



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

**Provincial Gazette
Extraordinary**

**Buitengewone
Provinsiale Koerant**

**Isongezelelo
kwiGazethi yePhondo**

7051

7051

7051

Friday, 2 November 2012

Vrydag, 2 November 2012

uLwesihlanu, 2 Novemba 2012

Registered at the Post Office as a newspaper

As 'n nuusblad by die Poskantoor geregistreer

Ibhaliswe ePosini njengePhephandaba

CONTENTS

INHOUD

IZIQULATHO

(Copies are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)

(Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)

(Iikopi zifumaneka kwigumbi M21, kwiSakhiwo seNdlu yoWisio Mthetho yePhondo, e 7 Wale Street, eKapa 8001.)

PROVINCIAL NOTICE

PROVINSIALE KENNISGEWING

ISAZISO SEPHONDO

The following Bill is hereby published for general information:

Die volgende Wetsontwerp word hiermee vir algemene inligting gepubliseer:

Lo Mthetho uSayilwayo ulandelayo upapashwa apha ukunika ulwazi ngokubanzi:

Western Cape Transport Infrastructure Bill [B 9—2012]

Wes-Kaapse Wetsontwerp op Vervoerinfrastruktuur [W 9—2012]

UMthetho oSayilwayo weZixhobo zokuSebenza zezoThutho weNtshona Koloni [B 9—2012]

P.N. 324/2012 2 November 2012

P.K. 324/2012 2 November 2012

I.S. 324/2012 2 Novemba 2012

Any person or organisation wishing to comment on the said Bill is requested to lodge such comment in writing before or on 30 November 2012—

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 30 November 2012—

Nabani na okanye nawuphi na umbutho onqwenela ukuphawula ngalo Mthetho uSayilwayo kuthethwa ngawo uyacelwa ukuba afake izimvo zakhe phambi okanye ngomhla wama-30 Novemba 2012—

(a) by posting it to—
The Secretary:
Western Cape Provincial Parliament
(Attention: Mr M Sassman)
P.O. Box 648
Cape Town 8000

(a) deur dit te pos aan—
Die Sekretaris:
Wes-Kaapse Provinsiale Parlement
(Aandag: Mnr M Sassman)
Posbus 648
Kaapstad 8000

(a) ngokuposela ku—
uNobhala:
IPalamente yePhondo leNtshona
Koloni
(Iya ku: Mnu M Sassman)
P.O. Box 648
Ekapa 8000

(b) by e-mail to—
msassman@wcpp.gov.za; or

(b) deur dit te e-pos aan—
msassman@wcpp.gov.za; of

(b) nge-imeyile ku—
msassman@wcpp.gov.za; okanye

(c) by fax to—
Mr M Sassman
(021) 487-1685

(c) deur dit te faks aan—
Mnr M Sassman
(021) 487-1685

(c) ngefeksi ku—
Mnu M Sassman
(021) 487-1685

R. G. Hindley
Secretary to Parliament

R. G. Hindley
Sekretaris van die Parlement

R. G. Hindley
uNobhala wePalamente

BILL

To provide for the planning, design, declaration, construction, maintenance, control, management, regulation, upgrading and rehabilitation of roads, railway lines and other transport infrastructure in the Western Cape; and for matters connected therewith.

BE IT ENACTED by the Provincial Parliament of the Western Cape as follows:—

ARRANGEMENT OF SECTIONS

PART 1: INTRODUCTORY PROVISIONS

- | | | |
|----|--|----|
| 1. | Definitions | 5 |
| 2. | Authorities responsible for transport infrastructure | |
| 3. | Title to, vesting and transfer of land on which transport infrastructure is situated | |
| 4. | Professional engineers, town planners or architects to be responsible for specific functions | 10 |

PART 2: CLASSIFICATION OF TRANSPORT INFRASTRUCTURE, RESERVE WIDTHS, BUILDING LINES AND BUILDING RESTRICTION AREAS

- | | | |
|----|---|----|
| 5. | Classification of roads and railway lines | |
| 6. | Reserve widths of roads and railway lines | |
| 7. | Classification and reserves of ancillary transport infrastructure | 15 |
| 8. | Building lines and building restriction areas | |

PART 3: TRANSITIONAL PROVISIONS IN RESPECT OF EXISTING ROADS

- | | | |
|-----|---|--|
| 9. | Assessment of previously declared roads | |
| 10. | Transfer agreements in respect of previously declared roads | |

PART 4: PLANNING AND DECLARATION OF TRANSPORT INFRASTRUCTURE

- | | | |
|-----|--|----|
| 11. | Transport system planning | |
| 12. | Records of transport infrastructure | |
| 13. | Project planning process | |
| 14. | Integrated environmental management process | 25 |
| 15. | Planning process before permanent closure | |
| 16. | Application to close, relocate or alter transport infrastructure | |
| 17. | Decision by road or public transport infrastructure authority | |
| 18. | Regulatory protection measures for transport infrastructure | |
| 19. | Declaration of transport infrastructure | 30 |

PART 5: PROCEDURES ON CLOSURE OF TRANSPORT INFRASTRUCTURE

- | | | |
|-----|--|---|
| 20. | Permanent closure of transport infrastructure | |
| 21. | Temporary closure or deviation of roads or railway lines | |
| 22. | Emergency closure or deviation | |
| 23. | Right of public to use closed or deviated road or railway line | 5 |

PART 6: FINANCING AND SUBSIDY ARRANGEMENTS

- | | | |
|-----|---|----|
| 24. | Subsidy arrangements with municipalities | |
| 25. | Estimates of expenditure for purposes of subsidy | |
| 26. | Calculation of subsidy percentage | |
| 27. | Determination of amount of subsidy expenditure | 10 |
| 28. | Rent, sale and other income from land acquired with subsidy money | |
| 29. | Equated percentage rate of subsidy on capital expenditure | |
| 30. | Contributions from other sources | |
| 31. | Payment of subsidy | |
| 32. | Records of expenditure on transport infrastructure | 15 |
| 33. | Reduction of determined subsidy expenditure | |

PART 7: EXPROPRIATION AND COMPENSATION

- | | | |
|-----|--|--|
| 34. | Expropriation of property | |
| 35. | Entry on and taking possession of property | |

PART 8: MANAGEMENT AND CONTROL OF TRANSPORT INFRASTRUCTURE AND ADJACENT LAND

- | | | |
|-----|--|----|
| 36. | Prohibition of certain advertisements on or visible from transport infrastructure | |
| 37. | Regulations regarding advertisements on or visible from transport infrastructure | |
| 38. | Removal of unauthorised advertisements | 25 |
| 39. | Presumptions relating to advertisements | |
| 40. | Access to and exit from transport infrastructure | |
| 41. | Relocation or closure of access to or exit from road | |
| 42. | Prohibition of depositing or leaving of certain articles or materials on or near transport infrastructure | 30 |
| 43. | Structures and other works on, over or below reserves of transport infrastructure or within building lines or building restriction areas | |
| 44. | Restrictions on changes in land use | |
| 45. | Distance indicators, signposts and warnings on roads | |
| 46. | Obstructions and clearances | 35 |
| 47. | Fences along or within boundaries of transport infrastructure | |
| 48. | Gates across roads | |
| 49. | Motor cattle-grids | |
| 50. | Mining operations on or under transport infrastructure or building restriction areas | 40 |
| 51. | Trading on or in transport infrastructure or building restriction areas | |

PART 9: GENERAL PROVISIONS

- | | | |
|-----|--|----|
| 52. | Specific powers of Minister | |
| 53. | General powers and duties of responsible authorities | |
| 54. | Regulations | 45 |
| 55. | Standards and guidelines | |
| 56. | By-laws | |
| 57. | Delegation | |
| 58. | Agency agreements for road or public transport functions | |
| 59. | Limitation of liability of responsible authority | 50 |
| 60. | General prohibitions | |
| 61. | Offences and penalties | |
| 62. | Appeals against decision by Head of Department or official | |
| 63. | Other transitional provisions | |
| 64. | Relation of Act to other laws | 55 |

65. Repeal of laws
66. Short title and commencement

PART 1: INTRODUCTORY PROVISIONS

Definitions

1. (1) In this Act, unless the context indicates otherwise— 5
- “**advertisement**” means any visible representation of a word, name, letter, figure, object, mark, logo or symbol or of an abbreviation of a word or name or of any combination of such elements, having the effect of transferring information or drawing attention to something, and includes a board or object normally used for such purposes, as well as images displayed by laser beams or similar devices, even though actual information is not transferred thereby, but does not include road traffic signs or traffic lights; 10
- “**ancillary public transport infrastructure**” means a facility referred to in section 7(2) and declared under section 19 as ancillary public transport infrastructure, and includes all immovable property and servitudes forming part of or used in connection with that facility; 15
- “**ancillary road infrastructure**” means a provincial or municipal facility referred to in section 7(1) and declared as ancillary road infrastructure under section 19, and includes the land on which it is built;
- “**ancillary transport infrastructure**” means ancillary road infrastructure or ancillary public transport infrastructure; 20
- “**boundary**” means, in the case of—
- (a) a road or railway line, the lines defining the outer edges of the area declared under section 19(1), or regarded to be declared under section 9(1) in the case of previously declared roads, for the purposes of the road or railway line; and 25
- (b) ancillary transport infrastructure, the line defining the outer perimeter of the area declared under section 19(1) for the purposes of the ancillary transport infrastructure;
- “**building line**” means a line referred to in section 8(1)(b), (2) or (3)(a);
- “**building restriction area**” means an area referred to in section 8(1)(b) or (3)(b) or (c); 30
- “**busway**” means the demarcated lanes of a road reserved for the exclusive use of buses or of vehicles authorised to use those lanes for emergency or other purposes;
- “**Constitution**” means the Constitution of the Republic of South Africa, 1996;
- “**construction**” includes reconstruction; 35
- “**declared transport infrastructure**” means transport infrastructure declared or regarded to be declared in terms of this Act;
- “**Department**” means the department in the Provincial Government responsible for provincial roads and public transport matters;
- “**depot**” means a place used for the impoundment of vehicles and— 40
- (a) designated as a depot in terms of section 87 of the NLTA; or
- (b) declared or designated as a place for the impoundment of vehicles in terms of any other law;
- “**direct access service site**” means a facility adjacent to a freeway which— 45
- (a) takes access directly off the freeway; and
- (b) is intended specifically for users of the freeway or the control of transport operations;
- “**district municipality**” means a district municipality as defined in section 1 of the Structures Act;
- “**district road**” means a road which has been classified as a district road in terms of section 5(2)(a) or 9(1), or is regarded as a district road in terms of section 9(7); 50
- “**erect**”, in relation to a fence, includes the re-erection of the fence, the entire replacement of the material of the fence and the addition to the fence of any material not required for the purpose of repairs or maintenance;
- “**expropriate**” includes the taking of the right temporarily to use property; 55
- “**fence**” means any structure or device which serves the purpose of a fence, irrespective of the materials used in or the manner of its construction, and includes a wall and a hedge;
- “**freeway**” means a road or section of a road that has been designated as a freeway in terms of the National Road Traffic Act; 60

- “Head of Department”** means the Head of the Department;
- “heavy railway line”** means a passenger rail system which—
- (a) operates on rails within its own rail reserve;
 - (b) has a track gauge exceeding 600 millimetres; and
 - (c) has been classified as a heavy railway line in terms of section 5(2)(a);
- “integrated transport plan”** means a plan envisaged in section 36 of the NLTA;
- “land”** means land with or without improvements;
- “light railway line”** means a passenger rail system, including a system running on a monorail, a magnetic levitation system or a fixed rail or track system where the vehicles run on pneumatic tyres, which—
- (a) operates within its own rail reserve, within an exclusive right-of-way within a road reserve, or in mixed traffic within a road reserve; and
 - (b) has been classified as a light railway line in terms of section 5(2)(a);
- “local municipality”** means a local municipality as defined in section 1 of the Structures Act;
- “main road”** means a road which has been classified as a main road in terms of section 5(2)(a) or 9(1), or is regarded as a main road in terms of section 9(6);
- “mining operations”** means any operation relating to the act of mining and matters directly incidental thereto;
- “Minister”** means the Member of the Provincial Cabinet responsible for the Department;
- “Minister of Finance”** means the Member of the Provincial Cabinet responsible for financial affairs in the Province;
- “Minister of Local Government”** means the Member of the Provincial Cabinet responsible for local government matters in the Province;
- “minor road”** means a road which has been classified as a minor road in terms of section 5(2)(a) or 9(1), or is regarded as a minor road in terms of section 9(6);
- “motor cattle-grid”** means a thoroughfare located across a roadway and which allows only vehicular traffic to pass by means of a ribbed platform;
- “municipal railway line”** means a railway line for which a municipality is the rail authority;
- “municipal road”** means a main road, district road, minor road, or public transport road for which a municipality is the road authority;
- “municipal transport infrastructure”** means transport infrastructure for which a municipality is responsible in terms of—
- (a) a notice referred to in section 5(2) or 7(3);
 - (b) an agreement referred to in section 9(1); or
 - (c) a transfer agreement referred to in section 10;
- “municipality”** means a municipality in the Province and, in the case of a district municipality, either the district municipality or a local municipality in its area, as the case may be;
- “national road”** means a national road as defined in the South African National Roads Agency Limited and National Roads Act, 1998 (Act 7 of 1998);
- “National Road Traffic Act”** means the National Road Traffic Act, 1996 (Act 93 of 1996);
- “NEMA”** means the National Environmental Management Act, 1998 (Act 107 of 1998);
- “NHRA”** means the National Heritage Resources Act, 1999 (Act 25 of 1999);
- “NLTA”** means the National Land Transport Act, 2009 (Act 5 of 2009);
- “non-motorised transport”** includes pedestrians, pedal cycles and other vehicles powered by persons or animals;
- “occupier”** means a person who is in actual lawful occupation of land or a person who for the time being has legal control of land as owner, lessee or licensee or for any other reason;
- “official languages”** means English, Afrikaans and isiXhosa;
- “Ordinance”** means the Roads Ordinance, 1976 (Ordinance 19 of 1976);
- “organ of state”** means an organ of state as defined in section 239 of the Constitution;
- “PFMA”** means the Public Finance Management Act, 1999 (Act 1 of 1999);
- “prescribed”** means prescribed by regulation;
- “previously declared”** means declared or regarded as declared in terms of the Ordinance or any other law and in force at the commencement of this Act;

- “Promotion of Administrative Justice Act”** means the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000);
- “Province”** means the Province or Provincial Government of the Western Cape, as the context indicates;
- “provincial land transport framework”** means the framework contemplated in section 35 of the NLTA; 5
- “provincial railway line”** means a railway line for which the Minister is the rail authority;
- “provincial road”** means a trunk road, main road, district road, minor road, public path or public transport road for which the Minister is the road authority; 10
- “provincial transport infrastructure”** means transport infrastructure for which the Minister is responsible in terms of—
- (a) a notice referred to in section 5(2) or 7(3);
- (b) an agreement referred to in section 9(1); or
- (c) a transfer agreement referred to in section 10; 15
- “public path”** means a pathway which has been classified as a public path in terms of section 5(2)(a) or is regarded as a public path in terms of section 9(6);
- “public transport”** has the meaning assigned to it in section 1 of the NLTA;
- “public transport infrastructure”** means transport infrastructure which is used or designed primarily for public transport; 20
- “public transport infrastructure authority”** means the authority responsible for public transport infrastructure in terms of a notice referred to in section 5(2);
- “public transport road”** means a road which is used predominantly for public transport and which has been classified as a public transport road in terms of section 5(2)(a); 25
- “rail authority”** means the authority responsible for a railway line in terms of a notice referred to in section 5(2);
- “railway line”** means a heavy railway line or a light railway line, and includes the full width of the rail reserve and the land and all works or things forming part of or belonging to the railway line; 30
- “reserve”** means, in the case of—
- (a) a road or railway line, the full declared width between its boundary edges; and
- (b) ancillary transport infrastructure, the full declared area inside its boundary edges;
- “responsible authority”** or **“authority”**, in relation to a road, railway line or public transport infrastructure, means the road authority, rail authority or public transport infrastructure authority responsible for that road, railway line or public transport infrastructure in terms of this Act; 35
- “rest area”** means an area set aside specifically to allow road users to interrupt their journey for the purpose of a rest stop, located either adjacent to and part of the road reserve, or remote from the road, and which may include commercial facilities; 40
- “road”** means a trunk road, main road, district road, minor road or public transport road, and includes the full width of the road reserve and the land and all works or things forming part of or belonging to the road; 45
- “road authority”** means the authority responsible for a road in terms of a notice referred to in section 5(2);
- “roadway”** means the part of a road intended for vehicles;
- “station”** includes—
- (a) in the case of a railway line, the areas within a station used for the track, civil infrastructure, buildings, train control systems, railway yards, sidings or signals, and all other facilities and systems necessary for or incidental to the operation, maintenance and administration of the railway line; 50
- (b) in the case of a busway, the areas within the station used for the busway, civil infrastructure, buildings, signs, signals and markings, and all other facilities and systems necessary for or incidental to the operation, maintenance and administration of the bus system; and 55
- (c) parking garages and areas, passenger drop-off and pick-up points and commercial and retail land uses forming part of the station premises;
- “stock”** means all categories of domestic farming livestock and game animals; 60
- “stock camp”** means a site for use in connection with the temporary encampment of stock while in transit;

- “**street**” means a street or other road under the control of a municipality that is not a municipal road;
- “**structure**” means any building, structure or thing erected on, above or under the ground, whether permanent or temporary, irrespective of its nature or size;
- “**Structures Act**” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998); 5
- “**subsidised transport infrastructure**” means municipal transport infrastructure for which a subsidy is paid;
- “**subsidy**” means a subsidy payable to a municipality in terms of an agreement contemplated in section 24(2); 10
- “**this Act**” includes regulations made under this Act;
- “**township**” means an area divided into stands, erven or plots, whether with or without public open spaces and established or recognised as a township under any law;
- “**traffic**” means road or rail vehicular or non-motorised traffic; 15
- “**traffic signs**” means road traffic signage as contemplated in the National Road Traffic Act or rail signs or signals as contemplated in the National Railway Safety Regulator Act, 2002 (Act 16 of 2002) and includes signs or signals for controlling road and rail traffic at level crossings and at other locations where there are potential conflicts between rail and other traffic; 20
- “**transport infrastructure**” means a road or railway line or ancillary transport infrastructure, including its reserve;
- “**trunk road**” means a road which has been classified as a trunk road in terms of section 5(2)(a) or section 9(1), or is regarded as a trunk road in terms of section 9(6); 25
- “**urban area**” means an area consisting of—
- (a) subject to paragraphs (b) and (c), that portion of the area of jurisdiction of a local authority which has by survey been subdivided into erven of two hectares or less or is surrounded by surveyed erven, and includes public roads abutting thereon; 30
- (b) an area within the perimeter of an urban edge, where the urban edge refers to a line on a relevant plan or map showing the planned outer limit of lateral urban expansion and has been declared in terms of a law administering land use planning in the area concerned; or
- (c) an area which has been declared an urban area for the purposes of this Act under subsection (2), 35
- and includes areas adjacent to an area referred to in paragraph (a) or (b) and extending outside the boundary of that area measured at right angles to the edge of the area, for a distance of 250 metres; and
- “**wayleave**” means access over or right of way to a road or public transport infrastructure reserve granted by the road or public transport infrastructure authority. 40

(2) The Minister, with the concurrence of the Minister of Local Government, may by notice in the *Provincial Gazette* declare any area to be an urban area for the purposes of this Act. 45

Authorities responsible for transport infrastructure

2. (1) The Minister must finance, plan, design, declare, construct, develop, maintain, control, manage, regulate, upgrade, protect and rehabilitate provincial transport infrastructure, and all rights and obligations attached to such infrastructure vest in the Minister. 50

(2) The relevant municipality must finance, plan, design, declare, construct, develop, maintain, control, manage, regulate, upgrade, protect and rehabilitate municipal transport infrastructure in its area of jurisdiction, subject to subsection (3), and all rights and obligations attached to such infrastructure vest in that municipality.

(3) In respect of municipal transport infrastructure situated in the area of a district municipality, the relevant municipality for purposes of subsection (2) is the district municipality, unless the district municipality and a local municipality in its area have agreed that the local municipality will take responsibility for the transport infrastructure. 55

(4) A responsible authority may agree with another authority that the responsibility for certain of, or all of the aspects relating to transport infrastructure mentioned in 60

subsections (1) and (2), is transferred to the other authority on the terms and conditions agreed upon, which must include conditions as to financial responsibilities.

(5) The authority to which the responsibility for transport infrastructure is transferred in terms of an agreement contemplated in subsection (4) must publish a notice in the *Provincial Gazette* reflecting the agreement.

5

Title to, vesting and transfer of land on which transport infrastructure is situated

3. (1) Title to land, including servitudes, acquired by or on behalf of the Province or a municipality for transport infrastructure must be registered in the name of the Province or municipality, as the case may be.

(2) Where title to land over which transport infrastructure has been declared remains in the name of the person who owns the land at the time of the declaration, restrictions imposed by the declaration on all land constituting the reserve of that transport infrastructure must be registered with the Registrar of Deeds and indicated on the title deed of the land.

10

(3) Subsection (2) does not apply to a previously declared road which is not closed at any time after the commencement of this Act.

15

(4) The office of Roads Trustees established by section 23 of the Ordinance is abolished.

(5) All land vested or registered in the name of the Roads Trustees in terms of the Ordinance, vests in the Province.

20

(6) If—

(a) any transport infrastructure is relocated, changed or permanently closed;

(b) the reserve of transport infrastructure is reduced or changed; or

(c) an authority ceases to use land for the purpose of transport infrastructure, any redundant land which, as a result of an action contemplated in paragraph (a), (b) or (c), ceases to form a part of the transport infrastructure concerned, together with all works and things attached thereto, reverts to the owner of the land of which the redundant land formed a part immediately before the declaration of that transport infrastructure, unless the responsible authority directs otherwise by notice in the *Provincial Gazette*.

25

30

(7) Where land is transferred back to the owner by virtue of subsection (6)(a), (b) or (c), compensation, calculated in the prescribed manner, is payable by that owner to the responsible authority concerned.

(8) Subject to subsection (6), land vested in an authority, including land retained through a notice in terms of subsection (6), and no longer required for any purpose related to transport infrastructure, may be disposed of by that authority.

35

(9) Where land reverts in terms of subsection (6) or is disposed of in terms of subsection (8) in a case where the land vested in—

(a) the Province, the proceeds must be paid into the Provincial Revenue Fund; and

40

(b) a municipality and was acquired using subsidy money paid by the Minister, the net proceeds of the transfer or disposal and any other income obtained from that land must be paid into the Provincial Revenue Fund in proportion to the subsidy contribution made for its acquisition.

Professional engineers, town planners or architects to be responsible for specific functions

45

4. (1) The responsible authority must ensure that functions performed in terms of this Act are undertaken under the responsibility and due diligence of a suitably qualified professional person, subject to subsections (2) and (3).

(2) No person other than a person registered as—

50

(a) a Professional Engineer or Professional Engineering Technologist in terms of the Engineering Profession Act, 2000 (Act 46 of 2000); or

(b) a town planner or architect in terms of the relevant professional accreditation legislation,

may be responsible for the oversight and approval of technical strategies or plans related to transport infrastructure.

55

(3) No person other than such a Professional Engineer or Professional Engineering Technologist may be responsible for the oversight and approval of technical strategies or plans related to the following activities:

- (a) Design of civil, structural, electrical or mechanical engineering components of transport infrastructure;
- (b) development of remedial and maintenance strategies of existing transport infrastructure;
- (c) management of the construction and maintenance of transport infrastructure; 5
or
- (d) other prescribed activities.

**PART 2: CLASSIFICATION OF TRANSPORT INFRASTRUCTURE,
RESERVE WIDTHS, BUILDING LINES AND BUILDING RESTRICTION
AREAS** 10

Classification of roads and railway lines

5. (1) Roads and railway lines in the Province are classified as follows:
- (a) Trunk roads, under the control of the Minister;
 - (b) main roads under the control of the Minister or a municipality;
 - (c) district roads under the control of the Minister or a municipality; 15
 - (d) minor roads under the control of the Minister or a municipality;
 - (e) public transport roads under the control of the Minister or a municipality;
 - (f) public paths under the control of the Minister or a municipality;
 - (g) heavy railway lines under the control of the Minister or a municipality; and
 - (h) light railway lines under the control of the Minister or a municipality. 20
- (2) The responsible authority must, in every notice issued in terms of section 19(1) in respect of a road or railway line—
- (a) classify the road or railway line concerned to be one of the types listed in subsection (1);
 - (b) state whether the Minister or a municipality is responsible for the road or 25
railway line; and
 - (c) in the case of a district municipality, state whether the district municipality or a local municipality is responsible for the road or railway line.
- (3) A public transport road may be situated in its own exclusive reserve or within the reserve of a trunk, main, district or minor road. 30
- (4) The responsible authority may set conditions for public transport roads and must make known those conditions by notice in the *Provincial Gazette*.
- (5) Where a public transport road is declared within the reserve of another road, the authority responsible for the other road is also the responsible authority for the public transport road, but acting in consultation with the public transport infrastructure 35
authority concerned.
- (6) Where a public transport road under the control of a municipality is situated wholly within the reserve of a trunk road, or a main, district or minor road under the control of the Minister, the Minister and the municipality must, where appropriate, 40
conclude a written agreement as to which authority is responsible for maintenance, advertising control, wayleaves and other relevant aspects in relation to the public transport road.
- (7) The Minister may, after consultation with the affected municipalities, alter the classification of a provincial road or a provincial railway line by notice in the *Provincial Gazette*. 45
- (8) A municipality may alter the classification of a municipal road or a municipal railway line by notice in the *Provincial Gazette*.
- (9) Where a municipal road or municipal railway line is subsidised by the Province, the municipality must obtain written approval from the Minister for an alteration of classification contemplated in subsection (8) before publishing the notice in the 50
Provincial Gazette.

Reserve widths of roads and railway lines

6. (1) Subject to subsection (2), the standard minimum reserve widths of roads and railway lines declared under Part 4 are as follows: 55
- (a) Trunk road: 30 metres;
 - (b) main road: 25 metres;
 - (c) district road: 20 metres;
 - (d) minor road: 20 metres;

- (e) public transport road: 20 metres, except in the case where the public transport road is declared within the reserve of a trunk, main, district or minor road;
 - (f) public path: two metres;
 - (g) heavy railway line: 20 metres; and
 - (h) light railway line: 10 metres. 5
- (2) A responsible authority may, on declaration, relocation or alteration of a road or railway line, in the notice under section 19(1), determine that the road or railway line has a reserve width other than the standard minimum reserve width.
- (3) The Minister may alter the reserve width of a road or railway line, or portion thereof, for which the Minister is the responsible authority— 10
- (a) after consultation with all affected municipalities;
 - (b) subject to the necessary project planning in terms of Part 4; and
 - (c) by notice in the *Provincial Gazette* in the prescribed manner and containing the prescribed information.
- (4) A municipality may alter the reserve width of a road or railway line, or portion thereof, for which it is the responsible authority— 15
- (a) after consultation with all other affected municipalities and the Minister;
 - (b) subject to the necessary project planning in terms of Part 4;
 - (c) with the approval of the Minister where the road or railway line is subsidised by the Province; and 20
 - (d) by notice in the *Provincial Gazette* in the prescribed manner and containing the prescribed information.
- (5) The reserve width of all roads lawfully fixed or altered in terms of the Ordinance and in force at the commencement of this Act remains in force unless altered under this Act. 25

Classification and reserves of ancillary transport infrastructure

7. (1) Ancillary road infrastructure must be classified as follows:
- (a) Parking area;
 - (b) rest area;
 - (c) direct access service site; 30
 - (d) stopping place;
 - (e) weighbridge site;
 - (f) traffic control centre;
 - (g) stock camp;
 - (h) material storage site; or 35
 - (i) depot.
- (2) Ancillary public transport infrastructure must be classified as follows:
- (a) Public transport interchange;
 - (b) station;
 - (c) marshalling facility; 40
 - (d) depot; or
 - (e) control and information centre.
- (3) The responsible authority must, in every notice in terms of section 19(1) in respect of ancillary transport infrastructure—
- (a) classify the ancillary transport infrastructure declared in the notice to be one of the types listed in subsection (1) or (2), except where the infrastructure is located within and forms part of the reserve of transport infrastructure classified in terms of section 5; 45
 - (b) state whether the Minister or a municipality is responsible for the ancillary transport infrastructure; and 50
 - (c) in the case of a district municipality, whether the district municipality or a local municipality is responsible for the road or railway line.
- (4) The Minister or a municipality, as the case may be, may in consultation with each other, alter the classification of ancillary transport infrastructure by notice in the *Provincial Gazette*, subject to subsection (5) and the necessary project planning process in terms of Part 4. 55
- (5) Where ancillary transport infrastructure in respect of which a municipality is the responsible authority is subsidised by the Province, the municipality must obtain consent for the alteration of classification from the Minister before the commencement of the project planning process. 60

- (6) The reserve of ancillary transport infrastructure must be determined through the project planning process undertaken in terms of Part 4 before the declaration of the ancillary transport infrastructure.
- (7) The Minister may alter the reserve of previously declared ancillary transport infrastructure for which the Minister is the responsible authority— 5
- (a) after consultation with affected municipalities;
 - (b) subject to the necessary project planning in terms of Part 4; and
 - (c) by notice in the *Provincial Gazette* in the prescribed manner and containing the prescribed information.
- (8) A municipality may alter the reserve of previously declared ancillary transport infrastructure for which it is the responsible authority— 10
- (a) after consultation with all other affected municipalities;
 - (b) subject to the necessary project planning in terms of Part 4;
 - (c) with the approval of the Minister where the ancillary transport infrastructure is subsidised by the Province; and 15
 - (d) by notice in the *Provincial Gazette* in the prescribed manner and containing the prescribed information.

Building lines and building restriction areas

- 8.** (1) Building lines and building restriction areas—
- (a) as specified in subsections (2) and (3) apply to all trunk roads, main roads, district roads, public transport roads and railway lines declared under Part 4; and 20
 - (b) previously declared under the Ordinance or other legislation remain in force in accordance with that previous declaration, subject to subsection (4).
- (2) In an urban area there is a building line on each side of a road or railway line at a distance of five metres measured at right angles to the centre line of the road or railway line. 25
- (3) Outside an urban area there is—
- (a) a building line on each side of a road or railway line at a distance of five metres measured at right angles to the centre line of the road or railway line; 30
 - (b) a building restriction area on each side of a road or railway line within a distance of 100 metres measured at right angles to the centre line of the road or railway line; and
 - (c) a building restriction area situated within a distance of 500 metres from any point of intersection of the centre line of a road or railway line with the centre line of another road or railway line. 35
- (4) The responsible authority may increase or reduce a building line or building restriction area—
- (a) in the case of subsidised transport infrastructure, with the approval of the Minister; 40
 - (b) subject to the necessary project planning in terms of Part 4; and
 - (c) by notice in the *Provincial Gazette* in the prescribed manner and containing the prescribed information.

PART 3: TRANSITIONAL PROVISIONS IN RESPECT OF EXISTING ROADS

Assessment of previously declared roads 45

- 9.** (1) As soon as possible after the commencement of this Act the Head of Department must enter into joint assessments and reach agreement with municipalities in the prescribed manner to classify all previously declared roads in accordance with the categories set out in section 5. If agreement is not reached, the matter must be dealt with in terms of the Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005). 50
- (2) The agreements reached between the parties following assessments under subsection (1) must specify for each road assessed—
- (a) the classification and any change in classification;
 - (b) the road authority and any change in road authority; and
 - (c) that any transfer of an assessed road is to be undertaken in terms of section 10. 55
- (3) After completion of an assessment in respect of a municipal area, the Head of Department must cause a notice to be published in each official language in at least one newspaper circulating in that area, containing—

- (a) details of the agreement with respect to the assessment of roads in the area, including any proposed change in classification, any change in road authority and in the case of a transfer, the authority from which the road is to be transferred and the authority to which the road will be transferred;
 - (b) particulars of the times and places at which the findings of the assessment may be inspected; and 5
 - (c) an invitation to interested and affected parties to comment in writing before a date, not later than 60 days after publication of the notice, on the implications of the assessments.
- (4) After considering public comment received following the invitation published in terms of subsection (3)(c), the Head of Department must publish a notice in the *Provincial Gazette*, listing all the roads classified in terms of the assessments and agreements under subsection (1) and providing details of any transfers of roads between road authorities. 10
- (5) The agreements reached between the parties following assessments under subsection (1) must inform the compilation of the records contemplated in section 12. 15
- (6) Every previously declared trunk road, main road, minor road and public path is regarded as a road of the same respective category under this Act, and all conditions relating to the previous declaration continue to apply, unless otherwise agreed to in terms of subsection (1). 20
- (7) Every road previously declared as a divisional road is regarded as classified as a district road in terms of this Act, unless otherwise classified in terms of subsection (1).
- (8) Where the classification of a previously declared road involves conditions that differ from those applicable to the road at the date of commencement of this Act, including the width of its reserve and the building restriction areas, the conditions applicable on that date continue to apply to the road until altered in terms of this Act. 25

Transfer agreements in respect of previously declared roads

- 10.** (1) The Minister and a municipality may by agreement transfer responsibility for a previously declared road regarding—
- (a) the rights pertaining to the road; 30
 - (b) the financial and subsidy arrangements for the road;
 - (c) an agency arrangement whereby one authority undertakes responsibility for or relating to the road under the control of the other authority, with or without payment; or
 - (d) any other matter which the parties consider appropriate, subject to this Act. 35
- (2) The authority that transfers a road under subsection (1) must give notice of the transfer in—
- (a) the *Provincial Gazette*; and
 - (b) each official language in at least one newspaper circulating in the area concerned. 40
- (3) Where the land on which a road transferred to another authority is situated is vested in the transferor, the land must be transferred to the other authority without cost, except the transfer costs, which may be carried by either authority as agreed.
- (4) Where a road is transferred in terms of this section, the list referred to in section 12 must be updated accordingly. 45

PART 4: PLANNING AND DECLARATION OF TRANSPORT INFRASTRUCTURE

Transport system planning

- 11.** (1) The Head of Department must—
- (a) ensure that transport system planning of transport infrastructure, for which the Minister is the responsible authority, is undertaken as prescribed; 50
 - (b) produce annual updates of such planning, including budgets, as input to the Department's budgeting cycles and implementation programmes; and
 - (c) make those updates available to municipalities before 30 April each year.
- (2) A municipality must— 55
- (a) ensure that transport system planning of transport infrastructure in its area is included in its integrated transport plan as required by the NLTA;

- (b) insofar as is practical, ensure that planning and budgeting for the construction, upgrading and maintenance of transport infrastructure under the authority of all organs of state in its municipal area, and where appropriate, bordering on that area, are included in the annual updates of its integrated transport plan; and 5
- (c) submit information on such planning and budgeting to the Minister timeously to ensure its inclusion in the relevant updates of the provincial land transport framework.
- (3) The Minister and municipalities must prepare arterial management plans as prescribed, which must— 10
 - (a) be approved by the responsible authority if not the authority preparing the plan;
 - (b) be incorporated into the relevant integrated transport plan and spatial development framework and the provincial land transport framework;
 - (c) define the policy for the existing and future use of the transport infrastructure concerned; 15
 - (d) provide a physical plan guiding current management of the transport infrastructure and defined stages of future upgrading; and
 - (e) include restrictions in respect of adjacent land use, access, parking, public transport and non-motorised transport. 20

Records of transport infrastructure

- 12.** (1) After completing the assessments of previously declared roads required in terms of section 9, the Head of Department must compile a comprehensive list and associated data as prescribed of all declared transport infrastructure in the Province.
- (2) The Head of Department must ensure that the list and associated data relate to relevant custodian and user immovable asset management plans provided for in the Government Immovable Asset Management Act, 2007 (Act 19 of 2007). 25
- (3) Before finalising the list, the Head of Department must—
- (a) submit a draft of the list to all municipalities;
 - (b) request their comments in relation to the draft list within 180 days of the receipt of the list; and 30
 - (c) consider any comments received in terms of paragraph (b).
- (4) The Head of Department must allocate an identification number or code to each transport infrastructure listed in terms of subsection (1).
- (5) The Head of Department must— 35
- (a) ensure that the list is available for inspection by the public during office hours at the place or places designated by the Head of Department; and
 - (b) update the list whenever any transport infrastructure in the Province is declared, relocated, reclassified, transferred or closed, or when its declaration is withdrawn. 40
- (6) Every municipality must—
- (a) keep a list of all declared transport infrastructure in the area for which the municipality is the responsible authority, based on the same numbering or coding system referred to in subsection (4);
 - (b) ensure that the list is available for inspection by the public during office hours at the place or places designated by the municipality; and 45
 - (c) update the list whenever any transport infrastructure for which the municipality is responsible is declared, relocated, reclassified, transferred or closed, or when its declaration is withdrawn.

Project planning process 50

- 13.** (1) The responsible authority must undertake a project planning process where it intends to declare—
- (a) a new road, railway line or ancillary transport infrastructure;
 - (b) the relocation of an existing road or railway line whereby the whole planned reserve falls outside the existing reserve; 55
 - (c) the widening of the reserve of a road or railway line, subject to subsection (10);
 - (d) an alteration of the reserve of ancillary transport infrastructure, subject to subsection (10);

- (e) the increase or reduction of a building line or building restriction area;
 - (f) the relocation or amendment of declared transport infrastructure that has not been constructed; or
 - (g) the permanent closure of transport infrastructure.
- (2) Before the commencement of the project planning process, an agreement must be concluded between the responsible authority and any other institution required to be involved in processes in terms of NEMA, NHRA or any other law on the scope of—
- (a) technical planning necessary to define the preferred alignment or alternative alignments, layout or alternative layouts, reserve and property acquisition of the transport infrastructure concerned;
 - (b) an integrated environmental management process in accordance with NEMA, if required by NEMA;
 - (c) public participation required by NEMA and as further provided for in section 14(3), if any; and
 - (d) a heritage impact assessment in accordance with NHRA, if required.
- (3) The technical planning must be carried out in the prescribed manner.
- (4) Where a planning process is not undertaken as part of an integrated environmental management process in terms of NEMA, the responsible authority must, before the commencement of the planning, notify interested and affected parties of the intended planning in the prescribed manner and allow at least 30 days for those parties to comment or make representations in respect of the planning.
- (5) After completion of the planning process, the responsible authority must notify interested and affected parties in the prescribed manner and cause a notice to be published in each official language in at least one newspaper circulating in the area, containing the prescribed information, and inviting interested and affected parties to comment in writing on the plan before a date, not later than 30 days after publication of the notice.
- (6) Where the Minister is the responsible authority in respect of the transport infrastructure referred to in subsection (1), the Minister must consult with the municipalities in whose areas the transport infrastructure is or will be situated and request them to submit written comments on the planning within a specified time.
- (7) A municipality must in responding make specific reference to the effect which any proposed alternative routes or layouts may have on any integrated transport plan, spatial framework or other strategic municipal development planning of the municipality.
- (8) Where the project has an impact on transport infrastructure under the authority of an organ of state in another sphere of government, that organ of state must also be consulted.
- (9) Where a portion of transport infrastructure is to be relocated, the responsible authority must undertake a planning process dealing with any redundant transport infrastructure, either separately or as part of the process of relocating the transport infrastructure, to effect one or more of the following:
- (a) Alter its classification;
 - (b) withdraw its declaration;
 - (c) transfer the transport infrastructure or land concerned to a private person or another authority; or
 - (d) close it permanently.
- (10) Subject to subsection (11), a responsible authority may widen or alter—
- (a) a planned or existing transport infrastructure;
 - (b) a section of a road or railway line; or
 - (c) the extent and reserve of transport infrastructure previously declared, without undertaking a planning process in terms of this section, if the widening or alteration is not longer than a continuous length of 1 000 metres, and—
 - (i) in the case of a road or railway line, the new reserve deviates from the existing reserve by not more than five metres on one or both sides of the reserve; or
 - (ii) in the case of ancillary transport infrastructure, the new reserve is located not further than five metres beyond the existing reserve.
- (11) Before acting in terms of subsection (10), the responsible authority must—
- (a) notify all interested and affected parties in writing in the prescribed manner and invite them to comment in writing before a date, not later than 30 days after notification; and
 - (b) ensure that any integrated processes required in terms of NEMA or NHRA have been undertaken.

Integrated environmental management process

14. (1) Where required in terms of NEMA, the responsible authority must, when undertaking a project planning process in terms of section 13, cause an integrated environmental management process to be undertaken in co-ordination with the planning so that the technical planning implications are considered jointly with the environmental and other implications of the project. 5

(2) The integrated environmental management process must be undertaken in terms of Chapter 5 of NEMA.

(3) The public participation process in terms of NEMA must include consultation on the impact of all aspects of the project contemplated in this Act. 10

(4) Where the responsible authority is not the competent authority that administers the integrated environmental management process in terms of NEMA, the responsible authority must co-ordinate that process and the processes in terms of this Act, including technical investigations, specialist studies and the public participation process, into a single process. 15

Planning process before permanent closure

15. (1) If a responsible authority intends to withdraw the declaration of transport infrastructure—

- (a) in order to permanently close it;
- (b) in order to change its designation to a street; or 20
- (c) that has not been constructed,

it must undertake a planning process before making the declaration of the withdrawal under section 19.

(2) Where permanent closure of the transport infrastructure is intended, the planning process must take place in the form of an environmental impact assessment as envisaged in NEMA and, if applicable, a heritage impact assessment in terms of NHRA. 25

(3) The planning process must identify all the implications of the intended action on adjacent land use and the surrounding area, including the impact of the reassignment of traffic, and environmental, heritage, social, economic, health, safety and access impacts.

(4) The responsible authority must, before the commencement of the planning process— 30

- (a) notify interested and affected parties of the intended planning in the prescribed manner;
- (b) allow at least 30 days for those parties to comment or make representation on the factors to be included in the planning; and 35
- (c) consider any representations received.

(5) After completion of the planning, the responsible authority must cause a notice to be published in each official language in at least one newspaper circulating in the area, containing—

- (a) a description of the proposed action; 40
- (b) particulars of the times and places at which the findings of the planning may be inspected; and
- (c) an invitation to interested and affected parties to comment in writing before a date, not later than 30 days after publication of the notice, on the implications of the closure. 45

(6) Where the responsible authority is the Minister, he or she must consult with the municipalities in whose areas the transport infrastructure is or will be situated and request them, within a specified time, to submit written comments on the planning, with specific reference also to the effect which the proposed action may have on any integrated transport plan, spatial framework or other strategic development planning of the municipality. 50

(7) Where the proposed action has an impact on transport infrastructure under the authority of other spheres of government or organs of state, they must also be consulted.

Application to close, relocate or alter transport infrastructure

16. (1) Any person directly affected by existing or proposed transport infrastructure may apply to the responsible authority in writing to have the transport infrastructure closed, relocated or altered. 55

- (2) The application must be submitted in the prescribed manner and must be accompanied by the prescribed fee.
- (3) On receipt of such an application, the responsible authority may—
- (a) refuse it and provide reasons for the refusal; or
 - (b) support it, in which case the authority must, subject to subsection (4), undertake a project planning process in terms of section 13 or 15, as the case may be. 5
- (4) A responsible authority may recover from the applicant all expenditure in connection with such an application and the project planning process contemplated in subsection (3)(b). 10

Decision by road or public transport infrastructure authority

- 17.** (1) At the completion of the process contemplated in section 13 or 15, the responsible authority must consider all reports, comments and representations in connection with the proposed action.
- (2) The responsible authority must within 180 days of the dates referred to in section 13(5), 13(11)(a) or 15(5)(c), as the case may be, decide— 15
- (a) to proceed with the declaration, relocation, alteration or closure of the transport infrastructure; or
 - (b) not to proceed with it, and give notice to that effect in each official language in at least one newspaper circulating in the area and in the *Provincial Gazette*. 20
- (3) If the responsible authority decides to proceed as contemplated in subsection (2)(a), it must, before starting with the procedures in terms of section 19, give notice of its decision in each official language in at least one newspaper circulating in the area and in the *Provincial Gazette*, and allow a period of 30 days after the date of publication for appeals to be lodged. 25

Regulatory protection measures for transport infrastructure

- 18.** (1) From the date on which the decision to proceed with the declaration of a new, relocated or altered route or layout of transport infrastructure is published in the *Provincial Gazette* in terms of section 17(3) until the date on which the transport infrastructure has been declared in terms of section 19, and despite any law to the contrary— 30
- (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 or decision contemplated in NEMA or NHRA may be granted without the prior written permission of the responsible authority— 35
 - (i) in respect of an area within the building lines of the transport infrastructure to which that decision relates; or
 - (ii) on the basis of future access to the transport infrastructure to which that route or layout relates; and
 - (b) sections 36 to 45 inclusive and 51 apply, with the changes required by the context in respect of the transport infrastructure concerned. 40
- (2) From the date on which the notice in terms of section 17(3) is published in the *Provincial Gazette* until the date on which the transport infrastructure has been declared in terms of section 19, and despite any law to the contrary, no person may—
- (a) 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 building lines of the transport infrastructure concerned; or 45
 - (b) construct, alter or add to any structure of any nature whatsoever on, over or under that area, 50
- except in terms of an existing registered servitude or—
- (i) with the prior written permission of the responsible authority; or
 - (ii) under the authority of a wayleave issued by the responsible authority, and in terms of any conditions determined by the responsible authority.
- (3) From the date on which transport infrastructure has been declared in terms of section 19 until the completion of the transport infrastructure, and despite section 44 or any other law to the contrary, no application for a change in land use in respect of a portion of land in an urban area within 250 metres of the boundary of the transport infrastructure concerned may be granted by the authority empowered to grant changes 55

in land use without first obtaining and considering the written comments of the responsible authority in the prescribed manner.

Declaration of transport infrastructure

19. (1) The responsible authority may, subject to subsection (5) and the completion of a planning process in accordance with this Part by notice in the *Provincial Gazette* declare that— 5

- (a) there is transport infrastructure on or over any land in accordance with a plan published in the notice, or available for inspection at a place and times stated in the notice;
- (b) an existing transport infrastructure is relocated or altered to the extent specified in the notice and shown on such a plan; or 10
- (c) an existing transport infrastructure is permanently closed to the extent specified in the notice and shown on such a plan.

(2) The responsible authority may, subject to subsection (4), by notice in the *Provincial Gazette*, withdraw a declaration issued under subsection (1) after having undertaken the applicable planning process in terms of section 15. 15

(3) When an authority has made a declaration in terms of subsection (1) or has withdrawn a declaration in terms of subsection (2), the authority must publish particulars of the declaration or the withdrawal, as the case may be, in each official language in at least one newspaper circulating in the area concerned. 20

(4) Subject to section 14 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), a responsible authority may, by notice in the *Provincial Gazette*, transfer the authority, rights, responsibilities or ownership of transport infrastructure partly or in its entirety to another authority in terms of an agreement with that other authority. 25

(5) A notice under subsection (1)(a) must, for each item of transport infrastructure being declared—

- (a) state which entity is to be the responsible authority for the transport infrastructure;
- (b) indicate the classification in terms of section 5, in the case of a road or railway line, and section 7(1) or (2), in the case of ancillary transport infrastructure; 30
- (c) provide details of the reserve width or extent in terms of section 6(2), if applicable, in the case of a road or railway line or section 7(6) in the case of ancillary transport infrastructure;
- (d) describe the location, route and reserve of the road or railway line or the layout of other transport infrastructure concerned by means of a sketch plan annexed to the notice; and 35
- (e) state that more detailed information is available for inspection at a place and at times specified in the notice.

(6) Where transport infrastructure is relocated or altered, the relocation or alteration is regarded as a declared transport infrastructure of the same classification as that which applied to the relocated or altered transport infrastructure immediately before the declaration of the relocation or alteration. 40

PART 5: PROCEDURES ON CLOSURE OF TRANSPORT INFRASTRUCTURE

Permanent closure of transport infrastructure 45

20. (1) The responsible authority must—

- (a) before permanent closure of transport infrastructure erect, and display for at least 60 days, a notice at the point of closure, or at each end of the portion or portions to be closed, indicating in each official language the intended action and to whom comments or objections may be addressed; and 50
- (b) after permanent closure of transport infrastructure, erect appropriate traffic signs and road markings warning the public of the closure and where applicable re-directing users to an alternative route.

Temporary closure or deviation of roads or railway lines

21. (1) The responsible authority may temporarily close or deviate, or restrict or regulate the use of, a road or railway line or any portion thereof— 55

- (a) for the purpose of or pending the construction, rehabilitation, maintenance or repair of the road or railway line;
 - (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under that road or railway line; 5
 - (c) by reason of a public event which requires special measures for the control of traffic or special provision for the accommodation of crowds;
 - (d) for any other reason which renders such action necessary; or
 - (e) at the request of any person.
- (2) The responsible authority must compensate the owner of land who has suffered damages in consequence of action taken under this section in an amount not exceeding the actual financial loss suffered by the owner, as agreed with the owner. 10
- (3) If the parties are unable to reach agreement in terms of subsection (2) the Expropriation Act, 1975 (Act 63 of 1975), applies, with the necessary changes, as to compensation and the procedures for determination thereof. 15
- (4) When a road or railway line or portion thereof is closed or deviated in terms of this section, the responsible authority must erect and maintain, for the duration of the closing or diversion, appropriate road signs or markings indicating the closure or diversion at each end of the closed or deviated section in the prescribed form and manner.
- (5) A responsible authority must, before the temporary closure or deviation of a road or railway line, notify affected parties in the prescribed manner and publish a notice in each official language in at least one newspaper circulating in the area not less than 21 days before the closure or deviation, containing the prescribed information, and allow at least 14 days for interested and affected parties to comment and make representations. 20
- (6) A person may request the responsible authority in writing in the prescribed manner to temporarily close or deviate, or restrict or regulate the use of, a road or railway line, or any portion thereof, as envisaged in subsection (1). 25
- (7) A person making a request in terms of subsection (6) must pay to the responsible authority the costs, as determined by that authority, of complying with the request, including the costs of ensuring the safety of the users of the road or railway line concerned. 30

Emergency closure or deviation

- 22.** (1) In cases of emergency, the responsible authority may close or deviate transport infrastructure or deviate traffic on transport infrastructure.
- (2) If there is danger to the public, property or traffic, the authority must— 35
- (a) where the situation allows, notify the authorities responsible for emergency services in the area so as to coordinate actions; and
 - (b) erect warning and route guidance signs to ensure safety and facilitate traffic flows.

Right of public to use closed or deviated road or railway line 40

23. The public may use a road or railway line or portion thereof that has been closed or deviated in terms of this Part until the responsible authority has erected signs indicating the closure or deviation as contemplated in section 20(1)(b), 21(4) or 22(2)(b).

PART 6: FINANCING AND SUBSIDY ARRANGEMENTS 45

Subsidy arrangements with municipalities

- 24.** (1) A municipality may apply to the Minister in the prescribed manner for payment of a subsidy in respect of the project planning, design, construction, maintenance or management of any transport infrastructure.
- (2) If the Minister approves the application, a written subsidy agreement must be concluded between the Minister and that municipality in the prescribed form containing the prescribed information. 50
- (3) The subsidy agreement must provide that payment of a subsidy is subject to compliance by the municipality with standards and guidelines determined by the Head of Department. 55

- (4) Where a municipality intends to apply for a subsidy in connection with transport infrastructure which it intends to declare, it must—
- (a) before starting the project planning process in terms of Part 4, apply in writing to the Minister for approval of the subsidy; and
 - (b) after the completion of the project planning process, provide the Minister with a copy of the notice published in terms of section 17(3) and all comments received. 5
- (5) A municipal road which was wholly or partly funded or subsidised by the Province immediately before the commencement of this Act qualifies for a subsidy in terms of this Part. 10
- (6) Applications in terms of subsection (1) must be divided, where applicable, into the following activities:
- (a) Activities necessarily incurred on project planning as required by Part 4;
 - (b) design of transport infrastructure;
 - (c) construction; 15
 - (d) maintenance or repair;
 - (e) resurfacing of roads;
 - (f) deviation of municipal services;
 - (g) erection of fences;
 - (h) maintenance of structures, bridges and retaining walls; and 20
 - (i) compensation payments and other costs in connection with land acquisition.

Estimates of expenditure for purposes of subsidy

- 25.** (1) Not later than 1 December each year, every municipality with subsidised transport infrastructure in its area must submit to the Head of Department for approval estimates of expenditure for the following municipal financial year on transport infrastructure under its authority in respect of which a subsidy is claimable in terms of this Act. The estimates must be in the prescribed form. 25
- (2) If a municipality fails to comply with subsection (1), the Head of Department may revise the subsidy payable to the municipality by an amount he or she determines.
- (3) The Head of Department may, in approving any estimates of expenditure, after consultation with the municipality, alter or delete any proposed expenditure for any reason. 30
- (4) A municipality may submit proposed amendments of such estimates to the Head of Department at any time for approval.

Calculation of subsidy percentage 35

- 26.** (1) The subsidy percentage on subsidised transport infrastructure is calculated as follows:
- (a) On capital expenditure—
 - (i) the percentage of expenditure prescribed by the Minister, either generally or specifically, in respect of the construction, relocation or widening of roads or railway lines, construction or alteration of the layout of ancillary transport infrastructure, and the acquisition of property for securing or increasing the reserve for roads, railway lines or ancillary transport infrastructure; and 40
 - (ii) the percentage of expenditure prescribed by the Minister, either generally or specifically, in respect of the alteration, deviation or removal necessitated by the construction of transport infrastructure, of anything used for delivering municipal services, including electrical supply or any telecommunications services, any pipe, post, standard, wire, cable, conduit, sewer or appliance; and 45
 - (b) on current expenditure, the prescribed percentage, which may differ in relation to different types of transport infrastructure. 50
- (2) The percentage of a subsidy for capital and current expenditure on a public transport road located wholly within the reserve of a trunk, main, district or minor road may be different from the subsidy applicable to the road in whose reserve it is located. 55
- (3) No subsidy is payable in respect of compensation paid for the expropriation of land for transport infrastructure unless the Head of Department has—
- (a) provided written consent to expropriate the land before it was expropriated, and

- (b) approved in writing the payment of the compensation where it was determined by agreement between the municipality and the land owner.

Determination of amount of subsidy expenditure

27. (1) The Head of Department must in respect of each municipality determine the amount of approved capital and current subsidy expenditure annually, subject to the PFMA, having regard to— 5

- (a) the estimates of expenditure submitted in terms of section 25;
- (b) the subsidy percentages calculated in accordance with section 26;
- (c) the compound percentage increase per year in the total income of the municipality during the two financial years immediately preceding the year for which the subsidy amount of expenditure is being determined; and 10
- (d) other prescribed factors regarded relevant by the Head of Department.

(2) The Head of Department may—

- (a) authorise an increase in the amount of the subsidy expenditure not exceeding the prescribed limits, subject to the PFMA; 15
- (b) in determining or increasing any amount of the subsidy expenditure, direct that any item in or portion of any expenditure does not qualify for a subsidy; and
- (c) in determining any amount of the subsidy expenditure impose the conditions relating thereto that he or she regards necessary or desirable. 20

(3) A municipality may not, without the Head of Department's written approval, exceed the total amount of subsidy expenditure determined under this section, and if it does so, the Head of Department may reduce the subsidy payable to the municipality by the amount that he or she regards proper.

Rent, sale and other income from land acquired with subsidy money 25

28. (1) Where a municipality has acquired land—

- (a) using subsidy money; or
- (b) as a grant from the Province,

and concludes a lease, sale or other agreement relating to that land or any part of it, it must pay the net income from the lease, sale or agreement to the Province in proportion to the subsidy contribution made by the Province for its acquisition, subject to subsection (2). 30

(2) The proceeds of a lease, sale or other agreement referred to in subsection (1) may, with the approval of the Minister—

- (a) where the land concerned falls in a metropolitan transport area as contemplated in section 3 of the Urban Transport Act, 1977 (Act 78 of 1977), be paid into the Consolidated Metropolitan Transport Fund established by section 18 of the Urban Transport Act, 1977; or 35
- (b) if the municipality has established a municipal land transport fund in terms of section 27 of the NLTA, be paid into that fund. 40

Equated percentage rate of subsidy on capital expenditure

29. (1) A municipality must, before commencing any construction in respect of which a subsidy on capital expenditure is payable in terms of this Act, submit to the Head of Department a detailed estimate of expenditure, divided into subsidisable and non-subsidisable items, and he or she must equate the relative percentage rates applicable in respect of the construction. 45

(2) On completion of the construction contemplated in subsection (1), the municipality must submit a written statement of the actual expenditure, divided into subsidisable and non-subsidisable items, incurred on or in respect of the construction to the Head of Department, who may, if the estimates contemplated in subsection (1) have been departed from, revise and alter the equated percentage rate contemplated in that subsection. 50

Contributions from other sources

30. When expenditure incurred by a municipality on or in connection with transport infrastructure is— 55

- (a) wholly funded from a source other than the municipality or the Province, the expenditure does not qualify for a subsidy;
- (b) partly funded from a source other than the municipality or the Province, only that portion of the expenditure, as is not so funded, qualifies for a subsidy.

Payment of subsidy 5

31. (1) The subsidy must be paid annually after the end of the financial year in respect of which it is due, on submission of a claim by the municipality in the form determined by the Head of Department.

(2) The Head of Department may make advances on subsidies, but the total amount of advances to a municipality during any financial year may not exceed 90 percent of the estimated total amount of subsidies payable to that municipality for that financial year. 10

(3) The Head of Department may reduce the amount of subsidies payable to a municipality if he or she has reason to believe that any work has not been performed in terms of the agreement referred to in section 24(2) or in accordance with the standards and guidelines referred to in section 24(3). 15

Records of expenditure on transport infrastructure

32. Every municipality receiving or applying for a subsidy must at all times have available for inspection by the Head of Department, all books, records, invoices, accounts and other documents relating to any expenditure incurred by it on or in connection with the transport infrastructure concerned. 20

Reduction of determined subsidy expenditure

33. If the total actual expenditure incurred in any financial year by a municipality on or in connection with subsidised transport infrastructure is less than the estimated expenditure submitted in terms of section 25(1)—

- (a) the actual amount of subsidy expenditure must not exceed— 25
 - (i) the amount calculated in accordance with the prescribed subsidy percentage under section 26 unless authorised by the Head of Department; or
 - (ii) the actual expenditure on the transport infrastructure; and
- (b) the sum of the amounts received from other sources as contemplated in section 30 must be deducted from the total actual expenditure and the amount of subsidy expenditure must be determined in accordance with the remaining portion. 30

PART 7: EXPROPRIATION AND COMPENSATION

Expropriation of property 35

34. (1) The responsible authority may expropriate land, other than land owned by an organ of state, for the purpose of—

- (a) transport infrastructure works or activities in connection therewith;
- (b) subject to NEMA and any other applicable law, the acquisition, mining or treatment, raising or removal of materials including gravel, stone, sand, clay, water other than water that has been artificially pumped for watering stock, and any other material or substance for purposes contemplated by this Act, outside of an urban area; 40
- (c) the accommodation of staff engaged in the building, rehabilitation, upgrading or maintenance of transport infrastructure; or 45
- (d) the storage or maintenance of vehicles, machines, equipment, tools, stores or material.

(2) The Expropriation Act, 1975, applies, with the changes required by the context, to actions taken under subsection (1).

(3) A responsible authority may raise and remove materials on land owned by an organ of state, but only in terms of an agreement with that organ of state and subject to NEMA and any other applicable law. 50

(4) Where a portion of land is expropriated and the owner satisfies the responsible authority that the remainder of the land has become useless to the owner as a result of the expropriation, that authority may also expropriate that remainder.

(5) Where a responsible authority has permanently closed an access to or egress from land and the owner of the land is unable to put the land to beneficial use as a direct result of the closure, or the transport infrastructure is unable to provide access to that land, that authority may expropriate the land. 5

(6) Where land or a portion thereof is injuriously affected by the expropriation of other land by a responsible authority, the authority may also expropriate the land or portion that is so affected. 10

(7) This section does not prevent an authority from acquiring property for the purposes of this Act by purchase or lease or by any other method other than expropriation.

Entry on and taking possession of property

35. (1) Where a responsible authority requires land or the temporary use thereof or any material thereon for a purpose mentioned in subsection (2), the authority, or any person authorised in writing by it, may, after giving not less than 48 hours' notice to the owner or occupier of the land or material and with the consent of the owner or occupier— 15

- (a) enter upon the land with the necessary workers, equipment and vehicles; 20
- (b) survey and determine the area and levels of the land;
- (c) dig or bore on or into the land; or
- (d) demarcate the boundaries of the land or material.

(2) An authority may act under subsection (1) to—

- (a) determine the value of the land or material concerned; 25
- (b) make any inspection, inquiry, investigation, or survey in connection with the exercise or performance of the powers, duties and functions conferred or imposed by or under this Act;
- (c) inspect, maintain and repair any structure, apparatus, appliance, installation or any other thing which is or has been constructed, erected or placed on such land by or on behalf of that authority in terms of this Act; or 30
- (d) enable it to perform any of its other functions under this Act.

(3) Where an owner or occupier has refused consent for an authority or a person authorised by the authority to act under subsection (1), the authority must in writing request the owner or occupier to furnish reasons for the refusal within the time allowed by the authority, which may not be less than seven days. 35

(4) The owner or occupier must furnish reasons in writing for the refusal within the time specified by the authority in terms of subsection (3).

(5) If such reasons are not provided within the time so specified, or are not acceptable to the authority, it may apply to a court having jurisdiction for an order authorising any action contemplated in subsection (1). 40

(6) Such a court may, if it grants the order, order the owner or occupier to pay the costs of the application, where appropriate on attorney and client scale, if satisfied that the authority acted reasonably for the purposes of this Act.

(7) Despite subsections (3), (4) and (5), the responsible authority may, without giving notice in terms of subsection (3) or applying for a court order in terms of subsection (5), perform any action contemplated in subsection (1) where that action is required urgently to prevent death or injury to persons or substantial damage to property. 45

(8) A responsible authority may pass over land to gain access to other land for the purposes mentioned in subsection (2), with the necessary workers, equipment and vehicles, with the consent of the owner or occupier of the first-mentioned land, and if such consent is refused, subsections (3), (4), (5), (6) and (7) apply with the necessary changes. 50

(9) Where access is obtained in terms of this section to land enclosed by a fence without a gate, the responsible authority may erect a gate in the fence, which must be manned, and when unmanned must be provided with a lock, and must be kept properly secured. 55

(10) If any person has suffered damage as a result of the exercise of a power conferred by this section the responsible authority must repair the damage at its cost or pay damages or compensation in respect thereof to that person in accordance with the Expropriation Act, 1975. 60

PART 8: MANAGEMENT AND CONTROL OF TRANSPORT INFRASTRUCTURE AND ADJACENT LAND

Prohibition of certain advertisements on or visible from transport infrastructure

- 36.** (1) Subject to regulations contemplated in section 37, no person may display or cause or permit to be displayed an advertisement on or by means of a fixed structure or a stationary vehicle fitted for the specific purpose of advertising, except with the prior written permission of the responsible authority if the advertisement is—
- (a) visible from a road outside an urban area;
 - (b) within 50 metres from the boundary of the reserve of a road other than a freeway in an urban area, and is visible from that road; or
 - (c) within 250 metres from the boundary of the reserve of a freeway in an urban area, and is visible from that freeway.
- (2) No person may in, on or above any transport infrastructure—
- (a) display or cause or commit to display an advertisement; or
 - (b) erect, construct, place or exhibit a board, notice framework, scaffolding or other device by means of which an advertisement could be displayed.
- (3) Subsections (1) and (2) do not apply to the displaying of an advertisement—
- (a) that was lawfully displayed immediately before the commencement of this Act, or before the transport infrastructure concerned was declared under section 19, for as long as it is displayed continuously at the same place; or
 - (b) that must be displayed in terms of a law and is displayed strictly in terms of that law.
- (4) Permission by the responsible authority in terms of subsection (1) does not provide exemption from other laws requiring further approval by a municipality or any other authority.
- (5) If a municipality makes a by-law regulating the display of advertisements on or visible from municipal transport infrastructure in its area of jurisdiction, this section and sections 37 to 39 do not apply in respect of that municipal transport infrastructure, unless indicated otherwise in the by-law.

