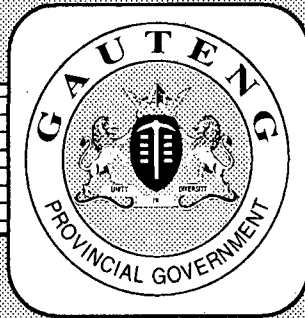


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**THE PROVINCE OF
GAUTENG**



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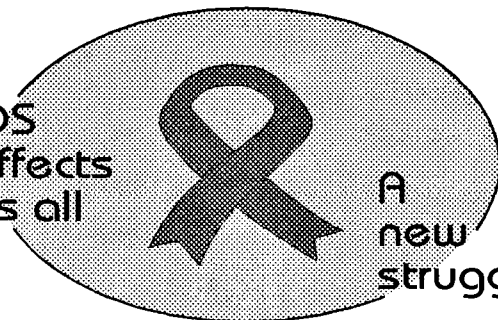
Vol. 9

PRETORIA, 17 SEPTEMBER 2003

No. 389

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

**AIDS
HELPLINE**

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DEPARTMENT OF HEALTH



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CONTENTS

Page *Gazette*
No. *No.*

No.

GENERAL NOTICE

3023	Gauteng Provincial Legislature: Publication of the Gauteng Transport Infrastructure Amendment Bill, 2003	3	389
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GENERAL NOTICE

NOTICE 3023 OF 2003

GAUTENG PROVINCIAL LEGISLATURE

PUBLICATION OF THE GAUTENG TRANSPORT INFRASTRUCTURE AMENDMENT BILL 2003

Notice is hereby given that the Member of Executive Council for Public Transport, Roads and Works, Mr. E. K Mosunkutu, intends to introduce the Gauteng Transport Infrastructure Amendment Bill of 2003 in the Legislature as published in this Extraordinary Gazette.

Any person or organization wishing to comment on this proposed Legislation may lodge written comments on or before **08 October 2003** by posting, faxing or handing them in at the following address:

The Secretary to the Legislature
Gauteng Provincial Legislature
C/o Committee Co-ordinator (Ms. Patience Mokoena)
Private Bag X52
Johannesburg
2000

Physical Address
Gauteng Provincial Legislature
Corner President and Loveday Street
Johannesburg
Tel No: (011) 498-5790
Fax No: (011) 498-5719

GAUTENG TRANSPORT INFRASTRUCTURE AMENDMENT BILL, 2003

Memorandum in terms of Rule 136 of the Standing Rules of the Gauteng Provincial Legislature.

1. REASONS FOR THE BILL

The Gauteng Transport Infrastructure Act, 2001 (Act No. 8 of 2001) ("the Act") was brought into operation on 31 January 2003, except for sections 44 and 60(a) dealing with outdoor advertising. During the finalisation of tender and contract documents to provide for the proposed Gautrain Rapid Rail Link, certain amendments to that Act have proved to be necessary to enable or facilitate the implementation of that and similar projects. Hence the Gauteng Transport Infrastructure Amendment Bill, 2003 ("the Bill") has been drafted to effect these amendments.

The purpose of the Bill is to provide for the necessary land use rights with respect to stations and for the necessary powers of the MEC to enter into a contract or contracts in respect of the Gautrain Rapid Rail Link or similar projects, with the approval of the MEC responsible for financial matters.

Discussions with the local authorities concerned and the Department of Development Planning and Local Government with regard to land use rights in respect of stations on the Rapid Rail Link on the one hand, and the necessity for certainty at the tendering stage in respect of land use rights in respect of stations on the other hand, have resulted in the following scheme of land use rights which are provided for in the amendment:

A new definition of "station" is inserted to include the area used for activities directly related to the operation and administration of the railway system and transport activities with respect to passengers arriving at and departing from the station. The station will thus also include areas for the parking of vehicles, parking garages, drop-off and pick-up areas, public transport and the like.

Broad consensus was reached with the local authorities concerned after discussions with them that certain land uses within the station precinct need not be regulated by town planning schemes and could be directly provided for in the Act, which would obviate the time consuming procedures in respect of amending the applicable town planning scheme. This includes certain limited commercial activities that are directly associated with commuter convenience, including advertising, selling of refreshments, newspapers and magazines, vending machines, public telephones and electronic banking facilities (automatic teller machines).

However, it is foreseen that in the circumstances of most, if not all, stations, it may be desirable to have commercial activities within the station precinct. As

these commercial activities may impact directly on the surrounding urban fabric and may have direct consequences with respect to urban infrastructure, it is necessary that land use rights with regard to commercial or retail land uses have to be regulated by the applicable town planning scheme or zoning scheme. This is to provide for the necessary input of the community in the area, as well as a decision of the municipality, before the approval of such rights takes place in terms of any relevant planning legislation. These activities will be situated within the station and land use rights in respect thereof will have to be obtained in terms of relevant planning legislation.

Regarding the determination of a route for a new provincial road or railway line, section 4 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) provides for two alternative procedures when an administrator has to come to a decision which may materially and adversely affect the rights of the public, namely a public inquiry or a notice and comment procedure. The present section 6 of the Act opted for a public inquiry procedure. This procedure can be most cumbersome and time consuming and of a duplicating nature where the issues relevant to decision making have been adequately canvassed in the procedure accompanying an environmental investigation and report as contemplated by section 6(3)(a) of the principal Act. Under these circumstances a notice and comment procedure as contemplated by section 4(3) of Act 3 of 2000 will be both practical and expeditious where the environmental report has already been compiled, whereas the public inquiry procedure contemplated in section 4(2) of Act 3 of 2000 can be reserved for those instances where specific issues arise from the notice and comment procedure and the other two reports, which may need further and broader investigation and comment. Section 6 is therefore amended to use a notice and comment procedure for the MEC to come to a decision, and implements the public inquiry procedure only in respect of specific issues. The administrative justice which is thus attained is therefore of a higher standard than that which is required by Act 3 of 2000 in that both procedures are followed.

The existing Act does not fully provide for the kind of contract which is necessary to be entered into by the MEC for the planning, construction, operation, maintenance, control and supervision of the proposed Gautrain Rapid Rail Link. It was therefore necessary to empower the MEC, also with reference to existing provisions in the Act, to conclude contracts such as the draft contract which is already in existence with the approval of the MEC responsible for financial matters.

In this regard it is necessary to provide specifically for the making available of land or rights necessary for the above purposes and to ensure that the necessary powers vested in the MEC can either be exercised by the successful contractor or by the MEC on its behalf, subject to certain safeguards in respect of powers of discretionary or executive nature. The

exercise of these powers when granted in the public interest, cannot be fettered or thwarted by the conclusion of contracts.

Furthermore, it was necessary to create a substantive section whereby personal servitudes or rights vesting in the MEC could be transferred or made available for use by the successful contractor. Servitudes and rights of personal nature cannot by common law be exercised by or transferred to a third party and a specific provision in this regard was thus necessary.

It is evident from the concept of the Rapid Rail Link that co-ordinating agreements with other companies and authorities such as the Airports Company Limited and local authorities will have to be concluded by the MEC in order to co-ordinate the integration of the Rapid Rail Link with existing airport systems, transport facilities and the surrounding urban structure. Provision in that regard is thus also made in the Bill.

A further objective of the Bill is to rationalise the situation with regard to environmental investigations. In terms of the Act and other legislation three such investigations may be required where a new road or railway line is planned, designed and constructed:

- At the stage of route determination (section 6(3)(a) of the Act);
- At the stage of preliminary design (section 8(4)(b) of the Act);;
- At the stage of construction of the road or railway line (section 22 of the Environmental Conservation Act, 1989 (Act No. 73 of 1989)). This investigation also covers operational aspects.

The first two investigations have been provided for because there is sometimes a considerable lapse of time between route determination and preliminary design. However, a second investigation is not necessary when the two will take place at the same time or soon after each other, as will be the case with the Rapid Rail Link. The Bill therefore amends section 8(4)(b) of the Act to make the second investigation unnecessary where the competent authority contemplated in environmental legislation regards it as unnecessary because the environmental investigation carried out at the stage of route determination has covered all of the relevant aspects.

2. ENVIRONMENTAL IMPACT

The environmental impact of the Bill relates to the rationalisation of the environmental investigations as outlined above. The Bill has no other environmental impact.

3. FINANCIAL IMPLICATIONS OF THE BILL

There are no financial implications, except that the amendments could bring about streamlined procedures that can save costs.

There are no additional financial implications for local government. There could be cost savings in that some unnecessary rezoning applications will be avoided in the case of station precincts and rail operations areas.

4. COMMENTS RECEIVED AND SOLICITED

The provisions of the Bill have been workshopped with local authorities in the Province, who provided input as to the wording of the amendments. The Bill has also been referred for comments to the Department of Development Planning and Local Government and the Department of Agriculture, Conservation, Environment and Land Affairs, and specific discussions have been held with those Departments. The Department considers that it is not necessary to publish the Bill for comment as the amendments are of a technical nature and do not bring about any material changes or changes in principle. The Bill is also extremely urgent.

Regarding the environmental investigations, as stated above, a similar amendment was contained in the Bill that preceded the principal Act when it was published for comment, but the provision was not carried forward into the Act due to an administrative error. No objections were received to the provision.

5. CLAUSE-BY-CLAUSE EXPLANATION

Clause 1 of the Bill amends the definitions of "rail reserve" and "railway line" and inserts a new definition of "station" to cater for the objectives outlined above.

Clause 2 of the Bill substitutes section 6 of the Act. The new section provides that once a preliminary route report has been prepared and an environmental investigation done, such report and the report of the environmental investigation will be subject to a notice and comment procedure. Relevant municipalities will be consulted specifically regarding the reports. The MEC must then consider the two reports and comments received, and decide either to publish the route or to refer specific issues to a commission for advice. Such issues will be published to allow interested and affected persons to comment, and the commission must then hold a public inquiry and allow persons who have commented to appear to motivate their comments. The commission will then compile a report advising the MEC, who may then take a decision on the route. This procedure is considered less cumbersome, less time consuming and less duplicating than the present procedure, where issues which have already been adequately covered during the environmental investigation may again be subject to a public inquiry. The new section uses both a notice and comment procedure and a public inquiry procedure, thus complies more fully with the provisions of the Promotion of Administrative

Justice Act, 2000.

Clause 3 of the Bill amends section 7 of the Act to correct the cross-reference to the new section 6.

Clause 4 of the Bill amends section 8(4)(b) of the Act to provide that a second environmental investigation at the preliminary design stage is not necessary if the competent environmental authority regards it as unnecessary. Other incidental amendments necessitated by that amendment are also made to that section.

Clause 5 of the Bill amends section 10 of the Act to correct the cross-reference to the new section 6.

Clause 6 of the Bill amends section 50 to empower the MEC to operate a railway line and railway system for the activities outlined above.

Clause 7 of the Bill amends section 51 of the Act to correct a printing error.

Clause 8 of the Bill inserts a new section 51A in the Act to provide for contracts to be concluded for the construction, financing, operation, management, control and supervision of road and rail systems, as indicated above, with the approval of the MEC responsible for financial matters.

Clause 9 of the Bill provides the short title.

BILL

To amend the Gauteng Transport Infrastructure Act, 2001, so as to amend and insert certain definitions; to provide for the necessary land use rights with respect to stations and for the necessary powers of the MEC to enter into contracts for road and rail projects; to amend the procedure in relation to route determination; to make a second environmental investigation at the stage of preliminary design of a road or railway line unnecessary where the competent environmental authority decides that the environmental investigation at the stage of route determination is adequate; and to provide for incidental matters.

BE IT ENACTED by the Gauteng Provincial Legislature as follows:—

Amendment of section 1 of Act 8 of 2001

1. Section 1 of the Gauteng Transport Infrastructure Act, 2001 (hereinafter referred to as the "principal Act") is hereby amended—

- (a) by the substitution for the definition of "rail reserve" of the following definition:

"**rail reserve**" means the full width of a railway line [as proclaimed or expropriated] including stations and signalling and marshalling facilities, and other related facilities; [including commercial facilities]

- (b) by the substitution for the definition of "railway line" of the following definition:

"**railway line**" means rail facilities for the use of heavy or light rail and, where the context so indicates, a right of way, [for the use of heavy or light rail proclaimed, designated or expropriated as such under this Act] whether on or below the surface of the land and includes the rail reserve and a temporary deviation thereof.

- (c) by the insertion of the following definition after the definition of "State":

"**station**" means a railway station or a railway passenger terminal and includes—

- (a) the area within a station used or to be used for facilities necessary for the operation, maintenance and administration of a railway system or activities associated therewith or incidental thereto, including, but not limited to, workshops, storerooms, administrative offices, staff accommodation, fire stations and ventilation shafts;
- (b) the area within the station used or to be used in connection with a railway system for parking of vehicles, parking garages, drop-off and pick-up areas, inter-modal

transfer of passengers and public transport facilities including feeder and distribution services and facilities, and such commercially related land uses as are directly associated with commuter convenience, including advertising, selling of refreshments, newspapers and magazines, vending machines, public telephones and electronic banking facilities; and

- (c) may include other commercial or retail land uses which may only be exercised after the necessary land use rights have been approved in terms of any relevant planning legislation.”

Substitution of section 6 of Act 8 of 2001

2. The following section is hereby substituted for section 6 of the principal Act:

“6. (1) In determining the route of a provincial road or railway line, the amendment of a route published in terms of subsection (9) or deemed to have been published in terms of subsection (10)(1), or the amendment of a route of an existing provincial road or railway line, the MEC must cause a preliminary route alignment to be done, in the form of a written report as prescribed and containing recommendations with respect to the route and the MEC must thereafter follow the procedure set out in this section.

(2) Before determining a route or amended route, the MEC must cause such environmental investigation and report in respect thereof to be done as the competent authority contemplated in section 22 of the ECA, or the authority contemplated in the relevant corresponding sections of NEMA once those sections come into operation, may decide.

(3) The MEC must thereafter cause a notice to be published in the prescribed form and manner, containing—

- (a) a broad description of the proposed route;
- (b) particulars of the times and places at which the preliminary route report and environmental report can be inspected and copies be made;
- (c) an invitation to all interested and affected parties to comment in writing before a date, not less than 30 days after publication of the notice, on the recommended route; and
- (d) a reference to the regulatory measures which take effect in terms of section 7 on the publication of the route in terms of subsection (11).

(4) The MEC must also consult with all municipalities in whose areas the route will be situated and request them, within a specified time, to submit written comments on the preliminary route report and environmental report with specific reference also to the effect which the proposed route may have on any spatial framework or other strategic municipal development planning of the municipality concerned.

(5) After the time for comments set in terms of subsections (3)(c) and (4) has elapsed, the MEC must consider the preliminary route report and environmental report as well as written comments, if any, submitted in terms

of subsections 3(c) and (4), and may thereafter—

- (a) determine a route for the provincial road or railway line; or
- (b) subject to subsections (6) to (9), refer a specific issue or issues arising from the said reports or comments to a commission to hold a public inquiry advising on those specific issues within a time period as determined by the MEC and, after having considered such advice, determine a route for the provincial road or railway line.

(6) The commission contemplated in subsection (5)(b) shall consist of not more than 12 suitably qualified members of whom—

- (a) at least two are persons appointed by reason of their qualifications in and knowledge or experience of land development and are persons who are in the MEC's opinion competent to perform the functions assigned to them in terms of this section;
- (b) not more than two are persons nominated by municipalities in whose areas the route will be situated, if such persons are indeed nominated within 14 days after being requested to do so in writing by the MEC;
- (c) one is an official from the Department of Development Planning and Local Government or its successor;
- (d) one is an official from the Department;
- (e) at least two are professional civil engineers;
- (f) at least one is a town and regional planner registered as such with the South African Council for Town and Regional Planners as contemplated in the Town and Regional Planners Act, 1984 (Act No. 19 of 1984);
- (g) at least two are persons with appropriate legal qualifications and experience;
- (h) one is a suitably qualified chairperson who may be one of the persons referred to in paragraphs (a) to (g); and
- (i) the chairperson and four other members shall constitute a quorum for purposes of the activities of the commission.

(7) The MEC must thereafter cause a notice to be published in the prescribed form and manner, containing—

- (a) a summary of the issue or issues referred to the commission;
- (b) a broad description of that part of the route affected by the issue or issues referred to the commission;
- (c) particulars of the times at which and places where the preliminary route report, environmental report and comments received in terms of subsections (3)(c) and (4) relevant to the issue or issues referred to the commission, can be inspected and copies be made;
- (d) an invitation to all the persons directly affected by the issue or issues referred to the commission to—
 - (i) comment in writing before a date, not less than 30 days after publication of the notice, on the said issue or issues; and
 - (ii) appear at the public inquiry to motivate such written

comment should they so wish;

- (e) the date and venue of the public inquiry; and
- (f) a reference to the regulatory measures which take effect in terms of section 7 on the publication of the route in terms of subsection (12).

