushed the public sector to fast track the planning process;
- Dire lack of basic infrastructure;
- Amount of developable land – ownership of vacant land earmarked for development which will become the physical location of the project site reside mostly in private hands;
- Resources – availability or non-availability of funds;
- Capabilities – organisational expertise strong in the private sector;
- Weak macro and micro economies;
- High demand for housing; and
- Cooperative societal structures.

These contextual factors were found to influence the partnership-phasing process differently. For instance, due to the long approval processes, the private sector was always interested in how municipalities can fast track the internal processes related to township approvals and registrations, layout-plan approvals, township establishment, Environmental Impact Assessment studies, as well as road, water and sewer services designing. The private sector seemed to favour quick turnaround times because through that, they were able to contain their project costs and thus deliver a product quickly before their borrowed money generated more interest.

Over and above that, the findings show that each of the five phases is characterised by specific and unique activities that should be seen as attributes of that particular phase. Any challenge should be resolved at each phase to address the contextual challenges experienced and should be seen to be contributing towards a particular outcome of that phase. This is in line with Zartman’s (1975) postulation of identifying “turning points” along the way to define outcomes per phase.

The findings further show that although these phases are illustrated as distinct and unique to each other, the content negotiated in each phase showed coherence, aimed at addressing identified contextual challenges. It thus provides distinctions about each phase, clarifying what happens in each phase (see Figure 4). It distinguishes activities marking where each phase starts and ends a departure from Huxham and Vangen’s (1996) argument that it is impossible to attempt such illustration.

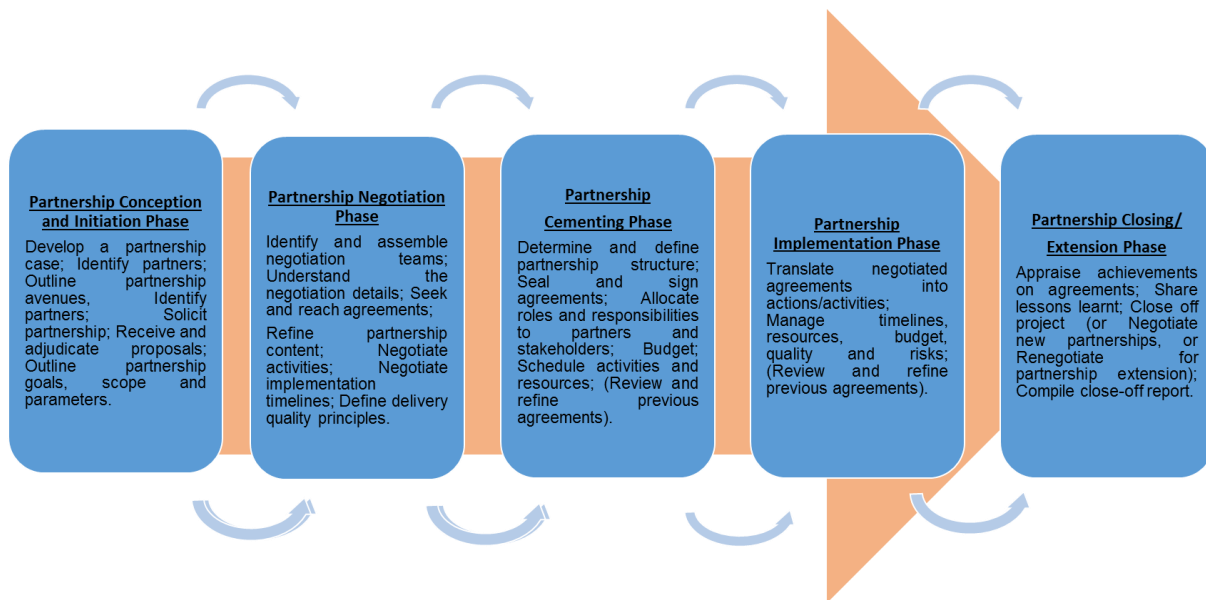


Figure 4: Illustration of housing public-private partnership key negotiation activities per phase

### Conclusions and recommendations

Based on the findings of the investigations on the two research sub-questions, this study thus concludes as follows on the influence of context on the phasing of housing public-private partnerships negotiations:

#### Influence of context on the phasing of housing public-private partnership negotiations dynamics

Context influences negotiations meaningfully (Adair et. al. 2004:87; Kramer, Pommerenke and Newton 1993:634). The five case studies show that in the context characterised by cooperation and collectivism, the housing public-private partnership negotiation process happens in five distinct phases, a finding that significantly challenges existing research, which has never recognised so many phases before.