Regulations regarding advertisements on or visible from transport infrastructure

- 37.** (1) The Minister may make regulations regarding advertisements referred to in section 36.
- (2) Without derogating from the generality of subsection (1), regulations made under that subsection may provide for—
- (a) the classification of transport infrastructure into categories on the basis of their scenic, environmental or architectural importance, or on other similar bases, for the purpose of distinguishing between the types of advertisements which are permitted in each category;
 - (b) the classification of advertisements into categories for the purpose of regulating and controlling their display or erection;
 - (c) the procedures to be followed in applying for permission contemplated in section 36(1) and the fee payable on application for such permission;
 - (d) the assessment of the implications of advertisements on the safety of traffic and transport operation;
 - (e) methods of display and illumination of advertisements;
 - (f) safety, amenity and decency of advertisements;
 - (g) design and construction of advertisements and their supporting structures, their position, maintenance, alteration and future removal; or
 - (h) the categories of advertisements that may be erected or displayed without the prior written permission of the responsible authority, on the basis of criteria set out in the regulations.

Removal of unauthorised advertisements

- 38.** (1) The responsible authority may remove an advertisement that is erected in the reserve of the transport infrastructure and displayed in contravention of this Act.
- (2) A person who displays an advertisement contrary to this Act or permits it to be so displayed, and has been directed by the responsible authority by written notice to

remove it, must do so within the period stated in the notice, which may not be shorter than 14 days.

(3) If the person to whom a notice in terms of subsection (2) is directed fails to remove the advertisement within the period stated therein, the responsible authority may take the necessary legal steps to have the advertisement removed, and recover from that person the legal and any other costs necessary to effect the removal of the advertisement. 5

Presumptions relating to advertisements

39. For the purposes of this Act, an advertisement is regarded as displayed or to have been permitted to be displayed—

- (a) by the person who erected it or otherwise caused it to appear; 10
- (b) where it relates to a product or article produced or manufactured by a particular person, by that person;
- (c) where it relates to a service rendered by a particular person, or a business undertaking or place owned by a particular person, by that person; or
- (d) by the person who owns or occupies the land on which the advertisement is erected or displayed. 15

Access to and exit from transport infrastructure

40. (1) Subject to subsections (2) and (4), no person may—

- (a) enter or leave transport infrastructure by means of vehicular transport other than via a lawfully erected roadway, gate, bridge or other passage; 20
- (b) where access to or exit from transport infrastructure to or from adjacent land is barred by a lawfully erected fence, wall, hedge, trench, ditch or similar obstacle along or near the edge of the transport infrastructure, enter or leave the transport infrastructure by means of vehicular or non-motorised transport other than via a lawfully erected roadway, gate, bridge, stile or other passage; 25
or
- (c) construct an ingress to or an exit from transport infrastructure in any manner that permits vehicular or non-motorised transport access between the transport infrastructure and any other property unless the responsible authority has authorised in writing the construction thereof. 30

(2) Subsection (1) does not apply to a lawfully erected access roadway, gate, bridge, stile or other passage which was in existence and use immediately before the commencement of this Act and which was not closed or removed at any time thereafter.

(3) No person may subdivide land that once subdivided would require the erection of a roadway, gate, bridge, stile or other passage to gain access to or exit from transport infrastructure unless the responsible authority has approved the subdivision. 35

(4) A responsible authority may not refuse an application for access referred to in subsection (1)(c) by the owner of a subdivided property, resulting from the subdivision of his or her original property, if, in doing so, no other reasonable access to or exit from the subdivided property to or from transport infrastructure is available, where— 40

- (a) a land surveyor surveyed the subdivided property and lodged a diagram thereof with the Surveyor-General before the commencement of this Act; and
- (b) after the survey of the property and the date of lodging of the diagram with the Surveyor-General, and before commencement of this Act, a person other than the owner of the property of which the subdivided property formed a portion 45
at the time when the said survey was made, acquired or concluded an agreement of sale to acquire the ownership of that subdivided property,

unless the roadway, gate, bridge, stile or other passage to be used for access to or exit from the transport infrastructure is unsafe or is incompatible with standards and guidelines for access to the transport infrastructure determined by the Head of Department or the municipality concerned. 50

(5) In considering an application for access under subsection (1)(c) or an application for a subdivision under subsection (3), the authority must have regard to the requirements of—

- (a) a spatial development framework or arterial management plan that indicates the conditions under which such an access may be approved; or 55
- (b) in the absence of such a plan, standards and guidelines on the provision of access to transport infrastructure prepared by the Head of Department or by the municipality concerned.

- (6) The responsible authority may—
- (a) in granting authority under subsection (1)(c)—
 - (i) determine the nature of the access roadway, gate, bridge, stile or other passage and the place where and manner in which it must be constructed; and
 - (ii) impose other conditions in connection therewith or with its use that it regards necessary; and
 - (b) withdraw the authorisation if any requirement determined or condition imposed in terms of paragraph (a) is not observed.
- (7) An authority, in granting access to pedestrians or cyclists from an adjacent property to any transport infrastructure, must ensure that they are provided with safe routes and crossings.

Relocation or closure of access to or exit from road

41. (1) The responsible authority may, by written order specifying the reasons for the order, direct the owner of land which has access to or exit from a road through that land, either directly or through an access road, to relocate, restrict or close the access or exit, in such a manner or to such an extent and for the period specified in the notice, or permanently.
- (2) Where the relocation, restriction or closure in terms of subsection (1) of any access to or exit from a road necessitates the alteration, resiting, re-erection or reconstruction of any gate, private garage or driveway, the responsible authority must, subject to subsections (3) and (4)—
- (a) carry out the work so necessitated at its own cost, or
 - (b) permit the owner concerned to carry out the work at the cost of that authority.
- (3) The liability of the responsible authority in terms of subsection (2) is limited to the cost of substituting gates, garages or driveways of a similar standard to those which are, in terms of subsection (2), required to be altered, resited, re-erected or reconstructed.
- (4) The responsible authority is not liable for the cost of replacing any gate, private garage or driveway where the access to or exit from the road concerned was gained in contravention of any law.
- (5) Where the owner of land gaining access to a road applies for and is given permission by the responsible authority to relocate the access, there is no liability on that authority to contribute to the cost of the relocation.

Prohibition of depositing or leaving of certain articles or materials on or near transport infrastructure

42. (1) No person may—
- (a) deposit or leave a disused vehicle or machine or part thereof, or any refuse on any transport infrastructure; or
 - (b) without the prior written permission of the responsible authority, or contrary to a condition imposed by that authority and set out in the written permission, deposit or leave a disused vehicle or machine or part thereof or any refuse within 200 metres from the centre line of any road or railway line where it is visible from that road or railway line.
- (2) The responsible authority may remove a disused vehicle or machine or part thereof or refuse found on transport infrastructure, and may recover the cost of the removal from the person who deposited or left it there.
- (3) If a vehicle, machine, part or refuse is deposited or left on land in contravention of subsection (1)(b), the responsible authority may direct the owner or occupier of the land or the person who deposited or left it there, by notice in writing, to remove it or to render it no longer visible within the period stated in the notice, which may not be less than 14 days from the date of the notice.
- (4) If a person to whom the notice referred to in subsection (3) was directed, fails to comply with it, the responsible authority may remove the vehicle, machine, part or refuse from that land or take any steps that it considers necessary to render it invisible, and may recover the costs from that person.

Structures and other works on, over or below reserves of transport infrastructure or within building lines or building restriction areas

43. (1) Despite any other law, but subject to subsection (5), no person may, except with the prior written permission of, and in accordance with standards and specifications approved by the responsible authority, undertake or cause or permit to be undertaken an activity mentioned in subsection (2)— 5
- (a) on or within the reserve or transport infrastructure;
 - (b) within the building lines of transport infrastructure; or
 - (c) within a building restriction area.
- (2) The activities contemplated by subsection (1) are the following: 10
- (a) Erecting or installing a structure or other thing which is attached to the land on which it stands, including a structure or thing that does not form part of that land;
 - (b) constructing or laying anything under or below the surface of land;
 - (c) constructing anything which projects over the land concerned; 15
 - (d) carrying electric or other wires or pipelines across or laying underground cables or pipelines over, under or on the land concerned; or
 - (e) making any structural addition or alteration to any structure or thing referred to in paragraph (a), (b), (c) or (d).
- (3) Subsection (1) does not apply to— 20
- (a) the completion of a structure, the erection of which was started before the commencement of this Act or before the restriction imposed by a building line or building restriction area concerned came into effect; or
 - (b) an enclosure, fence, wall or hedge which does not rise higher than 1,6 metres above the surface of the land on which it stands. 25
- (4) A person may apply to the responsible authority in the prescribed manner and on payment of the prescribed fee for a departure from restrictions imposed by a building line or building restriction area referred to in subsection (1).
- (5) Such an application may be granted or refused having regard to the nature of the transport infrastructure involved, the development or proposed development adjacent to it and other factors regarded as relevant by that authority. 30
- (6) Where the applicant is not the owner of the land to which the application relates, the applicant must demonstrate to the satisfaction of the responsible authority that he or she is empowered to negotiate on behalf of, and that the proposal is acceptable to, the owner. 35
- (7) In granting permission in terms of subsection (5), the authority may impose—
- (a) specifications with which the structure, object, alteration or addition must comply;
 - (b) the manner and circumstances in which, the place where and the conditions on which it may be erected, installed, constructed or laid; 40
 - (c) duties to be fulfilled by the owner of the land, the applicant or other persons with regard to the proposed action;
 - (d) a duty to reimburse the authority for costs incurred in monitoring the activities referred to in paragraphs (a), (b) and (c), either before the commencement of the work or at a later stage; or 45
 - (e) a duty to pay rent as determined by the authority for the use or occupation of land owned by it or under its authority.
- (8) If permission is granted in terms of subsection (5) on condition that a structure or object be removed at a later stage, no compensation for the removal is payable to the owner of the structure or object, or to his or her successors in title, unless otherwise agreed to by the authority. 50
- (9) The Registrar of Deeds having jurisdiction must, at the written request of the responsible authority, note the condition referred to in subsection (8) on the title deed of the land affected thereby and in the appropriate registers, and the costs in connection with that noting must be paid by the person to whom the permission has been given. 55
- (10) A municipality must consult with the Head of Department before undertaking the actions in terms of subsections (4) and (5) in respect of subsidised transport infrastructure.
- (11) Where a person has erected, installed, constructed or laid a structure or object without the permission required by subsection (1) or contrary to such permission, the responsible authority may direct that person by written notice to remove it within a time stated in the notice, which may not be shorter than 30 days from the date of the notice. 60

(12) If the person to whom a notice referred to in subsection (11) has been directed, fails to comply with it within the time stated therein, the responsible authority may remove the structure or object and recover the cost of removal from that person.

(13) Despite subsection (3), the responsible authority may remove or shift to a place it determines a structure or object contemplated in subsection (2) which was installed, erected, constructed or laid before the date on which the transport infrastructure concerned was declared. 5

(14) Where a person is obliged in terms of a law to remove or shift a structure or object so erected, installed, constructed or laid, the responsible authority may recover the cost of the removal or shifting from that person. 10

Restrictions on changes in land use

44. (1) A person intending to undertake a development involving a change or intensification in land use on land within an area adjacent to—

(a) transport infrastructure referred to in paragraphs (a) and (b) of subsection (2); 15
or

(b) proposed transport infrastructure referred to in section 18(3), must, where a traffic impact assessment or a public transport assessment prescribed under the NLTA is required—

- (i) obtain approval for the proposed development from the responsible authority;
- (ii) implement any mitigating measures required by that authority in granting that approval; and 20
- (iii) obtain the approval of the authority empowered to grant approval for such changes or intensification.

(2) A Surveyor-General may not approve a general plan or a diagram of erven, stands, lots or holdings which together form a township or any other subdivision, if any part of the township or subdivision falls within— 25

(a) 100 metres of the near boundary of a road or railway line outside an urban area; or

(b) 50 metres of the near boundary of a road or railway line in an urban area, unless— 30

- (i) the responsible authority has approved a plan or sketch of the proposed township or subdivision; and
- (ii) the general plan or diagram corresponds substantially with that plan.

(3) A responsible authority may refuse to give approval under subsection (2) only if satisfied that the proposed township or subdivision will frustrate an object of this Act. 35

(4) A responsible authority may give approval under subsection (2) subject to conditions—

(a) prohibiting the division or further division of the land or of a specified part of it;

(b) limiting the use to which the land or a specified part of it may be put; 40

(c) limiting the number or extent of buildings or other structures which may be erected on the land or on a specified part of it; or

(d) prohibiting the erection, construction or establishment of a structure or object on, over or below the surface of the land or a specified part of it within a specified distance from the road or railway line concerned. 45

(5) In giving the approval referred to in subsection (4) the responsible authority may stipulate that if the land or a specified part of it is consolidated with other land, the title to the consolidated land will be subject to a condition imposed under subsection (4).

(6) A responsible authority may revoke or amend a condition contemplated in subsection (4). 50

(7) Despite contrary provisions in the Deeds Registries Act, 1937 (Act 47 of 1937)—

(a) the person giving transfer of land to which conditions referred to in subsection (4) apply, must insert them in the deed of transfer;

(b) the Registrar of Deeds must endorse on the title deed of land retained by the person giving transfer, each of those conditions that applies to the land so retained; and 55

(c) a certificate of consolidated title issued in respect of consolidated land mentioned in subsection (5), must contain every condition to which the title to that land is to be subject in terms of a stipulation made under that subsection.

(8) The responsible authority may enforce compliance with any condition referred to in subsection (7). 60

(9) Despite contrary provisions in the Deeds Registries Act, 1937, or other laws, a Registrar of Deeds, with the responsible authority's written approval, may cancel a condition which in terms of subsection (7) has been inserted in a deed of transfer or certificate of consolidated title or has been endorsed on a title deed.

(10) The cancellation referred to in subsection (9) may be done on the written application of the owner of the land, accompanied by the written approval of the responsible authority and proof that all mortgages have been notified of the proposed cancellation. 5

Distance indicators, signposts and warnings on roads

45. Subject to the National Road Traffic Act, every road authority must erect and maintain— 10

- (a) direction signposts at the junction of every road of which it is the road authority, with any other road and any national road; and
- (b) such distance indicators, signposts, directions and warnings as are necessary or desirable for the safety or guidance of the public. 15

Obstructions and clearances

46. (1) The responsible authority may require the owner or occupier of any land adjacent to a road or railway line by notice in writing to reduce the height or width of any tree, bush, vegetation, wall, hedge, fence or any other obstruction affecting the road or railway line or the intersection with any other road or railway line that could impair the vision of a driver or cause unsafe conditions, to a height, width or length specified in the order. 20

(2) If the owner or occupier fails to comply with a notice contemplated in subsection (1) within the time specified in the notice, to the satisfaction of the responsible authority, the responsible authority may enter upon the land and perform the necessary work, and may claim the cost thereof from the owner or occupier. 25

Fences along or within boundaries of transport infrastructure

47. (1) The responsible authority may erect a fence—

- (a) along the boundary of transport infrastructure;
- (b) around land from which materials are being or have been raised and removed by the authority; or 30
- (c) around a water supply provided or used by the authority.

(2) The responsible authority must contribute not less than 60 per cent of the reasonable costs incurred by a person in erecting a fence, according to standards and specifications approved by the authority, along the boundary of transport infrastructure as a result of— 35

- (a) the issuing of a notice in terms of section 48(5) prohibiting the erection of a gate; or
- (b) the removal, with the approval of that authority, of one or more gates from the transport infrastructure in terms of that section. 40

(3) The responsible authority may contribute to the costs incurred by a person in erecting a fence along the boundary of transport infrastructure in cases not contemplated in subsection (2), if the fence is constructed according to standards and specifications approved by that authority.

(4) Any additional costs incurred in the erection of fencing, including game fencing, to specifications of a higher standard than those required by the responsible authority is not payable by that authority, unless otherwise agreed by the authority. 45

(5) No person other than the responsible authority may—

- (a) erect a fence on or within the boundaries of any transport infrastructure, except with the prior written permission of, and in accordance with standards and specifications determined by, that authority; or 50
- (b) without prior written permission of that authority remove a fence erected in accordance with this section on or within the boundaries of any transport infrastructure.

(6) An authority may not grant permission for the removal of a fence contemplated in subsection (5)(b) unless— 55

- (a) the condition of the fence necessitates its replacement; or

- (b) the owner of the land on which it is situated undertakes in writing to defray the costs of the removal and the re-erection of the fence in accordance with standards and specifications determined by that authority.
- (7) All fences lawfully erected and in existence on or within the boundaries of transport infrastructure immediately before the commencement of this Act are regarded to have been properly erected with the permission of the responsible authority. 5
- (8) The responsible authority may at any time remove a fence referred to in subsection (7), but must replace it with a fence on the boundary of the transport infrastructure concerned at its own cost.
- (9) The responsible authority must— 10
- (a) remove any fence erected in contravention of this section and re-erect it on the boundary of the transport infrastructure concerned, and
- (b) where a fence has been removed in contravention of this section, re-erect it on the boundary of the transport infrastructure concerned.
- (10) Where transport infrastructure is relocated, the responsible authority may, if it has contributed to the cost of a fence alongside that transport infrastructure, move the fence to the new location of the transport infrastructure. 15
- (11) Subject to the Fencing Act, 1963 (Act 31 of 1963), the owner of land abutting on the boundary of transport infrastructure must maintain a fence lawfully erected on or within that boundary. 20
- (12) Where a fence on or within the boundary of transport infrastructure has been damaged or stolen-
- (a) where moneys are not recovered from the person responsible for the damage or theft the responsible authority must contribute not less than 60 percent of the reasonable costs incurred by the owner of the abutting land in repairing the fence to the standards of the damaged or stolen fence; 25
- (b) repairs to damaged or stolen fences must be undertaken by the owner of the abutting land no later than 21 days after the damage or theft takes place; and
- (c) until repairs have been completed, the owner of the abutting land is responsible for ensuring that no livestock that may endanger users of the transport infrastructure enters the transport infrastructure. 30
- (13) The responsible authority may at any time replace, at its cost, a fence erected or regarded to be erected in terms of this section.

Gates across roads

- 48.** (1) No person may erect a gate across a road except with the prior written approval of, and in accordance with standards and specifications approved by, the responsible authority. 35
- (2) In the case of a trunk, main or district road outside of an urban area, such approval may not be granted unless—
- (a) the responsible authority is prepared to construct a motor cattle-grid across the roadway alongside the gate; 40
- (b) in the case of a road in respect of which a subsidy is payable, the Minister has been notified of the proposed erection of a gate and has been given an opportunity to comment; and
- (c) the person applying for approval has provided security to the road authority, for payment of at least 50 per cent of the costs of construction of the motor cattle-grid. 45
- (3) The responsible authority must remove a gate erected in contravention of this section.
- (4) A road authority which has granted approval under subsection (2) must construct the motor cattle-grid either simultaneously with or as soon as possible after construction of the gate. 50
- (5) The Minister may, by notice in the *Provincial Gazette* or by regulation, prohibit the erection of gates across any type or category of road, or any specific road or portion thereof. 55
- (6) A road authority may, after complying with subsection (7), remove a gate that has been erected in terms of this section across a road.
- (7) A road authority which intends to remove a gate under subsection (6) must by written notice inform every owner of land who may be adversely affected by the removal of its intention and that objections thereto may be submitted on or before a date specified in the notice, which date may not be less than 21 days after the date of the notice. 60

Motor cattle-grids

49. (1) A road authority may construct a motor cattle-grid across a road or close or relocate such a grid, provided that where necessary the grid operates in conjunction with a gate alongside it.

(2) A motor by-pass and gate lawfully in existence before the commencement of this Act in accordance with the Ordinance is regarded as a motor cattle-grid constructed in accordance with subsection (1). 5

(3) When a road authority closes or relocates a motor cattle-grid, section 15 applies, with the necessary changes.

(4) When a road authority removes a gate in terms of section 48(3) or (6), it must also remove a motor cattle-grid which operates in conjunction with that gate. 10

Mining operations on or under transport infrastructure or building restriction areas

50. (1) No person may conduct any mining operations on or under any transport infrastructure or building restriction area, except with the written permission of the responsible authority, which may grant the permission subject to conditions that it considers appropriate. 15

(2) Where transport infrastructure has become undermined subsequent to its creation, whether or not in contravention of subsection (1), and it becomes necessary in order to preserve the safety or interests of the public, the responsible authority may— 20

(a) instruct the person responsible for the undermining to render the transport infrastructure safe or to provide for its reconstruction to the satisfaction of that authority, at the expense of that person and within a time determined by the authority; and

(b) if that person fails to comply with that instruction, undertake the work contemplated in paragraph (a) and recover the cost from that person. 25

Trading on or in transport infrastructure or building restriction areas

51. (1) Except as provided in subsection (3), no person may, without the written permission of the responsible authority or contrary to the terms of such permission, carry on a trade, sell goods or exhibit, offer or manufacture for sale goods on or in a transport infrastructure or building restriction area. 30

(2) Permission under subsection (1) may be granted—

(a) in the case of roads and ancillary road infrastructure, only in respect of premises or areas zoned or demarcated for that purpose in accordance with applicable legislation; and 35

(b) in the case of railway lines and ancillary public transport infrastructure, only in respect of special areas designated by the responsible authority for trading purposes.

(3) Subsection (1) does not apply to a person who conducted business on any land before the declaration of transport infrastructure across that land and after the declaration continues with the business, unless that person has been directed by the responsible authority by written notice to discontinue it on account of road safety or operation of traffic on the transport infrastructure. 40

(4) An employee of the responsible authority or a person authorised thereto in writing by the responsible authority, an employee of a municipality designated or appointed to perform law enforcement functions, or a person who in terms of a road traffic law is a traffic officer, may— 45

(a) if the employee, officer or person (in this section called the competent official) suspects on reasonable grounds that a person has performed an act for which an authority's written permission is required in terms of subsection (1), demand that the person produce to him or her the written permission to perform that act; 50

(b) if the person to whom the demand is made, fails to produce the written permission, or if the competent official suspects on reasonable grounds that a person has performed an act that is unlawful in terms of subsection (1)— 55

(i) demand that person's full name and residential address to be furnished immediately; and

- (ii) order that person to remove from the transport infrastructure or building restriction area every article, structure, tent, vehicle, implement or other object used or destined to be used for or in connection with such an act; or
 - (c) if a person fails to comply with an order contemplated in subparagraph (ii) of paragraph (b), remove from the transport infrastructure or building restriction area an article, structure, tent, vehicle, implement or other object mentioned in that subparagraph, and claim the costs of removal from the person concerned.
- (5) A municipality may perform the functions in terms of this section in respect of provincial transport infrastructure, in agreement with the Minister. 10

PART 9: GENERAL PROVISIONS

Specific powers of Minister

52. (1) The Minister may, subject to subsection (2)—
- (a) plan, design, construct, finance, control, manage, develop, maintain, protect and rehabilitate provincial transport infrastructure; 15
 - (b) grant financial or other assistance to a municipality, on conditions that the Head of Department determines—
 - (i) for the construction or maintenance of transport infrastructure; or
 - (ii) for the expropriation by that municipality of property for the purpose of transport infrastructure; 20
 - (c) plan, design, construct or maintain municipal transport infrastructure in the area of a municipality in agreement with that municipality;
 - (d) manage transport infrastructure assets for which the Department is responsible, subject to the Government Immovable Asset Management Act, 2007; and 25
 - (e) exercise any power that is reasonably incidental or ancillary to the powers listed in paragraphs (a) to (d).
- (2) The Minister must act with the concurrence of the Minister of Finance when determining a subsidy to a municipality and setting conditions relating thereto.

General powers and duties of responsible authorities 30

53. (1) The responsible authority may—
- (a) remove or dispose of an animal which is on transport infrastructure or within the reserve of transport infrastructure in contravention of the National Road Traffic Act or any other law, but is not liable to compensate any person where such an animal is killed or injured while in the process of being removed or disposed of in order to avoid danger to traffic; 35
 - (b) provide and maintain on transport infrastructure, boreholes, pumps and all appurtenances or conveniences which it regards necessary;
 - (c) erect, construct and maintain either on or, subject to this Act, outside the reserve of transport infrastructure, a building, hut, tent or other structure for the accommodation of officials and workers employed on that transport infrastructure or executing works in connection therewith; 40
 - (d) store either on or, subject to this Act, outside the reserve of transport infrastructure plants, machinery, equipment or other things which it regards necessary for the construction or maintenance of the transport infrastructure; 45
 - (e) lease out or dispose of rights held in land that was acquired for or in connection with transport infrastructure and is not immediately required, or grant temporary rights to such land free of charge;
 - (f) rehabilitate or landscape or otherwise improve areas within transport infrastructure; 50
 - (g) lay, move or remove a railway line within a road;
 - (h) within transport infrastructure provide for or authorise service facilities including filling stations, restaurants, playgrounds and other facilities for the use of the travelling public;
 - (i) by notice in the *Provincial Gazette*— 55
 - (i) prohibit or restrict the movement of stock otherwise than in a vehicle on any road specified in the notice; or

- (ii) provide that stock may not be moved on such a road without the written approval of the responsible authority; and
 - (j) where stock is found on a road in contravention of a notice referred to in paragraph (i), impound the stock in the prescribed manner.
- (2) Subject to the National Road Traffic Act, the responsible authority may provide and maintain traffic signs, traffic control devices and markings necessary for the guidance and safety of traffic on roads, and appropriate signals and signs on railway lines. 5

Regulations

54. (1) The Minister may make regulations— 10
- (a) prescribing mechanisms and requirements for monitoring the performance by authorities of their functions under this Act, performance standards or indicators and the financial and other consequences of failure by authorities to perform those functions or to perform them adequately;
 - (b) prescribing the manner and form in which any application in connection with any authorisation, approval, permission or exemption contemplated by this Act must be made, the information to be submitted therewith and the fees, if any, to be paid for the application; 15
 - (c) prescribing a form to be used, the information to be furnished and procedure to be followed in connection with any claim for compensation provided for in this Act; 20
 - (d) prescribing a fee or rent for any authorisation, approval or permission granted in terms of this Act over and above the application fees prescribed under paragraph (b) or in cases where no application fee is prescribed;
 - (e) prescribing the manner in which authorities must keep account of money received or paid out in respect of transport infrastructure; 25
 - (f) prescribing how transport infrastructure works must be costed;
 - (g) subject to Part 6—
 - (i) prescribing items which rank or do not rank for a subsidy in respect of any category of expenditure; 30
 - (ii) providing for the exclusion from payment of a subsidy in respect of expenditure which the Minister considers unjustified or unnecessary; and
 - (iii) making the payment of a subsidy for expenditure on any work conditional on the work being carried out in accordance with plans, standards, guidelines and specifications approved by the Head of Department; 35
 - (h) prescribing to whom, and dates on which, claims for a subsidy must be submitted;
 - (i) subject to the Businesses Act, 1991 (Act 71 of 1991), regulating trading on or in transport infrastructure; 40
 - (j) with regard to any matter which in terms of this Act may or must be prescribed, regulated or determined by regulation; and
 - (k) generally, regarding any other ancillary or incidental matter that is necessary or expedient to prescribe for the proper implementation or administration of this Act. 45
- (2) The regulations may provide that a contravention of a provision thereof or failure to comply therewith is an offence punishable with a fine or imprisonment for a period not exceeding 12 months, or both such a fine and imprisonment.
- (3) Different regulations may be made under subsection (1) for different types of transport infrastructure. 50
- (4) The making or amendment of regulations under subsection (1) that have financial implications must be done with the concurrence of the Minister of Finance.
- (5) A regulation made in terms of the Ordinance and in force immediately before the commencement of this Act in regard to a matter on which the Minister may make regulations under subsection (1), is regarded as a regulation made under subsection (1) until repealed or superseded by a new regulation under this section. 55

Standards and guidelines

55. (1) The Head of Department may set standards, criteria and guidelines, for transport infrastructure, including—

- (a) standards and criteria for providing access to roads;
- (b) standards and criteria for—
 - (i) the planning, design, development, construction, management, control, maintenance, protection and rehabilitation of transport infrastructure; and 5
 - (ii) road and rail safety in the Province, which standards and criteria may differ in relation to different types of transport infrastructure and are subject to, in the case of roads, the National Road Traffic Act, and, in the case of railway lines, the National Railway Safety Regulator Act, 2002; 10
- (c) standards and criteria for the design, construction, control and management of motor cattle-grids, including—
 - (i) their size, material to be used, mode of construction, level and position; 15
 - (ii) the length and width of approaches from the roadway to a motor cattle-grid;
 - (iii) the signs to be erected and maintained to give warning of a motor cattle-grid and the closing or diversion of a motor cattle-grid; and
 - (iv) the proper management, maintenance and control of motor cattle-grids; and
- (d) standards, and guidelines on the use, control and protection of rest camps, rest places and stock camps on or forming part of roads. 20

(2) Municipalities must comply with the standards, criteria and guidelines set by the Head of Department in terms of subsection (1), or may use their own standards and guidelines provided that these comply as a minimum with standards and guidelines set by him or her. 25

(3) The standards and guidelines set by the Head of Department must be published by the Department by making them available via electronic media or the official Departmental website.

By-laws

56. (1) Before a municipality makes a by-law in respect of municipal transport infrastructure, or relating to any other matter aimed at promoting the objects of this Act in relation to that municipal transport infrastructure, it must consult with the Minister. 30

(2) This Act does not apply to any matter that is regulated by a by-law properly made by a municipality insofar as that by-law deals with a matter that is regulated by this Act.

Delegation

57. (1) Subject to subsection (3), the Minister may delegate a power or duty conferred or imposed on the Minister by this Act to the Head of Department or an official of the Department. 35

(2) The Head of Department may delegate a power or duty conferred or imposed on him or her by this Act or delegated to him or her in terms of subsection (1) to an official of the Department. 40

(3) Subsection (1) does not apply to the power to expropriate property or rights under section 34 or to make regulations under section 54.

(4) A delegation under subsection (1) or (2)—

- (a) does not prevent the Minister or Head of Department, as the case may be, from exercising that power or performing that duty; 45
- (b) must be done in writing; and
- (c) may at any time be amended or withdrawn in writing.

Agency agreements for road or public transport functions

58. (1) The responsible authority may conclude an agreement contemplated in subsection (2) with any person or body (in this section called “the other party”), including— 50

- (a) the Minister, subject to subsection (4);
- (b) a municipality;
- (c) the South African National Roads Agency Limited, established in terms of section 2 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act 7 of 1998); 55

- (d) the Passenger Rail Agency of South Africa, established in terms of section 22(1) of the Legal Succession to the South African Transport Services Act, 1989 (Act 9 of 1989); and
 - (e) the company Transnet Limited, established in terms of section 2 of the Act mentioned in paragraph (d). 5
- (2) An agreement contemplated in subsection (1) may provide that—
- (a) the other party takes over any or all responsibility for or in relation to any transport infrastructure;
 - (b) the other party does work in connection with transport infrastructure, including the construction and maintenance thereof or have the work done under its supervision, for the account of the responsible authority, or that the responsible authority will do such work for the account of the other party, or otherwise in terms of the agreement; 10
 - (c) the municipality in whose area the transport infrastructure is situated is responsible for the disposal of all storm water from that transport infrastructure or deviation thereof and expenditure incurred in connection therewith, but the responsible authority, if not the municipality, is not responsible for damage caused by or arising from the disposal of storm water by that municipality or the failure by it to dispose of storm water; or 15
 - (d) the responsible authority performs any of the functions envisaged in this Act, or work relating thereto, in the area of jurisdiction of, or on land belonging to, the other party, at the cost of the other party, in accordance with and subject to this Act. 20
- (3) An agreement contemplated in subsection (1) may provide for the sharing of the costs of a project between the parties. 25
- (4) The Minister must, in concluding an agreement that has financial implications for the Province, act with the concurrence of the Minister of Finance.

Limitation of liability of responsible authority

- 59.** (1) A responsible authority or any of its agents or employees or officials, or any person who operates or has constructed transport infrastructure, is not liable in respect of damage or loss suffered by a person— 30
- (a) through the use of that part of transport infrastructure not intended or constructed for the use of vehicles; or
 - (b) as a result of the closure or relocation of a road or railway line under this Act.
- (2) A responsible authority is not liable for claims for diminution in value of land by or as a result of the declaration of transport infrastructure from the owner of that land or any other person. 35

General prohibitions

- 60.** (1) No person or institution, including an organ of state, may—
- (a) leave or place obstructions which may be dangerous to traffic, or any refuse, debris, ash heaps, earthenware, glass, tins, nails, pieces of metal, timber, tree stumps, stones or other material on any transport infrastructure; 40
 - (b) damage transport infrastructure or spill fuel or other chemicals or gas thereon that may damage it;
 - (c) wilfully damage trees, shrubs or other improvements on transport infrastructure; 45
 - (d) attach to a gate or place on any transport infrastructure spikes or other objects that may cause injury to persons or animals or damage to property;
 - (e) obstruct, threaten or hinder, or use foul, abusive or insulting language to, an official, employee, agent or contractor of a responsible authority, or a person authorised by that authority, in the execution of his or her duties under this Act; 50
 - (f) shine lights onto, or increase the lighting on, transport infrastructure in a manner that could endanger traffic;
 - (g) unlawfully occupy, or reside in or within five metres of, transport infrastructure or a building restriction area; 55
 - (h) deposit, accumulate or discharge or cause or permit to be deposited, accumulated or discharged on land abutting on any transport infrastructure any substance, matter or thing which is or is likely to be blown or washed onto

- the transport infrastructure or is likely to be offensive, dangerous, harmful or injurious to traffic thereon; or
- (i) falsely hold out to be an official, employee, agent or contractor of a responsible authority.
- (2) No person or institution, including an organ of state, may, unless authorised by or in terms of this Act or any other law— 5
- (a) dig up, remove or alter the soil, surface, gravel, cuttings, banks or drains of any transport infrastructure;
- (b) paint or affix a figure, letter, drawing, sign, symbol, graffiti or other like object or symbol on a roadway or bridge forming part of transport infrastructure or on a traffic sign erected on transport infrastructure; 10
- (c) erect a traffic sign on any transport infrastructure;
- (d) use any transport infrastructure while it is under construction or repair, except in the manner indicated by the responsible authority by road signs or other methods; 15
- (e) close, deviate, alter or in any other manner encroach on any transport infrastructure;
- (f) close transport infrastructure that the public is entitled to use or erect a fence or other barrier to prevent the public from using such transport infrastructure;
- (g) use transport infrastructure that has been closed to traffic and indicated by appropriate road signs; 20
- (h) deviate traffic onto a road or railway line, except in the case of an emergency; or
- (i) alter, move, remove, disturb, damage or destroy a peg, beacon or other means of identification placed on, in, over or under or attached to land for the purposes of this Act. 25
- (3) A responsible authority may in writing authorise the doing of an act prohibited by subsection (2), subject to the conditions and for the period it determines and on payment of the prescribed fees or rentals, if it is satisfied that no damage to the transport infrastructure or prejudice to the public can result. 30

Offences and penalties

- 61.** (1) A person commits an offence if he or she—
- (a) contravenes section 4(2) or (3), 36(1) or (2), 40(1) or (3), 42(1), 43(1), 44(1), 47(5) or (11), 48(1), 50(1), 51(1) or 60(1) or (2);
- (b) fails to comply with a notice under section 38(2) within the period stated in the notice; 35
- (c) fails to meet an obligation imposed on him or her under section 43(7)(a), (b) or (c);
- (d) fails to comply with a notice under section 43(10)(a) within the period stated in the notice; 40
- (e) fails to comply with a condition imposed under section 44(4);
- (f) fails to comply with a notice contemplated in section 46(1);
- (g) fails to furnish his or her full name and residential address to a competent official when demanded in terms of section 51(4)(b)(i);
- (h) fails to comply with an order given under section 51(4)(b)(ii); or 45
- (i) moves stock on transport infrastructure in contravention of a notice referred to in section 53(1)(i).
- (2) A person convicted of an offence under subsection (1) is liable to a fine or imprisonment for a period not exceeding 12 months or both the fine and imprisonment.
- (3) Such fines must be paid into the Provincial Revenue Fund where the Minister is the responsible authority or to a municipality where it is the responsible authority. 50
- (4) In addition to any other penalty, a court convicting a person of an offence under subsection (1) may sentence the person to a penalty, payable to the responsible authority, equivalent to the amount of all expenditure incurred by that authority, or estimated by the authority to be incurred by it, in connection with any work necessary to restore the transport infrastructure to its former state or, where applicable, repair the damages in question, and, failing payment of such penalty, to imprisonment for a period not exceeding three months. 55
- (5) Subsection (4) does not preclude the responsible authority from recovering any amount that it is entitled to recover from a person, minus, where applicable, any penalty 60

paid in terms of subsection (4), whether or not the person has been charged with or convicted of an offence in terms of this section.

Appeals against decision by Head of Department or official

62. (1) A person affected by a decision of the Head of Department or an official of the Department in terms of this Act may appeal to the Minister against the decision. 5

(2) An appeal under subsection (1) must be noted and dealt with in the manner prescribed upon payment of the prescribed fee.

(3) The Minister may—

- (a) consider and decide an appeal; or
- (b) appoint an appeal panel constituted in the prescribed manner to consider and advise the Minister on the appeal. 10

(4) The Minister may, after considering an appeal, confirm, set aside or vary the decision, provision, conditions or directive appealed against or may make any other appropriate order, including an order that the prescribed fee paid by the appellant, or any part thereof, be refunded. 15

(5) An appeal under this section does not suspend the decision against which the appeal is lodged, unless the Minister directs otherwise.

Other transitional provisions

63. (1) Any proclamation, notice, certificate, regulation or by-law made or issued, and any direction, approval, consent, permission or authority given and any appointment made or any other action taken or thing done under a law repealed by this Act and in force immediately before the commencement of this Act, and which could have been made, issued, given, taken or done under any provision of this Act, remains in force, and is regarded to have been made, issued, given, taken or done under this Act. 20

(2) An expropriation that commenced, and proceedings for the determination of compensation instituted by a responsible authority, before the commencement of this Act in terms of a law repealed by this Act must be concluded in terms of the repealed law as if this Act had not been passed, but the parties may agree to proceed with the expropriation or proceedings in accordance with this Act. 25

Relation of Act to other laws 30

64. The provisions of this Act are additional to and not in substitution of other laws dealing with matters related to the matters dealt with by this Act.

Repeal of laws

65. Subject to section 63(1), the laws mentioned in the Schedule are repealed in so far as they apply in and have been assigned to the Province to the extent indicated in the third column thereof. 35

Short title and commencement

66. This Act is called the Western Cape Transport Infrastructure Act, 2013, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*. 40

SCHEDULE

No and year of law	Short title	Extent of repeal
Act 21 of 1940	Advertising on Roads and Ribbon Development Act, 1940	The whole.
Act 22 of 1944	National Roads and Ribbon Development Amendment Act, 1944	The whole.
Act 28 of 1952	Advertising on Roads and Ribbon Development Amendment Act, 1952	The whole.
Act 16 of 1962	Advertising on Roads and Ribbon Development Amendment Act, 1962	The whole.
Act 16 of 1966	Advertising on Roads and Ribbon Development Amendment Act, 1966	The whole.
Act 6 of 1976	Advertising on Roads and Ribbon Development Amendment Act, 1976	The whole.
Act 2 of 1979	Advertising on Roads and Ribbon Development Amendment Act, 1979	The whole.
Act 43 of 1985	Advertising on Roads and Ribbon Development Amendment Act, 1985	The whole.
Ordinance 19 of 1976	Roads Ordinance, 1976	The whole.
Ordinance 18 of 1977	Roads Amendment Ordinance, 1977	The whole.
Ordinance 11 of 1978	Roads Amendment Ordinance, 1978	The whole.
Ordinance 6 of 1980	Roads Amendment Ordinance, 1980	Sections 1 to 8.
Ordinance 28 of 1980	Roads Second Amendment Ordinance, 1980	The whole.
Ordinance 5 of 1982	Roads Amendment Ordinance, 1982	The whole.
Ordinance 20 of 1983	Roads Amendment Ordinance, 1983	The whole.
Ordinance 13 of 1985	Roads Amendment Ordinance, 1985	The whole.
Ordinance 16 of 1986	Roads Amendment Ordinance, 1986	The whole.

MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE TRANSPORT INFRASTRUCTURE BILL, 2012

1. OBJECTS OF THE BILL

The Western Cape Transport Infrastructure Bill, 2012 (the Bill) is primarily intended to replace the Roads Ordinance, 1976 (Ordinance 19 of 1976) and the Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940). Both pieces of legislation predate the Constitution of the Republic of South Africa, 1996 (the Constitution), are inconsistent with the institutional structures that exist today under the new dispensation and do not adequately reflect the administrative procedures for road management required in terms of other legislation such as the National Environmental Management Act, 1998 (Act 107 of 1998).

Once in operation, the Bill will allow the Province and municipalities to administer transport infrastructure under the categories of major roads, railway lines and other transport infrastructure in terms of a new legislative framework. Procedures are incorporated that will allow for the declaration of transport infrastructure, and for planning, expropriation, construction, management, control and maintenance of infrastructure.

The Bill replaces functions provided under existing legislation, but has a number of features that are new and respond to the requirements and mandates of the Province and municipalities to elevate the role of transport infrastructure beyond that provided for in the current legislation which focuses on roads. The Bill will provide for the administration of transport infrastructure that supports the operation of all modes of transport, including non-motorised transport, public transport, goods delivery and private vehicles.

2. CONTENTS OF THE BILL

This Memorandum provides information on the purpose, content and operation of the Bill by summarising the contents of Parts 1 to 9 of the Bill.

PART 1: INTRODUCTORY PROVISIONS

Part 1 contains clauses that provide a comprehensive set of definitions, defines authorities responsible for transport infrastructure under the Bill, and establishes a basis for the ownership of transport infrastructure and the land on which transport infrastructure is built.

Definitions, authorities, ownership and professional responsibilities

- The Bill provides that the Minister or a municipality, as the responsible transport infrastructure authority, must undertake functions of planning, design, construction, management and financing of transport infrastructure falling under his or her or its control.
- The ownership of transport infrastructure and the land between the reserve boundaries is vested in the Province or a municipality.
- The Minister or a municipality as responsible authority must ensure that certain key technical functions are performed only under the responsibility and due diligence of a suitably qualified professional person.

PART 2: CLASSIFICATION OF TRANSPORT INFRASTRUCTURE, RESERVE WIDTHS, BUILDING LINES AND BUILDING RESTRICTION AREAS

Part 2 establishes the classification system to be applied to transport infrastructure defined in the Bill, which includes roads, railway lines, ancillary road infrastructure and ancillary public transport infrastructure. The reserves (or outer perimeters) of transport infrastructure and their building lines and building restriction areas are also defined.

- The Bill is aligned with the Constitution, and will bring essential road management functions required of the Province up to date. The emphasis of the Bill is the management of higher order trunk, main and district roads in the Province, serving as inter-town rural arterials, and high-order municipal arterial road functions.

- Municipal streets, being low-order roads falling under a municipality, are excluded from the Bill, with the anticipation that these will be administered under the Municipal Ordinance, 1974 (Ordinance 20 of 1974), or under municipal by-laws.
- The provisions of the Bill relating to the declaration, regulation, control and management of municipal roads are not intended to encroach on the powers of municipalities to legislate on the matter of “municipal roads” listed in Part B of Schedule 5 of the Constitution and for which powers are conferred on municipalities in terms of section 156(1) and (2) of the Constitution, but will provide municipalities with optional empowering provisions, standards, monitoring mechanisms and subsidy for such roads.
- Municipalities may make by-laws for the administration of municipal roads to replace or expand any part of the Bill, except where it is intended that a municipal road will receive a subsidy from the Province, in which case certain aspects of the administration of the municipal road must be in terms of the Bill or must be done in agreement with or after consultation with the Province.

Expansion of scope to include public transport infrastructure

- The Bill increases the scope of transport infrastructure legislation beyond that covered in the current Roads Ordinance, 1976, and the Advertising on Roads and Ribbon Development Act, 1940, which in tandem are designed exclusively for the declaration, administration and financing of road construction and maintenance of provincial roads and “proclaimed” municipal main roads.
- The Bill will provide for the declaration of public transport infrastructure in addition to roads, such as rail systems, passenger transfer facilities and high-order public transport roads for bus rapid transit systems.

Ancillary transport infrastructure

- Ancillary road infrastructure is provided for in the Bill in that facilities separate from a road, but intended for road purposes, can be declared. Examples of such infrastructure include rest areas, direct access service centres, weigh bridges and traffic control centres.
- Ancillary public transport infrastructure is also provided for, being facilities supporting the operation of public transport. These may be declared on their own sites, separate from the reserves of railway lines or roads reserved for public transport vehicles. Examples of such infrastructure include public transport interchanges, marshalling yards and depots.

PART 3: TRANSITIONAL PROVISIONS IN RESPECT OF EXISTING ROADS

Part 3 provides for a transitional process that must commence from the date on which the Bill comes into operation.

Transitional provisions

- As from the date of commencement of the Bill, all trunk, main, divisional, minor roads and public paths previously declared under the Roads Ordinance, 1976, will be deemed to have been declared under the Bill, and all conditions attached to such declaration will continue to be in force as if the road or public pathway had been subject to the procedures of project planning and declaration as provided for in the Bill.
- It is intended that a process will commence once the Bill comes into operation to allow the classification and ownership of roads in the Province to be rationalised. Transitional provisions in the Bill will allow for the cataloguing of all roads previously declared under the Roads Ordinance, 1976, and the re-classification of these roads under the Bill, where required.
- This process will also involve the transfer of some previously declared roads between the Province and various appropriate municipalities in whose area the infrastructure is found. Roads must be transferred in terms of transfer agreements between the Province and the municipalities.

PART 4: PLANNING AND DECLARATION OF TRANSPORT INFRASTRUCTURE

Part 4 introduces new procedures not contained in the Roads Ordinance, 1976, but which are necessary due to environmental laws and consultation required before any project may be undertaken. Strategic planning involves forward planning of the transportation network and the associated financial planning.

Inclusion of requirements for strategic and project planning

- Strategic forward planning of transport infrastructure as required in terms of the National Land Transport Act, 2009 (Act 5 of 2009), is reinforced in the Bill, which further provides timeframes for the budgeting process where a subsidy from the Province is required. The Province is required to make available within the prescribed timeframes plans covering key aspects of the Province's transport infrastructure planning, so that municipalities can include its projects in annual updates of their integrated transport plans.
- The Bill introduces a procedure for the planning of transport infrastructure projects, which must be undertaken where a new road, railway line and other ancillary transport infrastructure is being planned, relocated, widened, or closure is being contemplated. Certain protection is also provided to such planning where the owner of land over which infrastructure is planned wishes to develop the land or change its use.

Declaration of transport infrastructure by a municipality

- An important policy incorporated in the Bill is the legislative support for municipalities where high-order roads, for which a municipality is the road authority, can be declared by a municipality independently of the Province. Municipalities benefit from the provisions of the Bill which provides mechanisms for management and control of the infrastructure.
- In cases where a municipal road is declared, the municipality will be required to comply with norms and standards provided for in the Bill and its regulations. The Province would in this regard play an oversight role to ensure that declared municipal roads are being managed in compliance with the norms and standards prescribed.

PART 5: PROCEDURES ON CLOSURE OF TRANSPORT INFRASTRUCTURE

Part 5 contains procedures to be followed by a responsible authority when road or other transport infrastructure is to be closed or deviated. A planning process detailed in Part 4 must precede the action of closing a road or other transport infrastructure.

PART 6: FINANCING AND SUBSIDY ARRANGEMENTS

Part 6 provides for financial assistance to be provided by the Province to municipalities, as is currently provided for in the Roads Ordinance, 1976. The provisions are necessary to enable a continuity of subsidy flow to the municipalities for the upkeep of municipal roads that carry significant volumes of provincial traffic, and also allow for financial assistance agreements where Provincial roads are transferred to municipalities during the transitional process mentioned under Part 3.

Provision for subsidy paid to municipalities

- The Bill provides for a road declared by a municipality to receive a subsidy from the Province, as is the case with the Roads Ordinance, 1976. Where this happens, a subsidy agreement must be concluded between the municipality and the Minister.
- Where a subsidy agreement exists for a declared municipal road, important decision-making with regard to standards and alterations to the road will require approval by the Province by compliance with the norms and standards contained in the Bill, or through coordinating structures between the Province and the municipality.

PART 7: EXPROPRIATION AND COMPENSATION

Part 7 provides for a responsible transport authority to expropriate land for purposes of declaring transport infrastructure, and to enter and take possession of land.

PART 8: MANAGEMENT AND CONTROL OF TRANSPORT INFRASTRUCTURE AND ADJACENT LAND

Part 8 contains provisions currently in the Roads Ordinance, 1976, and the Advertising on Roads and Ribbon Development Act, 1940, required for a responsible authority to manage and control all the aspects of road and transport infrastructure administration beyond the planning and provision of the transport infrastructure, i.e. during the period of operation of the transport infrastructure after implementation.

Permission and control of advertising

- A significant responsibility of the responsible authority is to ensure that advertising permitted adjacent to major roads is safe and acceptable. The provisions of the Bill prohibit advertising within designated distances from the road unless approved by the responsible authority, and allow the authority to take the necessary action to remove unauthorised advertising.

Control of access to a road

- A responsible authority for a road needs to comply with guidelines and standards relating to the frequency, spacing and type of intersection of roads and driveways which have access to roads under its jurisdiction. These guidelines and standards are provided for in the Bill. Persons owning properties adjacent to a road will be prohibited from constructing an access to a major road unless the responsible authority grants permission.

Structures on, over or under transport infrastructure

- The Bill provides strong and effective control by the responsible authority of the installation or erection of any type of structure on, over or under a road or other transport infrastructure.
- Persons wishing to install or erect these structures are required to apply to the responsible authority for permission and may be charged for wayleaves to install the structures and for rental of space to accommodate the structures during the period that the structures are in place.

Restrictions on changes in land use

- The responsible authority has control over changes in the use of properties adjacent to transport infrastructure under its authority. This includes the approval of subdivisions and any development that may have a negative impact on the operation of the transport infrastructure or that may lead to unintended consequences for communities that result from land development and changes in land use. It is for example essential to avoid developments such as schools, shops and other community amenities being built in close proximity to residential communities where the community will be severed from the amenities by a major transport route, unless provision is made for safe crossings.

Fences, gates and cattle-grids

- The Bill provides for the installation and maintenance of fencing of the reserve or perimeter of a transport infrastructure, and gates and cattle-grids across roads by the transport infrastructure authority and the owner of property adjacent to the infrastructure.

PART 9: GENERAL PROVISIONS

Part 9 includes a number of general provisions necessary for the proper administration of the Bill. These include:

- Specific powers of the Minister and general powers of authorities;
- provision for powers of the Minister to make regulations;
- by-laws that may be made by municipalities to supplement or replace provisions of the Bill;
- provision for agency agreements that may be concluded to outsource functions to other entities;
- the limitation of the liability of responsible authorities;
- general prohibitions, offences and penalties where transgressions are committed; and
- provisions for appeals against a decision made by the Head of Department or an official.

The Bill also provides for the repeal of the Roads Ordinance, 1976, and the Advertising on Roads and Ribbon Development Act, 1940.

3. CONSULTATION

In the compilation of this Bill the following role-players were consulted:

- (a) Western Cape Provincial Transport Technical Committee;
- (b) Western Cape Provincial Transport Committee;
- (c) City of Cape Town;
- (d) all municipalities in the Province;
- (e) other Provinces with similar legislation;
- (f) Department of the Premier: Legal Services;
- (g) Provincial Treasury; and
- (h) the State Attorney.

4. PERSONNEL IMPLICATIONS

None.

5. FINANCIAL IMPLICATIONS

None.

6. LEGISLATIVE COMPETENCE

The Provincial Minister responsible for transport and public works is satisfied that all the provisions in the Bill fall within the Province's legislative competence.

WETSONTWERP

Om voorsiening te maak vir die beplanning, ontwerp, verklaring, konstruksie, instandhouding, beheer, bestuur, regulering, opgradering en rehabilitasie van paaie, spoorlyne en ander vervoerinfrastruktuur in die Wes-Kaap; en vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

INDELING VAN ARTIKELS

DEEL 1: INLEIDENDE BEPALINGS

- | | | |
|----|--|---|
| 1. | Woordomskrywing | 5 |
| 2. | Owerhede verantwoordelik vir vervoerinfrastruktuur | |
| 3. | Titel op, vestiging en oordrag van grond waarop vervoerinfrastruktuur geleë is | |
| 4. | Professionele ingenieurs, stadsbeplanners of argitekte verantwoordelik vir spesifieke funksies | |

DEEL 2: KLASSIFIKASIE VAN VERVOERINFRASTRUKTUUR, RESERWEBREEDTES, BOULYNE EN BOUBEPERKINGSGBIEDE

- | | | |
|----|--|----|
| 5. | Klassifikasie van paaie en spoorlyne | |
| 6. | Reserwebreedtes van paaie en spoorlyne | |
| 7. | Klassifikasie en reserwes van bykomstige vervoerinfrastruktuur | 15 |
| 8. | Boulyne en boubeperkingsgebiede | |

DEEL 3: OORGANGSBEPALINGS TEN OPSIGTE VAN BESTAANDE PAAIE

- | | | |
|-----|---|--|
| 9. | Assessering van voorheen verklaarde paaie | |
| 10. | Oordragooreenkomste ten opsigte van voorheen verklaarde paaie | |

DEEL 4: BEPLANNING EN VERKLARING VAN VERVOERINFRASTRUKTUUR

- | | | |
|-----|---|----|
| 11. | Vervoerstelselbeplanning | |
| 12. | Rekords van vervoerinfrastruktuur | |
| 13. | Projekbeplanningsproses | |
| 14. | Geïntegreerde omgewingsbestuursproses | 25 |
| 15. | Beplanningsproses voor permanente sluiting | |
| 16. | Aansoek om vervoerinfrastruktuur te sluit, te verskuif of te verander | |
| 17. | Besluit deur pad- of openbarevervoerinfrastruktuur-owerheid | |
| 18. | Reguleringsbeskermingsmaatreëls vir vervoerinfrastruktuur | |
| 19. | Verklaring van vervoerinfrastruktuur | 30 |

DEEL 5: PROSEDURES BY SLUITING VAN VERVOERINFRASTRUKTUUR

- | | | |
|-----|--|---|
| 20. | Permanente sluiting van vervoerinfrastruktuur | |
| 21. | Tydlike sluiting of verlegging van paaie of spoorlyne | |
| 22. | Noodsluiting of -verlegging | |
| 23. | Publiek se reg om geslote of verlegde pad of spoorlyn te gebruik | 5 |

DEEL 6: FINANSIERING EN SUBSIDIEREËLINGS

- | | | |
|-----|---|----|
| 24. | Subsidiereëlins met munisipaliteite | |
| 25. | Begrotings van uitgawes vir subsidiedoeleindes | |
| 26. | Berekening van subsidiepersentasie | |
| 27. | Bepaling van subsidiebedrag van uitgawe | 10 |
| 28. | Huurgeld, verkoop en ander inkomste uit grond met subsidiegeld verkry | |
| 29. | Gelykgestelde persentasiekoers van subsidie op kapitaalbesteding | |
| 30. | Bydraes uit ander bronne | |
| 31. | Betaling van subsidie | |
| 32. | Rekords van uitgawes aan vervoerinfrastruktuur | 15 |
| 33. | Vermindering van bepaalde subsidie-uitgawes | |

DEEL 7: ONTEIENING EN VERGOEDING

- | | | |
|-----|--------------------------------------|--|
| 34. | Onteiening van eiendom | |
| 35. | Betreding en besitneming van eiendom | |

DEEL 8: BESTUUR EN BEHEER VAN VERVOERINFRASTRUKTUUR EN AANGRENSENDE GROND 20

- | | | |
|-----|---|----|
| 36. | Verbod op sekere advertensies op of sigbaar vanaf vervoerinfrastruktuur | |
| 37. | Regulasies rakende advertensies op of sigbaar vanaf vervoerinfrastruktuur | |
| 38. | Verwydering van ongemagtigde advertensies | |
| 39. | Vermoedens rakende advertensies | 25 |
| 40. | Toegang tot en uitgang uit vervoerinfrastruktuur | |
| 41. | Verskuiwing of sluiting van toegang tot of uitgang uit pad | |
| 42. | Verbod om sekere artikels of materiaal op of naby vervoerinfrastruktuur te plaas of te laat | |
| 43. | Strukture en ander werke op, oor of onder reserwes van vervoerinfrastruktuur of binne boulyne of boubeperkingsgebiede | 30 |
| 44. | Beperkings op veranderinge in grondgebruik | |
| 45. | Afstandaanwysers, padwysers en waarskuwings op paaie | |
| 46. | Obstruksies en vry ruimtes | |
| 47. | Heinings langs of binne grense van vervoerinfrastruktuur | 35 |
| 48. | Hekke oor paaie | |
| 49. | Motorhekke | |
| 50. | Mynbedrywighede op of onder vervoerinfrastruktuur of boubeperkingsgebiede | |
| 51. | Handel dryf op of in vervoerinfrastruktuur of boubeperkingsgebiede | |

DEEL 9: ALGEMENE BEPALINGS 40

- | | | |
|-----|--|----|
| 52. | Spesifieke bevoegdhede van Minister | |
| 53. | Algemene bevoegdhede en pligte van verantwoordelike owerhede | |
| 54. | Regulasies | |
| 55. | Standaarde en riglyne | |
| 56. | Verordeninge | 45 |
| 57. | Delegering | |
| 58. | Agentskapsoreenkomste vir pad- of openbarevervoerfunksies | |
| 59. | Bepanking van aanspreeklikheid van verantwoordelike owerheid | |
| 60. | Algemene verbiedinge | |
| 61. | Misdrywe en strawwe | 50 |
| 62. | Appelle teen besluit van Departementshoof of beampte | |
| 63. | Ander oorgangsbepalings | |

64. Verhouding van Wet tot ander wette
 65. Herroeping van wette
 66. Kort titel en inwerkingtreding

DEEL 1: INLEIDENDE BEPALINGS

Woordoms krywing

5

1. (1) In hierdie Wet, tensy dit uit die samehang anders blyk, beteken—
- “**advertensie**” enige sigbare voorstelling van ’n woord, naam, letter, syfer, voorwerp, merk, logo of simbool of van ’n afkorting van ’n woord of naam, of van enige kombinasie van sodanige elemente wat die effek het om inligting oor te dra of die aandag op iets te vestig, en ook ’n bord of voorwerp wat gewoonlik vir sodanige doel gebruik word, asook beelde wat deur laserstrale of soortgelyke toestelle vertoon word, selfs al word werklike inligting nie daardeur oorgedra nie, maar sluit nie padverkeerstekens of verkeersligte in nie; 10
- “**amptelike tale**” Afrikaans, Engels en isiXhosa;
- “**boubeperkingsgebied**” ’n gebied wat in artikel 8(1)(b) of (3)(b) of (c) bedoel word; 15
- “**boulyn**” ’n lyn wat in artikel 8(1)(b), (2) of (3)(a) bedoel word;
- “**buspad**” die afgebakende lane van ’n pad wat gereserveer is vir die uitsluitlike gebruik van busse of voertuie wat gemagtig is om daardie lane vir nood- of ander doeleindes te gebruik; 20
- “**bykomstige openbarevervoerinfrastruktuur**” ’n fasiliteit wat in artikel 7(2) bedoel word en ingevolge artikel 19 tot bykomstige openbarevervoerinfrastruktuur verklaar is, en sluit dit alle onroerende eiendom en serwitute in wat deel uitmaak van of gebruik word in verband met daardie fasiliteit;
- “**bykomstige padinfrastruktuur**” ’n provinsiale of munisipale fasiliteit wat in artikel 7(1) bedoel word en ingevolge artikel 19 tot bykomstige padinfrastruktuur verklaar is, en ook die grond waarop dit gebou is; 25
- “**bykomstige vervoerinfrastruktuur**” bykomstige padinfrastruktuur of bykomstige openbarevervoerinfrastruktuur;
- “**Departement**” die departement in die Provinsiale Regering wat vir provinsiale paaie en openbare vervoeraangeleenthede verantwoordelik is; 30
- “**Departementshoof**” die hoof van die Departement;
- “**depot**” ’n plek wat vir die skut van voertuie gebruik word en—
- (a) as ’n depot aangewys is ingevolge artikel 87 van die NLTA; of
- (b) ingevolge enige ander wet as ’n plek vir die skut van voertuie verklaar of aangewys is; 35
- “**deurpad**” ’n pad of gedeelte van ’n pad wat ingevolge die Nasionale Padverkeerswet as ’n deurpad aangewys is;
- “**diensperseel met regstreekse toegang**” ’n fasiliteit aangrensend aan ’n deurpad wat— 40
- (a) toegang regstreeks vanaf die deurpad het; en
- (b) bedoel is spesifiek vir gebruikers van die deurpad of die beheer van vervoerbedrywighede;
- “**distriksmunisipaliteit**” ’n distriksmunisipaliteit soos in artikel 1 van die Strukturewet omskryf; 45
- “**distrikspad**” ’n pad wat ingevolge artikel 5(2)(a) of 9(1) as ’n distrikspad geklassifiseer is, of ingevolge artikel 9(7) as ’n distrikspad beskou word;
- “**dorp**” ’n gebied wat in standplase, erwe of hoewes, hetsy met of sonder openbare oop ruimtes, verdeel is en wat ingevolge enige wet as ’n dorp ingestel is of erken word; 50
- “**geïntegreerde vervoerplan**” ’n plan wat in artikel 36 van die NLTA beoog word;
- “**gesubsidieerde vervoerinfrastruktuur**” munisipale vervoerinfrastruktuur waarvoor ’n subsidie betaal word;
- “**grens**”, in die geval van—
- (a) ’n pad of spoorlyn, die lyne wat die buitenste rande definieer van die gebied wat ingevolge artikel 19(1) verklaar is, of geag word ingevolge artikel 9(1) verklaar te wees in die geval van voorheen verklaarde paaie, vir doeleindes van die pad of spoorlyn; en 55