(8) On the date mentioned in the said notice, the commission must hold and conduct a public inquiry and in so doing must—

- (a) determine the procedure for the public inquiry which must—
 - (i) include a public hearing; and
 - (ii) comply with the procedures to be followed in connection with public inquiries as prescribed in terms of section 10(1)(b) of the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000); and
- (b) conduct the inquiry in terms of the said procedure.

(9) After having conducted the public inquiry, the commission must compile a written report on the inquiry, having regard, if applicable, to the principles set out in section 3 of the Development Facilitation Act, 1995 (Act No. 67 of 1995) and in provincial planning and development legislation. The report must contain—

- (a) all written comments on the issue or issues referred to the commission;
- (b) a summary of the oral representations made at the public inquiry; and
- (c) recommendations to the MEC in respect of the said issue or issues, with reasons for such recommendations.

(10) The MEC, in consultation with the Member of the Executive Council responsible for development planning, must ensure that the route determination in terms of subsections (5)(a) or (b), is aligned as far as possible with any spatial framework or other strategic provincial development planning formulated in terms of development planning legislation of the Province.

(11) After having determined a route for the provincial road or railway line as contemplated in subsections (5)(a) or (b), the MEC must publish the said route by reference to the centre line thereof, by notice in the *Provincial Gazette*, which notice must contain—

- (a) such information, whether by way of a sketch plan, reference to a plan available for inspection at a given address, or otherwise, as the MEC may deem sufficient to indicate the centre line of the route;
- (b) a notification that the regulatory measures set out in section 7 take effect from the date of publication of the notice; and
- (c) a notification that reasons for the decision of the MEC with respect to the determination of the route, may be requested by interested and affected parties within 30 days of the date of publication of the notice.

(12) Subject to section 8(2), a route or sections thereof may be amended by the MEC only after having complied with the procedures set out

in sections 8(1) to (8) and the amendments to the route must be published as set out in subsection (11).

(13) The provisions of this section are not applicable to access roads."

Amendment of section 7 of Act 8 of 2001

3. Section 7 of the principal Act is hereby amended by the substitution for the expression "section 6(9)" wherever it occurs of the expression "section 6(11)".

Amendment of section 8 of Act 8 of 2001

4. Section 8 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the expression "section 6(9)" wherever it occurs of the expression "section 6(11)".
- (b) by the substitution in subsection (2) for the expression "section 6(9) of the expression "section 6(11)" and for the expression "section 6(1) to (9)" of the expression "section 6(1) to (11)".
- (c) by the substitution for paragraph (b) of subsection (4) of the following paragraph:
 - "(b) such further environmental investigation and written report in respect thereof to be carried out, if any, as the competent authority contemplated in section 22 of the ECA, or the authority contemplated in the relevant corresponding sections of NEMA, once those sections come into operation, may decide;"
- (d) by the substitution for paragraph (b) of subsection (5) of the following paragraph:
 - "(b) the environmental report contemplated in subsection 4(b) or section 6(3)(a), as the case may be;"
- (e) by the substitution for paragraph (a) of subsection (6) of the following paragraph:
 - "(a) the environmental report contemplated in subsection 4(b) or section 6(3)(a), as the case may be; and"
- (f) by the substitution in subsection (8) for the expression "section 6(1) to (9)" of the expression "section 6(1) to (11)".
- (g) by the substitution in subsection (10) for the expression "section 6(9)" of the expression "section 6(11)".

Amendment of section 10 of Act 8 of 2001

5. Section 10 of the principal Act is hereby amended by the substitution in subsection (1) for the expression "section 6(9)" wherever it occurs of the expression "section 6(11)".

Amendment of section 50 of Act 8 of 2001

6. Section 50 of the principal Act is hereby amended by the insertion of the following paragraph after paragraph (p) of subsection (2):

"(pA) operate, cause to be operated or permit the operation of a railway line and railway system;"

Amendment of section 51 of Act 8 of 2001

7. Section 51 of the principal Act is hereby amended—

(a) by the substitution for the introductory sentence of subsection (1) of the following:

"(1) The MEC may conclude an agreement contemplated in subsection (2) with one or more of the following parties, in this section referred to as "the other party—"

(b) by the substitution for paragraph (f) of subsection (1) of the following:

"(f) any other person or body; [in this section referred to as "the other party]"

Insertion of section 51A in Act 8 of 2001

8. The following section is hereby inserted in the principal Act after section 51:

"51A. (1) The MEC may, if he or she deems it in the public interest and with the approval of the Member of the Executive Council responsible for financial matters, enter into a contract or contracts in respect of a project for the construction, financing, operation, management, control and supervision of a railway system or future railway system or a railway line or future railway line with any one or more of the parties contemplated in section 51(1), subject to such conditions as may be agreed upon and in respect of—

(a) any of the matters or combinations thereof contemplated in section 51(2) and (3);

(b) the making available of any land or rights in respect thereof vesting in the MEC by virtue of the proclamation of the railway line or the acquisition or expropriation of land or rights in respect thereof in order to construct, operate, maintain, supervise and control such railway system and railway line.

whether by lease or otherwise;

- (c) any delegation contemplated in section 56;
- (d) the right to exercise the rights and powers conferred upon the MEC in terms of section 50(2)(a), (c), (d), (e), (f), (i), (k), (m), (n), (pA) and (q) in relation to a railway line for the purposes and duration of the contract;
- (e) the exercise by the MEC of such rights or powers conferred upon him or her by this Act, as may be necessary for the construction, operation, management, maintenance, supervision and control of the railway system or railway line on behalf of the other party, all at the cost of the other party, provided always that the exercise of any right or power of discretionary or executive nature shall not be fettered by such contract and shall be exercised only in the public interest;
- (f) the integration of a railway system, railway line and facilities in respect thereof with airport facilities, with urban surroundings and with other transport infrastructure.

(2) The MEC may, notwithstanding other laws, transfer or make available for use by or on behalf of any one or more of the parties to a contract contemplated in subsection (1), any servitude or right, whether registered or unregistered, and vesting in the MEC or the Province, for purposes of or in connection with any contract as contemplated in subsection (1) and for the duration of such contract."

Short title

9. This Act is called the Gauteng Transport Infrastructure Amendment Act, 2003.

GAUTENG WYSIGINGSWETSONTWERP OP VERVOERINFRASTRUKTUUR, 2003

WETSONTWERP

Om die Gauteng Wet op Vervoerinfrastruktuur, 2001, te wysig om bepaalde woordskrywings te wysig of in te voeg; om voorsiening te maak vir die nodige grondgebruikregte met betrekking tot stasies en vir die nodige bevoegdhede van die LUR om kontrakte te sluit vir pad- en spoorprojekte; om die prosedure met betrekking tot roetebepaling te wysig; om te bepaal dat 'n tweede omgewings-onderzoek by die stadium van voorlopige ontwerp van 'n pad of spoorlyn onnodig is waar die bevoegde omgewingsowerheid van mening is dat die omgewingsonderzoek by die stadium van roetebepaling voldoende is; en om voorsiening te maak vir verwante aangeleenthede.

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van Gauteng soos volg:—

Wysiging van artikel 1 van Wet 8 van 2001

1. Artikel 1 van die Gauteng Wet op Vervoerinfrastruktuur, 2001 (heirna "die Hoofwet" genoem) word hierby gewysig—

(a) deur die omskrywing van "spoorlyn" deur die volgende omskrywing te vervang:

"spoorlyn" spoorfasiliteite vir die gebruik van swaar of ligte spoor en, as die samehang aldus aandui, ook 'n reg van weg [vir die gebruik van swaar of ligte spoor wat as sulks kragtens hierdie Wet geproklameer, aangewys of onteien is], hetsy bokant of onder die grondoppervlakte, asook die spoorreserwe en 'n tydelike verlegging daarvan;

(b) deur die omskrywing van "spoorreserwe" deur die volgende omskrywing te vervang:

"spoorreserwe" die volle wydte van 'n spoorlyn [soos geproklameer of onteien], en ook stasies en seinjalering- en rangeringfasiliteite, en ander verwante fasiliteite [met inbegrip van kommersiële fasiliteite];"

(c) deur die volgende omskrywing na die omskrywing van "Staat" in te voeg:

"stasie" 'n spoorwegstasie of spoorwegpassasierterminaal, en sluit in—

(a) die gebied binne 'n stasie wat gebruik word of sal word vir fasiliteite nodig vir die bedryf, onderhoud en administrasie van 'n spoorwegstelsel of bedrywighede wat daarmee in verband staan of daaraan verwant is, met insluiting van, maar nie beperk nie tot, werkwinkels, stoorkamers, administratiewe kantore, personeelhuisvesting, brandweer-stasies en lugtoevoerskagte;

(b) die gebied binne 'n stasie wat gebruik word of sal word met betrekking tot 'n spoorwegstelsel vir parkering van voertuie, parkeergarages, op- en aflaaigebiede, intermodale oorstap van passasiers en openbare vervoerfasiliteite, asook toevoer- en verspreidingsdienste en -geriewe, en sodanige kommersiële- verwante grondgebruike as wat direk in verband staan met gerief van pendelaars, asook reklame, verkoop van verversings, koerante en tydskrifte, muntoutomate, openbare telefone en elektroniese bankgeriewe; en

(c) kan ook ander kommersiële of kleinhandelgrondgebruike insluit wat slegs uitgeoefen mag word nadat die nodige grondgebruikregte uit hoofde van enige betrokke beplanningwetgewing goedgekeur is;"

Vervanging van artikel 6 van Wet 8 van 2001

2. Artikel 6 van die Hoofwet word hierby deur die volgende artikel vervang—

"6. (1) By die bepaling van die roete van 'n provinsiale pad of spoorlyn, die wysiging van 'n roete wat kragtens subartikel (11) gepubliseer is, of kragtens artikel (10)(1) as gepubliseer geag is, of die wysiging van 'n roete van 'n bestaande provinsiale pad of spoorlyn, laat die LUR 'n voorlopige roetebelyning opstel in die vorm van 'n geskrewe verslag soos voorgeskryf en bevattende aanbevelings met betrekking tot die roete, en volg die LUR daarna die prosedure in hierdie artikel uiteengesit.

(2) Voordat 'n roete of gewysigde roete bepaal word, laat die LUR sodanige omgewingsondersoek doen en verslag met betrekking daartoe opstel, as wat die bevoegde owerheid beoog in artikel 22 van die WOB mag besluit, of die owerheid beoog in die betrokke ooreenstemmende bepalings van die NWOB wanneer daardie artikels in werking tree.

(3) Die LUR laat daarna 'n kennisgewing in die voorgeskrewe vormaat en op die voorgeskrewe wyse publiseer, bevattende—

(a) 'n breë beskrywing van die voorgestelde roete;

(b) gegewens oor die tye wanneer en plek waar die voorlopige roeteverslag en omgewingsverslag nagegaan kan word en afkrifte gemaak kan word;

(c) 'n uitnodiging aan alle belanghebbende en geaffekteerde partye om skriftelik kommentaar te lewer oor die voorgestelde roete voor 'n datum nie minder nie as 30 dae na publikasie van die kennisgewing;
en

(d) 'n verwysing na die beheermaatreëls wat kragtens artikel 7 by die publikasie van die roete uit hoofde van subartikel (11) in werking tree.

(4) Die LUR pleeg ook oorleg met alle munisipaliteite in wie se gebiede die roete geleë sal wees en versoek hulle om binne 'n bepaalde tyd skriftelik kommentaar te lewer oor die voorlopige roeteverslag en omgewingsverslag, met spesifieke verwysing ook na die uitwerking wat die voorgestelde roete op enige ruimtelike raamwerk of ander strategiese munisipale ontwikkelingbeplanning van die betrokke munisipaliteit kan hê.

(5) Nadat die datum vir kommentaar bepaal kragtens subartikels (3)(c) en (4) verstryk het, moet die LUR die voorlopige roeteverslag en omgewingsverslag asook alle skriftelike kommentaar, as daar is, wat kragtens subartikels (3)(c) en (4) voorgelê is, in ag neem, en kan die LUR daarna—

(a) 'n roete vir die provinsiale pad of spoorlyn bepaal; of

(b) behoudens subartikels (6) tot (9), 'n spesifieke aangeleentheid of -hede wat uit die gemelde verslae of kommentaar voortspruit na 'n kommissie verwys om 'n openbare ondersoek te hou, om oor daardie spesifieke aangeleentheid raad te verskaf binne 'n tydperk soos deur die LUR bepaal en, nadat sodanige raad in ag geneem is, 'n roete vir die provinsiale pad of spoorlyn bepaal.

(6) Die kommissie beoog in subartikel (5)(b) bestaan uit nie meer as 12 behoorlik- gekwalifiseerde lede nie waarvan—

(a) nie minder as twee persone is nie wat aangestel is uit hoofde van hulle kwalifikasies in en kennis of ondervinding van grondontwikkeling, en persone is wat na die oordeel van die LUR bevoeg is om die funksies wat aan hulle kragtens hierdie artikel opgedra is, uit te voer;

(b) nie meer as twee persone is wat deur munisipaliteite in wie se gebiede die roete geleë sal wees, genomineer is, indien sodanige persone wel binne 14 dae genomineer is nadat die munisipaliteit aldus skriftelik deur die LUR versoek is;

(c) een 'n amptenaar van die Departement van Ontwikkeling-beplanning en Plaaslike Bestuur of sy opvolger is;

(d) een 'n amptenaar van die Departement is;

(e) nie minder as twee professionele siviele ingenieurs is nie;

(f) nie minder as een 'n stads- en streekbeplanner is nie wat as sodanig geregistreer is by die Suid-Afrikaanse Raad vir Stads- en Streekbeplanners soos beoog in die Wet op Stads- en Streekbeplanners, 1984 (Wet No. 19 van 1984);

(g) nie minder as twee persone is nie met gepaste regskwalifikasies en -

ondervinding:

- (h) een 'n behoorlik- gekwalifiseerde voorsitter is wat een van die persone beoog in paragrawe (a) tot (g) kan wees; en
- (i) die voorsitter en vier ander lede 'n kworum sal uitmaak vir doeleindes van die werksaamhede van die kommissie.

(7) Die LUR laat daarna 'n kennisgewing in die voorgeskrewe vormaat en op die voorgeskrewe wyse publiseer, bevattende—

- (a) 'n opsomming van die aangeleentheid of -hede wat na die kommissie verwys is;
- (b) 'n breë beskrywing van daardie deel van die roete wat deur die aangeleentheid of -hede wat na die kommissie verwys is, geraak word;
- (c) gegewens van die tye wanneer en plek waar die voorlopige roeteverslag, omgewingsverslag en kommentaar ontvang uit hoofde van subartikels (3)(c) en (4) wat relevant is by die aangeleentheid of -hede wat na die kommissie verwys is, nagegaan kan word en afkrifte gemaak kan word;
- (d) 'n uitnodiging aan alle persone wat direk geraak word deur die aangeleentheid of -hede verwys na die kommissie om—
 - (i) skriftelike kommentaar te lewer voor 'n datum, nie minder as 30 dae na publikasie van die kennisgewing nie, oor die gemelde aangeleentheid of -hede; en
 - (ii) by die openbare ondersoek te verskyn om sodanige skriftelike kommentaar te motiveer as hulle wil;
- (e) die datum en lokaal van die openbare ondersoek; en
- (f) 'n verwysing na die beheermaatreëls wat kragtens artikel 7 by die publikasie van die roete uit hoofde van subartikel (11) in werking tree.

(8) Op die datum vermeld in die bogemelde kennisgewing, hou die kommissie en voer hy 'n openbare ondersoek uit en moet hy sodoende—

- (a) die prosedure vir die openbare ondersoek bepaal, wat—
 - (i) 'n openbare verhoor moet behels; en
 - (ii) moet voldoen aan die prosedures wat by openbare ondersoeke gevolg moet word soos voorgeskryf uit hoofde van artikel 10(1)(b) van die Wet op die Bevordering van Administratiewe Geregtigheid, 2000 (Wet No. 3 van 2000); en
- (b) die ondersoek ingevolge die gemelde prosedure uitvoer.

