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The following Draft Bill is hereby published for general information:

Draft Western Cape Transport Infrastructure Bill, 2008.

Die volgende Konsepwetsontwerp word hiermee gepubliseer ter algemene inligting:

Wes-Kaapse Konsepwetsontwerp op Vervoerinfrastruktuur, 2008.

Ngoku kupapashwa lo Mthetho uYilwayo ulandelayo ukwenzela ulwazi jikelele:

Umthetho oyilwayo iDraft Western Cape Transport Infrastructure Bill, 2008.

P.N. 328/2008 6 October 2008

You are invited to comment on the Draft Western Cape Transport Infrastructure Bill, 2008.

The primary intention of the Bill is to replace the Roads Ordinance, 19 of 1976 and the Advertising of Roads and Ribbon Development Act, 21 of 1940, both of which predate the Constitution, 108 of 1996, are inconsistent with the institutional structures that exist today under the new dispensation and do not adequately reflect the needs.

Comment or representations should be submitted in writing on or before Friday, 7 November 2008 by fax, e-mail or by posting to:

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U word uitgenooi om kommentaar te lewer op die Wes-Kaapse Konsepwetsontwerp op Vervoerinfrastruktuur, 2008.

Die primêre oogmerk van die Wetsontwerp is die vervanging van die Padordonnansie, 19 van 1976, en die Wet op Adverteer langs en Toebou van Paaie, 21 van 1940. Albei wette is voorafgaande aan die Grondwet, 108 van 1996, is strydig met die institusionele strukture wat tans onder die nuwe bedeling bestaan en is nie 'n gepaste weerspieëling van die behoeftes nie.

Geskrewe kommentaar of vertoë moet voor of op Vrydag, 7 November 2008 per faks, e-pos of pos aan die onderstaande persoon gerig word:

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P.N. 328/2008 6 Oktobha 2008

Uyacelwa ukuba uphose izwi kumthetho oyilwayo iDraft Western Cape Transport Infrastructure Bill, 2008.

Injongo eyintloko yalo Mthetho oYilwayo kukungena endaweni yommiselo i-Roads Ordinance, 19 ka-1976 kunye nomthetho i-Advertising of Roads and Ribbon Development Act, 21 ka-1940, yomibini eyawiswa ngaphambi kokubakho koMgaqo-siseko, 108 ka-1996, engangqinelaniyo nezakheko zamaziko ezikhoyo namhlanje phantsi kwendlela yokulawula entsha yaye ayizibonakalisi ngokwanelisayo iimfuno ezikhoyo.

Amagqaba-ntshintsho okanye iintetho ezimela izimvo zifanele zibhalwe zize zithunyelwe ngoLwesihlanu umhla wesi-7 kaNovemba 2008 okanye ngaphambi kwawo ngefeksi, nge-imeyil okanye ngeposi ku:

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DRAFT WESTERN CAPE TRANSPORT INFRASTRUCTURE BILL, 2008

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 Province of the Western Cape, as follows:—

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INTRODUCTORY PROVISIONS

Definitions

1. In this Act, unless the context indicates otherwise—
- “**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; 25
- “**ancillary road infrastructure**” means a provincial or municipal facility, declared in terms of section 8(1)(a) to (h), including a parking area, rest area, direct access service site, stopping place, weighbridge site, traffic control centre and all other related incorporated facilities including commercial facilities; 30
- “**ancillary public transport infrastructure**” means a provincial or municipal facility declared in terms of section 8(2)(a) to (d) required for the operation of public transport services, including a public transport interchange for the use or management of trains, buses or taxis and their passengers, a marshalling yard for the operation of bus services, a depot contemplated under section 124 of the NLTTA, a control or information centre for public transport operation, and all immovable property and servitudes including commercial facilities, used in connection with such infrastructure; 40
- “**arterial management plan**” means a corridor plan for a major arterial route or a section of a major arterial route, approved by the road or public transport infrastructure authority and incorporated into the ITP, spatial development framework and PLTF, which defines the policy for the existing and future use of the facility, provides a physical plan guiding current management and defined stages of future upgrading, and includes restrictions in the changes in adjacent land use, access, parking, public transport, NMT, and the manner in which all users will be guided and restricted on the corridor; 45
- “**boundary of a road**” means the boundary of the reserve of such road; 50
- “**bus transit**” means a passenger bus system which operates either on a road shared with other modes of traffic, or is authorised to use a public transport road exclusively;

- “**building line**” means a line 5 metres outside a road or railway line reserve into which 5 metres no building or any other structures may extend;
- “**building restriction area**” means an area alongside a road or railway line or around the intersection of two roads in which the erection of buildings and any other structures without the permission of the road or transport infrastructure authority is prohibited or restricted; 5
- “**construction**” includes reconstruction;
- “**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- “**declared road**” means a trunk road, a main road, a district road, a minor road or a public transport road declared in terms of this Act, or deemed to be so declared in terms of this Act; 10
- “**declared railway line**” means a railway line declared in terms of this Act;
- “**Department**” means the Department in the Provincial Government responsible for provincial roads and public transport matters or another Department designated by the Premier; 15
- “**direct access service site**” means a facility specifically for the use of transport users or the control of transport operations which takes direct access from a declared road;
- “**divisional road**” means a road previously classified as such under the Ordinance, the classification of which has been changed under section 35(3) to “district road”; 20
- “**district road**” means a provincial or municipal road which was previously declared as a “divisional road” in terms of the Ordinance or has been classified as such in terms of section 6(1)(c);
- “**district municipality**” means a municipality defined as such in section 1 of the Structures Act; 25
- “**erect**” in relation to a fence includes the re-erection of a fence, the entire replacement of the material of a fence and the addition to a fence of any material not required for the purpose of repairs and maintenance;
- “**expropriate**” in the context of section 39 means to dispossess a property owner of his land or the use of his land; 30
- “**Expropriation Act**” means the Expropriation Act, 1975 (Act No. 63 of 1975) or any legislation replacing that Act;
- “**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; 35
- “**freeway**” means a road or section of a road that has been designated as a freeway in terms of the National Road Traffic Act;
- “**Fund**” means the Western Cape Provincial Transport Infrastructure Fund created in terms of Part 5; 40
- “**Gazette**” means the *Provincial Gazette* of the Province;
- “**heavy railway line**” means a passenger rail system, which—
- (a) operates on rails within its own right-of-way, separated from other conflicting rail or road traffic by grade separated facilities;
 - (b) allows for passengers to purchase tickets prior to boarding; 45
 - (c) limits passengers entering and leaving rail coaches only to platforms at fixed stations;
 - (d) is powered by electrical distribution located either overhead or at rail level or by diesel locomotive power; and
 - (e) has a track gauge exceeding 600 millimetres, 50
- and “rail transit” shall have a corresponding meaning;
- “**ITP**” means an integrated transport plan envisaged in section 27 of the NLTTA;
- “**light railway line**” means a passenger rail system, which includes—
- (a) a railway system with a track gauge of less than 600 millimetres;
 - (b) a system running on a monorail or a magnetic levitation system; 55
 - (c) a fixed rail or track system where the vehicles run on pneumatic tyres; and
 - (d) any other system declared to be a light rail system by the Minister by notice in the *Gazette*, which may include a system with a track gauge exceeding 600 millimetres,
- which may be situated in its own rail reserve, within an exclusive right-of-way 60 within a road reserve, or may operate in mixed traffic within a road reserve, and “light rail transit (LRT)” shall have a corresponding meaning;

- “**local municipality**” means a municipality defined as such in section 1 of the Structures Act;
- “**main road**” means a provincial or municipal road which has been so declared in terms of the Ordinance or classified in terms of section 6(1)(b);
- “**mining operations**” means any operation relating to the act of mining and matters directly incidental thereto; 5
- “**metropolitan municipality**” means the City of Cape Town Metropolitan Municipality and any other metropolitan municipality as defined in section 1 of the Structures Act which may be established in the Province after this Act comes into operation; 10
- “**MFMA**” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- “**minor road**” means a provincial or municipal road which has been so declared in terms of the Ordinance or under section 6(1)(d);
- “**Minister**” means the Member of the Provincial Cabinet responsible for transport matters in the Province; 15
- “**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 and housing in the Province; 20
- “**motor cattle-grid**” means a thoroughfare located across the part of a road carrying traffic, and which allows only vehicular traffic to pass by means of a ribbed platform and built to the specifications of the road infrastructure authority;
- “**municipality**” includes all categories of municipalities;
- “**municipal road**” means a main road, district road, minor road or public transport road which has been so declared in terms of the Ordinance or under section 6(1) for which a municipality is the road infrastructure authority; 25
- “**municipal street**” means a street under the authority of a municipality in terms of the Municipal Ordinance or other replacing legislation, which excludes roads declared or deemed to be declared under this Act; 30
- “**Municipal Ordinance**” means the Municipal Ordinance, 1974 (Ordinance No. 20 of 1974);
- “**national road**” means a national road as defined in the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);
- “**National Road Traffic Act**” means the National Road Traffic Act, 1996 (Act No. 93 of 1996); 35
- “**NEMA**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- “**NLTTA**” means the National Land Transport Transition Act, 2000 (Act No. 22 of 2000); 40
- “**NMT**” means non-motorised traffic which includes pedestrians, pedal cycles and other vehicles powered by persons and animal drawn vehicles;
- “**occupier**” means any person who is in actual occupation of land or any person who for the time being has control of land as owner, lessee, licensee or for any other reason; 45
- “**on a road**” or “**on a railway line**” means on or in the area of the relevant road or rail reserve;
- “**Ordinance**” means the Cape Roads Ordinance, 1976 (Ordinance No. 19 of 1976);
- “**ownership of a road, railway line or other transport infrastructure**” means the proprietary right of the Province or municipality over the reserve of the declared road, railway line or other transport infrastructure; 50
- “**ownership of land over which a road, railway line or other transport infrastructure has been declared**” means possession of the property by the person in whose name title to the property is held to be by the Registrar of Deeds; 55
- “**PFMA**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- “**PLTF**” means the provincial land transport framework contemplated in section 22 of the NLTTA;
- “**prescribed**” or “**prescribed by regulation**” means prescribed by the Minister by regulation in the *Gazette*; 60
- “**Promotion of Administrative Justice Act**” means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);

“Province” means the Province or Provincial Government of Western Cape as the context indicates;

“provincial road” means a trunk road, main road, district road, minor road or public transport road contemplated in section 6(1) for which the Province is the road infrastructure authority;

“public pathway” means a provincial or municipal pathway which has been so declared in terms of the Ordinance or classified in terms of section 6(1)(f);

“public transport infrastructure authority” means the Minister or a municipality under whose authority a declared railway line or other public transport infrastructure falls;

“public transport interchange” means ancillary public transport infrastructure, which includes the areas used for the operation of all modes of public transport vehicles, areas for passenger drop-off and pick-up points, buildings used for administration, commercial and retail and associated usages, including waiting, ablation facilities for passengers, and may incorporate a station;

“public transport road” means a provincial or municipal road classified in terms of section 6(1)(e), which may be situated in its own exclusive reserve or within a reserve of a trunk, main, district or minor road, and which is used predominantly by bus, minibus-taxi and metered-taxi modes of public transport according to conditions set by the road or public transport infrastructure authority and made known by notice in the *Gazette* or in accordance with the National Road Traffic Act;

“railway line” means a provincial or municipal railway line declared in terms of section 6(1)(g) and (h) for the use of heavy or light passenger rail systems and comprises the full width of the rail reserve, and includes all works or things forming part of, connected with or belonging to such railway line, but not limited to, the ballast and rail tracks, stations, bridges, tunnels, signalling and marshalling facilities, and other related facilities situated within the reserve and any portion of such railway line;

“reserve” means, in the case of a road or railway line, the full declared width between the edges of the reserve; in the case of ancillary transport infrastructure, the full area inside the perimeter boundary of the site;

“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;

“road” means a provincial or municipal road declared in terms of section 6(1)(a) to (e) or in terms of the Ordinance for the use of non-motorised transport, passenger cars, goods vehicles and public transport vehicles, comprises the full width of the road reserve, and includes all works or things forming part of, connected with or belonging to such road, but not limited to, the roadway, interchanges, motor cattle-grids, sidewalks, cycle lanes, traffic circles, traffic islands, intelligent transport systems, kerbing, embankments, cuttings, subways, culverts, drains, dams, fences, parapets, guards rails, street lights, tunnels, bridges, ponds, parking areas, rest areas, direction signposts, distance indicators, signposts, directions, warnings and any portion of such a road;

“Road Access Standards” means Departmental policy and guidelines as may be prescribed to apply norms and standards relating to all declared roads for the use by road authorities in the Province when undertaking strategic planning of accesses along a declared road and when considering applications for access to and from land uses adjacent to a declared road;

“road infrastructure authority” means, subject to a classification or alteration thereof in terms of Part 2, the Minister or a municipality in whose jurisdiction and under whose authority a declared road is situated;

“road or rail owner” means the road or public transport infrastructure authority for a road or railway line;

“station” includes the areas within a station used for the track, civil infrastructure, train control systems, railway yards, sidings, signals and all other facilities necessary for or incidental to the operation, maintenance and administration of the railway system, and includes, but is not limited to, 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;

- “**stock camp**” means a site for use in connection with the temporary encampment of stock while in transit;
- “**structure**” means any building, structure or thing erected on, above or under the ground, whether permanent or temporary, irrespective of its nature or size;
- “**street**” means a municipal street; 5
- “**Structures Act**” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- “**subsidised transport infrastructure**” means declared municipal transport infrastructure for which subsidy is paid by the Minister in terms of an agreement between the municipality that is the road or public transport infrastructure authority and the Minister; 10
- “**this Act**” includes any regulation made under this Act;
- “**toll road**” means a provincial road which is declared as a provincial toll road in terms of the Western Cape Toll Roads Act, 1999 (Act No. 11 of 1999);
- “**township**” means an area lawfully divided into stands, erven or plots, whether with or without public open spaces, and into streets bounded by the stands, erven, plots or open spaces and— 15
- (a) established or recognised as a township under any law; or
- (b) recognised by the Minister of Local Government as a township for the purposes of this Act, to the extent so recognised; 20
- “**traffic**” means road and rail vehicular traffic and NMT;
- “**traffic signs**” means road traffic signage as defined in the National Road Traffic Act 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; 25
- “**transport infrastructure**” includes declared provincial and municipal roads, ancillary road infrastructure, railway lines and ancillary public transport infrastructure;
- “**trunk road**” means a provincial road which has been so declared in terms of the Ordinance or classified in section 6(1)(a); 30
- “**urban area**” means an area consisting of—
- (a) a township mentioned in paragraph (a) of the definition of “township” or an area divided into agricultural holdings or farms of two hectares or less in extent, but excluding land in that area— 35
- (i) which is commonage land; or
- (ii) which is used or destined to be used mainly for farming or horticulture or the keeping of animals; or
- (iii) which consists of any other open space which has not been developed or reserved for public purposes; or
- (b) a township mentioned in paragraph (b) of that definition which the Minister in consultation with the Minister of Local Government by notice in the *Gazette* has declared to be an urban area for the purposes of this Act; 40
- (c) areas adjacent to townships and extending outside the boundary of the urban area defined in (a) and (b), measured along a declared road into the non-urban area for a distance of 250 metres from the point at which the access to the township nearest to the boundary of the urban area is given; and 45
- (d) where a transport reserve is bounded on one side by an urban area and on the opposite side by a nonurban area, matters governed by the provisions of sections 9, 17, 41, 42, 43, 48 and 49 shall be adjudicated according to the urban or nonurban nature relevant to the side of the corridor where they occur. 50

Scope of this Act

2. This Act is intended to administer provincial and municipal roads, railway lines and other transport infrastructure declared or deemed to be declared under this Act, including the planning, declaration, advertising, access control, subsidy and funding of such transport infrastructure. 55

Authorities responsible for transport infrastructure

3. (1) The road or public transport infrastructure authority responsible for the planning, design, declaration, expropriation, construction, maintenance, control, man-

agement, regulation, upgrading and rehabilitation of roads, railway lines and other transport infrastructure is—

- (a) the Minister in the case of trunk, main, district, minor, public transport roads, public pathways and railway lines declared in terms of the Ordinance or under section 18, whereby the Province is the road or public transport infrastructure authority for such road or railway line; 5
 - (b) the relevant municipality in the case of main, district, minor and public transport roads, public pathways and railway lines declared in terms of the Ordinance or under section 18, where the municipality is the road or public transport infrastructure authority for such road or railway line. 10
- (2) The road or public transport infrastructure authority responsible for the planning, design, declaration, construction, expropriation, maintenance, control, management, regulation, upgrading and rehabilitation of ancillary road and public transport infrastructure is—
- (a) the Minister in the case of ancillary road and public transport infrastructure declared in terms section 18, where the Province is the road or public transport infrastructure authority for such infrastructure; 15
 - (b) the relevant municipality in the case of ancillary road and public transport infrastructure declared under section 18, where the municipality is the road or transport authority for such infrastructure. 20
- (3) The Minister or a municipality, as the case may be, shall be responsible for the activities mentioned in subsections (1) and (2) subject to available financial resources.
- (4) A road or public transport infrastructure authority may agree with another road or public transport infrastructure authority that the responsibility for certain of or all of the aspects relating to declared transport infrastructure mentioned in subsections (1) and (2) will be transferred to the other road or public transport infrastructure authority on the terms and conditions agreed to, which must include conditions as to the financial responsibilities for the aspects concerned, provided that a notice is published in the *Gazette* reflecting such agreement. 25

Ownership of transport infrastructure 30

4. (1) Ownership of a road, railway line or other transport infrastructure, where declared in terms of the Ordinance or under section 18 vests with the Province where the road or public transport infrastructure authority is the Minister or with the municipality where the road or public transport infrastructure authority is the municipality. 35
- (2) Control and management of a road, railway line or other transport infrastructure and of the land within the declared reserves over which they have been declared vests with the road or public transport infrastructure authority where declared in terms of the Ordinance or under section 18.
- (3) Portions of properties acquired from the original owners may be alienated and transferred from the original owner to the Province or municipality at the request of the road or public transport infrastructure authority, and title deeds of those portions of properties registered in the name of the Province or municipality. 40
- (4) Restrictions imposed by the reserve on all portions of properties constituting the reserve where title to the property over which the road railway line or other transport infrastructure has been declared remains in the name of the original owner must be registered with the Registrar of Deeds and indicated on the title deed of each property, provided that it shall not be a requirement to register such restrictions in respect of roads in existence at the commencement of this Act and which were not closed at any time thereafter. 45
- (5) As from the date of commencement of this Act all title deeds of properties of which ownership was previously vested in the Roads Trustees established by the Ordinance are, under the power of this subsection, transferred to the Province. 50
- (6) Ownership of a road, railway line or other transport infrastructure may be transferred together with the authority, rights and responsibilities, partly or in its entirety, from one road or public transport infrastructure authority to another in terms of section 18(3) or section 36(1) or where the South African National Roads Agency Limited takes over a road as a national road in terms of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998). 55
- (7) If—
- (a) any road, railway line or other transport infrastructure is relocated, amended or permanently closed; or 60

- (b) the reserve of a road, railway line or other transport infrastructure is reduced in width or amended resulting in redundant land; or
- (c) a road or public transport infrastructure authority informs an owner of land that it does not intend to continue to work a quarry which has been worked on such land by the road or public transport infrastructure authority;
- the rights equal to that of a road, railway line or other transport infrastructure servitude of the land thereby ceasing to be part of the road, railway line or other transport infrastructure, together with the ownership, control and management of all works and things attached thereto shall, unless the road or public transport infrastructure authority by notice in the *Gazette* otherwise directs, pass to and vest in the owner of the property of which it originally formed part before the road, railway line or other transport infrastructure was declared; provided that compensation in respect of such transferring of rights, the calculation of which may be prescribed, may be required and further provided that the provision of this section shall not apply to land vested in the Roads Trustees.
- (8) Land vested in the ownership of the Province through the transfer of ownership from the Roads Trustees under subsection (5) and no longer required for any purpose related to transport infrastructure may be disposed of by the Province.

Professional Engineers, Town Planners or Architects to be responsible for specific functions

5. (1) The Minister or a municipality, as the case may be, must ensure that the functions preformed in terms of this Act are undertaken under the responsibility and due diligence of a suitably qualified professional person, subject to subsection (2).
- (2) No person except a Professional Engineer or Professional Technologist registered by the Engineering Council of South Africa established under the Engineering Professions Act, 2000 (Act No. 46 of 2000) or a town planner or architect registered in terms of the relevant professional accreditation body may be responsible for the oversight and approval of technical strategies or plans related to research, technical analysis and recommendations for future transport infrastructure.
- (3) No person except a Professional Engineer or Professional Technologist registered by the Engineering Council of South Africa established under the Engineering Professions Act, 2000 (Act No. 46 of 2000) may be responsible for the oversight and approval of technical strategies or plans related to the following activities, which may further be prescribed by regulation:
- (a) Design of civil, structural, electrical and 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.

PART 2:

CLASSIFICATION AND STANDARD RESERVE WIDTHS OF TRANSPORT INFRASTRUCTURE

Classification of declared provincial and municipal roads and railway lines

6. (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;
- (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 pathways 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.
- (2) Road or public transport authorities must, in every notice in the *Gazette* issued in terms of section 18, classify the road or railway line declared in such notice to be one of the types listed in subsection (1) and state whether they will be under the control of the Minister or municipality.

(3) A public transport road situated wholly within the road reserve of a trunk, main, district or minor road will hold the classification of the road within which reserve it is situated.

(4) The Minister may from time to time, after consultation with the relevant municipalities, alter the classification of a provincial road or railway line by notice in the *Gazette*. 5

(5) The Minister may declare a provincial road classified in subsection (1)(a) to (e) to be a provincial toll road in terms of, and after following the prescripts of the Western Cape Toll Roads Act, 1999 (Act No. 11 of 1999).