- (b) bykomstige vervoerinfrastruktuur, die lyn wat die buitenste rand definieer van die gebied wat ingevolge artikel 19(1) verklaar is, vir doeleindes van die bykomstige vervoerinfrastruktuur;
- “**grond**” grond met of sonder verbeterings;
- “**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996; 5
- “**heining**” enige struktuur of toestel wat as ’n heining dien, ongeag die materiaal wat gebruik is in of die wyse van die konstruksie daarvan, en ook ’n muur en ’n heg;
- “**hierdie Wet**” ook regulasies wat kragtens hierdie Wet uitgevaardig is;
- “**hoofpad**” ’n pad wat ingevolge artikel 5(2)(a) of 9(1) as ’n hoofpad 10 geklassifiseer is, of ingevolge artikel 9(6) as ’n hoofpad beskou word;
- “**kleinpad**” ’n pad wat ingevolge artikel 5(2)(a) of 9(1) as ’n kleinpad geklassifiseer is, of ingevolge artikel 9(6) as ’n kleinpad beskou word;
- “**konstruksie**” ook rekonstruksie;
- “**ligte spoorlyn**” ’n passasierspoorstelsel, insluitende ’n stelsel wat op ’n 15 monospoor, ’n magnetiese levitasiestelsel of ’n vaste spoor- of baanstelsel loop waar die voertuie op lugbande loop, wat—
- (a) in sy eie spoorreserwe, binne ’n eksklusiewe reg van weg binne ’n padreserwe, of in gemengde verkeer binne ’n padreserwe bedryf word; en
- (b) ingevolge artikel 5(2)(a) as ’n ligte spoorlyn geklassifiseer is; 20
- “**Minister**” die lid van die Provinsiale Kabinet verantwoordelik vir die Departement;
- “**Minister van Finansies**” die lid van die Provinsiale Kabinet verantwoordelik vir finansiële sake in die Provinsie;
- “**Minister van Plaaslike Regering**” die lid van die Provinsiale Kabinet 25 verantwoordelik vir plaaslike regeringsaangeleenthede in die Provinsie;
- “**motorhek**” ’n deurgang geleë dwarsoor ’n padbaan en wat net voertuigverkeer deurlaat deur middel van ’n geribde platform;
- “**munisipale pad**” ’n hoofpad, distrikspad, kleinpad, of openbare vervoerpad, waarvoor ’n munisipaliteit die padinfrastruktuurowerheid is; 30
- “**munisipale spoorlyn**” ’n spoorlyn waarvoor ’n munisipaliteit die spoorowerheid is;
- “**munisipale vervoerinfrastruktuur**” vervoerinfrastruktuur waarvoor ’n munisipaliteit verantwoordelik is ingevolge—
- (a) ’n kennisgewing in artikel 5(2) of 7(3) bedoel; 35
- (b) ’n ooreenkoms in artikel 9(1) bedoel; of
- (c) ’n oordragooreenkoms in artikel 10 bedoel;
- “**munisipaliteit**” ’n munisipaliteit in die Provinsie en, in die geval van ’n distriksmunisipaliteit, óf die distriksmunisipaliteit óf ’n plaaslike munisipaliteit in sy gebied, na gelang van die geval; 40
- “**mynbedrywighede**” enige bedrywigheid rakende die handeling van mynbou en aangeleenthede wat regstreeks daarmee verband hou;
- “**nasionale pad**” ’n nasionale pad soos omskryf in die Wet op Die Suid-Afrikaanse Nasionale Padagentskap Beperk en op Nasionale Paaie, 1998 (Wet 7 van 1998);
- “**Nasionale Padverkeerswet**” die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996); 45
- “**niegemotoriseerde vervoer**” ook voetgangers, trapfietse en ander voertuie wat deur mense aangedryf word of deur diere getrek word;
- “**NLTA**” die National Land Transport Act, 2009 (Wet 5 van 2009);
- “**okkupeerder**” ’n persoon wat grond werklik en wettig beset of ’n persoon wat op 50 ’n bepaalde tydstop bekeer oor grond het as eienaar, huurder of lisensiehouer of om enige ander rede;
- “**onteien**” ook die neem van die reg om eiendom tydelik te gebruik;
- “**openbare vervoer**” dieselfde as in artikel 1 van die NLTA;
- “**openbare vervoerpad**” ’n pad wat hoofsaaklik vir openbare vervoer gebruik 55 word en wat as ’n openbare vervoerpad geklassifiseer is ingevolge artikel 5(2)(a);
- “**openbare voetpad**” ’n voetpad wat ingevolge artikel 5(2)(a) as ’n openbare voetpad geklassifiseer is of ingevolge artikel 9(6) as ’n openbare voetpad beskou word;
- “**openbarevervoerinfrastruktuur**” vervoerinfrastruktuur wat hoofsaaklik vir 60 openbare vervoer gebruik word of ontwerp is;
- “**openbarevervoerinfrastruktuur-owerheid**” die owerheid verantwoordelik vir vervoerinfrastruktuur ingevolge ’n kennisgewing in artikel 5(2) bedoel;

- “**oprig**”, met betrekking tot ’n heining, ook die heroprigting van ’n heining, die algehele vervanging van die materiaal van die heining en die byvoeging tot die heining van enige materiaal wat nie vir die doel van herstel en instandhouding nodig is nie;
- “**Ordonnansie**” die Ordonnansie op Paaie, 1976 (Ordonnansie 19 van 1976); 5
- “**pad**” ’n primêre pad, hoofpad, distrikspad, kleinpad of openbare vervoerpad, en ook die volle breedte van die padreserwe en die grond en alle werke of dinge wat deel van die pad uitmaak of daarby hoort;
- “**padbaan**” die deel van ’n pad wat vir voertuie bedoel is;
- “**padowerheid**” die owerheid verantwoordelik vir ’n pad ingevolge ’n 10 kennisgewing in artikel 5(2) bedoel;
- “**padverlofreg**” toegang oor of reg van weg op ’n pad- of openbarevervoerinfrastruktuur-reserwe wat deur die pad- of openbarevervoerinfrastruktuur-owerheid verleen is;
- “**plaaslike munisipaliteit**” ’n plaaslike munisipaliteit soos omskryf in artikel 1 15 van die Strukturewet;
- “**primêre pad**” ’n pad wat ingevolge artikel 5(2)(a) of artikel 9(1) as ’n primêre pad geklassifiseer is, of wat ingevolge artikel 9(6) as ’n primêre pad beskou word;
- “**Promotion of Administrative Justice Act**” die Promotion of Administrative Justice Act, 2000 (Wet 3 van 2000); 20
- “**provinsiale landvervoerraamwerk**” die raamwerk in artikel 35 van die NLTA beoog;
- “**provinsiale pad**” ’n primêre pad, hoofpad, distrikspad, kleinpad, openbare voetpad of openbare vervoerpad waarvoor die Minister die padowerheid is;
- “**provinsiale spoorlyn**” ’n spoorlyn waarvoor die Minister die spoorowerheid is; 25
- “**provinsiale vervoerinfrastruktuur**” vervoerinfrastruktuur waarvoor die Minister verantwoordelik is ingevolge—
- (a) ’n kennisgewing in artikel 5(2) of 7(3) bedoel;
- (b) ’n ooreenkoms in artikel 9(1) bedoel; of
- (c) ’n oordragooreenkoms in artikel 10 bedoel; 30
- “**Provinsie**” die Provinsie of die Provinsiale Regering van die Wes-Kaap, na gelang van die samehang;
- “**reserwe**”, in die geval van—
- (a) ’n pad of spoorlyn, die volle verklaarde breedte tussen sy grenskante; en
- (b) bykomstige vervoerinfrastruktuur, die volle verklaarde gebied binne sy 35 grenskante;
- “**rusgebied**” ’n gebied wat opsygesit is spesifiek om padgebruikers in staat te stel om hulle reis te onderbreek vir die doel van ’n russtop, geleë of aangrensend aan en deel van die padreserwe, of weg van die pad, en wat kommersiële fasiliteite kan insluit; 40
- “**spoorlyn**” ’n swaar spoorlyn of ’n ligte spoorlyn, en ook die volle breedte van die spoorreserwe en die grond en alle werke of dinge wat deel van die spoorlyn uitmaak of daarby hoort;
- “**spoorowerheid**” die owerheid verantwoordelik vir ’n spoorlyn ingevolge ’n kennisgewing in artikel 5(2) bedoel; 45
- “**staatsorgaan**” ’n staatsorgaan soos omskryf in artikel 239 van die Grondwet;
- “**stasie**” ook—
- (a) in die geval van ’n spoorlyn, die gebiede binne ’n stasie wat gebruik word vir die spoorbaan, siviele infrastruktuur, geboue, treinbeheerstelsels, spoorwegwerwe, sylyne of sinjale, en alle ander fasiliteite en stelsels wat nodig is vir of bykomstig is by die bedryf, instandhouding en administrasie van die spoorlyn; 50
- (b) in die geval van ’n buspad, die gebiede binne die stasie wat gebruik word vir die buspad, siviele infrastruktuur, geboue, tekens, seine en merke, en alle ander fasiliteite en stelsels wat nodig is vir of bykomstig is by die bedryf, instandhouding en administrasie van die busstelsel; en 55
- (c) parkeergarages en -gebiede, op- en aflaaipte vir passasiers, en kommersiële en kleinhandelgrondgebruike wat deel van die stasieperseel uitmaak;
- “**stedelike gebied**” ’n gebied bestaande uit—
- (a) behoudens paragrawe (b) en (c), die gedeelte van die regsgebied van ’n 60 plaaslike owerheid wat deur opmeting onderverdeel is in erwe van twee hektaar of minder of deur opgemete erwe omring word, en ook openbare paaie wat daaraan grens;

- (b) 'n gebied binne die perimeter van 'n stadsrand, waar die stadsrand verwys na 'n lyn op 'n toepaslike plan of kaart wat die beplande buitenste grens van laterale stedelike uitbreiding toon en wat verklaar is ingevolge 'n wet wat grondgebruiksbeplanning in die betrokke gebied reguleer; of
- (c) 'n gebied wat ingevolge subartikel (2) as 'n stedelike gebied verklaar is vir doeleindes van hierdie Wet, 5
- en ook gebiede aangrensend aan 'n gebied in paragraaf (a) of (b) bedoel en wat strek tot buite die grens van daardie gebied gemeet reghoekig op die rand van die gebied, vir 'n afstand van 250 meter;
- “**straat**” 'n straat of ander pad onder beheer van 'n munisipaliteit wat nie 'n munisipale pad is nie;
- “**Strukturewet**” die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998);
- “**struktuur**” enige gebou, struktuur of ding wat opgerig is op, bo of onder die grond, hetsy permanent of tydelik, ongeag die aard of grootte daarvan; 15
- “**subsidie**” subsidie betaalbaar aan 'n munisipaliteit ingevolge 'n ooreenkoms in artikel 24(2) beoog;
- “**swaar spoorlyn**” 'n passasierspoorstelsel wat—
- (a) bedryf word op spore binne sy eie spoorreserwe;
- (b) 'n baanbreedte van meer as 600 millimeter het; en 20
- (c) ingevolge artikel 5(2)(a) as 'n swaar spoorlyn geklassifiseer is;
- “**vee**” alle kategorieë mak lewende hawe vir boerdery en wild;
- “**veekamp**” 'n terrein vir gebruik in verband met die tydelike inkamping van vee terwyl hulle in transito is;
- “**verantwoordelike owerheid**” of “**owerheid**”, met betrekking tot 'n pad, spoorlyn of openbarevervoerinfrastruktuur, die padowerheid, spoorowerheid of openbarevervoerinfrastruktuur-owerheid verantwoordelik vir daardie pad, spoorlyn of openbarevervoerinfrastruktuur ingevolge hierdie Wet;
- “**verkeer**” pad- en spoorvoertuigverkeer of niegemotoriseerde vervoer;
- “**verkeerstekens**” padverkeerstekens soos beoog in die Nasionale Padverkeerswet, of spoortekens of sinjale soos beoog in die National Railway Safety Regulator Act, 2002 (Wet 16 van 2002), en ook tekens of sinjale vir die beheer van pad- en spoorverkeer by spoorroorgange en by ander plekke waar daar potensiële botsings tussen spoor- en ander verkeer is;
- “**verklaarde vervoerinfrastruktuur**” vervoerinfrastruktuur wat ingevolge hierdie Wet verklaar is of geag word verklaar te wees; 35
- “**vervoerinfrastruktuur**” ook 'n pad of spoorlyn of bykomstige vervoerinfrastruktuur, insluitende die reserwe daarvan;
- “**voorgeskryf**” by regulasie voorgeskryf;
- “**voorheen verklaarde**” verklaar of geag word verklaar te wees ingevolge die Ordonnansie of enige ander wet wat van krag is by die inwerkingtreding van hierdie Wet;
- “**WNEH**” die Wet op Nasionale Erfenishulpbronne, 1999 (Wet 25 van 1999);
- “**WNOB**” die Wet op Nasionale Omgewingsbestuur, 1998 (Wet 107 van 1998); en
- “**WOFB**” die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999). 45
- (2) Die Minister, met die instemming van die Minister van Plaaslike Regering, kan by kennisgewing in die *Provinsiale Koerant* enige gebied tot 'n stedelike gebied verklaar vir doeleindes van hierdie Wet.

Owerhede verantwoordelik vir vervoerinfrastruktuur

2. (1) Die Minister moet provinsiale vervoerinfrastruktuur finansier, beplan, ontwerp, verklaar, bou, ontwikkel, in stand hou, beheer, bestuur, reguleer, opgradeer, beskerm en rehabiliteer, en alle regte en verpligtinge rakende sodanige infrastruktuur berus by die Minister. 50
- (2) Die betrokke munisipaliteit moet munisipale vervoerinfrastruktuur in sy regsgebied finansier, beplan, ontwerp, verklaar, bou, ontwikkel, in stand hou, beheer, bestuur, reguleer, opgradeer, beskerm en rehabiliteer, behoudens subartikel (3), en alle regte en verpligtinge rakende sodanige infrastruktuur berus by daardie munisipaliteit. 55
- (3) Ten opsigte van munisipale vervoerinfrastruktuur geleë in die gebied van 'n distriksmunisipaliteit is die betrokke munisipaliteit vir doeleindes van subartikel (2) die distriksmunisipaliteit, tensy die distriksmunisipaliteit en 'n plaaslike munisipaliteit in sy 60

gebied ooreengekom het dat die plaaslike munisipaliteit verantwoordelikheid vir die vervoerinfrastruktuur sal aanvaar.

(4) 'n Verantwoordelike owerheid kan met 'n ander owerheid ooreenkom dat die verantwoordelikheid vir sekere van, of al die aspekte rakende vervoerinfrastruktuur in subartikels (1) en (2) bedoel, na die ander owerheid oorgedra word op die bepalings en voorwaardes waarop daar ooreengekom word, wat voorwaardes oor finansiële verantwoordelikhede moet insluit. 5

(5) Die owerheid aan wie die verantwoordelikheid vir vervoerinfrastruktuur oorgedra word ingevolge 'n ooreenkoms in subartikel (4) beoog moet 'n kennisgewing wat die ooreenkoms weerspieël in die *Provinsiale Koerant* publiseer. 10

Titel op, vestiging en oordrag van grond waarop vervoerinfrastruktuur geleë is

3. (1) Titel op grond, insluitende serwitute, wat deur of namens die Provinsie of 'n munisipaliteit verkry is vir vervoerinfrastruktuur, moet op naam van die Provinsie of die munisipaliteit, na gelang van die geval, geregistreer word.

(2) Waar titel op grond waaroor vervoerinfrastruktuur verklaar is bly op die naam van die persoon wat die grond ten tyde van die verklaring besit, moet beperkings wat deur die verklaring geplaas word op alle grond wat die reserwe van daardie vervoerinfrastruktuur uitmaak by die Registrateur van Aktes geregistreer word en op die titelakte van die grond aangedui word. 15

(3) Subartikel (2) is nie van toepassing op 'n voorheen verklaarde pad wat te eniger tyd na die inwerkingtreeding van hierdie Wet gesluit is nie. 20

(4) Die kantoor van Padtrustees wat by artikel 23 van die Ordonnansie ingestel is, word afgeskaf.

(5) Alle grond wat by die Padtrustees berus of op naam van die Padtrustees geregistreer is ingevolge die Ordonnansie, gaan op die Provinsie oor. 25

(6) Indien—

(a) enige vervoerinfrastruktuur verskuif, verander of permanent gesluit word;

(b) die reserwe van vervoerinfrastruktuur verklein of verander word; of

(c) 'n owerheid ophou om grond vir die doel van vervoerinfrastruktuur te gebruik, 30

keer enige oortollige grond wat as gevolg van 'n aksie in paragraaf (a), (b) of (c) beoog, ophou om deel van die betrokke vervoerinfrastruktuur uit te maak, tesame met alle werke en dinge wat daarmee gepaardgaan, terug na die eienaar van die grond waarvan die oortollige grond deel uitgemaak het onmiddellik voor die verklaring van daardie vervoerinfrastruktuur, tensy die verantwoordelike owerheid anders gelas by kennisgewing in die *Provinsiale Koerant*. 35

(7) Waar grond ingevolge subartikel (6)(a), (b) of (c) terug na die eienaar oorgedra word, is vergoeding, op die voorgeskrewe wyse bereken, deur daardie eienaar aan die betrokke verantwoordelike owerheid betaalbaar.

(8) Behoudens subartikel (6), kan grond wat by 'n owerheid berus, insluitende grond wat behou word deur 'n kennisgewing ingevolge subartikel (6), en wat nie meer vir enige doeleindes rakende vervoerinfrastruktuur benodig word nie, deur daardie owerheid verkoop word. 40

(9) Waar grond ingevolge subartikel (6) terugval of ingevolge subartikel (8) verkoop word in 'n geval waar die grond berus by— 45

(a) die Provinsie, moet die opbrengs in die Provinsiale Inkomstefonds gestort word; en

(b) 'n munisipaliteit en verkry is deur subsidiegeld te gebruik wat deur die Minister betaal is, moet die netto opbrengs van die oordrag of verkoop en enige ander inkomste wat uit daardie grond verkry is, in die Provinsiale Inkomstefonds gestort word in verhouding tot die subsidiebydrae wat vir die verkryging daarvan gemaak is. 50

Professionele ingenieurs, stadsbeplanners of argitekte verantwoordelik vir spesifieke funksies

4. (1) Die verantwoordelike owerheid moet verseker dat funksies wat ingevolge hierdie Wet verrig word, onderneem word onder die verantwoordelikheid en noulettendheid van 'n gepas gekwalifiseerde professionele persoon, behoudens subartikels (2) en (3). 55

- (2) Geen persoon behalwe 'n persoon wat geregistreer is as—
- (a) 'n professionele ingenieur of professionele ingenieurstechnoloog ingevolge die Wet op die Ingenieursweseprofessie, 2000 (Wet 46 van 2000); of
 - (b) 'n stadsbeplanner of argitek ingevolge die betrokke professionele akkreditasiewetgewing,
- mag vir die toesig oor en goedkeuring van tegniese strategieë of planne rakende vervoerinfrastruktuur verantwoordelik wees nie. 5
- (3) Geen persoon behalwe so 'n professionele ingenieur of professionele ingenieurstechnoloog mag vir die toesig oor en goedkeuring van tegniese strategieë of planne rakende die volgende aktiwiteite verantwoordelik wees nie: 10
- (a) Die ontwerp van siviele, strukturele, elektriese of meganiese ingenieurskomponente van vervoerinfrastruktuur;
 - (b) die ontwikkeling van remediërende en instandhoudingstrategieë van bestaande vervoerinfrastruktuur;
 - (c) die bestuur van die konstruksie en instandhouding van vervoerinfrastruktuur; 15 of
 - (d) ander voorgeskrewe aktiwiteite.

DEEL 2: KLASSIFIKASIE VAN VERVOERINFRASTRUKTUUR, RESERWEBREEDTES, BOULYNE EN BOUBEPERKINGSGBIEDE 20

Klassifikasie van paaie en spoorlyne

5. (1) Paaie en spoorlyne in die Provinsie word soos volg geklassifiseer:
- (a) Primêre paaie, onder beheer van die Minister;
 - (b) hoofpaaie, onder beheer van die Minister of 'n munisipaliteit;
 - (c) distrikspaaie, onder beheer van die Minister of 'n munisipaliteit; 25
 - (d) kleinpaaie, onder beheer van die Minister of 'n munisipaliteit;
 - (e) openbare vervoerpaaie, onder beheer van die Minister of 'n munisipaliteit;
 - (f) openbare voetpaaie, onder beheer van die Minister of 'n munisipaliteit;
 - (g) swaar spoorlyne, onder beheer van die Minister of 'n munisipaliteit; en
 - (h) ligte spoorlyne, onder beheer van die Minister of 'n munisipaliteit. 30
- (2) Die verantwoordelike owerheid moet, in elke kennisgewing wat ingevolge artikel 19(1) ten opsigte van 'n pad of spoorlyn uitgereik word—
- (a) die betrokke pad of spoorlyn klassifiseer as een van die tipes in subartikel (1) genoem;
 - (b) verklaar of die Minister of 'n munisipaliteit vir die pad of spoorlyn 35 verantwoordelik is; en
 - (c) in die geval van 'n distriksmunisipaliteit, verklaar of die distriksmunisipaliteit of 'n plaaslike munisipaliteit vir die pad of spoorlyn verantwoordelik is.
- (3) 'n Openbare vervoerpad kan in sy eie eksklusiewe reserwe wees of in die reserwe van 'n primêre, hoof-, distriks- of kleinpad. 40
- (4) Die verantwoordelike owerheid kan voorwaardes vir openbare vervoerpaaie stel en moet daardie voorwaardes by kennisgewing in die *Provinsiale Koerant* bekend maak.
- (5) Waar 'n openbare vervoerpad in die reserwe van 'n ander pad verklaar word, is die owerheid verantwoordelik vir die ander pad ook die verantwoordelike owerheid vir die openbare vervoerpad, maar handelende in oorleg met die betrokke openbarevervoerinfrastruktuur-owerheid. 45
- (6) Waar 'n openbare vervoerpad onder beheer van 'n munisipaliteit geheel en al binne die reserwe van 'n primêre, hoof-, distriks- of kleinpad onder beheer van die Minister geleë is, moet die Minister en die munisipaliteit, waar gepas, 'n skriftelike ooreenkoms aangaan oor watter owerheid verantwoordelik is vir instandhouding, 50 advertensiebeheer, padverlofregte en ander tersaaklike aspekte rakende die openbare vervoerpad.
- (7) Die Minister kan, na oorleg met die geaffekteerde munisipaliteite, die klassifikasie van 'n provinsiale pad of 'n provinsiale spoorlyn verander by kennisgewing in die *Provinsiale Koerant*. 55
- (8) 'n Munisipaliteit kan die klassifikasie van 'n munisipale pad of 'n munisipale spoorlyn verander by kennisgewing in die *Provinsiale Koerant*.
- (9) Waar 'n munisipale pad of munisipale spoorlyn deur die Provinsie gesubsidieer word, moet die munisipaliteit skriftelike goedkeuring van die Minister vir 'n

verandering van klassifikasie in subartikel (8) beoog verkry voor publikasie van die kennisgewing in die *Provinsiale Koerant*.

Reserwebreedtes van paaie en spoorlyne

6. (1) Behoudens subartikel (2) is die standaard minimum reserwebreedtes van paaie en spoorlyne wat ingevolge Deel 4 verklaar is, soos volg: 5
- (a) Primêre pad: 30 meter;
 - (b) hoofpad: 25 meter;
 - (c) distrikspad: 20 meter;
 - (d) kleinpad: 20 meter;
 - (e) openbare vervoerpad: 20 meter, behalwe in gevalle waar die openbare vervoerpad in die reserwe van 'n primêre, hoof-, distriks- of kleinpad verklaar is; 10
 - (f) openbare voetpad: twee meter;
 - (g) swaar spoorlyn: 20 meter; en
 - (h) ligte spoorlyn: 10 meter. 15
- (2) 'n Verantwoordelike owerheid kan, by verklaring, verskuiwing of verandering van 'n pad of spoorlyn, in die kennisgewing ingevolge artikel 19(1), bepaal dat die pad of spoorlyn 'n ander reserwebreedte as die standaard minimum reserwebreedte moet hê.
- (3) Die Minister kan die reserwebreedte van 'n pad of spoorlyn, of gedeelte daarvan, waarvan die Minister die verantwoordelike owerheid is, verander— 20
- (a) na oorleg met alle geaffekteerde munisipaliteite;
 - (b) behoudens die nodige projekbeplanning ingevolge Deel 4; en
 - (c) by kennisgewing in die *Provinsiale Koerant* op die voorgeskrewe wyse en met vermelding van die voorgeskrewe inligting.
- (4) 'n Munisipaliteit kan die reserwebreedte van 'n pad of spoorlyn, of gedeelte daarvan, waarvan hy die verantwoordelike owerheid is, verander— 25
- (a) na oorleg met alle ander geaffekteerde munisipaliteite en die Minister;
 - (b) behoudens die nodige projekbeplanning ingevolge Deel 4;
 - (c) met die goedkeuring van die Minister waar die pad of spoorlyn deur die Provinsie gesubsidieer word; en 30
 - (d) by kennisgewing in die *Provinsiale Koerant* op die voorgeskrewe wyse en met vermelding van die voorgeskrewe inligting.
- (5) Die reserwebreedte van alle paaie wat wettig bepaal of gewysig is ingevolge die Ordonnansie en van krag is by die inwerkingtreding van hierdie Wet bly van krag tensy dit ingevolge hierdie Wet verander word. 35

Klassifikasie en reserwes van bykomstige vervoerinfrastruktuur

7. (1) Bykomstige padinfrastruktuur word soos volg geklassifiseer: 40
- (a) Parkeergebied;
 - (b) rusgebied;
 - (c) diensperseel met regstreekse toegang;
 - (d) stilhouplek;
 - (e) weegbrugterrein;
 - (f) verkeersbeheersentrum;
 - (g) veekamp;
 - (h) materiaalbergingsterrein; of 45
 - (i) depot.
- (2) Bykomstige openbarevervoerinfrastruktuur word soos volg geklassifiseer: 50
- (a) Openbare vervoerwisselaar;
 - (b) stasie;
 - (c) rangeerfasiliteit;
 - (d) depot; of
 - (e) beheer- en inligtingsentrum.
- (3) Die verantwoordelike owerheid moet, in elke kennisgewing ingevolge artikel 19(1) ten opsigte van bykomstige vervoerinfrastruktuur— 55
- (a) die bykomstige vervoerinfrastruktuur wat in sodanige kennisgewing verklaar word, klassifiseer as een van die tipes in subartikel (1) of (2) genoem, behalwe waar die infrastruktuur geleë is binne en deel uitmaak van die reserwe van vervoerinfrastruktuur wat ingevolge artikel 5 geklassifiseer is;

- (b) meld of die Minister of 'n munisipaliteit verantwoordelik is vir die bykomstige vervoerinfrastruktuur; en
- (c) in die geval van 'n distriksmunisipaliteit, meld of die distriksmunisipaliteit of 'n plaaslike munisipaliteit vir die pad of spoorlyn verantwoordelik is.
- (4) Die Minister of 'n munisipaliteit, na gelang van die geval, kan in oorleg met mekaar die klassifikasie van bykomstige vervoerinfrastruktuur by kennisgewing in die *Provinsiale Koerant* verander, behoudens subartikel (5) en die nodige projekbeplanningsproses ingevolge Deel 4. 5
- (5) Waar bykomstige vervoerinfrastruktuur ten opsigte waarvan 'n munisipaliteit die verantwoordelike owerheid, is deur die Provinsie gesubsidieer word, moet die munisipaliteit toestemming vir die verandering van klassifikasie van die Minister kry voor die aanvang van die projekbeplanningsproses. 10
- (6) Die reserwe van bykomstige vervoerinfrastruktuur word bepaal deur die projekbeplanningsproses ingevolge Deel 4 voor die verklaring van die bykomstige vervoerinfrastruktuur. 15
- (7) Die Minister kan die reserwe van voorheen verklaarde bykomstige vervoerinfrastruktuur waarvan die Minister die verantwoordelike owerheid is, verander—
 - (a) na oorleg met geaffekteerde munisipaliteite;
 - (b) behoudens die nodige projekbeplanning ingevolge Deel 4; en
 - (c) by kennisgewing in die *Provinsiale Koerant* op die voorgeskrewe wyse en met vermelding van die voorgeskrewe inligting. 20
- (8) 'n Munisipaliteit kan die reserwe van voorheen verklaarde bykomstige vervoerinfrastruktuur waarvan hy die verantwoordelike owerheid is, verander—
 - (a) na oorleg met alle ander geaffekteerde munisipaliteite;
 - (b) behoudens die nodige projekbeplanning ingevolge Deel 4; 25
 - (c) met die goedkeuring van die Minister waar die bykomstige vervoerinfrastruktuur deur die Provinsie gesubsidieer word; en
 - (d) by kennisgewing in die *Provinsiale Koerant* op die voorgeskrewe wyse en met vermelding van die voorgeskrewe inligting.

Boulyne en boubeperkingsgebiede 30

- 8. (1) Boulyne en boubeperkingsgebiede—**
 - (a) soos in subartikels (2) en (3) bepaal, is van toepassing op alle primêre, hoof-, distriks- en openbare vervoerpaaië en spoorlyne wat ingevolge Deel 4 verklaar is; en
 - (b) wat voorheen ingevolge die Ordonnansie of ander wetgewing verklaar is, bly van krag ooreenkomstig daardie vorige verklaring, behoudens subartikel (4). 35
- (2) In 'n stedelike gebied is daar 'n boulyn aan elke kant van 'n pad of spoorlyn op 'n afstand van vyf meter gemeet reghoekig op die middellyn van die pad of spoorlyn.
- (3) Buite 'n stedelike gebied is daar—
 - (a) 'n boulyn aan elke kant van 'n pad of spoorlyn op 'n afstand van vyf meter gemeet reghoekig op die middellyn van die pad of spoorlyn; 40
 - (b) 'n boubeperkingsgebied aan elke kant van 'n pad of spoorlyn binne 'n afstand van 100 meter gemeet reghoekig op die middellyn van die pad of spoorlyn; en
 - (c) 'n boubeperkingsgebied binne 'n afstand van 500 meter gemeet van die snypunt van die middellyn van die pad of spoorlyn met die middellyn van 'n ander pad of spoorlyn. 45
- (4) Die verantwoordelike owerheid kan 'n boulyn of boubeperkingsgebied vergroot of verklein—
 - (a) in die geval van gesubsidieerde vervoerinfrastruktuur, met goedkeuring van die Minister; 50
 - (b) behoudens die nodige projekbeplanning ingevolge Deel 4; en
 - (c) by kennisgewing in die *Provinsiale Koerant* op die voorgeskrewe wyse en met vermelding van die voorgeskrewe inligting.

DEEL 3: OORGANGSBEPALINGS TEN OPSIGTE VAN BESTAANDE PAAIE

Assessering van voorheen verklaarde paaië 55

- 9. (1)** So gou moontlik na die inwerkingtreding van hierdie Wet moet die Departementshoof gesamentlike assesserings onderneem en met munisipaliteite ooreenkom op die voorgeskrewe wyse om alle voorheen verklaarde paaië te klassifiseer

in ooreenstemming met die kategorieë in artikel 5 uiteengesit. As daar nie ooreengekom word nie, moet die aangeleentheid hanteer word ooreenkomstig die Intergovernmental Relations Framework Act, 2005 (Wet 13 van 2005).

(2) Die ooreenkomste wat tussen die partye bereik word na assesserings ingevolge subartikel (1), moet vir elke pad wat geassesseer is, spesifiseer— 5

- (a) die klassifikasie en enige verandering in klassifikasie;
- (b) die padowerheid en enige verandering in padowerheid; en
- (c) dat enige oordrag van 'n geassesseerde pad ingevolge artikel 10 moet geskied.

(3) Na voltooiing van 'n assessering ten opsigte van 'n munisipale gebied moet die Departementshoof 'n kennisgewing in elke amptelike taal laat publiseer in ten minste een koerant wat in daardie gebied sirkuleer bevattende— 10

- (a) besonderhede van die ooreenkoms ten opsigte van die assessering van paaie in die gebied, insluitende enige voorgestelde verandering in klassifikasie, enige verandering in padowerheid en, in die geval van 'n oordrag, die owerheid waarvan die pad oorgedra word en die owerheid waarheen die pad oorgedra gaan word; 15
- (b) besonderhede van die tye en plekke waar insae in die bevindings van die assessering gekry kan word; en
- (c) 'n uitnodiging aan belanghebbende en geaffekteerde partye om voor 'n datum hoogstens 60 dae na publikasie van die kennisgewing skriftelik kommentaar te lewer op die implikasies van die assesserings. 20

(4) Na oorweging van kommentaar van die publiek wat ontvang is na die uitnodiging wat ingevolge subartikel (3)(c) gepubliseer is, moet die Departementshoof 'n kennisgewing in die *Provinsiale Koerant* publiseer met 'n lys van al die paaie wat ingevolge die assesserings en ooreenkomste ingevolge subartikel (1) geklassifiseer is en met vermelding van besonderhede van enige oordrag van paaie tussen padowerhede. 25

(5) Die ooreenkomste wat tussen die partye bereik is na assesserings ingevolge subartikel (1), moet gebruik word by die samestelling van die rekords wat in artikel 12 beoog word.

(6) Elke voorheen verklaarde primêre, hoof- en kleinpad en openbare voetpad word beskou as 'n pad van dieselfde onderskeie kategorie ingevolge hierdie Wet, en alle voorwaardes rakende die vorige verklaring bly van toepassing, tensy daar anders ooreengekom is ingevolge subartikel (1). 30

(7) Elke pad wat voorheen as 'n afdelingspad verklaar is, word beskou as geklassifiseer as 'n distrikspad ingevolge hierdie Wet, tensy daar anders ooreengekom is ingevolge subartikel (1). 35

(8) Waar die klassifikasie van 'n voorheen verklaarde pad voorwaardes behels wat verskil van dié wat op die datum van inwerkingtreding van hierdie Wet op die pad van toepassing is, insluitende die breedte van sy reserwe en die boubeperkingsgebiede, bly die voorwaardes wat op daardie datum van toepassing is, van toepassing op die pad totdat dit ingevolge hierdie Wet verander word. 40

Oordragooreenkomste ten opsigte van voorheen verklaarde paaie

10. (1) Die Minister en 'n munisipaliteit kan by ooreenkoms verantwoordelikheid vir 'n voorheen verklaarde pad oordra betreffende— 45

- (a) die regte rakende die pad;
- (b) die finansiële en subsidiereëlins vir die pad;
- (c) 'n agentskapsreëling waardeur een owerheid verantwoordelikheid aanvaar vir of rakende die pad onder beheer van die ander owerheid, met of sonder betaling; of
- (d) enige ander aangeleentheid wat die partye geskik ag, behoudens hierdie Wet. 50

(2) Die owerheid wat 'n pad ingevolge subartikel (1) oordra, moet kennis van die oordrag gee in—

- (a) die *Provinsiale Koerant*; en
- (b) elke amptelike taal in ten minste een koerant wat in die betrokke gebied sirkuleer. 55

(3) Waar die grond waarop 'n pad geleë is wat na 'n ander owerheid oorgedra word, by die oordraggewer berus, moet die grond kosteloos na die ander owerheid oorgedra word, uitgesonder die oordragkoste, wat deur enige van die owerhede gedra kan word, soos ooreengekom.

(4) Waar 'n pad ingevolge hierdie artikel oorgedra word, moet die lys in artikel 12 bedoel, dienoooreenkomstig bygewerk word. 60

DEEL 4: BEPLANNING EN VERKLARING VAN VERVOERINFRASTRUKTUUR

Vervoerstelselbeplanning

11. (1) Die Departementshoof moet—
- (a) verseker dat vervoerstelselbeplanning van vervoerinfrastruktuur waarvan die Minister die verantwoordelike owerheid is, gedoen word soos voorgeskryf; 5
 - (b) jaarliks aanvullings van sodanige beplanning, insluitende begrotings, opstel as inset vir die Departement se begrotingsiklusse en implementeringsprogramme; en
 - (c) hierdie aanvullings voor 30 April elke jaar aan munisipaliteite beskikbaar stel. 10
- (2) 'n Munisipaliteit moet—
- (a) verseker dat vervoerstelselbeplanning van vervoerinfrastruktuur in sy gebied by sy geïntegreerde vervoerplan ingesluit word soos vereis deur die NLTA;
 - (b) in soverre dit doenlik is, verseker dat beplanning en begroting vir die konstruksie, opgradering en instandhouding van vervoerinfrastruktuur onder die gesag van alle staatsorgane in sy munisipale gebied, en waar gepas, grensend aan daardie gebied, by die jaarlikse aanvullings van sy geïntegreerde vervoerplan ingesluit word; en 15
 - (c) inligting oor sodanige beplanning en begroting betyds aan die Minister voorlê om te verseker dat dit by die betrokke aanvullings van die provinsiale landvervoerraamwerk ingesluit word. 20
- (3) Die Minister en munisipaliteite moet verkeersaarbestuursplanne opstel soos voorgeskryf, wat—
- (a) goedgekeur moet word deur die verantwoordelike owerheid as dit nie die owerheid is wat die plan opstel nie; 25
 - (b) in die betrokke geïntegreerde vervoerplan en ruimtelike ontwikkelingsraamwerk en die provinsiale landvervoerraamwerk opgeneem moet word;
 - (c) die beleid vir die bestaande en toekomstige gebruik van die betrokke vervoerinfrastruktuur moet definieer;
 - (d) 'n fisiese plan vir leiding vir die huidige bestuur van die vervoerinfrastruktuur en omskrewe stadiums van toekomstige opgradering moet bied; en 30
 - (e) beperkings ten opsigte van aangrensende grondgebruik, toegang, parkering, openbare vervoer en niegemotoriseerde vervoer moet insluit.

Rekords van vervoerinfrastruktuur

12. (1) Na voltooiing van die assesserings van voorheen verklaarde paaie ingevolge artikel 9 moet die Departementshoof 'n omvattende lys en gepaardgaande data van alle verklaarde vervoerinfrastruktuur in die Provinsie opstel soos voorgeskryf. 35
- (2) Die Departementshoof moet seker maak dat die lys en gepaardgaande data verband hou met relevante bewaarders- en gebruikersbestuursplanne vir onroerende bates waarvoor voorsiening gemaak word in die Wet op die Bestuur van Onroerende Regeringsbates, 2007 (Wet 19 van 2007). 40
- (3) Voordat die lys gefinaliseer word, moet die Departementshoof—
- (a) 'n konsep daarvan aan alle munisipaliteite voorlê;
 - (b) hulle kommentaar vra met betrekking tot die konseplys binne 180 dae na ontvangs van die lys; en 45
 - (c) behoorlik oorweging skenk aan enige kommentaar wat ingevolge paragraaf (b) ontvang is.
- (4) Die Departementshoof moet 'n identifikasienommer of -kode toewys aan elke vervoerinfrastruktuur wat ingevolge subartikel (1) gelys is.
- (5) Die Departementshoof moet— 50
- (a) verseker dat die lys vir die publiek ter insae beskikbaar is gedurende kantoorure op die plek of plekke wat die Departementshoof aanwys; en
 - (b) die lys aanvul telkens wanneer enige vervoerinfrastruktuur in die Provinsie verklaar, verskuif, herklassifiseer, oorgedra of gesluit word, of wanneer die verklaring daarvan ingetrek word. 55
- (6) Elke munisipaliteit moet—
- (a) 'n lys hou van alle verklaarde vervoerinfrastruktuur in die gebied waarvoor die munisipaliteit die verantwoordelike owerheid is, op grond van dieselfde nommer- of kodestelsel in subartikel (4) bedoel;

- (b) verseker dat die lys vir die publiek ter insae beskikbaar is gedurende kantoorure op die plek of plekke wat die munisipaliteit aanwys; en
- (c) die lys aanvul telkens wanneer enige vervoerinfrastruktuur waarvoor die munisipaliteit verantwoordelik is, verklaar, verskuif, herklassifiseer, oorgedra of gesluit word, of wanneer die verklaring daarvan ingetrek word. 5

Projekbeplanningsproses

- 13.** (1) Die verantwoordelike owerheid moet 'n projekbeplanningsproses onderneem waar hy voornemens is om te verklaar—
- (a) 'n nuwe pad, spoorlyn of bykomstige vervoerinfrastruktuur;
 - (b) die verskuiwing van 'n bestaande pad of spoorlyn waardeur die hele beplande reserwe buite die bestaande reserwe val; 10
 - (c) die verbreding van die reserwe van 'n pad of spoorlyn, behoudens subartikel (10);
 - (d) 'n wysiging van die reserwe van bykomstige vervoerinfrastruktuur, behoudens subartikel (10); 15
 - (e) die vergroting of verkleining van 'n boulyn of boubeperringsgebied;
 - (f) die verskuiwing of wysiging van verklaarde vervoerinfrastruktuur wat nog nie gebou is nie; of
 - (g) die permanente sluiting van vervoerinfrastruktuur.
- (2) Voor die aanvang van die projekbeplanningsproses moet 'n ooreenkoms tussen die verantwoordelike owerheid en enige ander instelling wat by prosesse ingevolge die WNOB of die WNEH of enige ander wet betrokke moet wees, aangegaan word oor die bestek van—
- (a) tegniese beplanning wat nodig is om die voorkeurbelyning of alternatiewe belynings, uitleg of alternatiewe uitlegte, reserwe en eiendomsverkryging van die betrokke vervoerinfrastruktuur te definieer; 25
 - (b) 'n geïntegreerde omgewingsbestuursproses ooreenkomstig die WNOB, indien dit kragtens die WNOB vereis word;
 - (c) openbare deelname ooreenkomstig die WNOB en soos verder bepaal in artikel 14(3), indien wel; en 30
 - (d) 'n erfenisimpakbepaling ooreenkomstig die WNEH, indien dit vereis word.
- (3) Die tegniese beplanning moet op die voorgeskrewe wyse gedoen word.
- (4) Waar 'n beplanningsproses nie as deel van 'n geïntegreerde omgewingsbestuursproses ooreenkomstig die WNOB gedoen word nie, moet die verantwoordelike owerheid belanghebbende en geaffekteerde partye voor die begin van die beplanning op die voorgeskrewe wyse in kennis stel van die beoogde beplanning en vir daardie partye ten minste 30 dae toelaat om kommentaar te lewer of verhoër te rig ten opsigte van die beplanning. 35
- (5) Na voltooiing van die beplanningsproses moet die verantwoordelike owerheid belanghebbende en geaffekteerde partye op die voorgeskrewe wyse in kennis stel en 'n kennisgewing in elke amptelike taal in ten minste een koerant wat in die gebied sirkuleer, laat publiseer met vermelding van die voorgeskrewe inligting en belanghebbende en geaffekteerde partye nooi om skriftelik kommentaar te lewer op die plan voor 'n datum hoogstens 30 dae na publikasie van die kennisgewing. 40
- (6) Waar die Minister die verantwoordelike owerheid is ten opsigte van die vervoerinfrastruktuur in subartikel (1) bedoel, moet die Minister oorleg pleeg met die munisipaliteite in wie se gebiede die vervoerinfrastruktuur geleë is of sal wees en hulle versoek om binne 'n vermelde tyd skriftelike kommentaar op die beplanning voor te lê. 45
- (7) 'n Munisipaliteit moet in sy reaksie spesifiek verwys na die uitwerking wat enige voorgestelde alternatiewe roetes of uitlegte op enige geïntegreerde vervoerplan, ruimtelike raamwerk of ander strategiese munisipale ontwikkelingsbeplanning van die munisipaliteit kan hê. 50
- (8) Waar die projek 'n impak het op vervoerinfrastruktuur onder gesag van 'n staatsorgaan in 'n ander regeringsfeer, moet daardie staatsorgaan ook geraadpleeg word.
- (9) Waar 'n gedeelte van vervoerinfrastruktuur verskuif moet word, moet die verantwoordelike owerheid 'n beplanningsproses aanpak wat handel oor enige oortollige vervoerinfrastruktuur, hetsy afsonderlik of as deel van die proses om die vervoerinfrastruktuur te verskuif, ten einde een of meer van die volgende teweeg te bring: 55
- (a) Verander die klassifikasie daarvan; 60
 - (b) trek die verklaring daarvan in;

- (c) dra die betrokke vervoerinfrastruktuur of grond oor na 'n privaat persoon of 'n ander owerheid; of
- (d) sluit dit permanent.
- (10) Behoudens subartikel (11) kan 'n verantwoordelike owerheid-
 - (a) beplande of bestaande vervoerinfrastruktuur; 5
 - (b) 'n deel van 'n pad of spoorlyn; of
 - (c) die omvang en reserwe van vervoerinfrastruktuur wat voorheen verklaar is, verbreed of verander sonder om 'n beplanningsproses ingevolge hierdie artikel aan te pak, indien die verbreding of verandering nie langer is nie as 'n aaneenlopende lengte van 1 000 meter, en— 10
 - (i) in die geval van 'n pad of spoorlyn, die nuwe reserwe hoogstens vyf meter aan een of albei kante van die reserwe van die bestaande reserwe afwyk; of
 - (ii) in die geval van bykomstige vervoerinfrastruktuur, die nuwe reserwe nie verder as vyf meter van die bestaande reserwe geleë is nie.
- (11) Voor die verantwoordelike owerheid ingevolge subartikel (10) optree, moet hy— 15
 - (a) alle belanghebbende en geaffekteerde partye skriftelik op die voorgeskrewe wyse in kennis stel en hulle versoek om skriftelik kommentaar te lewer voor 'n datum hoogstens 30 dae na die kennisgewing; en
 - (b) verseker dat enige geïntegreerde prosesse wat ingevolge die WNOB of die WNEH vereis word, onderneem is. 20

Geïntegreerde omgewingsbestuursproses

14. (1) Waar dit ingevolge die WNOB vereis word, moet die verantwoordelike owerheid, wanneer 'n projekbeplanningsproses ingevolge artikel 13 onderneem word, 'n geïntegreerde omgewingsbestuursproses laat onderneem in koördinasie met die beplanning sodat die tegniese beplanningsimplikasies saam met die omgewings- en ander implikasies van die projek oorweeg word. 25
- (2) Die geïntegreerde omgewingsbestuursproses moet ingevolge Hoofstuk 5 van die WNOB gedoen word.
- (3) Die prosesse van openbare deelname ingevolge die WNOB moet oorlegpleging oor die impak van alle aspekte van die projek wat in hierdie Wet beoog word, insluit. 30
- (4) Waar die verantwoordelike owerheid nie die bevoegde owerheid is wat die geïntegreerde omgewingsbestuursproses ingevolge die WNOB administreer nie, moet die verantwoordelike owerheid daardie prosesse en die prosesse ingevolge hierdie Wet, insluitende tegniese ondersoeke, spesialisstudies en die prosesse van openbare deelname, in 'n enkele prosesse koördineer. 35

Beplanningsprosesse voor permanente sluiting

15. (1) Indien 'n verantwoordelike owerheid beoog om die verklaring van vervoerinfrastruktuur in te trek—
- (a) ten einde dit permanent te sluit;
 - (b) ten einde die benaming daarvan te verander na 'n straat; of 40
 - (c) wat nog nie gebou is nie,
- moet hy 'n beplanningsproses onderneem voordat hy die verklaring van die intrekking ingevolge artikel 19 maak.
- (2) Waar permanente sluiting van die vervoerinfrastruktuur beoog word, moet die beplanningsproses plaasvind in die vorm van 'n omgewingsimpakbepaling soos in die WNOB beoog en, indien van toepassing, 'n erfenisimpakbepaling ingevolge die WNEH. 45
- (3) Die beplanningsproses moet al die implikasies van die beoogde handeling op aangrensende grondgebruik en die omliggende gebied identifiseer, insluitende die impak van die hertoewysing van verkeer, en omgewings-, erfenis-, maatskaplike, 50 ekonomiese, gesondheids-, veiligheids- en toegangsimpakte.
- (4) Die verantwoordelike owerheid moet, voor die begin van die beplanningsproses—
- (a) belanghebbende en geaffekteerde partye op die voorgeskrewe wyse in kennis stel van die beoogde beplanning; 55
 - (b) vir daardie partye ten minste 30 dae toelaat om kommentaar te lewer of vertoë te rig oor die faktore wat by die beplanning ingesluit moet word; en
 - (c) enige vertoë wat ontvang is, oorweeg.

- (5) Na voltooiing van die beplanning moet die verantwoordelike owerheid 'n kennisgewing in elke amptelike taal laat publiseer in ten minste een koerant wat in die gebied sirkuleer, met vermelding van—
- (a) 'n beskrywing van die voorgestelde optrede;
 - (b) besonderhede van die tye en plekke waar insae in die bevindings van die beplanning gekry kan word; en 5
 - (c) 'n uitnodiging aan belanghebbende en geaffekteerde partye om skriftelik kommentaar op die implikasies van die sluiting te lewer voor 'n datum hoogstens 30 dae na publikasie van die kennisgewing.
- (6) Waar die verantwoordelike owerheid die Minister is, moet hy of sy oorleg pleeg met die munisipaliteite in wie se gebiede die vervoerinfrastruktuur geleë is of sal wees en hulle versoek om binne 'n bepaalde tyd skriftelike kommentaar op die beplanning voor te lê, met spesifieke verwysing ook na die uitwerking wat die voorgestelde optrede op enige geïntegreerde vervoerplan, ruimtelike raamwerk of ander strategiese ontwikkelingsbeplanning van die munisipaliteit kan hê. 10 15
- (7) Waar die voorgestelde optrede 'n impak het op vervoerinfrastruktuur onder die gesag van ander regeringsfere of staatsorgane, moet hulle ook geraadpleeg word.

Aansoek om vervoerinfrastruktuur te sluit, te verskuif of te verander

- 16.** (1) Enige persoon wat regstreeks deur bestaande of voorgestelde vervoerinfrastruktuur geraak word, kan skriftelik by die verantwoordelike owerheid aansoek doen om die vervoerinfrastruktuur te sluit, te verskuif of te verander. 20
- (2) Die aansoek moet op die voorgeskrewe wyse voorgelê word en moet van die voorgeskrewe gelde vergesel gaan.
- (3) By ontvangs van so 'n aansoek kan die verantwoordelike owerheid—
- (a) dit weier en redes vir sodanige weiering verstrek; of 25
 - (b) dit steun, in welke geval die owerheid, behoudens subartikel (4), 'n projekbeplanningsproses ingevolge artikel 13 of 15, na gelang van die geval, moet onderneem.
- (4) 'n Verantwoordelike owerheid kan alle uitgawes in verband met so 'n aansoek en die projekbeplanningsproses in subartikel (3)(b) beoog, van die aanseker verhaal. 30

Besluit deur pad- of openbarevervoerinfrastruktuur-owerheid

- 17.** (1) Na voltooiing van die proses in artikel 13 of 15 beoog, moet die verantwoordelike owerheid alle verslae, kommentaar en vertoë in verband met die voorgestelde handeling oorweeg.
- (2) Die verantwoordelike owerheid moet binne 180 dae na die datums in artikel 13(5), 13(11)(a) of 15(5)(c) bedoel, na gelang van die geval, besluit— 35
- (a) om voort te gaan met die verklaring, verskuiwing, verandering of sluiting van die vervoerinfrastruktuur; of
 - (b) om nie daarmee voort te gaan nie, en kennis te dien effekte in elke amptelike taal gee in ten minste een koerant wat in die gebied sirkuleer en in die *Provinsiale Koerant*. 40
- (3) Indien die verantwoordelike owerheid besluit om voort te gaan soos in subartikel (2)(a) beoog, moet hy, voordat hy met die prosedures ingevolge artikel 19 begin, kennis van sy besluit gee in elke amptelike taal in ten minste een koerant wat in die gebied sirkuleer en in die *Provinsiale Koerant*, en 'n tydperk van 30 dae na die datum van publikasie toelaat vir die indiening van app lle. 45

Reguleringsbeskermingsmaatreëls vir vervoerinfrastruktuur

- 18.** (1) Met ingang van die datum waarop die besluit om met die verklaring van 'n nuwe, verskuifde of gewysigde roete of uitleg van vervoerinfrastruktuur voort te gaan ingevolge artikel 17(3) in die *Provinsiale Koerant* gepubliseer is tot die datum waarop die vervoerinfrastruktuur ingevolge artikel 19 verklaar is, en ondanks enige andersluidende wet— 50
- (a) mag geen aansoek vir die stigting van 'n dorp, vir onderverdeling van grond, vir enige verandering van grondgebruik ingevolge enige wet of dorpsbeplanningskema of vir enige magtiging of besluit in die WNOB of WNEH beoog, sonder die skriftelike toestemming vooraf van die verantwoordelike owerheid toegestaan word nie— 55

- (i) ten opsigte van 'n gebied binne die boulyne van die vervoerinfrastruktuur waarop daardie besluit betrekking het; of
- (ii) op die basis van toekomstige toegang tot die vervoerinfrastruktuur waarop daardie roete of uitleg betrekking het; en
- (b) is artikels 36 tot en met 45 en 51 met die veranderinge wat deur die konteks vereis word, ten opsigte van die betrokke vervoerinfrastruktuur van toepassing. 5
- (2) Vanaf die datum waarop die kennisgewing ingevolge artikel 17(3) in die *Provinsiale Koerant* gepubliseer is tot die datum waarop die vervoerinfrastruktuur ingevolge artikel 19 verklaar is, en ondanks enige andersluidende wet, mag geen persoon— 10
- (a) enige pyleiding, elektrisiteitsleiding of -kabel, telefoonlyn of -kabel of enige ander struktuur op, oor of onder die gebied binne die boulyne van die betrokke vervoerinfrastruktuur lê, bou, verander of daartoe byvoeg nie; of
- (b) enige struktuur van enige aard hoegenaamd op, oor of onder daardie gebied oprig, verander of daartoe byvoeg nie, 15
- uitgesonderd ingevolge 'n bestaande geregistreerde serwituut of—
- (i) met die skriftelike toestemming vooraf van die verantwoordelike owerheid; of
- (ii) kragtens 'n padverlofreg uitgereik deur die verantwoordelike owerheid, en ingevolge enige voorwaardes wat deur die verantwoordelike owerheid gestel is. 20
- (3) Vanaf die datum waarop vervoerinfrastruktuur ingevolge artikel 19 verklaar is tot voltooiing van die vervoerinfrastruktuur, en ondanks artikel 44 of enige ander andersluidende wet, mag geen aansoek vir 'n verandering in grondgebruik ten opsigte van 'n stuk grond in 'n stedelike gebied binne 250 meter van die grens van die betrokke vervoerinfrastruktuur deur die owerheid wat gemagtig is om veranderinge in grondgebruik toe te staan, toegestaan word nie sonder om eers die skriftelike kommentaar van die verantwoordelike owerheid op die voorgeskrewe wyse te verkry en te oorweeg. 25

Verklaring van vervoerinfrastruktuur 30

- 19.** (1) Die verantwoordelike owerheid kan, behoudens subartikel (5) en die voltooiing van 'n beplanningsproses ooreenkomstig hierdie Deel, by kennisgewing in die *Provinsiale Koerant* verklaar dat—
- (a) daar vervoerinfrastruktuur op of oor enige grond is ooreenkomstig 'n plan wat in die kennisgewing gepubliseer is of ter insae beskikbaar is op 'n plek en tye wat in die kennisgewing vermeld word; 35
 - (b) bestaande vervoerinfrastruktuur verskuif of verander word soos in die kennisgewing vermeld en op so 'n plan getoon word; of
 - (c) bestaande vervoerinfrastruktuur permanent gesluit word in die mate wat in die kennisgewing vermeld en op so 'n plan getoon word. 40
 - (2) Die verantwoordelike owerheid kan, behoudens subartikel (4), by kennisgewing in die *Provinsiale Koerant*, 'n verklaring wat ingevolge subartikel (1) uitgereik is, intrek nadat hy die toepaslike beplanningsproses ingevolge artikel 15 onderneem het.
 - (3) Wanneer 'n owerheid 'n verklaring ingevolge subartikel (1) gedoen het of 'n verklaring ingevolge subartikel (2) ingetrek het, moet die owerheid besonderhede van die verklaring of die intrekking, na gelang van die geval, in elke amptelike taal publiseer in ten minste een koerant wat in die betrokke gebied sirkuleer. 45
 - (4) Behoudens artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet 56 van 2003), kan 'n verantwoordelike owerheid by kennisgewing in die *Provinsiale Koerant* die gesag, regte, verantwoordelikhede of eienaarskap van vervoerinfrastruktuur gedeeltelik of in die geheel oordra aan 'n ander owerheid ingevolge 'n ooreenkoms met daardie ander owerheid. 50
 - (5) 'n Kennisgewing wat ingevolge subartikel (1)(a) uitgereik is, moet vir elke item van vervoerinfrastruktuur wat verklaar word—
 - (a) meld watter entiteit die verantwoordelike owerheid vir die vervoerinfrastruktuur sal wees; 55
 - (b) die klassifikasie ingevolge artikel 5 aandui in die geval van 'n pad of spoorlyn, en artikel 7(1) of (2) in die geval van bykomstige vervoerinfrastruktuur;
 - (c) besonderhede verskaf van die breedte of omvang van die reserwe ingevolge artikel 6(2), indien van toepassing, in die geval van 'n pad of spoorlyn, of artikel 7(6) in die geval van bykomstige vervoerinfrastruktuur; 60

- (d) die ligging, roete en reserwe van die pad of spoorlyn of die uitleg van ander tersaaklike vervoerinfrastruktuur beskryf deur middel van 'n sketsplan wat by die kennisgewing aangeheg is; en
- (e) meld dat meer gedetailleerde inligting ter insae lê op 'n plek en op tye in die kennisgewing vermeld. 5
- (6) Waar vervoerinfrastruktuur verskuif of verander is, word die verskuiwing of verandering geag verklaarde vervoerinfrastruktuur te wees van dieselfde klassifikasie as dié wat onmiddellik voor die verklaring van die verskuiwing of verandering op die verskuifde of veranderde vervoerinfrastruktuur van toepassing was.

DEEL 5: PROSEDURES BY SLUITING VAN VERVOERINFRASTRUKTUUR 10

Permanente sluiting van vervoerinfrastruktuur

- 20.** Die verantwoordelike owerheid moet—
- (a) voor die permanente sluiting van vervoerinfrastruktuur 'n kennisgewing by die punt van sluiting, of by elke punt van die gedeelte of gedeeltes wat gesluit gaan word, oprig en vir ten minste 60 dae vertoon, wat in elke amptelike taal die voorgenome handeling aandui en aan wie kommentaar of besware gerig kan word; en 15
- (b) na permanente sluiting van vervoerinfrastruktuur, gepaste verkeerstekens en padmerke aanbring wat die publiek van die sluiting waarsku en waar nodig gebruikers verwys na 'n alternatiewe roete, indien van toepassing. 20

Tydlike sluiting of verlegging van paaie of spoorlyne

- 21.** (1) Die verantwoordelike owerheid kan 'n pad of spoorlyn of enige gedeelte daarvan tydelik sluit of verlê of die gebruik daarvan beperk of reguleer—
- (a) vir die doel van of hangende die konstruksie, rehabilitasie, instandhouding of herstel van die pad of spoorlyn; 25
- (b) vir die doel van of hangende die konstruksie, oprigting, lê, uitbreiding, instandhouding, herstel of sloping van enige gebou, struktuur, werke of diens langs, op, oor, deur, bo-oor of onder daardie pad of spoorlyn;
- (c) as gevolg van 'n openbare gebeurtenis wat spesiale maatreëls vereis vir die beheer van verkeer of spesiale voorsiening vir die akkommodering van skares; 30
- (d) om enige ander rede wat sodanige optrede noodsaaklik maak; of
- (e) op versoek van enige persoon.
- (2) Die verantwoordelike owerheid moet die eienaar van grond wat skade gely het as gevolg van optrede ingevolge hierdie artikel, vergoed tot 'n bedrag van hoogstens die werklike finansiële verlies wat deur die eienaar gely is, soos met die eienaar ooreengekom. 35
- (3) Indien die partye nie ingevolge subartikel (2) ooreenkoms kan bereik nie, is die Onteieningswet, 1975 (Wet 63 van 1975), van toepassing, met die nodige veranderinge, betreffende vergoeding en die prosedures om dit te bepaal. 40
- (4) Wanneer 'n pad of spoorlyn of 'n gedeelte daarvan ingevolge hierdie artikel gesluit of verlê word, moet die verantwoordelike owerheid gepaste padtekens of merke wat sodanige sluiting of verlegging aandui, in die voorgeskrewe vorm en op die voorgeskrewe wyse oprig en in stand hou by elke punt van die geslote of verlegde deel, vir die duur van die sluiting of verlegging. 45
- (5) 'n Verantwoordelike owerheid moet voor die tydelike sluiting of verlegging van 'n pad of spoorlyn geaffekteerde partye op die voorgeskrewe wyse in kennis stel en ten minste 21 dae voor die sluiting of verlegging, 'n kennisgewing in elke amptelike taal publiseer in ten minste een koerant wat in die gebied sirkuleer, met vermelding van die voorgeskrewe inligting, en ten minste 14 dae toelaat vir belanghebbende en geaffekteerde partye om kommentaar te lewer en versoë te rig. 50
- (6) 'n Persoon kan die verantwoordelike owerheid skriftelik op die voorgeskrewe wyse versoek om 'n pad of spoorlyn tydelik te sluit of te verlê of die gebruik daarvan te beperk of te reguleer, soos in subartikel (1) beoog.
- (7) 'n Persoon wat 'n versoek ingevolge subartikel (6) rig, moet aan die verantwoordelike owerheid die koste, soos deur daardie owerheid bepaal, van voldoening aan die versoek betaal, insluitende die koste om die veiligheid van die gebruikers van die betrokke pad of spoorlyn te verseker. 55

Noodsluiting of -verlegging

22. (1) In noodgevalle, kan die verantwoordelike owerheid vervoerinfrastruktuur sluit of verlê of verkeer op vervoerinfrastruktuur afkeer.
- (2) As daar gevaar vir die publiek, eiendom of verkeer is, moet die owerheid-
- (a) waar die situasie dit toelaat, die owerhede verantwoordelik vir nooddienste in die gebied in kennis stel ten einde optrede te koördineer; en 5
 - (b) waarskuwings- en roeteleidingstekens oprig om veiligheid te verseker en verkeersvloei te fasiliteer.

Publiek se reg om geslote of verlegde pad of spoorlyn te gebruik

23. Die publiek kan 'n pad of spoorlyn of gedeelte daarvan wat ingevolge hierdie Deel gesluit of verlê is, gebruik totdat die verantwoordelike owerheid tekens opgerig het wat die sluiting of verlegging aandui soos in artikel 20(1)(b), 21(4) of 22(2)(b) beoog. 10

DEEL 6: FINANSIERING EN SUBSIDIEREËLINGS

Subsidiereëlins met munisipaliteite

24. (1) 'n Munisipaliteit kan op die voorgeskrewe wyse by die Minister aansoek doen vir die betaling van 'n subsidie ten opsigte van die projekbeplanning, ontwerp, konstruksie, instandhouding of bestuur van enige vervoerinfrastruktuur. 15
- (2) Indien die Minister die aansoek goedkeur, moet 'n skriftelike subsidie-ooreenkoms wat die voorgeskrewe inligting bevat, in die voorgeskrewe vorm tussen die Minister en daardie munisipaliteit aangegaan word. 20
- (3) Die subsidie-ooreenkoms moet bepaal dat die betaling van 'n subsidie onderhewig is aan nakoming deur die munisipaliteit van standarde en riglyne wat deur die Departementshoof bepaal word.
- (4) Waar 'n munisipaliteit voornemens is om aansoek te doen vir 'n subsidie in verband met vervoerinfrastruktuur wat hy beoog om te verklaar, moet hy— 25
- (a) voordat hy met die projekbeplanningsproses ingevolge Deel 4 begin, skriftelik by die Minister aansoek doen vir goedkeuring van die subsidie; en
 - (b) na voltooiing van die projekbeplanningsproses, die Minister voorsien van 'n eksemplaar van die kennisgewing wat ingevolge artikel 17(3) gepubliseer is en alle kommentaar wat ontvang is. 30
- (5) 'n Munisipale pad wat in geheel of gedeeltelik deur die Provinsie befonds of gesubsidieer is onmiddellik voor die inwerkingtreding van hierdie Wet, kwalifiseer vir 'n subsidie ingevolge hierdie Deel.
- (6) Aansoeke ingevolge subartikel (1) moet, waar toepaslik, in die volgende aktiwiteite ingedeel word: 35
- (a) Aktiwiteite wat noodwendig aangegaan word vir projekbeplanning soos by Deel 4 vereis;
 - (b) ontwerp van vervoerinfrastruktuur;
 - (c) konstruksie;
 - (d) instandhouding of herstelwerk; 40
 - (e) herbedekking van paaie;
 - (f) verlegging van munisipale dienste;
 - (g) oprigting van heinings;
 - (h) instandhouding van strukture, brûe en keermure; en
 - (i) vergoedingsbetaling en ander koste in verband met grondverkryging. 45

Begrotings van uitgawes vir subsidieoelendes

25. (1) Nie later nie as 1 Desember elke jaar moet elke munisipaliteit met gesubsidieerde vervoerinfrastruktuur in sy gebied begrotings van uitgawes vir die volgende finansiële jaar aan vervoerinfrastruktuur onder sy gesag ten opsigte waarvan 'n subsidie ingevolge hierdie Wet geëis kan word, aan die Departementshoof voorlê vir goedkeuring. Die begrotings moet in die voorgeskrewe vorm wees. 50
- (2) Indien 'n munisipaliteit versuim om aan subartikel (1) te voldoen, kan die Departementshoof die subsidie wat aan daardie munisipaliteit betaalbaar is, verminder met 'n bedrag wat hy of sy bepaal.