(9) Nadat hy die openbare ondersoek uitgevoer het, moet die kommissie 'n geskrewe verslag oor die ondersoek opstel, met behoud van die beginsels, indien toepaslik, wat in artikel 3 van die Wet op Ontwikkelingsfasilitering, 1995 (Wet No. 67 van 1995) en in provinsiale beplanning- en ontwikkelingwetgewing, uiteengesit is. Die verslag bevat—

- (a) alle geskrewe kommentaar oor die aangeleentheid of -hede wat na die kommissie verwys is;
- (b) 'n opsomming van die mondelinge vertoë wat by die openbare ondersoek gerig is; en
- (c) aanbevelings aan die LUR met betrekking tot die gemelde aangeleentheid of -hede, met redes vir sodanige aanbevelings.

(10) Die LUR, in oorleg met die Lid van die Uitvoerende Raad belas met ontwikkelingbeplanning, verseker dat die roetebepaling kragtens subartikels (5)(a) of (b), sover moontlik strook met enige ruimtelike raamwerk of ander strategiese provinsiale ontwikkelingbeplanning wat ingevolge ontwikkeling-beplanningwetgewing van die Provinsie geformuleer is.

(11) Na bepaling van 'n roete vir die provinsiale pad of spoorlyn soos beoog in subartikels (5)(a) of (b), publiseer die LUR vermelde roete met verwysing na die middellyn daarvan, by kennisgewing in die *Provinsiale Koerant*, welke kennisgewing bevat—

- (a) sodanige inligting, hetsy by wyse van 'n sketsplan, verwysing na 'n plan wat by 'n gegewe adres beskikbaar is vir inspeksie, of op 'n ander wyse, wat die LUR goed ag om die middellyn van die roete aan te dui;

(b) 'n kennisgewing dat die voorskrifmaatreëls beoog in artikel 7 vanaf datum van publikasie van die roete in werking tree; en

(c) 'n kennisgewing dat redes vir die LUR se besluit met betrekking tot die bepaling van die roete deur belanghebbende en geaffekteerde partye binne 30 dae na datum van publikasie van die kennisgewing aangevra kan word.

(12) Behoudens artikel 8(2), kan 'n roete of dele daarvan deur die LUR gewysig word slegs nadat die prosedure beoog in artikels 8(1) tot (8) nagevolg is, en die wysigings van die roete moet soos beoog in subartikel (11) gepubliseer word.

(13) Die bepalinge van hierdie artikel is nie van toepassing op toegangspaaie nie."

Wysiging van artikel 7 van Wet 8 van 2001

3. Artikel 7 van die Hoofwet word hierby gewysig deur die vervanging van die uitdrukking "artikel 6(9)" waar dit ookal voorkom deur die uitdrukking "artikel 6(11)".

Wysiging van artikel 8 van Wet 8 van 2001

4. Artikel 8 van die Hoofwet word hierby gewysig—

(a) deur die vervanging in subartikel (1) van die uitdrukking "artikel 6(9)" waar dit ookal voorkom deur die uitdrukking "artikel 6(11)".

(b) deur die vervanging in subartikel (2) van die uitdrukking "artikel 6(9)" deur die uitdrukking "artikel 6(11)" en van die uitdrukking "artikel 6(1) tot (9)" van die uitdrukking "artikel 6(1) tot (11)".

(c) deur die vervanging van paragraaf (b) van subartikel (4) deur die volgende paragraaf:

"(b) sodanige verdere omgewingsondersoek en skriftelike verslag met betrekking daartoe, indien enige, laat uitvoer as wat die bevoegde owerheid beoog in artikel 22 van die WOB mag besluit, of die owerheid beoog in die betrokke ooreenstemmende artikels van die NWOB wanneer daardie artikels in werking tree."

(d) deur die vervanging van paragraaf (b) van subartikel (5) deur die volgende paragraaf:

"(b) die omgewingsverslag beoog in subartikel 4(b) of artikel 6(3)(a), na gelang van die geval;"

(e) deur die vervanging van paragraaf (a) van subartikel (6) deur die volgende paragraaf:

"(a) die omgewingsverslag beoog in subartikel 4(b) of artikel 6(3)(a), na gelang van die geval; en"

(f) deur die vervanging in subartikel (8) van die uitdrukking "artikel 6(1) tot (9)" deur die uitdrukking "artikel 6(1) tot (11)".

(g) deur die vervanging in subartikel (10) van die uitdrukking "artikel 6(9)" deur die uitdrukking "artikel 6(11)".

Wysiging van artikel 10 van Wet 8 van 2001

5. Artikel 10 van die Hoofwet word hierby gewysig deur die vervanging in subartikel (1) van die uitdrukking "artikel 6(9)" waar dit ookal voorkom deur die uitdrukking "artikel 6(11)".

Wysiging van artikel 50 van Wet 8 van 2001

6. Artikel 50 van die Hoofwet word hierby gewysig deur die invoeging van die volgende paragraaf na paragraaf (p) van subartikel (2):

"(pA) 'n spoorlyn en spoorwegstelsel bedryf, laat bedryf of die bedryf daarvan toelaat;"

Wysiging van artikel 51 van Wet 8 van 2001

7. Artikel 51 van die Hoofwet word hierby gewysig—

(a) deur die vervanging van die inleidende sin van subartikel (1) deur die volgende:

"(1) Die LUR kan 'n ooreenkoms beoog in subartikel (2) sluit met een of meer van die volgende partye, in hierdie artikel "die ander party" genoem—"

(b) deur die vervanging van paragraaf (f) van subartikel (1) deur die volgende:

"(f) enige ander persoon of instansie; [in hierdie artikel "die ander party" genoem]"

Invoeging van artikel 51A in Wet 8 van 2001

8. Die volgende artikel word hierby in die Hoofwet na artikel 51 ingevoeg:

"51A. (1) Die LUR kan, as hy of sy dit in die openbare belang ag, en met die goedkeuring van die Lid van die Uitvoerende Raad belas met finansiële aangeleenthede, 'n kontrak of kontrakte sluit met betrekking tot 'n projek vir die aanbou, finansiering, bedryf, bestuur, beheer en toesig van 'n spoorwegstelsel of toekomstige spoorwegstelsel, of 'n spoorlyn of toekomstige spoorlyn, met een of meer van die partye beoog in artikel 51(1), behoudens sodanige voorwaardes as wat ooreengekom word en met betrekking tot—

(a) enige van die aangeleenthede of kombinasies daarvan beoog in artikel 51(2) en (3);

(b) die beskikbaarstelling van enige grond of regte met betrekking daartoe wat as gevolg van die proklamasie van die spoorlyn of die verkryging of onteiening van grond of regte met betrekking daartoe, in die LUR vestig, om sodanige spoorwegstelsel en spoorlyn, hetsy deur middel van 'n huurkontrak of op 'n ander wyse, aan te bou, te bedryf, te onderhou, te kontroleer of te beheer;

(c) enige delegasie beoog in artikel 56;

(d) die reg om die regte en bevoegdhede wat in die LUR vestig kragtens artikel 50(2)(a), (c), (d), (e), (f), (i), (k), (m), (n), (pA) en (q) in verband met 'n spoorlyn vir die doeleindes en duur van die kontrak uit te voer;

(e) die uitvoer deur die LUR van sodanige regte of bevoegdhede wat kragtens hierdie Wet in die LUR vestig, as wat nodig mag wees vir die aanbou, bedryf, bestuur, onderhoud, kontroliering en beheer van die spoorwegstelsel of spoorlyn namens die ander party, alles ten koste van die ander party, altyd met dien verstande dat die uitvoering van enige reg of bevoegdheid van 'n diskresionêre of uitvoerende aard nie deur die kontrak belemmer sal word nie en slegs in die openbare belang uitgevoer mag word;

(f) die integrering van 'n spoorwegstelsel, spoorlyn en geriewe met betrekking daartoe met lughawegeriewe, met die stedelike omgewing en met ander vervoerinfrastruktuur.

(2) Die LUR kan, ondanks ander wette, enige serwituut of reg, hetsy geregistreer of nie, en wat in die LUR of die Provinsie vestig, oordra of beskikbaar stel vir gebruik deur of namens enige een of meer van die partye tot 'n kontrak beoog in subartikel (1), vir doeleindes van of in verband met enige kontrak soos bedoel in subartikel (1) en vir die duur van sodanige kontrak."

Korttitel

9. Hierdie Wet heet die Gauteng Wysigingswet op Vervoerinfrastruktuur, 2003.

GAUTENG WYSIGINGSWETSONTWERP OP VERVOERINFRASTRUKTUUR, 2003

Memorandum ingevolge Reël 136 van die Staande Reëls van die Gautengse Provinsiale Wetgewer.

1. REDES VIR DIE WETSONTWERP

Die Gauteng Wet op Vervoerinfrastruktuur, 2001 (Wet No. 8 van 2001) ("die Wet") is op 31 Januarie 2003 in werking gestel, behalwe artikels 44 en 60(a) wat met buitemuurse reklame handel. By die finalisering van die tender- en kontrakdokumente om voorsiening te maak vir die voorgestelde Gautrain Snelspoorverbinding het dit geblyk dat bepaalde wysigings aan daardie Wet nodig is om die implementering van daardie en ander soortgelyke projekte moontlik te maak of te vergemaklik. Die Gauteng Wysigingswetsontwerp op Vervoerinfrastruktuur, 2003 ("die Wetsontwerp") is dus opgestel om sodanige wysigings aan te bring.

Die doel van die Wetsontwerp is om voorsiening te maak vir die nodige grondgebruikregte met betrekking tot stasies en vir die bevoegdhede van die LUR wat nodig is om 'n kontrak of kontrakte te kan sluit vir die Gautrain Snelspoorverbinding of soortgelyke projekte, met die goedkeuring van die LUR belas met finansiële aangeleenthede.

Besprekings met die betrokke plaaslike owerhede en die Department van Ontwikkelingsbeplanning en Plaaslike Bestuur met betrekking tot grondgebruikregte in verband met stasies op die Snelspoorverbinding aan die een kant, en die behoefte vir sekerheid by die tenderstadium met betrekking tot grondgebruikregte in verband met stasies aan die ander kant, het aanleiding gegee tot die volgende skema van grondgebruikregte waarvoor voorsiening gemaak is in die wysiging:

'n Nuwe omskrywing van "stasie" word ingevoeg om die area in te sluit wat gebruik sal word vir bedrywighede direk verbandhoudend met die bedryf en administrasie van die spoorstelsel en vervoerbedrywighede met betrekking tot passasiers wat by die stasie aankom en vertrek. Die stasie sal dus ook areas insluit vir die parking van voertuie, parkeeragarages, op- en aflaaigebiede, openbare vervoer ensomeer.

Breë konsensus is bereik met die betrokke plaaslike owerhede na besprekings met hulle dat bepaalde grondgebruikregte binne die stasie terrein nie deur dorpsbelanningskemas gereguleer hoef te word nie en direk in die Wet gereël kan word, wat die tydwende prosedures in verband met wysiging van die betrokke dorpsbelanningskema sal uitskakel. Dit sluit in bepaalde beperkte kommersiële bedrywe wat direk gekoppel is aan pendelaargerief, soos reklame, verkoop van verversings, koerante en tydskrifte, muntoutomate, publieke telefone en elektroniese bankgeriewe (bankoutomate).

Dit word egter voorsien dat in die omstandighede van die meeste, indien nie alle, stasies, dit wenslik sal wees om kommersiële bedrywe binne die stasie terrein te vestig. Omdat hierdie kommersiële bedrywe direk op die langsliggende stedelike gebied 'n invloed kan hê en direkte gevolge kan hê vir stedelike infrastruktuur, is dit nodig dat grondgebruikregte met betrekking tot kommersiële of kleinhandelgrondgebruikregte deur die betrokke dorpsbeplanningskema of soneringskema gereguleer moet word. Dit sal verseker dat insette van die gemeenskap in die gebied in ag geneem word, tesame met 'n besluit van die munisipaliteit, voordat die goedkeuring van sodanige regte in terme van toepaslike beplanningwetgewing gegee word. Gemelde bedrywe sal binne die stasie geleë wees en grondgebruikregte met betrekking daartoe sal ingevolge toepaslike beplanningwetgewing verkry moet word.

In verband met die bepaling van 'n roete vir 'n nuwe provinsiale pad of spoorlyn, maak artikel 4 van die Wet op die Bevordering van Administratiewe Geregtigheid, 2000 (Wet No. 3 van 2000) voorsiening vir twee alternatiewe prosedures waar 'n administrateur 'n besluit moet neem wat die regte van die publiek wesenlik kan benadeel, naamlik 'n openbare ondersoek of 'n kommentaar-na-kenningsgewing prosedure. Die bestaande artikel 6 van die Wet maak voorsiening vir 'n openbare ondersoekprosedure. Sodanige prosedure kan tydwend wees en rompslomp en onnodige

duplikasie veroorsaak waar die punte waaroor besluit moet word reeds voldoende aandag geniet het gedurende die prosedure by die omgewingsondersoek en -verslag beoog in artikel 6(3)(a) van die Hoofwet. In hierdie omstandighede is 'n kommentaar-na-kennis prosedure soos beoog in artikel 4(3) van Wet 3 van 2000 meer prakties en vinnig waar die omgewingsverslag reeds opgestel is, terwyl die openbare ondersoekprosedure beoog in artikel 4(2) van Wet 3 van 2000 gebruik kan word in gevalle waar spesifieke kwelpunte uit die kommentaar-na-kennis prosedure en die ander twee verslae voortspruit, welke kwelpunte verdere en breër ondersoek en kommentaar vereis. Artikel 6 word dus gewysig om 'n kommentaar-na-kennis prosedure te gebruik om die LUR in staat te stel om 'n besluit te maak, en pas dit die openbare ondersoekprosedure slegs toe in verband met spesifieke kwelpunte. Die administratiewe geregtigheid wat bereik word is dus van 'n hoër standaard as dié wat deur Wet 3 van 2000 vereis word, deurdat beide prosedures nagevolg word.

Die bestaande Wet maak nie volledig voorsiening vir die soort kontrak wat die LUR sal moet sluit vir die beplanning, aanbou, bedryf, onderhoud, beheer en toesig van die voortestelde Gautrein Snelspoorverbinding nie. Dit is dus nodig om die LUR in staat te stel, ook met verwysing na die bestaande bepalings van die Wet, om kontrakte te sluit soos die reeds bestaande konsepkontrak, met die goedkeuring van die LUR belas met finansiële aangeleenthede.

In hierdie verband is dit nodig om spesifiek voorsiening te maak vir die beskikbaarheid van grond of regte wat nodig is vir die voormelde doel en om te verseker dat die nodige bevoegdhede wat in die LUR setel óf deur die suksesvolle tenderaar óf deur die LUR namens hom of haar, uitgeoefen kan word, behoudens sekere veiligheidsmaatreëls met betrekking tot bevoegdhede van 'n diskussionêre of uitvoerende aard. Die toepassing van hierdie bevoegdhede wanneer dit in die openbare belang toegestaan is, kan nie deur die sluiting van kontrakte belemmer of gedwarsboom word nie.

Dit is verder nodig om 'n substantiewe artikel in te voeg waardeur persoonlike serwitute of regte wat in die LUR vestig beskikbaar gestel kan word of oorgedra kan word vir gebruik deur die suksesvolle tenderaar. Serwitute en regte van 'n persoonlike aard kan nie ingevolge die gemenerereg deur 'n derde party uitgeoefen word of aan hom of haar oorgedra word nie en 'n spesifieke bepaling in hierdie verband was dus nodig.

Dit is duidelik uit die begrip van die Snelspoorverbinding dat die LUR koördinerings-ooreenkomste sal moet sluit met ander maatskappye en owerhede, soos die Lughawemaatskappy Beperk en plaaslike owerhede, om die integrasie van die Snelspoorverbinding met bestaande lughawestelsels, vervoergeriewe en die langsliggende stedelike struktuur te koördineer. Voorsiening daarvoor word dus ook in die Wetsontwerp gemaak.

'n Verdere doel van die Wetsontwerp is om die situasie met betrekking tot omgewingsondersoeke te rasionaliseer. Uit hoofde van die Wet en ander wetgewing word drie sodanige ondersoeke vereis waar 'n nuwe pad of spoorlyn beplan, ontwerp of aangebou word:

- By die stadium van roetebepaling (artikel 6(3)(a) van die Wet);
- By die stadium van voorlopige ontwerp (artikel 8(4)(b) van die Wet);
- By die stadium van aanbou van die pad of spoorlyn (artikel 22 van die Wet op Omgewingsbewaring, 1989 (Wet No. 73 van 1989). Hierdie ondersoek sluit ook operasionele aspekte in.