The higher number of phases are a result of efforts by partners to show cooperation, build long-term relationships, and efforts to respond to government’s call for efforts aimed at addressing pressing contextual challenges; the housing crisis. Partners cooperated to build long-term relationships, and were guided by a “push” to see that the partnerships indeed provided a joint solution to an identified challenge. Thus, the findings assisted in

appreciating that standard negotiation phases do not apply in a unique South African context which according to Hofstede (1986) is characterised by a culture of close ties, cooperation and ubuntu (humility).

Over and above that, unlike Zartman (1975) who established that the phasing is incremental in nature, this study established that the phasing is non-linear and iterative, due to renegotiations. All the case studies were in one way or the other renegotiated. Essentially, the negotiation process follows some modular patterns, characterised by iterative negotiations. It means items negotiated in the beginning are not completely closed but are reviewed throughout the process to align to current contextual demands.

The findings also made the researcher appreciate that partnership negotiations, by nature, are not one-off events, but ongoing processes. This view is in line with McKersie's (1997:10) observation that negotiations are better viewed as a process.

The study also concludes that for negotiations to be effective and efficient, it is crucial that negotiators have the capacity to appreciate and develop useful partnership negotiating strategies and to apply them appropriately. For instance, negotiators had to start by building a partnership case as well as build rapport with their counterparts before negotiations could happen.

The findings helped to conceptualise the negotiations of the housing public-private partnership negotiation process as a life-span comprising of five distinct phases. The lifespan is characterised by different negotiation durations, focus areas, paces, intensities, and frequencies per phase activity.

The study also revealed that the housing public-private partnership negotiation process, by nature, tends to take longer to conclude than estimated. The lengthy negotiation duration and slow pace process is a reflection that there are numerous dynamics at play during negotiations that negotiators should appreciate in order to influence the negotiation process in their favour. The long negotiation span and low content in the initiation and conception phase is because negotiators wear their strategic hats essential to formulate business cases that can win the hearts of their counterparts as well as resolve pressing community needs without giving more attention to finer details on outcomes, risks and partnership structure.

The study further concludes that the idiosyncrasy on the attainment of desired outcomes per phase is primarily the result of the distinction negotiators make with regards to negotiation focus, content and activities per phase.

It is also worth mentioning that, depending on the stakes of the content of the negotiations, the complexity, duration, frequency, intensity and pace of the negotiation processes differ drastically per phase, and should be determined differently.

In line with Hofstede's (1986) postulation on the influence of culture, the most commonly used negotiation strategy in housing public-private partnership negotiations was the integrative one (the soft-line approach). It was favoured because parties are driven by a desire to build trust necessary for driving such long-term relationships. It is more beneficial to the concerned parties because the nature of relationships does not promote short-term financial gains at the expense of the other party.

Negotiation contexts and processes are complicated, involved and complex:

- (i) These involve so many role players; and
- (ii) Have numerous interrelated variables, scope of work, and maturity of negotiation partners, partnership content, partnership structure, and power dynamics.

### Triggers

Understandably, although negotiations were seen as lengthy, the negotiation span varied considerably among the phases, with negotiations in earlier phases taking longer than the succeeding ones. This is so because the content of negotiations differs in each phase. It gradually deepens along the phases. Essentially, negotiations are lengthy because each phase is characterised by a different negotiation content, which progresses in detail and complexity with each passing phase, and with a high possibility of being reviewed at each subsequent phase. Thus, it implies that



the nature of the negotiation process is that negotiations move like a wheel, it starts at a slow pace but gathers momentum as it moves further and gets into full swing. Negotiations in a subsequent phase are triggered by agreements on a previous phase. Although negotiations in the first phase are triggered by the desire to address pressing societal housing challenges, the trigger in the subsequent phases is previous agreements. The trigger in the second phase is the desire to define the terms and the outcomes of the partnership. The trigger in the third phase is the desire to detail delivery protocol, define roles, and associated outputs and timelines. Negotiations in the fourth phase are triggered by the wish to implement as per agreement, and on the fifth phase, to close the project and to assess whether the partnership indeed delivered as anticipated or not.