(3) Die Departementshoof kan by die goedkeuring van enige begroting enige voorgestelde uitgawe na oorleg met die munisipaliteit om enige rede wysig of skrap.

(4) 'n Munisipaliteit kan voorgestelde wysigings aan sodanige begroting te eniger tyd aan die Departementshoof voorlê vir goedkeuring.

Berekening van subsidiepersentasie

5

26. (1) Die subsidiepersentasie op gesubsidieerde vervoerinfrastruktuur word soos volg bereken:

(a) Op kapitaalbesteding—

(i) die persentasie van besteding wat die Minister voorskryf, hetsy in die algemeen of in 'n spesifieke geval, ten opsigte van die konstruksie, 10
verskuiwing of verbreding van paaie of spoorlyne, konstruksie of verandering van die uitleg van bykomstige vervoerinfrastruktuur, en die verkryging van eiendom ten einde die reserwe vir paaie, spoorlyne of bykomstige vervoerinfrastruktuur te verkry of te vergroot; en

(ii) die persentasie van besteding wat die Minister voorskryf, hetsy in die 15
algemeen of in 'n spesifieke geval, ten opsigte van die verandering, verlegging of verwydering as gevolg van die konstruksie van vervoerinfrastruktuur, van enigiets wat vir die lewering van munisipale dienste gebruik word, insluitende elektrisiteitsvoorsiening of enige telekommunikasiedienste, enige pyp, paal, staanpaal, draad, kabel, 20
geleier, rioolpyp of toestel; en

(b) op lopende uitgawes, die voorgeskrewe persentasie, wat kan verskil met betrekking tot verskillende tipes vervoerinfrastruktuur.

(2) Die persentasie subsidie vir kapitaal- en lopende uitgawes van 'n openbare vervoerpad wat in geheel binne die reserwe van 'n primêre, hoof-, distriks- of kleinpad 25
is, kan verskil van die subsidie van toepassing op die pad in wie se reserwe dit geleë is.

(3) Geen subsidie ten opsigte van vergoeding wat vir die onteiening van grond vir vervoerinfrastruktuur betaal word, word betaal nie tensy die Departementshoof—

(a) skriftelik toestemming verleen het om die grond te onteien voordat dit onteien 30
is; en

(b) die betaling van die vergoeding skriftelik goedgekeur het waar dit by ooreenkoms tussen die munisipaliteit en die eienaar bepaal is.

Bepaling van subsidiebedrag van uitgawe

27. (1) Die Departementshoof moet ten opsigte van elke munisipaliteit die bedrag van goedgekeurde kapitaal- en lopende subsidiebesteding per jaar bepaal, behoudens die 35
WOFB, met inagneming van—

(a) die begroting van uitgawes wat ingevolge artikel 25 voorgelê is;

(b) die subsidiepersentasies wat ooreenkomstig artikel 26 bereken is;

(c) die saamgestelde persentasie verhoging per jaar in die totale inkomste van die 40
munisipaliteit gedurende die twee finansiële jare onmiddellik voor die jaar waarvoor die subsidiebedrag van uitgawe bepaal word; en

(d) ander voorgeskrewe faktore wat die Departementshoof as tersaaklik beskou.

(2) Die Departementshoof kan—

(a) 'n verhoging van die subsidiebedrag van uitgawe magtig wat nie die 45
voorgeskrewe perke oorskry nie, behoudens die WOFB;

(b) by die bepaling of verhoging van die subsidiebedrag van uitgawe gelas dat 50
enige item in of gedeelte van enige uitgawe nie vir 'n subsidie kwalifiseer nie; en

(c) by die bepaling van enige subsidiebedrag van uitgawe die voorwaardes in 50
verband daarmee stel wat hy of sy nodig of wenslik ag.

(3) 'n Munisipaliteit mag nie, sonder die Departementshoof se skriftelike goedkeuring, die totale subsidiebedrag van uitgawe wat ingevolge hierdie artikel bepaal is, oorskry nie, en as hy dit wel doen, kan die Departementshoof die subsidie betaalbaar aan die munisipaliteit verminder met die bedrag wat hy of sy as gepas beskou.

Huurgeld, verkoop en ander inkomste uit grond met subsidiegeld verkry

55

28. (1) Waar 'n munisipaliteit grond verkry het—

(a) deur van subsidiegeld gebruik te maak; of

- (b) as 'n toewysing van die Provinsie, en 'n huur-, verkoop- of ander ooreenkoms rakende daardie grond of enige deel daarvan aangaan, moet hy die netto inkomste uit die huur-, verkoop- of ander ooreenkoms aan die Provinsie betaal in verhouding tot die subsidiebydrae van die Provinsie tot die verkryging daarvan, behoudens subartikel (2). 5
- (2) Die opbrengs van 'n huur-, verkoop- of ander ooreenkoms in subartikel (1) bedoel, kan met die goedkeuring van die Minister—
- (a) waar die betrokke grond in 'n metropolitaanse vervoergebied geleë is soos beoog in artikel 3 van die Wet op Stedelike Vervoer, 1977 (Wet 78 van 1977), gestort word in die Gekonsolideerde Metropolitaanse Vervoerfonds wat by artikel 18 van die Wet op Stedelike Vervoer, 1977, ingestel is, of 10
- (b) indien die munisipaliteit 'n munisipale landvervoerfonds ingevolge artikel 27 van die NLTA ingestel het, in daardie fonds gestort word.

Gelykgestelde persentasiekoers van subsidie op kapitaalbesteding

29. (1) 'n Munisipaliteit moet, voordat hy begin met enige konstruksie ten opsigte waarvan 'n subsidie op kapitaalbesteding ingevolge hierdie Wet betaalbaar is, 'n gedetailleerde begroting van uitgawes, ingedeel in subsidieerbare en niesubsidieerbare items, aan die Departementshoof voorlê en hy of sy moet die relatiewe persentasiekoerse van toepassing ten opsigte van die konstruksie gelykstel. 15
- (2) By voltooiing van die konstruksie in subartikel (1) beoog, moet die munisipaliteit 'n skriftelike staat van die werklike uitgawe, ingedeel in subsidieerbare en niesubsidieerbare items, aangegaan vir of ten opsigte van die konstruksie aan die Departementshoof voorlê, wat, indien daar afgewyk is van die begroting in subartikel (1) beoog, die gelykgestelde persentasiekoers in daardie subartikel beoog, kan hersien en wysig. 20 25

Bydraes uit ander bronne

30. Wanneer uitgawes wat deur 'n munisipaliteit aangegaan is vir of ten opsigte van vervoerinfrastruktuur—
- (a) ten volle befonds word uit 'n ander bron as die munisipaliteit of die Provinsie, kwalifiseer die uitgawes nie vir 'n subsidie nie; 30
- (b) gedeeltelik befonds word uit 'n ander bron as die munisipaliteit of die Provinsie, kwalifiseer net die gedeelte van die uitgawe wat nie aldus befonds word nie, vir 'n subsidie.

Betaling van subsidie

31. (1) Die subsidie moet betaal word na die einde van die finansiële jaar ten opsigte waarvan dit verskuldig is, by voorlegging van 'n eis deur die munisipaliteit in die vorm wat die Departementshoof bepaal. 35
- (2) Die Departementshoof kan voorskotte op subsidies maak, maar die totale bedrag van voorskotte aan 'n munisipaliteit gedurende enige finansiële jaar mag nie 90 persent van die geraamde totale bedrag van subsidies betaalbaar aan daardie munisipaliteit vir daardie finansiële jaar te bowe gaan nie. 40
- (3) Die Departementshoof kan die bedrag van subsidies betaalbaar aan 'n munisipaliteit verminder indien hy of sy rede het om te glo dat enige werk nie ingevolge die ooreenkoms in artikel 24(2) bedoel of ooreenkomstig die standaarde en riglyne in artikel 24(3) bedoel, verrig is nie. 45

Rekords van uitgawes aan vervoerinfrastruktuur

32. Elke munisipaliteit wat 'n subsidie ontvang of aansoek doen vir subsidie, moet alle boeke, rekords, fakture, rekeninge en ander dokumente rakende enige uitgawe deur hom aangegaan aan of in verband met die betrokke vervoerinfrastruktuur, te alle tye beskikbaar hê vir insae deur die Departementshoof. 50

Vermindering van bepaalde subsidie-uitgawes

- 33.** Indien die totale werklike uitgawe in enige finansiële jaar deur 'n munisipaliteit aangegaan aan of in verband met gesubsidieerde vervoerinfrastruktuur minder is as die geraamde uitgawes wat ingevolge artikel 25(1) voorgelê is—
- (a) mag die werklike bedrag van subsidie-uitgawes nie meer wees nie as— 5
 - (i) die bedrag bereken ooreenkomstig die voorgeskrewe subsidiepersentasie ingevolge artikel 26, tensy dit deur die Departementshoof gemagtig is; of
 - (ii) die werklike uitgawes aan die vervoerinfrastruktuur; en
 - (b) moet die som van die bedrae wat uit ander bronne ontvang is soos in artikel 30 beoog, afgetrek word van die totale werklike uitgawes en moet die subsidiebedrag van uitgawe ooreenkomstig die oorblywende gedeelte bepaal word. 10

DEEL 7: ONTEIENING EN VERGOEDING

Onteiening van eiendom

- 34.** (1) Die verantwoordelike owerheid kan grond, uitgesonderd grond wat deur 'n staatsorgaan besit word, onteien vir die doel van— 15
- (a) vervoerinfrastruktuurwerke of aktiwiteite wat daarmee in verband staan;
 - (b) behoudens die WNOB en enige ander toepaslike wet, die verkryging, ontginning of behandeling, uithaal of verwydering van materiaal insluitende gruis, klip, sand, klei, water uitgesonderd water wat kunsmatig gepomp is vir veesuiwing, en enige ander materiaal of stof vir doeleindes by hierdie Wet beoog, buite 'n stedelike gebied; 20
 - (c) die akkommodasie van personeel betrokke by die bou, rehabilitasie, opgradering of instandhouding van vervoerinfrastruktuur, of
 - (d) die opberging of instandhouding van voertuie, masjiene, toerusting, gereedskap, voorrade of materiaal. 25
- (2) Die Onteieningswet, 1975, met die veranderinge wat deur die samehang vereis word, is van toepassing op handelinge ingevolge subartikel (1).
- (3) 'n Verantwoordelike owerheid kan materiaal uithaal en verwyder op grond wat deur 'n staatsorgaan besit word, maar net ingevolge 'n ooreenkoms met daardie staatsorgaan en behoudens die WNOB en enige ander toepaslike wet. 30
- (4) Waar 'n stuk grond onteien word en die eienaar die verantwoordelike owerheid oortuig dat die res van die grond vir die eienaar nutteloos geword het as gevolg van die onteiening, kan die owerheid daardie restant ook onteien.
- (5) Waar 'n verantwoordelike owerheid 'n toegang tot of uitgang uit grond permanent gesluit het en die eienaar van die grond die grond nie voordelig kan gebruik nie as 'n regstreekse gevolg van die sluiting, of die vervoerinfrastruktuurowerheid nie toegang tot sodanige grond kan verskaf nie, kan daardie owerheid die grond onteien. 35
- (6) Waar grond of 'n gedeelte daarvan nadelig geraak word deur die onteiening van ander grond deur 'n verantwoordelike owerheid, kan die owerheid die grond of gedeelte wat aldus geraak word, ook onteien. 40
- (7) Hierdie artikel verhinder nie dat 'n owerheid eiendom vir doeleindes van hierdie Wet verkry deur te koop of te huur of deur enige ander metode as onteiening nie.

Betreding en besitneming van eiendom

- 35.** (1) Waar 'n verantwoordelike owerheid grond of die tydelike gebruik daarvan of enige materiaal daarop benodig vir 'n doel in subartikel (2) bedoel, kan die owerheid of enige persoon wat skriftelik deur hom gemagtig is, na kennis van ten minste 48 uur aan die eienaar of okkupeerder van die grond of materiaal en met die instemming van die eienaar of okkupeerder— 45
- (a) die grond betree met die nodige werkers, toerusting en voertuie; 50
 - (b) die oppervlakte en vlakke van die grond opmeet en bepaal;
 - (c) op of in die grond grawe of boor; of
 - (d) die grense van die grond of materiaal afbaken.
- (2) 'n Verantwoordelike owerheid kan kragtens subartikel (1) optree om—
- (a) die waarde van die betrokke grond of materiaal te bepaal; 55

- (b) 'n inspeksie, navraag, ondersoek of opname te doen in verband met die uitoefening of verrigting van die bevoegdhede, pligte en funksies ingevolge hierdie Wet verleen of opgedra;
- (c) enige struktuur, apparaat, toestel, installasie of enige ander ding wat ingevolge hierdie Wet deur of namens daardie owerheid op sodanige grond gebou, opgerig of geplaas is, te inspekteer, in stand te hou en te herstel; of 5
- (d) hom in staat te stel om enige van sy ander funksies ingevolge hierdie Wet te verrig.
- (3) Waar 'n eienaar of okkupeerder toestemming weier vir 'n owerheid of persoon deur sodanige owerheid gemagtig om ingevolge subartikel (1) op te tree, moet die owerheid die eienaar of okkupeerder skriftelik versoek om redes vir die weiering te verstrek binne die tyd wat die owerheid toelaat, wat minstens sewe dae moet wees. 10
- (4) Die eienaar of okkupeerder moet redes vir die weiering skriftelik verstrek binne die tyd wat die owerheid ingevolge subartikel (3) bepaal.
- (5) Indien sodanige redes nie verstrek word nie binne die tyd wat aldus bepaal is, of nie vir die owerheid aanvaarbaar is nie, kan die owerheid by 'n hof met jurisdiksie aansoek doen vir 'n bevel wat enige handeling ingevolge subartikel (1) magtig. 15
- (6) So 'n hof kan, as hy die bevel gee, die eienaar of okkupeerder gelas om die koste van die aansoek te betaal, waar gepas op 'n skaal van prokureur en kliënt, as hy oortuig is dat die owerheid redelik opgetree het vir die doeleindes van hierdie Wet. 20
- (7) Ondanks subartikels (3), (4) en (5) kan die verantwoordelike owerheid, sonder om kennis te gee ingevolge subartikel (3) of vir 'n hofbevel aansoek te doen ingevolge subartikel (5), enige handeling verrig wat in subartikel (1) beoog word, waar daardie handeling dringend vereis word om die dood van of besering aan persone of wesenlike skade aan eiendom te voorkom. 25
- (8) 'n Verantwoordelike owerheid kan oor grond beweeg om toegang tot ander grond te kry vir die doeleindes in subartikel (2) beoog, met die nodige werkers, toerusting en voertuie, met die instemming van die eienaar of okkupeerder van eersgenoemde grond, en indien sodanige instemming geweier word, is subartikels (3), (4), (5), (6) en (7) met die nodige veranderinge van toepassing. 30
- (9) Waar toegang ingevolge hierdie artikel verkry word tot grond wat omhein is sonder 'n hek, kan die verantwoordelike owerheid 'n hek in die heining oprig wat beman moet word, en wanneer dit onbeman is, moet dit van 'n slot voorsien wees, en die hek moet behoorlik gesluit gehou word.
- (10) Indien enige persoon skade gely het as gevolg van die uitoefening van 'n bevoegdheid wat by hierdie artikel verleen is, moet die verantwoordelike owerheid die skade op sy koste herstel of skadevergoeding of vergoeding ten opsigte daarvan ingevolge die Onteieningswet, 1975, aan daardie persoon betaal. 35

DEEL 8: BESTUUR EN BEHEER VAN VERVOERINFRASTRUKTUUR EN AANGRENSENDE GROND 40

Verbod op sekere advertensies op of sigbaar vanaf vervoerinfrastruktuur

- 36.** (1) Behoudens regulasies in artikel 37 beoog, mag niemand 'n advertensie vertoon of laat vertoon of toelaat dat dit vertoon word nie op of deur middel van 'n vaste struktuur of 'n staande voertuig toegerus vir die spesifieke doel van advertensie, uitgesonderd met die vooraf skriftelike toestemming van die verantwoordelike owerheid, indien die advertensie- 45
- (a) sigbaar is vanaf 'n pad buite 'n stedelike gebied;
- (b) binne 50 meter van die grens van die reserwe van 'n pad, uitgesonderd 'n deurpad in 'n stedelike gebied, is en vanaf daardie pad sigbaar is; of
- (c) binne 250 meter van die grens van die reserwe van 'n deurpad in 'n stedelike gebied is en vanaf daardie deurpad sigbaar is. 50
- (2) Geen persoon mag in, op of bokant enige vervoerinfrastruktuur-
- (a) 'n advertensie vertoon of veroorsaak of onderneem om dit te vertoon nie; of
- (b) 'n bord, kennisgewingraamwerk, steierwerk of ander toestel oprig, bou, plaas of uitstal deur middel waarvan 'n advertensie vertoon kan word nie. 55
- (3) Subartikels (1) en (2) is nie van toepassing nie op die vertoon van 'n advertensie-
- (a) wat onmiddellik voor die inwerkingtreding van hierdie Wet of voor die betrokke vervoerinfrastruktuur ingevolge artikel 19 verklaar is, wettig vertoon is so lank dit deurlopend op dieselfde plek vertoon word; of

(b) wat ingevolge 'n wet vertoon moet word en streng ingevolge daardie wet vertoon word.

(4) Toestemming deur die verantwoordelike owerheid ingevolge subartikel (1) verleen nie vrystelling van ander wette waarvoor verdere goedkeuring deur 'n munisipaliteit of enige ander owerheid vereis word nie. 5

(5) Indien 'n munisipaliteit 'n verordening uitvaardig wat die vertoning van advertensies op of sigbaar van munisipale vervoerinfrastruktuur in sy regsgebied reguleer, is hierdie artikel en artikels 37 tot 39 nie op daardie munisipale vervoerinfrastruktuur van toepassing nie, tensy die verordening anders bepaal.

Regulasies rakende advertensies op of sigbaar vanaf vervoerinfrastruktuur 10

37. (1) Die Minister kan regulasies uitvaardig rakende advertensies in artikel 36 bedoel.

(2) Sonder om die wye omvang van subartikel (1) in te kort, kan regulasies wat ingevolge subartikel (1) uitgevaardig word, voorsiening maak vir—

(a) die klassifikasie van vervoerinfrastruktuur in kategorieë op die basis van hulle natuurtooneel-, omgewingskundige of argitektoniese belang, of op ander soortgelyke gronde, met die doel om te onderskei tussen die tipes advertensies wat in elke kategorie toegelaat word; 15

(b) die klassifikasie van advertensies in kategorieë met die doel om die vertoning of oprigting daarvan te reguleer en te beheer; 20

(c) die prosedures wat gevolg moet word by aansoek vir toestemming in artikel 36(1) beoog en die gelde betaalbaar by aansoek vir sodanige toestemming;

(d) die assessering van die implikasies van advertensies vir die veiligheid van verkeer en vervoerbedryf;

(e) metodes van vertoning en verligting van advertensies; 25

(f) die veiligheid, aanvaarbaarheid en welvoeglikheid van advertensies;

(g) die ontwerp en konstruksie van advertensies en hulle steunstrukture, posisie, instandhouding, verandering en toekomstige verwydering; of

(h) die kategorieë advertensies wat operig of vertoon kan word sonder die vooraf skriftelike toestemming van die verantwoordelike owerheid, op die grondslag van kriteria wat in die regulasies uiteengesit word. 30

Verwydering van ongemagtigde advertensies

38. (1) Die verantwoordelike owerheid kan 'n advertensie verwyder wat in die reserwe van die vervoerinfrastruktuur operig is en strydig met hierdie Wet vertoon word. 35

(2) Enigiemand wat 'n advertensie strydig met die bepalings van hierdie Wet vertoon of toelaat dat dit aldus vertoon word, en wat by skriftelike kennisgewing deur die verantwoordelike owerheid gelas is om dit te verwyder, moet dit doen binne die tydperk in die kennisgewing vermeld, wat nie korter as 14 dae mag wees nie.

(3) Indien die persoon aan wie 'n kennisgewing ingevolge subartikel (2) gerig is, versuim om die advertensie te verwyder binne die tydperk daarin vermeld, kan die verantwoordelike owerheid die nodige regstappe doen om die advertensie te laat verwyder en die regs- en ander koste van die verwydering van die advertensie van daardie persoon verhaal. 40

Vermoedens rakende advertensies 45

39. Vir die doeleindes van hierdie Wet word 'n advertensie geag vertoon te word of toegelaat te wees om vertoon te word—

(a) deur die persoon wat dit operig het of dit andersins laat verskyn het;

(b) waar dit verband hou met 'n produk of artikel wat deur 'n bepaalde persoon geproduseer of vervaardig word, deur daardie persoon; 50

(c) waar dit verband hou met 'n diens wat deur 'n bepaalde persoon gelewer word, of 'n sakeonderneming of plek wat deur 'n bepaalde persoon besit word, deur daardie persoon; of

(d) deur die persoon wat die grond besit of okkupeer waarop die advertensie operig is of vertoon word. 55

Toegang tot en uitgang uit vervoerinfrastruktuur

40. (1) Behoudens subartikels (2) en (4) mag geen persoon—
- (a) vervoerinfrastruktuur deur middel van voertuigvervoer binnegaan of verlaat nie behalwe deur 'n wettig opgerigte padbaan, hek, brug of ander oorgang;
 - (b) waar toegang tot of uitgang uit vervoerinfrastruktuur na of van aangrensende grond versper word deur 'n wettig opgerigte heining, muur, heg, sloot, voor of soortgelyke hindernis langs of naby die kant van die vervoerinfrastruktuur, die vervoerinfrastruktuur deur middel van voertuig- of niegemotoriseerde vervoer binnegaan of verlaat nie behalwe deur 'n wettig opgerigte padbaan, hek, brug, oorklimtrap of ander oorgang; of
 - (c) 'n ingang tot of uitgang uit vervoerinfrastruktuur bou op enige manier wat aan voertuig- of niegemotoriseerde vervoer toegang tussen die vervoerinfrastruktuur en enige ander eiendom verleen nie, tensy die verantwoordelike owerheid die bou daarvan skriftelik gemagtig het.
- (2) Subartikel (1) is nie van toepassing nie op 'n wettig opgerigte toegangspadbaan, hek, brug, oorklimtrap of ander oorgang wat onmiddellik voor die inwerkingtreeding van hierdie Wet bestaan het en gebruik is en wat nie te eniger tyd daarna gesluit of verwyder is nie.
- (3) Niemand mag grond onderverdeel wat na onderverdeling die oprigting van 'n padbaan, hek, brug, oorklimtrap of ander oorgang sal vereis om toegang tot of uitgang uit vervoerinfrastruktuur te verkry nie, tensy die verantwoordelike owerheid die onderverdeling goedgekeur het.
- (4) 'n Verantwoordelike owerheid mag nie 'n aansoek vir toegang in subartikel (1)(c) bedoel deur die eienaar van 'n onderverdeelde eiendom wat die gevolg van die onderverdeling van sy of haar oorspronklike eiendom is, weier nie indien daar sodoende geen ander redelike toegang tot of uitgang uit die onderverdeelde eiendom na of van vervoerinfrastruktuur beskikbaar is nie, waar—
- (a) 'n landmeter die onderverdeelde eiendom opgemeet het en 'n diagram daarvan by die Landmeter-generaal ingedien het voor die inwerkingtreeding van hierdie Wet; en
 - (b) na die opmeting van die eiendom en die datum van indiening van die diagram by die Landmeter-generaal, en voor die inwerkingtreeding van hierdie Wet, 'n ander persoon as die eienaar van die eiendom waarvan die onderverdeelde eiendom 'n deel uitgemaak het op die tyd toe genoemde opmeting gedoen is, die eienaarskap van daardie onderverdeelde eiendom verkry het of 'n verkoopsooreenkoms gesluit het om dit te verkry,
- tensy die padbaan, hek, brug, oorklimtrap of ander oorgang wat vir toegang tot of uitgang uit die vervoerinfrastruktuur gebruik moet word, onveilig is of onbestaanbaar is met die standaard en riglyne vir toegang tot die vervoerinfrastruktuur wat deur die Departementshoof of die betrokke munisipaliteit bepaal word.
- (5) By die oorweging van 'n aansoek vir toegang ingevolge subartikel (1)(c) of 'n aansoek vir onderverdeling ingevolge subartikel (3) moet die owerheid ag slaan op die vereistes van—
- (a) 'n ruimtelike ontwikkelingsraamwerk of verkeersaarbestuursplan wat die voorwaardes aandui waarop so 'n toegang goedgekeur kan word; of
 - (b) by gebrek aan so 'n plan, standaard en riglyne oor die verlening van toegang tot vervoerinfrastruktuur wat deur die Departementshoof of deur die betrokke munisipaliteit opgestel is.
- (6) Die verantwoordelike owerheid kan—
- (a) by die verlening van magtiging ingevolge subartikel (1)(c)—
 - (i) die aard van die toegangspadbaan, hek, brug, oorklimtrap of ander oorgang en die plek waar en wyse waarop dit opgerig moet word, bepaal; en
 - (ii) ander voorwaardes in verband daarmee of in verband met die gebruik daarvan stel wat hy nodig ag; en
 - (b) die magtiging intrek indien enige vereiste of voorwaarde wat ingevolge paragraaf (a) gestel is, nie nagekom word nie.
- (7) 'n Owerheid moet, by die verlening van toegang aan voetgangers of fietsryers van 'n aanliggende eiendom tot enige vervoerinfrastruktuur, verseker dat sulke voetgangers of fietsryers van veilige roetes en kruisings voorsien word.

Verskuiwing of sluiting van toegang tot of uitgang uit pad

41. (1) Die verantwoordelike owerheid kan by skriftelike lasgewing waarin die redes vir die bevel gegee word, die eienaar van grond wat toegang tot of uitgang uit 'n pad oor daardie grond het, hetsy regstreeks of deur 'n toegangspad, gelas om die toegang of uitgang te verskuif, te beperk of te sluit, op die wyse of in die mate en vir die tydperk in die kennisgewing vermeld, of permanent. 5

(2) Waar die verskuiwing, beperking of sluiting ingevolge subartikel (1) van 'n toegang tot of uitgang uit 'n pad die verandering, herplasing, heroprigting of rekonstruksie van 'n hek, private motorhuis of inrypad noodsaak, moet die verantwoordelike owerheid, behoudens subartikels (3) en (4)— 10

(a) die werk wat aldus genoodsaak word, op sy eie koste uitvoer; of

(b) die betrokke eienaar toelaat om die werk op die koste van daardie owerheid uit te voer.

(3) Die aanspreeklikheid van die verantwoordelike owerheid ingevolge subartikel (2) is beperk tot die koste van die vervanging van hekke, motorhuise of inrypaaie van 'n standaard soortgelyk aan dié wat ingevolge subartikel (2) verander, herplaas, heropgerig of herbou moet word. 15

(4) Die verantwoordelike owerheid is nie vir die koste van die vervanging van enige hek, private motorhuis of inrypad aanspreeklik nie waar die toegang tot of uitgang uit die betrokke pad strydig met enige wet verkry is. 20

(5) Waar die eienaar van grond wat toegang tot 'n pad verkry, aansoek doen vir en toestemming kry van die verantwoordelike owerheid om die toegang te verskuif, is daar geen aanspreeklikheid op daardie owerheid om tot die koste van die verskuiwing by te dra nie.

Verbod om sekere artikels of materiaal op of naby vervoerinfrastruktuur te plaas of te laat 25

42. (1) Niemand mag—

(a) 'n voertuig of masjien in onbruik of 'n onderdeel daarvan in onbruik of enige vullis op vervoerinfrastruktuur plaas of laat nie; of

(b) sonder die vooraf skriftelike toestemming van die verantwoordelike owerheid of strydig met 'n voorwaarde gestel deur daardie owerheid en in die skriftelike toestemming uiteengesit, 'n voertuig, masjien of onderdeel daarvan in onbruik of enige vullis binne 200 meter van die middellyn van 'n pad of spoorlyn plaas of laat sodat dit van daardie pad of spoorlyn sigbaar is nie. 30

(2) Die verantwoordelike owerheid kan 'n voertuig, masjien of 'n onderdeel daarvan in onbruik of vullis wat op vervoerinfrastruktuur aangetref word, verwyder en kan die koste van die verwydering verhaal van die persoon wat dit daar geplaas of gelaat het. 35

(3) Indien 'n voertuig, masjien, onderdeel of vullis strydig met subartikel (1)(b) op grond geplaas of gelaat word, kan die verantwoordelike owerheid die eienaar of okkupeerder van die grond of die persoon wat dit daar geplaas of gelaat het, by skriftelike kennisgewing gelas om dit te verwyder of om die nodige stappe te doen om dit nie meer sigbaar te maak nie binne die tydperk in die kennisgewing vermeld, wat minstens 14 dae na die datum van die kennisgewing moet wees. 40

(4) Indien 'n persoon aan wie die kennisgewing in subartikel (3) bedoel gerig is, versuim om daaraan te voldoen, kan die verantwoordelike owerheid die voertuig, masjien, onderdeel of vullis van daardie grond af verwyder of enige stappe doen wat hy nodig ag om dit onsigbaar te maak, en kan hy die koste van daardie persoon verhaal. 45

Strukture en ander werke op, oor of onder reserwes van vervoerinfrastruktuur of binne boulyne of boubeperkingsgebiede

43. (1) Ondanks enige ander wet, maar behoudens subartikel (5), mag niemand, behalwe met die vooraf skriftelike toestemming van, en ooreenkomstig standarde en spesifikasies goedgekeur deur die verantwoordelike owerheid, 'n aktiwiteit in subartikel (2) genoem, verrig of veroorsaak of toelaat dat dit verrig word nie— 50

(a) op of binne die reserwe van vervoerinfrastruktuur;

(b) binne die boulyne van vervoerinfrastruktuur; of

(c) in 'n boubeperkingsgebied. 55

- (2) Die aktiwiteit in subartikel (1) beoog, is die volgende:
- (a) Die oprigting of installering van 'n struktuur of ander ding wat vas is aan die grond waarop dit staan, insluitende 'n struktuur of ding wat nie deel van daardie grond uitmaak nie;
 - (b) die bou of lê van enigiets onder of onderdeur die oppervlak van grond; 5
 - (c) die bou van enigiets wat oor die betrokke grond uitsteek;
 - (d) die dra van elektriese of ander drade of pypleidings oor of die lê van ondergrondse kables of pypleidings oor, onder of op die betrokke grond; of
 - (e) die maak van enige strukturele byvoeging of verandering aan enige struktuur of ding in paragraaf (a), (b), (c) of (d) bedoel. 10
- (3) Subartikel (1) is nie van toepassing nie op—
- (a) die voltooiing van 'n struktuur waarvan die oprigting begin het voor die inwerkingtreding van hierdie Wet of voor die beperking van die betrokke boulyn of boubeperringsgebied van krag geword het; of
 - (b) 'n omheining, heining, muur of heg wat nie hoër as 1,6 meter bo die oppervlak van die grond is waarop dit staan nie. 15
- (4) 'n Persoon kan op die voorgeskrewe wyse en teen betaling van die voorgeskrewe geld by die verantwoordelike owerheid aansoek doen vir 'n afwyking van beperkings wat deur 'n boulyn of boubeperringsgebied in subartikel (1) bedoel gestel is.
- (5) So 'n aansoek kan toegestaan of geweier word met inagneming van die aard van die betrokke vervoerinfrastruktuur, die ontwikkeling of voorgestelde ontwikkeling aangrensend daaraan en ander faktore wat deur daardie owerheid as tersaaklik beskou word. 20
- (6) Waar die aansoeker nie die eienaar van die grond is nie waarop die aansoek betrekking het, moet die aansoeker tot tevredenheid van die verantwoordelike owerheid toon dat hy of sy gemagtig is om namens die eienaar te onderhandel en dat die voorstel vir die eienaar aanneemlik is. 25
- (7) By die verlening van toestemming ingevolge subartikel (5) kan die owerheid—
- (a) spesifikasies stel waaraan die struktuur, voorwerp, verandering of byvoeging moet voldoen; 30
 - (b) die wyse en omstandighede en die plek bepaal waar en die voorwaardes waarop dit opgerig, geïnstalleer, gebou of gelê mag word;
 - (c) pligte bepaal wat deur die eienaar van die grond, die aansoeker of ander persone nagekom moet word met betrekking tot die voorgestelde handeling;
 - (d) 'n plig stel om die owerheid te vergoed vir koste aangegaan vir die monitering van die aktiwiteit in paragrawe (a), (b) en (c) bedoel, hetsy voor die begin van die werk of in 'n later stadium; of 35
 - (e) 'n plig stel om huur te betaal soos deur die owerheid bepaal vir die gebruik of okkupasie van grond wat hy besit of onder sy gesag is.
- (8) Indien toestemming ingevolge subartikel (5) verleen word op voorwaarde dat 'n struktuur of voorwerp in 'n later stadium verwyder moet word, is geen vergoeding vir die verwydering aan die eienaar van die struktuur of voorwerp of aan sy of haar opvolgers in titel betaalbaar nie, tensy die owerheid anders ooreenkom. 40
- (9) Die Registrateur van Aktes met jurisdiksie moet op die skriftelike versoek van die verantwoordelike owerheid die voorwaarde in subartikel (8) bedoel, op die titelakte van die grond wat daardeur geraak word en in die gepaste registers aanteken, en die koste in verband met daardie aantekening moet betaal word deur die persoon aan wie die toestemming verleen is. 45
- (10) 'n Munisipaliteit moet met die Departementshoof oorleg pleeg voordat hy stappe ingevolge subartikels (4) en (5) doen ten opsigte van gesubsidieerde vervoerinfrastruktuur. 50
- (11) Waar 'n persoon 'n struktuur of voorwerp opgerig, geïnstalleer, gebou of gelê het sonder die toestemming wat by subartikel (1) vereis word of strydig met sodanige toestemming, kan die verantwoordelike owerheid daardie persoon by skriftelike kennisgewing gelas om dit te verwyder binne 'n tyd wat in die kennisgewing vermeld word maar wat nie korter as 30 dae na die datum van die kennisgewing mag wees nie. 55
- (12) Indien die persoon aan wie so 'n kennisgewing in subartikel (11) bedoel uitgereik is, versuim om aan die kennisgewing te voldoen binne die tydperk daarin vermeld, kan die verantwoordelike owerheid die struktuur verwyder en die koste van die verwydering van daardie persoon verhaal. 60
- (13) Ondanks subartikel (3) kan die verantwoordelike owerheid 'n struktuur of voorwerp in subartikel (2) beoog wat geïnstalleer, opgerig, gebou of gelê is voor die

datum waarop die betrokke vervoerinfrastruktuur verklaar is, verwyder of verskuif na 'n plek wat hy bepaal.

(14) Waar 'n persoon ingevolge 'n wet verplig is om 'n struktuur of voorwerp wat aldus opgerig, geïnstalleer, gebou of gelê is, te verwyder of te verskuif, kan die verantwoordelike owerheid die koste van die verwydering of verskuiwing van daardie persoon verhaal. 5

Beperkings op veranderinge in grondgebruik

44. (1) Enige persoon wat van voorneme is om 'n ontwikkeling te onderneem wat 'n verandering of intensivering van grondgebruik behels in 'n gebied aangrensend aan— 10

(a) vervoerinfrastruktuur in paragrawe (a) en (b) van subartikel (2) bedoel; of

(b) voorgestelde vervoerinfrastruktuur in artikel 18(3) bedoel,

moet, waar 'n verkeersimpakbepaling of 'n openbarevervoerbepaling wat ingevolge die NLTA voorgeskryf word, vereis word—

(i) goedkeuring vir die voorgestelde ontwikkeling van die verantwoordelike owerheid kry; 15

(ii) enige versagtingsmaatreëls implementeer wat by die verlening van daardie goedkeuring deur daardie owerheid vereis word; en

(iii) die goedkeuring verkry van die owerheid wat by magte is om goedkeuring vir sodanige veranderinge of intensivering te verleen.

(2) 'n Landmeter-generaal mag nie 'n algemene plan of diagram van erwe, standplase, persele of hoewes wat saam 'n dorp uitmaak of enige ander onderverdeling goedkeur nie indien enige deel van die dorp of onderverdeling binne-

(a) 100 meter van die naaste grens van 'n pad of spoorlyn buite 'n stedelike gebied val; of

(b) 50 meter van die naaste grens van 'n pad of spoorlyn in 'n stedelike gebied 25 val,

tensy—

(i) die verantwoordelike owerheid 'n plan of skets van die voorgestelde dorp of onderverdeling goedgekeur het; en

(ii) die algemene plan of diagram wesenlik met daardie plan ooreenstem. 30

(3) 'n Verantwoordelike owerheid kan weier om ingevolge subartikel (2) goedkeuring te verleen slegs indien hy oortuig is dat die voorgestelde dorp of onderverdeling 'n doelwit van hierdie Wet sal veryd.

(4) 'n Verantwoordelike owerheid kan ingevolge subartikel (2) goedkeuring verleen behoudens voorwaardes wat— 35

(a) die verdeling of verdere verdeling van die grond of van 'n bepaalde deel daarvan verbied;

(b) die gebruik beperk waarvoor die grond of 'n bepaalde deel daarvan aangewend mag word;

(c) die getal of omvang beperk van geboue of ander strukture wat op die grond of 'n bepaalde deel daarvan opgerig mag word; of

(d) die oprigting, konstruksie of vestiging belet van 'n struktuur of voorwerp op, oor of onder die oppervlak van die grond of 'n bepaalde deel daarvan of binne 'n bepaalde afstand van die onderhawige pad of spoorlyn.

(5) By die verlening van die goedkeuring in subartikel (4) bedoel kan die verantwoordelike owerheid bepaal dat indien die grond of 'n bepaalde deel daarvan met ander grond gekonsolideer word, die titel op die gekonsolideerde grond onderhewig sal wees aan 'n voorwaarde wat kragtens subartikel (4) gestel is.

(6) 'n Verantwoordelike owerheid kan 'n voorwaarde in subartikel (4) bedoel, intrek of wysig. 50

(7) Ondanks andersluidende bepalings in die Registrasie van Aktes Wet, 1937 (Wet 47 van 1937)—

(a) moet die persoon wat oordrag gee van grond waarop voorwaardes in subartikel (4) bedoel van toepassing is, dit in die transportakte invoeg;

(b) moet die Registrateur van Aktes op die titelakte van die grond wat behou word deur die persoon wat oordrag gee, elk van daardie voorwaardes endosseer wat van toepassing is op die grond wat aldus behou word; en

(c) moet 'n sertifikaat van gekonsolideerde titel uitgereik ten opsigte van gekonsolideerde grond in subartikel (5) bedoel, elke voorwaarde bevat waaraan die titel op daardie grond onderhewig is aan 'n bepaling gemaak 60 ingevolge daardie subartikel.

(8) Die verantwoordelike owerheid kan nakoming van enige voorwaarde in subartikel (7) bedoel afdwing.

(9) Ondanks andersluidende bepalings in die Registrasie van Aktes Wet, 1937, of ander wette kan 'n Registrateur van Aktes, met die verantwoordelike owerheid se skriftelike goedkeuring, 'n voorwaarde kanselleer wat ingevolge subartikel (7) in 'n transportakte of sertifikaat van gekonsolideerde titel ingevoeg is of op 'n titelakte geëndosseer is. 5

(10) Die kansellasië in subartikel (9) bedoel kan gedoen word op die skriftelike aansoek van die eienaar van die grond, vergesel van die verantwoordelike owerheid se skriftelike goedkeuring en bewys dat alle verbandhouders van die voorgestelde kansellasië in kennis gestel is. 10

Afstandaanwysers, padwysers en waarskuwings op paaie

45. Behoudens die Nasionale Padverkeerswet, moet elke padowerheid—

- (a) rigtingaanwysers oprig en in stand hou by die aansluiting van elke pad waarvan hy die padowerheid is, met enige ander pad en enige nasionale pad; 15
en
- (b) die afstandaanwysers, padwysers, aanwysings en waarskuwings oprig en in stand hou wat nodig of wenslik is vir die veiligheid of leiding van die publiek.

Obstruksies en vry ruimtes

46. (1) Die verantwoordelike owerheid kan by skriftelike kennisgewing van die eienaar of okkuperder van enige grond aangrensend aan 'n pad of spoorlyn vereis om die hoogte of breedte van enige boom, bos, plantegroei, muur, heg, heining of enige ander obstruksie rakende die pad of spoorlyn of die kruising met enige ander pad of spoorlyn wat die sig van 'n bestuurder kan belemmer of onveilige toestande kan veroorsaak, te verminder tot 'n hoogte, breedte of lengte in die bevel vermeld. 20
25

(2) Indien die eienaar of okkuperder versuim om te voldoen aan 'n kennisgewing in subartikel (1) bedoel binne die tyd in die kennisgewing vermeld, tot tevredenheid van die verantwoordelike owerheid, kan die verantwoordelike owerheid die grond betree en die nodige werk doen, en kan hy die koste daarvan van die eienaar of okkuperder verhaal. 30

Heinings langs of binne grense van vervoerinfrastruktuur

47. (1) Die verantwoordelike owerheid kan 'n heining oprig—

- (a) langs die grens van vervoerinfrastruktuur;
- (b) rondom grond van waar materiaal deur die owerheid uitgehaal en verwyder is of word; of 35
- (c) rondom watervoorsiening wat deur die owerheid verskaf of gebruik word.

(2) Die verantwoordelike owerheid moet ten minste 60 persent bydra van die redelike koste wat deur 'n persoon aangegaan is by die oprigting van 'n heining volgens standarde en spesifikasies deur die owerheid goedgekeur, langs die grens van vervoerinfrastruktuur as gevolg van— 40

- (a) die uitreiking van 'n kennisgewing ingevolge artikel 48(5) wat die oprigting van 'n hek verbied; of
- (b) die verwydering met die goedkeuring van daardie owerheid van een of meer hekke van die vervoerinfrastruktuur ingevolge daardie artikel.

(3) Die verantwoordelike owerheid kan bydra tot die koste aangegaan deur 'n persoon by die oprigting van 'n heining langs die grens van vervoerinfrastruktuur in gevalle wat nie in subartikel (2) beoog word nie, indien die heining gebou word volgens standarde en spesifikasies wat deur daardie owerheid goedgekeur is. 45

(4) Enige bykomende koste aangegaan by die oprigting van 'n heining, insluitende 'n wildheining, volgens spesifikasies van 'n hoër standaard as dié wat deur die verantwoordelike owerheid vereis word, is nie deur daardie owerheid betaalbaar nie, tensy anders ooreengekom deur die owerheid. 50

(5) Niemand anders as die verantwoordelike owerheid mag—

- (a) 'n heining op of binne die grense van enige vervoerinfrastruktuur oprig nie, behalwe met die vooraf skriftelike toestemming van, en ooreenkomstig standarde en spesifikasies bepaal deur, daardie owerheid; of 55

- (b) sonder skriftelike toestemming vooraf van daardie owerheid 'n heining wat ooreenkomstig hierdie artikel op of binne die grense van enige vervoerinfrastruktuur opgerig is, verwyder nie.
- (6) 'n Owerheid mag nie toestemming vir die verwydering van 'n heining in subartikel (5)(b) beoog verleen nie tensy— 5
- (a) die toestand van die heining die vervanging daarvan vereis; of
- (b) die eienaar van die grond waarop dit geleë is, skriftelik onderneem om die koste te dra van die verwydering en heroprigting van die heining ooreenkomstig standarde en spesifikasies wat daardie owerheid bepaal.
- (7) Alle heinings wat wettig opgerig is en onmiddellik voor die inwerkingtreding van hierdie Wet op of binne die grense van vervoerinfrastruktuur bestaan, word geag behoorlik opgerig te wees met die toestemming van die verantwoordelike owerheid. 10
- (8) Die verantwoordelike owerheid kan 'n heining in subartikel (7) bedoel, te eniger tyd verwyder maar moet dit op sy eie koste vervang met 'n heining op die grens van die betrokke vervoerinfrastruktuur. 15
- (9) Die verantwoordelike owerheid moet—
- (a) enige heining wat in stryd met hierdie artikel opgerig is, verwyder en dit heroprig op die grens van die betrokke vervoerinfrastruktuur; en
- (b) enige heining wat in stryd met hierdie artikel verwyder is, heroprig op die grens van die betrokke vervoerinfrastruktuur. 20
- (10) Waar vervoerinfrastruktuur verskuif word, kan die verantwoordelike owerheid, indien hy bygedra het tot die koste van 'n heining langs daardie vervoerinfrastruktuur, die heining verskuif na die nuwe ligging van die vervoerinfrastruktuur.
- (11) Behoudens die Omheiningswet, 1963 (Wet 31 van 1963), moet die eienaar van grond wat aan vervoerinfrastruktuur grens, enige heining wat wettig op of binne daardie grens opgerig is, in stand hou. 25
- (12) Waar 'n heining op of binne die grens van vervoerinfrastruktuur beskadig of gesteel is—
- (a) waar geld nie verhaal word nie van die persoon wat vir die skade of diefstal verantwoordelik is, moet die verantwoordelike owerheid ten minste 60 persent van die redelike koste bydra wat deur die eienaar van die aangrensende grond aangegaan is om die heining te herstel tot die standarde van die beskadigde of gesteelde heining; 30
- (b) moet herstelwerk aan beskadigde of gesteelde heinings deur die eienaar van die aangrensende grond gedoen word hoogstens 21 dae nadat die skade of diefstal plaasgevind het; en 35
- (c) totdat herstelwerk voltooi is, is die eienaar van die aangrensende grond verantwoordelik om te verseker dat geen vee wat gebruikers van die vervoerinfrastruktuur in die gevaar kan stel, die vervoerinfrastruktuur binnegaan nie. 40
- (13) Die verantwoordelike owerheid kan 'n heining wat ingevolge hierdie artikel opgerig is of geag word opgerig te wees, te eniger tyd op sy koste vervang.

Hekke oor paaië

48. (1) Niemand mag 'n hek oor 'n pad oprig nie, behalwe met die vooraf skriftelike goedkeuring van, en ooreenkomstig standarde en spesifikasies goedgekeur deur, die verantwoordelike owerheid. 45
- (2) In die geval van 'n primêre, hoof- of distrikspad buite 'n stedelike gebied mag sodanige goedkeuring nie verleen word nie tensy—
- (a) die verantwoordelike owerheid bereid is om 'n motorhek oor die padbaan langs die hek aan te bring; 50
- (b) in die geval van 'n pad ten opsigte waarvan 'n subsidie betaalbaar is, die Minister in kennis gestel is van die voorgestelde oprigting van 'n hek en geleentheid gebied is om kommentaar te lewer; en
- (c) die persoon wat aansoek doen vir goedkeuring, sekuriteit aan die padowerheid verskaf het vir die betaling van ten minste 50 persent van die koste van die bou van die motorhek. 55
- (3) Die verantwoordelike owerheid moet 'n hek verwyder wat strydig met hierdie artikel opgerig is.
- (4) 'n Padowerheid wat goedkeuring ingevolge subartikel (2) verleen het, moet die motorhek bou óf gelyktydig met óf so gou moontlik na die konstruksie van die hek. 60

(5) Die Minister kan die oprigting van hekke oor enige tipe of kategorie pad, of enige spesifieke pad of gedeelte daarvan, by kennisgewing in die *Provinsiale Koerant* of by regulasie verbied.

(6) 'n Padowerheid kan, na voldoening aan subartikel (7), 'n hek wat ingevolge hierdie artikel oor 'n pad opgerig is, verwyder. 5

(7) 'n Padowerheid wat voornemens is om 'n hek ingevolge subartikel (6) te verwyder, moet elke eienaar van grond wat nadelig geraak kan word deur die verwydering, by skriftelike kennisgewing in kennis stel van sy voorneme en dat besware daarteen by die owerheid aangeteken kan word voor of op 'n datum in die kennisgewing vermeld, wat ten minste 21 dae na die datum van die kennisgewing moet wees. 10

Motorhekke

49. (1) 'n Padowerheid kan 'n motorhek oor 'n pad bou of kan so 'n motorhek sluit of verskuif, met dien verstande dat, waar nodig, die motorhek saam met 'n hek langs die motorhek bedryf word.

(2) 'n Motorhek en hek wat voor die inwerkingtreding van hierdie Wet wettiglik bestaan ooreenkomstig die Ordonnansie, word geag 'n motorhek te wees wat ooreenkomstig subartikel (1) gebou is. 15

(3) Wanneer 'n padowerheid 'n motorhek sluit of verskuif, is artikel 15 met die nodige veranderinge van toepassing.

(4) Wanneer 'n padowerheid 'n hek ingevolge artikel 48(3) of (6) verwyder, moet hy ook 'n motorhek verwyder wat saam met daardie hek bedryf word. 20

Mynbedrywighede op of onder vervoerinfrastruktuur of boubeperkingsgebiede

50. (1) Niemand mag enige mynbedrywighede op of onder enige vervoerinfrastruktuur of boubeperkingsgebied uitvoer nie, behalwe met die skriftelike toestemming van die verantwoordelike owerheid, wat die toestemming kan verleen onderhewig aan voorwaardes wat hy gepas ag. 25

(2) Waar vervoerinfrastruktuur ondermyn raak na die skepping daarvan, hetsy in stryd met subartikel (1) al dan nie, en dit nodig word ten einde die veiligheid of belange van die publiek te bewaar, kan die verantwoordelike owerheid—

(a) die persoon verantwoordelik vir die ondermyning gelas om die vervoerinfrastruktuur veilig te maak of om voorsiening te maak vir die rekonstruksie daarvan tot tevredenheid van daardie owerheid, op die koste van daardie persoon en binne 'n tyd wat die owerheid bepaal; en 30

(b) indien daardie persoon versuim om aan daardie opdrag te voldoen, die werk in paragraaf (a) bedoel, onderneem en die koste van sodanige persoon verhaal. 35

Handel dryf op of in vervoerinfrastruktuur of boubeperkingsgebiede

51. (1) Behalwe soos in subartikel (3) bepaal, mag niemand sonder die verantwoordelike owerheid se skriftelike toestemming of strydig met die bepalings van sodanige toestemming op of in 'n vervoerinfrastruktuur of boubeperkingsgebied handel dryf of goedere verkoop of uitstal, aanbied of vervaardig vir verkoop nie. 40

(2) Toestemming ingevolge subartikel(1) kan verleen word—

(a) in die geval van paaie en bykomstige padinfrastruktuur, slegs ten opsigte van persele of gebiede wat ooreenkomstig toepaslike wetgewing vir daardie doel gesoneer of afgebaken is; en

(b) in die geval van spoorlyne en bykomstige openbarevervoerinfrastruktuur, slegs ten opsigte van spesiale gebiede wat deur die verantwoordelike owerheid vir handelsdoeleindes aangewys is. 45

(3) Subartikel (1) is nie van toepassing nie op 'n persoon wat op enige grond sake gedoen het voor die verklaring van vervoerinfrastruktuur oor daardie grond en na die verklaring voortgaan met die sake, tensy daardie persoon by skriftelike kennisgewing deur die verantwoordelike owerheid gelas is om dit te staak as gevolg van padveiligheid of die bedryf van verkeer op die vervoerinfrastruktuur. 50

(4) 'n Werknemer van die verantwoordelike owerheid of 'n persoon wat skriftelik daartoe gemagtig is deur die verantwoordelike owerheid, 'n werknemer van 'n munisipaliteit wat aangewys of aangestel is om wetstoepassingsfunksies te verrig, of 'n persoon wat ingevolge 'n padverkeerswet 'n verkeersbeampte is, kan- 55

- (a) indien die werknemer, beampte of persoon (in hierdie artikel die “bevoegde beampte” genoem) op redelike gronde vermoed dat ’n persoon ’n handeling verrig het waarvoor ’n owerheid se skriftelike toestemming ingevolge subartikel (1) vereis word, vereis dat die persoon die skriftelike toestemming om daardie handeling te verrig, aan hom of haar toon; 5
- (b) indien die persoon aan wie die eis gestel word, versuim om die skriftelike toestemming te toon, of as die bevoegde beampte op redelike gronde vermoed dat ’n persoon ’n handeling verrig het wat ingevolge subartikel (1) onwettig is—
- (i) vereis dat daardie persoon se volle naam en woonadres daar en dan verstrek word; en 10
- (ii) daardie persoon gelas om elke artikel, struktuur, tent, voertuig, implement of ander voorwerp wat gebruik is of bedoel was om gebruik te word vir of in verband met so ’n daad, uit die vervoerinfrastruktuur of boubeperkingsgebied te verwyder; of 15
- (c) indien ’n persoon versuim om te voldoen aan ’n bevel in subparagraaf (ii) van paragraaf (b) beoog, ’n artikel, struktuur, tent, voertuig, implement of ander voorwerp in daardie subparagraaf genoem, van die vervoerinfrastruktuur of boubeperkingsgebied verwyder en die koste van verwydering van die betrokke persoon terugeis. 20
- (5) ’n Munisipaliteit kan by ooreenkoms met die Minister die funksies ingevolge hierdie artikel ten opsigte van provinsiale vervoerinfrastruktuur verrig.

DEEL 9: ALGEMENE BEPALINGS

Spesifieke bevoegdhede van Minister

52. (1) Die Minister kan, behoudens subartikel (2)— 25
- (a) provinsiale vervoerinfrastruktuur beplan, ontwerp, bou, finansier, beheer, bestuur, ontwikkel, in stand hou, beskerm en rehabiliteer;
- (b) finansiële of ander bystand aan ’n munisipaliteit verleen op voorwaardes wat die Departementshoof bepaal—
- (i) vir die konstruksie of instandhouding van vervoerinfrastruktuur; of 30
- (ii) vir die onteiening deur daardie munisipaliteit van eiendom vir die doel van vervoerinfrastruktuur;
- (c) munisipale vervoerinfrastruktuur in die gebied van ’n munisipaliteit in ooreenkoms met daardie munisipaliteit beplan, ontwerp, bou of in stand hou;
- (d) vervoerinfrastruktuurbates waarvoor die Departement verantwoordelik is, bestuur behoudens die Wet op die Bestuur van Onroerende Regeringsbates, 2007; en 35
- (e) enige bevoegdheid uitoefen wat redelikerwys bykomend of bykomstig is by die bevoegdhede in paragrafe (a) tot (d) genoem.
- (2) Die Minister moet met die instemming van die Minister van Finansies optree by die bepaling van ’n subsidie aan ’n munisipaliteit en die stel van voorwaardes in verband daarmee. 40

Algemene bevoegdhede en pligte van verantwoordelike owerhede

53. (1) Die verantwoordelike owerheid kan—
- (a) ’n dier verwyder of daarvoor beskik wat strydig met die Nasionale Padverkeerswet of enige ander wet op vervoerinfrastruktuur of in die reserwe van vervoerinfrastruktuur is, maar is nie aanspreeklik om enige persoon te vergoed waar so ’n dier gedood of beseer word terwyl dit verwyder of daarvoor beskik word of om gevaar vir verkeer te vermy nie; 45
- (b) boogate, pompe en alle bybehore of geriewe op vervoerinfrastruktuur wat hy nodig ag, verskaf en in stand hou; 50
- (c) ’n gebou, hut, tent of ander struktuur vir die akkommodasie van beamptes en werkers in diens op vervoerinfrastruktuur, of wat ander werk in verband daarmee verrig, oprig, bou en in stand hou hetsy op of, behoudens hierdie Wet, buite die reserwe van daardie vervoerinfrastruktuur; 55
- (d) installasies, masjinerie, toerusting of ander goed wat hy nodig ag vir die konstruksie of instandhouding van vervoerinfrastruktuur, hetsy op of,

- behoudens hierdie Wet, buite die reserwe van daardie vervoerinfrastruktuur berg;
- (e) regte op grond wat verkry is vir of in verband met vervoerinfrastruktuur en nie onmiddellik benodig word nie, verhuur of daarvoor beskik, of tydelike regte op sulke grond kosteloos verleen; 5
 - (f) gebiede binne vervoerinfrastruktuur rehabiliteer of belandskap of andersins verbeter;
 - (g) 'n spoorlyn binne 'n pad lê, verskuif of verwyder;
 - (h) voorsiening maak of magtiging verleen vir diensfasiliteite binne vervoerinfrastruktuur, insluitende vulstasies, restourante, speelgronde en ander fasiliteite vir gebruik deur die reisende publiek; 10
 - (i) by kennisgewing in die *Provinsiale Koerant*—
 - (i) die beweging van lewende hawe anders as in 'n voertuig op enige pad in die kennisgewing vermeld, verbied of beperk, of
 - (ii) bepaal dat lewende hawe nie sonder die skriftelike goedkeuring van die verantwoordelike owerheid op so 'n pad beweeg mag word nie, en 15
 - (j) waar lewende hawe op 'n pad aangetref word strydig met 'n kennisgewing in paragraaf (i) bedoel, die lewende hawe op die voorgeskrewe wyse skut.
- (2) Behoudens die Nasionale Padverkeerswet kan die verantwoordelike owerheid verkeerstekens, verkeersbeheertoestelle en merke verskaf en in stand hou wat nodig is vir die leiding en veiligheid van verkeer op paaie, en gepaste sinjale en tekens op spoorlyne. 20

Regulasies

- 54.** (1) Die Minister kan regulasies uitvaardig—
- (a) wat meganismes en vereistes voorskryf vir die monitering van die verrigting deur owerhede van hulle funksies ingevolge hierdie Wet, prestasiestandaarde of -aanwysers en die finansiële en ander gevolge van versuim deur owerhede om daardie pligte of funksies uit te voer of om dit toereikend uit te voer; 25
 - (b) wat die wyse en vorm voorskryf waarin enige aansoek in verband met enige magtiging, goedkeuring, toestemming of vrystelling gedoen moet word wat by hierdie Wet beoog word, die inligting wat daarmee voorgelê moet word en die gelde, indien wel, wat vir die aansoek betaal moet word; 30
 - (c) wat 'n vorm voorskryf wat gebruik moet word, die inligting wat verstrekk moet word en die prosedure wat gevolg moet word in verband met enige eis vir vergoeding waarvoor hierdie Wet voorsiening maak; 35
 - (d) wat gelde of huurgeld voorskryf vir enige magtiging, goedkeuring of toestemming wat ingevolge hierdie Wet verleen word bo en behalwe die aansoekgelde ingevolge paragraaf (b) voorgeskryf of in gevalle waar geen aansoekgelde voorgeskryf word nie;
 - (e) wat die wyse voorskryf waarop owerhede rekening moet hou van geld wat ontvang of uitbetaal word ten opsigte van vervoerinfrastruktuur; 40
 - (f) wat voorskryf hoe die koste van vervoerinfrastruktuurwerke bereken moet word;
 - (g) behoudens Deel 6—
 - (i) wat items voorskryf wat in aanmerking kom al dan nie vir 'n subsidie ten opsigte van enige kategorie uitgawe; 45
 - (ii) wat voorsiening maak vir uitsluiting van betaling van 'n subsidie ten opsigte van uitgawes wat die Minister as ongeregverdig of onnodig beskou; en
 - (iii) wat die betaling van 'n subsidie op die uitgawe aan enige werk afhanklik maak daarvan dat die werk uitgevoer word ooreenkomstig planne, standarde, riglyne en spesifikasies wat deur die Departementshoof goedgekeur is; 50
 - (h) wat voorskryf aan wie, en datums waarop, eise vir 'n subsidie voorgelê moet word; 55
 - (i) behoudens die Wet op Besighede, 1991 (Wet 71 van 1991), wat handeldryf in of op vervoerinfrastruktuur reguleer;
 - (j) met betrekking tot enige aangeleentheid wat, ingevolge hierdie Wet, by regulasie voorgeskryf, gereguleer of bepaal kan of moet word; en

- (k) oor die algemeen oor enige ander bykomende of bykomstige aangeleentheid wat nodig of dienstig is om voor te skryf vir die behoorlike uitvoering of administrasie van hierdie Wet.
- (2) Die regulasies kan bepaal dat 'n oortreding van of versuim om te voldoen aan 'n bepaling daarvan 'n misdryf is wat strafbaar is met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens 12 maande of sowel so 'n boete en gevangenisstraf. 5
- (3) Verskillende regulasies kan ingevolge subartikel (1) vir verskillende tipes vervoerinfrastruktuur uitgevaardig word.
- (4) Die uitvaardiging of wysiging van regulasies ingevolge subartikel (1) wat finansiële implikasies het, moet met die instemming van die Minister van Finansies geskied. 10
- (5) 'n Regulasie wat ingevolge die Ordonnansie uitgevaardig is en van krag is onmiddellik voor die inwerkingtreding van hierdie Wet met betrekking tot 'n aangeleentheid waarvoor die Minister ingevolge subartikel (1) regulasies kan uitvaardig, word beskou as 'n regulasie wat ingevolge subartikel (1) uitgevaardig is totdat dit by 'n nuwe regulasie ingevolge hierdie artikel herroep of vervang word. 15

Standaarde en riglyne

- 55.** (1) Die Departementshoof kan standaarde, kriteria en riglyne vir vervoerinfrastruktuur stel, insluitende—
- (a) standaarde en kriteria vir die verlening van toegang tot paaie; 20
- (b) standaarde en kriteria vir—
- (i) die beplanning, ontwerp, ontwikkeling, konstruksie, bestuur, beheer, instandhouding, beskerming en rehabilitasie van vervoerinfrastruktuur; en
- (ii) pad- en spoorveiligheid in die Provinsie, 25
welke standaarde en kriteria kan verskil met betrekking tot verskillende tipes vervoerinfrastruktuur en onderhewig is aan, in die geval van paaie, die Nasionale Padverkeerswet, en, in die geval van spoorlyne, die National Railway Safety Regulator Act, 2002;
- (c) standaarde en kriteria vir die ontwerp, konstruksie, beheer en bestuur van motorhekke, insluitende— 30
- (i) hulle grootte, materiaal om te gebruik, wyse van konstruksie, vlak en posisie;
- (ii) die lengte en breedte van aanlope vanaf die padbaan na 'n motorhek;
- (iii) die tekens wat opgerig en in stand gehou moet word om te waarsku van 'n motorhek en die sluiting of verskuiwing van 'n motorhek; en 35
- (iv) die behoorlike bestuur, instandhouding en beheer van motorhekke; en
- (d) standaarde en riglyne vir die gebruik, beheer en beskerming van ruskampe, rusplekke en veekampe op of as deel van paaie.
- (2) Munisipaliteite moet voldoen aan die standaarde, kriteria en riglyne wat ingevolge subartikel (1) deur die Departementshoof gestel word, of kan hulle eie standaarde en riglyne gebruik, mits dit as 'n minimum voldoen aan standaarde en riglyne wat deur hom of haar gestel is. 40
- (3) Die standaarde en riglyne wat deur die Departementshoof gestel word, moet deur die Departement gepubliseer word deur dit via elektroniese media of die amptelike departementele webblad beskikbaar te stel. 45

Verordeninge

- 56.** (1) Voordat 'n munisipaliteit 'n verordening uitvaardig ten opsigte van munisipale vervoerinfrastruktuur, of betreffende enige ander aangeleentheid wat daarop gemik is om die oogmerke van hierdie Wet met betrekking tot daardie munisipale vervoerinfrastruktuur te bevorder, moet hy met die Minister oorleg pleeg. 50
- (2) Hierdie Wet is nie van toepassing nie op enige aangeleentheid wat geregleer word deur 'n verordening wat behoorlik deur 'n munisipaliteit uitgevaardig is in soverre daardie verordening handel oor 'n aangeleentheid wat deur hierdie Wet geregleer word.