Voorsiening is gemaak vir die eerste twee ondersoeke omdat daar soms 'n aansienlike tydsverloop is tussen roetebepaling en voorlopige ontwerp. 'n Tweede ondersoek is egter nie nodig waar die twee gelyk of kort na mekaar sal plaasvind nie, soos die geval met die Snelspoorverbinding sal wees. Die Wetsontwerp wysig dus artikel 8(4)(b) van die Wet om die tweede ondersoek oortollig te maak waar die bevoegde owerheid beoog in omgewingswetgewing dit onnodig ag, omdat die omgewingsondersoek wat by die stadium van roetebepaling gedoen is reeds alle relevante aspekte gedek het.

2. OMGEWINGSINVLOED

Die omgewingsinvloed van die Wetsontwerp hou verband met die rasionalisering van die omgewingsondersoeke soos hierbo verduidelik. Die Wetsontwerp het geen ander omgewingsinvloed nie.

3. FINANSIËLE IMPLIKASIES VAN DIE WETSONTWERP

Daar is geen finansiële implikasies nie, behalwe dat die wysigings kan lei tot meer vaartbelyne prosedures wat koste kan bespaar.

Daar is geen bykomende finansiële implikasies vir plaaslike bestuur nie. Daar kan kostebesparings wees deurdat sommige onnodige hersoneringsaansoeke vermy kan word in die geval van stasieterreine en spoorbedryfgebiede.

4. KOMMENTAAR WAT ONTVANG EN AANGEVRA IS

Die bepalings van die Wetsontwerp is met plaaslike owerhede in die Provinsie bespreek, wat insette met betrekking tot die bewoording van die wysigings gelewer het. Die Wetsontwerp is ook vir kommentaar na die Departement van Ontwikkelingbeplanning en Plaaslike Bestuur en die Departement van Landbou, Bewaring, Omgewing en Grondsake verwys, en spesifieke besprekings is met gemelde Departemente gevoer. Die Departement is van mening dat dit nie nodig is om die Wetsontwerp te publiseer vir kommentaar nie omdat die wysigings van 'n tegniese aard is en nie enige wesentlike veranderings of beginselveranderings meebring nie. Die Wetsontwerp is ook uiters dringend.

Met betrekking tot omgewingsondersoeke, soos hierbo genoem, was 'n soortgelyke wysiging vervat in die Wetsontwerp wat die Hoofwet voorafgegaan het toe dit destyds vir kommentaar gepubliseer is, maar die bepaling was as gevolg van 'n administratiewe fout nie in die Wet voortgebring nie. Geen besware teen die bepaling is ontvang nie.

5. KLOUSULE-VIR-KLOUSULE VERDUIDELIKING

Klousule 1 van die Wetsontwerp wysig die omskrywings van "spoorlyn" en "spoorreserwe" en voeg in 'n nuwe omskrywing van "stasie" om voorsiening te maak vir die bogemelde doelstellings.

Klousule 2 van die Wetsontwerp vervang artikel 6 van die Wet. Die nuwe artikel bepaal dat sodra 'n voorlopige roeteverslag opgestel is en 'n omgewingsonderzoek gedoen is, sodanige verslag en die verslag van die omgewingsonderzoek aan 'n kommentaar-na-kennis prosedure onderhewig gestel moet word. Betrokke munisipaliteite sal spesifiek met betrekking tot die verslae geraadpleeg word. Die LUR neem die twee verslae en kommentaar wat ontvang is, in ag, en besluit of die roete gepubliseer moet word of om spesifieke kwelpte of aangeleenthede na 'n kommissie te verwys vir advies. Sodanige aangeleenthede sal gepubliseer word om belanghebbende en geaffekteerde persone 'n kans te gee om kommentaar te lewer, en die kommissie hou dan 'n openbare ondersoek waar persone wat kommentaar gelewer het kan verskyn om hulle kommentaar te motiveer. Die kommissie stel dan 'n verslag op met advies aan die LUR, wat dan 'n besluit oor die roete kan neem. Mening is dat hierdie prosedure in teenstelling met die bestaande prosedure, rompslomp, tydvermorsing en duplikasie sal uitskakel, waar aangeleenthede wat alreeds bevredigend gedurende die omgewingsonderzoek gedek is nie weereens aan openbare ondersoek blootgestel word nie. Die artikel gebruik beide 'n kommentaar-na-kennis prosedure en 'n openbare ondersoekprosedure, en voldoen dus meer volledig aan die bepalings van die Wet op die Bevordering van Administratiewe Geregtigheid, 2000.

Klousule 3 wysig artikel 7 van die Wet om die kruisverwysing na die nuwe artikel 6 reg te stel.

Klousule 4 van die Wetsontwerp wysig artikel 8(4)(b) van die Wet om voorsiening te maak dat 'n tweede omgewingsonderzoek by die stadium van voorlopige ontwerp nie nodig is nie as die bevoegde omgewingsowerheid dit onnodig ag. Ander bykomstige wysigings wat as gevolg van daardie wysiging nodig is, is ook aangebring.

Klousule 5 van die Wetsontwerp wysig artikel 10 van die Wet om die kruisverwysing na die nuwe artikel 6 reg te stel.

Klousule 6 van die Wetsontwerp wysig artikel 50 om die bevoegdheid aan die LUR te gee om 'n spoorlyn en spoorstelsel vir die bogemelde bedrywighede te bedryf.

Klousule 7 van die Wetsontwerp wysig artikel 51 van die Wet om 'n drukfout reg te stel.

Klousule 8 van die Wetsontwerp voeg 'n nuwe artikel 51A in die Wet om voorsiening te maak vir kontrakte wat gesluit moet word vir die aanbou, finansiering, bedryf, bestuur, beheer en toesig van pad- en spoorstelsels, soos hierbo aangedui, met die goedkeuring van die LUR belas met finansiële aangeleenthede.

Klousule 9 van die Wetsontwerp verskaf die korttitel.

NOTICE 3023 OF 2003

UMTHETHOSIVIVINYWA

Ukuchibiyela uMthethosivivinywa waseGauteng weNgqalasizinda yezokuThutha, ka-2001, ukuze kuchitshiyelwe futhi kufakwe nezincazelo ezithize; ukuhlinzeka ngamalungelo okusetshenziswa komhlaba adingekile maqondana neziteshi kanye namandla adingekayo ka-MEC ukuze akwazi ukwenza izivumelwano zamaprojekthi yemigwaqo nemizila kaloliwe; ukuchibiyela inqubo maqondana nokushiwo kwendlela; ukwenza ucwaningo lwesibili ngendawo esigabeni sokwenziwa kohlelo lokuqala lomgwaqo noma lomzila wesitimela okungadingekile lapho isiphathimandla esikwazi umsebenzi waso ngezendawo sinquma ukuthi ucwaningo ngendawo kulesi sigaba sokushiwo kwendlela kubalulekile; kanye nokuhlinzeka ngezindaba ezincane.

AWUGUNYAZWE iSishayamthetho saseGauteng kanje:—

Ukuchitshiyelwa kwesigaba 1 soMthetho No. 8 ka-2001

1. Isigaba 1 soMthetho waseGauteng weNgqalasizinda yezokuThutha, 2001 (emveni kwalokhu-ke uzobe usibizwa ngo"Mthetho ngqangi") uyachitshiyelwa kanje—

(a) ngokufakwa kwenye incazelo esikhundleni sika"rizevu kaloliwe" kule ncazelo:

"**'irizevu kaloliwe'** kuchaza ububanzi obugcwele bomzila wesitimela [njengalokhu kwazisiwe kumbe kuthathwe ngokomthetho] kubandakanya iziteshi kanjalo nezikhungo zezimpawu nezokulawula, kanye nezinye izinsiza ezinobudlelwano [lokho kubandakanya izindawo zokuwheba];"

(b) ngokufaka enye incazelo esikhundleni sencazelo yo"umzila kaloliwe" wale ncazelo elandelayo:

"**'umzila kaloliwe'** uchaza izinsiza zomzila ezisetshenziselwa khona umzila onesisindo kumbe olula, nalapho isimo sikhombisa khona kanjalo, ilungelo lokudlula, [lapho kusetshenziswa umzila onesisindo kumbe olula, njengalokhu kwazisiwe kumbe kubekiwe ngaphansi kwalo Mthetho] noma kungaphezulu kumbe kungaphansi komhlaba futhi kubandakanya umzila kalolilwe kanye nokuphanjukiwa kwawo kwesikhashana."

(c) ngokufaka le ncazelo elandelayo emva kwencazelo yo"Mbuso":

"**'isiteshi'** sichaza isiteshi sikaloliwe kumbe isiteshi sabagibeli

bakalolilwe futhi kubandakanya—

(a) indawo esiteshini eyasetshenziselwa noma ezosetshenziselwa izinsiza ezidingekayo ekusebenzeni, ekulungiseni kanye nasekuphatheni izindlela zomzila kaloliwe noma eminye imisebenzi ehambisana nalokhu kumbe elandela lokhu, kubandakanya, kodwa lokho kungacini nje ngamashabhu, ngezitorumu, ngamahhovisi omabhalane, ngezindlu ezihlala abasebenzi, ngezikhungo eziqaphe imililo kanye nemigudu efaka umoya;

(b) indawo esesiteshini sikaloliwe eyasetshenziselwa noma ezosetshenziswa maqondana nohlelo lukaloliwe lokupaka izimoto, amagalaji okumisa izimoto, izindawo zokwehlisa nokugibeza abagibeli, izinsiza zokudluliswa kwabagibeli besuka kolunye uhlobo lwesithuthi baye kwesinye kanye nezinsizakalo zokuthutha umphakathi kubandakanya izinsizakalo zokuphakelana nokwabelana ngabagibeli, kanye nokunye-ke ukuwheba okuphathelene nokusetshenziswa komhlaba okuhambisana ngqo nokunethezeka kwabagibeli, kubandakanya ukukhangisa, ukudayiswa kokudla neziphuzo, kwamaphephandaba namaphephabhuku, imishini okufakwa kuyo imali bese ikhipha lokho okuthengwayo, izingcingo zomphakathi kanye nemishini yasebhange; futhi

(c) kungabandakanya okunye ukusetshenziselwa komhlaba ukuhweba nokudayisa okungenziwa emveni kokuba amalungelo okusetshenziswa komhlaba adingekayo egunyaziwe ngokwanoma yimuphi umthetho wokuhlela ofanelekile.”

Ukuchitshiyelwa kwesigaba 6 soMthetho No. 8 ka-2001

2. Lesi sigaba esilandelayo sifakwe esikhundleni sesigaba 6 soMthetho ngqangi:

“6. (1) Ekunqumeni indlela yomgwaqo wesifundazwe noma umzila kaloliwe, ukuchitshiyelwa kwendlela okushicilelwe ngokwesigatshana (9) noma okucatshangwa ukuthi yashicilelwa ngokwesigatshana (10)(1), noma ukuchitshiyelwa kwendlela yomgwaqo noma umzila kaloliwe wesifunda osukhona, u-MEC kufanele enze ukuthi kwenziwe amalungiselelo endlela yokuqala, ngokombiko obhaliwe njengoba kushiwo futhi kube nezincwadi eziphathelene nendlela futhi u-MEC emva kwalokho kumele alandele ingubo ebekwe kulesi sigaba.

(2) Ngaphambi kokunquma indlela noma indlela echitshiyelwe, u-MEC kufanele enze ukuthi lolo phenyo lwendawo kanye nombiko kwenziwe njengoba bekucabangela isiphathimandla esiwaziyo umsebenzi esigabeni 22 se-ECA, noma isiphathimandla esicabangele ezigabeni ezihambisana nalesi ezifanele ze-NEMA uma lezo zigaba sezisebenza, singanquma.

(3) U-MEC kufanele emva kwalokho enze ukuthi isaziso sishicilelwe ngendlela nangesimo esibekiwe, esinalokhu-

(a) incazelo ebanzi yendlela ephakanyisiwe;

(b) imininingwane yesikhathi nendawo lapho umbiko wendlela yokuqala nombiko wendawo okungahlolwa khona futhi kwenziwe namakhophi;

© isimemo sazo zonke izingxenye zabantu abathandayo nabathintekayo ukuthi babeke imibono ngokubhala ngaphambi kosuku, kungabi ngaphansi kwezinsuku ezingama-30 ngemuva kokushicilelwa kwesaziso, maqondana nendlela ephakanyisiwe;

futhi

- (d) ukushiwo kwezindlela zokulawula ezaqala ukusebenza ngokwesigaba 7 ekushicilelweni kwendlela ngokwesigatshana (11).
- (4) U-MEC kufanele axoxisane nabo bonke omasipala lapho indlela ezoba khona bese ebacela, esikhathini esishiwo, ukuthi balethe imibono ebhaliwe ngombiko wokuqala wendlela nowendawo basho nomphumela ozobangwa indlela ehlongozwayo kunanoma yisiphi isimo sohlaka noma olunye uhlelo lwentuthuko lukamasipala oluhlelwe kahle lwaloyo masipala othintekayo.
- (5) Emva kokuba isikhathi sokuphawula esibekwe ngokwesigatshana (3)© no-(4) sesiphelile, u-MEC kufanele acabange ngombiko wendlela wokuqala kanye nombiko wendawo kanjalo nemibono ebhaliwe, uma ikhona, elethwe ngokwesigatshana 3© kanye no-(4), bese emva kwalokho-
- (a) esho indlela yomgwaqo wesifunda noma umzila kaloliwe; noma
 (b) ngokucindezelwa isigatshana (6) kuya ku-(9), adlulisele udaba noma izindaba ezivuka emibikweni eshiwo noma emibonweni kukhomishani ukuthi enze uhlobo lomphakathi olweluleka ngalezo zindaba ngqo ngesikhathi esishiwo u-MEC futhi, emva kokuba esecabange ngalezo zeluleko, asho indlela yesifundazwe noma umzila kaloliwe.
- (6) Ikhomishini ecatshangwe esigatshaneni (5) (b) ingabi namalungu aqeqeshiwe afanele angaphezu kwe-12 okufanele –
- (a) okungenani ababili kube abaqashwe ngesizathu sokuqeqeshwa kwabo kanye nolwazi noma ukwazi abanakho ngentuthuko yomhlaba futhi bangabantu abasemqondweni ka-MEC abakwazi ukwenza imisebenzi abanikezwe yona ngokwalesi sigaba;
- (b) abantu abangangaphezu kwababili kube ngabakhethwe ngomasipala bezindawo lapho indlela izoba khona, uma labo bantu ngempela bekhethwe ezinsukwini eziyi-14 ngemuva kokuba becelwe u-MEC ukuthi benze njalo ngokubhala;
- © oyedwa kube isisebenzi esisemthethweni esivela eMnyangweni wokuhlela Intuthuko kanye noHulumeni baseKhaya noma oza emva kwawo;
- (d) oyedwa isisebenzi esivela eMnyangweni;
- (e) okungenani ababili kube onjiniyela bezokwakha abakuqeqeshelwe;
- (f) okungenani oyedwa umhleli wedolobha nowesifunda obhaliswe kanjalo emkhandlini wabahlali bamadolobha baseNingizimu Afrika, i-South African Council for Town and Regional Planners njengoba kucatshangiwe eMthethweni wabaHleli bamaDolobha neziFunda, 1984 (uMthetho No. 19 ka-1984);
- (g) okungenani ababili abantu abanamazinga emfundo ezomthetho kanye nolwazi olufanele;
- (h) oyedwa kungaba usihlalo onezinga lemfundo elifanele ongaba oyedwa walaba bantu abashiwo ezindimeri (a) kuya ku-(g); futhi
- (i) usihlalo kanye namanye amalungu amane kufanele babe ikhoramu ngenhloso yemisebenzi yekhomishini.
- (7) U-MEC kufanele emva kwalokho enze ukuthi isaziso sishicilelwe ngendlela nangesimo esibekiwe, esinalokhu –
- (a) isifingqo sodaba noma sezindaba eziyiswe kukhomishini;
- (b) incazelo ebanzi yaleyo ngxenye yendlela ethintwe udaba noma izindaba ezidluliselwe kukhomishini;

© imininingwane yezikhathi kanye nendawo lapho umbiko wendlela yokuqala, umbiko wendawo kanye nemibono etholakele ngokwezigatshana (3) © kanye no-(4) ezifanele udaba noma izindaba ezidluliselwe kukhomishani, ingahlolwa futhi kwenziwa amakhophi;

(d) isimemo sabo bonke abantu abathintwa udaba noma izindaba ezidluliselwe kukhomishani ukuthi-

(i) baphawule ngokubhala ngaphambi kosuku, kungabi ngaphansi kwezinsuku ezingama-30 emva kokushicilelwa kwesaziso, ngodaba noma izindaba ezishiwo; futhi

(ii) bavele ekuhlolweni komphakathi ukuze ukhuthaze lowo mbono obhaliwe uma befuna;

(e) usuku kanye nendawo yalokho kuhlolwa komphakathi; futhi

(f) ukushiwo kwezindlela zokulawula ezigala ukusebenza ngokwesigaba 7 ekushicilelweni kwendlela ngokwezigatshana (12).