(6) A municipality may, from time to time after consultation with the Minister and the other the affected municipalities, alter the classification of a municipal road or railway line by notice in the *Gazette*, subject to subsection (7). 10

(7) Where a municipal road or railway line is subsidised by the Minister in terms of an agreement contemplated in section 24, a municipality must obtain approval of such alteration of classification prior to its publication by notice in the *Gazette*. 15

Standard minimum reserve widths of declared roads and railway lines

7. (1) Subject to subsection (2), the standard minimum reserve widths of roads and railway lines declared under Part 4 shall be as follows:

- (a) Trunk roads: 30 metres;
- (b) Main roads: 25 metres; 20
- (c) District roads: 20 metres;
- (d) Minor roads: 20 metres;
- (e) Public transport roads: 20 metres, in the case where such road is declared as an independent facility;
- (f) Public pathways: 2 metres; 25
- (g) Heavy railway lines: 20 metres;
- (h) Light railway lines: 10 metres.

(2) The Minister or a municipality may on declaration, relocation or alteration of a road or railway line under section 18, determine that the road or railway line is to have a reserve width other than the standard reserve width, subject to this aspect being addressed in the project planning process undertaken in terms of Part 3. 30

(3) The Minister may in respect of a previously declared road or railway line or portion thereof of which the Province is the road or public transport infrastructure authority, alter the reserve width as declared of any road or railway line or type of road or railway line, subject to— 35

- (a) consultation with all affected municipalities;
- (b) the performance of the necessary project planning in terms of Part 3;
- (c) a notice published in the *Gazette*.

(4) A municipality may in respect of a previously declared road or railway line or portion thereof of which it is the road or public transport infrastructure authority, alter the reserve width as declared of any road or railway line or type of road or railway line, subject to— 40

- (a) consultation with all other affected municipalities, and where applicable, the Minister;
- (b) the performance of the necessary project planning in terms of Part 3; 45
- (c) where the municipality is the responsible road or public transport infrastructure authority and the infrastructure is subsidised by the Province, approval by the Minister for such alterations; and
- (d) a notice published in the *Gazette* describing the alteration.

(5) The reserve width of all declared roads or railway lines lawfully fixed or altered by the Ordinance and in force at the commencement of this Act shall remain in force unless altered under this Act. 50

Classification and reserves of declared ancillary transport infrastructure

8. (1) Ancillary road infrastructure under the control of the Minister or a municipality is classified as follows: 55

- (a) Parking area;
- (b) Rest area;
- (c) Direct access service site;
- (d) Stopping place;

- (e) Weighbridge site;
 - (f) Traffic control centre;
 - (g) Stock camp; and
 - (h) Material storage site.
- (2) Ancillary public transport infrastructure under the control of the Minister or a municipality is classified as follows: 5
- (a) Public transport interchange;
 - (b) Marshalling facility;
 - (c) Depot; and
 - (d) Control and information centre. 10
- (3) A road or public transport infrastructure authority must, in every notice of declaration issued in terms of section 18 published in the *Gazette*, classify the ancillary transport infrastructure declared in such notice to be one of the types listed in subsections (1) and (2) except where the ancillary transport infrastructure is located within and forms part of the reserve of the infrastructure declared in terms of section 6. 15
- (4) The Minister or a municipality, as the case may be, may in consultation with the relevant authorities, alter the classification of provincial or municipal ancillary transport infrastructure by notice in the *Gazette*, subject to subsection (5).
- (5) Where municipal ancillary transport infrastructure is subsidised by the Minister in terms of an agreement contemplated in section 24, a municipality must obtain consent of such alteration of classification prior to the commencement of the project planning process. 20
- (6) The reserve of ancillary transport infrastructure shall be determined through the project planning process undertaken in terms of Part 3 prior to the declaration of the ancillary transport infrastructure. 25
- (7) The Minister may alter the reserve of previously declared ancillary transport infrastructure of which it is the road or public transport infrastructure authority, subject to—
- (a) consultation with affected municipalities;
 - (b) the performance of the necessary planning evaluation in terms of Part 3; 30
 - (c) a notice published in the *Gazette*.
- (8) A municipality may alter the reserve of previously declared ancillary transport infrastructure of which it is the road or public transport infrastructure authority, subject to—
- (a) consultation with all affected municipalities, and where applicable, the Minister; 35
 - (b) the performance of the necessary planning evaluation in terms of Part 3;
 - (c) where the municipality is the responsible road or public transport infrastructure authority and the infrastructure is subsidised by the Province, approval by the Minister for such alterations; and 40
 - (d) a notice published in the *Gazette*.

Building lines and building restriction areas

9. (1) No person except the road or public transport infrastructure authority may erect or install or cause to be erected or installed on land owned by him or under his management or control any structure of which the whole or any part falls within— 45
- (a) the reserve of any transport infrastructure,
 - (b) the building line of a road or railway line, or
 - (c) the building restriction area of a road or railway line
- except with the permission of the road or public transport infrastructure authority.
- (2) Building lines and building restriction areas shall apply to all trunk, main, district and public transport roads and railway lines declared under Part 3 provided that any building restriction line or area declared for roads previously declared under the Ordinance or other legislation remain in accordance with that previous declaration. 50
- (3) In areas outside an urban area—
- (a) a building line exists beyond the reserve of declared roads or railway lines on each side of the road or railway line at a distance of 5 metres measured at right angles to the centre line of the road or railway line; 55
 - (b) a building restriction area exists within a distance of 100 metres measured on each side and at right angles to the centre line of the road or railway line; and

- (c) a building restriction area exists within a circle having a radius of 500 metres measured from the point of intersection of the centre line of the road or railway line with the centre line of another declared road or railway line.
- (4) In areas inside an urban area a building line exists beyond the reserve of declared roads or railway lines on each side of the road or railway line at a distance of 5 metres measured at right angles to the centre line of the road or railway line. 5
- (5) A road or public transport infrastructure authority may in respect of a road or railway line or portion thereof under its control, increase or reduce a building restriction area by notice in the *Gazette*.
- (6) Any person may apply to a road or public transport infrastructure authority in the prescribed manner and on payment of the prescribed application fee for a departure from restrictions imposed by a building restriction area, or where the erection of a structure within the reserve is contemplated, which may be granted or refused having regard to the nature of the road, railway line or other transport infrastructure involved, the development or proposed development adjacent to that road, railway line or other transport infrastructure and other factors regarded as relevant by the road or public transport infrastructure authority. Where the applicant is not the owner of the property for a structure upon which a departure from restrictions is sought, he must demonstrate to the satisfaction of the road or transport infrastructure authority that he is empowered to negotiate on behalf of, and that the proposal is acceptable to the property owner. 10 15 20
- (7) Where an application is made in terms of subsection (6), the road or public transport infrastructure authority may grant approval for the erection of a structure inside the building restriction area affecting a specific piece of land or portion thereof or within the reserve.
- (8) In the case of transport infrastructure that receives subsidy under an agreement with the Minister a municipal road or public transport infrastructure authority must consult with the Minister prior to exercising the actions provided for in subsections (5) and (7). 25

PART 3:

PLANNING AND DECLARATION OF TRANSPORT INFRASTRUCTURE 30

Transport system planning

- 10.** (1) The Minister must ensure that transport system planning of the roads, railway lines and other transport infrastructure of which the Province is the road or public transport infrastructure authority is undertaken as may be prescribed, and produce annual updates of such planning, including budgets, as input to its budgeting cycles and implementation programmes. These updates must be made available to municipalities in the Province so that the relevant projects and programmes may be included in municipal ITPs, and must also appear in the PLTF updates. 35
- (2) All municipalities must—
- (a) ensure that transport system planning of roads, railway lines and other transport infrastructure in their areas is included in their ITPs as required by the NLTA and regulations and requirements made in terms of that Act; 40
- (b) ensure that planning and budgeting for the construction, upgrading and maintenance of roads, railway lines and other transport infrastructure under the authority of all the spheres of government that are road or public transport infrastructure authorities in the municipal area, including other municipalities, the Province and the National government, are included in annual updates of their ITPs; and 45
- (c) submit information on such planning and budgeting to the Minister timeously to ensure its inclusion in the relevant updates of the Province's PLTF. 50

Records of provincial and municipal transport infrastructure

- 11.** (1) After the date of commencement of this Act the Minister must compile a comprehensive list and associated data as may be prescribed of all declared provincial and municipal transport infrastructure in the Province and classify them according to sections 6 and 8, based on the assessments contemplated in section 35(1). 55
- (2) Before finalising the list, the Minister must—
- (a) submit a draft thereof to all relevant municipalities;

- (b) request their comments in relation to the draft list within 180 days of the receipt of the list, and
- (c) give due regard to any comments received in terms of paragraph (b).
- (3) The Minister must allocate an identification number or code to each road, railway line and other transport infrastructure listed under subsection (1). 5
- (4) After compilation of the list contemplated in subsection (1), the Minister must keep and continuously update the list which must be—
 - (a) available for inspection by the public during office hours at the place or places designated by the Minister, and
 - (b) updated whenever a road, railway line or other public transport infrastructure is declared, relocated, reclassified, closed or when its declaration is withdrawn. 10
- (5) Every municipality in the Province must keep a list of all declared provincial and municipal roads, railway lines and other transport infrastructure in its area based on the same numbering or coding system referred to in subsection (3), and subsection (4)(a) 15 and (b) apply with the necessary changes to such a list.

Project planning process

- 12.** (1) A road or public transport infrastructure authority must undertake a project planning process prior to declaration under section 18 where it intends to declare—
- (a) the existence of a new road, railway line, ancillary road infrastructure or ancillary public transport infrastructure; 20
 - (b) the relocation of an existing declared road or railway line whereby the whole planned reserve falls outside the existing reserve;
 - (c) the widening of the reserve of a road or railway line or an amendment of the reserve of existing declared ancillary road infrastructure or ancillary public transport infrastructure, subject to section 12(8); 25
 - (d) the relocation or amendment of declared planned transport infrastructure still to be constructed; and
 - (e) the permanent closure of a declared road, railway line or other transport infrastructure. 30
- (2) Prior to the commencement of the project planning process for one of the activities listed in subsection (1)(a) to (e) an agreement must be concluded between the road or public transport infrastructure authority and any other authorities required to be involved in processes in terms of NEMA or the National Heritage Resources Act, 1999 (Act No. 25 of 1999) on the scope of: 35
- (a) technical planning as may be necessary to define the preferred alignment or alternative alignments, layout or alternative layouts, reserve and property acquisition of a road, railway line or other transport infrastructure;
 - (b) an integrated environmental management process in accordance with NEMA, if any; 40
 - (c) public participation in accordance with NEMA and as further provided for in section 13, if any; and
 - (d) a heritage impact assessment in accordance with the National Heritage Resources Act, 1999 (Act No. 25 of 1999), if any.
- (3) The technical planning must be carried out in sufficient detail so that— 45
- (a) the key implications of the implementation of the route or layout, or such alternatives as may be identified, which must include transport impacts, land use planning impacts and the identification of properties to be acquired for the implementation of the route or each alternative route, if any, may be identified; and 50
 - (b) after consideration of the comments arising from the public consultation process in subsection (5), the outcome of the planning process yields firm recommendations with respect to the preferred route or layout and reserve.
- (4) In the case of a planning process that is undertaken as part of an integrated environmental management process in accordance with NEMA, the road or public transport infrastructure authority must, as part of the planning process, undertake a public notifying process in accordance with the requirements of NEMA. 55
- (5) Where the planning process is not undertaken as part of an integrated environmental management process in accordance with NEMA, the road or public transport infrastructure authority must, after completion of the planning process, notify 60

interested and affected parties and cause a notice to be published in one newspaper in each official language circulating in the area, containing—

- (a) a description of the proposed route or layout or alternative routes or layouts;
- (b) particulars of the times and places at which the findings of the planning process and environmental management process can be inspected and copies obtained; 5
- (c) a notification inviting all interested and affected parties to comment in writing before a date, not less than 30 days after the publication of the notice, on the implications of the alternative routes or layouts.

(6) The road or public transport infrastructure authority must consult with the relevant 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 technical planning and environmental reports required in terms of NEMA, with specific reference also to the effect which the proposed alternative routes or layouts may have on any ITP, spatial framework or other strategic municipal development planning of the municipality concerned. Where the project has an impact on transport infrastructure under the authority of another sphere or spheres of government, that or those spheres of government or their agencies must also be consulted. 10 15

(7) Where a portion of road, railway line or other transport infrastructure is to be relocated, the road or public transport infrastructure authority must undertake a planning procedure dealing with the redundant transport infrastructure, either separately or as part of the process of relocating the infrastructure, to effect one or more of the following: 20

- (a) alter the classification;
- (b) withdraw the declaration;
- (c) transfer the infrastructure and property to a private person, company or another authority; or 25
- (d) close permanently.

(8) A planned or existing route and reserve or section thereof of a road, railway line or the extent and reserve of other transport infrastructure, previously declared in accordance with the procedures under section 18 may be widened or amended by the road or public transport infrastructure authority without the need to undertake a planning process according to subsections (1) to (7) provided that: 30

- (a) at least part of the relocated or amended reserve deviates no further from the existing reserve to the extent that it falls entirely within the widened or amended reserve; 35
- (b) in the case of a road or railway line the new reserve deviates from the existing reserve by no more than 5m on one or both sides of the reserve; in the case of ancillary transport infrastructure, the new reserve is located no further than 5m beyond the existing reserve;
- (c) the length of such a widening or amendment is no greater than a continuous length of 1 000m; 40
- (d) all interested and affected parties have been notified in writing by the road or public transport infrastructure authority, and have been invited to comment in writing before a date, not later than 30 days after notification.

Integrated environmental management process and public participation 45

13. (1) The road or public transport infrastructure authority must cause an environmental management process to be undertaken in co-ordination with the technical planning of the proposed route or alternative routes of a road or railway lines, or the layout or alternative layouts of ancillary transport infrastructure, so that the technical planning implications of such route(s) or layout(s) considered in terms of subsection (3) are considered jointly with the environmental and other implications of the project. 50

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

(3) The public participation process prescribed under NEMA must encompass the consultation process required to disseminate and process comments and representations in connection with the impact of all aspects of the project. 55

(4) The road or public transport infrastructure authority and the competent authority that administers the integrated environmental management process contemplated in NEMA must co-ordinate all integrated environmental management processes, including technical investigations, specialist studies and the public participation process into a single process. 60

Planning process prior to permanent closure

- 14.** (1) A road or public transport infrastructure authority must undertake an evaluation process prior to the declaration under section 18 of the implications of—
- (a) the intention to withdraw the declaration of a road, railway line or other transport infrastructure and effect its permanent physical closure and change to another usage; 5
 - (b) the intention to withdraw the declaration of a road, railway line or other transport infrastructure and to change its designation to a street administered by a municipality; or
 - (c) the withdrawal of declaration of a declared planned transport infrastructure still to be constructed; 10

provided that where physical closure is intended, the evaluation process must take place in the form of an environmental impact assessment as envisaged in NEMA.

(2) The planning process contemplated in subsection (1) must inter alia identify the implications of the closure of the transport infrastructure on adjacent land use and the impacts of the reassignment of traffic using the transport infrastructure prior to closure to other transport infrastructure as a consequence of the closure. 15

(3) The road or public transport infrastructure authority must, after completion of such evaluation, notify all interested and affected parties and cause a notice to be published in one newspaper in each official language circulating in the area, containing: 20

- (a) a description of the infrastructure to be closed;
- (b) particulars of the times and places at which findings of the evaluation of the closure may be inspected; and
- (c) a notification inviting all 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. 25

(4) Whenever the intention is to physically close a road in terms of this section, the road or public transport authority must erect a notice to be displayed for a period of at least 60 days at the point of intended closure, or at either end of the affected portion or portions indicating in each official language such intention and to whom comments or objections may be addressed. 30

(5) The road or public transport infrastructure authority must consult with the relevant 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 evaluation, with specific reference also to the effect which the proposed closure may have on any ITP, spatial framework or other strategic municipal development planning of the municipality concerned. Where the closure has an impact on transport infrastructure under the authority of other spheres of government, these spheres or their agencies must also be consulted. 35

Application by land owner to close, relocate or amend transport infrastructure 40

15. (1) Any person directly affected by existing or proposed transport infrastructure may apply to the road or public transport infrastructure authority concerned in writing to have a road, railway line or other transport infrastructure closed, relocated or amended. Such an application must be submitted in the prescribed manner and be accompanied by the prescribed fee. 45

(2) On receipt of such an application, the road or public transport infrastructure authority may—

- (a) refuse it and provide reasons for such refusal; or
- (b) if supported must, subject to subsection (3) undertake a planning process or evaluation of the implications of its relocation, closure, relocation or amendment or amendment in terms of section 12 or 14. 50

(3) A road or public transport infrastructure authority may recover from the applicant all expenditure in connection with an application and the planning process contemplated in subsections (1) and (2)(b).

Decision by road or public transport infrastructure authority 55

16. (1) After having considered comments and representations arising from subsections 12(5) and (6), the road or public transport infrastructure authority must consider the technical reports arising from the planning for a new, relocated, amended

route or layout of the transport infrastructure or the closure and withdrawal of declaration thereof and any reports arising from the environmental management process as well as such comments and representations.

(2) The road or public transport infrastructure authority must within 180 days of the receipt of all reports and comments referred to in subsection (1) proceed with either: 5

- (a) the declaration, relocation, alteration or closure of the transport infrastructure, in which case prior to commencing with the procedures under section 18 the decision to make such a declaration must be published in one newspaper in each official language circulating in the area and the *Gazette*, and invitations for appeals to be lodged allowed a period of 30 days after the date of publication; or 10
- (b) the withdrawal of its intention to declare, relocate, amend or close the transport infrastructure, in which case its decision must be published in one newspaper in each official language circulating in the area and the *Gazette*. 15

(3) Disputes on the declaration referred to in subsection (2)(a) and specific issues arising from the planning process and from reports made available to interested and affected parties referred to in subsections 12(5) and (6) and subsections 14(3) and (5) may be referred by the road or public transport infrastructure authority to be dealt with through the appeal process provided for in section 65, through which such disputes and issues must be concluded. 20

Regulatory protection measures for transport infrastructure

17. (1) As from the date in respect of the decision to declare a new, relocated or amended route or layout of transport infrastructure as published in terms of section 16(2)(a) until implementation of the transport infrastructure has been completed, and despite the provisions of any law to the contrary— 25

- (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 authorization contemplated in NEMA may be granted— 30
 - (i) in respect of an area within the transport infrastructure reserve boundaries declared or determined to be declared; or
 - (ii) on the basis of future access to the transport infrastructure to which the said route or layout relates 35
- (b) sections 41 to 49, 55 and 56 apply with the necessary changes to a building restriction area which exists in respect of the transport infrastructure reserves declared or in the process of being declared; and 40
- (c) notwithstanding the provisions of section 49 no application for a change in land use in respect of a portion of land within 250 metres of the near side and adjacent to the transport infrastructure reserve boundary in an urban area may be granted without the written comments of the road or public transport infrastructure authority first having been obtained and considered in accordance with the applicable planning procedure by the authority empowered to grant changes in land use, which must duly consider such comments. 45

(2) After the a decision contemplated in section 16(2)(a) has been taken by the road or public transport infrastructure authority and despite any law to the contrary, no service provider may 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 transport infrastructure reserve boundaries or may construct, alter or add to any structure of any nature whatsoever on, over or under such area, except— 50

- (a) if the written permission of the road or public transport infrastructure authority has been obtained and in terms of such conditions as that authority may determine; 55
- (b) in terms of an existing registered servitude; or
- (c) under the authority of a wayleave issued by the road or public transport infrastructure authority.

Declaration of transport infrastructure by a road or public transport infrastructure authority

18. (1) Subject to the completion of a planning process carried out in accordance with Part 3 a road or public transport infrastructure authority may, subject to subsection (5),

by notice in the *Gazette* and accompanied by a notice in one newspaper in each official language circulating in the area, declare that—

- (a) there shall be a declared road, railway line or other ancillary transport infrastructure, where applicable in accordance with a published plan and reserve; 5
- (b) an existing declared road or railway line or other transport infrastructure shall be relocated or altered to the extent specified in the notice;
- (c) an existing road, railway line or other transport infrastructure shall be permanently closed to the extent specified in the notice; or
- (d) the reserve of a former route of a road or railway line or other transport infrastructure which has been relocated or altered under paragraph (b) shall remain under the authority or ownership of the road or public transport infrastructure authority or be transferred to another owner, as decided by the road or public transport infrastructure authority. 10

(2) A road or public transport infrastructure authority may, subject to subsection (3), by proclamation in the *Gazette*, withdraw a declaration issued under subsection (1) after having undertaken the applicable planning process in terms of section 14 in which the implications of the withdrawal of the declaration of the transport infrastructure are considered. 15

(3) A road or public transport infrastructure authority may, by notice in the *Gazette*, transfer the authority, rights, responsibilities or ownership of a road, railway line or other transport infrastructure partly or in its entirety to another road or public transport infrastructure authority, subject to an agreement between the parties, under which certain works may be undertaken prior to transfer. 20

(4) Where a municipal road or public transport infrastructure authority intends to declare a road, railway line or other transport infrastructure for which it intends to enter into an agreement with the Minister whereby subsidy is paid by the Province towards its expenses, the municipality must first apply to the Minister for approval to declare it, and transmit any objections received to the Minister together with its comments thereon and a copy of the advertisement. 25 30

(5) A notice issued under subsection (1) must, for each transport infrastructure being declared:

- (a) state which governmental entity is to be the road or public transport infrastructure authority for the road, railway line or other transport infrastructure; 35
- (b) indicate the classification in terms of section 6 in the case of a road or railway line and section 5(1) or (2) in the case of ancillary transport infrastructure;
- (c) provide details of the reserve width or extent in terms of section 7(1) in the case of a road or railway line or section 8(6) in the case of ancillary transport infrastructure; 40
- (d) describe the location, route and reserve of the road, railway or the layout of other transport infrastructure concerned by means of a sketch plan attached to the notice, which must state that more detailed information is available for inspection at a place and at times specified in the notice. 45

(6) Where a declared road, railway line or other transport infrastructure has been relocated or altered, the relocation or alteration shall be deemed to be a declared road, or railway line or other transport infrastructure of the same classification as that which applied to the relocated or altered road, railway line or other public transport infrastructure immediately prior to the declaration of the relocation or alteration. 50

PART 4:

PROCEDURES ON CLOSURE OF TRANSPORT INFRASTRUCTURE

Permanent closure of transport infrastructure

19. The road or public transport infrastructure authority must, prior to physical closure of a road or other transport infrastructure, erect—

- (a) a notice at the point of closure, or at each end of the portion or portions to be closed, informing the public of the decisions to implement permanent closure; and 55
- (b) appropriate road traffic signs and markings warning the public of the closure and where necessary re-directing users to the alternative route, if applicable.