Delegering

- 57.** (1) Behoudens subartikel (3) kan die Minister 'n bevoegdheid of plig wat by hierdie Wet aan die Minister verleen of opgedra is, aan die Departementshoof of 'n beampte van die Departement deleger.
- (2) Die Departementshoof kan 'n bevoegdheid of plig wat by hierdie Wet aan hom of haar verleen of opgedra is of ingevolge subartikel (1) aan hom of haar gedelegeer is, aan 'n beampte van die Departement deleger. 5
- (3) Subartikel (1) is nie op die bevoegdheid om eiendom of regte ingevolge artikel 34 te onteien of om regulasies ingevolge artikel 54 uit te vaardig, van toepassing nie.
- (4) 'n Delegasie ingevolge subartikel (1) of (2)— 10
- (a) verhinder nie die Minister of die Departementshoof, na gelang van die geval, om daardie bevoegdheid uit te oefen of daardie plig te verrig nie;
- (b) moet skriftelik geskied; en
- (c) kan te eniger tyd skriftelik gewysig of ingetrek word.

Agentskapsoreenkomste vir pad- of openbarevervoerfunksies 15

- 58.** (1) Die verantwoordelike owerheid kan 'n ooreenkoms in subartikel (2) beoog, aangaan met enige persoon of liggaam (in hierdie artikel "die ander party" genoem), insluitende—
- (a) die Minister, behoudens subartikel (4);
- (b) 'n munisipaliteit; 20
- (c) die Suid-Afrikaanse Nasionale Padagentskap Beperk, ingestel by artikel 2 van die Wet op die Suid-Afrikaanse Nasionale Padagentskap Beperk en op Nasionale Paaie, 1998 (Wet 7 van 1998);
- (d) die Suid-Afrikaanse Spoorpendelkorporasie Beperk, ingestel ingevolge artikel 22(1) van die Wet op die Regsopvolging van die Suid-Afrikaanse Vervoerdienste, 1989 (Wet 9 van 1989); en 25
- (e) die maatskappy Transnet Beperk, ingestel ingevolge artikel 2 van die Wet in paragraaf (d) genoem.
- (2) 'n Ooreenkoms in subartikel (1) beoog, kan bepaal dat—
- (a) die ander party enige van of alle verantwoordelikheid vir of in verband met enige vervoerinfrastruktuur oorneem; 30
- (b) die ander party werk in verband met vervoerinfrastruktuur kan doen, insluitende die konstruksie en instandhouding daarvan, of die werk onder sy toesig kan laat doen, vir die rekening van die verantwoordelike owerheid, of dat die verantwoordelike owerheid sodanige werk sal doen vir die rekening van die ander party, of anders ingevolge die ooreenkoms; 35
- (c) die munisipaliteit in wie se gebied die vervoerinfrastruktuur geleë is, verantwoordelik is vir die wegdoen van alle stormwater vanaf daardie vervoerinfrastruktuur of verlegging daarvan en uitgawe aangegaan in verband daarmee, maar die verantwoordelike owerheid, indien nie die munisipaliteit nie, is nie verantwoordelik vir skade veroorsaak deur of voortspruitend uit die wegdoen van stormwater deur daardie munisipaliteit of die versuim deur hom om stormwater weg te doen nie; of 40
- (d) die verantwoordelike owerheid enige van die funksies in hierdie Wet beoog, of werk in verband daarmee, verrig in die regsgebied van, of op grond behorende aan, die ander party, op koste van die ander party, ooreenkomsig en behoudens hierdie Wet. 45
- (3) 'n Ooreenkoms in subartikel (1) beoog, kan voorsiening maak vir die deling van die koste van 'n projek tussen die partye.
- (4) Die Minister moet by die aangaan van 'n ooreenkoms wat finansiële implikasies vir die Provinsie het, met die instemming van die Minister van Finansies optree. 50

Beperking van aanspreeklikheid van verantwoordelike owerheid

- 59.** (1) 'n Verantwoordelike owerheid of enige van sy agente of werknemers of beamptes, of enige persoon wat vervoerinfrastruktuur bedryf of gebou het, is nie aanspreeklik nie ten opsigte van skade of verlies gely deur 'n persoon— 55
- (a) deur die gebruik van die deel van vervoerinfrastruktuur wat nie vir die gebruik van voertuie bedoel of gebou is nie; of

(b) as gevolg van die sluiting of verskuiwing van 'n pad of spoorlyn ingevolge hierdie Wet.

(2) 'n Verantwoordelike owerheid is nie vir eise vir waardevermindering van grond deur of as gevolg van die verklaring van vervoerinfrastruktuur van die eienaar van daardie grond of enige ander persoon aanspreeklik nie. 5

Algemene verbodinge

60. (1) Geen persoon of instelling, insluitende 'n staatsorgaan, mag—

(a) obstruksies wat vir verkeer gevaarlik kan wees, of enige vullis, puin, ashope, erdewerk, glas, blikke, spykers, stukke metaal, hout, boomstompe, klippe of ander materiaal op enige vervoerinfrastruktuur plaas of laat nie; 10

(b) vervoerinfrastruktuur beskadig of brandstof of ander chemikalieë of gas daarop stort wat dit kan beskadig nie;

(c) bome, struie of ander verbeterings op vervoerinfrastruktuur opsetlik beskadig nie;

(d) penne of ander voorwerpe wat besering aan persone of diere of skade aan eiendom kan veroorsaak, aan 'n hek of plek op enige vervoerinfrastruktuur heg nie; 15

(e) 'n beampte, werknemer, agent of kontrakteur van 'n verantwoordelike owerheid of 'n persoon wat deur daardie owerheid gemagtig is, dwarsboom, dreig of hinder in die uitvoering van sy of haar pligte ingevolge hierdie Wet of vuil of beledigende taal gebruik teenoor hom of haar gebruik nie; 20

(f) ligte laat skyn, of die verligting versterk, op vervoerinfrastruktuur op 'n wyse wat 'n gevaar vir die verkeer inhou nie;

(g) vervoerinfrastruktuur of 'n boubeperkingsgebied onwettig beset of daarin of binne vyf meter daarvan woon nie; 25

(h) op grond grensend aan enige vervoerinfrastruktuur, enige stof, materie of ding wat op die vervoerinfrastruktuur gewaai of gespoel word of waarskynlik gewaai of gespoel kan word of waarskynlik aanstootlik, gevaarlik, skadelik of nadelig vir verkeer daarop sal wees, deponeer, opgaar of stort of veroorsaak dat dit gedeponeer, opgegaar of gestort word nie; of 30

(i) valslik voorgee om 'n beampte, werknemer, agent of kontrakteur van 'n verantwoordelike owerheid te wees nie.

(2) Geen persoon of instelling, insluitende 'n staatsorgaan, mag, tensy gemagtig by of ingevolge hierdie Wet of enige ander wet—

(a) die grond, oppervlak, gruis, uitgrawings, verkantings of vore van enige vervoerinfrastruktuur opgrawe, verwyder of verander nie; 35

(b) 'n figuur, letter, tekening, teken, simbool, graffiti of ander soortgelyke voorwerp of simbool op 'n padbaan of 'n brug wat deel van vervoerinfrastruktuur uitmaak of op 'n verkeersteken wat op vervoerinfrastruktuur opgerig is, verf of aanbring nie; 40

(c) 'n verkeersteken op enige vervoerinfrastruktuur oprig nie;

(d) enige vervoerinfrastruktuur gebruik terwyl dit gebou of herstel word nie, behalwe op die wyse deur padtekens of ander metodes deur die verantwoordelike owerheid aangedui;

(e) enige vervoerinfrastruktuur sluit, verlê, verander of op enige manier inbreuk daarop maak nie; 45

(f) vervoerinfrastruktuur wat die publiek geregtig is om te gebruik, sluit of 'n heining of ander versperring oprig om die publiek te verhinder om sodanige vervoerinfrastruktuur te gebruik nie;

(g) vervoerinfrastruktuur wat deur gepaste padtekens vir verkeer gesluit is, gebruik nie; 50

(h) verkeer na 'n pad of spoorlyn afkeer nie, behalwe in 'n noodgeval; of

(i) 'n opmeetpen, baken of ander manier van identifikasie wat vir doeleindes van hierdie Wet op, in, oor of onder grond geplaas is of daaraan geheg is, verander, beweeg, verwyder, versteur, beskadig of vernietig nie; 55

(3) 'n Verantwoordelike owerheid kan die verrigting van 'n handeling wat by subartikel (2) verbied word, skriftelik magtig, behoudens die voorwaardes, vir die tydperk en by betaling van die voorgeskrewe gelde of huurgeld, indien hy oortuig is dat geen skade aan die vervoerinfrastruktuur of benadeling van die publiek daaruit kan voortvloei nie. 60

Misdrywe en strawwe

- 61.** (1) 'n Persoon begaan 'n misdryf indien hy of sy—
- (a) artikel 4(2) of (3), 36(1) of (2), 40(1) of (3), 42(1), 43(1), 44(1), 47(5) of (11), 48(1), 50(1), 51(1) of 60(1) of (2) oortree;
 - (b) versuim om te voldoen aan 'n kennisgewing ingevolge artikel 38(2) binne die tydperk in die kennisgewing vermeld; 5
 - (c) versuim om te voldoen aan 'n verpligting wat ingevolge artikel 43(7)(a), (b) of (c) aan hom of haar opgelê is;
 - (d) versuim om te voldoen aan 'n kennisgewing ingevolge artikel 43(10)(a) binne die tydperk in die kennisgewing vermeld; 10
 - (e) versuim om te voldoen aan 'n voorwaarde wat ingevolge artikel 44(4) gestel is;
 - (f) versuim om te voldoen aan 'n kennisgewing in artikel 46(1) beoog;
 - (g) versuim om sy of haar volle naam en woonadres aan 'n bevoegde beampte te verstrek op versoek ingevolge artikel 51(4)(b)(i); 15
 - (h) versuim om te voldoen aan 'n bevel wat ingevolge artikel 51(4)(b)(ii) gegee is; of
 - (i) vee op vervoerinfrastruktuur beweeg in stryd met 'n kennisgewing in artikel 53(1)(i) bedoel.
- (2) 'n Persoon wat skuldig bevind is aan 'n misdryf ingevolge subartikel (1), is strafbaar met 'n boete of gevangenisstraf van hoogstens 12 maande of sowel die boete as gevangenisstraf. 20
- (3) Sulke boetes moet in die Provinsiale Inkomstefonds betaal word waar die Minister die verantwoordelike owerheid is of aan 'n munisipaliteit waar die munisipaliteit die verantwoordelike owerheid is. 25
- (4) Benewens enige ander straf kan 'n hof wat 'n persoon skuldig bevind aan 'n misdryf ingevolge subartikel (1), die persoon vonnis tot 'n boete, betaalbaar aan die verantwoordelike owerheid, gelyk aan die bedrag van alle uitgawes deur daardie owerheid aangegaan, of wat sodanige owerheid raam deur hom aangegaan is, in verband met enige werk wat nodig was om die vervoerinfrastruktuur tot sy vorige staat te herstel of, waar van toepassing, die betrokke skade te herstel, en by versuim om sodanige boete te betaal, tot gevangenisstraf vir 'n tydperk van hoogstens drie maande. 30
- (5) Subartikel (4) verhinder nie die verantwoordelike owerheid om enige bedrag wat hy geregtig is om te verhaal, van enige persoon te verhaal nie, minus, waar van toepassing, enige tersaaklike boete wat ingevolge subartikel (4) betaal is, ongeag of die persoon aangekla is van of skuldig bevind is aan 'n misdryf ingevolge hierdie artikel. 35

Appèlle teen besluit van Departementshoof of beampte

- 62.** (1) 'n Persoon wat deur 'n besluit van die Departementshoof of 'n beampte van die Departement ingevolge hierdie Wet geraak word, kan na die Minister appelleer teen die besluit. 40
- (2) 'n Appèl ingevolge subartikel (1) moet op die voorgeskrewe wyse en by betaling van die voorgeskrewe gelde aangeteken en hanteer word.
- (3) Die Minister kan—
- (a) 'n appèl oorweeg en beslis; of
 - (b) 'n appèlpaneel aanstel wat saamgestel is soos voorgeskryf, om die appèl te oorweeg en die Minister daaroor te adviseer. 45
- (4) Die Minister kan, na oorweging van 'n appèl, die besluit, bepaling, voorwaardes of lasgewing bevestig, ter syde stel of wysig of enige ander gepaste bevel gee, insluitende 'n bevel dat die voorgeskrewe gelde betaalbaar deur die appellant, of enige deel daarvan, terugbetaal word. 50
- (5) 'n Appèl ingevolge hierdie artikel hef nie die besluit waarteen daar geappelleer is, op nie, tensy die Minister anders gelas.

Ander oorgangsbepalings

- 63.** (1) Enige proklamasie, kennisgewing, sertifikaat, regulasie of verordening wat uitgereik is, en enige lasgewing, goedkeuring, instemming, toestemming of magtiging gegee en enige aanstelling gedoen of enige ander handeling verrig of ding gedoen ingevolge 'n wet wat by hierdie Wet herroep is en van krag is onmiddellik voor die inwerkingtreding van hierdie Wet, en wat ingevolge enige bepaling van hierdie Wet 55

uitgevaardig, uitgereik, gegee, geneem of gedoen kon word, bly van krag en word geag ingevolge hierdie Wet uitgereik, gegee, gedoen, verrig of gedoen te wees.

(2) 'n Onteining wat begin is, en verrigtinge vir die bepaling van vergoeding wat voor die inwerkingtreding van hierdie Wet deur 'n verantwoordelike owerheid ingestel is ingevolge 'n wet wat by hierdie Wet herroep is, word ingevolge die bepalings van die herroepende wet afgehandel asof hierdie Wet nie aangeneem is nie, maar die partye kan ooreenkom om ooreenkomstig die bepalings van hierdie Wet met die onteining of verrigtinge voort te gaan. 5

Verhouding van Wet tot ander wette

64. Die bepalings van hierdie Wet is bykomend by ander wette wat handel oor aangeleenthede rakende die aangeleenthede waarvoor hierdie Wet handel, en nie ter vervanging daarvan nie. 10

Herroeping van wette

65. Behoudens artikel 63(1) word die wette in die Bylae genoem, herroep in soverre hulle in die Provinsie van toepassing is en aan die Provinsie opgedra is, in die mate in die derde kolom daarvan aangedui. 15

Kort titel en inwerkingtreding

66. Hierdie Wet heet die Wes-Kaapse Wet op Vervoerinfrastruktuur, 2013, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

BYLAE

No en jaar van wet	Kort titel	In hoeverre herroep
Wet 21 van 1940	Wet op Adverteer langs en Toebou van Paaie, 1940	Die geheel.
Wet 22 van 1944	Wysigingswet op Nasionale Paaie en Toebou van Paaie, 1944	Die geheel.
Wet 28 van 1952	Wysigingswet op Adverteer langs en Toebou van Paaie, 1952	Die geheel.
Wet 16 van 1962	Wysigingswet op Adverteer langs en Toebou van Paaie, 1962	Die geheel.
Wet 16 van 1966	Wysigingswet op Adverteer langs en Toebou van Paaie, 1966	Die geheel.
Wet 6 van 1976	Wysigingswet op Adverteer langs en Toebou van Paaie, 1976	Die geheel.
Wet 2 van 1979	Wysigingswet op Adverteer langs en Toebou van Paaie, 1979	Die geheel.
Wet 43 van 1985	Wysigingswet op Adverteer langs en Toebou van Paaie, 1985	Die geheel.
Ordonnansie 19 van 1976	Ordonnansie op Paaie, 1976	Die geheel.
Ordonnansie 18 van 1977	Wysigingsordonnansie op Paaie, 1977	Die geheel.
Ordonnansie 11 van 1978	Wysigingsordonnansie op Paaie, 1978	Die geheel.
Ordonnansie 6 van 1980	Wysigingsordonnansie op Paaie, 1980	Artikels 1 tot 8.
Ordonnansie 28 van 1980	Tweede Wysigingsordonnansie op Paaie, 1980	Die geheel.
Ordonnansie 5 van 1982	Wysigingsordonnansie op Paaie, 1982	Die geheel.
Ordonnansie 20 van 1983	Wysigingsordonnansie op Paaie, 1983	Die geheel.
Ordonnansie 13 van 1985	Wysigingsordonnansie op Paaie, 1985	Die geheel.
Ordonnansie 16 van 1986	Wysigingsordonnansie op Paaie, 1986	Die geheel.

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE WETSONTWERP OP VERVOERINFRASTRUKTUUR, 2012

1. OOGMERKE VAN DIE WETSONTWERP

Die Wes-Kaapse Wetsontwerp op Vervoerinfrastruktuur, 2012, (die Wetsontwerp) is hoofsaaklik bedoel om die Ordonnansie op Paaie, 1976 (Ordonnansie 19 van 1976), en die Wet op Adverteer langs en Toebou van Paaie, 1940 (Wet 21 van 1940), te vervang. Albei stukke wetgewing kom uit die era voor die Grondwet van die Republiek van Suid-Afrika, 1996 (die Grondwet), is onbestaanbaar met die institusionele strukture wat vandag onder die nuwe bedeling bestaan en weerspieël die administratiewe prosedures van padbeheer wat ingevolge wetgewing soos die Wet op Nasionale Omgewingsbestuur, 1998 (Wet 107 van 1998) vereis is, nie toereikend nie.

Nadat dit in werking getree het, sal die Wetsontwerp die Provinsie en munisipaliteite in staat stel om vervoerinfrastruktuur onder die kategorieë hoofpaaie, spoorlyne en ander vervoerinfrastruktuur onder 'n nuwe wetgewende raamwerk te administreer. Prosedures is ingesluit wat voorsiening sal maak vir die verklaring van vervoerinfrastruktuur en vir die beplanning, onteiening, konstruksie, bestuur, beheer en instandhouding van infrastruktuur.

Die Wetsontwerp vervang funksies waarvoor bestaande wetgewing voorsiening maak, maar het verskeie eienskappe wat nuut is en uit die vereistes en mandate van die Provinsie en munisipaliteite voortspruit om die rol van vervoerinfrastruktuur te verhoog bo dit wat in die huidige wetgewing bepaal word, wat op paaie fokus. Die Wetsontwerp maak voorsiening vir die administrasie van vervoerinfrastruktuur wat die bedryf van alle vervoermodusse steun, insluitende niegemotoriseerde vervoer, openbare vervoer, die aflewering van goedere, en private voertuie.

2. INHOUD VAN WETSONTWERP

Hierdie Memorandum verskaf inligting oor die doel, inhoud en werking van die Wetsontwerp deur die inhoud van Dele 1 tot 9 van die Wetsontwerp op te som.

DEEL 1: INLEIDENDE BEPALINGS

Deel 1 bevat klousules wat 'n omvattende stel woordomsrywings verskaf, omskryf owerhede met verantwoordelikheid vir vervoerinfrastruktuur ingevolge die Wetsontwerp, en vestig 'n grondslag vir die eienaarskap van vervoerinfrastruktuur en die grond waarop vervoerinfrastruktuur gebou is.

Omskrywings, owerhede, eienaarskap en professionele verantwoordelikhede

- Die Wetsontwerp bepaal dat die Minister of 'n munisipaliteit, as die verantwoordelike vervoerinfrastruktuur-owerheid, die funksies van beplanning, ontwerp, konstruksie, bestuur en finansiering van vervoerinfrastruktuur wat onder sy of haar beheer val, moet onderneem.
- Die eienaarskap van vervoerinfrastruktuur en die grond tussen die reserwegrense berus by die Provinsie of 'n munisipaliteit.
- Die Minister of 'n munisipaliteit as verantwoordelike owerheid moet verseker dat sekere sleutel tegniese funksies slegs onder die verantwoordelikheid en noulettendheid van 'n gepas gekwalifiseerde professionele persoon verrig word.

DEEL 2: KLASSIFIKASIE VAN VERVOERINFRASTRUKTUUR, RESERWEBREEDTES, BOULYNE EN BOUBEPERKINGSGBIEDE

Deel 2 vestig die klassifikasiesstelsel wat toegepas moet word op vervoerinfrastruktuur wat in die Wetsontwerp omskryf word, wat paaie, spoorlyne, bykomstige padinfrastruktuur en bykomstige openbare vervoerinfrastruktuur insluit. Die reserwes (of buitenste rande) van vervoerinfrastruktuur en hulle boulyne en boubeperkingsgebiede word ook omskryf.

- Die Wetsontwerp is in ooreenstemming met die Grondwet en sal noodsaaklike padbestuursfunksies wat van die Provinsie vereis word, op datum bring. Die klem van die Wetsontwerp is die bestuur van hoërorde primêre, hoof- en distrikspaaie in

die Provinsie, wat as landelike verkeersare tussen dorpe dien, en hoërde munisipale verkeersaarfunksies.

- Munisipale strate, synde laerordestrate wat onder 'n munisipaliteit ressorteer, word van die Wetsontwerp uitgesluit, in die verwagting dat dit ingevolge die Munisipale Ordonnansie, 1974 (Ordonnansie 20 van 1974), of ingevolge munisipale verordeninge geadministreer sal word.
- Die bepalings van die Wetsontwerp betreffende die verklaring, regulering, beheer en bestuur van munisipale paaie is nie bedoel om inbreuk te maak op die bevoegdheide van munisipaliteite om wetgewing aan te neem oor die aangeleentheid van “munisipale paaie” wat in Deel B van Bylae 5 van die Grondwet genoem word en waarvoor bevoegdheide ingevolge artikel 156(1) en (2) van die Grondwet aan munisipaliteite verleen word nie, maar sal aan munisipaliteite opsionele bemagtigende bepalings, standarde, moniteermeganismes en subsidies vir sulke paaie bied.
- Munisipaliteite kan verordeninge vir die administrasie van munisipale paaie uitvaardig om enige deel van die Wetsontwerp te vervang of uit te brei, behalwe waar die bedoeling is dat 'n munisipale pad 'n subsidie van die Provinsie sal ontvang, in welke geval sekere aspekte van die administrasie van die munisipale pad ingevolge die Wetsontwerp moet wees of in ooreenkoms met of na oorleg met die Provinsie moet geskied.

Uitbreiding van bestek om openbarevervoerinfrastruktuur in te sluit

- Die Wetsontwerp vergroot die bestek van wetgewing oor vervoerinfrastruktuur verder as dit wat in die huidige Ordonnansie op Paaie, 1976, en die Wet op Adverteer langs en Toebou van Paaie, 1940, gedek word, wat gesamentlik in wese uitsluitlik bedoel is vir die verklaring, administrasie en finansiering van padkonstruksie en instandhouding van provinsiale paaie en “geproklameerde” munisipale hoofpaaie.
- Die Wetsontwerp sal voorsiening maak vir die verklaring van openbarevervoerinfrastruktuur benewens paaie, soos spoorstelsels, passasieroor-dragfasiliteite en hoërde openbare vervoerpaaie vir snelbusdiensstelsels.

Bykomstige vervoerinfrastruktuur

- Die Wetsontwerp maak vir bykomstige padinfrastruktuur voorsiening deurdat fasiliteite afsonderlik van 'n pad, maar wat vir padoeleindes bedoel is, verklaar kan word. Voorbeelde van sulke infrastruktuur is rusgebiede, dienssentrums met regstreekse toegang, weegbrûe en verkeersbeheersentrusms.
- Daar word ook vir bykomstige openbarevervoerinfrastruktuur voorsiening gemaak, naamlik fasiliteite wat die bedryf van openbare vervoer steun. Dit kan op hulle eie terreine, afsonderlik van die reserwes van spoorlyne of paaie wat vir openbarevervoervoertuie gereserveer is, verklaar word. Voorbeelde van sulke infrastruktuur is openbarevervoerwisselaars, rangeerwerwe en depots.

DEEL 3: OORGANGSBEPALINGS TEN OPSIGTE VAN BESTAANDE PAAIE

Deel 3 maak voorsiening vir 'n oorgangsproses wat moet begin op die datum waarop die Wetsontwerp in werking tree.

Oorgangsbepalings

- Met ingang van die datum van inwerkingtreding van hierdie Wet sal alle primêre, hoof-, afdelings- en kleinpaaie en openbare voetpaaie wat voorheen ingevolge die Ordonnansie op Paaie, 1976, verklaar is, geag word ingevolge hierdie Wetsontwerp verklaar te wees, en alle voorwaardes wat met sodanige verklaring gepaardgaan, sal van krag bly asof die pad of openbare voetpad onderwerp is aan die prosedures van projekbeplanning en verklaring waarvoor die Wetsontwerp voorsiening maak.
- Daar word beoog dat 'n proses sodra die Wetsontwerp in werking getree het, sal begin sodat die klassifikasie en eienaarskap van paaie in die Provinsie gerasionaliseer kan word. Oorgangsbepalings in die Wetsontwerp maak voorsiening vir die katalogisering van alle paaie wat voorheen ingevolge die

Ordonnansie op Paaie, 1976, verklaar is en vir die herklassifisering van sulke paaie ingevolge die Wetsontwerp, waar nodig.

- Hierdie proses sal ook die oordrag van party voorheen verklaarde paaie tussen die Provinsie en verskeie munisipaliteite behels in wie se gebied die infrastruktuur geleë is. Paaie moet ingevolge oordragooreenkomste tussen die Provinsie en die munisipaliteite oorgedra word.

DEEL 4: BEPLANNING EN VERKLARING VAN VERVOERINFRASTRUKTUUR

Deel 4 stel nuwe prosedures in wat nie in die Ordonnansie op Paaie, 1976, vervat is nie maar wat nodig is as gevolg van omgewingswette en oorlegpleging wat nodig is voordat enige projek aangepak kan word. Strategiese beplanning behels vooruitbeplanning van die vervoernetwerk en die gepaardgaande finansiële beplanning.

Insluiting van vereistes vir strategiese en projekbeplanning

- Strategiese vooruitbeplanning van vervoerinfrastruktuur soos ingevolge die National Land Transport Act, 2009 (Wet 5 van 2009), vereis, word versterk in die Wetsontwerp, wat verder tydraamwerke verskaf vir die begrotingsproses waar 'n subsidie van die Provinsie verlang word. Daar word van die Provinsie vereis om binne die voorgeskrewe tydraamwerke planne beskikbaar te stel wat sleutelaspekte van die Provinsie se vervoerinfrastruktuurbeplanning dek, sodat munisipaliteite hulle projekte in jaarlikse aanvullings van hulle geïntegreerde vervoerplanne kan insluit.
- Die Wetsontwerp stel 'n prosedure in vir die beplanning van vervoerinfrastruktuurprojekte, wat gedoen moet word waar 'n nuwe pad, spoorlyn of ander bykomstige vervoerinfrastruktuur beplan, verskuif of verbreed word of sluiting oorweeg word. Sekere beskerming word ook verskaf vir sulke beplanning waar die eienaar van grond waarvoor infrastruktuur beplan word, die grond wil ontwikkel of die gebruik daarvan wil verander.

Verklaring van vervoerinfrastruktuur deur 'n munisipaliteit

- 'n Belangrike beleid wat in die Wetsontwerp opgeneem is, is die wetgewende steun vir munisipaliteite waar hoërde paaie waarvoor 'n munisipaliteit die padowerheid is, deur 'n munisipaliteit verklaar kan word, onafhanklik van die Provinsie. Munisipaliteite vind baat by die bepalinge van die Wetsontwerp wat meganismes vir bestuur en beheer van die infrastruktuur daarstel.
- In gevalle waar 'n munisipale pad verklaar word, sal die munisipaliteit moet voldoen aan norme en standaarde waarvoor in die Wetsontwerp en die regulasies voorsiening gemaak word. Die Provinsie sal in dié verband 'n toesigrol vervul om te verseker dat verklaarde munisipale paaie ooreenkomstig sodanige norme en standaarde bestuur word.

DEEL 5: PROSEDURES BY SLUITING VAN VERVOERINFRASTRUKTUUR

Deel 5 bevat prosedures wat deur 'n verantwoordelike owerheid gevolg moet word wanneer pad- of ander vervoerinfrastruktuur gesluit of verlê word. 'n Beplanningsproses wat in Deel 4 uiteengesit word moet die handeling van die sluit van 'n pad of ander vervoerinfrastruktuur voorafgaan.

DEEL 6: FINANSIERING EN SUBSIDIEREËLINGS

Deel 6 maak voorsiening vir die verlening van finansiële bystand deur die Provinsie aan munisipaliteite, soos waarvoor die Ordonnansie op Paaie, 1976, tans voorsiening maak. Die bepalinge is nodig ten einde deurlopende vloei van subsidies na die munisipaliteite moontlik te maak vir die instandhouding van munisipale paaie wat beduidende volumes provinsiale verkeer dra, en ook om voorsiening te maak vir ooreenkomste vir finansiële bystand waar Provinsiale paaie na munisipaliteite oorgedra word gedurende die oorgangsproses in Deel 3 bedoel.

Voorsiening vir die betaling van subsidie aan munisipaliteite

- Die Wetsontwerp bepaal dat 'n pad wat deur 'n munisipaliteit verklaar is 'n subsidie van die Provinsie kan ontvang, soos in die geval van die Ordonnansie op Paaie, 1976. Waar dit gebeur, moet 'n subsidie-ooreenkoms tussen die munisipaliteit en die Minister aangegaan word.
- Waar daar 'n subsidie-ooreenkoms vir 'n verklaarde munisipale pad bestaan, sal die goedkeuring van die Provinsie vir belangrike besluitneming betreffende standarde en veranderinge aan die pad vereis word deur nakoming van die norme en standarde wat in die Wetsontwerp opgeneem is of deur koördinerende strukture tussen die Provinsie en die munisipaliteit.

DEEL 7: ONTEIENING EN VERGOEDING

Deel 7 bepaal dat 'n verantwoordelike vervoerowerheid grond vir doeleindes van die verklaring van vervoerinfrastruktuur kan onteien, en grond kan betree en besit daarvan kan neem.

DEEL 8: BESTUUR EN BEHEER VAN VERVOERINFRASTRUKTUUR EN AANGRENSENDE GROND

Deel 8 bevat bepalings wat tans in die Ordonnansie op Paaie, 1976, en die Wet op Adverteer langs en Toebou van Paaie, 1940, vervat is en wat bepaal dat 'n verantwoordelike owerheid al die aspekte van die administrasie van pad- en vervoerinfrastruktuur kan bestuur en beheer benewens die beplanning en verskaffing van die vervoerinfrastruktuur, d.i. gedurende die tydperk van bedryf van die vervoerinfrastruktuur na implementering.

Toestemming vir en beheer oor advertensies

- 'n Beduidende verantwoordelikheid van die verantwoordelike owerheid is om te verseker dat advertering wat aangrensend aan hoofpaaie toegelaat word veilig en aanvaarbaar is. Die bepalings van die Wetsontwerp verbied advertering binne vasgestelde afstande van die pad tensy dit deur die verantwoordelike owerheid goedgekeur is, en stel die owerheid in staat om die nodige stappe te doen om ongemagtigde advertensies te verwyder.

Beheer oor toegang tot 'n pad

- 'n Verantwoordelike owerheid vir 'n pad moet voldoen aan riglyne en standarde rakende die frekwensie, spasiëring en tipe kruisings van paaie en inrypaaie wat toegang tot paaie onder sy jurisdiksie het. Die Wetsontwerp maak voorsiening vir hierdie riglyne en standarde. Persone wat eiendomme aangrensend aan 'n pad besit, sal verbied word om 'n toegang tot 'n hoofpad te bou tensy die verantwoordelike owerheid toestemming verleen.

Strukture op, oor of onder vervoerinfrastruktuur

- Die Wetsontwerp maak voorsiening vir sterk en doeltreffende beheer deur die verantwoordelike owerheid oor die installering of oprigting van enige tipe struktuur op, oor of onder 'n pad of ander vervoerinfrastruktuur.
- Persone wat sulke strukture wil installeer of oprig moet by die verantwoordelike owerheid aansoek doen vir toestemming en daar kan van hulle vereis word om vir padverlofregte te betaal om die strukture te installeer en vir huurgeld van ruimte om die strukture te akkommodeer gedurende die tydperk dat die strukture bestaan.

Beperkings op veranderinge in grondgebruik

- Die verantwoordelike owerheid het beheer oor veranderinge in die gebruik van eiendomme aangrensend aan vervoerinfrastruktuur onder sy beheer. Dit sluit in die goedkeuring van onderverdelings en enige ontwikkeling wat 'n negatiewe uitwerking op die bedryf van die vervoerinfrastruktuur kan hê of wat kan lei tot onbedoelde gevolge vir gemeenskappe as gevolg van grondontwikkeling en die

veranderinge in grondgebruik. Dit is byvoorbeeld noodsaaklik om die bou van ontwikkelings soos skole, winkels en ander gemeenskapsgeriewe in die nabyheid van woongebiede te vermy waar die gemeenskap van die geriewe deur 'n hoofvervoerweg afgeskei is, tensy voorsorg vir veilige oorgange gemaak is.

Heinings, hekke en motorhekke

- Die Wetsontwerp maak voorsiening vir die installering en instandhouding van die omheining van die reserwe of buiterand van vervoerinfrastruktuur, en hekke en motorhekke oor paaie deur die vervoerinfrastruktuur-owerheid en die eienaar van eiendom aangrensend aan die infrastruktuur.

DEEL 9: ALGEMENE BEPALINGS

Deel 9 sluit 'n aantal algemene bepalings in wat vir die behoorlike administrasie van die Wetsontwerp nodig is. Dit sluit in:

- Spesifieke bevoegdhede van die Minister en algemene bevoegdhede van owerhede;
- voorsiening vir bevoegdhede van die Minister om regulasies uit te vaardig;
- verordeninge wat deur munisipaliteite gemaak kan word om bepalings van die Wetsontwerp aan te vul of te vervang;
- voorsiening vir agentskapsooreenkomste wat aangegaan kan word om funksies aan ander entiteite uit te kontrakteer;
- die beperking van die aanspreeklikheid van verantwoordelike owerhede;
- algemene verbodinge, misdrywe en strawwe waar oortredings begaan word; en
- voorsiening vir appèlle teen 'n besluit van die Departementshoof of 'n beampte.

Die Wetsontwerp maak ook voorsiening vir die herroeping van die Ordonnansie op Paaie, 1976, en die Wet op Adverteer langs en Toebou van Paaie, 1940.

3. OORLEGPLEGING

By die opstel van hierdie Wetsontwerp is die volgende rolspelers geraadpleeg:

- (a) Wes-Kaapse Provinsiale Tegnieuse Vervoerkomitee;
- (b) Wes-Kaapse Provinsiale Vervoerkomitee;
- (c) Stad Kaapstad;
- (d) alle munisipaliteite in die Provinsie;
- (e) ander Provinsies met soortgelyke wetgewing;
- (f) Departement van die Premier: Regsdienste;
- (g) Provinsiale Tesourie; en
- (h) die Staatsprokureur.

4. PERSONEELIMPLIKASIES

Geen.

5. FINANSIËLE IMPLIKASIES

Geen.

6. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister verantwoordelik vir vervoer en openbare werke is oortuig dat al die bepalings van die Wetsontwerp binne die Provinsie se wetgewende bevoegdheid val.

UMTHETHO OSAYILWAYO

Ojoliswe ekuboneleleni ngocwangciso, uyilo, ukubekwa, ukwakhiwa, ukulondolozwa, ukulawulwa, ukuphuculwa nokuvuselelwa kweendlela, imigaqo yoololiwe nezinye izibonelelo zezothutho eNthona Koloni; neminye eimiba ephathelele nako.

NGOKO KE KUWISWA UMTHETHO yiPalamente yePhondo leNtshona Koloni ngolu hlobo lulandelayo:—

UCWANGCISO LWAMACANDELO

ISIGABA I: AMAGQABANTSHINTSHI ENTSHAYELELO

- | | | |
|----|---|----|
| 1. | Inkcazo-magama | 5 |
| 2. | Iziphathamandla ezisingathe izibonelelo zezothutho | |
| 3. | Itayitile, unikezelo lwamagunya nodluliselo lomhlaba ezikuwo izibonelelo zezothutho | |
| 4. | Iinjini eziqeqeshiweyo, abacwangcisi beedolophu okanye abayili bezakhiwo abaza kusingatha imisebenzi ethile | 10 |

ISIGABA 2: ULWAHLULO LWEZIBONELELO ZEZOTHUTHO, UBUBANZI BEMIHLABA, IMIDA YOLWAKHIWO NEENGINEQI ZONYINO LOLWAKHIWO

- | | | |
|----|--|----|
| 5. | Ulwahlulwa-hlulo lweendlela neendlela zoololiwe | |
| 6. | Ububanzi beengingqi ezisikiweyo nemigaqo yoololiwe | 15 |
| 7. | Ulwahlulwa-hlulo neengingqi ezisikiweyo zezibonelelo zezothutho ezilulungezelelo | |
| 8. | Imida yolwakhiwo neengingqi zonyino lolwakhiwo | |

ISIGABA 3: IMIQATHANGO YEXESHANA MALUNGA NEENDLELA ESEZIKHONA

- | | | |
|-----|---|--|
| 9. | Uvandlakanyo lweendlela esezabekwayo | |
| 10. | Izivumelwano zodluliselo malunga neendlela esezabekwayo | |

ISIGABA 4: UCWANGCISO NOKUBEKWA KWEZIBONELELO ZEZOTHUTHO

- | | | |
|-----|--|----|
| 11. | Ucwangciso lwenkqubo yothutho | 25 |
| 12. | Amarekhodi ezibonelelo zezothutho | |
| 13. | Inkqubo yocwangciso lweeprowujekthi | |
| 14. | Umsebenzi wolawulo lokusingqongileyo olumanyanisiweyo | |
| 15. | Umsebenzi wocwangciso phambi kokuvala | |
| 16. | Isicelo sokuvala, esokufudusa okanye esokutshintsha isibonelelo sezothutho | 30 |
| 17. | Isigqibo sesiphathamandla sendlela okanye sesibonelelo sendlela sikarhulumente | |

18. Amanyathelo asemthethweni okhuselo lwezibonelelo zezothutho
19. Ukubekwa kwesibonelelo sezothutho

ISIGABA 5: IINKQUBO MALUNGA NOKUVALWA KWEZIBONELELO ZEZOTHUTHO

20. Ukuvalwa (*mpela*) kwesibonelelo sezothutho 5
21. Ukuvalwa okanye ukujikwa kwexeshana kweendlela okanye kwemigaqo kaloliwe
22. Ukuvalwa okanye ukujikwa ngemeko yonxunguphalo
23. Ilungelo loluntu lokusebenzisa indlela okanye umgaqo kaloliwe ovalwe okanye ojikwe okwexeshana 10

ISIGABA 6: IZICWANGCISO ZENKXASO-MALI NEZONCEDISO-MALI

24. Izicwangciso zoncediso-mali noomasipala
25. Uqikelelo lwenkcitho kuncediso-mali
26. Ukubalwa kwepesenti yoncediso-mali
27. Ukubekwa kwesixa senkcitho kuncediso-mali 15
28. Irenti, intengiso kunye nenye ingeniso evela kumhlaba othengwe ngemali yoncediso-mali
29. Izinga lepesenti yoncediso-mali elilinganisiweyo kwinkcitho yeentengo ezinkulu
30. Amagalelo avela kwezinye iindawo 20
31. Ukuhlawulwa koncediso-mali
32. Amarekhodi enkcitho kwizibonelelo zezothutho
33. Ukuthotywa kwenkcitho yoncediso-mali olubekiweyo

ISIGABA 7: UKUTHATHELWA UMHLABA NEMBUYEKEZO

34. Ukuthathelwa umhlaba 25
35. Ukungena nokuthatha umhlaba

ISIGABA 8: ULAWULO NOKUPHATHWA KWEZIBONELELO ZOMHLABA NEMHLABA EMELENE NAYO

36. Ukuthintelwa kwezibhengezo ezithile ezikwizibonelelo zezothutho okanye ezibonakala kuzo 30
37. Imigaqo malunga nezibhengezo ezikwizibonelelo zezothutho okanye ezibonakala kuzo
38. Ukususwa kwezibhengezo ezingagunyaziswanga
39. Ukuzindla okuphathelele kwizibhengezo
40. Ukungena nokuphuma kwizibonelelo zezothutho 35
41. Ukufuduswa okanye ukuvalwa kwendawo yokungena okanye yokuphuma kwisibonelelo sezothutho
42. Uthintelo lokugalelwa okanye lokushiywa kwezinto ezithile kwisibonelelo sezothutho okanye kufutshane naso
43. Izifakelo nezinto ezilolunye ulwakiwo kwimhlaba ebekelwe izibonelelo zezothutho, phezu okanye phantsi kwazo okanye ngaphakathi kwemida yolwakiwo okanye kwiindawo ezinonyino lolwakiwo 40
44. Unyino lokujikwa kwendlela osetyenziswa ngayo umhlaba
45. Ibhodi zomgama, imiqondiso nezilumkiso ezindleleni
46. Imiqobo nokususwa kwayo 45
47. Iingcingo eziphahle imida okanye ezingaphakathi kwemida yezibonelelo zezothutho
48. Iigeyithi zokunqumla iindlela
49. Iigeyithi zothintelo lwezilwanyana
50. Ulwemiwo lwezimbiwa kwizibonelelo zezothutho okanye phantsi kwazo okanye kwiindawo ezinonyino lolwakiwo 50
51. Ukuqhuba ushishino kwizibonelelo zezothutho okanye kwiindawo ezinonyino lolwakiwo

ISIGABA 9: IMIQATHANGO NGOKUBANZI

52.	Amagunya oMphathiswa	
53.	Amagunya nemisebenzi yeziphathamandla ezinoxanduva loko ngokubanzi	
54.	Imigaqo	
55.	Imigangatho nezikhokelo	5
56.	Imithetho kamasipala	
57.	Ugunyaziso	
58.	Izivumelwano nabagunyaziswa ngemisebenzi yeendlela okanye yothutho loluntu	
59.	Unyino kubutyala besiphathamandla esongameleyo	10
60.	Uthintelo ngokubanzi	
61.	Izigqitho nezohlwayo	
62.	Izibheni ngesigqibo seNtloko yeSebe okanye segosa	
63.	Eminye imiqathango yexeshana	
64.	Unxulumano lwalo Mthetho neminye imithetho	15
65.	Ukushitshiswa kwemithetho	
66.	Isihlokwana esifutshane nokuqalisa	

ISIGABA 1: AMAGQABANTSHINTSHI ENTSHAYELELO

Iinkcazo-magama

1. (1) Kulo Mthetho, ngaphandle kwalapho imeko elisetyenziswe kuyo igama ilinika 20
enye intsingiselo—
- “**isibhengezo**” sithetha nasiphi na isiboniso esibonakalayo segama, sikanobumba, sesazobe, sento, sophawu, selogo okanye soqondiso okanye sesifinyezo segama okanye sako nakuphi na okuhlanganisa ezi zinto, esijoliswe ekwaziseni okanye ekusaleleni ingqondo kwinto ethile, kwaye ke sibandakanya ibhodi okanye into ekuqhelwe ukuyisebenzisa ngezi njongo, ngokunjalo nemifanekiso ehambayo eboniswa ngezikrini okanye izinto ezilolo hlobo, nakubeni owona myalezo ungaluliswa ngazo, kodwa ke asibandakanyi imiqondiso yendlela okanye irobhothi; 25
- “**into elulungezelelo kwizibonelelo zothutho loluntu**” ithetha isilungiselelo esikhankanywe kwicandelo 7(2) yaza yabekwa njengento elulungezelelo kuthutho loluntu phantsi kwecandelo 19, kwaye ibandakanya zonke izinto ezingahambisekiyo nemihlaba eyeyabanye abanini eyinxenye yeso silungiselelo okanye esetyenziswa ngokunxulumene naso; 30
- “**isilungiselelo esilulungezelelo kwindlela**” ithetha isilungiselelo sephondo okanye sikamasipala esikhankanywe kwicandelo 7(1) saza sabekwa njengesilungiselelo esilulungezelelo phantsi kwecandelo 19, kwaye sibandakanya nomhlaba esakhiwe kuwo; 35
- “**izibonelelo zezothutho ezilulungezelelo**” zithetha izilungiselelo ezilulungezelelo kwiindlela nakwizibonelelo zothutho loluntu; 40
- “**umda**” ngokubhekisele—
- (a) kwindlela okanye kumgaqo kaloliwe, uthetha ezo ndawo ziphawula ukuphela komhlaba obekwe phantsi kwecandelo 19(1), okanye othathwa ngokuba ubekwe ngolo hlobo phantsi kwecandelo 9(1) xa iziindlela ezazithe zabekwa ngaphambili ngeenjongo zokuba zibe ziindlela okanye imigaqo kaloliwe; 45
kanti ngokubhekisele
- (b) kwisilungiselelo esilulungezelelo kwindlela uthetha loo ndawo iphawula ukuphela kwengingqi ebekwe phantsi kwecandelo 19(1) njengesilungiselelo esilulungezelelo kwindlela;
- “**umda wolwakhiwo**” uthetha umda okhankanywe kwicandelo 8(1)(b), (2) 50
okanye (3)(a);
- “**indawo ononyino lolwakhiwo**” ithetha indawo ekhankanywe kwicandelo 8(1)(b) okanye (3)(b) okanye (c);
- “**icala leebhasi**” lithetha iileyini ezilungiselelwe ukusetyenziswa ziibhasi kuphela endleleni okanye ke izithuthi ezigunyazisiwe ukuba zisebenzise ezo leyini 55
kwiimeko zongxamiseko okanye ke ngezinye iinjongo;
- “**uMgaqo-siseko**” uthetha uMgaqo-siseko weRiphabliki yoMzantsi Afrika, 1996; “**ulwakhiwo**” lubandakanya ulwakhiwo ngokutsha;

- “izibonelelo zezothutho ezibekiweyo”** zithetha izibonelelo zezothutho ezithe zamiselwa ngolo hlobo okanye ekuthathwa ukuba zimiselwe ngokwemiqathango yalo Mthetho;
- “iSebe”** lithetha isebe elongamele iindlela nemicimbi yothutho loluntu kuRhulumente wePhondo eli; 5
- “idepo”** ithetha indawo esetyenziselwa ukuvalelwa kwezithuthi (*ezithathiweyo*) nethe—
- (a) yakhethelwa ukuba yidepo ngokwemiqathango yecandelo 87 le-NLTA; okanye
- (b) yabekelwa okanye yakhethelwa ukuba yindawo yokuvalelwa kwezithuthi phantsi kwawo nawuphi na omnye umthetho; 10
- “indawo yenkonzo yokufikelelisa ngqo”** ithetha isibonelelo esikufuphi nendlela enguhola—
- (a) eyenza kuphumeke ngqo kwindlela enguhola;
- (b) nelungiselelwe ukuba isetyenziswe ngabasebenzi bakahola lowo okanye ekulawuleni imisebenzi zezothutho; 15
- “umasipala wesithili”** uthetha umasipala wesithili njengoko echazwa kwicandelo 1 loMthetho oyi*Structures Act*;
- “indlela yesithili”** ithetha indlela eye yahlulwa njengendlela yesithili ngokwemiqathango yamacandelo 5(2)(a) okanye 9(1), okanye ethathwa ngokuba iyindlela yesithili ngokwemiqathango yecandelo 9(7); 20
- “ukubiya”**, ngokubhekisele kucingo, kubandakanya nokufakela ucingo ngokutsha, ukutshintsha yonke into ekubiywe ngayo nokufakela nantoni na kucingo olo engeyomfuneko phofu ekulungisweni okanye ekulondolozweni kwalo;
- “ukuthatha”** kubandakanya ukuthathwa okwexeshana kwelungelo lokusebenzisa umhlaba; 25
- “ubiyelo”** luthetha nayiphi na into esetyenziselwe ukubiyela nokuba yenziwe ngantoni na okanye ibekwe njani na, kwaye lubandakanya udonga neheji;
- “uhola”** uthetha indlela okanye inxenye yendlela ethe yakhethelwa ukuba ibe yindlela enguhola ngokwemiqathango yoMthetho oyi*National Road Traffic Act*; 30
- “iGazethi”** ithetha iGazethi yePhondo yeli Phondo;
- “iNtloko yeSebe”** ithetha iNtloko yeSebe eli;
- “umgaqo kaloliwe omkhulu”** uthetha umgaqo kaloliwe okhwelisa abantu—
- (a) ohamba kwiintsimbi (*kwiziporo*) ezikwindawo asikelwe ukuhamba kuyo;
- (b) oziporo zakhe zingaphaya kwama-600 milimitha; 35
- (c) nothe wahlulwa njengomgaqo kaloliwe omkhulu ngokwemiqathango yecandelo 5(2)(a);
- “isicwangciso sezothutho esihlanganisiweyo”** sithetha isicwangciso njengoko sicaciswa kwicandelo 36 le-NLTA;
- “umhlaba”** uthetha umhlaba, nokuba uphuhlisiwe nokuba awuphuhliswanga; 40
- “umgaqo kaloliwe omncinane”** uthetha umgaqo kaloliwe okhwelisa abantu, kubandakanya nomgaqo onesiporo esinye, umgaqo ophakanyiswa yimaghethi, okanye umgaqo owakhiweyo apho izithuthi zihamba ngamatayala anomoya—
- (a) osebenza kwindawo asikelwe ukuhamba kuyo, ngaphakathi kwindawo ekulilungelo lakhe ukuhamba kuyo okanye kwindlela ehamba iintlobo ngeentlobo zezithuthi; 45
- (b) nothe wahlulwa njengomgaqo kaloliwe omncinane ngokwemiqathango yecandelo 5(2)(a);
- “umasipala wengingqi”** uthetha umasipala wengingqi njengoko echazwa kwicandelo 1 loMthetho oyi*Structures Act*; 50
- “indlela enkulu”** ithetha indlela ethe yahlulwa njengendlela enkulu ngokwemiqathango yecandelo 5(2)(a) okanye 9(1), okanye ethathwa ngokuba iyindlela enkulu ngokwemiqathango yecandelo 9(6);
- “imisebenzi yezimbiwa”** ithetha nawuphi na umsebenzi onxulumene nokumbiwa kwezimbiwa nakuyo nayiphi na imiba enxulumene nawo; 55
- “uMphathiswa”** uthetha iLungu leKhabhinethi yePhondo elongamele iSebe eli;
- “uMphathiswa wezeMali”** uthetha iLungu leKhabhinethi yePhondo elongamele imicimbi yemali kwiPhondo eli;
- “uMphathiswa woLawulo lweeDolophu neZithili”** uthetha iLungu leKhabhinethi yePhondo elongamele imicimbi yolawulo lweedolophu nezithili kwiPhondo eli; 60

- “**indlela encinane**” ithetha indlela ethe yahlulwa njengendlela encinane ngokwemiqathango yecandelo 5(2)(a) okanye 9(1), okanye ethathwa njengendlela encinane ngokwemiqathango yecandelo 9(6);
- “**igeyithi yokuthintela izilwanyana**” ithetha indawo elisango endleleni ekungena kulo izithuthi kuphela zinqumla phezu kwamanqwanqwa entsimbi anezithuba phakathi kwawo; 5
- “**umasipala**” uthetha umasipala olapha kweli Phondo, nokuba ngumasipala wesithili okanye umasipala wengingqi kweso sithili;
- “**umgaqo kaloliwe kamasipala**” uthetha umgaqo kamasipala ophantsi kolawulo lukamasipala; 10
- “**indlela kamasipala**” ithetha indlela enkulu, indlela yesithili, indlela encinane okanye indlela yezithuthi zoluntu ephantsi kolawulo lukamasipala lowo;
- “**izibonelelo zothutho zikamasipala**” zithetha izibonelelo zothutho eziphantsi kolawulo lukamasipala lowo ngokwemiqathango—
- (a) yesi saziso sikhankanywe kwicandelo 5(2) okanye 7(3); 15
- (b) yesi sivumelwano sikhankanywe kwicandelo 9(1); okanye
- (c) yesi sivumelwano sodluliselo sikhankanywe kwicandelo 10;
- “**indlela yesizwe**” ithetha indlela yesizwe njengoko ichazwa kuMthetho oyi*South African National Roads Agency Limited and National Roads Act*, 1998 (uMthetho 7 ka-1998); 20
- “**uMthetho oyiNational Road Traffic Act**” uthetha uMthetho oyi*National Road Traffic Act*, 1996 (uMthetho 93 ka-1996);
- “**i-NEMA**” sisishunqulelo esithetha uMthetho oyi*National Environmental Management Act*, 1998 (uMthetho 107 ka-1998);
- “**NHRA**” sisishunqulelo esithetha uMthetho oyi*National Heritage Resources Act*, 1999 (uMthetho 25 ka-1999); 25
- “**NLTA**” sisishunqulelo esithetha uMthetho oyi*National Land Transport Act*, 2009 (uMthetho 5 ka-2009);
- “**into yothutho engahambi nganjini**” ibandakanya abahamba ngeenyawo, ibhayisikili enyovwayo nezinye izinto ezihanjiswa ngabantu okanye zizilwanyana; 30
- “**umhlali**” uthetha umntu ohleli ngokusemthethweni emhlabeni okanye umntu osegunyeni ngokomthetho lokuba abe elawula umhlaba njengomnini wawo, njengomqeshi okanye umnini welayisenisi okanye phantsi kwaso nasiphi na isizathu;
- “**iilwimi zaseburhulumenteni**” zithetha isiNgesi, isiBhulu nesiXhosa; 35
- “**uMthetho wePhondo**” uthetha uMthetho weNdelela wePhondo oyi*Roads Ordinance*, 1976 (uMthetho wePhondo 19 ka-1976);
- “**isigqeba sikarhulumente**” sithetha isigqeba sikarhulumente njengoko sichazwa kwicandelo 239 loMgaqo-siseko;
- “**PFMA**” sisishunqulelo soMthetho oyi*Public Finance Management Act*, 1999 (uMthetho 1 ka-1999); 40
- “**okumiselweyo**” kuthetha ukumiselwa ngumgaqo;
- “**okwabekwa ngaphambili**” kuthetha oko kwathi kwabekwa okanye kwathathwa njengokubekiweyo ngokwemiqathango yoMthetho wePhondo okanye yawo nawuphi na omnye umthetho nobusebenza ngexesha lokuqalisa kwalo Mthetho ukusebenza; 45
- “**uMthetho oyiPromotion of Administrative Justice Act**” uthetha uMthetho oyi*Promotion of Administrative Justice Act*, 2000 (uMthetho 3 ka-2000);
- “**iPhondo eli**” lithetha eli Phondo okanye uRhulumente wePhondo leNtshona Koloni, ngokwaloo meko lisetyenziswe phantsi kwayo eli gama; 50
- “**isikhokelo sothutho lwendlela lwephondo**” sithetha isikhokelo esikhankanywe kwicandelo 35 le-NLTA;
- “**umgaqo kaloliwe wephondo**” uthetha umgaqo kaloliwe ophantsi kolawulo loMphathiswa;
- “**indlela yephondo**” ithetha indlela enkulu ebalulekileyo, indlela enkulu, indledlana yoluntu okanye indlela yoluntu ephantsi kolawulo loMphathiswa; 55
- “**izibonelelo zezothutho zephondo**” zithetha izibonelelo zezothutho eziphantsi kolawulo loMphathiswa ngokwemiqathango—
- (a) yesi saziso sikhankanywe kwicandelo 5(2) okanye 7(3);
- (b) yesi sivumelwano sikhankanywe kwicandelo 9(1); okanye 60
- (c) yesi sivumelwano sodluliselo sikhankanywe kwicandelo 10

- “**indledlana kawonke-wonke**” ithetha indledlana ethe yahlulwa njengendledlana kawonke-wonke ngokwemiqathango yecandelo 5(2)(a) okanye ethathwa njengendledlana kawonke-wonke ngokwemiqathango yecandelo 9(6);
- “**uthutho loluntu**” lunala ntsingiselo luyinikwe kwicandelo 1 le-NLTA;
- “**izibonelelo zezothutho loluntu**” zithetha izibonelelo zezothutho ezisetyenziswa okanye ezilungiselelwe ukusetyenziswa luluntu; 5
- “**isiphathamandla sezibonelelo zezothutho loluntu**” sithetha isiphathamandla esisingathe izibonelelo zezothutho loluntu ngokwemiqathango yale nothisi ikhankanywe kwicandelo 5(2);
- “**indlela yothutho loluntu**” ithetha indlela esetyenziselwa uthutho loluntu ubukhulu becala nethe yahlulwa njengendlela yothutho loluntu ngokwemiqathango yecandelo 5(2)(a); 10
- “**isiphathamandla sikaloliwe**” sithetha isiphathamandla esongamele umgaqo kaloliwe ngokwemiqathango yesiya saziwo sikhankanywe kwicandelo 5(2);
- “**umgaqo kaloliwe**” uthetha umgaqo kaloliwe omkhulu okanye umgaqo kaloliwe omncinane, kubandakanya yonke indawo ebekelwe umgaqo kaloliwe ngobubanzi bayo nomhlaba okuwo kwakunye yonke imisebenzi nezinto eziyinxenye yawo okanye ezizezomgaqo kaloliwe lowo; 15
- “**indawo ebekelweyo**” ithetha—
- (a) kwindlela okanye umgaqo kaloliwe, bonke ubububanzi obubekiweyo phakathi kwamacala endlela leyo okanye omgaqo lowo; kunye 20
- (b) kwizibonelelo zezothutho ezilulungezelelo, yonke loo ndawo ibekiweyo phakathi kwamacala esibonelelo eso;
- “**isiphathamandla esongameleyo**” okanye “**isiphathamandla**”, ngokuphathelele kwindlela, kumgaqo kaloliwe okanye kwizibonelelo zothutho loluntu, sithetha isiphathamandla sendlela, isiphathamandla somgaqo kaloliwe okanye isiphathamandla sezibonelelo zothutho loluntu, sithetha isiphathamandla esongamele loo ndlela, loo mgaqo kaloliwe okanye eso sibonelelo sothutho loluntu ngokwemiqathango yalo Mthetho; 25
- “**indawo yokuphumla**” ithetha indawo ebekelwe bucala ngenjongo yokuba isetyenziswe ngabasebenzisi bendlela xa befuna ukukhe baphumle eluhambeni lwabo, indawo leyo enokuthi ibe lapha kufutshane nendlela okanye ithi qelele kuyo, nenokuthi ibandakanye nezilungiselelo zabathengisi/zamashishini; 30
- “**indlela**” ithetha indlela engumtyino obalulekileyo, indlela enkulu, indlela yesithili, indlela encinane okanye indlela yothutho loluntu, kwaye ibandakanya yonke indawo ebekelwe indlela leyo ngobubanzi bayo nomhlaba ekuwo kwakunye nayo yonke imisebenzi nezinto eziyinxenye yawo okanye ezizezindlela leyo; 35
- “**isiphathamandla sendlela**” sithetha isiphathamandla esongamele indlela ngokwemiqathango yesiya saziwo sikhankanywe kwicandelo 5(2);
- “**umphakathi wendlela**” uthetha le ndawo iyeyokuhamba izithuthi apha endleleni; 40
- “**isikhululo/isitishi**” sibandakanya—
- (a) kumgaqo kaloliwe, ezo ndawo apha esitishini zisetyenziselwa iziporo, izilungiselelo zabantu, izakhiwo, ulawulo loololiwe/lweetreyini, amasango akwaloliwe, amasayidi okanye imiqondiso, nazo zonke ezinye izibonelelo neenkqubo eziyimfuneko okanye ezinxulumene nokusebenza, nolondolozo nolawulo lomgaqo kaloliwe; 45
- (b) kwindlela yebhasi, ezo ndawo apha esitishini zisetyenziselwa iibhasi, izilungiselelo zabantu, izakhiwo, ulawulo loololiwe/lweetreyini, amasango akwaloliwe, amasayidi okanye imiqondiso, nazo zonke ezinye izibonelelo neenkqubo eziyimfuneko okanye ezinxulumene nokusebenza, nolondolozo nolawulo lwebhasi; kunye 50
- (c) neegaraji neendawo zokumisa izithuthi, ezokuthula nokuthatha abakhweli naloo mhlaba usetyenziselwa ukurhweba nokuthengisa uyinxenye yamasango akwaloliwe; 55
- “**imfuyo**” ithetha zonke iindidi zemfuyo yasefama kunye nezilwanyana zokuzingelwa;
- “**inkampi yemfuyo**” ithetha umhlaba osetyenziselwa ukuvalela imfuyo okwexeshana xa isekuhanjisweni;
- “**isitalato/isitrato**” sithetha isitalato okanye enye nje indlela ephantsi kolawulo lukamasipala ingeyondlela kamasipala; 60

- “**ulwakhiwo**” luthetha naluphi na ulwakhiwo, ulwakhiwo okanye nantoni na eyakhiwe phezu, entla okanye ngaphantsi komhlaba, nokuba isisigxina na okanye yeyexeshana, nokuba iluhlobo luni na okanye ingakanani na;
- “**uMthetho oyiStructures Act**” uthetha uMthetho oyi*Local Government: Municipal Structures Act*, 1998 (uMthetho 117 ka-1998); 5
- “**izibonelelo zezothutho ezinikwa uncediso-mali**” zithetha izibonelelo zezothutho zikamasipala ezihlawulelwa uncediso-mali;
- “**uncediso-mali**” luthetha uncediso-mali oluhlawulwa umasipala ngokwemiqathango yesiya sivumelwano sikhankanywe kwicandelo 24(2);
- “**lo Mthetho**” ubandakanya nemigaqo equlunqwe phantsi kwalo Mthetho; 10
- “**ilokishi**” ithetha ingingqi eyahlulwe yazizitendi, iziza okanye iiploti, nokuba inazo na okanye ayinazo na iindawo eziphangaleleyo zikawonke-wonke, esekwe nethathwa njengelokishi phantsi kwawo nawuphi na umthetho;
- “**abasebenzisi bendlela**” bathetha abantu nezinto ezisebenzisa indlela okanye izithuthi zakwaloliwe okanye izithuthi ezingenazinjini; 15
- “**imiqondiso yendlela**” ithetha imiqondiso yendlela esezindleleni njengoko ikhankanywa kuMthetho oyi*National Road Traffic Act* okanye ekumgaqo kaloliwe okanye imiqondiso njengoko ichazwa kuMthetho oyi*National Railway Safety Regulator Act*, 2002 (uMthetho 16 ka-2002) kwaye ibandakanya imiqondiso yokulawula izinto ezihamba endleleni nalapho unqunyulwa khona umgaqo 20 kaloliwe nakwezinye iindawo apho kunokubakho ukuhlangana kwezithuthi zakwaloliwe nezinye izithuthi;
- “**izibonelelo zezothutho**” zithetha izibonelelo zezothutho lwendlela okanye lomgaqo kaloliwe okanye izibonelelo zezothutho ezilulungezelelo, kubandakanya naloo mhlaba usikelwe zona; 25
- “**indlela esetyenziswa kakhulu**” ithetha indlela ethe yahlulwa njengendlela ebalulekileyo ngokwemiqathango yecandelo 5(2)(a) okanye icandelo 9(1), okanye ethathwa njengendlela ebalulekileyo ngokwemiqathango yecandelo 9(6);
- “**ummandla wasedolophini**” uthetha ingingqi ebandakanya—
- (a) xa kuthathelwa ingqalelo imihlathi (b) no-(c), loo nxenye yommandla 30 ophantsi kolawulo lukamasipala ithe yahlulwa-hlulwa yaziziza ezicandiweyo eziziihektare ezimbini okanye nangaphantsi okanye ipahlwe ziziza ezicandiweyo, kwaye ibandakanya neendlela zikawonke-wonke ezayame kuyo;
- (b) ingingqi ngaphakathi kwenyele yommandla wasedolophini, apho ke inyele 35 yommandla wasedolophini ibhekisele kumda kwiplani okanye imephu efanelekileyo obonisa ukuphela kokunaba kommandla lowo nebekwe ngolo hlobo ngokwemiqathango yomthetho olawula iindlela zokusetyenziswa komhlaba kwingingqi leyo; okanye
- (c) ingingqi eye yabekwa njengommandla wasedolophini ngokweenjongo zalo 40 Mthetho phantsi kwecandelwana (2),
- kwaye ubandakanya neengingqi ezikufuphi nale ngingqi ikhankanywe kumhlathi (a) okanye (b) ezithi ziphumele ngaphandle kwemida yaloo ngingqi igudle inyele leyo umganyana ongama-250 eemitha;
- “**invume yofikelelo**” ithetha invume yokufikelela okanye ilungelo lokusebenzisa 45 indlela okanye indawo ebekelwe isibonelelo sezothutho loluntu, elite lanikwa sisiphathamandla sendlela leyo okanye sesibonelelo sezothutho loluntu eso.
- (2) UMphathiswa ngemvumelwano noMphathiswa woLawulo lweeDolophu neZithili, usenokuthi ngesaziso esikhutshwe *kwiGazethi yePhondo*, abeke nayiphi na ingingqi njengommandla wasedolophini ngokweenjongo zalo Mthetho. 50

Iziphathamandla ezisingathe izibonelelo zezothutho

2. (1) UMphathiswa kufuneka abonelele ngemali, aqulunqe, ayile, abeke, akhe, aphuhlise, alondoloze, alawule, aphucule, akhusele aze avuselele izibonelelo zezothutho zephondo eli, kwaye onke amalungelo noxanduva ahamba nezo zibonelelo zisemagxeni oMphathiswa. 55
- (2) Umasipala ochaphazelekayo kufuneka abonelele ngemali, aqulunqe, ayile, abeke, akhe, aphuhlise, alondoloze, alawule, aphucule, akhusele aze avuselele izibonelelo zezothutho zikamasipala ezikwingingqi ephantsi kolawulo lwakhe, kambe ke kuthathwe ingqalelo ngecandelwana (3), kwaye onke amalungelo noxanduva ahamba nezo zibonelelo zisemagxeni kamasipala lowo. 60

(3) Ngokuphathelele kwizibonelelo zezothutho zikamasipala ezikwingingqi kamasipala wesithili, ngokwecandelwana (2) umasipala ochaphazelekayo ngumasipala wesithili, ngaphandle ke kokuba umasipala wesithili nomasipala wengingqi okwisithili eso bavumelene ukuba umasipala wengingqi nguye oya kuthwala uxanduva lwezo zibonelelo zezothutho. 5

(4) Isiphathamandla esongameleyo sisenokungena kwisivumelwano nesinye isiphathamandla malunga nokuba uxanduva lweenkalo ezithile okanye lweenkalo zonke eziphathelele kwezi zibonelelo zezothutho zikhankanywe kumacandelwana (1) nele-(2) ludluliselwa kwesinye isiphathamandla eso ngokwemiqathango ekuthe kwavunyelwana ngayo, imiqathango leyo ekufuneka ukuba ibandakanye nemiqathango ephathelele kuxanduva lwezemali. 10

(5) Eso siphathamandla luthelwadoluliselwa kuso uxanduva lwezibonelelo zezothutho ngokwesi sivumelwano sikhankanywe kwicandelwana (4) kufuneka sikhuphe isaziso *kwiGazethi yePhondo* esibonisa isivumelwano eso.