(8) Ngosuku olushiwo esazisweni esishiwo, ikhomishani kufanele ibambe futhi iphathe uhlolo lomphakathi futhi ngokwenze njalo kufanele -

(a) inqume inqubo yohlolo lomphakathi okufanele -

(i) lubandakanye ukulalelwa komphakathi; futhi

(ii) ihambisane nezingubo okufanele zilandelwe magondana nezinhlobo zomphakathi njengokusho kwesigaba 10 (1)(b) soMthetho Wokukhuthaza Ubulungiswa Bokuphatha, 2000 (uMthetho No. 3 ka-2000);

futhi

(b) iphathe uhlolo ngokwenqubo eshiwo.

(9) Emva kokwenza uhlolo, ikhomishini kufanele ihlanganise umbiko obhaliwe ngohlolo, ibhekise, uma kwenzeka, ezingubeni mgomo ezibekwe esigabeni 3 soMthetho Wokusiza Kwezentuthuko, 1995 (uMthetho No. 67 ka-1995) kanye nasekuhlolweni kwesifundazwe nomthetho wokuhlela. Umbiko kufanele ube nalokhu-

(a) yonke imibono ebhaliwe ngodaba noma ngezindaba ezidluliselwe kukhomishini;

(b) isifingqo sesethulo esenziwe ngomlomo esethulwa ohlolweni lomphakathi; futhi

© izincomo eziya ku-MEC ngodaba noma izindaba ezishiwo, kanye nezizathu zalezo zincomo.

(10) U-MEC, ngokubonisana neLungu loMkhandlu Ophethe obhekele ukuhlelwa kwentuthuko, kufanele aqiniseke ukuthi ukushiwo kwendlela ngokwezigatshana (5)(a) noma (b), kuqondaniswe kangangoba kungakwazeka nanoma ngabe uhlaka olungakanani noma okunye ukuhlelwa kwentuthuko yesifundazwe okuhlelwe kahle olwenziwa ngokomthetho wokuhlela intuthuko yeSifundazwe.

(11) Emva kokuba eseyinqumile indlela yomgwaqo wesifunda noma umzila kaloliwe njengoba kucatshangwa esigatshaneni (5)(a) noma (b), u-MEC kufanele ayishicilele indlela eshiwo emva kwalokho, ngesaziso kuGazethi yeSifundazwe, lesa saziso kufanele sibe nalokhu -

(a) lolo lwazi, noma ngendlela yepulani eliwuhlaka, olukhombisa ipulani eselikhona eselingahlolwa ekhelini elinikeziwe, noma ngenye indlela, njengoba u-MEC angakulungela ukukhomba umzila ophakathi nendawo yendlela;

(b) isaziso sokuthi izindlela zokulawula ezibekwe esigabeni 7 zizoqala ukusebenza osukwini lokushicilelwa kwesaziso; futhi

© isaziso sokuthi izizathu zesinqumo sika-MEC maqondana nokunguma indlela, zingacelwa izingxenye ezithandayo nezithintekayo ezinsukwini ezingama-30 kusukela osukwini lokushicilelwa kwesaziso.

(12) Ngokwesigaba 8(2), indlela noma isigaba kungachitshiyelwa ngu-MEC emva kwalokho kuphela emva kokuhlanganisa izinqubo ezibekwe ezigabeni 8(1) ku ku-(8) futhi izichibiyelo zendlela kufanele zishicilelwe esigatshaneni (11).

Ukuchitshiyelwa kwesigaba 7 soMthetho No. 8 ka-2001

3. Isigaba 7 soMthetho ngqangi siyachitshiyelwa lapha ngokufaka esikhundleni samazwi "isigaba 6(9)" njalo lapho evela khona ngamazwi "isigaba 6(11)".

Ukuchitshiyelwa kwesigaba 8 soMthetho No. 8 ka-2001

4. Isigaba 8 soMthetho ngqangi siyachitshiyelwa lapha—

(a) ngokufaka esikhundleni samazwi "isigaba 6(9) esigatshaneni (1) noma ikuphi lapho kwenzeka khona ngamazwi "isigaba 6(11)".

(b) ngokufaka esikhundleni samazwi "isigaba 6(9) esigatsheneni (2) njalo lapho kwenzeka amazwi "isigaba 6(11) kanye nasesikhundleni samazwi "isigaba 6(1) kube u-(9)" wamazwi 6(1) kube u-(11)".

(c) ngokufaka esikhundleni sendima (b) yesigatshana (4) sale ndima elandelayo:

"(b) lolu ucwaningo lwendawo oluqhubekayo kanye nombiko obhaliwe omaqondana nalo kufanele lwenziwe, uma lukhona, njengesiphathimandla esikwaziyo ukwenza umsebenzi esicatshangwe kusigaba 22 we-ECA, noma isiphathimandla esicatshangwe ezigabeni ezihambisana nazo ze-NEMA, uma lezo zigaba sezisebenza usenganquma,"

(d) ngokufaka esikhundleni sendima (b) yesigatshana (5) yale ndima elandelayo:

(b) umbiko wendawo ocatshangwe esigatshaneni 4(b) noma isigaba 6(3)(a), uma kwenzeka;"

(e) ngokufaka esikhundleni sendima (a) yesigatshana (6) yale ndima elandelayo:

"(a) umbiko wendawo ocatshangwe esigatshaneni 4(b) noma isigaba 6(3)(a), njengoba kungenzeka; futhi

(f) ngokufaka esikhundleni esigatshaneni (8) samazwi "isigaba 6(1) kuya ku-9" amazwi "isigaba 6(11)."

Ukuchitshiyelwa kwesigaba 10 soMthetho No. 8 ka-2001

5. Isigaba 10 soMthetho ngqangi siyachitshiyelwa lapha ngokufakwa

esikhundleni samazwi "isigaba 6(9)" esigatshaneni (1) noma ikuphi lapho okwenzeka khona emazwini "isigaba 6(11)".

Ukuchitshiyelwa kwesigaba 50 soMthetho No. 8 ka-2001

6. Isigaba 50 soMthetho ngqangi siyachitshiyelwa ngokufakwa kwale ndima elandelayo ngemuva kwendima (p) yesigatshana (2):

"(pA) ukusebenzisa, ukwenza kusetshenziswe noma ukuvumela ukuba kusetshenziswe umzila kaloliwe kanye nohlelo lukaloliwe."

Ukuchitshiyelwa kwesigaba 51 soMthetho No. 8 ka-2001

7. Isigaba 51 soMthetho ngqangi siyachitshiyelwa lapha—

(a) ngokukhishwa komusho oyisingeniswo wesigatshana (1) walokhu okulandelayo:

"(1) U-MEC angaphothula isivumelwano okucatshangwe ngaso kusigatshana (2) noyedwa kumbe ngaphezulu kulawa mathimba alandelayo, kulesi sigaba ababizwa "ngenye ingxenye—"

(b) ngokukhishwa kwendima (f) yesigatshana (1) yalokhu okulandelayo:

"(f) noma ngabe imuphi omunye umuntu kumbe uhlaka; [kulesi sigaba obizwa "ngenye ingxenye]"

Ukufakwa kwesigaba 51A kuMthetho No. 8 ka-2001

8. Lesi sigaba esilandelayo siyafakwa lapha kuMthetho ngqangi emveni kwesigaba 51:

"51A. (1) U-MEC unakho ukuthi, uma ekubona kungaba nenzuzo kumphakathi futhi nangokuvumelana neLungu loMkhandlu oMkhulu elibhekele ezezimali, angene esivumelwaneni kumbe ezivumelwaneni eziphathelene nephrojekthi yokwakha, uxhaso ngezimali, ukusebenza, ukwenganyelwa, ukulawulwa kanye nokweluswa kohlelo lukaloliwe kumbe uhlelo lukaloliwe lwesikhathi esizayo kumbe umzila kaloliwe kumbe umzila kaloliwe wesikhathi esizayo, nanoma imuphi kumbe ibaphi kulaba abamathimba okukhulunywe ngabo esigabeni 51(1), njengokuhambisana nemigomo okuzovunyelwana ngayo malungana—"

(a) nanoma iziphi izindaba kumbe ingxube yazo okucatshangwe ngakho esigabeni 51(2) no (3);

(b) nokuhlinzekwa komhlaba kumbe amalungelo omhlaba okusemandleni ka-MEC njengokugunyazwa yisaziso somthetho ngomzila kaloliwe kumbe ukutholakala noma ukuthathwa ngokugunyazwa umthetho komhlaba ngokuxhumene nalokho, ukuze kwakhiwe, kusetshenziswe,

**UMTHETHOSIVIVINYWA WOKUCHIBIYELA WENGQALASIZINDA
YEZOKUTHUTHA WASEGAUTENG, KA-2003**

IMemorandamu ngokoMthetho 136 wemiThetho eMisiwe yesiShayaMthetho sesiFundazwe saseGauteng.

1. IZIZATHU ZOMTHETHOSIVIVINYWA

UMthetho weNgqalasizinda yezokuThutha yaseGauteng, ka-2001 (uMthetho No. 8 ka-2001) ("uMthetho") waqala ukusetshenziswa ngomhla ka-31 Januari 2003, ngaphandle kwezigaba 44 no-60(a) eziphathelene nokukhangisa kwangaphandle. Ngesikhathi sekuphothulwa imiqulu yamathenda nezivumelwano zokubhekela umgudu wesitimela esiwunyazi ohlongozwayo i-Gautrain Rapid Rail Link, izichibiyelo ezithile ezenziwa kulowo Mthetho zikhombise ukuba nesidingo sokusiza uhlelo lokufezekisa lo mkhankaso neminye enjengawo. Ngalokho-ke, uMthethosivivinywa wokuChibiyela wezokuThutha ka-2003, wenzelwe ukuthi ufezekise lezi zingquko.

INhloso yoMthethosivivinywa ukubhekela amalungelo okusetshenziswa komhlaba adingekile maqondana neziteshi kanye namandla ka-MEC adingekile okwenza isivumelwano noma izivumelwano eziphathelene nomzila wesitimela esiwunyazi i-Gautrain Rapid Rail Link noma aminye amaprojekthi afana nale, ngokugunyazwa ngu-MEC obhekele izindaba zezimali.

Izingxoxo neziphathimandla zasekhaya ezithintekayo kanye noMnyango weNtuthuko nokuHlela kanye noHulumeni baseKhaya ezimalungana namalungelo okusetshenziswa komhlaba eziteshini kumgudu we- Rapid Rail Link ngakolunye uhlangothini, kanye nesidingo sesiqiniseko esigabeni sokufakwa kwethenda mayelana nakho ukusetshenziswa komhlaba ngeziteshi ngakolunye uhlangothi, kuye kwaba nomphumela wokuthi kwakhiwe leli su elilandelayo lamalungelo okusetshenziswa komhlaba okubhekkelwe ngaphansi kwesichibiyelo:

Incazelo entsha "yesiteshi" ifakiwe ukuze ibandakanye indawo esetshenziselwa imisebenzi eqondene ngqo nokusebenza kanye nokuphathwa kohlelo lukaloliwe kanye nemisebenzi yezokuthutha abagibeli abafikayo nabahambayo esiteshini. Isiteshi-ke sizobandakanya izindawo zokupaka izimoto, amagaraji okupaka, izindawo zokwehlisa nokugibelisa abagibeli ngokushesha, izimoto ezithutha umphakathi nokunye okunjalo.

Kuye kwavunyelwana kabanzi neziphathimandla zendawo ezithintekayo ngemuva kokuxoxisana nazo ngokuthi ukusetshenziswa okuthize komhlaba endaweni yasesiteshini akufanele ukuba kulawulwe ngamasu okuhlelela idolobha futhi kungabhekkelwa uMthetho, okungavimbela izinqubo ezichitha isikhathi ekuchibiyeleni amasu asetshenziswayo okuhlele idolobha. Lokhu kubandakanya imisebenzi ezithile yokuwheba ehambisana ngqo nokunophatheka kahle kwabagibeli, kubandakanya izikhangisi, ukudayiswa kokudla neziphuzo, amaphephandaba namaphephabhuku, imishini okufakwa kuyo imali ikhiphe lokho okuthengwayo, izingcingo zomphakathi kanye

nemishini yasebhangé (lena ezishintshayo okufakwa kuyo ikhadi ikhiphe imali).

Yize kunjalo, kuyacatshangelwa ekutheni eziteshini eziningi, kungaba nesidingo sokuba kube nemisebenzi yowhebo endaweni ezinguze isiteshi. Njengeba le misebenzi yowhebo ingahle ibe nomthelela ezindaweni eziseduze kweziteshi futhi kungahle kubuye kuthinteke ingqalasizinda yedolobha, kunesidingo sokuthi amalungelo okusetshenziswa komhlaba ahambisana nokuwusebenzisela izizathu zomnotho alawulwe ngohlelo olusebenzayo ohlelweni lwedolobha. Lokhu kwenzelwa ukubhekela igalelo lomphakathi waleyo ndawo, kunjalo nesinqumo sikamasipala, ngaphambi kokuba kugunyazwe lawo malungelo ngokuhambisana nemithetho yokuhlelela leyo ndawo. Le misebenzi izokwenzelwa esiteshini, kanti kuzofanele yenziwe ngokuhambisana namalungelo okusetshenziswa komhlaba endawo kanye nemithetho yokuhlelela efanele.

Maqondana nokushiwo komgudu womgwaqo omusha wesifundazwe kanye nomzila kaloliwe, isigaba 4 soMthetho Wokukhuthaza Ubulungiswa Bokupnatha, 2000 (uMthetho No.3 ka-2000) ubhekela izinqubo ezimbiliezishintshanisekayo lapho kufanele umphathi wehhovisi akhiphe isinqumo esingawaphatha kahle noma kabi amalungelo omphakathi, ukusho nje uhlobo lomphakathi noma isaziso kanye nenqubo yokuphawula. Isigaba 6 esikhona njengamanje sakhetha inqubo yokuhlolwa komphakathi. Le nqubo ingaba yinkinga futhi ichithe nesikhathi futhi iphindaphinde into eyodwalapho imininingwane efanele ekwenziweni kwesinqumo kade ikhankaselwe ngokwanele ngenqubo ehambisana nokuhlolwa kwendawo kanye nombiko ocatshangelwe isigaba 6(3)(a) woMthetho ngqangi. Ngaphansi kwalezi zimo inqubo yesaziso kanye nokuphawula njengoba icatshangiwe kusigaba 4(3) soMthetho 3 ka-2000 ziyosebenziseka zombili futhi zisheshe zisebenze nakahle lapho umbiko wendawo sewuvele uhlanganisiwe, kanti inqubo yohlolo lomphakathi ingagcinelwa lezo zimo lapho kuqubuka izindaba eziqonde ngqo enqubeni yesaziso kanye naminye imibiko emibili, okungenzeka idinge okunye ukuhlolwa kanye nokuphawula. Ngakho-ke isigaba 6 sichitshiyelwe ukuze kusetshenziswe inqubo yesaziso kanye nokuphawula ukuze u-MEC enze isinqumo, futhi asebenzise inqubo yohlolo lomphakathi kuphela ezindabeni eziqondene nokuthize. Ngakho-ke ubulungiswa bokuphathwa obube sebutholakala bungobusezingeni eliphezulu kunalobo obudingwa uMthetho 3 ka-2000 ngokuthi zombili izinqubo ziyalandelwa.

UMthetho okhona njengamanje awubhekeli ngokugcwele isivumelwano okufanele senziwe nguNgqongqoshe malungana nokuhlela, sokwakha, sokusebenza, sokugcina impahla, sokulawula nokubheka i-Gautrain Rapid Rail Link ehlongozwayo. Ngakho-ke kwabaluleka ukuthi u-MEC anikezwe amandla, nangokuhambisana nokuhlinzeka okukhona eMthethweni, ukuba aphothule izivumelwano ezinjengesivumelwano esiwuhlaka esesikhona ngokuvumelana no-MEC obhekele ezezimali.