Temporary closure or deviation of roads or railway lines

- 20.** (1) A road or public transport infrastructure authority may temporarily close, restrict or regulate the use of or deviate a road or railway line of which it is the road or public transport infrastructure authority or any portion thereof—
- (a) for the purpose of or pending the construction, reconstruction, rehabilitation, maintenance or repair thereof; 5
 - (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 such road or railway line or portion thereof; 10
 - (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 or authority.
- (2) A road or public transport infrastructure authority must compensate the owner of land that has been damaged in consequence of action taken under this section in an amount not exceeding the actual financial loss suffered by such owner, as agreed upon between such owner and the road or public transport infrastructure authority, or as determined under the Expropriation Act. 15
- (3) Whenever a road or railway line or portion thereof is closed or deviated in terms of this section, the road or public transport infrastructure authority must erect and maintain appropriate signs indicating such closure or diversion at each end of the closed or deviated section in the prescribed form and manner, for the duration of the closing or diversion. 20
- (4) Subject to the provisions of the Promotion of Administrative Justice Act, a road or public transport infrastructure authority must, prior to the temporary closure or deviation of a road or railway line, notify interested and affected parties and cause a notice to be published in one newspaper in each official language circulating in the area not less than 7 days prior to closure or deviation, containing: 25
- (a) a description of the details of the closure or deviation; 30
 - (b) information on the duration of the closure or deviation; and
 - (c) a notification inviting all interested and affected parties to make representation to the roads authority.
- (5) Any person, company or other authority that, in terms of paragraph (e) of subsection (1) requests the road or public transport infrastructure authority to temporarily close, restrict or regulate the use of or deviate a road or railway line must pay to the road or public transport infrastructure authority the costs, as determined by that authority, of closing, restricting, regulating or deviating the relevant road, railway line or other transport infrastructure and of taking other actions or precautions necessary to cater for the carrying out of that act and to ensure the safety of the users of a road, railway line or other transport infrastructure. 40

Emergency relocation or closure

- 21.** (1) A road or public transport infrastructure authority may undertake the closure or deviation of a road, railway line or other transport infrastructure and the deviation of traffic in cases of emergency, subject to subsection (2). 45
- (2) Where the closure or deviation is to be undertaken by reason of an emergency whereby it is in a state dangerous to the public, property or traffic, a road or public transport infrastructure authority must:
- (a) where the situation allows, notify the relevant authorities under whose authority emergency services are established for the area affected by the relocation or closure so as to coordinate actions; 50
 - (b) install warning and route guidance signs in advance of the relocation informing users of the closure or deviation and to ensure safety.

Right of public to use closed or relocated road or railway line

- 22.** The public may use a declared road or railway line or portion thereof that has been closed or relocated under this Act until the road or public transport infrastructure authority has indicated by visible means that the road or railway line is closed to public traffic. 55

PART 5:**FINANCING AND SUBSIDY ARRANGEMENTS****Western Cape Provincial Transport Infrastructure Fund**

- 23.** (1) Subject to the PFMA, the Minister may establish a fund to be known as the Western Cape Provincial Transport Infrastructure Fund, into which must be paid— 5
- (a) money appropriated for the Fund by Parliament or the Provincial Legislature;
 - (b) interest on cash balances in the Fund;
 - (c) any other levies and any fees, rentals or other moneys charged by and payable to the Province in terms of this Act;
 - (d) despite other laws, fines payable by persons as penalty on their conviction for offences under this Act, as well as civil fines for contraventions thereof; 10
 - (e) moneys received by way of grant or donation or from any source, whether inside or outside the Province or the Republic; and
 - (f) any other money payable to the Province under this Act.
- (2) Notwithstanding the provisions of the Toll Roads Act, 1999 (Act No. 11 of 1999) moneys derived from toll or other income received in terms of that Act may be paid into the Fund. 15
- (3) The Minister controls the Fund and pays from it all expenditure incurred in connection with exercising the powers, functions and duties of the Minister in terms of this Act, and the Minister may in his or her discretion, and subject to conditions he or she may impose— 20
- (a) defray the costs of municipalities in connection with declared roads, railway lines and other transport infrastructure; and
 - (b) undertake research or investigations, or provide training in the field of roads, railway lines and other transport infrastructure. 25
- (4) The Minister must annually submit to the Provincial Treasury estimates of expenditure to be defrayed from the Fund and may make no payments from the Fund except in accordance with such estimates as approved by the Provincial Treasury, but revised estimates may be submitted for approval from time to time.
- (5) The Minister may invest money in the Fund not required for immediate use in accordance with the Public Investment Corporation Act, 2004 (Act No. 23 of 2004 or with any institution approved in writing by the Provincial Treasury. 30
- (6) The Minister must keep proper accounts of all money accruing to or paid from the Fund, which must be audited by the Auditor-General.
- (7) The Minister must open a bank account for the Fund which is separate from the bank accounts of the Provincial Revenue Fund, with a registered financial institution approved by the Provincial Treasury. 35
- (8) This section will not come into operation until exclusion of moneys in the Fund from the Provincial Revenue Fund is approved by an act of the National Parliament in terms of section 226(1) of the Constitution. 40

Subsidy arrangements with municipalities

- 24.** (1) Where a municipality intends to enter into a subsidy agreement with the Minister in connection with transport infrastructure which it intends to declare, it must, prior to the commencement of project planning in terms of Part 3, apply to the Minister for approval of its intention to declare such transport infrastructure. 45
- (2) Where a municipal road was formerly wholly or partly funded by the Province immediately prior to the commencement of this Act, such road will continue to qualify for subsidy from the Province.
- (3) Where a former trunk, main, divisional or minor road for which the Province was the road authority is transferred to a municipality by agreement in terms of section 36 this Part shall also apply, as supplemented by the terms of the agreement. 50
- (4) A municipality may apply to the Minister in the prescribed manner for any other declared municipal road, railway line or other transport infrastructure to qualify for provincial subsidy and, if the Minister agrees a written subsidy agreement must be concluded between the Province and municipality. 55
- (5) Subsidies payable by the Province for declared municipal roads, railway lines and other transport infrastructure must comply with this Part.

(6) The Minister may prescribe the form of the agreement, which shall cover construction subsidy and operational/maintenance subsidy separately, to be concluded between the Province and a municipality in terms of which subsidy is paid by the Province to a municipality for the construction, maintenance and management of a declared road or railway line or other transport infrastructure, or a group of declared roads or railway lines or other transport infrastructure. 5

(7) For the purposes of subsidy expenditure as is permitted to be claimed by municipalities on subsidised roads, railway lines and other transport infrastructure must be divided into the following activities, as may be prescribed in greater detail:

- (a) on construction; 10
- (b) on such maintenance or repair as does not, in the opinion of the Minister alter the horizontal or vertical location of the roadway or infrastructure concerned;
- (c) on the resurfacing of roads;
- (d) on the erection of fences;
- (e) in respect of compensation payments made in terms of section 23(3); or 15
- (f) which, in the opinion of the Minister was necessarily incurred on the planning required to determine the most suitable route and reserve for the road or railway line or the layout and reserve of other transport infrastructure which the authority proposed to construct.

Estimates of expenditure for purposes of subsidy 20

25. (1) Not later than the first day of October each year, every municipality with declared subsidised roads, railway lines and other transport infrastructure in its area must submit to the Minister for approval estimates of expenditure for the following financial year on such declared subsidised roads, railway lines or other transport infrastructure of which it is the road or public transport infrastructure authority in respect of which subsidy is claimable in terms of this Act in its area, in the form prescribed by the Minister. 25

(2) If a municipality fails to submit such an estimate or to do so timeously, the Minister may reduce the subsidy payable to it by an amount the Minister determines.

(3) The Minister may, in approving any estimates, alter or delete any proposed expenditure in consultation with the relevant municipality, for any reason which he or she deems fit. 30

(4) A municipality may submit proposed amendments of such estimates to the Minister at any time for approval.

Determination of subsidy on operating, maintenance and capital expenditure 35

26. (1) Where a municipality incurs expenditure on declared roads, railway lines or other transport infrastructure in agreement with the Minister, the Minister must pay a subsidy calculated as follows:

- (a) On capital expenditure—
 - (i) the percentage of expenditure on the construction of roads or railway lines, including the cost of widening roads or railway lines or altering the layout of other transport infrastructure and the acquisition of property for increasing the reserve for such transport infrastructure, as the Minister prescribes, either generally or specially, and 40
 - (ii) the percentage of expenditure on the alteration, deviation or removal, necessitated by the construction of a road, railway line or other transport infrastructure, of any pipe, post, standard, wire, cable, conduit, sewer, appliance, work, article or thing used by a municipality for providing any municipal service, as the Minister prescribes, either generally or specially. 45
- (b) On operating and maintenance expenditure, the percentage of which shall be prescribed and which may differ in relation to different types of roads, railway lines and other transport infrastructure. 50

(2) The percentage of subsidy for capital, operating and maintenance expenditure of a public transport road wholly contained within the reserve of a trunk, main, district or minor road may be different to the subsidy applicable to the road within which it is located, as the Minister may prescribe. 55

(3) No subsidy shall be paid on any compensation payments made for expropriation of land related to roads, railway lines and other transport infrastructure declared under this Act and for which subsidy is paid by the Province unless—

- (a) the Minister's written consent to expropriate the property concerned was obtained before the property was expropriated, and 5
- (b) the Minister has approved in writing the payment of such compensation where it was determined by agreement between the municipality and the owner.

Subsidy limited to expenditure in approved estimates

27. (1) The Minister must determine for each such municipality, after considering the estimates contemplated in section 25, and subject to the PFMA, subsidy on approved capital, operating and maintenance expenditure. 10

(2) The Minister may authorise an increase in subsidy for such approved expenditure listed in subsection (1).

(3) The Minister may in determining or increasing an approved capital, operating or maintenance expenditure, direct that any item in or portion of any such expenditure shall not qualify for subsidy under this Act. 15

(4) The Minister may in approving expenditure under this section impose such conditions relating to the subsidy expenditure concerned as the Minister deems necessary or desirable.

(5) No municipality may, without the Minister's written approval, exceed the total subsidy amount of expenditure approved under this section, and if it does so the Minister may reduce the subsidy payable to such authority by the amount that the he deems proper. 20

(6) The subsidy payable to a municipality in respect of subsidised roads or railway lines shall be the amount that the Minister determines annually, having regard to— 25

- (a) the estimates of expenditure submitted in terms of section 25;
- (b) the compound percentage increase per annum in the total income of the municipality during the period between the two immediately preceding financial years of the municipality; and
- (c) the other factors deemed relevant by the Minister. 30

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

28. (1) Where a municipality has acquired land using subsidy money paid by the Province, and has concluded a lease, sale or other agreement relating to any unused portion or building on such land, it must pay the net income from such a lease, sale or agreement, and any other income obtained from that land, to the Province in proportion to the subsidy contribution made for its acquisition, subject to subsection (2). 35

(2) Where such land falls within a part of a municipal area that is within:

- (a) a Metropolitan Transport Area declared under the Urban Transport Act, the proceeds of such lease, sale or other agreement may, with the approval of the Minister be paid into the Consolidated Metropolitan Transport Fund established for the Core City so declared, or 40
- (b) a Transport Area declared under the NLTTA, the proceeds of such lease, sale or other agreement may, with the approval of the Minister be paid to that transport authority.

Equated percentage rate of subsidy on capital expenditure 45

29. (1) Every municipality must, before commencing any construction in respect of which capital subsidy is payable in terms of this Act, submit to the Minister a detailed estimate of expenditure, divided into subsidisable and non-subsidisable items, and the Minister must equate the relative percentage rates applicable in respect of such construction. 50

(2) Subsidy on the interest and redemption instalments of any loan taken up with the approval of the Minister for the purposes of the construction contemplated in subsection (1) must be paid at the equated percentage rate so contemplated.

(3) On completion of the construction contemplated in subsection (1), the road or public transport infrastructure authority must submit a written statement of the actual expenditure, divided into subsidisable and non-subsidisable items, incurred on or in respect of such construction to the Minister, who may, if the estimates contemplated in 55

subsection (1) have been departed from, revise and alter the equated percentage rate contemplated in that subsection.

Contributions from other sources

30. Whenever expenditure that qualifies for subsidy is incurred on or in connection with a road, railway line or other transport infrastructure and is partly or wholly defrayed by a contribution from a source other than the municipality concerned or the Province, only that portion of the expenditure as is not so defrayed will qualify for subsidy. 5

Payment of subsidy

31. (1) Subsidy payable under this Act shall be calculated to the nearest thousand rand and shall be paid annually after expiration of the financial year in respect of which they are due, on submission of a claim by the municipality in the form determined by the Minister. 10

(2) The Minister may make advances, free of interest, on account of subsidies, if the aggregate amount of such advances to a municipality during any financial year does not exceed 90 percent of the estimated aggregate amount of subsidy payable to that municipality for that financial year, and that the necessary adjustments are made on payment of the claim for subsidy under subsection (1). 15

(3) The Minister may reduce the amount of subsidy payable to the municipality if the Minister considers that—

- (a) any work has not been performed satisfactorily; or 20
- (b) value has not been received for any money spent.

Records of expenditure on roads, railway lines or other transport infrastructure

32. Every municipality receiving or applying for subsidy from the Province must at all times have available for inspection by the Minister, all books, records, invoices, accounts and other documents relating to any expenditure incurred by it on or in connection with roads, railway lines or other transport infrastructure. 25

Excess of subsidy

33. (1) If the total actual expenditure incurred in any financial year by a municipality on or in connection with subsidised road, railway lines or other transport infrastructure is less than the approved direct expenditure for the financial year the excess of the subsidy in respect of such authority over such amounts must, after deduction of the amounts contemplated in subsection (2), be paid into the Province. 30

(2) The amount to be deducted from that excess shall be the sum of an amount equal to the amount received from other sources as contemplated in section 30.

Subsidy on planning and land acquisition 35

34. In addition to any other subsidy payable under this Act, the Minister may pay to a municipal road or transport authority a subsidy calculated in the prescribed manner—

- (a) on expenditure incurred by it on the planning necessary in terms of Part 3 to determine the most suitable route and reserve for a road, railway line or other transport infrastructure contemplated to be declared; and 40
- (b) on the expenditure incurred by it on the acquisition of land for the construction and maintenance of a road, railway line or other transport infrastructure.

PART 6:

TRANSITIONAL PROVISIONS

Assessment of existing roads in Province 45

35. (1) As soon as possible after the commencement of this Act the Minister must enter into joint assessments with municipalities in the Province to classify all roads declared under the Ordinance in the categories set out in section 6.

(2) All trunk roads, main roads, district roads subject to subsection (3), minor roads, or public paths declared in terms of the Ordinance at the commencement of this Act shall after commencement be deemed to be a road of the same category under this Act and shall retain the status quo of all conditions relating to that previous declaration until the list contemplated in section 11(1) has been compiled, agreed and finalized. 5

(3) As of the date of commencement of this Act, all roads termed “divisional roads” declared or deemed to be declared under the Ordinance shall be termed “district roads” under the Act.

(4) The agreements reached between the parties following assessments under subsection (1) must inform the compilation of the records contemplated in section 11. 10

(5) Where the classification of a road differs from the conditions under which the road was originally declared under the Ordinance, including the width of its reserve and the building restrictions areas, the original conditions shall apply to the road so classified unless the road authority to which the road is transferred decides otherwise, in which case the appropriate planning process under Part 3 must be undertaken prior to the declaration under section 18. 15

Transfer agreements for roads declared under Ordinance

36. (1) Where appropriate, the Province and municipalities may enter into negotiations to re-allocate responsibility for declared roads, which may involve agreement— 20

- (a) as to the transfer of rights pertaining to such roads;
- (b) as to the financial and subsidy arrangements for such roads;
- (c) establishing agency agreements whereby one authority will undertake responsibilities for or relating to roads under the control of another authority, with or without payment; and 25
- (d) any other matter which the parties deem appropriate, subject to this Act.

(2) Transfers of roads undertaken under subsection (1) must be declared by notice in the *Gazette* and accompanied by a notice in one newspaper in each official language circulating in the area.

(3) Where the land on which a road transferred to another road authority is situated is owned by the transferor it must be transferred to the other authority without cost, save the transfer costs which shall be carried by the transferee. 30

(4) Any road transferred through the declaration in terms of subsection (2) must be included in the list compiled under section 10 with the necessary changes.

Transitional provisions relating to advertisements 35

37. (1) Any advertisement that was erected or displayed on the date of commencement of this Act that is prohibited by this Act, and is not an advertisement for which the road or public transport infrastructure authority may grant permission, must be removed within 90 days of such commencement.

(2) Subject to subsection (3), section 41(2) will not apply to an advertisement displayed in terms of an authorisation conferred before the date of coming into effect of this Act under a law, for as long as the advertisement is displayed in accordance with the requirements which, in terms of that authorisation, are applicable or were applicable immediately before such date. 40

(3) An existing agreement or any agreement to be entered into between a property owner and any other person in terms of which that person is permitted to display advertising on the property in question that is situated on or visible from a declared road shall have an expiry date not exceeding a period of three years. 45

(4) Where an advertisement has been erected or displayed on the commencement of this Act, which, in terms of this Act, may not be so erected or displayed without the permission of the road or public transport infrastructure authority or any other authority, the owner of the advertisement or the person who displays it or permits it to be displayed, or the owner of the land on which the advertisement has been displayed, must apply to the road or public transport infrastructure authority for such permission within 90 days of such commencement, failing which the advertisement must be removed forthwith. 50 55

(5) If permission for an advertisement contemplated in subsection (3) has been refused, the advertisement must be removed within 30 days of receipt of notification of

such refusal, and where such a notification has been posted by registered post, the addressee will be deemed to have received it eight days after posting thereof.

Other transitional provisions

38. (1) Proclamations, notices, certificates, regulations and by-laws issued, and any direction, approval, consent, permission or authority given and any appointment made or any other action taken or thing done or under a law repealed or excluded by this Act shall remain in force and be deemed to have been issued, given, made, taken or done under this Act, unless inconsistent with the provisions of this Act. 5

(2) An expropriation commenced or proceedings for the determination of compensation instituted by a road authority before the commencement of this Act in terms of a law repealed by this Act, must be concluded in terms of the provisions of the repealed law, as if this Act had not been passed, provided that the parties may agree to proceed with such expropriation or proceedings in accordance with the provisions of this Act. 10

PART 7:

EXPROPRIATION AND COMPENSATION 15

Acquisition, expropriation of property, right to use land temporarily and to raise and remove materials

39. (1) A road or public transport infrastructure authority may—

(a) expropriate property, other than property owned by a municipality, province, national government or public entity, for: 20

(i) a road, railway line or other transport infrastructure or for works or purposes in connection therewith, and

(ii) the acquisition, mining or treatment of gravel, stone, sand, clay, water or any other material or substance,

(iii) the accommodation of staff engaged in the building of transport infrastructure, and 25

(iv) the storage or maintenance of vehicles, machines, equipment, tools, stores or material;

(b) take the right temporarily to use property, other than property owned by the a municipality, province, national government or public entity; and 30

(c) raise and remove materials, including water, other than water that has been artificially pumped for watering stock.

(2) The procedures and requirements of the Expropriation Act, with the necessary changes, apply to actions taken under subsection (1).

(3) The road or public transport infrastructure authority must pay compensation, where appropriate, in terms of section 25 of the Constitution and the Expropriation Act for any action taken under this section, or as may be prescribed. 35

(4) Where there is a conflict between the Expropriation Act and this Act, this Act shall prevail.

(5) The Province may raise and remove materials, subject to NEMA and approval by the Department of Minerals and Energy where required— 40

(a) on land owned by a municipality, only by agreement with that municipality, and

(b) on land owned by the national sphere of government only by agreement with the relevant national department; 45

(c) a public entity only by agreement with such entity.

(6) A municipality may raise and remove materials, subject to NEMA and approval by the Department of Minerals and Energy where required—

(a) on land owned by another municipality, only by agreement with that municipality, 50

(b) on land owned by the Province only by agreement with the Minister,

(c) on land owned by the national sphere of government only by agreement with the relevant national department, and

(d) a public entity only by agreement with such entity.

(7) Where a portion of land is expropriated and the owner satisfies the road or public transport infrastructure authority that the remainder of the land has become useless to 55

the owner as a result of the expropriation, the road or public transport infrastructure authority may expropriate such remainder.

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

(9) Where land or a portion thereof is injuriously affected by the expropriation of other land by a road or public transport infrastructure authority, the latter may also expropriate the land or portion that is so injuriously affected. 10

(10) This section will not prevent a road or public transport infrastructure authority from acquiring property for the purposes of this Act by purchase or by any other method other than expropriation.

Entry on and taking possession of property

40. (1) Where a road or public transport infrastructure authority requires property 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 such authority may, after giving reasonable notice of not less than 48 hours to the owner or occupier of the property or material and with the consent of such 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;
- (d) construct and maintain waterworks in any river or stream; or
- (e) demarcate the boundaries of the property or material.

(2) A road or public transport infrastructure authority may act under subsection (1)— 25

- (a) to determine the value of the relevant property or material;
- (b) to 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) to 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 the road or public transport infrastructure authority in terms of this Act; 30
- (d) to enable it to perform any of its other functions under this Act.

