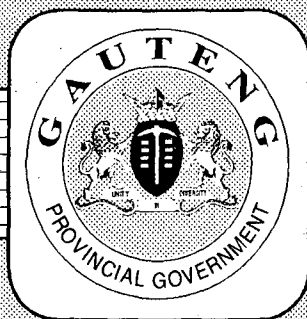


Gauteng Transport Infrastructure Regulations: Amendments

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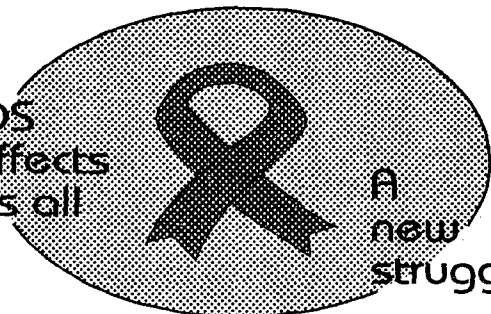
Vol. 11

PRETORIA, 16 MARCH
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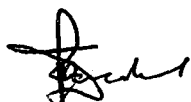
GENERAL NOTICE

NOTICE 973 OF 2005

DEPARTMENT OF PUBLIC TRANSPORT, ROADS AND WORKS
GAUTENG TRANSPORT INFRASTRUCTURE ACT, 2001
(ACT NO. 8 OF 2001)

AMENDMENT OF GAUTENG TRANSPORT INFRASTRUCTURE
REGULATIONS, 2005

The Member of the Executive Council responsible for public transport, roads and works in the Province has in terms of the Gauteng Transport Infrastructure Act, 2001 (Act No. 8 of 2001) made the regulations in the schedule



I. JACOBS

MEC FOR PUBLIC TRANSPORT, ROADS AND WORKS

DATE: 9 March 2005

SCHEDULE

Definition

1. In this Schedule "the Regulations" means the Gauteng Transport Infrastructure Regulations, 2002 published in Notice 219 of 29 January 2003 (*Provincial Gazette Extraordinary* no. 29).

Amendment of regulation 5 of the Regulations

2. Regulation 5 of the Regulations is amended by –
 - (a) the substitution for the heading "Public inquiry for route determination" of the following heading:
 "Notices in connection with route determination"
 - (b) the substitution for sub regulation 5(1) of the following sub regulation:

"5 (1) Where the MEC intends to determine the route of a provincial road or railway line under section 6 of the Act, he or she must cause to be published a notice in accordance with regulation 24(2), containing the particulars set out in section [6(4)] 6(3) of the Act in the form set out in Form 1 in Schedule 2" and

(c) the substitution for sub regulation 5(2) of the following sub regulation:

"5(2) Where the MEC intends to refer an issue to a commission under section 6(5)(b) of the Act, he or she must cause to be published a notice in accordance with regulation 24(2), containing the particulars set out in section 6(7) of the Act in Form 3 in Schedule 2".

Repeal of regulation 6 of the Regulations

3. Regulation 6 of the Regulations is hereby repealed.

Replacement of Schedule 2 to the Regulations

4. Schedule 2 to the Regulations is replaced with the following Schedule:

"SCHEDULE 2

Forms

FORM 1: NOTICE OF PROPOSED ROUTE DETERMINATION OF PROVINCIAL ROAD OR RAILWAY LINE

The Member of the Executive Council for Public Transport, Roads and Works of Gauteng Province hereby gives notice that he or she proposes to determine the route of a provincial road/railway line in terms of section 6 of the Gauteng Transport Infrastructure Act, 2001 (Act No. 8 of 2001) ("the Act").

The following is a broad description of the proposed route:

.....
.....
.....

A preliminary route report and environmental report may be inspected at the following address during office hours from 8:00 to 16:00 on weekdays, and copies of the reports may be obtained at that address:

.....
.....
.....
.....