Ngalokhu-ke, kunesidingo sokuba kubhekwe ngokomthetho ukuhlinzekwa komhlaba kumbe amalungelo anesidingo ngokwezinhloso ezingenhla kanye nokuqinisekisa ukuthi amandla adingakalayo anikezwe u-MEC angasetshenziswa yilowo owusokontileka ophumelele kumbe u-MEC egameni lakhe, lokho kwenziwa kuqashwe ukuvikeleka kwamandla nokusetshenziswa kwawo emazingeni okuzenzela nakwaphezulu. Ukusetshenziswa kwala mandla uma enikezelwe ukuba kuzuze umphakathi, kungeze kwavinjelwa noma kwacekelwa phansi ukuphothulwa kwezivumelwano.

Nangaphezu kwalokho, kuye kwanesidingo sokuba kwakhiwe isigaba esibhekela ukudluliswa kwelungelo phezu komhlaba womunye kumbe amalungelo asezandleni zika-MEC adluliselwe kulowo ongusokontileka ophumelele. Amalungelo phezu komhlaba womunye kanye namalungelo omuntu nje awakwazi ngokomthetho ojwayelekile ukuthi amane asetshenziswe kumbe edluliselwe kumuntu wesithathu futhi kwakunesidingo samalungiselelo abhekene nalokhu.ngqo.

Kuyacaca-ke ngokuhambisana nomqondo we-Rapid Rail Link ukuthi ukuhlela izivumelwano nezinye izinkampani kanye neziphathimandla ezifana Nenkampani i-Airports Company Limited kanye neziphathimandla zasekhaya kuzofanele ziphothulwe ngu-MEC ukuze kuhlelwe ukuhlanganiswa kwe-Rapid Rail Link kanye nezinhlelo ezikhona esikhumulweni sezindiza, izinsiza zokuthutha kanye nesakhiwo esikhona sasedolobheni. Amalungiselelo alokhu nawo enziwe kuMthethosivivinywa. Enye injongo yoMthethosivivinywa, ukulungisa isimo mayelana nocwaningo olwenziwayo lwendawo. NgokoMthetho neminye imithetho, kungadingeka ukuba kwenziwe ucwaningo oluthathu lapho kuhlelwa, kudizayinwa futhi kwakhiwa umgwaqo noma umzila omusha kaloliwe:

- Esigabeni lapho kunqunywa ngemizila khona (isigaba 6(3)(a) soMthetho);
- Esigabeni sokudizayina okokuqala (isigaba 8(4)(b) soMthetho);;
- Esigabeni sokwakhiwa komgwaqo noma ujjantshi wesitimela (isigaba 22 soMthetho Wezokongiwa kweNdawo i-Environmental Conservation Act, ka-1989 (uMthetho No. 73 ka-1989). Lolu phenyo lubuye luthinte futhi nemikhakha yokusebenza.

Ucwaningo olubili lokuqala beluhlinzekelwe ngenxa yokuthi kwenye inkathi kuyenzeka ukuthi kudlule isikhathi eside phakathi kwesigaba sokunquma ngemizila kanye naleso sokudizayina okokuqala. Noma kunjalo-ke, ucwaningo lwesibili alunasingo uma lokhu kucwaninga okubili kuzokwenzeka ngesikhathi esisodwa noma kulakanyane, njengalokhu kuzokwenzeka ngocwaningo loMzila i-Rapid Rail Link. Ngakho-ke, uMthethosivivinywa uchibiyela isigaba 8(4)(b) soMthetho ukuze kwenziwe ucwaningo lwesibili lungabi nasidingo lapho isiphathimandla esikwazi ukwenza umsebenzi esishiwo emthethweni wezendawo sisithatha njengesingenasingo ngenxa yocwaningo lwezendawo olwenziwe ezingeni lokunqunywa kwendlela luzibhekele zonke izinto ezifanele.

2. UMTHELELA ENDAWENI OKUHLALWA KUYO

Umthelela woMthethosivivinywa endaweni okuhlalwa kuyo unobudlelwano nokuncishiswa kocwaningo lwendawo njengalokhu sekuchaziwe ngenhla. Kanti uMthethosivivinywa awunawo omunye umthelela endaweni.

3. UKUXABHELELA KOMTHETHOSIVIVINYWA EZIMALINI

Akukho ukuxabhelela ezimalini, ngaphandle kokuthi izichibiyelo zingahle zilethe izinqubo ezihlongozwayo ezingahle zingabi nazindleko eziphezulu.

Azikho izindleko ezingaphezulu ezingabhekana nohulumeni basekhaya. Ukonga kungahle kubonakale ngokuthi kugwenywe ukuthutha okungenasidingo ezindaweni zaseziteshini nasezindaweni lapho kuhamba khona imizila yezitimela.

4. IMIBONO ETHOLAKELE NECELIWE

Izinto ezihlinzekwa uMthethosivivinywa sekufundisenwe ngazo neziphathimandla zohulumeni basekhaya eSifundazweni, eziye zanikezela ngemibono malungana nokusetshenziswa kwamagama ezichibiyelweni. UMthethosivivinywa usuyisiwe nakuMnyango wokuHlelwa kweNtuthuko noHulumeni baseKhaya kanye naseMnyangweni wezoLimo, woKongiwa kweMvelo, wezeNdawo kanye nezoMhlaba, futhi sekubanjwe izingxoxo eziqondene nalokhu naleyo minyango. UMnyango ubona kungekho sidingo sokushicilela uMthethosivivinywa ukuba umphakathi uphawule ngenxa yokuthi izinguquko eziphakanyisiwe ezobuchwepheshe futhi azilethi zinguquko ngokomgomo. UMthethosivivinywa futhi uyaphuthuma kakhulu.

Malungana nocwaningo lwezindawo-ke, njengalokhu kuchaziwe ngenhla, bekunesichibiyelo esithi asifane kuMthetho-sivivinywa owandulela uMthetho ngqangi ngesikhathi ushicilelwa ukuthi kuphawulwe ngawo, kodwa awuzange waphunyelelwa ukuba ube uMthetho ngenxa yamaphutha enzeka ngesikhathi ubhalwa. Kanti akuzange kube khona ukuphikiswa kwalowo mthetho.

5. INCAZELO NGOMUSHWANA NGOMUSHWANA

Umshwana 1 woMthethosivivinywa uchibiyela izincazelo zika "rizevu kaloliwe" kanye "nomzila wesitimela" bese ufaka incazelo entsha "yesiteshi" ukuze kubhekwe izinhloso ezibhalwe ngenhla.

UMshwana 2 woMthethosivivinywa uchibiyela isigaba 6 soMthetho. Isigaba esisha sihlinzeka ngokuthi uma umbiko wendlela yokuqala sewulungisiwe futhi nocwaningo lwendawo selwenziwe, loyo mbiko kanye nombiko wocwaningo lwendawo kuyoba ngaphansi kwenqubo yesaziso kanye nokubekwa kwemibono. Omasipala abafanele bayothintwa ngqo maqondana nemibiko. U-MEC kufanele acabange ngemibiko emibili kanye nemibono etholakele, bese eyanquma ukuthi uyayishicilela indlela noma udlulisela

izindaba ezithile kukhomishini ukuze imeluleke. Lezo zindaba ziyoshicilelwa ukuze labo abathandayo nabathintekayo bakwazi ukuphawula, futhi ikhomishini kufanele yenze uhlolo lomphakathi futhi ivumele abantu abaphawulile ukuthi beze bazosekela imibono yabo. Ikhomishini iyobe seyihlanganisa umbiko wokweluleka u-MEC, oyobe-ke esengathatha isinqumo ngomgudu. Le nqubo kucatshangwa ukuthi inezinkinga ezincane, ayisichithi isikhathhi kangako futhi ayiphindaphindi into eyodwa kunenqubo ekhona njengamanje, lapho izinto ebesezenziwe ngesikhathi socwaningo lwendawo kungafanele zibuye zibe ngaphansi kokuhlolwa ngumphakathi. Isigaba esisha sisebenzisa kokubili inqubo yesaziso kanye neyokuphawula kanye nenqubo yokuhlolwa ngumphakathi, ngakho-ke isebenzisana ngokugcwele namalungiselelo ahlinzekwa uMthetho Wokukhuthaza Ubulungiswa Bokuphatha, 2000.

UMshwana 3 woMthethosivivinywa uchibiyela isigaba 7 soMthetho ukuze kulungiswe ukuqhathaniseka nesigaba 6 esisha.

UMshwana 4 woMthethosivivinywa uchibiyela isigaba 8(4)(b) soMthetho ukuze kubhekeleke ukuthi kungabi khona sidingo sokwenziwa kocwaningo lwendawo esigabeni sokuhlela esisezingeni lokuqala uma isiphathimandla sezendawo esikwazi ukwenza kahle umsebenzi sikuthatha njengokungenasidingo. Nezinye-ke izichibiyelo ezincane ezenziwe yilesi sichibiyelo zenziwe kuleso sigaba.

UMshwana 5 woMthethosivivinywa uchibiyela isigaba 10 soMthetho ukuze kulungiswe ukuqhathaniseka nesigaba 6 esisha.

UMshwana 6 uchibiyela isigaba 50 ukunikeza uNgqongqoshe wesiFundazwe amandla okuhambisa umzila wesitimela kanye nohlelo lukaloliwe ngokwemisebenzi ebaluliwe ngenhla

UMshwana 7 woMthethosivivinywa uchibiyela isigaba 51 soMthetho ukuze kulungiswe iphutha elenzeke kubhalwa.

UMshwana 8 woMthethosivivinywa ufaka isigaba esisha u-51A eMthethweni ukuze kubhekeleke izivumelwano ezingahle ziphothulwe zokwakha, zoxhaso lwezimali, zokusebenza, zokuphatha, zokulawula nokubhekwa sakulawula komgwaqo kanye nezinhlelo zikaloliwe, njengoba kukhonjisiwe ngenhla, ngokuvumelana noNgqongqoshe wesiFundazwe obhekele izindaba zezimali.

UMshwana 9 woMthethosivivinywa unikeza isihloko esifushane.

NOTICE 3023 OF 2003

MOLAOKAKANYWA

Go kaonafatša Molao wa Motheo wa Dinamelwa tša Gauteng, 2001, e le ge go kaonafatšwa le go lokela ditlhalošo tše itšego; go fana ka ditokelo tše di hlokegago tša go diriša naga malebana le diteišene gape le mo maatleng a a hlokegago a Balekgotlaphethiši a go tsenela ditlamano tša diprotšeke tša ditsela le diporo; go lokiša tshepedišo ye e tswalanago le tiišetšo ya ditsela; go dira nyakišišo ya bobedi ya tikologo mo kgatong ye e tlogo pele ya go beakanya tsela goba seporo sa setimela mo go sa hlokegago moo ditsebi tše di kgonago tša tikologo di akanyago gore nyakišišo ya tikologo mo kgatong ya tiišetšo ya tsela ke ye e lekanago; gape go ba gona mo nakong ya mabaka a sewelo.

GA E BEWE MOLAONG ke ba Lekgotlapeamelao la Profense ya Gauteng ka tsela ye:—

Kaonafatšo ya karolo ya 1 ya Molao wa 8 wa 2001

1. Karolo 1 ya Molao wa Motheo wa Dinamelwa tša Gauteng, 2001 (bjalo ka ge fa o bitšwa "Molao wa hlogo") e kaonafadišwe fa—

(a) ka go bea tlhalošo ye e latelago sebakeng sa tlhalošo ya "kemedi ya seporo":

"**kemedi ya seporo**' e ra bophara bjo bo feleletšego bja seporo sa setimela [bjalo ka ge e goeditšwe goba e amogilwe] go akaretša diteišene le dinolofatši tša taetšo le tša peakanyo, gape le didirišwa tše dingwe tše di amanago le tše; [go akaretša didirišwa tša papatšo]

(b) ka go bea tlhalošo ye e latelago sebakeng sa tlhalošo ya "seporo sa setimela:

"**seporo sa setimela**' se ra didirišwa tša seporo tše di dirišwago mo seporong se boima goba se bofefo gape, mo kamano e laetsago bjalo, tokelo ya go feta, [mo tirišong ya seporo sa boima goba sa bofefo seo se goeditšwego, šupeditšwego goba se amogilwego ka tsela yeo ka fase ga Molao wo] e ka ba godimo goba fase ga bokagodimo bja naga gape e akaretša kemedi ya seporo le phapogo ya nakwana go tloga moo."

(c) ka go lokela tlhalošo ye e latelago ka morago ga tlhalošo ya "Naga":

"**seteišene**' se ra boemasetimela goba boselaseporo gape se akaretša—

(a) lefelo leo seteišene se dirišwago goba se tlogo dirišetšwa didirišwa tše di hlokegago go tshepedišo, go lota le go taolo ya tsela ya setimela goba mediro ye e amanago le yona thwii goba ka sewelo, go akaretša, eupša e se ya

kgaotšwa go, bošomelo, diphapoši tša bobolokelo, dikantoro tša taolo, bodulo bja badiredi, diteišene tša mollo le mekoti ya tshenyomoya;

(b) lefelu leo seteišene se dirišwago goba se tlogo dirišwa malebana le peakanyo ya ditimela ya go phaka dinamelwa, dikaratšhe tša go phaka, mafelo a go fološa le go laiša, tšhutišo ya motlolo wa ka gare wa banamedi le didirišwa tša dinamelwa tša bohle go akaretšwa ditirelo le didirišwa tša tsela le tša phatlalatšo, gape le ditirišo tše bjalo tše di tswalanego le papatšo bjalo ka ge di amantšhwa le tokelo ya banamedi, go akaretša le go bapatša, go rekiša dilapološi, dikuranta le dikgatišobaka, metšhene ya go rekiša dilapološi, megala ya bohle le didirišwa tša go pankka ka elektroniki; gape

(c) e ka akaretša didirišwa tše dingwe tša naga tša papatšo goba kgwebjana tše di ka dirišwago fela ka morago ga ge ditokelo tša go diriša naga tše di hlokegago di šetše di dumeletšwe go ya ka peakanyo ye nngwe le ye nngwe ya maleba ya peomelao;"

Sethibakgala sa karolo 6 ya Molao wa 8 wa 2001

2. Karolo ye e latelago e ema sebakeng sa karolo 6 ya Molao wa hlogo:

"6. (1) Go laetša mokgwa wa go dira tsela ya profense goba seporo sa setimela, kaonafatšo ya tsela yeo e phatlaladitšwego go ya ka karolwana (10)(1), goba kaonafatšo ya tsela ye e šetšego e le gona ya profense goba seporo sa setimela, Molekgotlaphethiši o swanetše a dire gore tokologano ya tsela ya mathomo e dirwe, ka mokgwa wa go ngwala pego bjalo ka ge go laeditšwe gape e be le dikeletšo go ya ka mokgwa wa tiro gomme Molekgotlaphethiši o swanetše gore morago ga fao a latele tšhepedišo yeo e beakantšwego go ya ka karolo ye.

(2) Pele go ka laetšwa mokgwa wa go dira goba mokgwa wa go dira woo o kaonafaditšwego, Molekgotlaphethiši o swanetše a dire gore go be le nyakišišo ye bjalo ya tikologo le pego yeo e tla dirwago bjalo ka setsebi se se kgonago mo go karolo ya 22 ya ECA, goba setsebi se se akantšwego mo dikarolong tše di amanago tša maleba tša NEMA mola dikarolo tše di thoma go dirišwa, a ka akanya.

(3) Molekgotlaphethiši o swanetše gore morago ga fao a dire tsebišo yeo e tla phatlalatšwago go ya ka foromo le mokgwa wo o laeditšwego, e akaretša —

(a) tlhalošo ka bophara ya mokgwatiro ye e akantšwego;

(b) ditlhalošišo tša dinako le mafelo ao pego ya mathomo ya mokgwatiro le pego ya tikologo di ka hlahlobjago gomme dikhopi tša dirwa;

(c) taletšo ya go ngwalwa go ya go mekgatlo ka moka yeo e nago le kgahlego le yeo e amegago, e se go ka fase ga matšatši a 30 morago ga phatlalatšo ya tsebišo, mo tseleng ye e kgethilwego; le

(d) tšhupetšo go melawana ye e lekantšhitšwego yeo e tšeago sephetho malebana le karolo 7 mo go phatlalatšo ya mokgwatiro go ya ka temana (11).

(4) Molekgotlaphethiši o swanetše gore a ikgokagantšhe gape le bammasepala ka moka bao mokgwatiro o tlo go bewa mafelong a bona gomme a ba kgopele, mo nakong ye e itšego, go neela ka ditshwaotshwao tše di ngwadilwego mo pegong ya mokgwatiro wa mathomo le pego ya tikologo ka tšhupetšo ye e itšego gape go sephetho seo mokgwatiro wo o šišintšwego se ka amago tlhako ya sekgoba se sengwe le se sengwe goba peakanyo ye nngwe ya tšwetšopele ya masepala yeo e amegago.