(3) Where an owner or occupier has refused consent for a road or public transport infrastructure authority or person authorised by it to act under subsection (1)— 35

- (a) the owner or occupier must furnish reasons why there is good cause for refusing to grant access; and
- (b) if reasons furnished under paragraph (a) are not acceptable to the road or public transport infrastructure authority, 40

the authority may apply to the appropriate court having jurisdiction for an order authorising such action, but a court order is not required where such action is required urgently to prevent death of or injury to persons or substantial damage to property.

(4) Such a court must grant the order and order the owner or occupier to pay the costs of the application if satisfied that the road or public transport infrastructure authority acted reasonably for the purposes of this Act. 45

(5) A road or public transport infrastructure authority may pass over land to gain access to other land for the purposes contemplated in subsection (1), with the necessary workers, equipment and vehicles, with the consent of the owner or occupier of the firstmentioned land, and if such consent is refused, subsections (3) and (4) shall apply with the necessary changes. 50

(6) Where access is obtained to land enclosed by a fence, the road or public transport infrastructure authority must erect a gate in such fence which must be manned, and when unmanned it must be provided with a lock, and the gate must be kept properly secured.

(7) If any person has suffered damage as a result of the exercise of a power conferred by this section the road or public transport infrastructure authority shall be liable to repair the damage at its cost or to pay damages or compensation in respect thereof to that person, which is calculated and payable in terms of the Expropriation Act. 55

PART 8:**MANAGEMENT AND CONTROL OF ADVERTISING, ACCESS AND THE ENVIRONMENT****Prohibition of certain advertisements on or visible from declared roads or railway lines and other transport infrastructure** 5

41. (1) Subject to subsection (2), no one may display or cause or permit to be displayed by means of a fixed structure or a mobile vehicle fitted for the specific purpose of advertising, except with the prior written permission of and in accordance with section 42(1) and approved by the relevant road or public transport infrastructure authority, an advertisement— 10

- (a) in the reserve of a declared road, railway line or other public transport infrastructure;
- (b) that is visible from a declared road, railway line or other public transport infrastructure outside an urban area;
- (c) that is within 50 metres from the boundary of the reserve of the declared road, railway line or other transport infrastructure other than a freeway in an urban area, and is visible from the declared road, railway line or other transport infrastructure;
- (d) that is within 250 metres from the boundary of the reserve of a declared road which is a freeway in an urban area, and is visible from the freeway. 20

(2) Subsection (1) will not apply to the displaying of an advertisement complying with the prescribed requirements (if any) as to the nature, contents or size of such an advertisement or the time, manner or place of its display, where the display thereof is authorised by or under the regulations concerned, or the advertisement—

- (a) is lawfully displayed at a place immediately before the road, railway line or other transport infrastructure in question was declared for as long as it is displayed continuously at the same place, unless its removal has been directed under section 43 and the period within which it had to be removed, has expired; or 25
- (b) must be displayed in terms of a law and is displayed strictly in terms of that law. 30

(3) A municipality may make by-laws further regulating the display of advertisements on or visible from declared municipal roads, railway lines and other transport infrastructure in its area of jurisdiction, which may replace or amend any provisions of this section and sections 42 to 44 in respect of such municipal roads, railway lines and other transport infrastructure, providing these by-laws include the requirements of sections 42 to 44 as a minimum. 35

Permission to display advertisements on or visible from declared roads, railway lines or other transport infrastructure

42. (1) The Minister may make regulations regulating the display of advertisements which are permitted in terms of section 41, providing for— 40

- (a) the categories of advertisements that may be erected or displayed only with the prior written permission of the relevant road or public transport infrastructure authority on the basis of criteria set out in the regulations;
- (b) procedures to be followed in applying for such permission; and 45
- (c) any other matter regulating such advertisements.

(2) Without derogating from the generality of subsection (1), regulations made under subsection (1) may provide for—

- (a) the classification of roads, railway lines or other 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; 50
- (b) the classification of advertisements into categories for the purpose of regulating and controlling their display or erection;
- (c) subject to subsection (3), a fee to be payable on application for such permission or for the granting of such permission; 55
- (d) methods of display and illumination;
- (e) safety, amenity and decency of advertisements; and

- (f) design and construction of advertisements and their supporting structures, their position, maintenance and future removal.
- (3) Application fees for advertisements on or adjacent to transport infrastructure payable in terms of subsection (2)(c) must be paid to—
- (a) the Province in the case of transport infrastructure for which the Province is the road or public transport infrastructure authority; or 5
- (b) the municipality in the case of transport infrastructure for which the municipality is the road or public transport infrastructure authority.
- (4) Prior to the installation or any amendment of a sign or sign face by any person, permission must be applied for and written approval granted by the roads or public transport infrastructure authority, subject to— 10
- (a) an assessment by the road or public transport infrastructure authority of the implications of the sign on the safety of traffic and transport operation, according to the principles and methodology laid down in published guidelines; 15
- (b) an application being required on each occasion that a sign face is changed; and
- (c) an adjudication process carried out by the road or public transport infrastructure authority in terms of regulations made.

Enforcement and removal of unauthorised advertisements

43. (1) Advertisements erected without having been approved by the road or public transport infrastructure authority may be removed by the road or public transport infrastructure authority. 20
- (2) Anyone who displays an advertisement contrary to the provisions of this Act or permits it to be so displayed, or the owner of the land on which the advertisement has been displayed and who has been directed by the road or public transport infrastructure 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. 25
- (3) If the person to whom a notice in terms of subsection (2) is directed, fails to remove the advertisement specified in the notice within the period stated therein, the road or public transport infrastructure authority may enter the property concerned without the owner's or occupier's permission and remove it without the need to obtain an order from the competent court, despite the other provisions of this Act, and recover the cost of the removal from that person. 30
- (4) Despite subsection (2), where an advertisement is displayed contrary to this section and poses or is likely to pose an immediate or urgent safety hazard, the road or public transport infrastructure authority may act under subsection (3) in the public interest or for the public safety without notice to any person to remove the advertisement. 35
- (5) A person who contravenes subsection (1) or fails to remove an advertisement when directed to do so under subsection (2), is guilty of an offence. 40

Presumptions relating to advertisements

44. For the purposes of this Act, unless the contrary is proved—
- (a) an advertisement is deemed to be displayed—
- (i) by the person who erected it or otherwise caused it to appear; 45
- (ii) in the case of an advertisement relating to a product or article produced or manufactured by a particular person, or to a service rendered by a particular person, or to a business, undertaking or place owned by a particular person, by that person; 50
- (b) subject to subsection 37(2), advertisements are deemed to have been displayed after the commencement of this Act; and
- (c) a person who owns or occupies land upon which an advertisement is displayed and the manufacturer of any article or the proprietor of any business or undertaking to which such an advertisement relates and any agent of such a manufacturer or proprietor shall be deemed to have displayed that advertisement or to have permitted its display. 55

Access to and exit from road, rail and other transport infrastructure

45. (1) Subject to subsections (2) and (3), when ingress to or exit from a road, railway line or other transport infrastructure to or from an adjacent property is barred by a lawfully erected fence, wall, hedge, trench, ditch or similar obstacle along or near the edge thereof, no one may gain access to or exit from any land through, under or over that fence, wall, hedge, trench, ditch or other obstacle by means of an access roadway, gate, bridge or other passage, unless the road or public transport infrastructure authority has authorised in writing the construction of the access roadway, gate, bridge, or other passage. 5

(2) Subsection (1) shall not apply to a lawfully erected access roadway, gate, bridge, or other passage which was in existence and use at the commencement of this Act and which was not closed or removed at any time thereafter. 10

(3) A road or public transport infrastructure authority may not withhold an authorisation contemplated in subsection (1) for a gate, bridge or other passage which is necessary to give access to or exit from a piece of land to which or from which no other reasonable access or exit is available or if— 15

- (a) a land surveyor surveyed the piece of land and lodged a diagram thereof with the Surveyor-General before the commencement of this Act or before the date of erection of the fence, wall, hedge, trench, ditch or other obstacle; and
- (b) before that date, a person other than the owner of any land of which the firstmentioned piece of land formed a portion at the time when the said survey was made, acquired or concluded an agreement of sale to acquire the ownership of that piece of land or hired it in terms of a registered lease for a period not less than ten years; 20

unless such gate, bridge or other passage is, in the opinion of the road or public transport infrastructure authority, unsafe or is incompatible with the standards for access to the transport infrastructure from which access or exit is gained. 25

(4) In considering an application for access under subsection (1), the road or public transport infrastructure 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 30
- (b) in the absence of a plan mentioned in paragraph (a), guidelines on the provision of access on roads prepared by the Province or a by a municipality and acceptable to the Province.

(5) In granting the authorisation mentioned in subsection (1), the road or public transport infrastructure authority may prescribe 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 may impose other conditions in connection therewith or with its use that it deems necessary, and may withdraw the authorisation if any requirement prescribed or condition imposed in the authorisation is not observed. 40

(6) A road or public transport infrastructure authority, in granting access to pedestrians or cyclists from an adjacent property to a road, railway line or other transport infrastructure, must ensure that such pedestrians or cyclists are provided with safe routes and crossings.

Instruction to relocate access 45

46. (1) A road or public transport infrastructure authority may, by written order, direct the owner of a property or the owner of properties gaining access to a declared road or via an access road through their property or properties in question, and which has an access or exit from a declared road or railway line of which it is the road or public transport infrastructure authority, to relocate, restrict or close such access or exit, in such a manner, or to such an extent and for such a period specified in the notice, or permanently. 50

(2) (a) Where the relocation or closure of an access or exit in terms of subsection (1) necessitates the re-alignment and construction of a new access road through the property or properties and the alteration, re-siting, re-erection or reconstruction of any gate, private garage or other structure for which the owner or owners has previous permission from the road or public transport infrastructure authority, that authority must, subject to paragraph (b), carry out the work so necessitated at its own cost or permit the owner or owners to carry out the work at the cost of the road or public transport infrastructure authority. 60

(b) The liability of the road or public transport infrastructure authority in terms of paragraph (a) shall be limited to the cost of constructing an access road on the new alignment to replace the access road so affected, and substituting gates, garages and other infrastructure of a similar standard to those which are to be altered, re-sited, re-erected or reconstructed. 5

(3) Where the owner of a property or the owners of properties gaining access to a declared road applies for and is given permission by the road authority to relocate such access, there shall be no liability on the road authority to contribute to the cost of the works.

(4) A person who enters or leaves a road, railway line or other public transport infrastructure, or constructs or erects a gate, bridge, stile or other passage in contravention of this section, commits an offence. 10

Disused vehicles, refuse etc. on or near roads, railway lines and other transport infrastructure

47. (1) No one may— 15

- (a) deposit or leave a disused obsolete vehicle or machine or a disused obsolete part thereof, or any refuse on the reserve of a declared road or railway line or other public transport infrastructure;
- (b) without the prior written permission of the relevant road or public transport infrastructure authority, or contrary to a condition imposed by such authority and set out therein, deposit or leave, so as to be visible from a declared road, railway line or other transport infrastructure, a disused obsolete vehicle, machine or part, or any refuse within 200 metres from the centre line thereof. 20

(2) The road or public transport infrastructure authority may remove a disused obsolete vehicle or machine or a disused part thereof or refuse found on the reserve of a road, railway line or other transport infrastructure, and may recover the cost of the removal from the person who deposited or left it there. 25

(3) If, on land mentioned in subsection (1)(b) there is found a disused obsolete vehicle or machine or disused obsolete part thereof, or refuse which is visible from the reserve of a road railway line or other transport infrastructure and within 200 metres from the centre line thereof, and the person who deposited or left it there or a person entitled to remove it, has been directed by the road or public transport infrastructure authority by notice in writing to remove it from the land or to take the necessary steps to render it no longer visible— 30

- (a) such a person must remove it from the land or take those necessary steps within the period stated in the notice (which may not be less than 14 days from the date of the notice); 35
- (b) the road or public transport infrastructure authority may remove it from that land or take any steps that the road or public transport infrastructure authority considers necessary to render it invisible from the road, railway line or other transport infrastructure, and may recover the cost of the removal or of those steps from the person who in terms of paragraph (a) was under a duty to make the removal or take the necessary steps but failed to do so. 40

Structures and other works on, over or below reserves of roads, railway lines and other transport infrastructure 45

48. (1) Despite any other law, but subject to subsection (4), no one may, except with the prior written permission of, and in accordance with standards and specifications approved by, the road or public transport infrastructure authority, undertake an activity mentioned in subsection (2)—

- (a) on a declared road, railway line or other public transport infrastructure or within the reserve of such a road, railway line or other public transport infrastructure; or 50
- (b) in a building restriction area.

(2) The activities contemplated by subsection (1) are the following:

- (a) Erecting or installing or causing or permitting to be erected or installed on land owned by or under the management or control of such person, a structure or other thing which is attached to the land on which it stands, even though it does not form part of that land; 55

- (b) constructing or laying or permitting to be constructed or laid anything under or below the surface of land or which projects over the land;
- (c) making or permitting to be made any structural addition or alteration to any such structure or thing.
- (3) Subsection (1) shall not apply to— 5
- (a) the completion of a structure erection of which was commenced before the commencement of this Act or before the road or railway line in question became a building restriction road or railway line;
- (b) an enclosure, fence, wall or hedge which does not rise higher than 1,6 metres above the adjacent surface of the land on which it stands. 10
- (4) The road or public transport infrastructure authority may, in its discretion, grant or refuse permission in terms of subsection (1), and, where it grants such permission, may impose—
- (a) the specifications to which the structure, object, alteration or addition must comply; 15
- (b) the manner and circumstances in which, the place where and the conditions on which the structure, object, alteration or addition may be erected, installed, constructed or laid;
- (c) the obligations to be fulfilled by the owner of the land in question or by other persons if the structure, object, alteration or addition is erected, installed, constructed or laid; and 20
- (d) a duty to reimburse the road or public transport infrastructure authority for costs incurred in its activities under subsection (a) to (c), prior to the commencement of any work.
- (5) (a) If an obligation to remove a structure or object is required by a condition 25 imposed under subsection (4)(b), the Registrar of Deeds having jurisdiction for the area concerned may, at the written request of the road or public transport infrastructure authority, note the obligation on the title deed of the land affected thereby and in the appropriate registers.
- (b) The cost in connection with that noting must be paid by the person to whom the 30 permission has been given.
- (c) The road or public transport infrastructure authority may enforce compliance with an obligation that has been so noted.
- (6) (a) Where a structure or object has been erected, installed, constructed or laid without the permission required by subsection (1) or contrary to such permission, the 35 road or public transport infrastructure authority by notice in writing may direct that person to remove the unauthorised structure, object, alteration or addition within a reasonable time, which must be stated in the notice, but which may not be shorter than 30 days from the date of the notice.
- (b) If the person to whom a notice has been issued fails to comply with the notice 40 within the time stated therein, such authority may remove the structure and recover the cost of removal from that person.
- (7) (a) Despite the provisions of other laws, a road or public transport infrastructure authority may remove or shift to a place it determines, a structure or object contemplated in subsection (1) which was installed, constructed or laid before the date on which the 45 road, railway line or other transport infrastructure concerned was declared.
- (b) Where a person is responsible in terms of a law to remove or shift a structure or object so erected, installed, constructed or laid, the road or public transport infrastructure authority may recover the cost of the removal or shifting from that person.
- (8) Anyone who contravenes subsection (1) or fails to comply with a notice under 50 subsection (6) is guilty of an offence.

Restrictions on changes in land use

- 49.** (1) Any person intending to undertake a development involving a change or intensification in land use—
- (a) on a portion or portions of land within the areas adjacent to existing transport 55 infrastructure referred to in paragraphs (a) and (b) of subsection (2); or
- (b) on a portion or portions of land within the areas adjacent to future infrastructure referred to in section 17(1)(c);
- must, where a traffic impact assessment or a public transport assessment prescribed 60 under the NLTTA is required—

- (i) obtain the acceptance for the proposed development by the road or public transport infrastructure authority responsible for the transport infrastructure so affected;
- (ii) implement any mitigating measures required by the road or public transport authority in granting that acceptance; and 5
- (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 (whether combined with or without thoroughfares and open spaces which are, or are intended to be, public places), or any other subdivision, if any part of any such erf, stand, lot or holding falls within— 10
- (a) 100 metres of the near reserve of a declared road, railway line or other transport infrastructure outside an urban area; or
- (b) 50 metres of the near reserve of a declared road, railway line or other transport infrastructure in an urban area; 15
- unless the general plan or diagram corresponds substantially with a plan or sketch of the proposed layout of the township or group, which the road or public transport infrastructure authority has approved in writing.
- (3) Subsection (2) shall apply also, with the necessary changes, to a diagram of a piece of land adjoining a township or group of erven, stands, lots or holdings, if any part of that piece of land is within 100 metres of the reserve of a declared road, railway line or other transport infrastructure. 20
- (4) Such a road or public transport infrastructure authority may refuse to give approval under subsection (1) only if satisfied that the division in question may frustrate an object of this Act. 25
- (5) (a) The road or public transport infrastructure authority may give the approval under subsection (1) subject to conditions—
- (i) prohibiting the division or further division of the land or of a specified part of it;
- (ii) limiting the use to which the land or a specified part of it may be put; 30
- (iii) limiting the number or extent of buildings or other structures which may be erected on the land or on a specified part of it;
- (iv) prohibiting the erection, construction or establishment of a structure or object on, over or below the surface of the land, or on, over or below the surface of a specified part of it within a specified distance from the road, railway line or other transport infrastructure in question. 35
- (b) In giving such approval the road or public transport infrastructure 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 paragraph (a).
- (6) A condition referred to in subsection (5) may be removed so as to permit compliance therewith or a departure therefrom with the road or public transport infrastructure authority's approval. 40
- (7) (a) Despite contrary provisions in the Deeds Registries Act, 1937 (Act No. 47 of 1937)—
- (i) the person giving transfer of land to which conditions referred to in subsection (5) apply, must insert them in the deed of transfer; 45
- (ii) the Registrar of Deeds must endorse on the title deed of the land retained by the person giving transfer, each of those conditions that applies to the land so retained;
- (iii) a certificate of consolidated title issued in respect of consolidated land mentioned in subsection (5)(b), must contain every condition to which the title to that land is to be subject in terms of a stipulation made under that subsection. 50
- (b) The road or public transport infrastructure authority may enforce compliance with any such condition. 55
- (8) (a) Despite contrary provisions in the Deeds Registries Act, 1937, or other laws, a Registrar of Deeds, with the road 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.
- (b) The cancellation may be done on the written application of the owner of the land in question, accompanied by the road or public transport infrastructure authority's written approval and proof that all mortgagees have been notified of the proposed cancellation. 60

Distance indicators, signposts and warnings on declared roads

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

- (a) direction signposts at the junction of every road of which it is the road authority, with any other road; 5
- (b) on roads of which it is the road authority such distance indicators, signposts, directions and warnings as may be necessary or desirable for the safety or guidance of the public.

Visual obstructions

51. (1) A road or public transport infrastructure authority may require the owner or occupier of any land by written order to reduce the height or width of any tree, bush, vegetation, wall, hedge, fence or any other visual obstruction in any location or any circumstance of a declared road or railway line, of which it is the road or public transport infrastructure authority, with any other road or railway line that could impair the vision of a driver or under any other road or public transport user to an unsafe condition— 15

- (a) to a height or width specified in the order; or
- (b) to a length specified in the order.

(2) Where the owner or occupier fails to comply with an order mentioned in subsection (1) within the time specified in the order, to the satisfaction of the road or public transport infrastructure authority, the latter may enter upon such land and perform the necessary work, and may claim the cost thereof from the owner or occupier. 20

Fences along or within the boundaries of declared roads, railway lines or other transport infrastructure

52. (1) A road or public transport infrastructure authority may erect a fence—

- (a) along the boundary of a declared road, railway line or other transport infrastructure of which it is the road or public transport infrastructure authority; 25
- (b) around land from which materials are being or have been raised and removed, or
- (c) around a water supply provided or used by such authority under this Act. 30

(2) A road or public transport infrastructure authority must contribute not less than 60 percent of the reasonable costs incurred by any other person in erecting a fence along the boundary of the declared reserve of a declared road, railway line or other transport infrastructure of which it is the road or public transport infrastructure authority—

- (a) as a result of issuing a notice in terms of section 53 prohibiting the erection of a gate, or 35
- (b) as a result of the removal with the approval of the road or public transport authority of one or more gates from such road or other transport infrastructure in terms of that section,

if the fence is constructed according to standards and specifications approved by the road or public transport infrastructure authority. 40

(3) A road or public transport infrastructure authority may contribute to the costs incurred by any other person in erecting a fence along the boundary of the declared reserve of a declared road, railway line or other transport infrastructure of which it is the road or public transport infrastructure authority in cases not contemplated in subsection (2), if the fence is constructed according to standards and specifications approved by the road or public transport infrastructure authority. 45

(4) Any additional costs incurred in the erection of game fencing according to specifications required beyond that required by the road or public transport infrastructure authority will be payable by the owner or user of such property requiring the game fencing, unless otherwise agreed by the road or public transport infrastructure authority. 50

(5) No one other than the relevant road or public transport infrastructure authority may erect a fence on or within the boundaries of a declared road, railway line or other transport infrastructure, except with the prior written permission of, and in accordance with standards and specifications determined by, such authority, and no person may remove such a fence without permission so given. 55

(6) A road or public transport infrastructure authority shall not grant permission for the removal of a fence contemplated in subsection (5) unless—

- (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 re-erection of the fence in accordance with standards and specifications determined by such authority.

(7) All fences lawfully erected and in existence on or within the boundaries of declared roads, railway lines or other transport infrastructure prior to the commencement of this Act shall be deemed to have been properly erected with the permission of the relevant road or public transport infrastructure authority. 5

(8) A road or public transport infrastructure authority may withdraw a deemed permission under subsection (7) at any time, in which case the authority must remove and re-erect it on the boundary of the declared road, railway line or other transport infrastructure at its own cost. 10

(9) The relevant road or public transport infrastructure authority must—

- (a) remove any fence erected in contravention of this section and re-erect it on the boundary of the declared road, railway line or other transport infrastructure, 15
and
- (b) re-erect any fence removed in contravention of this section on the boundary of the declared road, railway line or other transport infrastructure concerned.