### CONTRIBUTION OF THE STUDY

#### Theoretical contributions

The wealth of main theoretical contribution relates to the way in which negotiation processes are phased, and brings forth the importance of contextual and conditional factors per phase. The study contributes by providing proof that negotiations of HPPPs happen in five phases. This finding significantly challenges existing research, which has never recognised so many. For instance, O’Looney (1992) only observed two phases, while Fisher et al. (1979), Zartman (1982) and Murtoaro and Kujala (2007) advanced three phases, and Ahadzi and Bowles (2004) four phases. The study further contributes by showing that each negotiation phase is characterised by different negotiation content, which progresses in detail and complexity with each passing phase. Progressions in negotiations from one phase to another are triggered by agreements reached in the preceding phases. Over and above that, the phases which deal with detailed and complex content are usually slow, and the opposite holds true for the less detailed, simple ones.

Furthermore, renegotiations are a norm. There is always a high possibility that agreements are reviewed at each subsequent phase once partners have gained better understanding of the phenomenon.

The article thus highlights the need for policymakers and practitioners to appreciate the influence of national culture (characterised by close ties and high levels of cooperation towards a win-win situation) on promoting long-term partnerships. It shows that standard negotiation phases, as shown in extant literature, may be limited when applied in cooperative long-term relationships such as housing public-private partnerships in environments characterised by close ties and high cooperation, and government drive to address pressing housing challenges.

#### Practical contributions

Negotiation phases are recognised through activities, which define triggers. Thus, negotiators should recognise triggers in each phase. In terms of contextual considerations, negotiators should appreciate that lack of clear partnership policy directive does not only limit an organisation’s ability to negotiate better agreements but slows the pace of negotiating. Thus, organisations should ensure that negotiation policies are developed and implemented. Lastly, it shows that each phase has specific outcomes expected of them. For illustration purposes, see Figure 5 (the Housing Public-Private Partnership Negotiation Process Lifespan Wheel). The wheel further signifies the effect of partners’ resource capacity and resource contribution such as budget and skills for the overall negotiation process.