Interested and affected parties are invited to submit written comments on the recommended route within 21 days from 20..... by hand to the abovementioned address or by fax to number or by E-Mail to the following address: or by post to, for attention: Director: Planning, quoting reference number:

Notice is also given that the regulatory measures contemplated in section 7 of the Act will take effect on publication of the route in terms of section 6(11) of the Act. These measures include that every application for the establishment of a township, for subdivision of land, for any change of land use in terms of any law or town planning scheme as well as for any authorisation contemplated in the Environment Conservation Act, 1989 (Act No. 73 of 1989) or the National Environmental Management Act, 1998 Act No. 107 of 1998) in respect of the areas mentioned in section 8(1) of the Act, must be accompanied by a written report by a consulting civil engineering firm specialising in road design and transportation engineering, reporting on the matters set out in that section. These measures appear from that section, which is quoted below for convenience:

"Regulatory measures in respect of routes

7. (1) After the publication of the notice contemplated in section 6(11) and in addition to any law, every application for the establishment of a township, for subdivision of land, for any change of land use in terms of any law or town planning scheme as well as for any authorisation contemplated in the ECA and NEMA, in respect of the areas mentioned in section 8(1), must be accompanied by a written report by a consulting civil engineering firm specialising in road design and transportation engineering, reporting on the following matters:
 - (a) The effect and impact which the granting of such application may have in respect of;
 - (i) the route contemplated in section 6(11);
 - (ii) the future preliminary design of the provincial road or railway line in respect of which the said route has been determined; and
 - (iii) any other route published or deemed to have been published in terms of section 6(11), any preliminary design in respect of which the acceptance has been published or deemed to have been published in terms of section 8(7) and any other provincial road or railway line;
 - (b) the feasibility of amending the said route and the costs in respect thereof, should the application be granted;
 - (c) the additional cost in respect of future preliminary design if an amended route should be found to be feasible, should the application be granted; and
 - (d) any other relevant matter pertaining to the said route, design and construction of the provincial road or railway line which may be relevant should the application be granted.
- (2) The consulting civil engineering firm referred to in subsection (1) must be approved by the MEC as having members with the necessary specialisation and competence as contemplated in subsection (1) and with at least ten years experience in the required disciplines.
- (3) The application accompanied by the report in addition to the provisions of any other law must be forwarded to the MEC by:
 - (a) the municipality; or
 - (b) the authority or body to which such application has been made; or
 - (c) the applicant, provided that the applicant must—
 - (i) obtain the consent of the authorities mentioned in paragraph (a) or (b); and
 - (ii) submit proof to the satisfaction of the relevant authority that the applicant has forwarded the application to the MEC.
- (4) The MEC may comment in writing on the application and accompanying report to the municipality, other authority or body to whom the application has been made, within a period of 60 days after having received the application and accompanying report, or such shorter period as may be prescribed in terms of any other law.
- (5) No application may be granted without due consideration of—
 - (a) the comments submitted by the MEC;
 - (b) the written report and matters contemplated in subsection (1) above;
 - (c) the additional costs which the granting of the application may cause directly and indirectly to the State and the community concerned, weighed against the advantage to the applicant and the community of granting the application; and
 - (d) the extent to which the granting of the application promotes sustainable development which integrates transport planning and land use planning in view of transportation engineering requirements.

(6) After having made its decision on the application, the municipality or other authority must inform the MEC in writing of its decision within 14 days after having made such decision and in the event of the application having been granted, must furnish full reasons for such decision in writing to the MEC within the said period.

(7) Within 28 days after having received the decision and reasons for having granted the application, the MEC is entitled to appeal against the decision, in accordance with the procedure prescribed in the applicable law with the necessary changes being made, to the appeal authority or appeal tribunal provided for in the relevant law, provided that where the applicable law prescribes an appeal to the Premier, any member of the Executive Committee, or Government official of the Province, the appeal must be heard and finally disposed of by the Townships Board for the Province as though the said Townships Board had the final appellate jurisdiction with regard to the appeal.

(8) After the publication of the notice contemplated in section 6(11) and despite any law to the contrary, no service provider may after commencement of this section, lay, construct, alter or add to any pipeline, electricity line or cable, telephone line or cable, or any other structure on, over or under the areas described in section 8(1) or may construct, alter or add to any structure of any nature whatsoever on, over or under such areas, except—

- (a) if the written permission of the MEC has been obtained and only in terms of such conditions as the MEC may prescribe; or
- (b) in terms of an existing registered servitude. "

FORM 2: NOTICE OF PRELIMINARY DESIGN OF A PROVINCIAL ROAD OR RAILWAY LINE

The Member of the Executive Council for Public Transport, Roads and Works of Gauteng Province ("the MEC") hereby gives notice that a preliminary design of the route of a provincial road/railway line has been prepared in terms of section 8(4)(a) of the Gauteng Transport Infrastructure Act, 2001 (Act No.8 of 2001) ("the Act"), and, if applicable, an environmental report in terms of section 8(4)(b) thereof.