(5) Ka morago ga nako ya ditshwaotshwo tše di beakantšwego go ya ka ditemana (3)(c) le (4), Molekgotlaphethiši o swanetše a gopole pego ya mokgwatiro ya mathomo le pego ya tikologo gape le ditshwaotshwao tše di ngwadilwego, ge di le gona, di filwe go ya ka ditemana 3 (c) le (4), gomme ka morago a ka—

(a) laetša mokgwatiro wa go dira tsela ya profense goba seporo sa setimela; goba

(b) go ya ka ditemana (6) go fihla (9), umaka taba goba ditaba tše di itšego tše di tšwago go dipego tše di boletšwego goba ditshwaotshwao go khomišene go swara nyakišišo ya bohle ye e eletšago mo ditabeng tše di itšego mo nakong yeo e laeditšwego ke Molekgotlaphethiši le, ka morago ga go gopola keletšo ye bjalo, laetša mokgwa wa go dira tsela ya profense goba seporo sa setimela.

(6) Khomišene ye e akantšwego mo temaneng ya (5)(b) e tla ba le maloko ao a nago le tokelo ye e nepagetšego a go se fete 12 ao—

(a) bonnyane bja batho bao e ka bago ba babedi ba ka bewago setulong ka lebaka la boithutelo le tsebo goba maitemogelo a tšwetšopele ya naga gape e le batho bao go ya ka kakanyo ya Molekgotlaphethiši ba ka kgonago go dira mešomo yeo ba e filwego go ya ka karolo ye;

(b) e se go batho ba ba fetago pedi bao ba kgethilwego ke mebasepala yeo tsela e tlo go bewa mafelong a bona, ge e ba batho ba ba bjalo ka nnete ba kgethilwe mo nakong ye e ka se fetego matšatši a 14 ka morago ga gore ba kgopelwe go dira bjalo ka go ngwala ke Molekgotlaphethiši;

(c) o tee ke mohlankedi wa mmušo yoo a tšwago Kgorong ya Peakanyo ya Tšwetšopele le Mmušo wa Selegae goba mohlatlami wa gagwe;

(d) o tee ke mohlankedi wa mmušo yo a tšwago Kgorong;

(e) bobedi ke baentšeneare ba mmušo bao ba nago le tsebo;

(f) o tee ke mmeakanyi wa toropo le selete ka fao le Khansele ya Afrika Borwa le Babeakanyi ba Dilete bjale ka ge ba akantšwe mo go Molao wa Babeakanyi ba Ditoropo le Dilete, 1984 (Molao wa 19 wa 1984

(g) ba babedi ke batho bao ba nago le dithutelo tša molao le maitemogelo;

- (h) o tee ke modulasetulo yo a nago le tokelo ya maleba yoo a ka bago yo mongwe wa batho ba ba laeditšwego mo ditemaneng (a) go fihla ka (g);
- (i) modulasetulo le maloko a mangwe a mane ba tla hloma khoramo mererong ya mediro ya khomišene.
- (7) Molekgotlaphethiši o swanetše gore morago ga fao a dire gore tsebišo e phatlalatšwe ka mokgwa woo o laeditšwego, e na le—
- (a) kakaretšo ya taba goba ditaba tše di lebišitšwego go khomišene;
- (b) tlhalošišo ka bophara ya seripa sa mokgwatiro yeo e amilego ke taba goba ditaba tše di lebišitšwego go khomišene;
- (c) ditlhalošišo tša dinako le mafelo ao pego ya mokgwatiro ya mathomo, pego ya tikologo le ditshwaotshwao di amogetšwego go ya ka ditemana (3)(c) le (4) go lebana le taba goba ditaba tše di lebišitšwego go khomišene di ka hlahlobja gomme dikhopi tša dirwa;
- (d) taletšo go batho ka moka bao ba angwago thwii ke taba goba ditaba tše di lebišitšwego go khomišene gore ba—
- (i) fe ditshwaotshwao ka go ngwala pele ga tšatšikgwedi leo le sego ka fase ga matšatši a 30 morago ga phatlalatšo ya tsebišo ya taba goba ditaba tše di boletšwego; gape
- (ii) tšwelele pele ga lefelo leo batho bohle ba tla kgonago go botšiša dipotšišo go fa tšhušumetšo ya tshwaotshwao ye bjalo ye e ngwadilwego ge e ba ba nyaka go dira bjalo;
- (e) tšatšikgwedi le lefelo leo batho bohle ba tla kgonago go botšiša dipotšišo; le
- (f) tšhupetšo ya tekanyo ya melao yeo e tšeago sephetho go ya ka karolo 7 mo go phatlalatšo ya mokgwatiro go ya ka temana (12).
- (8) Mo tšatšikgweding leo le filwego mo tsebišong, khomišene e swanetše e sware moletlo wa dipotšišo tše batho bohle ba di botšišago gomme ka go dira bjalo e swanetše e—
- (a) laetše tshepedišo ya dipotšišo tša batho bohle yeo e swanetšego go—
- (i) akaretša theeletšo ya batho bohle; le
- (ii) latela ditshepedišo tše di swanetšwego go latelwa malebana le dipotšišo tša bohle bjalo ka ge di laeditšwe go ya karolo 10(1)(b) ya Molao wa Tšweletšopele ya Pušo ya Toka, 2000 (Molao wa 3 wa 2000); le
- (b) sware dipotšišo go ya ka tshepedišo ye e boletšwego.
- (9) Morago ga gore moletlo wa dipotšišo tša bohle o swarwe, khomišene e swanetše e dire pego ya go ngwalwa ye e lebanego le nyakišišo, ye e lebanego le, ge e ba di gona, metheo yeo e beakentšwego ka go karolo 3 ya Molao wa Nolofatšo ya Tšwetšopele, 1995 (Molao wa 67 wa 1995) gape mo peakanyong ya profensense le tšwetšopele ya go bea melao. Pego e swanetše e be le—

- (a) ditshwaotshwao ka moka tše di ngwadilwego malebana le taba goba ditaba tše di lebišitšwego go khomišene;
- (b) kakaretšo ya dikemedi tša molomo tše di dirilwego mo moletlong wa dipotšišo tša batho ka moka; le
- (c) ditigelo go ya go Molekgotlaphethiši go ya ka taba goba ditaba tše di boletšwego, ka mabaka a ditigelo tše bjalo.

(10) Molekgotlaphethiši, ka go ikgokaganya le Setho sa Khansele ya Phethišo seo se nago le maikarabelo a peakanyo ya tšwetšopele, o swanetše a netefatše gore taetšo ya tsela go ya ka ditemana (5)(a) goba (b), e lebantšwe ka moo go ka kgonegago ka gona le tlhako ye e nago le sekgoba goba peakanyo ye nngwe ya tšwetšopele ya profense yeo e hlamilwego go ya ka go bea molao wa peakanyo ya tšwetšopele ya Profense.

(11) Ka morago ga go laetša tsela ya profense goba seporo sa setimela bjalo ka ge go akantšwe mo ditemaneng (5)(a) goba (b), Molekgotlaphethiši o swanetše a phatlalatše tsela ye e boletšwego ka tšhupetšo go ya mothalong wa gare, go tloga fao, ka tsebišo ka gare ga Kuranta ya Profense, yeo tsebišo e swanetšego go ba le—

- (a) tshedimošo ye bjalo, e ka ba ka tsela ya polane ya seketšhe, tšhupetšo go polane ye e lego gona go hlahlobja mo tšhupabodulong ye e filwego, goba mohlomongwe, bjalo ka ge Molekgotlaphethiši a ka laetša mothalo wa gare wa tsela;
- (b) tsebišo ya gore tekanyo ya melao yeo e filwego ka go karolo 7 e thoma go šomišwa go tloga ka tšatšikgwedi la phatlalatšo ya tsebišo; gape
- (c) tsebišo ye e fago mabaka a kakanyo ya Molekgotlaphethiši go ya ka taetšo ya tsela, e ka kgopelwa ke maloko ao a nago le kgahlego le ao a amegago mo nakong ya matšatši a 30 ka morago ga tšatšikgwedi la phatlalatšo ya tsebišo

(12) Go ya ka karolo 8(2), tsela goba dikarolo go tloga fao di ka kaonafatšwa ke Molekgotlaphethiši fela ka morago ga go dumelelana le ditshepedišo tše di beakantšwego ka go dikarolo 8(1) go fihla ka (8) gape dikaonafatšo tša tsela di swanetše di phatlalatšwe go ya ka moo go beakantšwego ka go temana (11).

(13) Dineo tša karolo ye di ka se dirišwe go fihlelela ditsela."

Kaonafatšo ya karolo 7 ya Molao 8 wa 2001

3. Karolo 7 ya Molao wa hlogo e kaonafatšwa fa ka go bea tlhagišo "karolo 6(9) sebakeng sa tlhagišo "karolo 6(11)".

Kaonafatšo ya karolo 8 ya Molao 8 wa 2001

4. Karolo 8 ya Molao wa hlogo e kaonafatšwa fa—
 - (a) ka go bea se sengwe mo go temana (1) go tlhagišo "karolo 6(9) mo gongwe le mo gongwe mo go tšwelelelag tlhagišo "karolo 6(11)".

- (b) ka go bea se sengwe mo go temana (2) go tlhagišo "karolo 6(9) ya tlhagišo "karolo 6(11)" gape le tlhagišo "karolo 6(1) go fihla ka (9)" ya tlhagišo "karolo 6(1) go fihla ka (11)".
- (c) ka go bea se sengwe sebakeng sa temana (b) ya temana (4) ya temana ye e latelago:
- "(b) nyakišišo ya tikologo ya bokgole bjo bjalo le pego ye e ngwadilwego go ya ka moo e swanetšwe e dirwe ka gona, ge e ba e gona, bjalo ka ge setsebi se se kgonago se akantše ka go karolo 22 ya ECA, goba setsebi se akantše mo dikarolong tše maleba tše di nyalelanago tša NEMA, ge dikarolo tše bjalo di thoma go dirišwa, a ka se akanya;"
- (d) ka go bea se sengwe sebakeng sa temana (b) ya temana ya (5) ya temana ye e latelago:
- "(b) pego ya tikologo ye e akantšwego ka go temana 4(b) goba karolo 6(3)(a), bjalo ka mokgwa wo e tla bago ka gona;"
- (e) ka go bea se sengwe sebakeng sa temana (a) ya temana ya (6) ya temana ye e latelago:
- "(a) pego ya tikologo ye e akantšwego ka go temana 4(b) goba karolo 6(3), bjalo ka mokgwa wo e tla bago ka gona; le
- (f) ka go bea se sengwe mo go temana (8) ya tlhagišo "karolo 6(1) go fihla (9)" ya tlhagišo "karolo 6(1) go fihla ka (11)".
- (g) ka go bea se sengwe mo go temana (10) go tlhagišo "karolo 6(9)" ya tlhagišo "karolo 6(11)".

Kaonafatšo ya karolo 10 ya Molao 8 wa 2001

5. Karolo 10 ya Molao wa hlogo e kaonafatšwa fa ka go bea se sengwe mo go temana (1) go tlhagišo "karolo 6(9)" mo gongwe le mo gongwe mo go tšwelelago tlhagišo "karolo 6(11)".

Kaonafatšo ya karolo 50 ya Molao 8 wa 2001

6. Karolo 50 ya Molao wa hlogo e kaonafatšwa fa ka go lokela temana ye e latelago ka morago ga temana (p) ya temana (2):

"(pA) diriša, dira gore e dirišwe goba dumelela tirišo ya seporo sa setimela le tsela ya go diriša seporo;"

Kaonafatšo ya karolo 51 ya Molao 8 wa 2001

7. Karolo 51 ya Molao wa hlogo e kaonafatš fa—
- (a) ka go bea se sengwe sebakeng sa lefoko la mathomo la temana (1) ya tše di latelago:
- “(1) Molekgotlaphethiši a ka phetha tumelano ye e akantšwego ka go temana (2) le o tee goba go feta wa mekgatlo ye e latelago, mo karolong ye e bitšwa bjalo ka “mokgatlo wo mongwe—”
- (b) ka go bea se sengwe sebakeng sa temana (f) ya temana (1) ya tše di latelago:
- “(f) motho ofe kapa ofe goba setho, [mo karolong ye a bitšwa bjalo ka “mokgatlo wo mongwe]”

Go lokela karolo 51A ka gare ga Molao 8 wa 2001

8. Temana ye e latelago e loketšwe fa ka gare ga Molao wa hlogo ka morago ga karolo 51:

“51A. (1) Molekgotlaphethiši a ka na, ge e ba o e hloma mo kgahlegong ya batho ka moka le ka tumelano ya Setho sa Khansele ya phethišo seo se nago le maikarabelo go ditaba tša ditšhelete, tseba mo kontrakeng goba dikontraka go ya ka projeke ya kago, ditšhelete, tiragatšo, taolo le tlhapetšo ya tsela ya tshepedišo ya setimela goba bokamoso bja tsela ya tshepedišo ya setimela le o tee goba go feta wa mekgatlo ye e akantšwego ka go karolo 51((1), go ya ka mabaka ao bjalo ka ge go kwanwe ka ona go ya ka—

- (a) ye nngwe ya ditaba goba dikopantšho tšeo go tloga fao di akantšwego ka go karolo 51(2) le (3);
- (b) go dira gore naga efe kapa efe goba ditokelo di be gona go ya ka moo go Molekgotlaphethiši ka tsebišo ya seporo sa setimela goba thuo goba kamogo ya naga goba ditokelo go ya ka moo go ka hlangwago, diriša, tiiša, šetša le laola tshepedišo ye bjalo ya setimela le seporo sa setimela, e ka ba ka go hiriša goba ka mokgwa wo mongwe;
- (c) taolo ye nngwe le ye nngwe ye e akantšwego ka go karolo 56;
- (d) tokelo ya go diragatša ditokelo le maatla ao a laetšwego ke Molekgotlaphethiši go ya ka karolo 50(2)(a), (c), (d), (e), (f), (i), (k), (m), (n), (pA) le (q) malebana le seporo sa setimela go ya ka mabaka le nako tša kontraka;
- (e) tiragatšo ka Molekgotlaphethiši yo a nago le ditokelo le maatla a bjalo ao a filwego yena ke Molao, bjalo ka ge go tla hlokega mo go kago, tiragatšo, taolo, tiišo, tlhokomelo le taolo ya

tshepedišo ya setimela legatong la mokgatlo wo mongwe, ka moka mo tshenyegelelong ya mokgatlo wo mongwe, go eya ka gore ka dinako tšohle tiragatšo ya tokelo goba maatla a mangwe le a mangwe a boikgethelo goba a tiwaelo ya phethiši a ka se swarelle ke kontraka ye bjalo gape a tla dirišwa feela ka kgahlego ya batho bohle;

(f) Kopanyo ya tshepedišo ya setimela, seporo sa setimela le didirišwa ka tlaleletšo ya didirišwa tša boemadifofane, le tikologo ya setoropo gape le sebopegofase sa dinamelwa.

(2) Molekgotlaphethiši a ka, le ge go le bjalo a lebeletše melao ye mengwe, šuthiša goba a dira gore go be le tšhomišo ka goba legatong la o tee goba go feta wa mekgatlo go kontraka ye e akantšwego ka go temana (1), bohlankedi bjo bongwe le bjo bongwe goba tokelo, e ka ba gore o ngwadišitšwe goba ga se a ngwadišwa, gape go ya ka Molekgotlaphethiši goba Profense, ka mabaka a goba malebana le kontraka efe goba efe bjalo ka ge e akantšwe ka go temana (1) le go ya ka nako ya kontraka ye bjalo."

Thaetlele ye kopana

9. Molao wo o bitšwa Kaonafatšwa ya Motheo ya Dinamelwa tša Gauteng, 2003.

MOLAOKAKANYWA WA MOTHEO WA DINAMELWA TŠA GAUTENG , 2003

Memorantamo go ya ka Molao 136 wa Melao ya go Ema ya Lekgotlapeamelao la Profense ya Gauteng.