(10) Where a declared road or railway line is relocated, the road or public transport infrastructure authority may, if it has contributed to the cost of a fence alongside that road or railway line, remove such fence to the new location of the road, railway line or other transport infrastructure. 20

(11) Subject to the Fencing Act, 1963 (Act No. 31 of 1963), the owner of land abutting on the boundary of a declared road, railway line or other public transport infrastructure is responsible to maintain or replace any fence lawfully erected on or within such boundary. 25

(12) A person who contravenes this section shall be guilty of an offence.

Gates across declared roads

53. (1) No one may erect a gate across a declared road except with the prior written approval of, and in accordance with standards and specifications approved by, the relevant road or public transport infrastructure authority. 30

(2) In the case of a declared road outside of an urban area, such approval may not be granted unless—

- (a) the road authority is prepared to construct a motor cattle-grid across the roadway alongside such gate; 35
- (b) in the case of a municipal road authority, the Minister has been notified of the construction of such a motor cattle-grid and has been given an opportunity to comment; and
- (c) the person applying for approval in respect of a gate across a declared road has provided security to the road authority, to its satisfaction, for payment of at least 50 percent of the costs of construction of the motor cattle-grid. 40

(3) The relevant road authority must remove any 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 in respect of which the approval was granted, insofar as funds permit. 45

(5) Despite other provisions of this Act, the Minister may, by notice in the *Gazette*, prohibit the erection of gates across any type or category of declared road, or any specific public road or portion thereof, specified in the notice.

(6) A person who contravenes this section shall be guilty of an offence. 50

(7) A road authority may, after complying with subsection (8), remove a gate across a declared road of which it is the road authority.

(8) A road authority which intends to act under subsection (7) must by written notice, inform every owner of land who may be adversely affected by the removal of such gate of such intention, and that objections thereto may be lodged with the authority on or before a date specified in the notice, being not less than 21 days after the date of the notice. 55

Motor cattle-grids

54. (1) A road authority may construct a motor cattle-grid across a declared road of which it is the road authority, or close or relocate such a motor cattle-grid, provided that where necessary the motor cattle-grid operates in conjunction with a gate alongside the motor cattle-grid. 5

(2) A motor cattle-grid and gate lawfully in existence at the commencement of this Act shall be deemed to have been constructed in accordance with subsection (1).

(3) A road authority may close or relocate a motor cattle-grid across a declared road of which it is the road authority, and section 20 shall apply in such a case with the necessary changes. 10

(4) A road authority must remove a motor cattle-grid which operates in conjunction with gate removed under section 53(7) simultaneously with the removal of the gate.

Mining operations on or under declared roads, railway lines and other public transport infrastructure or building restriction areas

55. (1) No one may conduct any mining operations on or under a declared road, railway line or other transport infrastructure or building restriction area, except with the written permission of the road or public transport infrastructure authority, who may grant the permission subject to conditions that are deemed appropriate. 15

(2) Where it becomes necessary to relocate or reconstruct a declared road, railway line or other transport infrastructure because it has become undermined subsequent to its creation, either before the date of commencement of this Act or in contravention of subsection (1), in order to preserve the safety or interests of the public, the road or public transport infrastructure authority may instruct the person responsible for the undermining to render the road, railway line or other transport infrastructure safe or to provide for its reconstruction to the satisfaction of the road or public transport infrastructure authority, at the expense of such person and within a time determined by the road or public transport infrastructure authority, failing which the authority may undertake the work and recover the cost from such person. 20 25

Trading on declared roads, railway lines or other transport infrastructure or in building restriction areas 30

56. (1) Except as provided in subsection (3), no one may without the road or public transport infrastructure authority's written permission or contrary to the terms of such permission, carry on a trade or expose, offer or manufacture for sale goods—

- (a) on a declared road, railway line or other transport infrastructure; or
- (b) on or in any transport infrastructure under the control of that authority, or 35
- (c) in a building restriction area.

(2) Permission under subsection (1) may be granted by the road or public transport infrastructure authority—

- (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 the National Road Traffic Act; and 40
- (b) in the case of railway lines and ancillary public transport infrastructure, only in respect of special areas designated by the public transport authority for trading purposes.

(3) Subsection (1) will not apply to a person who continues a business or undertaking after a road, railway line or other transport infrastructure is declared as a road, railway line or other transport infrastructure or land becomes a building restriction area, unless that person has been directed by the road or public transport infrastructure authority by notice in writing to discontinue it. 45

(4) An employee or person authorised thereto in writing by the road or public transport infrastructure authority, an employee of a municipality designated or appointed to perform law enforcement functions on a declared road, railway line or other transport infrastructure, and a person who in terms of a road traffic law is a traffic officer for the purpose of the road traffic law, may— 50

- (a) if such an employee, officer or person (in this section called the competent official) suspects on reasonable grounds that a person has performed an act for which the road or public transport infrastructure authority's written permis- 55

- sion is required in terms of subsection (1), demand that the person produces to the competent official the written permission to perform that act;
- (b) if the person to whom the demand is made, fails to produce such a written permission to the competent official, or if the competent official suspects on reasonable grounds that a person has performed an act that is unlawful in terms of subsection (1)— 5
- (i) demand that person's full name and residential address be furnished by the latter then and there;
- (ii) order that person to remove from the building restriction area or the provincial road or railway line or other transport infrastructure— 10
- (aa) every article with or in respect of which that act has been performed or which the competent official suspects on reasonable grounds to be destined for use for or in connection with the performance of such an act by that person; or
- (bb) a structure, tent, vehicle, implement or other object in, on or with which that act has been performed, or in or on which there is such an article, or which the competent official suspects on reasonable grounds to be destined for use for or in connection with the performance of such an act by that person; 15
- (c) remove from the road, railway line or other transport infrastructure, or the building restriction area an article, structure, tent, vehicle, implement or other object mentioned in paragraph (b)(ii), or which the competent official finds on the declared road, railway line or other public transport infrastructure or in the building restriction area and suspects on reasonable grounds to have been used, or to be destined for use, by a person in connection with a contravention of subsection (1), and claim the costs of removal from the person concerned. 20
- (5) A person is guilty of an offence— 25
- (a) upon contravening a provision of subsection (1); or
- (b) when failing to furnish the latter's full name and residential address to a competent official in terms of subsection (4)(b)(i); or 30
- (c) upon having failed to obey an order given under subsection (4)(b)(ii).
- (6) A municipality may undertake the functions of the Province under this section, in agreement with the Minister.

PART 9:

POWERS AND DUTIES OF MINISTER AND OTHER ROAD OR PUBLIC TRANSPORT INFRASTRUCTURE AUTHORITIES 35

Specific powers to finance and manage roads, railway lines and other transport infrastructure

57. (1) The construction, financing, control, supervision, management, development, maintenance, protection and rehabilitation of all declared provincial roads, railway lines and other provincial transport infrastructure shall vest in the Minister who shall, within available financial resources, and subject to section 5, be responsible for the said activities. 40
- (2) The Minister may—
- (a) plan, design, construct, finance, control, manage, develop, maintain, protect and rehabilitate a declared provincial road, railway line or other public transport infrastructure and fences relating thereto; and 45
- (b) grant financial or other assistance to a municipality, on conditions that the Minister determines—
- (i) for the construction or maintenance of transport infrastructure in the area of its jurisdiction; or 50
- (ii) for the expropriation by that municipality of land or a right in land for the purpose mentioned in paragraph (i);
- (c) plan, design, construct or maintain a declared municipal road, railway line or other public transport infrastructure or portion thereof in the area of jurisdiction of a municipality on behalf of that municipality; and 55
- (d) exercise any power that is reasonably incidental or ancillary to the powers listed in paragraphs (a) to (c).

(3) The planning, design, construction, financing, control, supervision, management, development, maintenance, protection and rehabilitation of all declared municipal roads, railway line and other transport infrastructure shall vest in the relevant municipal road or public transport infrastructure authority which shall, within available financial resources, and subject to section 5, be responsible for the said activities. 5

(4) A municipal road or public transport infrastructure authority may plan, design, construct, finance, control, manage, develop, maintain, protect and rehabilitate a municipal road, railway line or other municipal public transport infrastructure in its area.

General powers and duties of road or public transport infrastructure authorities

58. (1) A road or public transport infrastructure authority may— 10

(a) remove or dispose of an animal which is within the reserve of a road, railway line or other public transport infrastructure in contravention of the National Road Traffic Act or any other law, but the authority shall not be liable to compensate any person where such an animal is killed or injured to avoid danger to traffic; 15

(b) provide and maintain transport infrastructure, boreholes, pumps and all appurtenances or conveniences which they deem necessary for the travelling public;

(c) erect, construct and maintain either on or, subject to this Act, outside the reserve of a road, railway line or other public transport infrastructure a building, hut, tent or other structure for the accommodation of officials and workers employed on transport infrastructure or executing other works in connection therewith; 20

(d) store either on or, subject to this Act, outside the reserve of a road, railway line or other public transport infrastructure stores, plant, machinery equipment or other things which they deem necessary for the construction or maintenance of transport infrastructure; 25

(e) take water or make other provision for water that it deems necessary for carrying out the provisions of this Act: provided that water may not be taken from a man-made dam, well or borehole without the consent of the owner; 30

(f) subject to the other provisions of this Act, regulate, control, close or deviate an entrance to or exit from a declared road, railway line or other public transport infrastructure;

(g) lease out or dispose of land, implements or equipment owned by it or 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 lend such implements or equipment or grant temporary rights to such land free of charge; 35

(h) rehabilitate or landscape or otherwise improve areas within a road, railway line or other transport infrastructure; 40

(i) charge a fee or rent for any authorisation, approval or permission granted to a person for the provision, construction, erection, establishment, carrying on or operation on, over or under a road, railway line or other transport infrastructure, of anything provided for in this Act over and above application fees, which may also be charged in prescribed amounts; 45

(j) provide financial or other assistance, in agreement with an owner of land, for the construction of access roads, the erection or maintenance of fences, gates or other structures on roads, railway lines or other public transport infrastructure or land adjacent thereto;

(k) lay, move or remove a railway line within a road; 50

(l) provide service facilities and allow the provision of filling stations, restaurants, playgrounds and other facilities for the use of the travelling public within declared roads, railway lines or other transport infrastructure;

(m) by notice in the *Gazette* prohibit or restrict the movement of livestock or other animals other than in a vehicle on any road designated in the notice, or provide that livestock may not be moved on such a road without the written approval of the road authority and may, where such livestock is found on such a road in contravention of such a notice or without such approval, impound it in the prescribed manner. 55

(2) Subject to the National Road Traffic Act, road or public transport authorities may provide and maintain such traffic signs, traffic control devices and markings as they may 60

deem necessary for the guidance and safety of traffic on roads, and appropriate signals and signs on railway lines.

Agency agreements for road or public transport functions

- 59.** (1) A road or public transport infrastructure authority may conclude an agreement contemplated in subsection (2) with— 5
- (a) the Minister;
 - (b) a municipality;
 - (c) the South African National Roads Agency Limited established by section 2 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998); 10
 - (d) the South African Rail Commuter Corporation Limited established in terms of section 22(1) of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989);
 - (e) the company Transnet Limited established under section 2 of the Act mentioned in paragraph (d); or 15
 - (f) any other person or body.
- in this section referred to as “the other party”.
- (2) An agreement contemplated in subsection (1) may be concluded where—
- (a) the other party will take over any or all responsibility for or in relation to a road, railway line or other transport infrastructure; 20
 - (b) the other party may do work in connection with a road, railway line or other transport infrastructure, including the construction and maintenance thereof or have the work done under its supervision, for the account of the authority owning the road, railway line or other transport infrastructure, or that the authority owning such infrastructure will do such work for the account of the other party, or otherwise in terms of the agreement; or 25
 - (c) the municipality on which the road, railway line or other transport infrastructure is situated shall be responsible for the disposal of all storm water from such road, railway line or other transport infrastructure or deviation thereof and expenditure incurred in connection therewith, and the road or public transport infrastructure authority, if not the municipality, shall not be 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; 30
 - (d) the authority owning the road, railway line or other transport infrastructure will perform any of the functions envisaged in this Act, or work for the purposes of or in connection with functions of that nature, in the area of jurisdiction of, or on land belonging to, the other party, at the cost of the other authority, in accordance with and subject to this Act. 35
- (3) An agreement in terms of subsection (2) may provide for the sharing of the costs of a project between the parties. 40

PART 10:

LEGAL AND GENERAL PROVISIONS

Claims against road or public transport infrastructure authorities and limitation of liability

- 60.** (1) The Minister, any municipal road or public transport infrastructure authority and any of the agents or employees of the Minister or a municipal road or public transport infrastructure authority, or officials or employees of such authorities or any person who operates or has constructed transport infrastructure, will not be liable for damage or loss suffered by a person— 45
- (a) through the use of a part of a road, railway line or other transport infrastructure other than the roadway; or 50
 - (b) as a result of the closure or relocation of a road or railway line under this Act.
- (2) Where a new road, railway line or other transport infrastructure is being planned, the Minister or road or public transport infrastructure authority shall not be liable for claims for diminution in value of land that will or may be affected by such a road, railway line or other transport infrastructure from owners of that land or any other person. 55

(3) Except as provided in subsection (4), legal proceedings may not be brought against the Minister, a municipality, or any other person employed by a road or public transport infrastructure authority for loss or damage allegedly suffered by a person (in this section called the claimant) as a result of any act with regard to a road, railway line or other public transport infrastructure which allegedly was performed or committed by the Minister, a municipality or such an employee acting in the performance of his or her duties or any person acting on behalf of the Minister or such authority—

- (a) unless instituted within 12 months after the date upon which the claimant became aware of the alleged act or omission, or after the date on which the claimant could reasonably be expected to have become aware of the alleged act or omission, whichever is the earlier; and
- (b) before the expiry of at least 90 days after written notification of the claimant's intention to institute the legal proceedings, with sufficient particulars of the alleged act or omission, has been served on the defendant or respondent, unless the defendant or respondent has denied liability in writing.

(4) The High Court having jurisdiction to determine the legal proceedings, may on application by that claimant, order that any requirement of subsection (3)(a) be dispensed with or relaxed, or that non-compliance therewith be condoned, in the interests of justice.

General prohibitions

61. (1) Despite any other law, but subject to subsection (4), no person or institution, including an organ of state as defined in section 239 of the Constitution, may, unless authorized by this Act—

- (a) encroach on a road, railway line or other transport infrastructure by erecting or making a building, structure, fence, furrow, channel, ditch, motorgrid or other obstacle or by laying a pipeline, wire or cable on, over or under such road, railway line or other transport infrastructure;
- (b) leave or place obstructions which may be dangerous to traffic, or any refuse, debris, ashheaps, earthenware, glass, tins, nails, pieces of metal, timber, tree stumps, stones or other material on the reserve of a road, rail reserve or other transport infrastructure;
- (c) abandon a vehicle or part thereof on the reserve of a road, rail reserve or other transport infrastructure;
- (d) damage a road, railway line or other transport infrastructure or spill fuel or other chemicals or gas on a road, railway line or other transport infrastructure or paved surface that may damage it;
- (e) dig up, remove or alter the soil, surface, gravel, cuttings, banks or drains of a road, railway line or other transport infrastructure;
- (f) erect, construct, place or exhibit in, above or on a road, railway line or other transport infrastructure a board, notice framework, scaffolding or other device by means of which an advertisement could be displayed, except as permitted by this Act or another law; or
- (g) paint or affix a figure, letter, drawing, sign, symbol, graffiti or other like object or symbol on the roadway or a bridge or on a traffic sign;
- (h) construct a bridge across or a culvert or subway under a road, railway line or other transport infrastructure, except with the written permission of the road or public transport infrastructure authority, who may impose conditions in granting such permission;
- (i) carry electric or other wires or pipelines across or lay underground cables or pipelines over, under or on a road, railway line or other transport infrastructure;
- (j) use a road, railway line or other transport infrastructure while it is under construction or repair, except in the manner indicated by the road or public transport infrastructure authority by road signs or other methods;
- (k) close, deviate, alter or in any other manner encroach on a road, railway line or other transport infrastructure;
- (l) attach to a gate on a road, railway line or other transport infrastructure spikes or other objects that may cause injury to persons or animals or damage to property;
- (m) wilfully damage trees, shrubs or other improvements on roads, railway lines or other transport infrastructure;

- (n) obstruct or hinder an official, employee or agent of a road or public transport infrastructure authority or another person authorised by that authority in the execution of his or her duties under this Act;
 - (o) close a road, railway line or other transport infrastructure that the public is entitled to use or erect a fence or other barrier to prevent the public from using such a road, railway line or other transport infrastructure; 5
 - (p) shine lights onto, or increase the lighting on, a road, railway line or other transport infrastructure in a manner that will endanger traffic;
 - (q) use a road, railway line or other transport infrastructure that has been closed to traffic by appropriate road signs; 10
 - (r) unlawfully occupy or reside in the reserve or within the 5m building restriction area of a road, railway line or other transport infrastructure owned by or under the control of a road or public transport infrastructure authority;
 - (s) erect a traffic sign on any road, railway line or other transport infrastructure;
 - (t) deviate traffic onto a road or railway line, except in the case of an emergency; 15
 - (u) alter, move, disturb or damage any survey peg placed by the road or public transport infrastructure authority or its agent, surveyor or contractor in the execution of his or her duties;
 - (v) move livestock on a road, railway line or other transport infrastructure without the prior approval of the road or public transport infrastructure authority; 20
 - (w) construct an ingress to or an exit from a road, railway line or other transport infrastructure and an adjacent property in any manner that permits unauthorised vehicular or NMT access between the road, railway line or other transport infrastructure and the property.
- (2) No law authorising the doing of an act contemplated in subsection (1) gives any person other than the road or public transport infrastructure authority such rights without the approval of the road or public transport infrastructure authority. 25
- (3) A road or public transport infrastructure authority may authorize the doing of an act prohibited in subsection (1) in writing, subject to the conditions, for the period and on payment of the prescribed fees or rentals, if it is satisfied that no damage to the road, railway line or other transport infrastructure or prejudice to the public can result. 30
- (4) Such fees or rentals may be fixed or be payable on a periodical basis, and such conditions may provide that the applicant shall pay the costs involved.

Offences and penalties

- 62.** (1) A person who contravenes a provision of section 61(1) or any other provision of this Act that is not elsewhere declared to be an offence, commits an offence. 35
- (2) Without derogating from the generality of subsection (1), a person who—
- (a) damages, destroys or defaces a road, railway line or other transport infrastructure or any thing thereon or forming part thereof;
 - (b) without the prior written permission of the road or public transport infrastructure authority, erects any fence, wall, hedge, trench, ditch or other barrier along, through, over or under a road, railway line or other transport infrastructure; 40
 - (c) places any obstruction or obstacle on, in, over or under a road, railway line or other transport infrastructure; 45
 - (d) throws or deposits or causes or permits to be thrown or deposited on or onto a road, railway line or other transport infrastructure anything which is likely to be dangerous, harmful or injurious to traffic thereon;
 - (e) deposits, accumulates or discharges or causes or permits to be deposited, accumulated or discharged on land abutting on a road, railway line or other transport infrastructure any substance, matter or thing which is or is likely to be blown or washed on or onto such road, railway line or other transport infrastructure or is likely to be offensive, dangerous, harmful or injurious to traffic thereon; 50
 - (f) threatens, resists, hinders or obstructs or uses foul, abusive or insulting language to any employee, agent or contractor of a road or public transport infrastructure authority in the exercise or performance of the powers, duties and functions conferred and imposed on such employee or agent by or under this Act; 55
 - (g) falsely holds out to be an employee, agent or contractor of a road or public transport infrastructure authority; or 60

- (h) moves, removes, damages or destroys a peg, beacon or other means of identification placed on, in, over or under or attached to land for the purposes of this Act by or on behalf of a road or public transport infrastructure authority;

shall be guilty of an offence. 5

(3) A person convicted of an offence under subsections (1) or (2) may be punished by a term of imprisonment not longer than one year or a fine not higher than R100 000.

(4) In addition to any other penalty, a court convicting a person of an offence under subsections (1) or (2) may sentence the person to a penalty, payable to the relevant road or public transport infrastructure authority, equivalent to the amount of all expenditure incurred by such authority, or estimated by such authority to be incurred by it, in connection with any work necessary to restore the declared road, railway line or other 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. 10 15

(5) Subsection (4) shall not preclude the road or public transport infrastructure authority from recovering any amount that it is entitled to recover from a person, less, where applicable, any relevant penalty paid under subsection (4), whether or not the person has been charged with or convicted of an offence in terms of this section.