Notice is also given that the MEC intends to take a decision on the draft preliminary design.

The following is a broad description of the route:

The preliminary design and environmental report may be inspected at the following address during office hours from 8:00 to 16:00 on weekdays:

Interested and affected parties are invited to submit written comments on the preliminary design and environmental report (if applicable) by not later than 20..... by hand to the abovementioned address or by fax to number or by E-Mail to the following address: or by post to, for attention: Director: Design, quoting reference number:

Notice is also given that the regulatory measures contemplated in section 9 of the Act will take effect on publication of the acceptance of the preliminary design. These measures appear from that section, which is quoted below for convenience:

"Regulatory measures in respect of accepted preliminary designs

- 9. (1) As from the publication of the notice in respect of the acceptance of a preliminary design as contemplated in section 8(7), and despite the provisions of any law to the contrary—
 - (a) no application for the establishment of a township, for subdivision of land, for any change of land use in terms of any law or town planning scheme or for any authorisation contemplated in the ECA or NEMA may be granted—
 - (i) In respect of an area within the road or rail reserve boundaries of the preliminary design, provided that the MEC may on written application by the applicant relax the provisions of this subsection in respect of an access road on such conditions as the MEC may deem fit, including—
 - (aa) a condition that the access road be substituted by another road or street serving the same function as the access road; and
 - (bb) a condition for amending the preliminary design requiring the applicant to pay all or any of the costs incurred by the MEC in the process, in which case section 38 applies;
 - (ii) on the basis of future access to the provincial road to which the said preliminary design relates, except on the basis of access provided for in the said preliminary design, or amendment thereof on application in terms of section 8(9) or otherwise;

- (b) sections 46, 48 and 49 apply, with the necessary changes, to a building restriction area which exists in respect of the road and rail reserve boundaries, as shown in the preliminary design, inasmuch as these sections are applicable to building restriction areas, but sections 46(4), (5) and (9) and sections 48(7) and (8), do not apply; and
 - (c) no application for a change in land use in respect of a portion of land adjacent to the road reserve boundary of a preliminary design in an urban area may be granted without the written comments of the MEC first having been obtained and considered in accordance with the applicable planning procedure by the authority empowered to grant changes in land use, which must duly consider such comments, and section 7(6), (7) and (8) applies in such a case, with the necessary changes.
- (2) After the publication of the notice contemplated in section 8(7) and despite any law to the contrary, no service provider may after commencement of this section, lay, construct, alter or add to any pipeline, electricity line or cable, telephone line or cable, or any other structure on, over or under the area within the road or rail reserve boundaries as shown in the preliminary design or may construct, alter or add to any structure of any nature whatsoever on, over or under such area, except—
- (a) if the written permission of the MEC has been obtained and in terms of such conditions as the MEC may determine; or
 - (b) in terms of an existing registered servitude."

FORM 3: NOTICE OF REFERRAL OF ISSUE OR ISSUES TO COMMISSION IN CONNECTION WITH PROPOSED ROUTE DETERMINATION OF PROVINCIAL ROAD OR RAILWAY LINE

The Member of the Executive Council for Public Transport, Roads and Works of Gauteng Province hereby gives notice that he or she proposes to refer an issue or issues to a commission in connection with the determination of the route of a provincial road/railway line in terms of section 6 of the Gauteng Transport Infrastructure Act, 2001 (Act No. 8 of 2001) ("the Act").

The following is a summary of the issue or issues referred to the commission:

The following is a broad description of that part of the route affected by the issue or issues referred to the commission:

The preliminary route report, environmental report and comments received in terms of subsections 6(3)(c) and (4) of the Act relevant to the issue or issues referred to the commission may be inspected at the following address during office hours from 8:00 to 16:00 on weekdays, and copies of the reports may be obtained at that address:

All persons directly affected by the issue or issues referred to the commission are invited to submit written comments within 30 days from 20..... by hand to the abovementioned address or by fax to number or by E-Mail to the following address: or by post to, for attention: Director: Planning, quoting reference number:

A public inquiry will be held on 20..... at and any persons directly affected by the issue or issues referred to the commission may appear at such inquiry to motivate their written comments should they wish to do so.