1. MABAKA A MOLAOKAKANYWA

Molao wa Motheo wa Dinamelwa tša Gauteng, 2001 (Molao wa 8 wa 2001) ("Molao") o thomile go dirišwa ka di 31 Janeware 2003, ka ntle le mo go dirkarolo 44 le 60 (a) tšeo di šomago ka dipapatšo tša ka ntle. Mo nakong ya pheletšo ya ditokomane tša thentara le kontraka go fana ka Kgokaganyo ya Potlako ya Diporo tša Gauteng, dikaonafatšo tše dingwe tša Molao woo di ile tša bontšha hlokego ya go kgonagatša goba go nolofatša hlamo ya yona le diprotšeke tša go swana le yona. Go tloga nakong ya Kaonafatšo ya Molaokakanywa wa Motheo wa Dinamelwa tša Gauteng, 2003 ("Molaokakanywa") o šetše o thalwathadilwe gore o diragatše dikaonafatšo tše.

Maikemišetšo a Molaokakanywa ke go fana ka ditokelo tše di hlokegago tša go diriša naga go ya ka diteišene gape le maatleng a Molekgotlaphethiši go tsenela kontraka goba dikontraka go ya ka Kgokaganyo ya Potlako ya Diporo tša Gauteng goba diprotšeke tša go swana le yona, ka tumelelo ya Molekgotlaphethiši yo a laolago ditšhelete.

Dipoledišanao le ditsebi tša tikologo le Kgoro ya Peakanyo ya Tlhabollo le Mmušo wa Selegae mabapi le ditokelo tša go diriša naga go ya ka diteišene tše di lego go Kgokanyo ya Potlako ya Diporo ka go letsogo le lengwe, gape le hlokego ya netefatšo mo kगतong ya go thentara go ya ka ditokelo tša go diriša naga go ya ka diteišene ka go letsogo le lengwe, di feleletše di le mo sekiming se se latelago sa ditokelo tša go diriša naga tšeo di filwego ka go kaonafatšo:

Tlhalošo ye mpsa ya "seteišene" e tsentšhitšwe go akaretša lefelo leo le dirišetšwago mediro yeo e lebanego thwii le tirišo le taolo ya tshepedišo ya ditimela le mediro ya dinamelwa go ya ka banamedi bao ba fologago le go namela mo seteišeneng. Ka fao seteišene se tla akaretša mafelo a go phaka dikoloi, dikaratšhe tša go phaka, mafelo a go fološa le go nametša, dinamelwa tša bohle le tša go swana le tšona.

Kwano ka bophara e fihleletšwe le mmušogae woo o amegago ka morago ga dipoledišano le bona tša gore ditirišo tše dingwe tša naga ka gare ga seteišene ga di hloke go laolwa ke dikimi tša peakanyo ya toropo gape di ka fiwa thwii ka gare ga Molao, woo o tlogo thibela ditshepedišo tšeo di jago nako go ya ka tsela ya go kaonafatša sekimi sa peakanyo ya toropo seo se lego gona. Se se akaretša mediro ye mengwe ya papatšo ye e kgaoletšwego

yeo e tswalanywago le go lokela banamedi, go akaretša go bapatša, go rekiša dilapoliši, dikuranta le dikgatišobaka, metšhene ya go rekiša dilapološi, megala ya bohle le didirišwa tša go pankka ka elektroniki (metšhene ya othomethiki ya dithelara).

Le ge go le bjalo, go bonagala gore mo mabakeng a mantši, ge e se ka moka, go ka nyakega gore go be le mediro ya papatšo mo lefelong la seteišene. Bjalo ka ge mediro ye ya papatšo e ka ba le khuetšothwii go faporiki ya toropo gape e ka ba le ditlamoragothwii go ya ka motheo wa toropo, go a hlokega gore ditokelo tša go diriša naga go ya ka ditirišo tša naga tša papatšo goba kgwebjana di swanetše go laolwa ke sekimi sa peakanyo ya toropo seo se lego gona goba sekimi sa legaro. Se ke go fana ka botšeakarolo bja setšhaba mo tikologong, gape le kakanyo ya masepala, pele ga tumelelo ya ditokelo tše bjalo e ka dirwa go ya ka peakanyo ya maleba ya peomelao. Mediro ye bjalo e tla bewa go seteišene le ditokelo tša go diriša naga, ka moo di tla swanelwa ke go hwetšwa go ya ka peakanyo ya maleba ya peomelao.

Malebana le tiišo ya tshepedišo ya tsela ye mpsha ya profense goba seporo sa setimela, karolo 4 ya Tšweletšopele ya Molao wa Taolo ya Toka, 2000 (Moalo wa 3 wa 2000) e thuša ka ditshepedišo tše pedi tša hlatlologano ge molaodi a swanetše a fihlelele kakanyo yeo e ka amago ditokelo tša setšhaba, e lego nyakišišo ya setšhaba goba tsebišo le tshepedišo ya ditshwaotshwao. Tshepedišo ye bjalo e ka ba ye e tshwenyago goba ya ja nako gape ya ba ya tlhago ya go kopiša moo ditaba tšeo di lebanego le go dira kakanyo di šetšego di gokeditšwe mo tshepedišong ye e latelanago le nyakišišo ya tikologo le pego bjalo ka ge e akantšwe ke karolo 6(3)(a) ya Molao wa hlogo. Ka fase ga mabaka a bjalo tsebišo le tshepedišo ya ditshwaotshwao bjalo ka ge di akantšwe ke karolo 4(3) ya Molao 3 wa 2000 di tla dirišwa gape tša potlakišwa moo pego ya tikologo e šetšego e beakantšwe, ka go le lengwe tshepedišo ya nyakišišo ya bosetšhaba yeo e akantšwego ka go karolo 4(2) ya Molao 3 wa 2000 e ka beelwago mabaka ao mo go ona go tla tšwelelago ditaba tše dingwe go tšwa go tsebišo le tshepedišo ya ditshwaotshwao gape le dipego tše dingwe tše pedi, tšeo di ka hlokago nyakišišo ye e tseneletšego ya bophara le ditshwaotshwao. Karolo 6 ka fao e kaonafadišwe go diriša tsebišo le tshepedišo ya ditshwaotshwao tša Molekgotlaphethiši go fihlelela sephetho, le go hloma tshepedišo ya nyakišišo ya bosetšhaba fela go ya ka ditaba tše di itšego. Taolo ya toka yeo e hweditšwego ka fao ke ya maemo a godimo a go feta a yeo e nyakwago ke Molao 3 wa 2000 ka lebaka la gore bobedi bja ditshepedišo tšeo di a latelwa.

Molao wo o lego gona ga o fane ka botlalo ka mohuta wa kontraka yeo e hlokegago go tsenelwa ke Molekgotlaphethiši go loga maano, kago, tiragatšo, poloko, taolo le tlhokomelo tša Kgokaganyo ya Potlako ya Diporo tša Gauteng yeo e šišintšwego. Ka fao go be go hlokega gore Molekgotlaphethiši a matlafatšwe, gape ka tšhupetšo ya dithušo tše di lego gona tša Molao, go feleletša dikontraka tša go swana le kontraka ye e thalathadilwego ye e

šetšego e le gona ka tumelelo ya Molekgotlaphethiši yo a laolago ditšhelete. Ka lebaka leo go a hlokega gore go fanwe ka hwetšagalo ya naga goba ditokelo tše di hlokegago mo mererong ya ka godimo gape le go netefatša gore maatla a a hlokegago ao a lego go Molekgotlaphethiši a ka dirišwa ke rakontraka yo a atlegilego goba ke Molekgotlaphethiši legatong la gagwe, ka taolo ya ditšhireletšo go ya ka maatla a boikgethelo goba a phethiši. Tirišo ya maatla a ge e šetše e dumeletšwe mo kgahlegong ya setšhaba, e ka se swarellwe goba ya thibelwa ke sephetho sa dikontraka.

Godimo ga fao, go be go hlokega gore go hlangwe karolo ye e ikemelago ka boyona moo dikgatelelo goba ditokelo tša mong tšeo di lego ka go Molekgotlaphethiši di ka fetišwa goba tša dirwa gore di hwetšagale gore di dirišwe ke rakontraka yo a atlegilego. Dikgatelelo le ditokelo tša mong di ka se dirišwe goba tša fetišetšwa go mokgatlo wa boraro go ya ka molao wo o tlwaelegilego gomme thušo ye e itšego mo go bjalo e a hlokega.

Go a bonagala go tšwa go kgopolo ya Kgokaganyo ya Potlako ya Diporo gore dikwano tše di kgohlaganego le dikhamphani tše dingwe le ditsebi tša go swana le Khamphani ye e Kgaoletšwego ya Boemadifofane le mmušogae di tla swanelwa ke go phethagatšwa ke Molekgotlaphethiši gore a kgone go kgohlaganya kopanyo ya Kgokaganyo ya Potlako ya Diporo le ditshepedišo tše di lego gona tša boemadifofane, didirišwa tša dinamelwa le sebopego sa tikologo ya toropo. Thušo ka tsela yeo e fiwa ke Molaokakanywa.

Nepo ye e latelago ya Molaokakanywa ke go gopodišiša maemo go ya ka nyakišišo ya tikologo. Go ya ka Molao le tlhamo ya molao, dinyakišišo tše bjalo tše tharo di ka hlokega moo tsela ye mpsha goba seporo sa setimela e thadilwego, akantšwego le agilwego:

- Mo kगतong ya taetšo ya tshepedišo (karolo 6(3)(a) ya Molao);
 - Mo kगतong ya moakanyetšo wa motheo (karolo 8(4)(b) ya Molao);;
 - Mo kगतong ya kago ya tsela goba seporo sa setimela (karolo 22 ya Molao wa Poloko ya Tikologo, 1989 (Molao wa 73 wa 1989)).
- Nyakišišo ye e akaretša mahlakore a tirišo.

Dinyakišišo tše pedi tša mathomo di filwe ka gore ka nako tše dingwe go na le tlhaelelo ya nako magareng ga taetšo ya tshepedišo le moakanyetšo wa motheo. Le ge go le bjalo, nyakišišo ya bobedi ga e hlokege ge bobedi bo tla dirwa ka nako e tee goba ka pela ka bonakwana ka go latelelana, ka ge go tla dirwa bjalo ka Kgokaganyo ya Potlako ya Diporo. Molaokakanywa ka fao o kaonafatša karolo 8(4)(b) ya Molao go dira go se hlokege ga nyakišišo ya bobedi moo setsebi se se akantšego ka gare ga tlhamo ya molao ya tikologo se e tšeago bjalo ka ye e sa hlokegego ka gobane nyakišišo ya tikologo yeo e dirilwego mo kगतong ya taetšo ya tshepedišo e akareditše mahlakore ka moka a maleba.

2. KHUETŠO YA TIKOLOGO

Khuetšo ya tikologo ya Molaokakanywa e amana le kgopodišišo ya dinyakišišo tša tikologo go ya ka moo di thalathadilwego ka gona ka godimo. Molaokakanywa ga o na khuetšo ye nngwe ya tikologo.

3. KAMEGO YA DITŠHELETE GODIMO GA MOLAOKAKANYWA

Ga go na kamego ya ditšhelete ka ntle le gore dikaonafatšo di ka tliša ditshepedišo tša go lokologana tšeo di ka bolokago tšhelete.

Ga go na dikamego tše dingwe tša tlaleletšo tša ditšhelete go mmušo wa selegae. Go ka ba le polokego ya tšhelete ka gore ditiragatšo tše dingwe tše di sa nyakegego tša go dira magaro di tla hlokomologwa mo tikologong ya diteišene le mafelo ao ditimela di dirišwago gona.

4. DITSHWAOTSHWAO TŠE DI AMOGETŠWEGO LE TŠE DI KGOPETŠWEGO

Tše di filwego ke Molaokakanywa di šomilwe ke mmušogae mo Profenseng, tšeo di fanego ka kakanyo mo go tšweletšong ya dikaonafatšo. Molaokakanywa le wona o lebeletšwe malebana le ditshwaotshwao tše di lebišitšwego go Kgoro ya Peakanyo ya Tšwetšopele le Mmušo wa Gae le Kgoro ya Temo, Poloko, Tikologo le Ditaba tša Naga, le dipoledišano tše itšego di ile tša swarwa le Dikgoro tšeo. Kgoro e gopola gore ga go hlokege gore go phatlalatšwe Molaokakanywa go hwetša ditshwaotshwao ka ge dikaonafatšo e le tša sethikniki gape di sa tliše diphetogo tša ditlakelo goba diphetogo tša motheo. Molaokakanywa le wona o nyakega ka potlako

Malebana le dinyakišišo tša tikologo, bjalo ka ge di beilwe ka godimo, kaonafatšo ya go swana le ye e be e le gona ka gare ga Molaokakanywa wo o bego o etla pele ga Molao wa hlogo ge o be o phatlalatšwa go hwetša ditshwaotshwao, eupša dikhumano ga se tša išwa pele ka go Molao ka lebaka la phošo ya taolo. Ga go na dipelaelo tše di hweditšwego go tšwa go mpho yeo.

5. TLHALOŠIŠO YA LEFOKWANA-KA-LEFOKWANA

Lefokwana 1 la Molaokakanywa le kaonafatša ditlhalošišo tša "kemedi ya setimela" le "seporo sa setimela" gape le tsentšha tlhalošo ye mpsha ya "seteišene" go lokela dinepo tše di thalathadilwego ka godimo.

Lefokwana 2 la Molaokakanywa le emela karolo 6 ya Molao. Karolo ye mpsha e re ge fela pegu ya motheo ya tshepedišo e šetše e beakantšwe gape le nyakišišo ya tikologo e dirilwe, pegu ye bjalo le pegu ya nyakišišo ya tikologo di tla laolwa ke tsebišo le tshepedišo ya ditshwaotshwao. Mabasepala ye maleba e tla rerišwa malebana le dipego. Molekgotlaphethiši

o swanetše gore go tloga fao a lebelele dipego tše pedi le ditshwaotshwao tše di filwego gomme a akanye go phatlalatša tshepedišo goba go fetišetša ditaba tše di itšego go khomišene go hwetša maele. Ditaba tše bjalo di tla phatlalatšwa go dumelela batho ba ba nago le kgahlego le bao ba amegago go fa ditshwaotshwao, gomme morago ga fao khomišene e swanetše e sware moletlo wa nyakišišo ya batho ka moka go dumelela batho bao ba filego ditshwaotshwao gore ba tle ba fahlele ditshwaotshwao tša bona. Khomišene e tla re morago ga fao ya beakanya pego ya go eletša Molekgotlaphethiši, yoo a ka tšeago sephetho sa tshepedišo. Tshepedišo ye e tšewa bjalo ka ye e sa tshwenyego kudu, yeo e sa jego nako gape ye e sa kopišego kudu go feta ya gonabjale, moo ditaba tše di šetšego di akareditšwe mo nakong ya nyakišišo ya tikologo di ka laolwago gape ke nyakišišo ya bosetšhaba. Karolo ye mpsha e diriša bobedi bja tsebišo le tshepedišo ya ditshwaotshwao gape le tshepedišo ya nyakišišo ya bosetšhaba, ka mokgwa wo e dumelelana ka botlalo le dineo tša Tšweletšopele ya Molao wa Taolo ya Toka, 2000.

Lefokwana 3 la Molaokakanywa le kaonafatša karolo 7 ya Molao go phošolla tšhupetšo ya go putla go ya go karolo ye mpsha ya 6.

Lefokwana 4 la Molaokakanywa le kaonafatša karolo 8(4)(b) ya Molao go bolela gore nyakišišo ya bobedi ya tikologo mo kgatong ya moakanyetšo wa motheo ga e hlokege ge e ba mmušogae o bona e sa hlokege. Dikaonafatšo tše dingwe tša tšhoganetšo tše di di dirilwego gore di hlokege go ya ka kaonafatšo di dirilwe gona moo karolong yeo.

Lefokwana 5 la Molaokakanywa le kaonafatša karolo 10 ya Molao go phošolla tšhupetšo ya go putla go ya go karolo ye mpsha ya 6.

Lefokwana 6 la Molaokakanywa le kaonafatša karolo 50 go matlafatša Molekgotlaphethiši gore a sepediše seporo sa setimela le tshepedišo ya setimela mo medirong yeo e thalathadilwego ka godimo.

Lefokwana 7 la Molaokakanywa le kaonafatša karolo 51 ya Molao go phošolla phošo ya go gatiša.

Lefokwana 8 la Molaokakanywa le tsentšha karolo ye mpsha ya 51A ka gare ga Molao go fana ka dikontraka tše di swanetšego di phethagatšwe ka go kago, ditšhelete, tshepedišo, taolo, tshepetšo le tihokomelo ya tsela le ditshepedišo tša setimela, bjale ka ge e laeditšwe ka godimo, ka tumelelo ya Molekgotlaphethiši yo a laolago ditaba tša ditšhelete.

Lefokwana 9 la Molaokakanywa le fana ka thaetlele ye kopana.