Regulations 20

63. (1) The Minister may make regulations—

- (a) prescribing standards and criteria for the planning, design, development, construction, management, control, maintenance, protection and rehabilitation of roads, railway lines and other transport infrastructure, or for road and rail safety in the Province, and these standards and criteria may differ in relation to different types of roads or railway lines, providing that such standards and criteria related to railway lines and transport infrastructure related to railway operations are bound by the relevant provisions of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989) and the National Rail Safety Regulator Act, 2002 (Act No. 16 of 2002); 25 30
- (b) prescribing mechanisms and requirements for monitoring the performance by road or public transport authorities of their functions under this Act, performance standards or indicators and the financial and other consequences of failure by road or public transport authorities to perform their duties or functions under this Act or to perform them adequately; 35
- (c) prescribing standards and criteria for the design, construction, control and management of motor cattle-grids related to—
- (i) size, material, mode of construction, level and position;
 - (ii) the length and width of approaches from the roadway to a motor gate;
 - (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; 40
 - (iv) the proper management, maintenance and control of motor cattle-grids;
- (d) prescribing the manner and form in which any application contemplated by this Act must be made, the information to be submitted therewith and the fees, if any, to be paid for the application; 45
- (e) for the use, control and protection of rest camps, rest places and stock camps on or forming part of declared roads;
- (f) prescribing the manner in which road or public transport authorities must keep account of money received or paid out in respect of roads, and of payments into and from the Fund; 50
- (g) prescribing how road, railway line or other public transport infrastructure works must be costed;
- (h) subject to Part 5—
- (i) prescribing items which shall rank for subsidy and items which shall not so rank in respect of any category of expenditure; 55
 - (ii) providing for exclusions from payment of subsidy expenditure in any category on items which the Minister considers unjustified or unnecessary, and
 - (iii) making the payment of subsidy on the expenditure on any work conditional on the work being carried out in accordance with plans and specifications approved by the Minister; 60

- (i) prescribing to whom, and dates on which, claims for subsidy must be submitted;
 - (j) prescribing a form to be used in connection with any claim for compensation or in connection with any application, authorisation, approval, permission or exemption provided for in this Act, or prescribing the information to be furnished and procedure to be followed in connection with any of those matters; 5
 - (k) prescribing a fee to be paid for any application, authorisation, approval, permission or exemption provided for in this Act;
 - (l) subject to the Businesses Act, 1991 (Act No. 71 of 1991), regulating trading on or in any transport infrastructure; 10
 - (m) with regard to any matter which, in terms of this Act, may or must be prescribed by the Minister or be governed, regulated or determined by way of a regulation made by the Minister; and
 - (n) any other matter that the Minister considers necessary or expedient to promote the objects of this Act. 15
- (2) Such regulations may, in appropriate cases, provide that a contravention of or failure to comply with a regulation is an offence, and provide for the imposition of a term of imprisonment which may not be longer than three months or a fine which may not be higher than R100 000. 20
- (3) Different regulations may be made under subsection (1) for different types of roads, railway lines or public transport infrastructure.
- (4) The making or amendment of regulations under subsection (1) that have financial implications must be carried out in consultation with the Minister of Finance.

By-laws

25

- 64.** (1) Where a municipal road or public transport infrastructure authority makes by-laws in respect of declared roads, railway lines or other public transport infrastructure of which it is the road or public transport infrastructure authority, relating to any other matter that the municipality considers necessary or expedient to promote the objects of this Act in relation to declared municipal roads, railway lines and other public transport infrastructure, such by-laws may not conflict with the provisions of this Act. 30
- (2) Where such by-laws provide that a contravention of or failure to comply with a by-law is an offence, the penalties set for such an offence must be set in agreement with the Minister.
- (3) The provisions of the Constitution and any law applicable to local government relating to the making of by-laws shall be applicable to the making of by-laws under this section. 35

Appeals

- 65.** (1) Any affected person may appeal to the Minister or an official of the Department designated by the Minister, against a decision taken under this Act by a road or public transport infrastructure authority. 40
- (2) An appeal under subsection (1) must be noted and dealt with in the manner prescribed upon payment of a prescribed fee.
- (3) The Minister may consider and decide an appeal or appoint an appeal panel constituted as may be prescribed to consider and advise the Minister on the appeal. 45
- (4) The Minister may, after considering such an appeal, confirm, set aside or vary the decision, provision, conditions and directive or may make any other appropriate order, including an order that the prescribed fee paid by the appellant, or any part thereof, be refunded.
- (5) An appeal under this section does not suspend any decision or necessary action in connection with the provisions of the Act, unless the Minister directs otherwise. 50

Delegation

- 66.** (1) Subject to subsection (2), the Minister may delegate a duty, right or power conferred or imposed by this Act to the Head of the Department or an official of the Department. 55
- (2) Subsection (1) will not apply to the power to expropriate property or rights under section 39 or make regulations under section 63.

PART 12:**OTHER PROVISIONS****Repeal and exclusions**

67. (1) The following Acts and Ordinances are excluded from application in the Province: 5

- (a) The Advertising on Roads and Ribbon Development Act, 1940 (Act No. 21 of 1940);
- (b) The Roads Ordinance [Cape], 1976 (Ordinance No. 19 of 1976);
- (c) The Extension of Powers of Executive Committees and Administrators Act, 1964 (Act No. 41 of 1964). 10

Short title and commencement

68. (1) This Act is called the Western Cape Transport Infrastructure Act, 2008 and shall come into operation on a date determined by the Premier by proclamation in the *Gazette*.

(2) Different provisions of this Act may be brought into operation on different dates. 15

MEMORANDUM ON THE OBJECTS OF THE DRAFT WESTERN CAPE TRANSPORT INFRASTRUCTURE BILL, 2008

It is the intention of the Department of Transport and Public Works to request the Minister of Transport in the Western Cape Provincial Government to introduce the Western Cape Transport Infrastructure Bill into the Legislature at the conclusion of the public consultation process on the draft Bill. The process of advertising the draft Western Cape Transport Infrastructure Bill, 2008 is intended to elicit public comment and to incorporate such comments as are received into the final Bill prior to it being introduced to the Legislature by the Minister.

The Western Cape Transport Infrastructure Act (WCTIB) will, once promulgated, allow the Province and municipalities to administer transport infrastructure under the categories of major roads, railway lines and other transport infrastructure under 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 by providing infrastructure that supports the operation of all modes of transport, including non-motorized transport, public transport, goods delivery and private vehicles. These are explained in this memorandum:

Replacement of other legislation by WCTIB

- The WCTIB is primarily intended to replace the Roads Ordinance, 19 of 1976 and the Advertising of Roads and Ribbon Development Act, 21 of 1940. Both pieces of legislation predate the Constitution, 108 of 1996, are inconsistent with the institutional structures that exist today under the new dispensation and do not adequately reflect the needs.

Roads versus streets—roads dealt with under Bill

- The WCTIB will be aligned with the Constitution, and will bring essential road management functions required by the DT&PW 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.

Administration of municipal streets

- 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 or a replacing Provincial law, or under a municipal streets by-law.
- The provisions of this Act relating to the declaration, regulation, control and management of declared 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.
- It follows that municipalities may make by-laws for the administration of municipal roads to replace or expand any part of this Act, except where it is intended that a municipal road will receive subsidy from the Province, in which case the administration of the municipal road must be in terms of this Act.

Expansion of scope to include public transport infrastructure

- The WCTIB increases the scope of transport infrastructure legislation beyond that covered in the current Ordinance and ARRDA, which are essentially designed exclusively for the declaration and administration of road construction and maintenance for Provincial roads and the financing of “proclaimed” municipal main roads.
- The WCTIB will now in addition to roads provide for the declaration of public transport infrastructure, such as heavy or light rail systems and high order public transport roads for BRT-type systems.

- The functions of the Province and municipalities contemplated in this Act relating to the administration of railway lines and other public transport infrastructure fall within the functions of “public transport” and “municipal public transport” listed in Schedule 4 of the Constitution, and these must be read with the NLTTA.

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 these are rest areas, direct access service centres, weigh bridges and traffic control centres.
- Ancillary public transport infrastructure is also provided for, in that facilities supporting the operation of public transport, and which are situated on separated sites to the railway lines or roads reserved for public transport vehicles can be declared. Examples of these are public transport interchanges, marshalling yards and depots.

Declaration of roads by a municipality

- An important policy incorporated is the support for municipalities where high-order roads for which a municipality is the road authority can be declared by a municipality on its own, and thereby benefit from the management and control provisions of the WCTIB. Municipalities will be able to declare roads independently from the Province, and for which they have sole decision-making powers.
- In cases where a municipal road is declared, it would 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 such municipal roads are being managed in compliance with such norms and standards.

Inclusion of requirements for strategic and project planning

- Strategic forward planning of transport infrastructure as required in terms of the NLTTA is reinforced in the Bill, which further provides timeframes for the budgeting process where subsidy is required. The Province’s transport infrastructure planning is made a statutory requirement in the Bill 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, 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.

Provision for subsidy paid to municipalities

- Another important principle is that the Bill provides for a road declared by a municipality to receive subsidy from the Province. Where this happens, there would be a subsidy agreement between the municipality and the Minister covering the conditions under the agreement.
- Where a subsidy agreement exists for a declared municipal road, important decision-making with regard to standards and alterations to the road would require the endorsement of the DT&PW, either through the norms and standards included in the Bill, or through coordinating structures between the spheres.

Other important financial provisions

- The Bill has other financial provisions, a principle one being the establishment of the Transport Infrastructure Fund, which will be dedicated fund into which is paid appropriations by the Province, fines for offenses, fees paid, tolls received and other sources through PPP arrangements (such as for direct assess service centres).
- The Fund will be used for defraying the costs of Provincial roads, railway lines and other transport infrastructure, and as a channel for the paying of subsidy to municipalities. The fund, being independent of the Provincial Revenue Fund, will earn interest and will make it possible to roll funds over to successive financial years.

Transitional provisions

- As from the date of commencement of this Act all trunk, main, district, minor roads and public pathways previously declared under the Roads Ordinance will be deemed to have been declared under this Act, 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 under this Act.
- It is intended that a process will commence on promulgation of the Bill to allow the classification and ownership of roads in the Province to be rationalized.

Transitional provisions in the Bill allow for the cataloguing of all roads previously declared under the Ordinance, and the re-classification of these roads under the Act where required. This process will also involve the assignment of some of these roads to the appropriate municipality that is best placed to take over the road, and for those not transferred to remain under ownership and authority of the Province. Roads that are assigned by Province to municipalities will be taken over in terms of conditions of agreements.

Authorities, ownership and professional responsibilities

- The Bill provides that the Minister or a municipality may be road or public transport infrastructure authority, and as such performs all functions of planning, design, expropriation, construction, management and financing of transport infrastructure falling under its control.
- The ownership of transport infrastructure as well as the land between the reserves is vested in the Province or a municipality. The Bill provides for flexibility in the legal arrangements relating to land ownership—either ownership of the reserve can be taken while title to the land remains with the original owner, or else the reserve can be alienated and title transferred to the Province or municipality, whichever is the road or public transport infrastructure authority.
- The responsibility of the Minister or a municipality as road or public transport infrastructure authority carries a proviso in the Bill that certain key technical functions can be performed only under the responsibility and due diligence of a Professional Engineer or Technologist.

WES-KAAPSE KONSEPWETSONTWERP OP VERVOERINFRASTRUKTUUR, 2008

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 Provinsie Wes-Kaap, soos volg:—

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INLEIDENDE BEPALINGS

Woordoms krywing

1. In hierdie Wet, tensy dit uit die samehang anders bly, 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; 20
- “**afdelingspad**” ’n pad wat voorheen ingevolge die Ordonnansie as sodanig geklassifiseer is, waarvan die klassifikasie ingevolge artikel 35(3) tot “distrikspad” verander is; 25
- “**boubeperringsgebied**” ’n gebied langs ’n pad of spoorlyn of om die kruising van twee paaie waarin die oprigting van geboue en enige ander strukture sonder die toestemming van die pad- of vervoerinfrastruktuurowerheid verbied of beperk word; 30
- “**boulyn**” ’n lyn 5 meter buite ’n pad- of spoorlynreserwe, op welke 5 meter geen gebou of enige ander struktuur mag oorskry nie;
- “**bustransit**” ’n passasiersbusstelsel wat óf op ’n pad wat met ander verkeersmodusse gedeel word, bedryf word, óf gemagtig is om ’n openbare vervoerpad eksklusief te gebruik; 35
- “**bykomstige openbare vervoerinfrastruktuur**” ’n provinsiale of munisipale fasiliteit wat ingevolge artikel 8(2)(a) tot (d) verklaar is en nodig is vir die bedryf van openbare vervoerdienste, insluitende ’n openbare vervoerwisselaar vir die gebruik of bestuur van treine, busse of taxi’s en hulle passasiers, ’n rangeerwerf vir die bedryf van busdienste, ’n depot beoog ingevolge artikel 124 van die NLTTA, ’n beheer- of inligtingsentrum vir die bedryf van openbare vervoer, en alle onroerende eiendom en serwitute, insluitende kommersiële fasiliteite, wat in verband met sodanige infrastruktuur gebruik word; 40
- “**bykomstige padinfrastruktuur**” ’n provinsiale of munisipale fasiliteit wat ingevolge artikel 8(1)(a) tot (h) verklaar is, insluitende ’n parkeergebied, rusgebied, diensperseel met regstreekse toegang, stilhouplek, weegbrugperseel, verkeersbeheersentrum en alle ander verwante ingelyfde fasiliteite, insluitende kommersiële fasiliteite; 45
- “**Departement**” die departement in die Provinsiale Regering wat vir provinsiale paaie en openbare vervoeraangeleenthede verantwoordelik is of ’n ander departement wat deur die Premier aangewys is;
- “**deurpad**” ’n pad of gedeelte van ’n pad wat ingevolge die Nasionale Padverkeerswet as ’n deurpad aangewys is; 50
- 55

- “**diensperseel met regstreekse toegang**” ’n fasiliteit spesifiek vir die gebruik van vervoergebruikers of die beheer van vervoerbedrywighede wat regstreekse toegang vanaf ’n verklaarde pad het;
- “**distrikmunisipaliteit**” ’n munisipaliteit wat in artikel 1 van die Strukturewet as sodanig omskryf is; 5
- “**distrikspad**” ’n provinsiale of munisipale pad wat voorheen ingevolge die Ordonnansie as ’n “afdelingspad” geklassifiseer was of as sodanig geklassifiseer is ingevolge artikel 6(1)(c);
- “**dorp**” ’n gebied wat wettiglik verdeel is in standplase, erwe of hoewes, hetsy met of sonder openbare oop ruimtes, en in strate wat begrens word deur die standplase, 10 erwe, hoewes of oop ruimtes, en—
- (a) wat ingevolge enige wet as ’n dorp ingestel is of erken word; of
- (b) deur die Minister van Plaaslike Regering erken word as ’n dorp vir die doel van hierdie Wet, in die mate aldus erken;
- “**eienaarskap van grond waaroor ’n pad, spoorlyn of ander vervoerinfrastruktuur verklaar is**” besit van die eiendom deur die persoon op wie se naam titel op die eiendom deur die Registrateur van Aktes gehou moet word; 15
- “**eienaarskap van ’n pad, spoorlyn of ander vervoerinfrastruktuur**” die eiendomsreg van die Provinsie of munisipaliteit oor die reserwe van die verklaarde pad, spoorlyn of ander vervoerinfrastruktuur; 20
- “**Fonds**” die Wes-Kaapse Provinsiale Vervoerinfrastruktuurfonds, ingevolge Deel 5 ingestel;
- “**gesubsidieerde vervoerinfrastruktuur**” verklaarde munisipale vervoerinfrastruktuur waarvoor ’n subsidie deur die Minister betaal word ingevolge ’n ooreenkoms tussen die munisipaliteit wat die pad- of openbare 25 vervoerinfrastruktuurowerheid is en die Minister;
- “**grens van ’n pad**” die grens van die reserwe van sodanige pad;
- “**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996);
- “**GVP**” ’n geïntegreerde vervoerplan beoog in artikel 27 van die NLTTA; 30
- “**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 enige regulasie wat kragtens hierdie Wet uitgevaardig is;
- “**hoofpad**” ’n provinsiale of munisipale pad wat aldus ingevolge die Ordonnansie 35 verklaar is of ingevolge artikel 6(1)(b) geklassifiseer is;
- “**kleinpad**” ’n provinsiale of munisipale pad wat aldus verklaar is ingevolge die Ordonnansie of artikel 6(1)(d);
- “**konstruksie**” ook rekonstruksie;
- “**ligte spoorlyn**” ’n passasierspoorstelsel, wat die volgende insluit: 40
- (a) ’n spoorstelsel met ’n baanbreedte van minder as 600 millimeter;
- (b) ’n stelsel wat op ’n monospoor of ’n magnetiese levitasiestelsel loop;
- (c) ’n vaste spoor- of baanstelsel waar die voertuie op lugbande loop; en
- (d) enige ander stelsel wat deur die Minister by kennisgewing in die *Provinsiale Koerant* tot ’n ligte spoorstelsel verklaar is, wat ’n stelsel met ’n baanbreedte 45 van meer as 600 millimeter kan insluit,
- wat in sy eie spoorreserwe geleë kan wees, binne ’n eksklusiewe reg van weg binne ’n padreserwe, of in gemengde verkeer binne ’n padreserwe bedryf kan word, en het “ligte spoortransit (LST)” ’n ooreenstemmende betekenis;
- “**metropolitaanse munisipaliteit**” die Metropolitaanse Munisipaliteit van die 50 Stad Kaapstad en enige ander metropolitaanse munisipaliteit soos omskryf in artikel 1 van die Strukturewet, wat in die Provinsie ingestel word nadat hierdie Wet in werking getree het;
- “**Minister**” die lid van die Provinsiale Kabinet verantwoordelik vir vervoeraangeleenthede in die Provinsie; 55
- “**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 verantwoordelik vir plaaslike regering en behuising in die Provinsie;
- “**motorhek**” ’n deurgang geleë dwarsoor die deel van ’n pad wat verkeer dra, en 60 wat net voertuigverkeer deurlaat deur middel van ’n geribde platform en gebou is volgens die spesifikasies van die padinfrastruktuurowerheid;

“Munisipale Ordonnansie” die Munisipale Ordonnansie, 1974 (Ordonnansie No. 20 van 1974);
“munisipale pad” ’n hoofpad, distrikpad, kleinpad of openbare vervoerpad wat aldus verklaar is ingevolge die Ordonnansie of artikel 6(1), waarvoor ’n munisipaliteit die padinfrastruktuurowerheid is; 5
“munisipale straat” ’n straat onder die gesag van ’n munisipaliteit ingevolge die Munisipale Ordonnansie of ander vervangende wetgewing, wat paaie uitsluit wat ingevolge hierdie Wet verklaar is of geag word verklaar te wees;
“munisipaliteit” ook alle kategorieë munisipaliteite;
“mynbedrywighe” enige bedrywigheid rakende die handeling van mynbou en aangeleenthede wat regstreeks daarmee verband hou; 10
“nasionale pad” ’n nasionale pad soos omskryf in die Wet op Die Suid-Afrikaanse Nasionale Padagentskap Beperk en op Nasionale Paaie, 1998 (Wet No. 7 van 1998);
“Nasionale Padverkeerswet” die Nasionale Padverkeerswet, 1996 (Wet No. 93 van 1996); 15
“NGV” niegemotoriseerde verkeer, wat voetgangers, trapfietse en ander voertuie wat deur mense aangedryf word en voertuie wat deur diere getrek word, insluit;
“NLTTA” die National Land Transport Transition Act, 2000 (Wet No. 22 van 2000); 20
“okkupeerder” ’n persoon wat grond werklik beset of ’n persoon wat op ’n bepaalde tydstip beheer oor grond het as eienaar, huurder of lisensiehouer of om enige ander rede;
“onteien”, in die konteks van artikel 39, om ’n eiendomseienaar te ontnem van sy grond of die gebruik van sy grond; 25
“Onteieningswet” die Onteieningswet, 1975 (Wet No. 63 van 1975), of enige wetgewing wat daardie wet vervang;
“openbare vervoerinfrastruktuurowerheid” die Minister of ’n munisipaliteit onder wie se gesag ’n verklaarde spoorlyn of ander openbare vervoerinfrastruktuur val; 30
“openbare vervoerpad” ’n provinsiale of munisipale pad geklassifiseer ingevolge artikel 6(1)(e), wat geleë kan wees in sy eie eksklusiewe reserwe of binne ’n reserwe vir ’n primêre, hoof-, distriks- of kleinpad, en wat hoofsaaklik gebruik word deur bus-, minibustaxi- en metertaxi-modusse van openbare vervoer volgens voorwaardes gestel deur die pad- of openbare vervoerinfrastruktuurowerheid en bekend gemaak by kennisgewing in die *Provinsiale Koerant* of ooreenkomstig die Nasionale Padverkeerswet; 35
“openbare vervoerwisselaar” bykomstige openbare vervoerinfrastruktuur, wat insluit die gebiede wat gebruik word vir die bedryf van alle modusse van openbare vervoervoertuie, gebiede vir op- en aflaaipte vir passasiers, geboue wat vir administrasie, kommersiële en kleinhandel- en verwante gebruike gebruik word, insluitende wag- en ablusiefasiliteite vir passasiers, en dit kan ’n stasie insluit; 40
“openbare voetpad” ’n provinsiale of munisipale voetpad wat aldus ingevolge die Ordonnansie verklaar of ingevolge artikel 6(1)(f) geklassifiseer is;
“op ’n pad” of **“op ’n spoorlyn”** op of in die gebied van die betrokke pad- of spoorreserwe; 45
“oprig”, met betrekking tot ’n heining, ook die heroprigting van ’n heining, die algehele vervanging van die materiaal van ’n heining en die byvoeging tot ’n heining van enige materiaal wat nie vir die doel van herstel en instandhouding nodig is nie; 50
“Ordonnansie” die Kaapse Ordonnansie op Paaie, 1976 (Ordonnansie No. 19 van 1976);
“pad” ’n provinsiale of munisipale pad wat ingevolge artikel 6(1)(a) tot (e) of ingevolge die Ordonnansie verklaar is vir die gebruik van niegemotoriseerde vervoer, passasiersmotors, goederevoertuie en openbare vervoervoertuie, die volle breedte van die padreserwe behels, en ook alle werke of dinge wat deel uitmaak van, verbind is met of behoort tot sodanige pad, maar nie beperk nie tot, die ryvlak, wisselaars, motorhekke, sypaadjies, fietsbane, verkeersirkels, verkeerseilande, intelligente vervoerstelsels, randstene, opvullings, uitgrawings, duikweë, duikers, dreins, damme, heinings, borswerings, handrelings, straatligte, tonnels, brûe, 60
ponte, parkeergebiede, rusgebiede, rigtingwysers, afstandwysers, padwysers, instruksies, waarskuwings en enige gedeelte van so ’n pad;