Notice is also given that the regulatory measures contemplated in section 7 of the Act will take effect on publication of the route in terms of section 6(11) of the Act. These measures include that every application for the establishment of a township, for subdivision of land, for any change of land use in terms of any law or town

planning scheme as well as for any authorisation contemplated in the Environment Conservation Act, 1989 (Act No. 73 of 1989) or the National Environmental Management Act, 1998 Act No. 107 of 1998), in respect of the areas mentioned in section 8(1) of the Act, must be accompanied by a written report by a consulting civil engineering firm specialising in road design and transportation engineering, reporting on the matters set out in that section. These measures appear from that section, which is quoted below for convenience:

"Regulatory measures in respect of routes

7. (1) After the publication of the notice contemplated in section 6(11) and in addition to any law, every application for the establishment of a township, for subdivision of land, for any change of land use in terms of any law or town planning scheme as well as for any authorisation contemplated in the ECA and NEMA, in respect of the areas mentioned in section 8(1), must be accompanied by a written report by a consulting civil engineering firm specialising in road design and transportation engineering, reporting on the following matters:
- (a) The effect and impact which the granting of such application may have in respect of;
 - (i) the route contemplated in section 6(11);
 - (ii) the future preliminary design of the provincial road or railway line in respect of which the said route has been determined; and
 - (iii) any other route published or deemed to have been published in terms of section 6(11), any preliminary design in respect of which the acceptance has been published or deemed to have been published in terms of section 8(7) and any other provincial road or railway line;
 - (b) the feasibility of amending the said route and the costs in respect thereof, should the application be granted;
 - (c) the additional cost in respect of future preliminary design if an amended route should be found to be feasible, should the application be granted; and
 - (d) any other relevant matter pertaining to the said route, design and construction of the provincial road or railway line which may be relevant should the application be granted.
- (2) The consulting civil engineering firm referred to in subsection (1) must be approved by the MEC as having members with the necessary specialisation and competence as contemplated in subsection (1) and with at least ten years experience in the required disciplines.
- (3) The application accompanied by the report in addition to the provisions of any other law must be forwarded to the MEC by:
- (a) the municipality; or
 - (b) the authority or body to which such application has been made; or
 - (c) the applicant, provided that the applicant must—
 - (i) obtain the consent of the authorities mentioned in paragraph (a) or (b); and
 - (ii) submit proof to the satisfaction of the relevant authority that the applicant has forwarded the application to the MEC.
- (4) The MEC may comment in writing on the application and accompanying report to the municipality, other authority or body to whom the application has been made, within a period of 60 days after having received the application and accompanying report, or such shorter period as may be prescribed in terms of any other law.
- (5) No application may be granted without due consideration of—
 - (a) the comments submitted by the MEC;
 - (b) the written report and matters contemplated in subsection (1) above;
 - (c) the additional costs which the granting of the application may cause directly and indirectly to the State and the community concerned, weighed against the advantage to the applicant and the community of granting the application; and
 - (d) the extent to which the granting of the application promotes sustainable development which integrates transport planning and land use planning in view of transportation engineering requirements.
 - (6) After having made its decision on the application, the municipality or other authority must inform the MEC in writing of its decision within 14 days after having made such decision and in the event of the application having been granted, must furnish full reasons for such decision in writing to the MEC within the said period.
 - (7) Within 28 days after having received the decision and reasons for having granted the application, the MEC is entitled to appeal against the decision, in accordance with the procedure prescribed in the applicable law with the necessary changes being made, to the appeal authority or appeal tribunal provided for in the relevant law, provided that where the applicable law prescribes an appeal to the Premier, any member of the Executive Committee, or Government official of the Province, the appeal must be heard and finally disposed of by the Townships Board for the Province as though the said Townships Board had the final appellate jurisdiction with regard to the appeal.
 - (8) After the publication of the notice contemplated in section 6(11) and despite any law to the contrary, no service provider may after commencement of this section, lay, construct, alter or add to any pipeline, electricity line or cable, telephone line or cable, or any other structure on, over or under the areas described in section 8(1) or may construct, alter or add to any structure of any nature whatsoever on, over or under such areas, except—
 - (a) if the written permission of the MEC has been obtained and only in terms of such conditions as the MEC may prescribe; or
 - (b) in terms of an existing registered servitude. "