Itayitile yomhlaba ezikuwo izibonelelo zezothutho, unikezelo nodluliselo lwawo 15

3. (1) Itayitile yomhlaba, kubandakanya nenxenye yawo eyeyomnye umntu, othe wathengwa liPhondo eli okanye ngumasipala okanye othengwe egameni lePhondo okanye likamasipala, ngenjongo yokuwusebenzisela izibonelelo zezothutho, kufuneka ubhaliswe egameni lePhondo eli okanye likamasipala, ngokwalowo ufanelekileyo.

(2) Apho ithe itayitile yaloo mhlaba uthe wabekelwa izibonelelo zezothutho yahlala isegameni lomntu lowo ungumnini waloo mhlaba ngeli xesha lokubekwa kwawo ngolu hlobo, unyino oluthe lwabekwa kuwo wonke lo mhlaba ubekwe njengendawo yezibonelelo zezothutho ezo kufuneka luye kubhaliswa kuMbhalisi weeTayitile (Registrar of Deeds) luze kanaanjalolubonakaliswe nakwitayitile yomhlaba lowo. 20

(3) Icandelwana (2) aliyibandakanyi indlela eyayithe yabekwa ngaphambili engavalwanga nanini na emva kokuqalisa kwalo Mthetho ukusebenza. 25

(4) Iofisi yooTrasti beeNdlela eyathi yasekwa ngecandelo 23 loMthetho wePhondo iyatshitshiswa.

(5) Wonke umhlaba owanikelwa okanye owabhaliswa egameni looTrasti beeNdlela ngokwemiqathango yalo Mthetho wePhondo, unikezelwa egunyeni lePhondo eli. 30

(6) Ukuba—

- (a) nasiphi na isibonelelo sezothutho siye sasiwa kwenye indawo, senziwa utshintsho okanye siye savalwa;
- (b) indawo ebekelwe izibonelelo zezothutho iye yacuthwa okanye yenziwa utshintsho; okanye 35
- (c) isiphathamandla siyayeka ukusebenzisa umhlaba njengendawo yezibonelelo zezothutho,

nawuphi na umhlaba ongasetyenziswayo ngokwezi meko zichazwe kumhlathi (a), okanye (b) okanye (c), uyayeka ukuba yinxenye yeso sibonelelo sezothutho, kwakunye nemisebenzi ebiqhubeka apho nezinto ezilapho kuwo, ubuyela kumnini womhlaba lo wawufudula uyinxenye yawo lo mhlaba ongasetyenziswayo phambi kokuba ubekwe njengendawo yezibonelelo zezothutho, ngaphandle kokuba isiphathamandla esongameleyo siyalela ngolunye uhlobo ngesaziso esikhutshwe *kwiGazethi yePhondo*. 40

(7) Xa ke umhlaba uthe wabuyiselwa kumnini wawo wanqangi ngokwecandelwana (6)(a), (b) okanye (c), loo mnini uhlawula isiphathamandla esongameleyo imbuyekezo ethe yaqingqwa ngendlela ebekiweyo. 45

(8) Kuthathelwe ingqalelo icandelwana (6), umhlaba onikezelwe egunyeni lesiphathamandla, kubandakanya nalowo mhlaba uthe wagcinwa ngesaziso esikhutshwe ngokwemiqathango yecandelwana (6), nekungasekho nto ufunelwa yona ngokuphathelele kwizibonelelo zezothutho, usenokuthi uchithwe seso siphathamandla. 50

(9) Xa uthe umhlaba wabuyiselwa ngokwemiqathango yecandelwana (6) okanye wachithwa ngokwemiqathango yecandelwana (8) apho umhlaba lowo ubusegunyeni—

- (a) lePhondo eli, imali yembuyekezo kufuneka iye kufakwa kwiNgxowa yeMali yePhondo (Provincial Revenue Fund);
- (b) likamasipala kwaye wawuthengwe ngoncediso-mali olwaluhlawulwe nguMphathiswa, intlawulo yodluliselo okanye yoko kuchithwa iyonke nayo nayiphi na enye ingeniso efunyenwe ngaloo mhlaba kufuneka iye kufakwa kwiNgxowa yeMali yePhondo ngokwegalelo elo lathi lenziwa ngoncediso-mali ekuthengweni kwawo. 55

Iinjini eziqeqeshiweyo, abacwangcisi beedolophu okanye abayili bezakhiwo abaza kusingatha imisebenzi ethile

4. (1) Isiphathamandla esongameleyo kufuneka siqinisekise ukuba imisebenzi eyenziwe ngokwemiqathango yalo Mthetho yenziwa phantsi kweliso lomntu oqeqeshwe ngokufanelekileyo, kambe ke kuthathelwe ingqalelo amacandelwana (2) nele-(3). 5
- (2) Akukho mntu ungomnye ngaphandle kwalowo ubhaliswe—
- (a) njengeNjineli eQeqeshiweyo okanye oliGcisa eliQeqeshiweyo kubuNjineli ngokwemiqathango yoMthetho oyi*Engineering Profession Act, 2000* (uMthetho 46 ka-2000); okanye
- (b) umcwangcisi weedolophu okanye umyili wezakhiwo ngokwemiqathango yomthetho ofanelekileyo wokunikwa kweziqinisekiso, unokuthi asingathe ulawulo nolwamkelo lwezicwangciso eziliqili zobugcisa okanye lweeplani eziphathelele kwizibonelelo zezothutho. 10
- (3) Akukho mntu ungomnye ngaphandle koyiNjineli eQeqeshiweyo okanye oliGcisa eliQeqeshiweyo kubuNjineli unokuthi asingathe ulawulo nolwamkelo lwezicwangciso eziliqili zobugcisa okanye lweeplani eziphathelele kule misebenzi ilandelayo: 15
- (a) ukuyila izinto ezisetyenziswa kwizibonelelo zezothutho ngokunxulumene nokwenziwa kweendlela, ulwakhiwo, umbane okanye ubunjini bemitshini;
- (b) ukuqulunqa izicwangciso eziliqili zokulungisa nokulondoloza izibonelelo zezothutho esele zikhona; 20
- (c) ulawulo lolwakhiwo nolondolozo lwezibonelelo zezothutho; okanye
- (d) eminye imisebenzi ethe yagunyaziswa.

ISIGABA 2: ULWAHLULO LWEZIBONELELO ZEZOTHUTHO, UBUBANZI BEMIHLABA, IMIDA YOLWAKHIWO NEENDAWOI EZINYINO LOLWAKHIWO 25

Ulwahlulwa-hlulo lweendlela neendlela zoololiwe

5. (1) Iindlela nemigaqo kaloliwe kwiPhondo eli zahlulwe ngolu hlobo lulandelayo:
- (a) iindlela eziyimityino ebalulekileyo, eziphantsi kolawulo loMphathiswa;
- (b) iindlela ezinkulu eziphantsi kolawulo loMphathiswa okanye komasipala;
- (c) iindlela zezithili eziphantsi kolawulo loMphathiswa okanye komasipala; 30
- (d) iindlela ezincinane eziphantsi kolawulo loMphathiswa okanye komasipala;
- (e) iindlela zothutho loluntu eziphantsi kolawulo loMphathiswa okanye komasipala;
- (f) iindlelana zikawonke-wonke eziphantsi kolawulo loMphathiswa okanye komasipala; 35
- (g) imigaqo kaloliwe emikhulu ephantsi kolawulo loMphathiswa okanye komasipala; kunye
- (h) nemigaqo kaloliwe emincinane ephantsi kolawulo loMphathiswa okanye komasipala.
- (2) Kwisaziso ngasinye esikhutshwe ngokwemiqathango yecandelo 19(1) isiphathamandla esongameleyo, ngokuphathelele kwindlela okanye umgaqo kaloliwe, kufuneka—
- (a) siyahlule indlela leyo okanye umgaqo kaloliwe lowo ube yenye yezi ntlobo zidweliswe kwicandelwana (1);
- (b) sicacise ukuba nguMphathiswa na okanye ngumasipala owongamele lo ndlela okanye loo mgaqo kaloliwe; size ke 45
- (c) xa ingumasipala wesithili, sicacise ukuba ngumasipala wesithili na okanye ngumasipala wengingqi owongamele indlela leyo okanye umgaqo kaloliwe lowo.
- (3) Indlela yothutho loluntu isenokuba kwindawo eyeyayo qha okanye ngaphakathi kwendawo yendlela engumtyino obalulekileyo, yendlela enkulu, yendlela yesithili okanye yendlela encinane. 50
- (4) Isiphathamandla esongameleyo sisenokubeka imiqathango ngeendlela zothutho loluntu, kwaye ke loo miqathango kufuneka sazise ngayo ngesaziso esikhutshwe kwiGazethi yePhondo.
- (5) Apho indlela yothutho loluntu iye yabekwa kwindawo ebekelwe olunye uhlobo lwendlela, isiphathamandla esongamele enye indlela leyo sikwasisiphathamandla sale ndlela yothutho loluntu, kodwa ke izinto sizenza ngothethwano neso siphathamandla songamele isibonelelo sezothutho loluntu. 55

- (6) Apho indlela yothutho loluntu ephantsi kolawulo lukamasipala ikwindawo ebekelwe indlela engumtyino obalulekileyo okanye indlela enkulu okanye indlela yesithili okanye indlela encinane, ephantsi koMphathiswa, uMphathiswa kunye nomasipala kufuneka ukuba apho kufanelekileyo, benze isivumelwano esibhaliweyo sokuba sesiphi na isiphathamandla esongamela ulondolozo, ulawulo lobhengezo, iimvume zofikelelo nezinye iinkalo eziphathelele kwindlela yothutho loluntu. 5
- (7) UMphathiswa usenokuthi asakuba ethe wathethana nomasipala lowo uchaphazelekayo, akujike ukwahlulwa kwendlela yephondo okanye yomgaqo kaloliwe wephondo ngesaziso esikhutshwe kwiGazethi.
- (8) Umasipala usenokuthi akujike ukwahlulwa kwendlela kamasipala okanye komgaqo kaloliwe kamasipala ngesaziso esikhutshwe kwiGazethi. 10
- (9) Apho indlela kamasipala okanye umgaqo kaloliwe kamasipala ufumana uncediso-mali kwiPhondo eli, umasipala lowo kufuneka afumane imvume ebhaliweyo kuMphathiswa yoku kwahlulwa kukhankanywe kwicandelwana (8) phambi kokuba akhuphe isaziso kwiGazethi yePhondo. 15

Ububanzi beengingqi ezisikiweyo neendlela zoololiwe

6. (1) Kuthathelwe ingqalelo icandelwana (2), ubuncinane bobubanzi obuvunyiweyo bendlela nemigaqo yoololiwe ezithe zabekwa phantsi kweSigaba 4 bume ngolu hlobo lulandelayo:
- (a) iindlela eziyimityino ebalulekileyo: 30 iimitha; 20
- (b) indlela enkulu: 25 iimitha;
- (c) indlela yesithili: 20 iimitha;
- (d) indlela encinane: 20 iimitha;
- (e) indlela yothutho loluntu: 20 iimitha, ngaphandle kwalapho indlela yothutho loluntu ibekwe kwindawo ebekelwe indlela engumtyino obalulekileyo, indlela enkulu, indlela yesithili okanye indlela encinane; 25
- (f) indledlana kawonke-wonke: iimitha ezimbini;
- (g) umgaqo kaloliwe omkhulu: 20 iimitha; kunye
- (h) nomgaqo kaloliwe omncinane: 10 iimitha.
- (2) Isiphathamandla esongameleyo sisenokuthi, ekubekeni okanye ekwenzeni utshintsho kwindlela okanye kumgaqo kaloliwe, kwesiya saziso saphantsi kwecandelo 19(1), sibeke ukuba indlela okanye umgaqo kaloliwe unobunye ububanzi obungebubo obu bububuncinane obuvunyiweyo. 30
- (3) UMphathiswa usenokuthi abujike ububanzi bendlela okanye bomgaqo kaloliwe okanye obenxenyayo yawo, apho uMphathiswa asisiphathamandla esongameleyo— 35
- (a) asakuba ethethene nabo bonke oomasipala abachaphazelekayo;
- (b) ethathele ingqalelo ucwangciso lweprowujekthi oluyimfuneko ngokwemiqathango yeSigaba 4;
- (c) nangesaziso esikhutshwe kwiGazethi ngaloo ndlela ibekiweyo, kananjalo siqulathe iinkcukacha ezibekiweyo. 40
- (4) Umasipala usenokuthi abujike ububanzi bendlela okanye bomgaqo kaloliwe, okanye inxenyayo yawo, apho umasipala lowo inguye isiphathamandla esongameleyo—
- (a) asakuba ethethene nabo bonke oomasipala abachaphazelekayo noMphathiswa; 45
- (b) ethathele ingqalelo ucwangciso lweprowujekthi oluyimfuneko ngokwemiqathango yeSigaba 4;
- (c) ngemvume yoMphathiswa apho indlela okanye umzila kaloliwe ufumana uncediso-mali kwiPhondo eli; kananjalo
- (d) ngesaziso esikhutshwe kwiGazethi ngaloo ndlela ibekiweyo, kananjalo siqulathe iinkcukacha ezibekiweyo. 50
- (5) Ububanzi bazo zonke iindlela ezenziwe ngokusemthethweni okanye obujikwe ngokwemiqathango yoMthetho wePhondo nobebusebenza ekuqaleni kwalo Mthetho ukusebenza buhlala bunjalo ngaphandle kokuba buye bajikwa phantsi kwalo Mthetho.

Uwahlulwa-hlulo neengingqi ezisikiweyo zezibonelelo zezothutho ezilungezelelo

7. (1) Iindlela ezilungezelelo kufuneka zahlulwa-hlulwe ngolu hlobo lulandelayo: 55
- (a) indawo yokumisa;
- (b) indawo yokuphumla;
- (c) indawo yenkonzo yokufikelelisa ngqo;
- (d) indawo yokumisa;

- (e) indawo yokuveyisha;
- (f) iziko lolawulo lwezithuthi;
- (g) inkampi yemfuyo;
- (h) indawo yokugcina izinto zokusebenza; okanye
- (i) idepo. 5
- (2) Izibonelelo zezothutho loluntu ezilungezelelo kufuneka zahlulwa-hlulwe ngolu hlobo lulandelayo:
- (a) Indawo yothutho loluntu yokutshintsha;
- (b) isitishi;
- (c) isibonelelo solawulo lwezithuthi; 10
- (d) idepo; okanye
- (e) iziko lolawulo nengcaciso.
- (3) Isiphathamandla esongameleyo kufuneka ukuba kwisaziso ngasinye esikhutshwe ngokwemiqathango yecandelo 19(1) malunga nezibonelelo zezothutho ezilungezelelo— 15
- (a) sisahlule isibonelelo sezothutho esilungezelelo esibekwe kwisaziso njengesinye sezi ntlobo zidweliswe kwicandelwana (1) okanye (2), ngaphandle kwaxa isibonelelo eso singaphakathi kwendawo ebekelwe ukuba yeyesibonelelo sezothutho esahlulwe ngokwemiqathango yecandelo 5 siyinxenye yayo loo ndawo; 20
- (b) sicacise ukuba nguMphathiswa na okanye ngumasipala owongamele eso sibonelelo sezothutho silungezelelo; size ke
- (c) xa ingumasipala wesithili, sicacise ukuba ngumasipala wesithili na okanye ngumasipala wengingqi owongamele indlela leyo okanye umgaqo kaloliwe lowo. 25
- (4) UMphathiswa okanye umasipala basenokuthi basakuba bethe bathethana, bakujike ukwahlulwa kwesibonelelo sezothutho esilungezelelo ngesaziso esikhutshwe *kwiGazethi yePhondo*, kambe ke kuthathelwe ingqalelo icandelwana (5) nemisebenzi yocwangciso eyimfuneko ngokwemiqathango yeSigaba 4.
- (5) Apho isibonelelo sezothutho esilungezelelo asisiphathamandla saso umasipala sifumana uncediso-mali kwiPhondo eli, umasipala lowo kufuneka afumane imvume kuMphathiswa yokutshintsha uhlobo esahlulwe ngalo phambi kokuba uqale umsebenzi wocwangciso lweprowujekthi 30
- (6) Indawo ebekelwe izibonelelo zezothutho ezilungezelelo kufuneka ibekwe ngomsebenzi wocwangciso lweprowujekthi oqhutywe ngokwemiqathango yeSigaba 4 phambi kokuba sibekwe isibonelelo eso sancedisa ngezothutho. 35
- (7) UMphathiswa usenokuthi ayijike indawo yesibonelelo sezothutho esilungezelelo esasithe sabekwa ngaphambili sisiphathamandla esongamele isibonelelo eso—
- (a) asakuba ethethene noomasipala abachaphazelekayo; 40
- (b) ethathele ingqalelo ucwangciso lweprowujekthi oluyimfuneko ngokwemiqathango yeSigaba 4;
- (c) nangesaziso esikhutshwe *kwiGazethi yePhondo* ngaloo ndlela ibekiweyo, kananjalo siqulathe iinkcukacha ezibekiweyo.
- (8) Umasipala usenokuthi ayijike indawo yesibonelelo sezothutho esilungezelelo esasithe sabekwa ngaphambili asisiphathamandla esongamele isibonelelo eso— 45
- (a) asakuba ethethene nabo bonke oomasipala abachaphazelekayo;
- (b) ethathele ingqalelo ucwangciso lweprowujekthi oluyimfuneko ngokwemiqathango yeSigaba 4;
- (c) ngemvume yoMphathiswa apho isibonelelo soncedo ngezothutho sifumana uncediso-mali kwiPhondo eli; kananjalo 50
- (d) ngesaziso esikhutshwe *kwiGazethi yePhondo* ngaloo ndlela ibekiweyo, kananjalo siqulathe iinkcukacha ezibekiweyo.

Imida yolwakhiwo neendawo ezinyonyino lolwakhiwo

8. (1) Imida yolwakhiwo neendawo ezinyonyino lolwakhiwo— 55
- (a) njengoko kucaciswa kwicandelwana (2) nele-(3) zibandakanya zonke iindlela eziyimityino ebalulekileyo, iindlela eziyintloko, iindlela zezithili, iindlela zothutho loluntu nemigaqo yoololiwe ebekwe phantsi kweSigaba 4;
- (b) ezazibekwe ngaphambili phantsi koMthetho wePhondo (*wamandulo*) okanye komnye umthetho, zihlala ngaloo ndlela zazibekwe ngayo ngaphambili, kambe ke kuthathelwe ingqalelo icandelwana (4). 60

- (2) Kummandla wasedolophini kukho umda wolwakhiwo macala endlela omabini okanye omgaqo kaloliwe okwisithuba esiziimitha ezintlanu ogudle indlela okanye umgaqo kaloliwe lowo.
- (3) Ngaphandle kommandla wasedolophini kukho—
- (a) umda wolwakhiwo macala endlela omabini okanye omgaqo kaloliwe okwisithuba esiziimitha ezintlanu ogudle indlela okanye umgaqo kaloliwe lowo; 5
- (b) indawo enonyino lolwakhiwo macala omabini endlela okanye omgaqo kaloliwe kwisithuba esiziimitha ezili-100 esigudle indlela okanye umgaqo kaloliwe lowo; 10
- (c) nendawo enonyino lolwakhiwo ekwisithuba seemitha ezingama-500 ukusuka nakweyiphi na indawo onqumlana kuyo umgca osembindini wendlela okanye womgaqo kaloliwe nomgca osembindini wenye indlela okanye womnye umgaqo kaloliwe.
- (4) Isiphathamandla sisenokuthi siwucuthe okanye siwandise umda wolwakhiwo okanye indawo enonyino lolwakhiwo— 15
- (a) ngemvume yoMphathiswa, xa isisibonelelo sezothutho esifumana uncediso-mali;
- (b) sithathele ingqalelo ucwangciso lweprowujekthi oluyimfuneko ngokwemiqathango yeSigaba 4; kunye 20
- (c) nangesaziso esikhutshwe *kwiGazethi yePhondo* ngaloo ndlela ibekiweyo, kananjalo siqulathe iinkcukacha ezibekiweyo.

ISIGABA 3: IMIQATHANGO YEXESHANA MALUNGA NEENDLELA ESEZIKHONA

Uvandlakanyo lweendlela esezabekwayo 25

9. (1) Kwakamsinyane nje emva kokuba uqalisile lo Mthetho ukusebenza, iNtloko yeSebe kufuneka iqhube uvandlakanyo oludityanelweyo, ibe nesivumelwano noomasipala ngendlela ebekiweyo sokwahlulwa kwazo zonke iindlela ezaziye zabekwa ngaphambili ngokweziya ntlobo zicaciswe kwicandelo 5. Ukuba akukho sivumelwano kufikelelwa kuso, lo mcimbi kufuneka uqwalaselwe ngokwemiqathango yoMthetho oyi *Intergovernmental Relations Framework Act, 2005* (uMthetho 13 ka-2005). 30
- (2) Izivumelwano ekufikelelwe kuzo ngala maqela emva kolu vandlakanyo lukhankanywe kwicandelwana (1) kufuneka zicacise kwindlela nganye—
- (a) ulwahlulo kunye nalo naluphi na utshintsho oluthe lwenziwa kulwahlulo;
- (b) isiphathamandla sendlela leyo kunye nalo naluphi na utshintsho kwisiphathamandla sendlela; 35
- (c) nokuba nalo naluphi na udluliselo lwendlela eyenziwe uvandlakanyo luza kwenziwa ngokwemiqathango yecandelo 10.
- (3) Lusakuba lugqityiwe uvandlakanyo lwengingqi kamsipala, iNtloko yeSebe kufuneka iqinisekise ukuba kukhutshwa isaziso ngazo zonke iilwimi zaseburhulumenteni kwiphepha elinye ubuncinane, elikhoyo kuloo ngingqi, isaziso eso esiqulathe— 40
- (a) iinkcukacha zesivumelwano eso simalunga novandlakanyo lweendlela kuloo ngingqi, kubandakanya nalo naluphi na utshintsho olucetywayo kulwahlulo, naluphi na utshintsho kwisiphathamandla sendlela, isiphathamandla esuswa kuso indlela eza kudluliselwa nesiphathamandla eza kudluliselwa kuso; 45
- (b) iinkcukacha zamaxesha neendawo apho zinokuya kuhlolwa khona iziphumo zovandlakanyo; kunye
- (c) nesimemo sabo banomdla nabachaphazelekayo sokuba bavakalise izimvo zabo ngento ebhaliweyo phambi komhla, ongekho emva kokuba zidlule iintsuku ezingama-60 emva kokupapashwa kwesi saziyo, malunga nefuthe lolu vandlakanyo. 50
- (4) Zisakuba ziqwalaselwe izimvo ezithe zavakaliswa emva kopapasho lwesimemo sokuba kwenziwe njalo ngokwemiqathango yecandelwana (3)(c), iNtloko yeSebe kufuneka ikhuphe isaziso *kwiGazethi yePhondo*, idwelise kuso zonke iindlela ezaziye zahluhlulwa-hlulwa ngokweziphumo zovandlakanyo nangokwezivumelwano ekufikelelwe kuzo ngokwemiqathango yecandelwana (1) inike neenkukacha ngalo naluphi na udluliselo lweendlela neziphathamandla zeendlela. 55

(5) Izivumelwano ekuye kwafikelelwa kuzo ngamaqela emva kovandlakanyo oluqhutywe ngokwemiqathango yecandelwana (1) kufuneka zinike izikhokelo kuqulunqo lwala marekhodi akhankanywe kwicandelo 12.

(6) Indlela nganye engumtyino obalulekileyo, indlela enkulu, indlela encinane nendledlana kawonke-wonke eyayibekwe njalo ngaphambili, ithathwa ngokuba iyindlela elolo hlobo phantsi kwalo Mthetho, kwaye yonke imiqathango ehamba noko kubekwa kwangaphambili iyaqhuba isebenza, ngaphandle kokuba kuvunyelwene ngenye indlela ngokwemiqathango yecandelwana (1).

(7) Indlela nganye eyabekwa njengendlela yommandla ngaphambili ithathwa ngokuba ibekwe njengendlela yesithili ngokwemiqathango yalo Mthetho, ngaphandle kokuba iye yahlulwa ngolunye uhlobo ngokwemiqathango yecandelwana (1).

(8) Xa ulwahlulo lwendlela eyayiye yabekwa ngaphambili luhamba nemiqathango eyahlukileyo kule isebenzayo kuloo ndlela ngomhla wokuqalisa kwalo Mthetho ukusebenza, kubandakanya nobubanzi bendawo ekuyo neendawo ezinyo lolwakhiwo, loo miqathango isebenzayo ngaloo mhla iyaqhuba isebenza kuloo ndlela de ibe iye yenziwa utshintsho ngokwakulo Mthetho.

Izivumelwano zodluliselo malunga neendlela esezabekwayo

10. (1) UMphathiswa nomasipala basenokuthi ngesivumelwano baludlulisele uxanduva lwendlela eseyabekwayo ngaphambili ngokuphathelele—

- (a) kumagunya anxulumene naloo ndlela; 20
- (b) kwizicwangciso zezemali nezonediso-mali ngendlela leyo;
- (c) kwisivumelwano somgunyaziswa xa esinye isiphathamandla sithatha uxanduva lwendlela okanye olunxulumene nendlela ephantsi kolawulo lwesinye isiphathamandla, kuza kubakho okanye kungazi kubakho ntlawulo; okanye 25
- (d) kuwo nawuphi na omnye umba awubona ubalulekile la maqela, kambe ke ewuthethele ingqalelo lo Mthetho.

(2) Isiphathamandla esidlulisela indlela phantsi kwecandelwana (1) kufuneka sinike isaziso ngolo dluliselo—

- (a) esikhutshwe *kwiGazethi yePhondo*; kananjalo 30
- (b) sibhalwe ngazo zonke iilwimi zaseburhulumenteni kwiphepha elinye ubuncinane elikhoyo kuloo ngingqi.

(3) Xa umhlaba ekuyo indlela edluliselwa kwesinye isiphathamandla inikezelwe egunyeni lomdluliseli, loo mhlaba kufuneka udluliselwe kwesinye isiphathamandla ngaphandle kwendleko, ngaphandle kwaloo ndleko sinokuthi singene kuyo esinye isiphathamandla ngokwemvumelwano. 35

(4) Xa indlela idluliselwe ngokwemiqathango yeli candelo, oluya luhlu lukhankanywe kwicandelo 12 kufuneka luhlaziye ngokwemfuneko.

ISIGABA 4: UCWANGCISO NOKUBEKWA KWEZIBONELELO ZEZO-THUTHO 40

Ucwangciso lwenkqubo yothutho

11. (1) INtloko yeSebe kufuneka ukuba—

- (a) iqinisekise ukuba ucwangciso lwezibonelelo zezothutho kwinkqubo yothutho eyonganyelwe nguMphathiswa luqhutywa ngokwendlela ebekiweyo;
- (b) iqulunqe uhlaziyo lwezo zicwangciso qho ngonyaka, kubandakanya nohlahlolwabiwo-mali, njengegalelo kwimijikelo yohlahlolwabiwo-mali lweSebe eli kunye neendlela zokusebenzisa; kananjalo 45
- (c) iqinisekise ukuba olu hlaziyo luyafunyanwa ngoomasipala ungadlulanga umhla wama-30 Epreli kunyaka ngamnye.

(2) Umasipala kufuneka ukuba— 50

- (a) aqinisekise ukuba ucwangciso lwezibonelelo zezothutho kwinkqubo yothutho kwingingqi yakhe lubandakanyiwe kwisicwangciso sothutho esimanyanisiweyo sakhe ngokwemfuno ye-NLTA;
- (b) kangako kunokwenzeka, aqinisekise ukuba ucwangciso nohlahlolwabiwo-mali lokwakhiwa, uphuculo nolondolozo lwezibonelelo zezothutho eziphantsi kwazo zonke izigqeba zikarhulumente ezikwingingqi yakhe nezo zikwiindawo ezimelene nalo ngingqi xa kufanelekile oko, ziyabandakanywa 55

- kuhlaziyo lonyaka lwesicwangciso sezothutho esimanyanisiweyo sakhe; kananjalo
- (c) nokuba izingenisa ngexesha kuMphathiswa iinkcukacha zolo cwangciso, ngenjongo zokuqinisekisa ukuba ziyabandakanywa kuhlaziyo olufanelekileyo lwesikhokelo sothutho sephondo eli. 5
- (3) UMphathiswa nomasipala kufuneka baqulunqe izicwangciso zolawulo lweendlela eziqhagamshelanisa iidolophu, njengoko kutyetyeshiwe, izicwangciso ezo ekufuneka—
- (a) zamkelwe sisiphathamandla esongameleyo ukuba asisiso esi siqulunqa isicwangciso eso; 10
- (b) ziye kudityaniswa kwisicwangciso sezothutho esimanyanisiweyo nakwisikhokelo sokusetyenziswa komhlaba kunye nesikhokelo sothutho lwasezindleleni sephondo;
- (c) ziwucacise umgaqo-nkqubo okhoyo noseza kuqulunqwa kwixesha elizayo malunga nokusetyenziswa kweso sibonelelo sezothutho; 15
- (d) zibe neplani ephathekayo esisisikhokelo solawulo oluqhubekayo lwesibonelelo sezothutho, zibonakalisa nezigaba eziya kulandelwa zophuculo kwixesha elizayo;
- (e) unyino olumalunga nendlela yokusetyenziswa komhlaba owayamileyo, ufikeleleko, iindawo zokumisa, uthutho loluntu, izithuthi ezingasebenzisi zinjini. 20

Amarekhodi ezibonelelo zezothutho

- 12.** (1) Lusakuba lugqityiwe uvandlakanyo lweendlela ezabekwa kwangaphambili ngokwemiqathango yecandelo 9, iNtloko yeSebe kufuneka iqulunqe uluhlu kwakunye neenkukacha ezihamba nalo njengoko kutyetyeshiwe malunga nazo zonke izibonelelo zezothutho ezibekiweyo kweli Phondo. 25
- (2) INtloko yeSebe kufuneka ukuba iqinisekise ukuba olo luhlu nezo nkukacha zihamba nalo ziphathelele kwizicwangciso ezifanelekileyo zolawulo lwabalondolozini nabasebenzisi ezicaciswa kuMthetho oyi*Government Immovable Asset Management Act, 2007* (uMthetho 19 ka-2007). 30
- (3) Phambi kokuba iluqukumbele uluhlu, iNtloko yeSebe kufuneka—
- (a) singenise isiqulunqo solo luhlu kubo bonke oomasipala;
- (b) ibacele ukuba bavakalise izimvo zabo ngeso siqulunqo soluhlu zingadlulanga iintsuku ezili-180 emva kokuba belufumene; kananjalo
- (c) iqwalasele naziphi na izimvo ezithe zavakaliswa ngokomhlathi (b). 35
- (4) INtloko yeSebe kufuneka ukuba inike isibonelelo sezothutho ngasinye esithe safakwa kuluhlu ngokwecandelwana (1).
- (5) INtloko yeSebe kufuneka—
- (a) iqinisekise ukuba uluhlu olo luyafumaneka kwabanqwenela ukuluhlola ngexesha lomsebenzi kuloo ndawo okanye kwezo ndawo zikhethwe yiNtloko yeSebe; kananjalo 40
- (b) iluhlaziye uluhlu olo nanini na xa kuthe kwabakho isibonelelo sezothutho esithe sabekwa kwiPhondo eli, okanye esithe safuduswa, sahlulwa ngokutsha okanye savalwa okanye xa kuthe kwarhoxiswa ukubekwa kwaso.
- (6) Umasipala ngamnye kufuneka— 45
- (a) agcine uluhlu lwazo izibonelelo zezothutho ezibekiweyo kwingingqi asisiphathamandla sayo, ngokwale ndlela yokunika iinombolo okanye ikhowudi ikhankanywe kwicandelwana (4);
- (b) aqinisekise ukuba uluhlu olo luyafumaneka kwabanqwenela ukuluhlola ngexesha lomsebenzi kuloo ndawo okanye kwezo ndawo zikhethwe ngumasipala; kananjalo 50
- (c) aluhlaziye uluhlu olo nanini na xa isibonelelo sezothutho asisiphathamandla saso sithe sabekwa, safuduswa, sahlulwa ngokutsha okanye savalwa okanye xa kuthe kwarhoxiswa ukubekwa kwaso.

Inkqubo yocwangciso lweeprowujekthi

55

- 13.** (1) Isiphathamandla esongameleyo kufuneka siqhube umsebenzi wocwangciso lweeprowujekthi apho siceba ukubeka—
- (a) indlela entsha, umgaqo kaloliwe okanye isibonelelo sezothutho esilulungelelelo; 55

- (b) ufuduso lwendlela ekhoyo okanye komgaqo kaloliwe okhoyo oluya kwenza ukuba yonke indawo ecwangcisiweyo iya kuba ngaphandle kwale ndawo ibibekelwe kuyo;
- (c) ulwandiso lwendawo yendlela okanye yomgaqo kaloliwe, kambe ke kuthathelwe ingqalelo icandelwana (10); 5
- (d) utshintsho lwendawo yesibonelelo sezothutho esilulongezelelo, kuthathelwe ingqalelo icandelwana (10);
- (e) ulwandiso okanye ukucuthwa komda wolwakhiwo okanye neengingqi zonyino lolwakhiwo;
- (f) ufuduso okanye utshintsho lwesibonelelo sezothutho esibekiweyo kodwa singekakhiwa; okanye 10
- (g) ukuvalwa kwesibonelelo sezothutho.
- (2) Phambi kokuba uqalise umsebenzi wocwangciso lweprowujekthi kufuneka kungenwe kwisivumelwano phakathi kwesiphathamandla esongameleyo kunye nalo naliphi na elinye iziko ekufuneka libandakanyeke kwimisebenzi ngokwemiqathango ye-NEMA, i-NHRA okanye yawo nawuphi na omnye umthetho, ngakwicala lendima— 15
- (a) yocwangciso lobungcali olufunekayo ekucaciseni ungqamaniso olufunwayo okanye olulolunye, ukumiswa okanye ukumiswa okukokunye, kwindawo nasekufunyanweni komhlaba weso sibonelelo sezothutho;
- (b) yomsebenzi wolawulo lokusingqongileyo olumanyanisiweyo ngokwemiqathango ye-NEMA, ukuba kuyafunwa oko yi-NEMA; 20
- (c) yenxaxheba yoluntu efunwa yi-NEMA nanjengoko icaciswa kwicandelo 14(3), ukuba ikhona;
- (d) neyovandlakanyo lwefuthe kwilifa lemveli nendalo ngokwe-NHRA, ukuba luyafuneka. 25
- (3) Ucwangciso lobungcali kufuneka luqhutywe ngendlela etyetyeshiweyo.
- (4) Xa umsebenzi wocwangciso ungaqhutywa njengenxenywe yomsebenzi wolawulo lokusingqongileyo olumanyanisiweyo ngokwemiqathango ye-NEMA, isiphathamandla esongameleyo kufuneka ukuba phambi kokuba luqaliswe ucwangciso siwazise amaqela anomdla nachaphazelekayo ngolu cwangciso lucetywayo size siwanike iintsuku ezingama-30 ubuncinane loo maqela zokuba avakalise izimvo zawo okanye aze kwenza iintetho-ngcaciso ngocwangciso olo. 30
- (5) Usakuba ugqityiwe umsebenzi wocwangciso isiphathamandla esongameleyo kufuneka siwazise amaqela anomdla nachaphazelekayo ngendlela ebekiweyo, size kanaanjalo siqinisekise ukuba kukhutshwa isaziso ngazo zonke iilwimi zaseburhulumenteni kwiphapha elinye ubuncinane elikhoyo kuloo ngingqi, isaziso eso esiqulathe iinkcukacha ezityetyeshiweyo, nesimema amaqela anomdla nachaphazelekayo ukuba avakalise izimvo zawo ngento ebhaliweyo ungalulanga umhla ongaphambi kokuba zidlule iintsuku ezingama-30 emva kokupapashwa kwesaziso eso. 35
- (6) Xa uMphathiswa inguye isiphathamandla esongameleyo malunga nesi sibonelelo sezothutho sikhankanywe kwicandelwana (1), uMphathiswa kufuneka athethane noomasipala esikubo okanye esiza kuba kubo isibonelelo sezothutho eso, abacele ukuba bangenise izimvo zabo ngento ebhaliweyo malunga nocwangciso olo, lingadlulanga elo xesha lithe labekwa. 40
- (7) Xa umasipala ephendula kufuneka abhekise ngqo kwifuthe eziya kuba nalo ezo ndlela okanye ezo plani zicetywayo kuso nasiphi na isicwangciso sezothutho esimanyanisiweyo kwisikhokelo sokusetyenziswa komhlaba nakulo naluphi na ucwangciso lophuhliso olulolunye lukamasipala. 45
- (8) Xa iprowujekthi inefuthe enalo kwizibonelelo zezothutho ezonganyelwe sisigqeba sikarhulumente kwelinye inqanaba loburhulumente, kufuneka kuthethwane naso eso sigqeba 50
- (9) Xa inxenywe yesibonelelo sezothutho siza kufuduswa, isiphathamandla esongameleyo kufuneka siqhube umsebenzi wocwangciso ojoliswe kwisibonelelo sezothutho esingaseyomfuneko, ongumsebenzi owodwa okanye oyinxenywe yofuduso lwesibonelelo sezothutho, ngenjongo yokuphumeza oku kulandelayo: 55
- (a) utshintsho lokwahlulwa kwaso;
- (b) ukurhoxiswa kwendlela esabekwa ngayo;
- (c) udluliselo lwesibonelelo sezothutho okanye lomhlaba lowo kumntu othile okanye kwesinye isiphathamandla; okanye
- (d) ukuvalwa kwaso. 60
- (10) Sithathele ingqalelo icandelwana (11), isiphathamandla esongameleyo sisenokuthe saandise okanye sitshintshe—
- (a) isibonelelo sezothutho esicetywayo okanye esele sikhona;

- (b) icandelo lendlela okanye yomgaqo kaloliwe; okanye
- (c) ubukhulu nendawo yesibonelelo sezothutho esesabekwa ngaphambili, ngaphandle kokuqhuba umsebenzi wocwangciso ngokwemiqathango yeli candelo, ukuba ulwandiso olo okanye utshintsho olo aludlulanga kwiimitha ezili-1000 ubude, kwaye— 5
- (i) xa iyindlela okanye umgaqo kaloliwe le ndawo intsha idlula kule ikhoyo ngeemitha ezingadlulanga kwezintlanu kwicala elinye okanye kumacala omabini endawo leyo; okanye
- (ii) xa isisibonelelo sezothutho esilulungezelelo, le ndawo intsha ayibekwa ngaphaya kweemitha ezintlanu ukusuka kule ikhoyo; 10
- (11) Phambi kokuba sihambe ngokwemiqathango yecandelwana (10), isiphathamandla kufuneka—
- (a) siwazise onke amaqela anomdla nachaphazelekayo ngento ebhaliweyo ngendlela ebekiweyo, siwacele kananjalo ukubaavakalise izimvo zawo ngento ebhaliweyo ungadlulanga umhla obekiweyo oya kuba phambi kokuba zidlule iintsuku ezingama-30 emva kolo lwaziso; kananjalo 15
- (b) siqinisekise ukuba uqhutyiwe umsebenzi omanyaniweyo ofunekayo ngokwemiqathango ye-NEMA okanye ye-NHRA.

Umsebenzi wolawulo lokusingqongileyo olumanyanisiweyo

14. (1) Apho kuyimfuneko, ngokwemiqathango ye-NEMA, isiphathamandla esongameleyo kufuneka ukuba sithi xa siqhuba umsebenzi wocwangciso ngokwemiqathango yecandelo 13, siqinisekise ukuba kuqhutywa umsebenzi wocwangciso lolawulo lokusingqongileyo olumanyanisiweyo ngokwesicwangciso, khona ukuze ifuthe locwangciso lobungcali liqwalaselwe kunye nefuthe kokusingqongileyo nakwezinye iinkalo zeprowujekthi. 20
- (2) Umsebenzi wolawulo lokusingqongileyo olumanyanisiweyo kufuneka uqhutywe ngokwemiqathango yeSahluko 5 se-NEMA.
- (3) Inkqubo yenxaxheba yoluntu ngokwemiqathango ye-NEMA kufuneka ibandakanye uthethwano ngefuthe lazo zonke iinkalo zeprowujekthi ezikhankanywe kulo Mthetho. 25
- (4) Xa isiphathamandla esongameleyo singesosiphathamandla sinegunya lokulawula umsebenzi wolawulo lokusingqongileyo olumanyanisiweyo ngokwemiqathango ye-NEMA, isiphathamandla esongameleyo kufuneka sinxibelelanise loo msebenzi kunye nemisebenzi eqhutywa ngokwemiqathango yalo Mthetho, kubandakanya nophando lobungcali, izifundo zophando ezizodwa nomsebenzi wenxaxheba yoluntu, ibe ngumsebenzi omnye. 30 35

Umsebenzi wocwangciso phambi kokuvala

15. (1) Ukuba isiphathamandla esongameleyo siceba ukurhoxisa indlela esibekwe ngayo isibonelelo sezothutho—
- (a) khona ukuze sisivale; 40
- (b) khona ukuze sitshintshe indlela esibekwe ngayo sibekwe njengesitalato; okanye
- (c) esingekakhiwa, kufuneka siqhube umsebenzi wocwangciso phambi kokuba senze oko kubekwa korhoxiso phantsi kwecandelo 19. 45
- (2) Xa kucetywa ukuvalwa kwesibonelelo sezothutho, umsebenzi wocwangciso kufuneka uqhutywe njengovandlakanyo lwefuthe kokusingqongileyo njengoko kucaciswa kwi-NEMA nakwilifa lemveli nendalo ngokwemiqathango ye-NHRA, ukuba kuyafuneka oko.
- (3) Umsebenzi wocwangciso kufuneka uvelele izinto ezinokuba lifuthe loku kucetywa ukukwenza kwindlela osetyenziswa ngayo umhlaba omelene nesibonelelo eso nengingqi esingqongileyo, kubandakanya nefuthe kuhlengahlengiso lwezinto ezisebenzisa indlela nefuthe kokusingqongileyo, kwilifa lemveli nendalo, kwintlalo, kuqoqosho, kukhuseleko nofikeleleko. 50
- (4) Isiphathamandla esongameleyo kufuneka ukuba, phambi kokuqaliswa komsebenzi wocwangciso— 55
- (a) siwazise amaqela anomdla nachaphazelekayo ngolu cwangciso lucetywayo ngendlela etyetyeshiweyo;

- (b) siwanike isithuba seentsuku ezingama-30 ubuncinane loo maqela sokuba avakalise izimvo zawo okanye aye kwenza iintetho-ngcaciso malunga nemiba efanele kubandakanywa kucwangciso; kananjalo
- (c) siqwalasele naziphi na iintetho-ngcaciso ezenziweyo. 5
- (5) Lusakuba lugqityiwe kocwangciso isiphathamandla esongameleyo kufuneka siqinisekise ukuba kukhutshwa isaziso ngolwimi ngalunye lwaseburhulumenteni kwiphepha elinye ubuncinane elikhoyo kulo ngingqi, isaziso eso esibandakanya—
- (a) inkcazo yoko kucetywa ukwenziwa;
- (b) iinkcukacha zamaxesha neendawo ezinokuya kuhlolwa kuzo iziphumo zophando olo; kunye 10
- (c) nesimemo sabo banomdla nabachaphazelekayo sokuba bavakalise izimvo zabo ngento ebhaliweyo phambi komhla, ongekho emva kokuba zidlule iintsuku ezingama-60 emva kokupapashwa kwesi sazi, malunga nefuthe loku kuvalwa.
- (6) Xa uMphathiswa inguye isiphathamandla esongameleyo malunga nesi sibonelelo sezothutho, kufuneka athethane noomasipala esikubo okanye esiza kuba kubo isibonelelo sezothutho eso, abacele ukuba bangenise izimvo zabo ngento ebhaliweyo malunga nocwangciso olo, bajolise ngakumbi kwifuthe okuya kuba nalo oko kucetywa ukwenziwa kuso nasiphi na isicwangciso sezothutho esimanyanisiweyo, kwisikhokelo sokusetyenziswa komhlaba okanye kolunye ucwangciso lophuhliso koomasipala. 20
- (7) Apho oku kucetywa ukwenziwa kunefuthe kwisibonelelo sezothutho esiphantsi kwesiphathamandla samanye amanqanaba karhulumente okanye izigqeba zikarhulumente, kufuneka kuthethwene nazo.

Isicelo sokuvala, esokufudusa okanye esokutshintsha isibonelelo sezothutho

- 16.** (1) Nawuphi na umntu ochatshazelwayo sisibonelelo sezothutho esikhoyo okanye esisacetywayo usenokuthi afake isicelo kwisiphathamandla esongameleyo ngento ebhaliweyo ecela ukuba masivalwe okanye sifuduswe okanye senziwe utshintsho isiboniso eso. 25
- (2) Esi sicelo kufuneka singeniswe ngendlela etyetyeshiweyo kwaye kufuneka sihambe naloo ntlawulo ibekiweyo. 30
- (3) Sisakusifumana esi sicelo isiphathamandla esongameleyo sisenokuthi—
- (a) sisikhabe, sinike nezizathu zokwenza njalo; okanye
- (b) sisixhase, apho ke isiphathamandla eso kufuneka ukuba siqhube umsebenzi wocwangciso lweprowujekthi ngokwemiqathango yecandelo 13 okanye 15, kodwa ke sithathele ingqalelo icandelwana (4). 35
- (4) Isiphathamandla esongameleyo sisenokuthi simbize zonke iindleko umfaki—sicelo ezimalunga nesicelo esi kunye nalo msebenzi uchazwa kwicandelwana (3)(b).

Isigqibo sesiphathamandla sendlela okanye sesibonelelo sendlela sikarhulumente

- 17.** (1) Usakuba ugqityiwe lo msebenzi uchazwe kwicandelo 13 okanye 15, isiphathamandla esongameleyo kufuneka siqwalasele zonke iingxelo, izimvo ezivakalisiweyo neentetho-ngcaciso ezimalunga noku kucetywa ukwenziwa. 40
- (2) Isiphathamandla esongameleyo kufuneka sithi zingadlulanga iintsuku ezili-180 emva kwale mihla ikhankanywe kwicandelo 13(5), 13(11)(a) okanye 15(5)(c), ngokwalowo uchaphazelekayo, sithathe isigqibo—
- (a) sokuqhuba ukubekwa, sokufuduswa okanye sokuvalwa kwesibonelelo sezothutho; okanye 45
- (b) sokungaqhubi ngako, size sikhuphe isaziso esingoko ngolwimi ngalunye lwaseburhulumenteni kwiphephandaba elinye ubuncinane elikhoyo kwingingqi leyo *nakwiGazethi yePhondo*.
- (3) Ukuba isiphathamandla esongameleyo sigqiba kwelokuba siqhube ngokwale ndlela ichazwe kwicandelwana (2)(a), kufuneka ukuba, phambi kokuba ngeenkqubo ngokwemiqathango yecandelo 19, sikhuphe isaziso ngesigqibo ngolwimi ngalunye lwaseburhulumenteni kwiphepha elinye ubuncinane elikhoyo kwingingqi leyo *nakwiGazethi yePhondo*, size ke sinike isithuba seentsuku ezingama-30 emva komhla lowo wokukhutshwa kwaso sokuba kungeniswe izibheni. 55

Amanyathelo asemthethweni okhuselo lwezibonelelo zezothutho

18. (1) Ukusukela kumhla wokupapashwa kwiGazethi kwesigqibo sokuqhuba ngokubekwa kwindlela entsha, efudusiweyo okanye eyenziwe utshintsho kokumiswa kwesibonelelo sezothutho ngokwemiqathango yecandelo 17(3) ukuya kutsho kumhla esithe sabekwa ngawo isibonelelo sezothutho ngokwemiqathango yecandelo 19, nokuba kunokubakho umthetho ohamba ngenye indlela— 5

- (a) akusayi kubakho sicelo sokusekwa kwelokishi, sokwahlulwa-hlulwa komhlaba, salo naluphi na utshintsho kwindlela osetyenziswa ngayo umhlaba ngokwemiqathango yawo nawuphi na umthetho okanye isikim socwangciso sedolophu okanye salo naluphi na ugunyaziso okanye isigqibo esichazwa kwi- NEMA okanye kwi-NHRA, sinokuthi sivunywe ngaphandle kwemvume ebhaliweyo ethe yanikwa kuqala sisiphathamandla esongameleyo— 10
- (i) ngokuphathelele kwindawo engaphakathi kwemida yolwakhiwo yesibonelelo sezothutho esinxulumene naso isigqibo eso; okanye
- (ii) ngokofikeleleko lwexesha elizayo kwisibonelelo sezothutho enxulumene naso indlela leyo okanye ukumiswa; and 15
- (b) amacandelo 36 ukuya kwelama-45 edibene, kunye nelama-51 ayasebenza enezo nguqulelo ziyimfuneko kwimeko yeso sibonelelo sezothutho sichaphazelekayo.

(2) Ukusukela kumhla wokupapashwa kwiGazethi yePhondo kwesaziso ngokwemiqathango yecandelo 17(3) ukuya kutsho kumhla esithe sabekwa ngawo isibonelelo sezothutho ngokwemiqathango yecandelo 19, nokuba kunokubakho umthetho ohamba ngenye indlela, akukho mntu unokuthi— 20

- (a) afake, akhe, atshintshe okanye ongezelele kuye nawuphi na uphayiphu, uphayiphu wombane okanye ikheyibhuli, okanye nayiphi na enye into elulwakhiwo phezu, entla okanye phantsi kwindawo engaphakathi komda wolwakhiwo lwesibonelelo sezothutho eso; okanye 25
- (b) akhe, atshintshe okanye ongezelele kulo naluphi na ulwakhiwo lwalo naluphi na uhlobo, phezu, entla okanye phantsi kwaloo ndawo okanye—
- (i) ngemvume ebhaliweyo aqale wayifumana kwisiphathamandla esongameleyo; okanye 30
- (ii) phantsi kwesiphathamandla kwemvume yofikelelo ekhutshwe sisiphathamandla esongameleyo, ngokwawo nawuphi na umqathango obekwe sisiphathamandla esongameleyo.

(3) Ukusukela kumhla wokubekwa kwesibonelelo sezothutho ngokwemiqathango yecandelo 19 ukuya kutsho ekugqityweni kwesibonelelo sezothutho, nakubeni kukho icandelo 44 okanye nawuphi na omnye umthetho ohamba ngenye indlela, akukho sicelo sokutshintshwa kwindlela osetyenziswa ngayo umhlaba ngokuphathelele kwinxenye ethile yomhlaba kummandla wasedolophini kwisithuba esiziimitha ezingama-250 ukusuka kumda wesibonelelo sezothutho eso sichaphazelekayo, sinokuthi sivunywe sisiphathamandla esigunyaziswe ukuba senze utshintsho kwindlela yokusetyenziswa komhlaba singakhange siqale sifumane, kananjalo siqwalasele izimvo ezivakalisiweyo zesiphathamandla esongameleyo, ngendlela ebekiweyo. 40

Ukubekwa kwesibonelelo sezothutho

19. (1) Isiphathamandla esongameleyo sisenokuthi, sithathele ingqale icandelwana (5) nokugqitywa komsebenzi wocwangciso ngokwemiqathango yesi Sigaba, ngesaziso esikhutshwe kwiGazethi yePhondo, sibeke ukuba— 45

- (a) kukho isibonelelo sezothutho phezu okanye entla kwawo nawo nawuphi na umhlaba ngokwesicwangciso esithe sapapashwa kwisaziso, okanye esinokuya kuhlolwa kwindawo nexesha elichazwe kwisaziso eso; 50
- (b) isibonelelo sezothutho esele sikhona siyafuduswa okanye senziwa utshintsho ngokobo bungakanani buchazwe kwisaziso eso nobuboniswe kwisicwangciso eso; okanye
- (c) isibonelelo sezothutho esele sikhona siyavalwa ngokolo hlobo lucaciswe kwisaziso eso noluboniswe kwisicwangciso eso. 55

(2) Isiphathamandla esongameleyo, sithathele ingqalelo icandelwana (4), ngesaziso esikhutshwe kwiGazethi yePhondo, sisenokuthi sikurhoxise ukubekwa obekukhutshwe ngokwecandelwana (1) emva kokuba sithe saqhuba umsebenzi wocwangciso ofanelekileyo ngokwemiqathango yecandelo 15.

- (3) Xa isiphathamandla sithe savakalisa ukubeka ngokwecandelwana (1) okanye siye sarhoxisa ukubekwa ngokwecandelwana (2), isiphathamandla eso kufuneka sipapashe iinkcukacha zoko kubeka okanye zolo rhoxiso, ngokwemeko leyo, ngolwimi lwaseburhulumenteni ngalunye kwiphephandaba elinye ubuncinane elikhoyo kwingingqi.
- (4) Sithathele ingqalelo icandelo 14 loMthetho oyi*Local Government: Municipal Finance Management Act, 2003* (uMthetho 56 ka-2003), isiphathamandla esongameleyo sisenokuthi ngesaziso esikhutshwe kwiGazethi, sidlulisele igunya, amalungelo, uxanduva okanye nobunini benxenywe yezibonelelo zezothutho okanye bazo zonke, budluliselwa kwesinye isiphathamandla ngokwemiqathango yesivumelwano ekufikelelwe kuso neso siphathamandla. 5 10
- (5) Esi saziso sikhankanywe kwicandelwana (1)(a) kufuneka ukuba kwinto nganye yesibonelelo sezothutho esibekwayo—
- (a) sicacise ukuba ngaba sesiphi na isigqeba esiza kuba sisiphathamandla esongamelele isibonelelo sezothutho; 15
 - (b) sibonakalise ulwahlulwa-hlulo ngokwemiqathango yecandelo 5, ngokuphathathele kwindlela okanye kumgaqo kaloliwe, neyecandelo 7(1) okanye (2), xa isisibonelelo sezothutho esilulungezelelo; 20
 - (c) sinike iinkcukacha zobubanzi bendawo leyo okanye zobungakanani bayo ngokwakwicandelo 6(2), ukuba kuyangena oko, xa iyindlela okanye umgaqo kaloliwe okanye ngokwecandelo 7(6) xa isisibonelelo sezothutho esilulungezelelo; 20
 - (d) sichaze indawo, indlela nomhlaba obekelwe indlela okanye umgaqo kaloliwe okanye ukumiswa kwesinye isibonelelo sezothutho esichaphazelekayo ngeplani ezotyweyo yaza yahlonyelelwa kwisaziso eso; kananjalo 25
 - (e) sixele nokuba iinkcukacha ezingaphezulu ziyafumaneka kwabafuna ukuzihlola kwindawo nangexesha elicaciswe kwisaziso eso. 25
- (6) Xa isibonelelo sezothutho sifuduswa okanye sisenziwa utshintsho, olo fuduso okanye olo tshintsho luthathwa njengesibonelelo sezothutho esibekiweyo esahlulwe ngokufanayo nesiya sifudusiweyo okanye senziwe utshintsho ngokuya besingekafuduswa okanye ngokuya besingekenziwa tshintsho. 30

ISIGABA 5: IINKQUBO MALUNGA NOKUVALWA KWEZIBONELELO ZEZOTHUTHO

Ukuvalwa (*mpela*) kwesibonelelo sezothutho

20. (1) Isiphathamandla esongameleyo kufuneka—
- (a) ukuba phambi kokuvalwa kwesibonelelo sezothutho sibeke isaziso emboniselweni kuloo ndawo iza kuvalwa okanye macala kwisiphelo senxenywe leyo iza kuvalwa, isithuba esiziintsuku ezingama-60, isaziso eso esichaza oku kucetywa ukwenziwa ngolwimi lwaseburhulumenteni ngalunye nokuba izimvo okanye izichaso ezivakaliswayo ngaso zingathunyelwa phi na; size 40
 - (b) sisakuba sivalwe mpela isibonelelo sezothutho eso sibeke imiqondiso yendlela efanelekileyo elumkisa uluntu ngoko kuvalwa, nethi ibalathise abasebenzisi baso ukuba iphi na indlela eya kuso ngoku, xa kuyimfuneko oko. 40

Ukuvalwa okanye ukujikwa kwexeshana kweendlela okanye kwemigaqo kaloliwe

21. (1) Isiphathamandla esongameleyo sisenokuthi siyivale indlela okanye siyijike okwethutyana indlela okanye umgaqo kaloliwe okanye sikunyine okanye sikulawule ukusetyenziswa kwayo okanye ke nayiphi na inxenywe yawo—
- (a) ngenxa yokuba kusakhiwa okanye kuza kwakhiwa, kuza kuvuselelwa okanye kuqhutywa ulondolozo okanye kuza kulungiswa kwindlela leyo okanye kumgaqo kaloliwe lowo; 50
 - (b) ngenxa yokuba kusakhiwa okanye kuza kwakhiwa, kuza kufakwa, kuza kupheyivishwa, kuza kwandiswa, kuza kuqhutywa ulondolozo okanye kuza kulungiswa okanye kuza kudilizwa nasiphi na isakhiwo okanye into elulwakhiwo olulapha okanye olunqumla okanye olwayame indlela leyo okanye umgaqo kaloliwe lowo; 55
 - (c) ngenxa yesiyunguma sikawonke-wonke esifuna ukuba kuthathwe amanyathelo athile okalawulwa kwezithuthi okanye okulungiselela ukuhlalisa abantu abaninzi; 55

(d) ngenxa yaso nasiphi na isizathu esenza ukuba kube yimfuneko ukwenza njalo; okanye

(e) ngenxa yokucelwa nguye nawuphi na umntu.