- “**padinfrastruktuuroowerheid**”, behoudens ’n klassifikasie of wysiging daarvan ingevolge Deel 2, die Minister of ’n munisipaliteit in wie se regsgebied en onder wie se gesag ’n verklaarde pad geleë is;
- “**pad- of spooreienaar**” die pad- of openbare vervoerinfrastruktuuroowerheid vir ’n pad of spoorlyn; 5
- “**Padtoegangstandaarde**” departementele beleid en riglyne wat voorgeskryf is vir die toepassing van norme en standaarde rakende alle verklaarde paaie vir gebruik deur padowerhede in die Provinsie by die doen van strategiese beplanning van toegang tot ’n verklaarde pad en by die oorweging van aansoeke vir toegang na en van grondgebruike aangrensend aan ’n verklaarde pad; 10
- “**plaaslike munisipaliteit**” ’n munisipaliteit as sodanig omskryf in artikel 1 van die Strukturewet;
- “**PLVR**” die provinsiale landvervoerraamwerk beoog in artikel 22 van die NLTA;
- “**primêre pad**” ’n provinsiale pad wat aldus ingevolge die Ordonnansie verklaar of ingevolge artikel 6(1)(a) geklassifiseer is; 15
- “**Promotion of Administrative Justice Act**” die Promotion of Administrative Justice Act, 2000 (Wet No. 3 van 2000);
- “**Provinsiale Koerant**” die *Provinsiale Koerant* van die Provinsie;
- “**provinsiale pad**” ’n primêre pad, hoofpad, distrikspad, kleinpad of openbare vervoerpad in artikel 6(1) beoog, waarvoor die Provinsie die padinfrastruktuuroowerheid is; 20
- “**Provinsie**” die Provinsie of die Provinsiale Regering van die Wes-Kaap, na gelang van die samehang;
- “**reserwe**”, in die geval van ’n pad of spoorlyn, die volle verklaarde breedte tussen die kante van die reserwe, en in die geval van bykomstige vervoerinfrastruktuur, die volle gebied binne die buitengrens van die perseel; 25
- “**rusgebied**” ’n gebied wat opgesit is spesifiek om padgebruikers in staat te stel om hulle reis te onderbreek vir die doel van ’n russtop, geleë óf aangrensend aan en deel van die padreserwe, óf weg van die pad, en wat kommersiële fasiliteite kan insluit; 30
- “**spoorlyn**” ’n provinsiale of munisipale spoorlyn wat in gevolge artikel 6(1)(g) en (h) verklaar is vir die gebruik van swaar of ligte passasierspoorstelsels, en behels dit die volle breedte van die spoorreserwe, en ook alle werke of dinge wat deel uitmaak van, verbind is met of behoort tot sodanige spoorlyn, maar nie beperk nie tot, die ballas en spoorbane, stasies, brûe, tunnels, sinjaal- en rangeerfasiliteite, en ander verwante fasiliteite geleë binne die reserwe en enige gedeelte van sodanige spoorlyn; 35
- “**stasie**” ook die gebiede binne ’n stasie wat gebruik word vir die spoorbaan, siviele infrastruktuur, treinbeheerstelsels, spoorwegwerwe, sylyne, sinjale en alle ander fasiliteite wat nodig is vir of bykomstig is by die bedryf, instandhouding en administrasie van die spoorwegstelsel, en ook, maar nie beperk nie tot, parkeergarages en -gebiede, op- en aflaaipunte vir passasiers, en kommersiële en kleinhandelgrondgebruike wat deel van die stasieperseel uitmaak; 40
- “**stedelike gebied**” ’n gebied bestaande uit— 45
- (a) ’n dorp genoem in paragraaf (a) van die omskrywing van “dorp” of ’n gebied wat in landbouhoeves of plase van twee hektaar of minder verdeel is, maar uitgesonderd grond in daardie gebied—
- (i) wat meentgrond is; of
- (ii) wat gebruik word of bestem is om gebruik te word hoofsaaklik vir boerdery of tuinbou of die aanhou van diere; of 50
- (iii) wat bestaan uit enige ander oopruimte wat nie vir openbare doeleindes ontwikkel of gereserveer is nie; of
- (b) ’n dorp in paragraaf (b) van daardie omskrywing genoem wat die Minister in oorleg met die Minister van Plaaslike Regering by kennisgewing in die *Provinsiale Koerant* as ’n stedelike gebied verklaar het vir doeleindes van hierdie Wet; 55
- (c) gebiede aangrensend aan dorpe en buite die grense van die stedelike gebied in (a) en (b) omskryf, gemeet langs ’n verklaarde pad tot in die niestedelike gebied vir ’n afstand van 250 meter vanaf die punt waar die toegang tot die dorp naaste aan die grens van die stedelike gebied gegee word; en 60
- (d) [?] [SENTENCE DOES NOT RUN ON] waar ’n vervoerreserwe aan een kant begrens word deur ’n stedelike gebied en aan die teenoorgestelde kant

- deur 'n niestedelike gebied, word aangeleenthede wat beheer word deur die bepalings van artikels 9, 17, 41, 42, 43, 48 en 49, bereg volgens die stedelike of niestedelike aard rakende die kant van die korridor waar dit voorkom;
- “straat”** 'n munisipale straat;
- “Strukturewet”** die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998); 5
- “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;
- “swaar spoorlyn”** 'n passasierspoorstelsel wat—
- (a) bedryf word op spore binne sy eie reg van weg, van ander botsende spoor- of padverkeer afgesonder deur graadgeskeide fasiliteite; 10
- (b) dit vir passasiers moontlik maak om kaartjies te koop voor hulle aan boord gaan;
- (c) passasiers daartoe beperk om spoorwegwaens net op platforms by vaste stasies binne te gaan en te verlaat; 15
- (d) aangedryf word deur elektriese verspreiding óf oorhoofs óf op spoorvlak of deur dieseltrekkrag; en
- (e) 'n baanbreedte van meer as 600 millimeter het, en het “spoortransit” 'n ooreenstemmende betekenis;
- “tolpad”** 'n provinsiale pad wat tot 'n provinsiale tolpad verklaar is ingevolge die Wes-Kaapse Wet op Tolpaaie, 1999 (Wet No. 11 van 1999); 20
- “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;
- “verkeer”** pad- en spoorvoertuigverkeer en NGV; 25
- “verkeersaarbestuursplan”** 'n korridorplan vir 'n groot verkeersaarroete of 'n gedeelte van 'n groot verkeersaarroete, goedgekeur deur die pad- of openbare vervoerinfrastruktuurowerheid en ingelyf in die GVP, ruimtelike ontwikkelingsraamwerk en PLVR, wat die beleid vir die bestaande en toekomstige gebruik van die fasiliteit omskryf, 'n fisiese plan verskaf wat die huidige bestuur en omskrywe stadiums van toekomstige opgradering lei, en ook beperkings in die veranderinge in die gebruik van aangrensende grond, toegang, parkering, openbare vervoer, NGV, en die wyse waarop alle gebruikers gelei en beperk sal word in die korridor;
- “verkeerstekens”** padverkeerstekens soos omskryf in die Nasionale Padverkeerswet, en ook tekens of sinjale vir die beheer van pad- en spoorverkeer by spooroorange en by ander plekke waar daar potensiële botsings tussen spoor- en ander verkeer is; 30
- “verklaarde pad”** 'n primêre pad, 'n hoofpad, 'n distrikspad, 'n kleinpad of 'n openbare vervoerpad wat ingevolge hierdie Wet verklaar is of geag word aldus ingevolge hierdie Wet verklaar te wees; 40
- “verklaarde spoorlyn”** 'n spoorlyn wat ingevolge hierdie Wet verklaar is;
- “vervoerinfrastruktuur”** ook verklaarde provinsiale en munisipale paaie, bykomstige padinfrastruktuur, spoorlyne en bykomstige openbare vervoerinfrastruktuur;
- “voorgeskryf”** of **“by regulasie voorgeskryf”** deur die Minister voorgeskryf by regulasie in die *Provinsiale Koerant*; 45
- “WMFB”** die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003);
- “WNOB”** die Wet op Nasionale Omgewingsbestuur, 1998 (Wet No. 107 van 1998); 50
- “WOFB”** die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

Bestek van hierdie Wet

2. Hierdie Wet is bedoel om provinsiale en munisipale paaie, spoorlyne en ander vervoerinfrastruktuur wat ingevolge hierdie Wet verklaar is of geag word verklaar te wees, te administreer, insluitende die beplanning, verklaring, advertering, toegangsbeheer, subsidie en befondsing van sodanige vervoerinfrastruktuur. 55

Owerhede verantwoordelik vir vervoerinfrastruktuur

3. (1) Die pad- of openbare vervoerinfrastruktuurowerheid verantwoordelik vir die beplanning, ontwerp, verklaring, onteiening, konstruksie, instandhouding, beheer, bestuur, regulering, opgradering en rehabilitasie van paaie, spoorlyne en ander vervoerinfrastruktuur is— 5
- (a) die Minister in die geval van primêre, hoof-, distriks-, klein- en openbare vervoerpaaië, openbare voetpaaië en spoorlyne wat ingevolge die Ordonnansie of artikel 18 verklaar is, waardeur die Provinsie die pad- of openbare vervoerinfrastruktuurowerheid vir sodanige pad of spoorlyn is; 5
 - (b) die betrokke munisipaliteit in die geval van hoof-, distriks-, klein- en openbare vervoerpaaië, openbare voetpaaië en spoorlyne wat ingevolge die Ordonnansie of artikel 18 verklaar is, waardeur die munisipaliteit die pad- of openbare vervoerinfrastruktuurowerheid vir sodanige pad of spoorlyn is. 10
- (2) Die pad- of openbare vervoerinfrastruktuurowerheid verantwoordelik vir die beplanning, ontwerp, verklaring, konstruksie, onteiening, instandhouding, beheer, bestuur, regulering, opgradering en rehabilitasie van bykomstige pad- en openbare vervoerinfrastruktuur is— 15
- (a) die Minister in die geval van bykomstige pad- en openbare vervoerinfrastruktuur wat ingevolge artikel 18 verklaar is, waardeur die Provinsie die pad- of openbare vervoerinfrastruktuurowerheid vir sodanige infrastruktuur is; 20
 - (b) die betrokke munisipaliteit in die geval van bykomstige pad- en openbare vervoerinfrastruktuur wat ingevolge artikel 18 verklaar is, waardeur die munisipaliteit die pad- of openbare vervoerinfrastruktuurowerheid vir sodanige infrastruktuur is; 25
- (3) Die Minister of 'n munisipaliteit, na gelang van die geval, is verantwoordelik vir die aktiwiteite genoem in subartikels (1) en (2), behoudens beskikbare finansiële hulpbronne.
- (4) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan met 'n ander pad- of openbare vervoerinfrastruktuurowerheid ooreenkom dat die verantwoordelikheid vir sekere van of al die aspekte rakende verklaarde vervoerinfrastruktuur in subartikels (1) en (2) genoem, na die ander pad- of openbare vervoerinfrastruktuurowerheid oorgedra word op die bepalings en voorwaardes waarop daar ooreengekom word, wat moet insluit voorwaardes oor die finansiële verantwoordelikhede vir die betrokke aspekte, met dien verstande dat 'n kennisgewing in die *Provinsiale Koerant* gepubliseer word om sodanige ooreenkoms te weerspieël. 30 35

Eienaarskap van vervoerinfrastruktuur

4. (1) Eienaarskap van 'n pad, spoorlyn of ander vervoerinfrastruktuur, waar dit ingevolge die Ordonnansie of kragtens artikel 18 verklaar is, berus by die Provinsie waar die pad- of openbare vervoerinfrastruktuurowerheid die Minister is, of by die munisipaliteit waar die pad- of openbare vervoerinfrastruktuurowerheid die munisipaliteit is. 40
- (2) Beheer en bestuur van 'n pad, spoorlyn of ander vervoerinfrastruktuur en van die grond binne die verklaarde reserwes waaroor dit verklaar is, berus by die pad- of openbare vervoerinfrastruktuurowerheid waar dit ingevolge die Ordonnansie of kragtens artikel 18 verklaar is. 45
- (3) Gedeeltes van eiendomme wat van die oorspronklike eienaars verkry is, kan vervreem en van die oorspronklike eienaar na die Provinsie of munisipaliteit oorgedra word op versoek van die pad- of openbare vervoerinfrastruktuurowerheid, en die titelaktes van daardie gedeeltes van eiendomme kan op naam van die Provinsie of die munisipaliteit geregistreer word. 50
- (4) Beperkings wat deur die reserwe geplaas word op alle gedeeltes van eiendomme wat die reserwe uitmaak waar titel op die eiendom waaroor die pad, spoorlyn of ander vervoerinfrastruktuur verklaar is, op die naam van die oorspronklike eienaar bly, moet by die Registrateur van Aktes geregistreer word en op die titelakte van elke eiendom aangedui word, met dien verstande dat dit nie 'n vereiste is om sodanige beperkings te registreer nie ten opsigte van paaie wat by die inwerkingtreding van hierdie Wet bestaan en wat nie te eniger tyd daarna gesluit is nie. 55
- (5) Met ingang van die datum van inwerkingtreding van hierdie Wet word alle titelaktes van eiendomme waarvan eienaarskap voorheen by die Padtrustees berus het 60

wat ingevolge die Ordonnansie ingestel is, ingevolge hierdie subartikel na die Provinsie oorgedra.

(6) Eienaarskap van 'n pad, spoorlyn of ander vervoerinfrastruktuur kan saam met die gesag, regte en verantwoordelikhede, in geheel of gedeeltelik, van een pad- of openbare vervoerowerheid na 'n ander oorgedra word ingevolge artikel 18(3) of artikel 36(1) of 5 waar die Suid-Afrikaanse Nasionale Padagentskap Beperk 'n pad as 'n nasionale pad oorneem ingevolge die Wet op Die Suid-Afrikaanse Nasionale Padagentskap Beperk en op Nasionale Paaie, 1998 (Wet No. 7 van 1998).

(7) Indien—

- (a) enige pad, spoorlyn of ander vervoerinfrastruktuur verskuif, gewysig of 10 permanent gesluit word; of
- (b) die reserwe van 'n pad, spoorlyn of ander vervoerinfrastruktuur smaller gemaak of gewysig word wat tot oortollige grond lei; of
- (c) 'n pad- of openbare vervoerinfrastruktuurowerheid 'n grondeenaar in kennis 15 stel dat hy nie beoog om voort te gaan om 'n gruisgroef te bedryf nie wat op sodanige grond deur die pad- of openbare vervoerinfrastruktuurowerheid bedryf is,

moet die regte gelyk aan dié van 'n pad, spoorlyn of ander vervoerinfrastruktuurserwituut van die grond wat daardeur ophou om deel van die pad, spoorlyn of ander vervoerinfrastruktuur te wees, tesame met die eienaarskap, beheer en bestuur 20 van alle werke en dinge daaraan geheg, tensy die pad- of openbare vervoerinfrastruktuurowerheid by kennisgewing in die *Provinsiale Koerant* anders gelas, oorgaan op en vestig in die eienaar van die eiendom waarvan dit oorspronklik deel uitgemaak het voordat die pad, spoorlyn of ander vervoerinfrastruktuur verklaar is; met 25 dien verstande dat vergoeding ten opsigte van sodanige oordrag van regte, waarvan die berekening voorgeskryf kan word, vereis kan word, en verder met dien verstande dat die bepalinge van hierdie artikel nie van toepassing is nie op grond wat by die Padtrustees berus.

(8) Die Provinsie kan beskik oor grond wat in die eienaarskap van die Provinsie gevestig is deur die oordrag van eienaarskap van die Padtrustees ingevolge subartikel 30 (5) en nie meer nodig is nie vir enige doel wat met vervoerinfrastruktuur verband hou.

Professionele ingenieurs, stadsbeplanners of argitekte verantwoordelik vir spesifieke funksies

5. (1) Die Minister of 'n munisipaliteit, na gelang van die geval, moet verseker dat die funksies wat ingevolge hierdie Wet verrig word, onderneem word onder die 35 verantwoordelikheid en noulettendheid van 'n gepas gekwalifiseerde professionele persoon, behoudens subartikel (2).

(2) Geen persoon behalwe 'n professionele ingenieur of professionele tegnoloog geregistreer by die Ingenieursraad van Suid-Afrika, ingestel ingevolge die Wet op die Ingenieursweseprofessie, 2000 (Wet No. 46 van 2000), of 'n stadsbeplanner of argitek 40 geregistreer ingevolge die betrokke professionele akkrediteringsliggaam, mag verantwoordelik wees nie vir die toesig oor en goedkeuring van tegniese strategieë of planne rakende navorsing, tegniese ontleding en aanbevelings vir toekomstige vervoerinfrastruktuur.

(3) Geen persoon behalwe 'n professionele ingenieur of professionele tegnoloog 45 geregistreer by die Ingenieursraad van Suid-Afrika, ingestel ingevolge die Wet op die Ingenieursweseprofessie, 2000 (Wet No. 46 van 2000), mag verantwoordelik wees vir die toesig oor en goedkeuring van tegniese strategieë of planne rakende die volgende aktiwiteite, wat by regulasie verder voorgeskryf kan word:

- (a) Die ontwerp van siviele, strukturele, elektriese en meganiese 50 ingenieurskomponente van vervoerinfrastruktuur;
- (b) die ontwikkeling van remediërende en instandhoudingstrategieë van bestaande vervoerinfrastruktuur;
- (c) die bestuur van die konstruksie en instandhouding van vervoerinfrastruktuur.

DEEL 2:**KLASSIFIKASIE EN STANDAARD RESERWEBREEDTES VAN
VERVOERINFRASTRUKTUUR****Klassifikasie van verklaarde provinsiale en munisipale paaie en spoorlyne**

6. (1) Paaie en spoorlyne in die Provinsie word soos volg geklassifiseer: 5
- (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;
 - (d) kleinpaaie, onder beheer van die Minister of 'n munisipaliteit;
 - (e) openbare vervoerpaaie, onder beheer van die Minister of 'n munisipaliteit; 10
 - (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.
- (2) Pad- of openbare vervoerinfrastruktuurowerhede moet, in elke kennisgewing wat ingevolge artikel 18 in die *Provinsiale Koerant* geplaas word, die pad of spoorlyn wat in sodanige kennisgewing verklaar word, klassifiseer as een van die tipes in subartikel (1) genoem en verklaar of dit onder beheer van die Minister of 'n munisipaliteit sal wees. 15
- (3) 'n Openbare vervoerpad wat in geheel binne die padreserwe van 'n primêre, hoof-, distriks- of kleinpad geleë is, moet die klassifikasie kry van die pad in wie se reserwe hy geleë is. 20
- (4) Die Minister kan van tyd tot tyd, na oorleg met die betrokke munisipaliteite, die klassifikasie van 'n provinsiale pad of spoorlyn verander by kennisgewing in die *Provinsiale Koerant*.
- (5) Die Minister kan 'n provinsiale pad wat in subartikel (1)(a) tot (e) geklassifiseer is, tot 'n provinsiale tolpad verklaar ingevolge, en na toepassing van die voorskrifte van, die Wes-Kaapse Wet op Tolpaaie, 1999 (Wet No. 11 van 1999). 25
- (6) 'n Munisipaliteit kan van tyd tot tyd, na oorleg met die Minister en die ander geaffekteerde munisipaliteite, die klassifikasie van 'n munisipale pad of spoorlyn wysig by kennisgewing in die *Provinsiale Koerant*, behoudens subartikel (6).
- (7) Waar 'n munisipale pad of spoorlyn deur die Minister gesubsidieer word 30 ingevolge 'n ooreenkoms in artikel 24 beoog, moet 'n munisipaliteit goedkeuring vir sodanige verandering of klassifikasie verkry voor die publikasie daarvan by kennisgewing in die *Provinsiale Koerant*.

Standaard minimum reserwebreedtes van verklaarde paaie en spoorlyne

7. (1) Behoudens subartikel (2) is die standaard minimum reserwebreedtes van paaie 35 en spoorlyne wat ingevolge Deel 4 verklaar is, soos volg:
- (a) Primêre paaie: 30 meter;
 - (b) Hoofpaaie: 25 meter;
 - (c) Distrikspaaie: 20 meter;
 - (d) Kleinpaaie: 20 meter; 40
 - (e) Openbare vervoerpaaie: 20 meter, in gevalle waar sodanige pad as 'n onafhanklike fasiliteit verklaar is;
 - (f) Openbare voetpaaie: 2 meter;
 - (g) Swaar spoorlyne: 20 meter;
 - (h) Ligte spoorlyne: 10 meter. 45
- (2) Die Minister of 'n munisipaliteit kan by verklaring, verskuiwing of verandering van 'n pad of spoorlyn ingevolge artikel 18 bepaal dat die pad of spoorlyn 'n ander reserwebreedte moet hê as die standaard reserwebreedte, met dien verstande dat hierdie aspek aandag moet kry in die projekbeplanningsproses wat ingevolge Deel 3 gedoen word. 50
- (3) Die Minister kan ten opsigte van 'n voorheen verklaarde pad of spoorlyn of gedeelte daarvan waarvan die Provinsie die pad- of openbare vervoerinfrastruktuurowerheid is, die reserwebreedte soos verklaar van enige pad of spoorlyn of tipe pad of spoorlyn verander, behoudens—
- (a) oorleg met alle geaffekteerde munisipaliteite; 55
 - (b) die uitvoering van die nodige projekbeplanning ingevolge Deel 3;
 - (c) 'n kennisgewing in die *Provinsiale Koerant* gepubliseer.

- (4) 'n Munisipaliteit kan ten opsigte van 'n voorheen verklaarde pad of spoorlyn of gedeelte daarvan waarvan hy die pad- of openbare vervoerinfrastruktuurowerheid is, die reserwebreedte soos verklaar van enige pad of spoorlyn of tipe pad of spoorlyn verander, onderhewig aan—
- (a) oorleg met alle ander geaffekteerde munisipaliteite en, waar toepaslik, die Minister; 5
 - (b) die uitvoering van die nodige projekbeplanning ingevolge Deel 3;
 - (c) waar die munisipaliteit die verantwoordelike pad- of openbare vervoerinfrastruktuurowerheid is en die infrastruktuur deur die Provinsie gesubsidieer word, goedkeuring deur die Minister vir sodanige veranderings; 10 en
 - (d) 'n kennisgewing in die *Provinsiale Koerant* gepubliseer wat die verandering beskryf.
- (5) Die reserwebreedte van alle verklaarde paaie of spoorlyne wat wettig bepaal of gewysig is by die Ordonnansie en van krag is by die inwerkingtreding van hierdie Wet, 15 bly van krag tensy dit ingevolge hierdie Wet verander word.