Short title and commencement

5. These Regulations are called the Amendment to the Gauteng Transport Infrastructure Regulations, 2005.

IMPORTANT NOTICE

The
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HENNIE MALAN

Director: Financial Management
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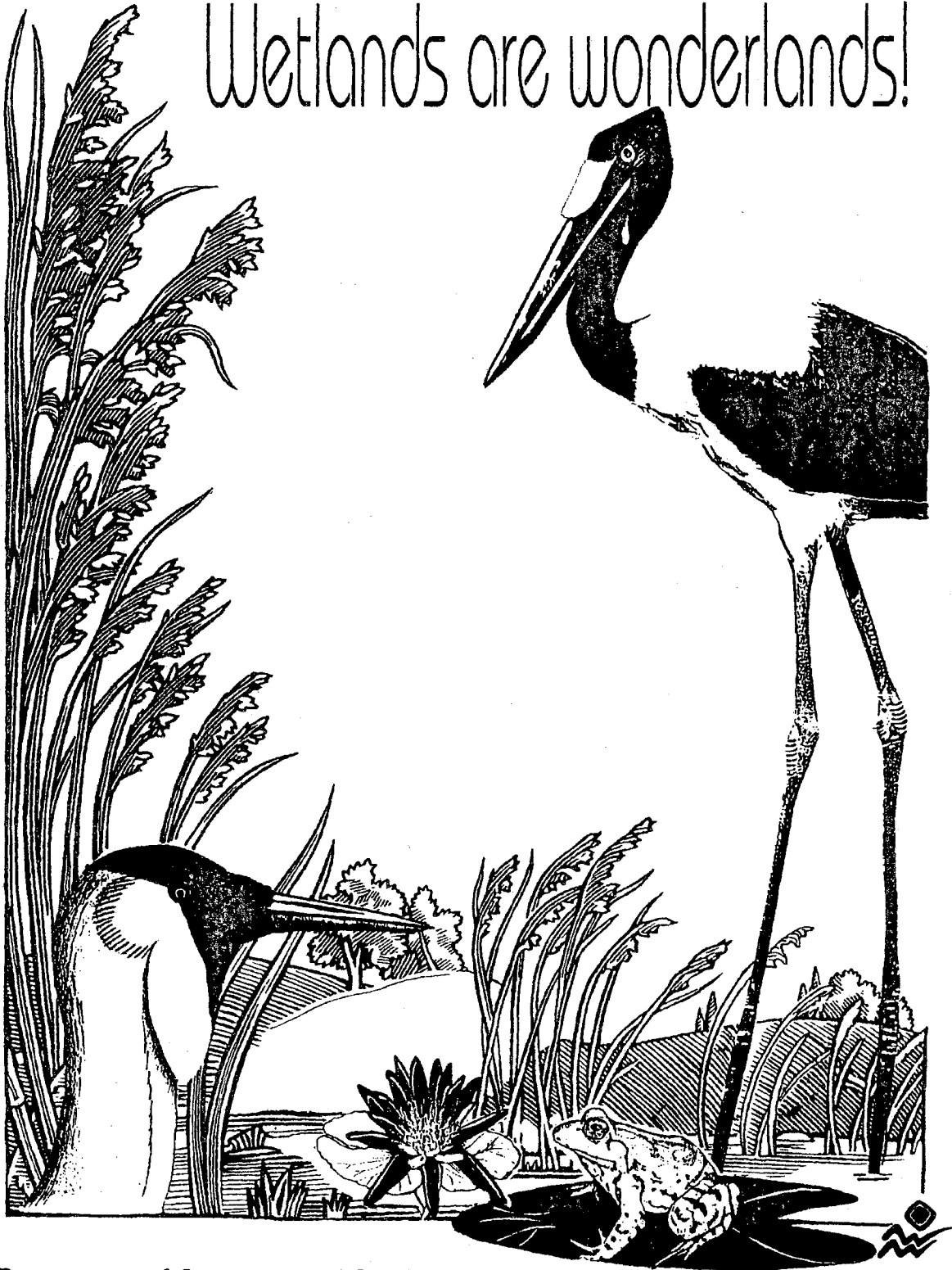
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Department of Environmental Affairs and Tourism