(2) Isiphathamandla esongameleyo kufuneka siminike imbuyekezo umnini womhlaba othe wafumana umonakalo ngenxa yento ethe yenziwa ngokwemiqathango yeli candelo, ibe seso sixamali singadlulanga kwilahleko-mali ethe yafunyanwa ngumnini lowo, ngokuvana nomnini lowo. 5

(3) Ukuba la maqela akakwazi ukude afikelele kwisivumelwano ngokweli candelwana (2) kuya kusebenza uMthetho oyi*Expropriation Act, 1975* (uMthetho 63 ka-1975), kwenziwe ezo nguqulelwana ziyimfuneko, ngokuphathelele kwimbuyekezo neenkqubo zokubekwa kwayo. 10

(4) Xa indlela okanye umgaqo kaloliwe okanye inxenye yawo ithe yavalwa okanye yajikwa ngokwakweli candelo, isiphathamandla esongameleyo kufuneka ukuba sifake imiqondiso yendlela efanelekileyo exela oko kuvalwa ibonise noko kujikwa kwenziweyo macala kwisiphelo saloo nxenye ivaliweyo okanye ijikiweyo, size ke ngalo lonke eli xesha lokuvala okanye lokujikwa siyilondoloze le miqondiso ngendlela etyetyeshiweyo. 15

(5) Isiphathamandla esongameleyo kufuneka ukuba, phambi kokuba kuvalwe okanye kujikwe indlela okanye umgaqo kaloliwe okwexeshana, siwazise amaqela anomdla nachaphazelekayo ngendlela etyetyeshiweyo, size ke sikhuphe isaziso ngolwimi ngalunye lwaseburhulumenteni kwiphephandaba elinye ubuncinane elikhoyo kuloo ngingqi kungasalanga ngaphantsi kweentsuku ezingama-21 phambi koko kuvalwa okanye koko kujikwa, size kananjalo sinike iintsuku ezili-14 ubuncinane zokuba loo maqela anomdla okanye achaphazelekayo akwazi ukuvakalisa izimvo zawo nokuza kwenza iintetho-ngcaciso. 20 25

(6) Umntu usenokuthi asicele isiphathamandla esongameleyo ngento ebhaliweyo ngendlela ebekiweyo, ukuba sivale okanye sijike indlela okanye umgaqo kaloliwe okanye senze unyino kwindlela esetyenziswa ngayo okanye sikulawule ukusetyenziswa kwayo okanye nayiphi na inxenye yayo, njengoko kuchazwa kwicandelwana (1). 30

(7) Lo mntu wenza esi sicelo sikhankanywe kwicandelwana (6) kufuneka asihlawule isiphathamandla esongameleyo ezo ndleko zithe zabekwa sisiphathamandla esongameleyo, zokwamkela esi sicelo, kubandakanya neendleko zokuqinisekisa ukhuseleko lwabasebenzisi bendlela leyo okanye bomgaqo kaloliwe lowo. 35

Ukuvalwa okanye ukujikwa ngemeko yonxunguphalo

22. (1) Xa kuthe kwavela imeko yonxunguphalo isiphathamandla esongameleyo sisenokuthi sisivale okanye sisijike isibonelelo sezothutho okanye sizijike izithuthi kwisibonelelo sezothutho. 35

(2) Ukuba kukho isichenge sengozi enokuhlela abantu, umhlaba okanye izithuthi, isiphathamandla kufuneka—

(a) apho imeko ivumayo, sazise iziphathamandla ezongamele iinkonzo zemeko yonxunguphalo kuloo ngingqi zize kukwazi ukuza kunxibelelanisa amanyathelo athathwayo; kananjalo 40

(b) sibeke isilumkiso nemiqondiso ezizikhokelo zendlela emayithathwe ngeenjongo zokuqinisekisa ukhuseleko nokwenza lula ukuhamba kwezithuthi. 45

Ilungelo loluntu lokusebenzisa indlela okanye umgaqo kaloliwe evalwe okanye ejikwe okwexeshana

23. Uluntu lunokuyisebenzisa indlela okanye umgaqo kaloliwe okanye inxenye yayo okanye yawo evaliweyo okanye ejikiweyo ngokwakwesi Sigaba, side isiphathamandla esongameleyo sifake imiqondiso ebonisa oko kuvalwa okanye oko kujikwa njengoko kucaciswa kwicandelo 20(1)(b), 21(4) okanye 22(2)(b). 50

ISIGABA 6: IZICWANGCISO ZENKXASO-MALI NEZONCEDISO-MALI

Izicwangciso zonediso-mali noomasipala

24. (1) Umasipala usenokuthi afake isicelo kuMphathiswa ngendlela emiselweyo sokuba kuhlawulwe uncediso-mali ngocwangciso lweprowujekthi, ngoyilo, ngolwakhwiwo, ngolondolozo okanye ngolawulo lwaso nasiphi na isibonelelo sezothutho. 55

- (2) Ukuba uMphathiswa uyasamkela isicelo eso, kufuneka kufikelelwe kwisivumelwano esibhaliweyo nguMphathiswa nomasipala lowo ngendlela etyetyeshiweyo esiquathe iinkcukacha ezibekiweyo.
- (3) Isivumelwano ngoncediso-mali kufuneka sikucacise ukuba intlawulo yolo ncediso-mali ixhomekeke ekuhambeni kukamasipala ngemigangatho nangezikhokelo ezithe zabekwa yiNtloko yeSebe. 5
- (4) Xa umasipala eceba ukufaka isicelo soncediso-mali ngesibonelelo sezothutho aceba ukusibeka, kufuneka-
- (a) phambi kokuba aqale umsebenzi wocwangciso weprowujekthi ngokwemiqathango yeSigaba 4, enze isicelo esibhaliweyo kuMphathiswa sokuba lwamkelwe uncediso-mali olo; kananjalo 10
- (b) usakuba ugqityiwe umsebenzi, sinike uMphathiswa ikopi yesaziso esikhutshwe ngokwemiqathango yecandelo 17(3) nazo zonke izimvo ezivakalisiweyo eziye zafunyanwa.
- (5) Indlela ethe yanikwa, okanye enxenye yayo ithe yanikwa inkxaso-mali okanye uncediso-mali liPhondo eli phambi kokuqalisa kwalo Mthetho iselungelweni lokufumana uncediso-mali ngokwemiqathango yesi Sigaba. 15
- (6) Ezi zicelo zikhankanywe kwicandelwana (1) kufuneka zahlulwe ngokwezi zinto zilandelayo, apho kuyimfanelo:
- (a) Izinto ezenziweyo kucwangciso lweprowujekthi ngokwemfuno yeSigaba 4; 20
- (b) ukuyilwa kwesibonelelo sezothutho;
- (c) ulwakhiwo;
- (d) ulondolozo okanye ulungiso;
- (e) ukufakwa ngokutsha kwetha ezindleleni;
- (f) ukujikwa kweenkonzo zikamasipala; 25
- (g) ukufakwa kweengcingo;
- (h) ulondolozo lwezinto ezilulwakhiwo, iibhulorho neevali (iindonga ezivalileyo); kunye
- (i) neentlawulo zembuyekezo nezinye iindleko eziphathelele ekufunyanweni komhlaba. 30

Uqikelelo lwenkcitho kuncediso-mali

25. (1) Ungadlulanga umhla wokuqala (1) kaDisemba kunyaka ngamnye umasipala onesibonelelo sezothutho esifumana uncediso-mali kwingingqi yakhe kufuneka angenisele iNtloko yeSebe uqikelelo lwenkcitho kamasipala kunyaka-mali olandelayo kwizibonelelo zothutho eziphantsi kolawulo lwakhe nekukhutshwa uncediso-mali ngazo ngokwemiqathango yalo Mthetho, ukuze ilwamkele. Olu qikelelo kufuneka lungeniswe ngefom ebekiweyo. 35
- (2) Ukuba umasipala uyasilela ekuhambeni ngecandelwana (1), iNtloko yeSebe isenokuthi iluhlengahlengise uncediso-mali olunikwa loo masipala ngeso sixa ibone ukuba mayisibeke iNtloko yeSebe. 40
- (3) INtloko yeSebe isenokuthi xa isamkela uqikelelo lwenkcitho, isakuba ithethene nomasipala lowo, yenze utshintsho kuyo nayiphi na inkcitho okanye iyisuse, ngaso nasiphi na isizathu.
- (4) Umasipala usenokuthi nanini na angenisele iNtloko yeSebe izilungiso azenzileyo kolo qikelelo lwenkcitho, khona ukuze izamkele. 45

Ukubalwa kwepesenti yoncediso-mali

26. (1) Ipesenti yoncediso-mali ngesibonelelo sezothutho ibalwa ngolu hlobo lulandelayo:
- (a) Kwinkcitho yeentengo ezinkulu—
- (i) ipesenti yenkcitho ebekwe nguMphathiswa, ngokubanzi okanye ngezinto ezithile, ngokuphathelele kulwakhiwo, kufuduso okanye ukwandiswa kweendlela okanye kwemigaqo kaloliwe, ulwakhiwo okanye utshintsho lokumiswa kwesibonelelo sezothutho esilulungezelelo, nokufunyanwa komhlaba wokwandisa iindawo ezikuzo iindlela okanye imigaqo kaloliwe okanye izibonelelo zezothutho ezilulungezelelo; kunye 50
- (ii) nepesenti yenkcitho ebekwe nguMphathiswa, ngokubanzi okanye ngezinto ezithile, ngotshintsho, ukujikwa okanye ukusuwa kwayo nayiphi na into esetyenziselwa iinkonzo zikamasipala ngenxa 55

yolwaxhiwo lwsibonelelo sezothutho, kubandakanya nezinto zokuhambisa umbane okanye ezeenkono zoqhagamshelwano, nawuphi na uphayiphu, ipali, umqondiso, ucingo, ikheyibhuli, umsele, umsele welindle okanye into yokusebenza;

(b) kwinkcitho yomhla nezolo, ipesenti ebekiweyo esenokuthi yahluke ngokweentlobo zezibonelelo zezothutho. 5

(2) Ipesenti yoncediso-mali ngenkcitho yeentengo ezinkulu nangenkcitho yomhla nezolo kwindlela yothutho loluntu engaphakathi kwindawo yendlela engumtyino obalulekileyo, eyendlela enkulu, eyesithili okanye eyendlela encinane, isenokwahluka kwipesenti esetyenziswayo kule ndlela isendaweni yayo. 10

(3) Akukho ncediso-mali luhlawulwayo ngembuyekezo ehlawulelwe ukuthathwa komhlaba othathelwa izibonelelo zezothutho ngaphandle kokuba iNtloko yeSebe ithe—

(a) yanika imvume yokuba kuthathwe umhlaba phambi kokuba uthathwe, kananjalo

(b) ithe yakuvuma ngento ebhaliweyo ukuhlawulwa kwembuyekezo apho intlawulo leyo bekuthe kwavunyelwana ngayo ngumasipala nomnini womhlaba lowo. 15

Ukubekwa kwesixa senkcitho kuncediso-mali

27. (1) INtloko yeSebe kufuneka ukuba kumasipala ngamnye ibeke isixa-mali esamkelweyo senkcitho kwiintengo ezinkulu nakwiinkcitho zomhla nezolo qho ngonyaka, kambe ke kuhanjwa ngokwe-PFMA, ithathele ingqalelo— 20

(a) uqikelelo lwenkcitho olungeniswe ngokwemiqathango yecandelo 25;

(b) iipesenti zoncediso-mali ezibalwe ngokwecandelo 26;

(c) ukunyuka kwepesenti okudityanisiweyo ngonyaka kwingeniso kamasipala iyonke kwiminyaka-mali emibini eyandulela lo nyaka-mali ubekelwa isixa soncediso-mali ngenkcitho; kunye 25

(d) neminye imiba ebonwa ifanelekile yiNtloko yeSebe.

(2) INtloko yeSebe isenokuthi—

(a) igunyazise ukunyaswa kwesixa soncediso-mali ngenkcitho, esingadlulanga kambe kwimida ebekiweyo, kambe ke ihambe ngokwe-PFMA; 30

(b) ixa ibeka okanye inyusa nasiphi na isixa soncediso-mali lwenkcitho, inike umyalelo wokuba nayiphi na into okanye inxenye yayo nayiphi na into ayikho lungelweni lokufumana uncediso-mali;

(c) naxa ibeka nasiphi na isixa soncediso-mali lwenkcitho, ibeke imiqathango ephathelele kweso sixa, xa ibona ifanelekile okanye ifuneka imiqathango leyo. 35

(3) Umasipala akanakho ukuba angathi engayifumananga imvume ebhaliweyo yeNtloko yeSebe, adlule kwisixa soncediso-mali lwenkcitho esibekiweyo ngokweli candela, kwaye ke ukuba unokukwenza oko, iNtloko yeSebe isenokuluthoba uncediso-mali oluhlawulwa loo masipala, ngeso sixa isibona sifanelekile. 40

Irenti, intengiso kunye nenye ingeniso evela kumhlaba othengwe ngemali yoncediso-mali

28. (1) Xa umasipala athe wafumana umhlaba—

(a) esebenzise imali yoncediso-mali; okanye,

(b) awunikwe liPhondo, aze ke angene kwisivumelwano sokuqeshisa okanye sokuthengisa okanye esinye nje isivumelwano esiphathelele kuloo mhlaba okanye kuyo nayiphi na inxenye yaloo mhlaba, kufuneka ingeniso yoko kuqeshisa okanye yoko kuthengisa okanye yeso sivumelwano emva kokuba lwenziwe utsalo olufanelekileyo kuyo, ayihlawule iPhondo ngokuhambelana negalelo elenziwe liPhondo ekufunyanweni kwawo loo mhlaba, kambe ke kuthathelwe ingqalelo icandelwana (2). 45

(2) Ezi mali zingeniswe kukuqeshisa, ukuthengisa okanye sesinye nje isivumelwano zikhankanywe kwicandelwana (1) zisenokuthi ngemvume yoMphathiswa—

(a) xa umhlaba lowo ukwindawo yothutho yesixeko njengoko ichazwa kwicandelo 3 loMthetho oyi*Urban Transport Act, 1977* (uMthetho 78 ka-1977), ziye kufakwa kwiNgxowa-mali eyi*Consolidated Metropolitan Transport Fund* esekwe ngecandelo 18 loMthetho oyi*Urban Transport Act, 1977*; okanye 55

- (b) ukuba umasipala lowo useke ingxowa-mali yomhlaba wezothutho ngokwemiqathango yecandelo 27 le-NLTA, ziye kufakwa kuloo ngxowa.

Izinga lepesenti yoncediso-mali elilinganisiweyo kwinkcitho yeentengo ezinkulu

29. (1) Umasipala kufuneka ukuba phambi kokuba aqalise ngalo naluphi na ulwakhiwo oluhlawulelwa uncediso-mali lweentengo ezinkulu ngokwemiqathango yalo Mthetho, angenisele iNtloko yeSebe uqikelelo lwenkcitho oluneenkukacha, olwahlulwe ngokwezo zinto zifanele uncediso-mali nezo zingalufanelanga, kwaye ke iNtloko yeSebe yona kufuneka ilinganise amazanga eepesenti asetyenziswayo kulwakhiwo. 5

(2) Lusakuba lugqityiwe olu lwakhiwo lukhankanywe kwicandelwana (1), umasipala kufuneka angenise inkcazo ebhaliweyo ngeyona-yona nkcitho kuthe kwangenwa kuyo, eyahlulwe ngokwezo zinto zifanele uncediso-mali nezo zingalufanelanga kwiNtloko yeSebe, esenokuthi ke yona, ukuba kuye kwemkiwa koluya qikelelo lukhankanywe kwicandelwana (1), ilihlaziye ilitshintshe eli zinga lilinganisiweyo lepesenti likhankanywe kwelaa candelo. 10

Amagalelo avela kwezinye iindawo

30. Xa inkcitho athe wayenza umasipala kwisibonelelo sezothutho okanye ngokuphathelele kwisibonelelo sezothutho—

- (a) ixhaswe yonke yenye indawo engenguye umasipala okanye iPhondo eli, loo nkcitho ayikho lungelweni lokuba ingafumana uncediso-mali; 20
- (b) inxenye yayo iixhaswe yenye indawo engenguye umasipala okanye iPhondo, yiloo nxenye yenkcitho ingakhange ixhaswe kuphela ethi ibe selungelweni lokufumana uncediso-mali. 20

Ukuhlawulwa koncediso-mali

31. (1) Uncediso-mali kufuneka luhlawulwe qho ngonyaka ekupheleni konyaka-mali ifanele kuhlawulwa ngayo, asakuba umasipala esifakile isicelo ngaloo ndlela ibekiweyo yiNtloko yeSebe. 25

(2) INtloko yeSebe isenokuthi ibe nemali eyinxenye yoncediso-mali kwangaphambi kokuba lube luyahlawulwa ngokupheleleyo uncediso-mali olo, kodwa ke zizonke ezi malana zinikwa umasipala kwangaphambili xa zizonke akufuneki ukuba zidlule kwi-90% yoncediso-mali oluthe lwaqikelelwa olufanele ukunikwa umasipala lowo kuloo nyaka-mali. 30

(3) INtloko yeSebe isenokuthi isithobe isixa soncediso-mali esifanele ukuhlawulwa umasipala, xa inesizathu sokukholelwa ekubeni nawuphi na umsebenzi awenziwanga ngokwemiqathango yesivumelwano esikhankanywe kwicandelo 24(2) okanye ngokwemigangatho nezikhokelo ezikhankanywe kwicandelo 24(3). 35

Amarekhodi enkcitho kwisibonelelo zezothutho

32. Umasipala ngamnye ofumana okanye ocela uncediso-mali kufuneka ukuba ngamaxesho onke ekulungiselele ukuza kuhlolwa kwazo zonke iincwadi, amarekhodi, ii-invoyisi, iikhawunti yiNtloko yeSebe, nezinye iimpepha ezinxulumene neso sibonelelo sezothutho. 40

Ukuthotywa kwenkcitho yoncediso-mali olubekiweyo

33. Ukuba inkcitho eyenziwe ngumasipala iyonke ngawo nawuphi na unyaka-mali ngesibonelelo sezothutho esinikwa uncediso-mali ingaphantsi koluya qikelelo lwenkcitho belungeniswe ngokwemiqathango yecandelo 25(1)—

- (a) esona-sona sixa sisetyenzisiweyo kuncediso-mali lwenkcitho kufuneka singadluli— 45
- (i) kwisixa esibalwe ngokwepesenti yoncediso-mali ibekiweyo phantsi kwecandelo 26 ngaphandle kokuba okp kugunyaziswe yiNtloko yeSebe; okanye
- (ii) kweyona-yona nkcitho yenziweyo kwisibonelelo sezothutho eso; and 50
- (b) zizonke izixa ezifunyenwe kwezinye iindawo njengoko zikhankanywa kwicandelo 30 kufuneka zithatyathwe kwinkcitho iyonke size ke isixa soncediso-mali lwenkcitho sibekwe ngokwaloo nxenye iseleyo.

ISIGABA 7: UKUTHATHELWA UMHLABA NEMBUYEKEZO**Ukuthathelwa umhlaba**

- 34.** (1) Isiphathamandla esongameleyo sisenokuthi siwuthathe umhlaba ongenguwo owesigqeba sikarhulumente ngeenjongo—
- (a) zokuqhuba kuwo imisebenzi yezibonelelo zezothutho okanye enxulumene nazo; 5
 - (b) zokufumana, zokuqhuba ulwembiwo okanye ukusebenza kuwo, ezokuphakamisa okanye ukususa izinto kubandakanya negrable, amatye, intlabathi, udongwe, amanzi angengawoamanzi ampontshelwe ukumanzisa amatye kunye nayo nayiphi na enye into okanye isabstensi enxulumene neenjongo zalo Mthetho ngaphandle kommandla wasedolophini, kambe ke sithathele ingqalelo i-NEMA; 10
 - (c) zokubonelela abasebenzi abathatha inxaxheba kulwakhiwo, ekuvuseleleni, ekuphuculeni okanye ekulondolozeni isisibonelelo sezothutho ngeendawo zokuhlala; okanye 15
 - (d) ngezokugcina okanye zokulondoloza izithuthi, imitshini, izinto zokusebenza, iimpahlaekusetyenzwa ngazo.
- (2) UMthetho oyi*Expropriation Act*, 1975 kusebenza wona kwizinto ezenziwa phantsi kwecandelwana (1) wenziwe ezo nguqulelwano zibangelwa yimeko. 20
- (3) Isiphathamandla esongameleyo sisenokuthi siziphakamise sizisuse izinto zokusebenza kumhlaba ongowesigqeba sikarhulumente, kodwa sikwenze oko ngemvumelwano neso sigqeba sikarhulumente, sithathele ingqalelo i-NEMA nawo nawuphi na omnye umthetho ochaphazelekayo.
- (4) Xa inxenye yomhlaba ithe yathathwa aze umnini wawo asanelise isiphathamandla esongameleyo ukuba le nxenye yalo mhlaba iseleyo ayisenamsebenzi kuye mnini wawo ngenxa yoko kuthathwa, eso siphathamandla sisenokuthi siyithathe naloo nxenye iseleyo. 25
- (5) Xa isiphathamandla esongameleyo sithe sayivala indawo yokungena okanye yokuphuma emhlabeni othile, aze umnini waloo mhlaba angakwazi ukuwusebenzisa ngendlela enesihlahla ngenxa yoko kuvalwa, okanye nesibonelelo sezothutho eso singakwazi ukubonelela ngofikeleleko lwaloo mhlaba, isiphathamandla sisenokuthi siwuthathe loo mhlaba. 30
- (6) Xa umhlaba okanye inxenye yawo uthe wabekeka emngciphekweni omkhulu ngenxa yokuthathwa komnye umhlaba sisiphathamandla esongameleyo, isiphathamandla sisenokuthi siwuthathe loo mhlaba okanye inxenye yawo ethe yachaphazeleka ngolo hlobo. 35
- (7) Eli candelo alisithinteli isiphathamandla ekufumaneni umhlaba wokufezekisa iinjongo zalo Mthetho, ngokuwuthenga okanye ngokuwuqesha okanye ngayo nayiphi na enye indlela engekuko ukuwuthatha.

Ukungena nokuthatha umhlaba 40

- 35.** (1) Xa isiphathamandla esongameleyo sifuna umhlaba okanye sifuna ukuwusebenzisa okwexeshana nje okanye sifuna nayiphi na into ekuwo ngenye yezi njongo zikhankanywe kwicandelwana (2), isiphathamandla eso okanye omnye umntu othe wagunyaziswa siso ngento ebhaliweyo, usenokuthi emva kokuba ethe wanika umnini womhlaba okanye loo mntu uhleli kuwo, okanye wento leyo, isaziso kungasalanga ngaphantsi kweeyure ezingama-48, ngemvume yomnini lowo okanye yalowo uhlala kuwo— 45
- (a) angene kuloo mhlaba nabasebenzi abayimfuneko, izinto zokusebenza nezithuthi;
 - (b) awuhlole akhangele ubungakanani nemanqanaba omhlaba lowo; 50
 - (c) embe okanye abhole kuloo mhlaba; okanye
 - (d) abeke imida yaloo mhlaba okanye yaloo nto.
- (2) Isiphathamandla sinokwenza ezi zinto zikwicandelwana (1)—
- (a) ngenjongo yokubeka ixabiso laloo mhlaba okanye laloo nto;
 - (b) ngenjongo yokuhlola, ukubuza imibuzo, ukwenza uphando okanye, okanye yokumeta ngokuphathalele ekusetyenisweni kwamagunya nasekwenzeni imisebenzi egunyaziswa okanye ebekwa ngulo Mthetho; 55
 - (c) ngenjongo yokuhlola, yokwenza ulondolozo neyokulungisa nayiphi na into elulwakhiwo, eyokusebenza, efakiweyo okanye nayiphi na enye into eyakhi-

wayo okanye eyakhiweyo, efakiweyo okanye ebekwe kuloo mhlaba seso siphathamandla okanye egameni lesa siphathamandla ngokwemiqathango yalo Mthetho; okanye

(d) ngenxa yokuba sifuna ukukwazi ukwenza nawuphi na kwimisebenzi yaso phantsi kwalo Mthetho. 5

(3) Xa umnini womhlaba okanye lowo uhlala kuwo ethe wala ukuvumela isiphathamandla okanye umntu ogunyaziswe sisiphathamandla ukuba enze into ngokwaphantsi kwecandelwana (1), isiphathamandla kufuneka simcele umnini lowo okanye umhlali lowo ngento ebhaliweyo ukuba makasinike izizathu zokuba ale, lingadlulanga elo xesha lithe labekwa sisiphathamandla, ixesha elo elingafanelanga kuba ngaphantsi kweentsuku ezisixhenxe. 10

(4) Umnini okanye umhlali kufuneka azinike ngento ebhaliweyo ezo zizathu zokwala kwakhe lingadlulanga elo xesha libekwe sisiphathamandla ngokwemiqathango yecandelwana (3).

(5) Ukuba zithe azanikwa ezo zizathu ngeli xesha libekiweyo okanye ukuba azamkelekanga kwisiphathamandla, sisenokuthi sibhenele kwinkundla enegunya kuloo ngingqi ukuba mayikhuphe umyalelo ogunyazisa ukwenziwa kwayo nayiphi na into kwezi zikhankanywe kwicandelwana (1). 15

(6) Ukuba inkundla leyo iyawukhupha loo myalelo, isenokuyalela umnini okanye umhlali lowo ukuba ahlawule iindleko zokwenziwa kweso sicelo, ngokwesikali segqwetha nomthethelelwa, apho kufaneleke njalo, xa isaneliseka kukuba isiphathamandla eso siye sikwenze ngokufanelekileyo oko ngokwaphantsi kwalo Mthetho. 20

(7) Nakubeni kukho oku kukula macandelwana (3), (4) nele-(5), isiphathamandla esongameleyo sisenokuthi singakhange sisinike esi saziso sikhankanywe kwicandelwana (3) okanye ngaphandle kokufaka isicelo enkundleni ngokwemiqathango yecandelwana (5), senze nayiphi na kwezi zinto zikhankanywe kwicandelwana (1) xa loo nto kufuneka yenziwe ngokungxamisekileyo ngeenjongo zokuthintela ukufa okanye ingozi ebantwini okanye umonakalo omkhulu ezimpahleni. 25

(8) Isiphathamandla esongameleyo sisenokunqumla emhlabeni ngenjongo yokuyakufikelela komnye umhlaba ngenxa yezi njongo zikhankanywe kwicandelwana (2), nabo basebenzi bayimfuneko nezinto zokusebenza nezithuthi eziyimfuneko, ngemvume yomnini okanye yomhlali walo mhlaba kufuneka kunqunyulwe kuwo, kwaye ke ukuba loo mvume kuyaliwa nayo, kuya kuhanjwa ngokwamacandelwana (3), (4), (5), (6) and (7), kwenziwe ezo nguqulelwana zinokuthi zifuneke. 30

(9) Xa kuthe kwangenwa ngokwemiqathango yeli candelo emhlabeni obiyelwe ngocingo olungenayo igeyithi, isiphathamandla esongameleyo sisenokuthi siyifakele igeyithi kolo cingo, ize ke ibe nomntu obekwe kuyo, kuze kuthi ke ukuba akukho mntu ubekiweyo kuyo ifakelwe isitshixwe, kunjalo nje ihlale ivalwe ngokufanelekileyo. 35

(10) Xa athe nawuphi na umntu wafumana umonakalo ngenxa yokusetyenziswa kwegunya elinikwa leli candelo, isiphathamandla esongameleyo kufuneka siwulungise loo monakalo ngeendleko zaso siwuhlawulele loo monakalo okanye sihlawule imbuyekezo ngawo kulowo mntu ngokwezikhokelo zoMthetho oyi*Expropriation Act*, 1975. 40

ISIGABA 8: ULAWULO NOKUPHATHWA KWEZIBONELELO ZOMHLABA NEMHLABA EMELENE NAYO 45

Ukuthintelwa kwezibhengezo ezithile ezikwiziboneleo zezothutho okanye ezibonakala kuzo

36. (1) Kuthathelwe ingqalelo imigaqo ekhankanywe kwicandelo 37, akukho mntu unokubeka okanye unokwenza ukuba kubekwe okanye avumele ukuba kubekwe isibhengezo kwinto okanye ngento elulwakhiwo okanye kwisithuthi esimileyo esibekwe into ngenjongo yokubhengeza, ngaphandle kokuba uqale wafumana imvume ebhaliweyo yesiphathamandla esongameleyo, ukuba isibhengezo eso— 50

- (a) siyabonakala kokwindlela engaphandle kommandla wasedolophini;
- (b) singaphakathi kwisithuba seemitha ezingama-50 ukusuka kumda wendawo yendlela engeyiyo indlela enguhola kummandla wasedolophini, kwaye siyabonakala kokuloo ndlela; okanye 55
- (c) singaphakathi kwisithuba seemitha ezingama-250 ukusuka kumda wendawo yendlela enguhola, kummandla wasedolophini, kwaye siyabonakala kokuloo ndlela inguhola.

- (2) Akukho mntu unokuthi kwisibonelelo sezothutho okanye phezu kwaso okanye entla kwaso—
- (a) abeke okanye enze ukuba kubekwe isibhengezo; okanye
- (b) afake, akhe, abeke okanye abeke ibhodi emboniselweni, isaziso, isikefele okanye ngayo nayiphi na enye into ekunokuxhonywa kuyo isibhengezo. 5
- (3) Amacandelwana (1) nele-(2) akasebenzi ekubonisweni kwesibhengezo—
- (a) esasithe sabekwa ngokusemthethweni phambi kokuba uqalise ukusebenza lo Mthetho, okanye phambi kokuba eso sibonelelo sezothutho sibekwe phantsi kwemiqathango yecandelo 19, ngalo lonke ixesha sibekwe kwindawo enye; okanye 10
- (b) ekufuneka ukuba sibekwe ngokwemiqathango yomthetho kwaye sibekwe ngokwemiqathango echanekileyo yaloo mthetho.
- (4) Imvume enikwe sisiphathamandla esongameleyo ngokwemiqathango yecandelwana (1) asiyisusi imbophelelo yokuthobela eminye imithetho efuna ukuba makufunyanwe imvume kamasipala okanye yesinye isiphathamandla. 15
- (5) Ukuba umasipala uqulunqe wawisa umthetho kamasipala olawula ukuxhonywa kwezibhengezo kwisibonelelo sezothutho sikamasipala esikwingingqi ephantsi kolawulo lwakhe, eli candelo namacandelo 37 ukuya kwelama-39, akasebenzi kwisibonelelo sezothutho sikamasipala, ngaphandle kokuba kuboniswe ngokwenye indlela kulo mthetho kamasipala. 20

Imigaqo malunga nezibhengezo ezikwizibonelelo zezothutho okanye ezibonakala kuzo

37. (1) UMphathiswa usenokuthi aqulunqe imigaqo malunga nezi zibhengezo zikhankanywe kwicandelo 36.
- (2) Ngaphandle kokuphuthisa nokucutha imihlaba yecandelwana (1), imigaqo efulunqwe phantsi kweliya candelwana isenokulungiselelwa— 25
- (a) ulwahlulwa-hlulo lwezibonelelo zezothutho ngokweentlobo ngokwenkangeleko yazo, ngokweendawo ezikuzo okanye ngokokubaluleka kwazo ngohlobo eziyilwe ngalo okanye ngokwazo naziphi na ezinye izinto ezifana nezi, ngenjongo yokwahlula iintlobo zezibhengezo ezinokuvunyelwa kuhlobo ngalunye; 30
- (b) ukwahlulwa-hlulwa kwezibhengezo ngokweentlobo ngenjongo yokulawula indlela yokubekwa okanye yokufakwa kwazo;
- (c) iinkqubo ezifanele kulandelwa xa kufakwa izicelo zemvume ezikhankanywe kwicandelo 36(1) neentlawulo ezifanele kukhutshwa xa kusenziwa izicelo zemvume leyo; 35
- (d) uvandlakanyo lwefuthe lwezibhengezo kukhuseleko lwabasebenzisi beendlela nasekuqhutyweni komsebenzi wothutho;
- (e) iindlela zokubeka nokukhanyiswa kwezibhengezo;
- (f) ukhuseleko, unambitheko noqhuqheko lwezibhengezo; 40
- (g) uyilo nokumiswa kwezibhengezo nezozinto zixhaswe ngazo, indawo ezime kuyo, ulondolozo, utshintsho nokususwa kwazo ethubeni; kunye
- (h) neentlobo zezibhengezo ezinokufakwa okanye ezinokuxhonywa ngaphandle kwemvume ebhaliweyo yesiphathamandla esongameleyo, ngokwemiqathango echazwe kwimigaqo leyo. 45

Ukususwa kwezibhengezo ezingagunyaziswanga

38. (1) Isiphathamandla esongameleyo sisenokusisusa isibhengezo esifakwe kwindawo yesibonelelo sezothutho nesixhonywe ngokuchaseneyo nalo Mthetho.
- (2) Umntu obeka isibhengezo ngokuchaseneyo nalo Mthetho okanye ovumela ukuba sibekwe ngolo hlobo aze ayalelwe sisiphathamandla esongameleyo ngesaziso esibhaliweyo ukuba makasisuse, kufuneka ukuba enze njalo lingadlulanga elo xesha libekiweyo kwisaziso eso, ixesha elo elingasayi kuba ngaphantsi kweentsuku ezili-14. 50
- (3) Ukuba loo mntu ukhutshelwe esi saziso sikhankanywe kwicandelwana (2) uyasilela ukusisusa isibhengezo eso ngelo xesha alibekelweyo, isiphathamandla esongameleyo sisenokuthatha amanyathelo omthetho afanelekileyo okuba sisuswe eso sibhengezo size sifune nokuba loo mntu ahlawule iindleko zaloo manyathelo omthetho kwakunye nezinye eziyimfuneko ekususweni kweso sibhengezo. 55

Ukuzindla okuphathelele kwizibhengezo

39. Ngokwalapha kulo Mthetho, isibhengezo sithathwa ngokuba sibekwe okanye besibekwe—

- (a) ngumntu osifakileyo okanye othe masifakwe;
- (b) xa isibhengezo semveliso okanye sento eveliswe ngumntu othile, nguloo mntu; 5
- (c) xa isibhengezo senkonzo enikwe ngumntu othile okanye lishishini okanye yindawo yomntu othile, nguloo mntu; okanye
- (d) ngumntu ongumnini okanye umhlali womhlaba lowo sikuwo isibhengezo eso.

Ukungena nokuphuma kwizibonelelo zezothutho 10

40. (1) Kuthathelwe ingqalelo amacandelwana (2) nele-(4), akukho mntu unokuthi—

- (a) angene okanye aphume kwisibonelelo sezothutho ngesithuthi engahambi ngendlela eyenziwe ngokusemthethweni, ngegeyithi, ngebhulorho okanye ngomnye umtyino owenziwe ngokusemthethweni;
- (b) xa ukungena okanye ukuphuma ngesithuthi okanye ngento engahambi nganjini kwisibonelelo sezothutho kusiyiwa okanye kuvelwa kumhlaba omelene naso kuthintelwe ngocingo, ngodonga, ngeheji, ngomsele, ngomelo okanye ngayo nayiphi na enye into enxuse okanye ekufutshane nesibonelelo sezothutho eso, kungahanjwa ngendlela eyenziwe ngokusemthethweni, ngegeyithi, ngebhulorho okanye omnye umtyino owenziwe ngokusemthethweni, (akukho mntu unokuthi), angene okanye aphume isibonelelo sezothutho ehamba ngesithuthi okanye ngento engahambi nganjini engahambi ngendlela eyenziwe ngokusemthethweni, ngegeyithi, ngebhulorho okanye ngomnye umtyino owenziwe ngokusemthethweni; okanye 15

- (c) akhe isango lokungena okanye lokuphuma kwisibonelelo sezothutho ngayo nayiphi na indlela enokuvumela isithuthi okanye into yokuhamba engahambi nganjini komnye umhlaba omelene nesibonelelo sezothutho eso, ngaphandle kokuba isiphathamandla esongameleyo silugunyazisile ngento ebhaliweyo olo lwakhiwo. 20

(2) Icandelwana (1) alisebenzi kwindlela, kwigeyithi, kwibhulorho okanye komnye umtyino owenziwe ngokusemthethweni owawukho usetyenziswa kufutshane nje phambi kokuqalisa kwalo Mthetho ukusebenza, nongazange uvalwe okanye ususwe nanini na emva koko. 30

(3) Akukho mntu unokuthi ahlula-hlule umhlaba onokuthi usakuba wahlula-hluliwe ufune ukuba kwenziwe indlela, igeyithi, ibhulorho, ileli yokutsiba okanye omnye umtyino wokungena okanye wokuphuma kwisibonelelo sezothutho, ngaphandle kokuba isiphathamandla esongameleyo sikuvumele oko kwahlula-hlula. 35

(4) Isiphathamandla esongameleyo asinakho ukuba sisale esi sicelo sokungena sikhankanywe kwicandelwana (1)(c) somnini womhlaba owahlula-hlulweyo, ngenxa yokwahlulwa-hlulwa komhlaba wakhe, ukuba ngaba kuthe ngenxa yoku kwahlula-hlula akwabikho ndawo yokungena okanye yokuphuma kulo mhlaba wahlulwa-hlulweyo xa kusiyiwa okanye kuvelwa kwisibonelelo sezothutho eso, apho— 40

- (a) unocanda wathi wenza ucando kuloo mhlaba wahlulwa-hlulweyo waza wangenisela uNocanda-Jikelele idayagram phambi kokuqalisa kwalo Mthetho ukusebenza; kanaanjalo 45

- (b) nalapho kuthe emva kokwenziwa kocando kumhlaba nasemva kokungeniswa kwedayagram kuNocanda-Jikelele naphambi kokuqalisa kwalo Mthetho ukusebenza, umntu ongenguye ube ngumnini waloo mhlaba unxenyayo yahlula-hluliweyo ngeli xesha lokwenziwa kocando, uthe wafumana loo mhlaba wahlula-hlulweyo okanye wangena kwisivumelwano sokuwuthenga Ngaphandle kokuba indlela leyo, igeyithi leyo, ibhulorho leyo, ileli leyo okanye omnye umtyino lowo awunakhuseleko okanye uchasene nemiganatho nezikhokelo ezibekwe yiNtloko yeSebe okanye ngumasipala lowo uchaphazelekayo. 50

(5) Xa siqwalasela isicelo sokungena phantsi kwecandelwana (1)(c) okanye isicelo sokwahlula-hlula phantsi kwecandelwana (3), isiphathamandla kufuneka sithathele ingqalelo iimfuno— 55

- (a) zesikhokelo sokusetyenziswa komhlaba okanye isicwangciso solawulo lweendlela eziqhagamshelanisa iidolophu esibonakalisa imiqathango elunokwamkelwa phantsi kwayo olo fikelelo; okanye 60

- (b) xa kungekho sicwangciso sinjalo, eyemigangatho nezikhokelo yokuvunyelwa kofikelelo kwisibonelelo sezothutho ezithe zaqulunqwa yiNtloko yeSebe okanye nguloo masipala uchaphazelekayo.
- (6) Isiphathamandla esongameleyo sisenokuthi—
- (a) xa sinika ugunyaziso phantsi kwecandelwana (1)(c)— 5
- (i) sichaze ukuba indlela leyo, igeyithi leyo, ibhulorho leyo ileli leyo okanye omnye umtyino lowo ufanele kuba luhlobo luni na kwanendlela omawenziwe ngayo; kananjalo
- (ii) sibeke neminye imiqathango ehamba nolo gunyaziso okanye nokuse-tyenziswa kwawo esiyibona iyimfuneko; kananjalo 10
- (b) sisenokulurhoxisa olo gunyaziso xa kuthe akwahanjwa ngokwemfuneko okanye ngokwaloo miqathango ithe yabekwa ngokomhlathi (a).
- (7) Isiphathamandla, xa sivumela ukungena kwabahamba ngeenyawo okanye ngeebhayisikili kuso nasiphi na isibonelelo sezothutho, kufuneka siqinisekise ukuba zikhona iindlela neendawo zokuwela umgaqo kaloliwe ezilungiselelwe zona ezino- khuseleko. 15

Ukufuduswa okanye ukuvalwa kwendawo yokungena okanye yokuphuma kwisibonelelo sezothutho

- 41.** (1) Isiphathamandla esongameleyo sisenokuthi, ngomyalelo obhaliweyo onika 20
izizathu zaloo myalelo, siyalele umnini womhlaba onendawo yokungena okanye
yokuphuma ngendlela enqumla kuloo mhlaba, ngokuthe ngqo okanye ngendlela engena
apho, ukuba makayifuduse loo ndawo yokungena okanye yokuphuma, okanye alunyine
okanye aluvale ufikeleleko ngokwaloo ndlela nangeso sithuba sicacisiweyo kwisaziso
eso, okanye ayivale mpela.
- (2) (a) Xa ufuduso, unyino okanye ukuvalwa kwendawo yokungena okanye 25
yokuphuma endleleni ngokwemiqathango yecandelwana (1) kuza kufuna ukutshi-
ntshwa, ukufakwa ngokutsha okanye ulwakhiwo ngokutsha lwayo nayiphi na igeyithi,
igaraji enomntu wayo okanye indledlana yokungena esangweni, isiphathamandla
esongameleyo kufuneka ukuba, sithathele ingqalelo imihlathi (3) nowe-(4)—
- (i) siwenze loo msebenzi ngeendleko zaso, okanye 30
- (ii) sivumele umnini lowo ukuba awenze loo msebenzi ngeendleko zeso
siphathamandla.
- (b) Ubutyala besiphathamandla esongameleyo ngokwalapha kweli candelwana
buphelela nje kuphela kwiindleko zokutshintsha iigeyithi, iigarai okanye iindledlana
zokungena ngezifanayo nazo ngokomgangatho nezo kufuneka zitshintshiwe, zisiwe 35
kwezinye iindawo, zifakwe okanye zakhiwe ngokutsha.
- (c) Isiphathamandla esongameleyoasinabo ubutyala beendleko zokutshintsha, igaraji
enomnini wayo okanye indledlana yokungena apho ukungena okanye ukuphuma kuloo
ndlela bekuye kwenziwa ngokwaphula nawuphi na umthetho.
- (3) Xa umnini womhlaba ongena endleleni esenza isicelo kwisiphathamandla 40
semvume yokuba ayise kwenye indawo loo ndawo yokungena aze ayinikwe,
asinabutyala eso siphathamandla bokuba senze igalelo kwiindleko soko kususwa
kwaloo ndawo yokungena.

Uthintelo lokugalelwa okanye lokushiywa kwezinto ezithile kwisibonelelo sezothutho okanye kufutshane naso 45

- 42.** (1) Akukho mntu unokuthi—
- (a) abeke okanye ashiye isithuthi okanye umtshini ongasasebenziyo okanye
inxenye yaso okanye nayiphi na inkunkuma kuso nasiphi na isibonelelo
sezothutho; okanye
- (b) ngaphandle kwemvume ebhaliweyo yesiphathamandla esongameleyo okanye 50
ngokuchaneyo nomqathango obekwe seso siphathamandla nocaciswe klo
mvume ibhaliweyo, abeke okanye ashiye isithuthi okanye umtshini
ongasasetyenziswayo okanye inxenye yawo okanye nayiphi na inkunkuma
kwisithuba esiziimitha ezingama-200 ukusuka kumgca osembindini wayo
nayiphi na indlela okanye umgaqo kaloliwe ebonakalayo kokuloo ndlela 55
okanye kuloo mgaqo kaloliwe.
- (2) Isiphathamandla esongameleyo sisenokuthi sisisuse isithuthi okanye umtshini
ongasasebenziyo okaye inxenye yawo okanye inkunkumaefunyenwe kwisibonelelo

sezothutho, kwaye sisenokufuna ukubuyiselwa iindleko zoko kususa kuloo mntu uyibeke okanye uyishiye apho.

(3) Ukuba isithuthi, umtshini, inxenye yawo okanye inkunkuma ibekwe okanye ishiywe emhlabeni ngokuchasaneyo necandelwana (1)(b), isiphathamandla esongameleyo sisenokuyalela umnini okanye umhlali waloo mhlaba okanye lowo mntu ubeke okanye uyishiye apho ngesaziso esibhaliweyo ukubamakayisuse okanye ayenze ukuba ingaphindi ibonakale, singadlulanga eso sithuba sithe saxelwa kwisaziso eso, isithuba eso esingenakuba ngaphantsi kweentsuku ezili-14 ukusukela kumhla wesaziso eso.

(4) Ukuba lowo sisiwe kuye isaziso eso uyasilela ekusithobeleni, isiphathamandla esongameleyo sinokusisusa eso sithuthi, loo mtshini, inxenye yawo leyo okanye loo nkunkuma kuloo mhlaba okanye sithathe nawaphi na amanyathelo okuyenza ukuba ingabonakali, kwaye ke sisenokuzifuna iindleko zokwenza oko kumntu lowo.

Izifakelo nezinto ezilolunye ulwakhiwo kwimihlaba ebekelwe izibonelelo zezothutho, phezu okanye phantsi kwazo okanye ngaphakathi kwemida yolwakhiwo okanye kwiindawo ezinonyino lolwakhiwo 15

43. (1) Nakubeni kusenokubakho omnye umthetho, kodwa kuthathelwe ingqalelo icandelwana (5), akukho mntu unokuthi aqhube okanye enze kuqhutywe okanye avumele ukuba kuqhutywe umsebenzi okhankanywe kwicandelwana (2) ngaphandle kokuba uqale wafumana imvume yesiphathamandla esongameleyo kwaye ekwenza oko ngokwemigangatho eyamkelwe siso— 20

- (a) kwindawo yesibonelelo sezothutho okanye kwisibonelelo sezothutho;
- (b) kwindawo ononyino lolwakhiwo; okanye
- (c) phakathi kwindawo enyina isakhiwo.

(2) Le misebenzi ikhankanywe kwicandelwana (1) yile ilandelayo:

- (a) Ukwakha okanye ukufaka into elulwakhiwo okanye enye into eyayaniswe kulo mhlaba ikuyo, kubandakanya nento engeyonxenye yaloo mhlaba; 25
- (b) ukwakha okanye ukufaka nantoni na phantsi komphezulu womhlaba;
- (c) ukwakha nantoni na ethi iphongome phezu komhlaba lowo;
- (d) ukuphatha iingcingo zombane okanye ezinye iintambo okanye oophayiphu abanqumla kuloo mhlaba okanye ukufaka iikheyibhuli phantsi kwawo; okanye 30
- (e) ukwenza ulongezelelo lolwakhiwo okanye ukwenza utshintsho kuyo nayiphi na into elulwakhiwo okanye ekhankanywe kumhlathi (a), (b), (c) okanye (d).

(3) Icandelwana (1) alisebenzi—

- (a) ekugqityezelweni kwento elulwakhiwo eyaqala ukwakhiwa phambi kokuba uqalise lo Mthetho ukusebenza okanye phambi kubekho unyino kuloo mda wolwakhiwo okanye kuloo ndawo inonyino lolwakhiwo; okanye 35
- (b) kubiyu, ucingo, udonga okanye iheji engekho ngaphezulu kwi-1,6 mitha umphakamo ukusuka phantsi kumhlaba ekuwo.

(4) Umntu usenokuthi afake isicelo kwisiphathamandla esongameleyo ngendlela ebekiweyo nangentlawulo, sokuba aphambuke kolu nyino lukwimida yolwakhiwo okanye kwindawo enolu nyino lolwakhiwo lukhankanywe kwicandelwana (1).

(5) Eso sicelo sisenokwamkelwa okanye sikhatywe ngokujonga ukuba isibonelelo sezothutho eso sesinjani na, uphuhliso oluqhutywayo okanye olucetywayo ecaleni kwaso nezinye izinto ezibonwa zifanelekile seso siphathamandla. 45

(6) Xa lowo ufaka isicelo engenguye umnini womhlaba lowo simalunga nawo isicelo eso, kufuneka ukuba umfaki wesicelo lowo aqinisekise isiphathamandla esongameleyo ukuba ulinikiwe igunya kumnini lokuba angene kolu thethwano egameni lomnini lowo, kwaye isiphakamiso eso asenzayo samkelekile kumnini womhlaba lowo.

(7) Xa isiphathamandla siyinika le mvume ikhankanywe kwicandelwana (5), sisenokuthi sibeke— 50

- (a) imiqathango yoqingqo nobungakanani elufanele kuyilandela ulwakhiwo olo, into leyo, utshintsho olo okanye ulongezelelo olo;
- (b) indlela neemeko, indawo nemiqathango ekufanele ukwakhiwa okanye ukufakwa phantsi kwayo; 55
- (c) imisebenzi efanele kufezekiswa ngumnini womhlaba lowo, umfaki wesicelo okanye ngabanye abantu kule nto icetywayo;
- (d) intlawulo yokubuyisa iindleko zesiphathamandla esingene kuzo ngokubeka iliso kule misebenzi ikhankanywe kwimihlathi (a), (b) nowe-(c), phambi kokuqalisa komsebenzi okanye ngoku sele uqhuba; okanye 60
- (e) intlawulo yokuhlalula irenti ebekwe sisiphathamandla ngokusebenzisa okanye ngokuhlala kumhlaba waso okanye ophantsi kolawulo lwaso.

- (8) (a) Ukuba le mvume ikhankanywe kwicandelwana (5) ithe yanikwa phantsi komqathango wokuba ulwakhiwo okanye into leyo mayisuswe ngelinye ixesha elisezayo, akukho mbuyekezo ihlawulwa umnini wolwakhiwo olo okanye wento leyo okanye lowo uye wathatha emva kwakhe, ngaphandle kokuba bekuye kwangenwa kwisivumelwano esisesinye nesiphathamandla. 5
- (9) UMbhalisi weeTayitile osegunyeni kuloo ngingqi kufuneka ukuba athi akufumana isicelo esibhaliweyo kwisiphathamandla esongameleyo ayibhale phantsi le miqathango ikhankanywe kumhlathi (a) kwitayitile yalo mhlaba uchaphazelekayo kwiirejista ezifanelekileyo. Iindleko eziphathelele koko kubhala kufuneka zihlawulwe nguloo mntu unikwe invume. 10
- (10) Umasipala kufuneka athethane neNtloko yeSebe phambi kokuba enze ezi zinto zikhankanywe kumacandelwana (4) nele-(5) ngokuphathelele kwizibonelelo zezothutho ezifumana uncediso-mali.
- (11) Apho umntu athe wafaka, wakha okanye wabeka into elulwakhiwo engakhange ayifumane le mvume ikhankanywe kwicandelwana (1) okanye ngokuchasene naloo mvume, isiphathamandla esongameleyo sisenokuyalela loo mntu ngesaziso esibhaliweyo ukuba ayisuse lingadlulanga elo xesha libekwe kwisaziso eso, ixesha elo elingenakuba ngaphantsi kweentsuku ezingama-30 ukusuka kumhla weso saziso.
- (12) Ukuba loo mntu uthunyelwe eso saziso uyasilela ukusithobela lingekadluli elo xesha libekwe kuso, isiphathamandla esongameleyo sisenokuyisusa loo nto, size sibize iindleko zokwenza oko kuloo mntu. 20
- (13) Nakubeni kukho eli candelwana (3), isiphathamandla esongameleyo sinokuyisusa le nto ikhankanywe kwicandelwana (2) okanye siyise kwenye indawo esiyikhethileyo phambi komhla esabekwa ngayo eso sibonelelo sezothutho.
- (14) Xa umntu enyanzelekile ngokomthetho ukuba asuse into okanye ayise kwenye indawo, isiphathamandla sinokuzifuna iindleko zoko kususa loo nto kuloo mntu. 25

Unyino lokujikwa kwendlela osetyenziswa ngayo umhlaba

44. (1) Umntu oceba ukuqhuba ulwakhiwo olubandakanya utshintsho okanye ukwandisa indlela osetyenziswa ngayo umhlaba kumhlaba okwindawo emelene—
- (a) nesi sibonelelo sezothutho sikhankanywe kwimihlathi (a) no-(b) yecandelwana (2); okanye 30
- (b) nesibonelelo sezothutho esikhankanywe kwicandelo 18(3), kufuneka ukuba apho kufuneka kwenziwe uvandlakanyo lwefuthe kubasebenzisi bendlela okanye kuthutho loluntu olutyetyeshwe phantsi kwe-NLTA—
- (i) afumane invume yokuqhuba olo lwakhiwo kwisiphathamandla esongameleyo; 35
- (ii) alandele nawaphi na amanyathelo okhawulelwano afunwe seso siphathamandla xa sinika loo mvume; kananjalo
- (iii) afumane invume yesiphathamandla esinegunya lokunika invume yolo tshintsho okanye yolo lwandiso. 40
- (2) UNocanda-Jikelele akanakho ukwamkela iplani okanye idayagram, yeziza, izitendi, amacandelo omhlaba okanye imihlaba eqeshiweyo ezithi xa zidibene zenze ilokishi okanye naluphi na ulwahlulwa-hlulo, ukuba ngaba nayiphi na inxenye yelokishi leyo okanye ezo zahlulo—
- (a) ikwisithuba seemitha ezili-100 ukusuka kumda wendlela okanye womgaqo kaloliwe okufutshane; okanye 45
- (b) ikwisithuba seemitha ezingama-50 ukusuka kumda wendlela okanye womgaqo kaloliwe okufutshane kummandla wasedolophini, ngaphandle kokuba—
- (i) isiphathamandla esongameleyo siyamkele iplani okanye isazobe saloo lokishi okanye solo lwahlulo lucetywayo; kwaye 50
- (ii) ubukhulu beplani leyo okanye idayagram leyo isondele kakhulu kuloo plani.
- (3) Isiphathamandla esongameleyo sisenokuthi sale ukukwenza oku kwamkela kukhankanywe phantsi kwecandelwana (2) kuphela xa siqinisekile ukuba loo lokishi okanye olo lwahlulwa-hlulo lucetywayo lungaqhwalelisa injongo yalo Mthetho. 55
- (4) (a) Isiphathamandla esongameleyo sisenokuthi sinike invume phantsi kwecandelwana (2) sithathele ingqalelo iimeko—
- (a) eziluthintelayo ulwahlulwa-hlulo okanye ulwahlulwa-hlulo olongezwayo lomhlaba okanye lwenxenye yawo exeliweyo;

- (b) eziyinyinayo indlela onokusetyenziswa ngayo umhlaba okanye inxenye yawo;
- (c) eziliqingqayo inani okanye ubungakanani bezakhiwo okanye bezinye izinto ezilulwakhiwo ezinokuthi zakhiwe kuloo mhlaba okanye kwinxenye yawo;
- (d) ezikuthintelayo ukufakwa, ukwakhiwa okanye ukusekwa kwento phezu okanye phantsi kwaloo mhlaba okanye kwenxenye yawo exeliweyo kumgama othe wabekwa ukusuka endleleni okanye kumzila kaloliwe ochaphazelekayo. 5
- (5) Xa sinika imvume isiphathamandla esongameleyo sisenokuthi sikuxele ukuba, xa umhlaba lowo okanye loo nxenye yawo xeliweyo idityanisiwe komnye umhlaba, itayitile yaloo mhlaba udityanisiweyo iya kuba phantsi komqathango obekwe phantsi komhlathi (a). 10
- (6) Isiphathamandla sisenokuthi siwutshitshise okanye siwenze izilungiso lo mqathango ukhankanywe kwicandelwana (4).
- (7) Nakubeni kusenokubakho imiqathango ehamba nxamnye kuMthetho oyi *Deeds Registries Act, 1937* (uMthetho 47 ka-1937)— 15
- (a) umntu onikezela udluliselo lomthetho onale miqathango ikhankanywe kwicandelwana (4), kufuneka ayifake kwisivumelwano sodluliselo;
- (b) uMbhali weTayitile kufuneka aqinisekise kule tayitile yomhlaba igcinwe ngulo mntu wenza unikezelo, umqathango ngamnye wale ihamba nokugcinwa kwaloo mhlaba; kunye 20
- (c) isiqinisekiso setayitile edityanisiweyo yalo mhlaba udityanisiweyo ukhankanywe kwicandelwana (5), kufuneka siqulathe yonke imiqathango eza kuhamba nayo itayitile yaloo mhlaba ngokwenkcazo enikwe phantsi kwelo candelwana. 25
- (8) Isiphathamandla esongameleyo sisenokuthi sinyanzelise ukuthotyelwa kwawo nawuphi na umqathango okhankanywe kwicandelwana (7).
- (9) Nakubeni kusenokubakho imiqathango ehamba nxamnye kuMthetho oyi *Deeds Registries Act, 1937* okanye kweminye imithetho, uMbhali weTayitile usenokuthi ngemvume ebhaliweyo yesiphathamandla esongameleyo awutshitshise umqathango obuthe wafakwa ngokwecandelwana (6) kwitayitile yogqithiselo okanye kwisiqinisekiso setayitile edityanisiweyo okanye obuqinisekise kwitayitile. 30
- (10) Olu tshitshiso lusenokwenziwa kwisicelo esibhaliweyo somnini womhlaba, luhamba nemvume ebhaliweyo yesiphathamandla esongameleyo nobungqina bokuba bonke abo bangabaniki bemali-mboleko bazisiwe ngolu tshitshiso lucetywayo. 35

Ibhodi zomgama, imiqondiso nezilumkiso ezindleleni

45. Kuthathelwe ingqalelo uMthetho oyi *National Road Traffic Act*, isiphathamandla sendlela ngasinye kufuneka sakhe silondoloze—

- (a) iipali zemiqondiso kwisiphambuko sendlela nganye eyonganyelwe siso, esiphambukela kuyo nayiphi na enye indlela nendlela yesizwe; 40
- (b) imiqondiso yomgama, iipali zemiqondiso, imiqondiso yokwalathisa nezilumkiso, ngokwemfuneko yayo kukhuseleko nasekukhokeleni uluntu.

Imiqobo nokususwa kwayo

46. (1) Isiphathamandla esongameleyo sisenokufuna ukuba umnini okanye umhlali wawo nawuphi na umhlaba owayame indlela okanye umgaqo kaloliwe ngesaziso esibhaliweyo, ukuba athobe umphakamo okanye ububanzi bawo nawuphi na umthi, isihlahla, izihluma, udonga, iheji, ucingo okanye nayiphi na into engumqobo ochaphazela indlela okanye umgaqo kaloliwe okanye isiphambuka ekunqumlaneni nanye indlela okanye umgaqo kaloliwe enokuthi isithe umqhubi okanye yenze iimeko zomngcipheko kukhuseleko, ibe ngumphakamo okanye ububanzi okanye ubude obuxelwe kuloo myalelo. 50

(2) UKuba ngaba umnini okanye umhlali lowo uyasilela ukuthobela esi saziso sikhankanywe kwicandelwana (1) lingadlulanga elo xesha belixelwe kwisaziso eso ngendlela esanelisayo isiphathamandla esongameleyo, isiphathamandla esongameleyo sisenokuthi singene kuloo mhlaba sense loo nto kufuneka yenziwe, size ke sifune iindleko zoko kumnini okanye kumhlali lowo. 55

Iingcingo eziphahle imida okanye ezingaphakathi kwemida yezibonelelo zezothutho

47. (1) Isiphathamandla esongameleyo sisenokufaka ucingo—
- (a) olugudle umda wesibonelelo sezothutho;
 - (b) olujikeleze umhlaba apho zithathwa okanye zithathwe khona izinto zasuswa sisiphathamandla; okanye 5
 - (c) olujikeleze indawo yamanzi elungiswe okanye esetyenziswa sisiphathamandla eso.
- (2) Isiphathamandla esongameleyo kufuneka senze igalelo elingekho ngaphantsi kwe-60% yeendleko angene kuzo umntu ekufakeni ucingo ngokwemigangatho nemiqathango eyamkelekileyo kwisiphathamandla eso, olugudle umda wesibonelelo sezothutho ngenxa—
- (a) yokukhupha esi saziso sithintela ukufakwa kwegeyithi ngokwemiqathango yecandelo 48(5); okanye
 - (b) yokususwa kwegeyithi enye okanye kwezingaphezulu kwenye kwisibonelelo sezothutho ngokwemiqathango yelo candelo ngemvume yesiphathamandla. 15
- (3) Isiphathamandla esongameleyo sisenokuthi sifake igalelo kwiindleko angene kuzo umntu ofaka ucingo olugudle umda wesibonelelo sezothutho kwezinye iimeko ezingakhankanywanga kwicandelwana (2), ukuba ngaba ucingo olo lufakwe ngokwemigangatho nemiqathango eyamkelwayo sisiphathamandla. 20
- (4) Naziphi na ezinye iindleko ezongezelelekileyo ekufakelweni kocingo, kubandakanya ncingo lokuthintela izilwanyana ngokwemiqathango yomgangatho othe kratya kunaleyo ifunwa sisiphathamandla esongameleyo, ngaphandle kokuba bekuye kwavunyelwana ngolunye nesiphathamandla eso.
- (5) Akukho mntu ungesiso isiphathamandla esongameleyo unokuthi— 25
- (a) ifake ucingo kwimida okanye ngaphakathi kwemida yaso nasiphi na isibonelelo sezothutho ngaphandle kokuba uqale wafumana imvume yesiphathamandla nangemigangatho nemiqathango ebekwe sisiphathamandla eso; okanye
 - (b) ngaphandle kokuqala afumane imvume yeso siphathamandla, asuse ucingo olufakwe ngokwakweli candelo kwimida okanye ngaphakathi kwemidayesibonelelo sezothutho. 30
- (6) Isiphathamandla asinakunika imvume yoku kususwa kocingo kukhankanywe kwicandelwana (5)(b) ngaphandle kokuba—
- (a) imeko yolo cingo ifuna ukuba malutshintshwe; okanye 35
 - (b) umnini waloo mhlaba lukuwo uyazibophelela ngento ebhaliweyo ekubeni uya kukhawulelana neendleko zokususwa nokuphinda lufakwethe ngokwemigangatho nemiqathango ebekwe seso siphathamandla.
- (7) Zonke iingcingo ezifakwe ngokusemthethweni nebezikho kwimida okanye ngaphakathi kwemida yesibonelelo sezothutho kwaphambi kokuba uqalise ukusebenza lo Mthetho zithathwa ngokuba zafakwa ngokufanelekileyo ngemvume yesiphathamandla esongameleyo. 40
- (8) Isiphathamandla esongameleyo singathi nani na silususe olu cingo lukhankanywe kwicandelwana (7), kodwa ke kufuneka sifake olunye endaweni yalo kumda wesibonelelo sezothutho eso ngeendleko zaso. 45
- (9) Isiphathamandla esongameleyo kufuneka—
- (a) sisuse naluphi na ucingo olufakwe ngokuchaseneyo neli candelo, size ke sifake olunye kumda wesibonelelo sezothutho eso, kwaye
 - (b) apho lususiweyo ucingo ngokuchaseneyo neli candelo, siphinde silufake kumda wesibonelelo sezothutho eso. 50
- (10) Xa isibonelelo sezothutho sithe safuduswa, isiphathamandla esongameleyo sisenokuthi silususe ucingo olo siluse kule ndawo intsha sisiwe kuyo isibonelelo sezothutho, ukuba besiyenze igalelo kwiindleko zocingo olugudle isibonelelo sezothutho.
- (11) Ethathele ingqalelo uMthetho oyi*Fencing Act*, 1963 (uMthetho 31 ka-1963), umnini womhlaba owayame umda wesibonelelo sezothutho kufuneka alulondoloze ucingo olufakwe ngokusemthethweni kuloo mda okanye ngaphakathi kuloo mda.
- (12) Apho ucingo olukumda wesibonelelo sezothutho luthelwa lonakala okanye lwabiwa—
- (a) xa kungekho mali ithe yabizwa kuloo mntu ubange loo monakalo okanye ulubileyo, isiphathamandla esongameleyo kufuneka senze igalelo elingekho ngaphantsi kwe-60% yeendleko angene kuzo umnini walo mhlaba 60

wayamileyo ekulungiseni olo cingo ngokwemigangatho efana neyoluya luthelona okanye lwabiwa;

- (b) ukulungiswa kweengcingo ezonakeleyo okanye ezibiweyo kufuneka kwenziwe ngumnini walo mhlaba wayamileyo zingadlulanga iintsuku ezingama-21 emva kokuba wenzekile umonakalo okanye ukubiwa oko; 5
kananjalo
- (c) logama kungekagqitywa ukulungisa, umnini walo mhlaba wayamileyo kuluxanduva lwakhe ukuqinisekisa ukuba akukho zilwanyana zinokubeka abasebenzisi beso sibonelelo sezothuthozingenayo apho kweso sibonelelo sezothutho. 10

(13) Isiphathamandla esongameleyo sisenokuthi nanini na siphinde silufake ucingo olufakwe okanye ekuthathwa ukuba lufakwe ngokwemiqathango yeli candelo, ngeendleko zaso.

Iigeyithi zokunqumla iindlela

48. (1) Akukho mntu unokufaka igeyithi enqumla indlela ngaphandle kokuba uqale wafumana imvume ebhaliweyo kwisiphathamandla esongameleyo nangokwemigangatho nemiqathango ebekwe siso. 15

(2) Xa iyindlela engumtyino obalulekileyo, indlela enkuklu okanye indlela yesithili ngaphandle kommandla wasedolophini, loo mvume ayinakunikwa ngaphandle kokuba— 20

- (a) isiphathamandla esongameleyo sizimisele ukuba sakhe igeyithi yokuthintela izilwanyana kuloo geyithi;
- (b) kwindlela ekhutshelwa uncediso-mali uMphathiswa uye waziswa ngoko kufakwa kwaloo geyithi kucetywayo abe elinikiwe nexesha lokuba avakalise uluvo lwakhe ngoko; nangaphandle kokuba 25
- (c) umntu owenza eso sicelo usinikile isiphathamandla sendlela isibambiso sokuqinisekisa ukuba uya kuhlawula i-50% yeendleko zokufaka loo geyithi yokuthintela izilwanyana. 30

(3) Isiphathamandla esongameleyo kufuneka siyisuse igeyithi efakwe ngokuchaseneyo neli candelo. 30

(4) Isiphathamandla sendlela esithe sanika le mvume ikhankanywe phantsi kwecandelwana (2) kufuneka igeyithi yokuthintela izilwanyana siyifake ngexesha elinye negeyithi leyo okanye kwakamsinyane emva kokufaka loo geyithi.