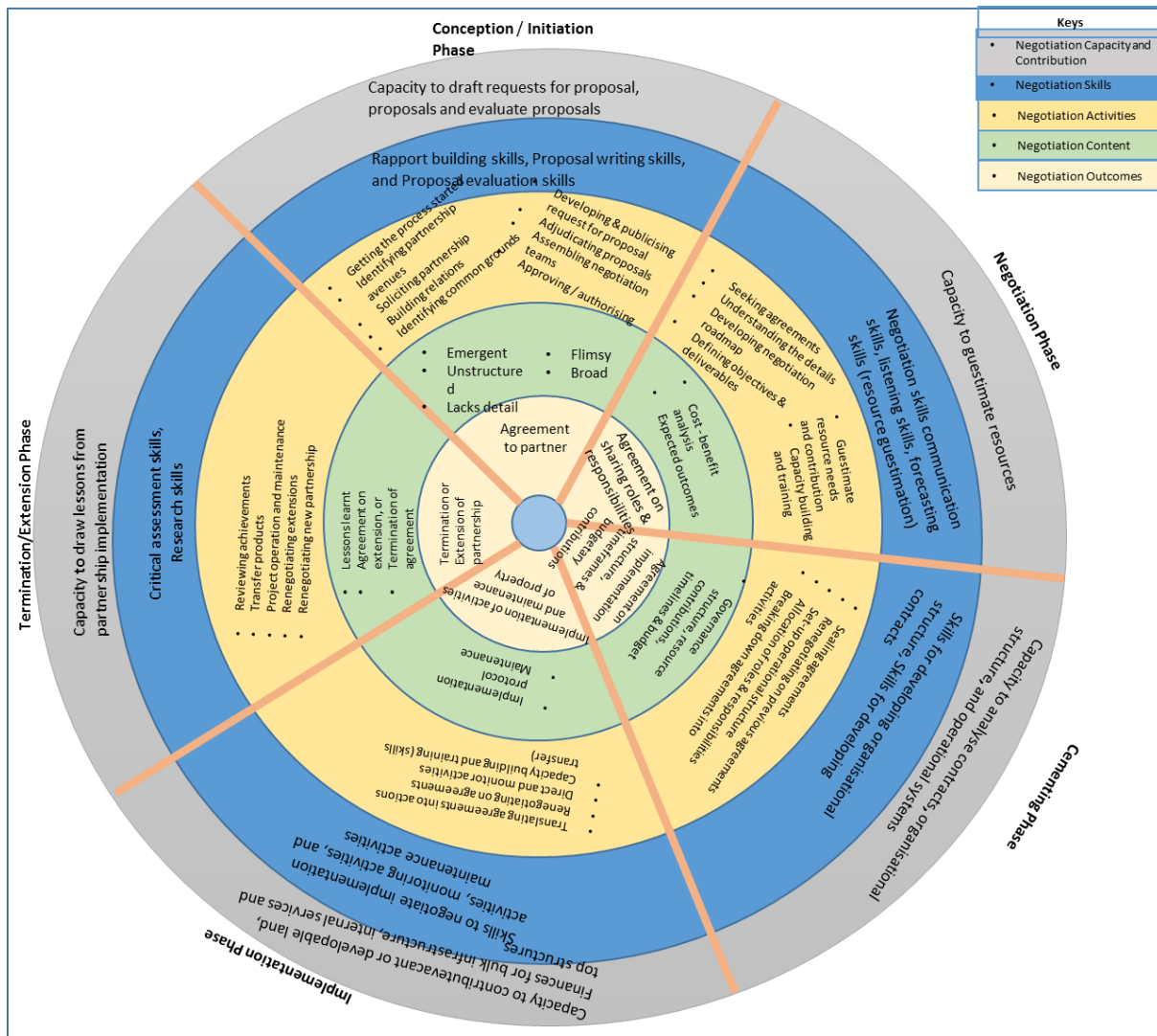


Figure 5: The Housing Public-Private Partnership Negotiation Process Lifespan Wheel

The study proposes that future negotiators strive to utilise a negotiation framework to guide their efforts. The findings show that organisations participated in partnership negotiations without a framework or policy to guide them. Such a situation highlights the need for streamlining a partnership negotiation processes in organisations. Thus, it is this researcher’s considered view that both the public and private sector could benefit largely if they base their negotiations on a partnership negotiation logic framework. It thus stands to reason that each partner should develop his or her own partnership negotiation logic framework to guide its partnership approach. The use of a partnership negotiation logic framework can assist both the public and private sector to better prepare themselves to initiate and respond to partnership requests. This will create conducive conditions where each partner can achieve more in the partnership, which can be used by all parties to structure the risk better, as well as structure deals in an effective and viable manner congruent to its strategic vision and objectives. The assumption is that if this framework can work better, it will directly and indirectly influence the secondary housing market where households will start to trade their properties and move up in the housing market. Doing so will ensure that there is trading at all levels, the lower, middle and affluent market. The suggested Housing Public-Private Partnership Negotiation Framework will therefore assist housing practitioners, policy makers and researchers to make the best of partnership negotiations.

## Implications for researchers

The study's findings have several implications for researchers. The findings highlight that there is a need to start conceptualising and theorising the housing public-private partnership negotiations as a five-phased process. It also brings to the fore the need to account for context and conditional factors, especially the influence of lack of infrastructure and skills shortage.

## Limitations of the research

Several limitations can be identified in the current study. The limitations are that:

- (i) It paid little attention to the patterns of negotiations;
- (ii) It did not investigate whether there are counters to phasing, and if there are, how could they have impacted on the objectives of the partnerships;
- (iii) It only focused on partnerships predominately implemented in urban areas, thereby making it less generalisable to rural contexts; and
- (iv) Lastly, although the process can be generalised to different contextual situations, a plausible limitation to consider is that not all the subsets of the negotiation contents and skills requirements per phase are generalisable to other contextual settings.

## Concluding remarks

The findings of this article have revealed that the process of negotiating housing public-private partnerships, whether initiated by the public or private sector, follows five distinct phases. Essentially, the manner in which negotiators went at lengths during the negotiations of the five case studies to promote integrative (win-win) rather than distributive (zero-sum) approaches appears to have contributed to the extended phases, a departure from the fewer phases that previous literature suggested. The distinct character and nature of the partnerships prompt both the public and private sector endeavour to streamline and mainstream their negotiation processes, to enhance the experience. These insights are crucial for researchers to appreciate the influence of African context during negotiations of HPPPs. Over and above that, the findings are important for public policy developers and implementers to recognise contextual factors and embrace them when planning HPPP negotiations.

Future research should therefore look at how parties resolved disputes in each phase, and the impact of renegotiations. Secondly, the article relied on qualitative methods to understand what were the number of phases that emerged when partners negotiated housing public-private partnerships in the five case studies. It is suggested that future research should look at these factors from a quantitative angle to determine the correlations between the various constructs studied.

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