(5) UMphathiswa usenokuthi ngesaziso esikhutshwe *kwiGazethi yePhondo* okanye ngomgaqo, akuthintele ukufakwa kwegeyithi enqumla naluphi na uhlobo lwendlela okanye kwindlela ethile okanye kwinxenye yayo. 35

(6) Isiphathamandla sendlela sisenokuthi emva kokuba siye sathobela icandelwana (7), siyisuse igeyithi enqumla indlela ethe yafakwa ngokwemiqathango yeli candelo.

(7) Isiphathamandla sendlela esiceba ukususa igeyithi phantsi kwecandelwana (6) kufuneka ukuba ngesaziso esibhaliweyo sazise umnini womhlaba ngamnye onokuthi achatshazelwe kakubi koko kususwa kwaye ke kusenokungeniswa nezichaso ngaloo mhla okanye phambi kwaloo mhla uthe wabekwa, umhla lowo ongenakuba phambi kokuba ziphele iintsuku ezingama-21 emva komhla wesaziso eso. 40

Iigeyithi zothintelo lwezilwanyana

49. (1) Isiphathamandla sendlela sisenokuthi sifake igeyithi yokuthintela izilwanyana enqumla indlela okanye siyivale okanye siyisuse, kuqokale ke kambe ukuba kukho neyesiqhelo igeyithi ecaleni kwaleyo yothintelo lwezilwanyana, xa ikho imfuneko yayo. 45

(2) Igeyithi yokuthintela izilwanyana eyayifakwe ngokusemthethweni kwaphambi kokuba uqalise ukusebenza lo Mthetho ngokwemiqathango yoMthetho wePhondo ithathwa ngokuba yigeyithi yokuthintela izilwanyana efakwe ngokwemiqathango yecandelwana (1). 50

(3) Xa isiphathamandla sendlela sivala okanye sifudusa igeyithi yokuthintela izilwanyana, kulandelwa icandelo 15, kambe ke kwenziwe ezo nguqulelo ziyimfuneko.

(4) Xa isiphathamandla sendlela sisusa igeyithi ngokwemiqathango yecandelo 48(3) okanye (6), kufuneka sisuse negeyithi yokuthintela izilwanyana ebisebenza naloo geyithi. 55

Ulwembiwo lwezimbiwa kwizibonelelo zezothutho okanye phantsi kwazo okanye kwiindawo ezinyonyino lolwakhiwo

50. (1) Akukho mntu unokuqhuba ulwembiwo kwindawo yesibonelelo sezothutho okanye phantsi kwayo okanye kwindawo enonyino lolwakhiwo, ngaphandle oko ukwenza ngemvume ebhaliweyo yesiphathamandla esongameleyo, esinokuthi ke siyinike phantsi kwemiqathango ethile esiyibona ifanelekile. 5

(2) Apho isibonelelo sezothutho sithe sanolwembiwo oluqhubeka phantsi kwaso emva kokuba senziwe, nokuba kungokuchaseneyo okanye okungachasenanga necandelwana (1), kuze kubekho imfuneko eqhutywa yinjongo yokukhusela uluntu okanye izinto ezichaphazela uluntu, isiphathamandla esongameleyo sisenokuthi— 10

- (a) siyalele loo mntu uqhuba olo lwembiwo ukuba aqinisekise ukuba isibonelelo sezothutho sikhuselekile okanye abonelele ngolwakhiwo lwaso ngokutsha ngendlela esanelisayo isiphathamandla eso, oko ekwenza ngeendleko lingadlulanga elo xesha lithe labekwa sisiphathamandla eso; kwaye
- (b) Ukuba loo mntu uyasilela ukuwuthobela loo myalelo, sisenokuthi siwenze lo msebenzi ukhankanywe kumhlathi (a) size ke sizibize kuloo mntu iindleko. 15

Ukuqhuba ushishino kwizibonelelo zezothutho okanye kwiindawo ezinyonyino lolwakhiwo

51. (1) Akukho mntu unokuthi engafumananga imvume ebhaliweyo yesiphathamandla esongameleyo okanye ngokuchaseneyo nemiqathango yaloo mvume, aqhube ushishino, athengise izinto okanye abeke emboniselweni, anike okanye enze izinto zokuthengisa kwisibonelelo sezothutho okanye kwindawo enonyino lolwakhiwo, ngaphandle kokuba kungale ndlela icaciswe kwicandelwana (3). 20

(2) Le mvume ikhankanywe phantsi kwecandelwana (1) inokuthi inikwe—

- (a) kwiindlela neendlela ezilungezelelo, kuphela kumasango okanye kwii-ndawo ezibekelwe oko, ngokwaloo mithetho ichaphazelekayo; kananjalo 25
- (b) kwimigaqo kaloliwe nakwizibonelelo zothutho loluntu ezilungezelelo, kuphela kwezo ndawo ziye zakhethelwa urhwebo sisiphathamandla esongameleyo. 30

(3) Icandelwanan (1) alimchaphazeli umntu owayekade eqhuba ushishino kuwo nawuphi na umhlaba phambi kokuba ubekwe njengendawo yesibonelelo sezothutho othe waqhuba ngolo shishino nasemva kokuba ubekwe njalo loo mhlaba, ngaphandle kokuba loo mntu uye wayalelwa sisiphathamandla esongameleyo ngesaziso esibhaliweyo ukuba makaluyeke olo shishino ngenxa yokucingela ukhuseleko nokusebenza kwezithuthi kweso sibonelelo sezothutho. 35

(4) Umsebenzi wesiphathamandla esongameleyo okanye umntu othe wagunyaziswa njalo ngento ebhaliweyo sisiphathamandla esongameleyo, umsebenzi kamasipala okhethelwe okanye oqeshelwe ukwenza umsebenzi woqinisekiso lokuthotyelwa kwemithetho, okanye umntu oligosa lezendlela ngokwemiqathango yomthetho wezendlela, usenokuthi— 40

- (a) ukuba umsebenzi lowo, igosa elo okanye umntu lowo (obizwa igosa elinegunya kweli candelo) unemihlaba yokukrokrela ukuba umntu wenze into efanele kwenziwa ngemvume ebhaliweyo yesiphathamandla ngokwemiqathango yecandelwana (1), ayalele loo mntu ukuba makamvelisele imvume ebhaliweyo yakhe yokuba enze loo nto ayenzayo; 45
- (b) ukuba umntu othe wayalelwa ngolu hlobo uyasilela ukuyivelisa le mvume ibhaliweyo okanye ukuba igosa elinegunya linemihlaba yokukrokrela ukuba umntu wenze into engekho mthethweni ngokwemiqathango yecandelwana (1)—
 - (i) lisenokuthi lifune igama laloo mntu kwakunye neadresi yendawo ahlala kuyo emalizinikwe kwangoko; kananjalo 50
 - (ii) lisenokuthi liyalele loo mntu ukuba makasuse yonke into, ulwakhiwo, intente, isithuthi, isixhobo solimo okanye nayiphi na enye into esetyenziselwa okanye ekujoliswe ekuyisebenziseni kuloo nto ayenzayo kweso sibonelelo sezothutho; okanye 55
- (c) ukuba umntu uyasilela ukuwuthobela lo myalelo ukhankanywe kumhlathana (ii) womhlathi (b), lisenokuthi liyisuse kweso sibonelelo sezothutho okanye kuloo ndawo inonyino lolwakhiwo into, ulwakhiwo, intente, isithuthi, isixhobo solimor okanye nayiphi na enye into ekhankanywe kuloo mhlatha, size ke sizibize kuloo mntu iindleko zoku kususwa kwezi zinto. 60

(5) Umasipala usenokuthi enze imisebenzi enxulumene neli candelo ephathelele kwisibonelelo sezothutho sephondo ngemvumelwano noMphathiswa.

ISIGABA 9: IMIQATHANGO NGOKUBANZI

Amagunya oMphathiswa

- 52.** (1) UMphathiswa usenokuthi, ethathele ingqalelo icandelwana (2)— 5
- (a) acwangcise, ayile, akhe axhase ngemali, alawule, aphuhlise, alondoloze, akhusele kananjalo avuselele isibonelelo sezothutho sephondo;
- (b) anike umasipala inkxaso-mali okanye naluphi na uncediso, phantsi kwemiqathango yokuba yiNtloko yeSebe elubekayo— 10
- (i) lokwakha okanye lokulondoloza isibonelelo sezothutho; okanye
- (ii) lokuba umasipala athathe umhlaba ewuthathela isibonelelo sezothutho;
- (c) acwangcise, ayile, akhe, alondoloze, isibonelelo sezothutho kuloo ngingqi ngemvumelwano naloo masipala;
- (d) alawule iiasethi zesibonelelo sezothutho eziphantsi kolawulo lweSebe eli, ethathele ingqalelo kuMthetho oyi*Government Immovable Asset Management Act, 2007*; kwaye uvavanywe ze uvunywe. 15
- (e) asebenzise naliphi na igunya elihamba okanye elilelokuncedisana nala magunya kwimihlathi (a) ukuya ku-(d).
- (2) UMphathiswa kufuneka ukuba asebenze ngemvumo noMphathiswa wezeMali xa ebeka uncediso-mali oluza kunikwa umasipala kwaye ayibeke nemiqathango ehamba nolo ncediso-mali. 20

Amagunya nemisebenzi yeziphathamandla ngokubanzi

- 53.** (1) Isiphathamandla esongameleyo sisenokuthi—
- (a) sisuse okanye simkise nasiphi isilwanyana esikwisibonelelo sezothutho okanye ngaphakathi esikwindawo yesibonelelo sezothutho ngokuchaseneyo noMthetho oyi*National Road Traffic Act* okanye nawuphi na omnye umthetho, kodwa asibophelelekanga ekubeni sinike nawuphi na umntu imbuyekezo xa eso silwanyana sithe safa okanye senzakala xa besisuswa okanye sisimkiswa ngenjongo yokuthintela ingozi enokwenzeka kubasebenzisi bendlela; 25 30
- (b) sibholeamanzi, sifake oophayiphu, iimpompo nazo naziphi na izifakelelo- okanye izinto zokwenza lula umsebenzi esizibona ziyimfuneko, kunjalo nje sizilondoloze;
- (c) sifake, sakhe size silondoloze isakhiwo, indlu, intente okanye nayiphi na enye into elulwakhiwo elungiselelwe ukuhlalisa amagosa nabasebenzi abaqeshwe kweso sibonelelo sezothutho okanye ngaphandle kwendawo yesibonelelo sezothutho, abenza umsebenzi onxulumene naso, kambe ke sithathele ingqalelo imiqathango yalo Mthetho; 35
- (d) sigcine kwesi sibonelelo sezothutho okanye ngaphandle kwaso, ifektri, imitshini, izinto zokusebenza okanye nezinye izinto esizifumanisa ziyimfuneko ekwakhiweni okanye ekulondolozweni kwesibonelelo sezothutho, phofu ke sitwathathele ingqalelo lo Mthetho; 40
- (e) siqeshise okanye sinikise ngamalungelo kumhlaba owawufunelwe isibonelelo sezothutho nongekafunwa okwangoku, okanye sinikezele ngamalungelo exeshana kuloo mhlaba ngaphandle kokufuna intlawulo; 45
- (f) sivuselele okanye silungi-lungise inkangeleko okanye siphucule iindawo ezingaphakathi kweso sibonelelo sezothutho;
- (g) sifake okanye sisuse umgaqo kaloliweongaphakathi endleleni;
- (h) senze okanye sigunyazise ukwenziwa kwezilungiselelo ezinika iinkonzo ezibandakanya neendawo zokutha ipetroli, iiretyu, iindawo zokudlala nezinye izilungiselelo ezinokusetyenziswa ngabantu abaseluhambeni; 50
- (i) ngesaziso esikhutshwe kwi*Gazethi ye Phondo*—
- (i) sithintele okanye sinyine ukuhamba kwemfuyo ngaphandle kwekwizithuthi kuyo nayiphi na indlela ethe yachazwa kweso saziso; okanye
- (ii) sibeke umgaqo wokuba akunakuhanjiswa imfuyo kuloo ndlela ngaphandle kwemvume ebhaliweyo yesiphathamandla esongameleyo; kananjalo uvavanywe ze uvunywe 55

- (j) xa kuthe kwabakho imfuyo efunyanwa endleleni ngokuchaseneyo nesi saziso sikhankanywe kumhlathi (i), siyithathe loo mfuyo siyise esikiti ngokwendlela ebekiweyo.
- (2) Sihamba ngokoMthetho oyi*National Road Traffic Act*, isiphathamandla esongameleyo sisenokufaka, silondoloze imiqondiso yendlela, izinto zokulawula izithuthi nemibhalo eyimfuneko ekukhokeleni nakukhuseleko lwabasebenzisi beendlela ezindleleni, kwakunye nemiqondiso nemibhalo ezizalathisi kwimigaqo kaloliwe. 5

Imigaqo

54. (1) UMphathiswa usenokuqulunqa imigaqo—
- (a) etyetyesha iindlela neemfuno zokubekwa kweliso kwindlela owenziwa ngayo umsebenzi ziziphathamandla phantsi kwalo Mthetho, imigangatho okanye iziphumo zomsebenzi wazo neziphumo zokusilela kweziphathamandla ekwenzeni loo misebenzi okanye ekuyenzeni ngokufezekileyo, ngakwicala lezemali nakwezinye iinkalo; 10
- (b) etyetyesha indlela nefomu emasenziwe ngayo nasiphi na isicelo esiphathelele kulo naluphi na ugunyaziso, ulwamkelo, imvume okanye ulwaphulelo kwimfuneko, esikhankanywayo kulo Mthetho, iinkcukacha ekufuneka zihambe naso neentlawulo ezifanele kuhlawulwa ngeso sicelo, ukuba zikhona; 15
- (c) etyetyesha ifomu efanele kusetyenziswa, iinkcukacha ezifanele kunikwa nenkqubo efanele kulandelwa xa kusenziwa naliphi na ibango lembuyekezo elungiselelweyo kulo Mthetho; 20
- (d) etyetyesha intlawulo okanye irenti yalo naluphi na ugunyaziso, ulwamkelo okanye imvume enikwa ngokwemiqathangoyalo Mthetho, phezu kwale ntlawulo yesicelo ikhankanywe kumhlathi (b) okanye kwezo meko kungekho ntlawulo yesicelo; 25
- (e) etyetyesha indlela ezifanele kugcina ngayo amarekhodi email efunyenweyo okanye ehlawulweyo ngezibonelelo zezothutho;
- (f) etyetyesha indlela ezifanele kubalwa ngayo iindleko zezibonelelo zezothutho;
- (g) kuthathelwe ingqalelo iSigaba 6— 30
- (i) etyetyesha izinto ezikufaneleyo nezo zingakufanelanga ukunikwa uncediso-mali kulo naluphi na uhlobo lwenkcitho;
- (ii) elungiselela ukugatywa kwentlawulo yoncediso-mali kwinkcitho ayibona ingafaneleka okanye ingeyomfuneko uMphathiswa; kananjalo
- (iii) eyenza ukuba nayiphi na intlawulo yoncediso-mali kwinkcitho yawo nawuphi na umsebenzi ibe nomqathango wokuba umsebenzi lowo wenziwe ngokwezicwangciso zawo, ngokwemiqathangatho, izikhokelo nezibakala ebeziye zamkelwa yiNtloko yeSebe; 35
- (h) etyetyesha ukuba amabango oncediso-mali afanele kusiwa kubani na ngeyiphi na imihla; 40
- (i) kuthathelwe ingqalelo uMthetho oyi*Businesses Act*, 1991 (uMthetho 71 ka-1991), elawula ushishino oluqhutywa kwizibonelelo zezothutho;
- (j) ephathelele kuwo nawuphi na omnye umba ngokwakulo Mthetho onokuthi ulungiselelwe okanye ofanele kulungiselelwa, ukulawulwa okanye ukubekwa ngokomgaqo; kananjalo 45
- (k) ngokubanzi, ephathelele kuwo nawuphi na omnye umba olulungezelelo ekuyimfuneko okanye ekufanelekileyo ukuba ubekwe ukuze ukusetyenziswa okanye ukuqhutywa kwalo Mthetho kuhambe ngokufezekileyo.
- (2) Le migaqo isenokuthi ibeke nokuba ulwaphulo lomqathango wayo okanye ukusilela ukuwuthobela kulityala elihamba nesohlwayo esiyifayini okanye ukuvalelwa entolongweni isithuba esingadlulanga kwiinyanga ezili-12, okanye esizidibanisa zombini ifayini nokuvalelwa entolongweni. 50
- (3) Phantsi kwecandelwana (1) kusenokuqulunqwa imigaqo eyahlukeneyo phantsi kweentlobo zezibonelelo zezothutho ezahlukeneyo.
- (4) Ukuqulunqwa okanye ukwenziwa kwezilungiso kwimigaqo phantsi kwecandelwana (1) okuza kufuna imali kufuneka kwenziwe ngemvano noMphathiswa wezeMali. 55
- (5) Umgaqo oqulunqwe phantsi koMthetho wePhondo (*wamandulo*) nobusebenza kufutshane nje phambi kokuba uqalise ukusebenza lo Mthetho ngokuphatelele kumba anokuqulunqwa umgaqo ngawo uMphathiswa phantsi kwecandelwana (1), uthathwa njengomgaqo oqulunqwe phantsi kwecandelwana (1) de ube utshitsishiwe ngomgaqo omtsha okanye indawo yawo ithathwe ngumgaqo omtsha phantsi kweli candelo. 60

Imigangatho nezikhokelo

- 55.** (1) INTloko yeSebe isenokuthi ibeke imigangatho, imiqathango nezikhokelo zezibonelelo zezothutho, kubandakanya—
- (a) imigangatho nemiqathango ephathelele kufikelelo ezindleleni;
 - (b) imigangatho nemiqathango— 5
 - (i) yocwangciso, uyilo, uphuhliso, ulwakhiwo, ulawulo, ulondolozo, ukhuselo novuselelo lwezibonelelo zezothutho; kunye
 - (ii) neyokhuseleko ezindleleni nakoololiwe kwiPhondo eli, imigangatho nemiqathango leyo esenokuthi yahluke ngokweentlobo ezahlukeneyo zezibonelelo zezothutho nethathela ingqalelo uMthetho oyi*National Road Traffic Act*, xa inxulumene neendlela, ize ithathele ingqalelo uMthetho oyi*National Railway Safety Regulator Act*, 2002 xa inxulumene nemigaqo yoololiwe; 10
 - (c) imigaqo nemiqathango yokuyila, ukwakha nokulawula iigeyithi zothintelo lwezilwanyana, kubandakanywa— 15
 - (i) ubungakanani, izinto eziza kwenziwa ngazo, indlela yolwakhiwo, umphakamo nendlela eziza kuma ngazo;
 - (ii) ubude nobubanzi besithuba esikhokelela kwiigeyithi yokuthintela izilwanyana ukusuka endleleni;
 - (iii) imiqondiso efanele kufakwa ilondolozwe yokulumkisa ngaloo geyithi yokuthintela izilwanyana okanye ngoko kuphambukela kwiigeyithi yokuthintela izilwanyana; kunye 20
 - (iv) nolawulo olufanelekileyo, nolondolozo lweeigeyithi zokuthintela izilwanyana; kunye
 - (d) imigangatho nezikhokelo malunga nokusetyenziswa, ukulawulwa nokukhuselwa kweenkampi zokuphumla, iindawo zokuphumla neenkampi zemfuyo ezisezindleleni okanye eziyinxenye yeendlela. 25
- (2) Oomasipala kufuneka bayithobele imigangatho, imiqathango nezikhokelo ezibekwe yiNtloko yeSebe ngokwemiqathango yecandelwana (1), okanye basenokuthi basebenzise eyabo imigangatho nezikhokelo ukuba ziyahambelana naloo migangatho nezo zikhokelo zibekwe nguye. 30
- (3) Imigangatho nezikhokelo ezibekwe yiNtloko yeSebe kufuneka ipapashwe liSebe eli ngokuthi lizenze zifumaneke kumajelo eendaba ombane okanye kwiwebhusayithi esesikweni yeSebe eli.

Imithetho kamasipala

35

- 56.** (1) Phambi kokuba umasipala enze umthetho kamasipala ngokuphathelele kwisibonelelo sezothutho sikamasipala okanye ophathelele kuwo nawuphi na umba ojoliswe ekufezekiseni iinjongo zalo Mthetho malunga neso sibonelelo sezothutho sikamasipala, kufuneka aqale athethane noMphathiswa.
- (2) Lo Mthetho awuwuchaphazeli nawuphi na omnye umba olawulwa ngumthetho kamasipala xa loo mthetho kamasipala unxulumene nombamba olawulwa ngulo Mthetho. 40

Ugunyaziso

- 57.** (1) Ethathele ingqalelo icandelwana (3), uMphathiswa usenokuthi anikezele igunya okanye umsebenzi obekwa ngulo Mthetho kwiNtloko yeSebe okanye kwigosa leli Sebe. 45
- (2) INTloko yeSebe isenokuthi inikezele ngegunya okanye ngomsebenzi obekwa emagxeni ayo ngulo Mthetho okanye obunikezelwe kuyo ngokwakwicandelwana (1) kwigosa leli Sebe.
- (3) Icandelwana (1) alilichaphazeli igunya lokuthatha umhlaba okanye amagunya phantsi kwecandelo 34 okanye lokuqulunqa imigaqo phantsi kwecandelo 54. 50
- (4) Ugunyaziso olwenziwe phantsi kwecandelwana (1) okanye (2)—
- (a) alumthinteli uMphathiswa okanye iNtloko yeSebe, ekubeni ilisebenzise elogunya okanye iwenze loo msebenzi;
 - (b) kufuneka lwenziwe ngento ebhaliweyo; kwaye
 - (c) lusenokuthi nanini na lwenziwe izilungiso okanye lurhoxiswe ngento ebhaliweyo. 55

Izivumelwano nabagunyaziswa ngemisebenzi yeendlela okanye yothutho loluntu

- 58.** (1) Isiphathamandla esongameleyo sisenokuthi singene kwesi sivumelwano sikhankanywe kwicandelwana (2) naye nawuphi na umntu okanye isigqeba (“nelinye icala” njengoko kusitshiwo kweli candelo), kubandakanya—
- (a) uMphathiswa, kambe ke kuthathelwe ingqalelo icandelwana (4); 5
 - (b) umasipala;
 - (c) isigqeba esiyi *South African National Roads Agency Limited*, esasekwa ngokwemiqathango yecandelo 2 loMthetho oyi *South African National Roads Agency Limited and National Roads Act, 1998* (uMthetho 7 ka-1998);
 - (d) isigqeba esiyi *Passenger Rail Agency of South Africa*, esasekwa ngokwemiqathango yecandelo 22(1) loMthetho oyi *Legal Succession to the South African Transport Services Act, 1989* (uMthetho 9 ka-1989); kunye 10
 - (e) nenkampani yakwa *Transnet Limited*, eyasekwa ngokwemiqathango yecandelo 2 loMthetho okhankanywe kumhlathi (d).
- (2) Esi sivumelwano sikhankanywe kwicandelwana (1) sinokubonelela ngokuba— 15
- (a) elinye icala eli lithathela emagxeni lonke uxanduva oluphathelele kuso nasiphi na isibonelelo sezothutho;
 - (b) elinye icala eli lenza umsebenzi onxulumene nesibonelelo sezothutho, kubandakanya ulwakhiwo nolondolozo lwaso okanye liqinisekisa ukuba umsebenzi lowo uyenziwa kodwa phantsi kweliso lalo, ngeendleko zesiphathamandla esongameleyo okanye isiphathamandla siyawenza loo msebenzi ngeendleko zelinye icala eli, okanye ke phantsi kwemiqathango eyeminye ekhoyo kwisivumelwano eso; 20
 - (c) umasipala esikwingingqi yakhe isibonelelo sezothutho eso kuluxanduva lwakhe ukususa onke amanzi emvula kweso sibonelelo sezothutho okanye lokuwenzela indlela yokuwajika nolwenkcitho ekuthe kwangenwa kuyo ngokwenza oko, kodwa ke isiphathamandla esongameleyo, ukuba asingomasipala, akukho magxeni aso ukuthwala umonakalo owenziwe koko kususwa kwamanzi emvula ngumasipala lowo okanye ukusilela kwakhe ukuwasusa amanzi emvula lawo; okanye 30
 - (d) isiphathamandla esongameleyo senza nayiphi na imisebenzi ekhankanywe kulo Mthetho okanye umsebenzi ophathelele kuyo kwingingqi ephantsi kolawulo lwelinye icala elo okanye kumhlaba ongowelinye icala elo, ngeendleko zelinye icala elo, kambe ke kuhanjwa ngokwemiqathango yalo Mthetho. 35
- (3) Esi sivumelwano sikhankanywe kwicandelwana (1) sisenokulungisela nokuba kwahlulelwane ngeendleko zeprowujekthi ngala macala omabini.
- (4) UMphathiswa kufuneka ukuba xa engena kwisivumelwano esiza kuchaphazela neemali zePhondo eli, akwenze oko ngemvamo noMphathiswa wezeMali.

Unyino kubutyala besiphathamandla esongameleyo 40

- 59.** (1) Isiphathamandla esongameleyo okanye nawuphi na omnye wabagunyaziswa baso okanye wabasebenzi baso okanye kumagosa aso okanye nawuphi na omnye umntu, oqhuba okanye owakhe isibonelelo sezothutho, akanabutyala ngakwicala lomonakalo okanye lelahleko efunyenwe ngumntu—
- (a) ngokusebenzisa loo nxenye yeso sibonelelo sezothutho ibingafanelanga okanye ibingakhelwanga ukuba isetyenziswe zizithuthi; okanye 45
 - (b) ngenxa yokovalwa okanye yokufuduswa kwendlela okanye komgaqo kaloliwe phantsi kwalo Mthetho.
- (2) Isiphathamandla esongameleyo asinabutyala ngokuphathelele kumabango asekelwe ekuhlени kwamaxabiso omhlaba okanye ngenxa yokubekwa kwesibonelelo sezothutho, avela kumnini waloo mhlaba okanye nakowuphi na omnye umntu. 50

Uthintelo ngokubanzi

- 60.** (1) Akukho mntu okanye ziko, kubandakanya nesigqeba sikarhulumente, linokuthi—
- (a) ashiye okanye abeke into esisithinteli esinokuthi sibeke izithuthi esichengeni sengozi okanye nayiphi na inkunkuma, ubugoxo, iimfumba zothuthu, izinto zodongwe, iglasi, iitoti, izikhonkwane, iinkcenkce, amaplanga, izikhondo 55

- zemithi, amatye okanye nayiphi na enye into kuso nasiphi na isibonelelo sezothutho;
- (b) onakalise isibonelelo sezothutho okanye sichithele kuso amafutha ezithuthi okanye ezinye iikhemikhali okanye igesi enokuthi yenze umonakalo kuso;
- (c) enzakalise ngabom imithi, izihlahla okanye ezinye izinto zophuculo ezikweso sibonelelo sezothutho; 5
- (d) afake iintsinjana ezisolole egeyithini okanye kwindawo ekuso nasiphi na isibonelelo sezothutho ezinokuthi zenzakalise abantu okanye izilwanyana okanye zenze umonakalo kuloo mhlaba;
- (e) athintele, liqobisele okanye krwada okanye lithuje igosa, umsebenzi, umgunyaziswa okanye umntu onekhontrekthi nesiphathamandla esongameleyo okanye umntu ogunyaziswe seso siphathamandla, xa esenza imisebenzi yakhe phantsi kwalo Mthetho; 10
- (f) akhanyisele izibane kwisibonelelo sezothutho okanye ongeze izibane ezikuwo ngendlela enokubeka izithuthi esichengeni sengozi; 15
- (g) ahlale ngokungekho mthethweni kwisithuba esiziimitha ezintlanu ukusuka kwisibonelelo sezothutho okanye kwindawo enonyino lolwakhiwo;
- (h) agalele, aqokelelele okanye aphilazele okanye enze okanye avumele ukuba kugalelwe, kuqokelelelwe okanye kuphalazelwe kumhlaba owayame isibonelelo sezothutho nayiphi na isabstensi okanye into enokuthi iphetshethelwe okanye ikhukulisekele kweso sibonelelo sezothutho okanye enokuba nobungozi kwizithuthi nakubasebenzisi bendlela; okanye 20
- (i) athi ngobuxoki azenze igosa, umsebenzi, umgunyaziswa wesiphathamandla esongameleyo okanye umntu onekhontrekthi naso .
- (2) Akukho mntu okanye ziko, kubandakanya nesigqeba sikarhulumente, linokuthi ngaphandle kokugunyaziswa ngulo Mthetho okanye ngokuhambisaniyo nemiqathango yalo Mthetho— 25
- (a) ombe, asuse okanye ajike imo yomhlaba okanye yomphezulu wawo, igrabile, iindlela ezimbiweyo, iindnga okanye imisele (*iidreyini*) kuso nasiphi na isibonelelo sezothutho; 30
- (b) apayinte okanye ancamathisele umfanekiso, unobumba, umzobo, umqondiso, uphawu, umbhalo okanye enye into elolo hlobo endleleni okanye kwibhulorho eyinxenye yesibonelelo sezothutho okanye kumqondiso wendlela okuso nasiphi na isibonelelo sezothutho;
- (c) afake umqondiso wendlela kuso nasiphi na isibonelelo sezothutho; 35
- (d) asebenzise nasiphi na isibonelelo sezothutho esakhiwayo okanye esilungiswayo, ngaphandle kokuba kungaloo ndlela ibonisiweyo sisiphathamandla esongameleyo ngemiqondiso yendlela okanye ngazo naziphi na ezinye iindlela;
- (e) avale, ajike, atshintshe okanye ngayo nayiphi na indlela ambonzelekele kuso nasiphi na isibonelelo sezothutho; 40
- (f) avale isibonelelo sezothutho ekuselungelweni labantu ukuba basisebenzise okanye afake ucingo okanye enye into yokuthintela abantu bangasisebenzisi isibonelelo sezothutho eso;
- (g) asebenzise isibonelelo sezothutho esivaliweyo kwizithuthi kwaza kwaboniswa oko ngemiqondiso yendlela efanelekileyo; 45
- (h) ajikele izithuthi kwindlela okanye kumgaqo kaloliwe, ngaphandle kwakwimeko yongxamiseko; okanye
- (i) atshintshe, asuse, aphazamise, onakalise okanye atshabalalise iphini, ibhaka-neokanye nayiphi na enye into engumqondiso ebekwe phezu okanye ngaphantsi komhlaba ekufezekiseni iinjongo zalo Mthetho. 50
- (3) Isiphathamandla esongameleyo sisenokuthi ngento ebhaliweyo sigunyazise ukuba kwenziwe into engavumelekanga ngokwecandelwana (2), kambe ke sithathele ingqalelo imiqathango nexesha elibekiweyo naxa kuthe kwakhutshwa intlawulo okanye irenti ebekiweyo, ukuba sanelisekile ukuba akusayi kubakho monakalo wenzekayo kwisibonelelo sezothutho okanye ukubekeka koluntu esichengeni. 55

Izigqitho nezohlwayo

61. (1) Umntu wenza isigqitho ukuba—

- (a) utyeshela icandelo 4(2) okanye (3), 36(1) okanye (2), 40(1) okanye (3), 42(1), 43(1), 44(1), 47(5) okanye (11), 48(1), 50(1), 51(1) okanye 60(1) okanye (2); 60

- (b) uyasilela ekuthobeleni isaziso phantsi kwecandelo 38(2) lingadlulanga elo xesha lixelwe kwisaziso eso;
- (c) uyasilela ukufezekisa uxanduva alunikweyo phantsi kwecandelo 43(7)(a), (b) okanye (c);
- (d) uyasilela ukuthobela isazio phantsi kwecandelo 43(10)(a) lingadlulanga elo xesha lixelwe kwisaziso eso; 5
- (e) uyasilela ukuthobela umqathango obekwe phantsi kwecandelo 44(4);
- (f) uyasilela ukuthobela isaziso esikhankanywe kwicandelo 46(1);
- (g) uyasilela ukunika igosa elinegunya igama lakhe elipheleleyo neadresi yendawo ahlala kuyo xa zither zafunwa ngokwemiqathango yecandelo 51(4)(b)(i); 10
- (h) uyasilela ukuthobela umyalelo onikwe phantsi kwecandelo 51(4)(b)(ii); okanye
- (i) ungenisa imfuyo kwisibonelelo sezothutho ngokuchaseneyo nesaziso esikhankanywe kwicandelo 53(1)(i). 15
- (2) Umntu othe wabanjelwa isigqitho phantsi kwecandelwana (1) unokugwetywa ifayini okanye ukuvalelwa entolongweni isithuba esingadlulanga kwiinyanga ezili-12 okanye azinikwe zozibini ezi zigwebo.
- (3) Iimali zezo fayini kufuneka ziye kufakwa kwiNngxowa yeMali yePhondo, xa inguMphathiswa osisiphathamandla esongameleyo okanye kumasipala ukuba ngumasipala isiphathamandla esongameleyo. 20
- (4) Phezu kwaso nasiphi na isohlwayo esisesinye, inkundla egweba umntu ngesigqitho phantsi kwecandelwana (1) isenokuthi loo mntu imgwebe isohlwayo esiya kuhlawulwa isiphathamandla esongameleyo nesilingana nayo yonke imali eyinkcitho ekungenwe kuyo seso siphathamandla songameleyo okanye eqikelelwa sisiphathamandla eso ukuba yinkcitho esithe sangena kuyo ngokuphathelele kuwo nawuphi na umsebenzi oyimfuneko ekubuyiselweni kwesibonelelo sezothutho kwimeko yaso yangaphambili, okanye, apho kufaneleke njalo, ekulungiseni loo monakalo, aze athi ke akusilela ekusihlwuleni eso sohlwayo, imgwebele ukuvalelwa entolongweni isithuba esingadlulanga kwiinyanga ezintathu. 25 30
- (5) Icandelwana (4) alisithinteli isiphathamandla esongameleyo ekubeni sibize umntu nayiphi na imali esisegunyeni lokuyibiza kuloo mntu, size ke siyithobe ngeso sixa athe wasihlawula njengosohlwayo ngokwemiqathango yecandelwana (4), ukuba kwenzekile oko, nokuba loo mntu ubekwe ityala wagwetywa ngeso sigqitho ngokwemiqathango yeli candelo, nokuba akakhange abekwe tyala agwetywe. 35

Izibheni ngesigqibo seNtloko yeSebe okanye segosa

62. (1) Umntu ochatshazelwa sisigqibo seNtloko yeSebe okanye segosa leSebe eli ngokwemiqathango yalo Mthetho usenokuthi afake isiheno kuMphathiswa ngeso sigqibo.
- (2) Isibheni esifakwe ngokwecandelwana (1) kufuneka sibhalwe siqwalaselwe ngokwendlela ebekiweyo isakuba yenziwe intlawulo ebekiweyo. 40
- (3) UMphathiswa usenokuthi—
- (a) asiqwalasele isibheni eso enze esakhe isigqibo ngaso; okanye
- (b) amisele iqelana loqwalaselo lwezibheni elinamalungu anyulwe ngokwendlela ebekiweyo lokuba liqwalasele eso sibheni, lize licebise uMphathiswa. 45
- (4) UMphathiswa usenokuthi asakuba esiqwalasele isibheni eso, asixhase isigqibo eso, okanye asikhabe okanye asifakele amanye amasolotya eso sigqibo okanye loo mqathango okanye loo myalelo ububhenelwa okanye ke usenokukhupha nawuphi na omnye umyalelo ofanelekileyo, kubandakanya nomyalelo wokuba imali yesibheni ebekiweyo ebitha yahlawulwa ngumbheni makayibuyiselwe, okanye abuyiselwe inxenye yayo. 50
- (5) Isibheni esenziwe phantsi kweli candelo asisimisi isigwebo esi sibhenelwayo, ngaphandle kokuba uMphathiswa uyalela ngolunye uhlobo.

Eminye imiqathango yexeshana

63. (1) Nawuphi na umpoposho, isaziso, isiqinisekiso, umgaqo okanye umthetho kamasipala othe wenziwa okanye wakhutshwa nawo nawuphi na umyalelo, ulwamkelo, imvume okanye igunya elinikiweyo okanye nawuyiphi na enye into ethe yenziwa phantsi komthetho othe watshitshiswa ngulo Mthetho nebezisebenza kufuphi phambi kokuba uqalise ukusebenza lo Mthetho, nebezinokuthi zenziwe, zikhutshwe, zinikwe, zithathwe 55

okanye zenziwe phantsi kwawo nawuphi na umqathango walo Mthetho, zithathwa ukuba zenziwe, zikhutshwe, zinikwe, zithathwe phantsi kwalo Mthetho.

(2) Uthathelo lomhlaba oluqale nobelusenziwa sisiphathamandla esongameleyo kufuphi phambi kokuqalisa kwalo Mthetho ukusebenza ngokunjalo nenkqubo yokubeka imbuyekezo, phantsi kwemiqathango yomthetho otshitshiswayo ngulo Mthetho, kufuneka luqunjelwe ngokwemiqathango yalo mthetho utshitshiswayo ngokungathi lo Mthetho awukhange uwiswe, kodwa ke amacala asenokuthi avumelane ngokuba kuqhutywe ngothathelo olo okanye ngeengxoxo ezo ngokwemiqathango yalo Mthethoba. 5

Unxulumano lwalo Mthetho neminye imithetho 10

64. Imiqathango yalo Mthetho ilulongezelelo kuyo nayiphi na eyeminye imithetho ephathelele kwimiba eqwalaselweyo kulo Mthetho; ayithathi iindawo zayo loo miqathango yeminye imithetho.

Ukutshitshiswa kwemithetho

65. Kuthathelwe ingqalelo icandelo 63(1), le mithetho ikhankanywe kwiShedyuli iyatshitshiswa apho ichaphazela kwaye inikwe iPhondo eli ngokolu hlobo lubonakaliswe kwikholam yesithathu yayo. 15

Isihlokwana esifutshane nokuqalisa

66. Lo Mthetho ubizwa ngokuba nguMthetho weZibonelelo zezoThutho weNtshona Kolonit, 2013, kwaye uya kuqalisa ukusebenza ngaloo mhla uya kubekwa nguMphathiswa ngompoposho *kwiGazethi yePhondo*. 20

ISHEDYULI

iNomb yomthetho nonyaka	Isihlokwana esifutshane	Okutshitshisiweyo kuwo
uMthetho 21 ka-1940	oyiAdvertising on Roads and Ribbon Development Act, 1940	Wonke.
uMthetho 22 ka-1944	oyiNational Roads and Ribbon Development Amendment Act, 1944	Wonke.
uMthetho 28 ka-1952	oyiAdvertising on Roads and Ribbon Development Amendment Act, 1952	Wonke
uMthetho 16 ka-1962	oyiAdvertising on Roads and Ribbon Development Amendment Act, 1962	Wonke.
uMthetho 16 ka-1966	oyiAdvertising on Roads and Ribbon Development Amendment Act, 1966	Wonke.
uMthetho 6 ka-1976	oyiAdvertising on Roads and Ribbon Development Amendment Act, 1976	Wonke
uMthetho 2 ka-1979	oyiAdvertising on Roads and Ribbon Development Amendment Act, 1979	Wonke.
uMthetho 43 ka-1985	oyiAdvertising on Roads and Ribbon Development Amendment Act, 1985	Wonke
Ordinance 19 ka-1976	oyiRoads Ordinance, 1976	Wonke
Ordinance 18 ka-1977	oyiRoads Amendment Ordinance, 1977	Wonke
Ordinance 11 ka-1978	oyiRoads Amendment Ordinance, 1978	Wonke
Ordinance 6 ka-1980	oyiRoads Amendment Ordinance, 1980	Amacandelo 1 to 8.
Ordinance 28 ka-1980	oyiRoads Second Amendment Ordinance, 1980	Wonke
Ordinance 5 ka-1982	oyiRoads Amendment Ordinance, 1982	Wonke
Ordinance 20 ka-1983	oyiRoads Amendment Ordinance, 1983	Wonke
Ordinance 13 ka-1985	oyiRoads Amendment Ordinance, 1985	Wonke.
Ordinance 16 ka-1986	oyiRoads Amendment Ordinance, 1986	Wonke.

IMEMORANDAM NGEENJONGO ZOMTHETHO OSAYILWAYO WEZIBONELELO ZEZOTHUTHO WENTSHONA KOLONI, 2012

1. IINJONGO ZALO MTHETHO USAYILWAYO

Eyona njongo iphambili yoMthetho oSayilwayo weZibonelelo zezoThutho weNtshona Koloni, 2012 (uMthetho oSayilwayo) kukuba uthathe indawo yoMthetho wePhondo (*wamandulo*) oyi*Roads Ordinance*, 1976 (uMthetho wePhondo 19 ka-1976) noMthetho oyi*Advertising on Roads and Ribbon Development Act*, 1940 (uMthetho 21 ka-1940). Yomibini le mithetho yeyangaphambi koMgaqo-siseko weRiphabliki yoMzantsi Afrika, 1996 (uMgaqo-siseko), kwaye ayihambelani nezigqeba zakwarhulumente ezikhoyo namhlanje phantsi kolu lawulo, kwaye ayizibonakalisi ngokwaneleyo iindlela zolawulo ezifunekayo ukulawula ezendlela ngokomthetho ofana nomthetho iNational Environmental Management Act, 1998 (uMthetho 107 ka-1998).

Usakuba uqalisile ukusebenza, lo Mthetho uSayilwayo uya kuthi ulivumele iPhondo eli noomasipala ukuba balawule izibonelelo zezothutho phantsi kwezi ndidi: iindlela ezinkulu, imigaqo yoololiwe kwakunye nezinye izibonelelo zezothutho ngokwemiqathango yemithetho emitsha. Kubandakanywe neenkqubo eziya kuthi zivumele ukubekwa kwezibonelelo zezothutho, uqulunqo lwezicwangciso, ukuthathwa kwemihlaba, ukwakiwa, ulawulo, nolondolozo lwezibonelelo.

Lo Mthetho uSayilwayo uthatha indawo yemisebenzi elungiselelwe phantsi kwemithetho ekhoyo, kodwa ke uneenkalo ezininzi ezintsha kwaye ukhawulelana neemfuno kunye namagunya ePhondo eli noomasipala okunyusa inxaxheba yezi-bonelelo zezothutho ikwazi ukuba ithi kratya noko kule ilungiselelwe kule mithetho ikhoyo ijolise kakhulu ezindleleni. Lo Mthetho uSayilwayo uza kulungiselela ulawulo lwezibonelelo zezothutho, kubandakanya nezithuthi ezingasebenzisi zinjini, uthutho loluntu, ukuhanjiswa kweempahla nezithuthi ezingezozikarhulumente (*ezabantu*).

2. IZIQULATHO ZALO MTHETHO USAYILWAYO

Le Memorandam inika iinkcukacha ngeenjongo, ngeziqulatho nangendlela yokusebenza kwalo Mthetho uSayilwayo ngokuthi ishwankathele iziqulatho zeZigaba 1 ukuya kwese-9 zalo Mthetho uSayilwayo.

ISIGABA 1: AMANGENELO ENTSHAYELELO

ISIGABA 1 siqulathe imihlathi enika iinkcazo-magama ezinabileyo, sichaze iziphathamandla ezongamele izibonelelo zezothutho phantsi kwalo Mthetho uSayilwayo, size sibeke nesiseko sobunini bezibonelelo zezothutho nomhlaba ezakhiwe kuwo izibonelelo zezothutho.

Iinkcazo-magama, iziphathamandla, ubunini noxanduva lobungcali

- Lo Mthetho uSayilwayo umisela ukuba uMphathiswa okanye umasipala, njengesiphathamandla esongameleyo, kufuneka enze imisebenzi yocwangciso, eyoyilo, eyolawulo neyenkxaso-mali yezi-bonelelo zezothutho eziphantsi kolawulo lwakhe.
- Ubunini bezibonelelo zezothutho kunye nobemihlaba ephakathi kwemida yeendawo ezo busemagxeni ePhondo eli okanye kumasipala.
- UMphathiswa okanye umasipala njengesiphathamandla esongameleyo kufuneka aqinisekise ukuba imisebenzi yobungcali ephambili yenziwa phantsi kweliso lomntu oyiqeqeshelwe ngokufanelekileyo kuloo misebenzi.

ISIGABA 2: ULWAHLULWA-HLULO LWEZIBONELELO ZEZOTHUTHO, UBUBANZI BEENDAWO, IMIDA YOLWAKHIWO NEENDAWO EZINONYINO LOLWAKHIWO

ISIGABA 2 sichaka inkqubo yolwahlulwa-hlulo ekufuneka isetyenziswe kwizibonelelo zezothutho ezichazwe apha kulo Mthetho uSayilwayo, olubandakanya iindlela, imigaqo yoololiwe, izibonelelo zezothutho ezilulungezelelo nezibonelelo zothutho loluntu ezilulungezelelo. Iindawo ezikuzo izibonelelo zezothutho (imida yazo ngaphandle) kunye nemida yazo yolwakhiwo neendawo ezinonyino lolwakhiwo nazo ziyachazwa.

- Lo Mthetho uSayilwayo ungqanyaniswa noMgaqo-siseko, kwaye uza kuphucula imisebenzi ephambili yolawulo lweendlela olufunwa liPhondo eli lube lolwale mihla. Ugxininiso kulo Mthetho uSayilwayo lukulawulo lweendlela eziphambili, kwiindlela ezinkulu nakwiindlela zezithili apha kwiPhondo eli, ezisebenza njengeendlela eziqhagamshelanisa needolophu ezikwimimandla yasemaphandleni apha kweli Phondo nemisebenzi yoomasipala kwiindlela eziphambili neziqhagamshelanisa iidolophu.
- Izitalato zikamasipala, njengeendlela ezikumanqwanqwa asezantsi eendlela eziphantsi kukamasipala, azibandakanywa kulo Mthetho uSayilwayo, kuba kucingelwa ukuba ezi ndlela zona ziya kulawulwa phantsi koMthetho wePhondo (*wamandulo*) oyi*Municipal Ordinance*, 1974 (uMthetho wePhondo 20 ka-1974) okanye phantsi kwemithetho yoomasipala.
- Imiqathango yalo Mthetho uSayilwayo ephathelele ekubekweni, ekulawulweni kweendlela zoomasipala ayijoliswanga ekuhlutheni amagunya oomasipala okuwisa imithetho malunga nombala “weendlela zoomasipala” edweliswe kwiSigaba B seShedyuli 5 yoMgaqo-siseko nabawanikiweyo amagunya ngayo oomasipala ngokwemiqathango yecandelo 156(1) nele-(2) loMgaqo-siseko, kodwa iya kuthi inike oomasipala ezinye iindlela ezixhobisayo, imigangatho, iindlela zokubeka iliso nezonediso-mali lwezo ndlela.
- Oomasipala basenouthi baqulunqe imithetho emalunga nolawulo lweendlela zikamasipala yokuthatha indawo okanye eyandisa nayiphi na inkalo kulo Mthetho uSayilwayo xa injongo ikukuba indlela kamasipala iza kufumana uncediso-mali kwiPhondo eli, apho ke ezinye iinkalo zolawulo lwendlela kamasipala kufuneka zihambe ngokwemiqathango yalo Mthetho uSayilwayo okanye kuya kufuneka ukuba ziqhutywe ngesivumelwano nePhondo eli okanye emva kokuthethana nalo.

Ukwandiswa komhlaba ukwenzela ukuba ubandakanye nezibonelelo zothutho loluntu

- Lo Mthetho uSayilwayo uyawunabisa umhlaba wemithetho yezibonelelo zezothutho ufikelele ngaphaya kwalowo ubunyathelwa kuMthetho wePhondo wamandulo ukhoyo uyi*Roads Ordinance*, 1976, nakuMthetho oyi*Advertising on Roads and Ribbon Development Act*, 1940, imithetho leyo ethi xa ijongiswisa ifumaniseke ijolise kuphela nje ekubekweni, ekulawulweni nasekuxhasweni ngemali kolwakhiwo nolondolozo lweendlela zephondo nakwiindlela ezinkulu zikamasipala “ezipoposhiweyo”.
- Lo Mthetho uSayilwayo uya kuthi ulungiselele nokubekwa kwezibonelelo zezothutho loluntu phezu kweendlela ezi, ezifana neendlela zoololiwe, izilungiselelo zokudluliselwa kwabakhweli kunye neendlela ezikwizinga eliphezulu zothutho loluntu ezilungiselelwe ukukhawulezisa iibhasi.

Izibonelelo zezothutho ezilulungezelelo

- Izibonelelo zezothutho ezilulungezelelo zilungiselelwe kulo Mthetho uSayilwayo kuba izibonelelo ezingekho apha endleleni, kodwa zilungiselelwe iinjongo ezinxulumene nendlela leyo, ziyakwazi ukuba zibekwe nazo. Imizekelo yezibonelelo ezilolo hlobo ibandakanya iindawo zokuphumla, amaziko enkonzo yofikelelo ngqo, iibhulorho zokuveyisha namaziko olawulo lwezithuthi.
- Izilungiselelo zezibonelelo zothutho loluntu ezilulungezelelo nazo zilungiselelwe, izibonelelo ezo ezijoliswe ekuncediseni kumsebenzi wothutho loluntu. Ezi zinokubekwa phaya ezindaweni zazo, iindawo ezo ezithe geqe kwiindawo zemigaqo yoololiwe okanye ezindleleni ezibekelwe izithuthi zothutho loluntu. Imizekelo yezibonelelo ezilolo hlobo ibandakanya iindawo zokutshintsha zothutho loluntu, iiyadi zokukhokela needepo.

ISIGABA 3: IMIQATHANGO YEXESHANA MALUNGA NEENDLELA ESEZIKHONA

ISigaba 3 silungiselela umsetyenzana wexeshana ofanele kuqalisa ukusukela kumhla oqalisa ngawo ukusebenza lo Mthetho uSayilwayo.

Imiqathango yexeshana

- Ukusukela kumhla wokuqalisa kwalo Mthetho uSayilwayo ukusebenza, zonke iindlela eziyimityino ebalulekileyo, ezinkulu, ezezithili, iindlela ezincinane neendledlana zikawonke-wonke ezabekwa phantsi komthetho wephondo i*Roads Ordinance*, 1976, ziya kuthathwa ngokuba zabekwa ngokwaphantsi kwalo Mthetho uSayilwayo, kwaye yonke imiqathango eyayihamba noko kubekwa iya kuqhuba ngokusebenza ngokungathi indlela leyo okanye indledlana kawonke-wonke leyo ibisoloko isebenza ngokweenkqubo zocwangciso nokubekwa zalo Mthetho uSayilwayo.
- Kucetywa ukuba usakuba uqalisile ukusebenza lo Mthetho uSayilwayo kuya kuqaliswa inkqubo evumela uhlengahlengiso lokwahlulwa-hlulwa kweendlela nobunini beendlela kweli Phondo. Imiqathango yexeshana kulo Mthetho uSayilwayo ivumel
- a ukudweliswa kwazo zonke iindlela ezabekwa phantsi komthetho wephondo, i*Roads Ordinance*, 1976, nokwahlulwa-hlulwa ngokutsha kwezi ndlela phantsi kwalo Mthetho uSayilwayo, apho kuyimfuneko.
- Lo msebenzi uya kuthi kanaanjalo ubandakanye nodluliselo lwezinye zeendlela ezabekwayo phakathi kwePhondo eli noomasipala ngoomasipala abafanelekileyo ezikwiingqi zabo izibonelelo ezo. Iindlela kufuneka zidluliselwe ngokwemiqathango yezivumelwano zodluliselo phakathi kwePhondo eli noomasipala.

ISIGABA 4: UCWANGCISO NOKUBEKWA KWEZIBONELELO ZEZOTHUTHO

ISigaba 4 sivelisa iinkqubo ezintsha ezingekhoyo kwi*Roads Ordinance*, 1976, eziyimfuneko kodwa ngenxa yemithetho enxulumene nokusingqongileyo kunye nothethwano oluyimfuneko phambi kokuba kuqhutywe nayiphi na iprowujekthi. Ucwangciso oluliqili lubandakanya ukujoliswa phambili kocwangciso lwezibonelelo zezothutho nocwangciso lwezemali oluhamba nalo.

Ukubandakanywa kweemfuno zocwangciso oluliqili nocwangciso lweeprowujekthi

- Ucwangciso oluliqili lwezibonelelo zezothutho olujoliswe phambili olufunwa kuMthetho oyi*National Land Transport Act*, 2009 (uMthetho 5 wama-2009), luyabethelelwa kulo Mthetho uSayilwayo, ucwangciso olo ululungiselela namaxesha okwenziwa nokugqitywa koqulunqo lohlahlolwabiwo-mali xa kufuneka uncediso-mali oluvela kwiPhondo eli. IPhondo eli kufunwa ukuba malithi lingadlulanga ixesha elibekiweyo linike izicwangciso ezibandakanya iindawo eziphambili kucwangciso oluphathelele kwizibonelelo zezothutho zePhondo eli, khona ukuze oomasipala bakwazi ukuzifaka iiprowujekthi zalo (iPhondo) xa besenza uhlaziyo loonyaka lwezicwangciso zabo ezimanyanisiweyo.
- Lo Mthetho uSayilwayo ulungiselela nenkqubo yokuqulunqwa kocwangciso lweeprowujekthi zezibonelelo zezothutho, ekufuneka luqhutywe xa kucetywa ukwenziwa kwendlela entsha, umgaqo kaloliwe omtsha nezinye izibonelelo zezothutho ezilulungezelelo ezitsha, ukufuduswa kwazo, ukwandiswa kwazo okanye ukuvalwa kwazo. Kanaanjalo kukwalungiselelwe nokhuselo oluthile kulo msebenzi wocwangciso xa umnini womhlaba ekucetywa ukubekwa kuwo isibonelelo sezothutho enqwenela ukuwuphuhlisa loo mhlaba okanye ukutshintsha indlela osetyenziswa ngayo.

Ukubekwa kwezibonelelo zezothutho ngumasipala

- Umgaqo-nkqubo obalulekileyo obandakanyiweyo kulo Mthetho uSayilwayo ngowenkxaso enikwa oomasipala ngakwicala lemithetho apho iindlela ezikwizinga eliphezulu ezonganyelwe ngumasipala, zinokuthi zibekwe ngumasipala engakhange abe uthethene nePhondo eli. Oomasipala bavuna lukhulu kwimiqathango yalo Mthetho uSayilwayo ucacisa iindlela zokulawulwa kwezibonelelo.
- Kwiimeko apho indlela kamasiala ithe yabekwa, umasipala lowo kuya kufunwa ukuba athobeke iinkqubo nemigangatho ebekiweyo kuMthetho uSayilwayo lo nakwimigaqo yawo. Kule meko ke iPhondo eli liya kuthi libe nenxaxheba ekukubeka iliso ngenjongo yokuqinisekisa ukuba ezo ndlela zikamasipala zibekiweyo zilawulwa ngokweenkqubo nemigangatho etyetyeshiweyo.

ISIGABA 5: IINKQUBO MALUNGA NOKUVALWA KWEZIBONELEO ZEZOTHUTHO

ISigaba 5 siqulathe iinkqubo ezifanele kulandelwa sisiphathamandla esongameleyo xa indlela ethile okanye isibonelelo sezothutho esithile siza kuvalwa okanye siza kujikwa. Umsebenzi wocwangciso ochazwe kwiSigaba 4 kufuneka uqhutywe phambi kokuba kuvalwe indlela okanye isibonelelo sezothutho.

ISIGABA 6: IZICWANGCISO ZENKXASO-MALI NEZONCEDISO-MALI

ISigaba 6 silungiselela uncediso ngenkxaso-mali efanele kunikwa oomasipala liPhondo eli, ngokolu hlobo ilungiselelwe ngalo ngoku kwi*Roads Ordinance*, 1976. Le miqathango iyimfuneko ekuqinisekiseni ukuqhuba kokuhamba koncediso-mali loomasipala olujoliswe ekulondolozweni kweendlela zoomasipala ezinezithuthi ezininzi ezihamba kuzo, nasekulungiseleleni izivumelwano zoncediso ngemali xa iindlela zePhondo zidluliselwa koomasipala ngexesha lale miqathango yexeshana ikhankanywe kwiSigaba 3.

Ulungiselelo loncediso-mali olunikwa oomasipala

- Lo Mthetho uSayilwayo ulungiselela ukuba indlela ebekwe ngumasipala mayifumane uncediso-mali kwiPhondo eli, njengokuba kunjalo kwi*Roads Ordinance*, 1976. Apho kwenzekayo oku, kufuneka kungenwe kwisivumelwano soncediso-mali ngumasipala kunye noMphathiswa.
- Apho kukho isivumelwano soncediso-mali lwendlela kamasipala ebekiweyo, izigqibo ezibalulekileyo ezenziwayo malunga nemigangatho notshintsho kuloo ndlela ziya kufuna ukuba zamkelwe liPhondo eli ngokuthotyelwa kweenkqubo nemigangatho equlathwe kulo Mthetho uSayilwayo, okanye ngezizigqeba ezinxibelelanisayo phakathi kwePhondo eli nomasipala lowo.

ISIGABA 7: UKUTHATHELWA UMHLABA NEMBUYEKEZO

ISigaba 7 silungiselela ukuba isiphathamandla esongameleyo sithathe umhlaba ngeenjongo zokubeka isibonelelo sezothutho nokuba singene kuloo mhlaba siwuthathe.

ISIGABA 8: ULAWULO NOKUPHATHWA KWEZIBONELELO ZOMHLABA NEMIHLABA EMELENE NAYO

ISigaba 8 siqulathe imiqathango ekhoyo ngoku kwi*Roads Ordinance*, 1976, nakuMthetho oyi*Advertising on Roads and Ribbon Development Act*, 1940, efunekayo xa isiphathamandla esongameleyo silawule zonke iinkalo zolawulo lwezibonelelo zezothutho, ngaphaya kokuqulunqa ucwangciso lwezibonelelo zezothutho nokubonelela ngazo, oko kukuthi ngeli xesha lokusebenza kwesibonelelo sezothutho emva kokusetyenziswa.

Invume nolawulo lwezibhengezo

- Uxanduva lwesiphathamandla esongameleyo olubaluleke kakhulu kukuqinisekisa ukuba izibhengezo ezivunyelweyo ecaleni kweendlela ezinkulu zinokhuseleko kwaye zamkelekile. Imiqathango yalo Mthetho uSayilwayo iyakuthintela ukufakwa kwezibhengezo kwimigama ebekiweyo ukusuka endleleni ngaphandle kokuba oko kuvunywe sisiphathamandla esongameleyo, kwaye iyasinika isiphathamandla igunya lokuthatha amanyathelo afanelekileyo okususa izibhengezo ezingagunyaziswanga.

Ulawulo lokungena endleleni

- Isiphathamandla esongamele indlela kufuneka sihambe ngokwezikhokelo nemigangatho ephathelele kubungakanani, kwimigama ephakathi kweziphambuka nohlobo lweendlela eziphambanayo kunye neendledlana ezingenisa kwiindlela eziphantsi kolawulo lwaso. Ezi zikhokelo nale migangatho zilungiselelwe kulo Mthetho uSayilwayo. Abantu abangabanini bemihlaba emelene nendlela baya

kuthintelwa ekwakheni indlela engena kwindlela enkulu ngaphandle kokuba isipathamandla esongameleyo siyabanika imvume yokwenza oko.

Izinto ezilulwakhiwo phezu okanye phantsi kwezibonelelo zezothutho

- Lo Mthetho uSayilwayo ubonelela ngolawulo oluqinileyo nolunempumelelo lwesiphathamandla esongameleyo ekufakweni okanye ekwakhiweni nayo nayiphi na into elulwakhiwo phezu okanye phantsi kwendlela okanye esinye isibonelelo sezothutho.
- Abantu abanomnqweno wokufaka okanye wokwakha izinto ezilulwakhiwo kufuneka bafake izicelo kwisiphathamandla esongameleyo becela imvume, kwaye basenokubizwa imali ngeemvume zokufaka izinto ezilulwakhiwo neyerenti yaloo ndawo zikuyo ezo zinto zilulwakhiwo ngalo lonke eli xesha zilapho ezo zinto.

Unyino kwiinguqulo zeendlela osetyenziswa ngazo umhlaba

- Isiphathamandla esongameleyo sinegunya lokulawula utshintsho lweendlela osetyenziswa ngayo umhlaba omelene nezibonelelo zezothutho eziphantsi kolawulo lwaso. Eli gunya libandakanya nokunika imvume yolwahlulwa-hlulo nalo naluphi na uphuhliso olunokuthi lube nefuthe elingelihle kwisibonelelo sezothutho eso okanye olunokuba neziphumo ebezingakhange zicingelwe ngenxa yophuhliso lomhlaba oludalwa ziinguqu koko umhlaba ubukade usetyenziselwa kona. Umzekelo, kubalulekile ukuphepha ulwakhiwo lwezikolo, iivenkile nezinye izakhiwo zeenkono zoluntu kufutshane kakhulu nendawo ehlala uluntu nalapho uluntu luza kusebenzisa indlela enguhola ukufumana inkonzo kwezi ndawo, ngaphandle kokuba kuza kwakhiwa ibhulorho yeenyawo yokuwela uhola lowo.

Iingcingo, iigeyithi neeeyithi zothintelo lwezilwanyana

- Lo Mthetho uSayilwayo ulungiselela nokufakwa nokulondolozwa kweengcingo ezibiyele indawo okanye amasango esibonelelo sezothutho, iigeyithi neeeyithi zothintelo lwezilwanyana ezindleleni sisiphathamandla esibonelelo sezothutho kunye nomni womhlaba omelene neso sibonelelo sezothutho.

ISIGABA 9: IMIQATHANGO NGOKUBANZI

ISigaba 9 sibandakanya neqela lemiqathango eyimfuneko ekusetyenzisweni ngokufanelekileyo kwalo Mthetho uSayilwayo. Le miqathango ke ibandakanya:

- amagunya athile oMphathiswa namagunya eziphathamandla ngokubanzi;
- amagunya oMphathiswa okuqulunqa imigaqo;
- imithetho kamasipala enokuthi iwiswe ngoomasipala encedisa imiqathango yalo Mthetho uSayilwayo okanye ethatha indawo yayo;
- imiqathango emalunga nezivumelwano nabagunyaziswa ezinokwenziwa ngeenjongo zokunikezela imisebenzi kwezinye izigqeba;
- unyino lobutyala beziphathamandla ezongameleyo;
- izithintelo ngokubanzi, izigqitho nezohlwayo apho kuye kwabakho ulwaphulo okanye utyeshelo; kunye
- nemiqathango ephathelele ekufakweni kwezibheno ngezizigqibo ezithathwe yiNtloko yeSebe okanye ligosa.

Lo Mthetho uSayilwayo ukwalungiselela nokutshitshiswa koMthetho wePhondo (wamandulo) oyi*Roads Ordinance*, 1976, noMthetho oyi*Advertising on Roads and Ribbon Development Act*, 1940.

3. UTHETHWANO

Ekuqulunqweni kwalo Mthetho uSayilwayo kwaye kwathethwana nala maqela achaphazelekayo alandelayo:

- (a) IKomiti yezoBuchwepheshe bezoThutho yePhondo leNtshona Koloni;
- (b) IKomiti yezoThutho yePhondo leNtshona Koloni;
- (c) iSixeko seKapa;
- (d) bonke oomasipala kweli Phondo;
- (e) amanye aMaphondo anemithetho efana nalo;
- (f) iSebe loMphathiswa wePhondo: iiNkonzo zezoMthetho;

- (g) iCandelo leeNkcitho zikaRhulumente wePhondo; kunye
(h) neGqwetha likaRhulumente.

4. UCHAPHAZELEKO LWABASEBENZI

Alukho

5. UCHAPHAZELEKO NGOKWEZEMALI

Alukho

6. IGUNYA LOKUWISA IMITHETHO

UMphathiswa wePhondo owongamele uthutho nemisebenzi karhulumente wanelisekile ukuba yonke imiqathango ekulo Mthetho uSayilwayo iyangqamana negunya elinalo iPhondo eli lokuba liwise imithetho.