Klassifikasie en reserwes van verklaarde bykomstige vervoerinfrastruktuur

- 8.** (1) Bykomstige padinfrastruktuur onder beheer van die Minister of 'n munisipaliteit word soos volg geklassifiseer: 20
- (a) Parkeergebied;
 - (b) Rusgebied;
 - (c) Diensperseel met regstreekse toegang;
 - (d) Stilhouplek;
 - (e) Weegbrugterrein;
 - (f) Verkeersbeheersentrum; 25
 - (g) Veekamp; en
 - (h) Materiaalbergingsterrein.
- (2) Bykomstige openbare vervoerinfrastruktuur onder beheer van die Minister of 'n munisipaliteit word soos volg geklassifiseer: 30
- (a) Openbare vervoerwisselaar;
 - (b) Rangeerfasiliteit;
 - (c) Depot; en
 - (d) Beheer- en inligtingsentrum.
- (3) 'n Pad- of openbare vervoerinfrastruktuurowerheid moet, in elke kennisgewing van verklaring uitgereik ingevolge artikel 18 wat in die *Provinsiale Koerant* gepubliseer word, die bykomstige vervoerinfrastruktuur wat in sodanige kennisgewing verklaar word, klassifiseer as een van die tipes in subartikels (1) en (2) genoem, behalwe waar die bykomstige vervoerinfrastruktuur geleë is binne en deel uitmaak van die reserwe van die infrastruktuur wat ingevolge artikel 6 verklaar is. 35
- (4) Die Minister of 'n munisipaliteit, na gelang van die geval, kan in oorleg met die betrokke owerhede die klassifikasie van provinsiale of munisipale bykomstige vervoerinfrastruktuur by kennisgewing in die *Provinsiale Koerant* verander, behoudens subartikel (5). 40
- (5) Waar munisipale bykomstige vervoerinfrastruktuur deur die Minister gesubsidieer word ingevolge 'n ooreenkoms in artikel 24 beoog, moet 'n munisipaliteit toestemming van sodanige verandering van klassifikasie kry voor die aanvang van die projekbeplanningsproses. 45
- (6) Die reserwe van bykomstige vervoerinfrastruktuur word bepaal deur die projekbeplanningsproses ingevolge Deel 3 voor die verklaring van die bykomstige vervoerinfrastruktuur. 50
- (7) Die Minister kan die reserwe van voorheen verklaarde bykomstige vervoerinfrastruktuur waarvan hy die pad- of openbare vervoerinfrastruktuurowerheid is, verander, behoudens—
- (a) oorleg met geaffekteerde munisipaliteite;
 - (b) die doen van die nodige beplanningsevaluering ingevolge Deel 3; 55
 - (c) 'n kennisgewing in die *Provinsiale Koerant* gepubliseer.
- (8) 'n Munisipaliteit kan die reserwe van voorheen verklaarde bykomstige vervoerinfrastruktuur waarvan hy die pad- of openbare vervoerinfrastruktuurowerheid is, verander, behoudens—
- (a) oorleg met alle geaffekteerde munisipaliteite en, waar toepaslik, die Minister; 60
 - (b) die doen van die nodige beplanningsevaluering ingevolge Deel 3;

- (c) waar die munisipaliteit die verantwoordelike pad- of openbare vervoerinfrastruktuurowerheid is en die infrastruktuur deur die Provinsie gesubsidieer word, goedkeuring van die Minister vir sodanige verandering; en
- (d) 'n kennisgewing in die *Provinsiale Koerant* gepubliseer. 5

Boulyne en boubeperkingsgebiede

9. (1) Geen persoon behalwe die pad- of openbare vervoerinfrastruktuurowerheid mag enige struktuur waarvan die geheel of enige deel binne—
- (a) die reserwe van enige vervoerinfrastruktuur, 10
- (b) die boulyn van 'n pad of spoorlyn, of
- (c) die boubeperkingsgebied van 'n pad of spoorlyn, val, oprig of installeer of laat oprig of installeer nie op grond wat deur hom besit word of onder sy bestuur of beheer is, behalwe met die toestemming van die pad- of openbare vervoerinfrastruktuurowerheid. 15
- (2) Boulyne en boubeperkingsgebiede is van toepassing op alle primêre, hoof-, distriks- en openbare vervoerpaaië en spoorlyne wat ingevolge Deel 3 verklaar is: met dien verstande dat enige boulyn of boubeperkingsgebied wat verklaar is vir paaië wat voorheen ingevolge die Ordonnansie of ander wetgewing verklaar is, ooreenkomstig daardie vorige verklaring bly. 15
- (3) In gebiede buite 'n stedelike gebied— 20
- (a) bestaan 'n boulyn verder as die reserwe van verklaarde paaië of spoorlyne aan elke kant van die pad of spoorlyn op 'n afstand van 5 meter gemeet reghoekig tot die middellyn van die pad of spoorlyn;
- (b) bestaan 'n boubeperkingsgebied binne 'n afstand van 100 meter gemeet aan elke kant en reghoekig tot die middellyn van die pad of spoorlyn; en 25
- (c) bestaan 'n boubeperkingsgebied binne 'n sirkel met 'n radius van 500 meter gemeet van die snypunt van die middellyn van die pad of spoorlyn met die middellyn van 'n ander verklaarde pad of spoorlyn.
- (4) In gebiede binne 'n stedelike gebied bestaan 'n boulyn verder as die reserwe van verklaarde paaië of spoorlyne aan elke kant van die pad of spoorlyn op 'n afstand van 5 meter gemeet reghoekig tot die middellyn van die pad of spoorlyn. 30
- (5) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan ten opsigte van 'n pad of spoorlyn of gedeelte daarvan onder sy beheer 'n boubeperkingsgebied by kennisgewing in die *Provinsiale Koerant* verander.
- (6) 'n Persoon kan op die voorgeskrewe wyse en by betaling van die voorgeskrewe aansoekgelde by 'n pad- of openbare vervoerinfrastruktuurowerheid aansoek doen vir 'n afwyking van beperkings gestel deur 'n boubeperkingsgebied, of waar die oprigting van 'n struktuur binne die reserwe beoog word, wat toegestaan of geweier kan word met inagneming van die aard van die betrokke pad, spoorlyn of ander vervoerinfrastruktuur, die ontwikkeling of voorgestelde ontwikkeling aangrensend aan daardie pad, spoorlyn of ander vervoerinfrastruktuur en ander faktore wat die pad- of openbare vervoerinfrastruktuurowerheid as tersaaklik beskou. Waar die aansoeker nie die eienaar is nie van 'n struktuur waarop 'n afwyking van beperkings verlang word, moet hy tot tevredenheid van die pad- of vervoerinfrastruktuurowerheid toon dat hy gemagtig is om te onderhandel namens, en dat die voorstel aanvaarbaar is vir, die eiendomseienaar. 40 45
- (7) Waar daar ingevolge subartikel (6) aansoek gedoen word, kan die pad- of openbare vervoerinfrastruktuurowerheid goedkeuring verleen vir die oprigting van 'n struktuur binne die boubeperkingsgebied wat 'n spesifieke stuk grond of gedeelte daarvan raak of binne die reserwe, na kennisgewing soos voorgeskryf aan die eienaar daarvan en nadat sodanige eienaar 'n geleentheid gebied is om gehoor te word. 50
- (8) In die geval van vervoerinfrastruktuur wat 'n subsidie ontvang ingevolge 'n ooreenkoms met die Minister, moet 'n munisipale pad- of openbare vervoerinfrastruktuurowerheid met die Minister oorleg pleeg voor die uitvoering van die handelinge waarvoor subartikels (5) en (7) voorsiening maak.

DEEL 3:**BEPLANNING EN VERKLARING VAN VERVOERINFRASTRUKTUUR****Vervoerstelselbeplanning**

10. (1) Die Minister moet verseker dat vervoerstelselbeplanning van die paaie, spoorlyne en ander vervoerinfrastruktuur waarvan die Provinsie die pad- of openbare vervoerinfrastruktuurowerheid is, gedoen word soos voorgeskryf, en moet jaarliks aanvullings van sodanige beplanning, insluitende begrotings, opstel as inset vir sy begrotingsiklusse en implementeringsprogramme. Hierdie aanvullings moet aan munisipaliteite in die Provinsie beskikbaar gestel word sodat die betrokke projekte en programme by munisipale GVP's ingesluit kan word, en moet ook in die PLVR-aanvullings verskyn. 5 10

(2) Alle munisipaliteite moet—

- (a) verseker dat vervoerstelselbeplanning van paaie, spoorlyne en ander vervoerinfrastruktuur in hulle gebiede by hulle GVP's ingesluit word soos vereis by die NLTTA en regulasies en vereistes uitgevaardig ingevolge daardie Wet; 15
- (b) verseker dat beplanning en begroting vir die konstruksie, opgradering en instandhouding van paaie, spoorlyne en ander vervoerinfrastruktuur onder die gesag van al die sferes van regering wat pad- of openbare vervoerinfrastruktuurowerhede in die munisipale gebied is, insluitende ander munisipaliteite, die Provinsie en die nasionale regering, by jaarlikse aanvullings van hulle GVP's ingesluit word; en 20
- (c) inligting oor sodanige beplanning en begroting betyds aan die Minister voorlê om te verseker dat dit by die betrokke aanvulling van die Provinsie se PLVR ingesluit word. 25

Rekords van provinsiale en munisipale vervoerinfrastruktuur

11. (1) Na die inwerkingtreding van hierdie Wet moet die Minister 'n omvattende lys en gepaardgaande data soos voorgeskryf van alle verklaarde provinsiale en munisipale vervoerinfrastruktuur in die Provinsie saamstel en dit klassifiseer ooreenkomstig artikels 6 en 8, gegrond op die assesserings in artikel 35(1) beoog. 30

(2) Voordat die lys gefinaliseer word, moet die Minister—

- (a) 'n konsep daarvan aan alle tersaaklike munisipaliteite voorlê;
- (b) hulle kommentaar vra met betrekking tot die konseplys binne 180 dae na ontvangs van die lys; en
- (c) behoorlike oorweging skenk aan enige kommentaar wat ingevolge paragraaf (b) ontvang is. 35

(3) Die Minister moet 'n identifikasienommer of -kode toewys aan elke pad, spoorlyn en ander vervoerinfrastruktuur wat ingevolge subartikel (1) gelys is.

(4) Na samestelling van die lys in subartikel (1) beoog, moet die Minister die lys hou en deurlopend aanvul, en dit moet— 40

- (a) vir die publiek ter insae beskikbaar wees gedurende kantoorure op die plek of plekke wat die Minister aanwys, en
- (b) aangevul word telkens wanneer 'n pad, spoorlyn of ander openbare vervoerinfrastruktuur verklaar, verskuif, herklassifiseer of gesluit word of wanneer die verklaring daarvan ingetrek word. 45

(5) Elke munisipaliteit in die Provinsie moet 'n lys hou van alle verklaarde provinsiale en munisipale paaie, spoorlyne en ander vervoerinfrastruktuur in sy gebied, op grond van dieselfde nommer- of kodestelsel in subartikel (3) bedoel, en subartikel (4)(a) en (b) is met die nodige veranderinge op so 'n lys van toepassing.

Projekbeplanningsproses 50

12. (1) 'n Pad- of openbare vervoerinfrastruktuurowerheid moet 'n projekbeplanningsproses onderneem voor verklaring ingevolge artikel 18, waar hy voornemens is om die volgende te verklaar:

- (a) die bestaan van 'n nuwe pad, spoorlyn, bykomstige padinfrastruktuur of bykomstige openbare vervoerinfrastruktuur; 55

- (b) die verskuiwing van 'n bestaande verklaarde pad of spoorlyn waardeur die hele beplande reserwe buite die bestaande reserwe val;
- (c) die verbreding van die reserwe van 'n pad of spoorlyn of 'n wysiging van die reserwe van bestaande verklaarde bykomstige padinfrastruktuur of bykomstige openbare vervoerinfrastruktuur, behoudens artikel 12(8); 5
- (d) die verskuiwing of wysiging van verklaarde beplande vervoerinfrastruktuur nog onder konstruksie; en
- (e) die permanente sluiting van 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur.
- (2) Voor die aanvang van die projekbeplanningsproses vir een van die aktiwiteite in subartikel (1)(a) tot (e) genoem, moet 'n ooreenkoms tussen die pad- of openbare vervoerinfrastruktuurowerheid en enige ander owerhede wat betrokke moet wees by prosesse ingevolge die WNOB of die Wet op Nasionale Erfenishulpbronne, 1999 (Wet No. 25 van 1999), aangegaan word oor die bestek van: 10
- (a) tegniese beplanning in soverre dit nodig is om die voorkeurbelyning of alternatiewe belynings, uitleg of alternatiewe uitlegte, reserwe en eiendomsverkryging van 'n pad, spoorlyn of ander vervoerinfrastruktuur te definieer; 15
- (b) 'n geïntegreerde omgewingsbestuursproses ooreenkomstig die WNOB, indien wel; 20
- (c) openbare deelname ooreenkomstig die WNOB en soos verder bepaal in artikel 13, indien wel; en
- (d) 'n erfenisinvoeldebepaling ooreenkomstig die Wet op Nasionale Erfenishulpbronne, 1999 (Wet No. 25 van 1999), indien wel.
- (3) Die tegniese beplanning moet in genoeg besonderhede gedoen word sodat— 25
- (a) die sleutelimplikasies van die implementering van die roete of uitleg, of die alternatiewe wat geïdentifiseer is, wat vervoerinvloede, grondgebruikinvloede en die identifisering van eiendomme wat verkry moet word vir die implementering van die roete of elke alternatiewe roete, indien wel, geïdentifiseer kan word; en 30
- (b) na oorweging van die kommentaar voortspruitend uit die proses van openbare deelname in subartikel (5), die uitkoms van die beplanningsproses vaste aanbevelings oplewer ten opsigte van die voorkeuroete of -uitleg en -reserwe.
- (4) In die geval van 'n beplanningsproses wat onderneem word as deel van 'n geïntegreerde omgewingsbestuursproses ooreenkomstig die WNOB, moet die pad- of openbare vervoerinfrastruktuurowerheid, as deel van die beplanningsproses, 'n proses van openbare kennisgewing onderneem ooreenkomstig die vereistes van die WNOB. 35
- (5) Waar die beplanningsproses nie as deel van 'n geïntegreerde omgewingsbestuursproses ooreenkomstig die WNOB gedoen word nie, moet die pad- of openbare vervoerinfrastruktuurowerheid na voltooiing van die beplanningsproses belanghebbende en geaffekteerde partye in kennis stel en 'n kennisgewing laat publiseer in een koerant in elke amptelike taal wat in die gebied sirkuleer, bevattende— 40
- (a) 'n beskrywing van die voorgestelde roete of uitleg of alternatiewe roetes of uitlegte;
- (b) besonderhede van die tye en plekke waar insae in die bevindings van die beplanningsproses en omgewingsbestuursproses gekry en afskrifte verkry kan word; 45
- (c) 'n kennisgewing waarin alle belanghebbende en geaffekteerde partye genooi word om voor 'n datum minstens 30 dae na die publikasie van die kennisgewing, skriftelik kommentaar te lewer op die implikasies van die alternatiewe roetes of uitlegte. 50
- (6) Die pad- of openbare vervoerinfrastruktuurowerheid moet met die betrokke munisipaliteite in wie se gebiede die vervoerinfrastruktuur geleë is of sal wees, oorleg pleeg en hulle versoek om binne 'n vasgestelde tyd skriftelike kommentaar voor te lê oor die tegniese beplanning en omgewingsverslae wat ingevolge die WNOB vereis word, met spesifieke verwysing ook na die uitwerking wat die voorgestelde alternatiewe roetes of uitlegte kan hê op enige GVP, ruimtelike raamwerk of ander strategiese munisipale ontwikkelingsbeplanning van die betrokke munisipaliteit. Waar die projek 'n uitwerking het op vervoerinfrastruktuur onder die gesag van 'n ander sfeer of sfere van regering, moet daardie sfere van regering of hulle agentskappe ook geraadpleeg word. 60
- (7) Waar 'n gedeelte van 'n pad, spoorlyn of ander vervoerinfrastruktuur verskuif moet word, moet die pad- of openbare vervoerinfrastruktuurowerheid 'n beplanningsprosedure onderneem oor die oorbodige vervoerinfrastruktuur, hetsy afsonderlik of as

deel van die proses van verskuiwing van die infrastruktuur, om een of meer van die volgende te verkry:

- (a) wysig die klassifikasie;
- (b) trek die verklaring in;
- (c) dra die infrastruktuur en eiendom oor aan 'n private persoon, maatskappy of ander owerheid; of
- (d) sluit permanent.

(8) 'n Beplande of bestaande roete en reserwe of gedeelte daarvan van 'n pad of spoorlyn of die omvang en reserwe van ander vervoerinfrastruktuur, wat voorheen verklaar is ooreenkomstig die prosedures ingevolge artikel 18, kan deur die pad- of openbare vervoerinfrastruktuurowerheid verbreed of gewysig word sonder dat 'n beplanningsproses ooreenkomstig subartikels (1) tot (7) gevolg hoef te word, met dien verstande dat:

- (a) ten minste 'n deel van die verskuifde of gewysigde reserwe nie soveel van die bestaande reserwe afwyk dat dit heeltemal binne die breër of gewysigde reserwe val nie;
- (b) in die geval van 'n pad of spoorlyn, die nuwe reserwe aan een of albei kante van die reserwe nie meer as 5 m van die bestaande reserwe afwyk nie; en in die geval van bykomstige vervoerinfrastruktuur, die nuwe reserwe nie meer as 5 m verder as die bestaande reserwe geleë is nie;
- (c) die lengte van sodanige verbreding of wysiging nie langer as 'n aaneenlopende lengte van 1 000 m is nie;
- (d) alle belanghebbende en geaffekteerde partye skriftelik in kennis gestel is deur die pad- of openbare vervoerinfrastruktuurowerheid en genooi is om skriftelik kommentaar te lewer voor 'n datum nie later nie as 30 dae na kennisgewing.

Geïntegreerde omgewingsbestuursproses en openbare deelname

13. (1) Die pad- of openbare vervoerinfrastruktuurowerheid moet 'n omgewingsbestuursproses laat onderneem in koördinasie met die tegniese beplanning van die voorgestelde roete of alternatiewe roetes van 'n pad of spoorlyn, of die uitleg of alternatiewe uitlegte van bykomstige vervoerinfrastruktuur, sodat die tegniese beplanningsimplikasies van sodanige roete(s) of uitleg(te) ingevolge subartikel (3) saam met die omgewings- en ander implikasies van die projek oorweeg word.

(2) Die geïntegreerde omgewingsbestuursproses moet ingevolge Hoofstuk 5 van die WNOB gedoen word.

(3) Die proses van openbare deelname wat by die WNOB voorgeskryf word, moet die insluit die proses van oorlegpleging wat nodig is om kommentaar en verhoë in verband met die uitwerking van alle aspekte van die projek te versprei en te proseseer.

(4) Die pad- of openbare vervoerinfrastruktuurowerheid en die bevoegde owerheid wat die geïntegreerde omgewingsbestuursproses administreer wat in die WNOB beoog word, moet alle geïntegreerde omgewingsbestuursprosesse, insluitende tegniese ondersoek, spesialisstudies en die proses van openbare deelname, in 'n enkele proses koördineer.

Beplanningsproses voor permanente sluiting

14. (1) 'n Pad- of openbare vervoerinfrastruktuurowerheid moet 'n evaluasieproses onderneem voor die verklaring ingevolge artikel 18 van die implikasies van—

- (a) die voorneme om die verklaring van 'n pad, spoorlyn of ander vervoerinfrastruktuur in te trek en dit permanent fisies te sluit en na 'n ander gebruik te verander;
- (b) die voorneme om die verklaring van 'n pad, spoorlyn of ander vervoerinfrastruktuur in te trek en die benaming daarvan te verander na 'n straat wat deur 'n munisipaliteit gadministreer word; of
- (c) die intrekking van verklaring van 'n verklaarde beplande vervoerinfrastruktuur wat nog nie gebou is nie:

met dien verstande dat waar fisiese sluiting bedoel word, die evaluasieproses moet plaasvind in die vorm van 'n omgewingsinvloedbepaling soos in die WNOB beoog.

(2) Die beplanningsproses in subartikel (1) beoog, moet onder andere die implikasies identifiseer van die sluiting van die vervoerinfrastruktuur vir aangrensende grondgebruik en die gevolge van die hertoewysing van verkeer wat die vervoer-

infrastruktuur voor die sluiting gebruik, na ander vervoerinfrastruktuur as gevolg van die sluiting.

(3) Die pad- of openbare vervoerinfrastruktuurowerheid moet, na afhandeling van sodanige evaluasie, alle belanghebbende en geaffekteerde partye in kennis stel en 'n kennisgewing laat publiseer in een koerant in elke amptelike taal wat in die gebied sirkuleer, bevattende: 5

- (a) 'n beskrywing van die infrastruktuur wat gesluit gaan word;
- (b) besonderhede van die tye en plekke waar insae in die bevindings van die evaluasie van die sluiting gekry kan word; en
- (c) 'n kennisgewing waarin alle belanghebbende en geaffekteerde partye genooi word om voor 'n datum, hoogstens 30 dae na die publikasie van die kennisgewing, skriftelik kommentaar te lewer op die implikasies van die sluiting. 10

(4) Wanneer die bedoeling is om 'n pad fisies te sluit ingevolge hierdie artikel, moet die pad- of openbare vervoerowerheid 'n kennisgewing oprig wat vir 'n tydperk van ten minste 60 dae vertoon moet word by die punt van voorgenome sluiting, of by elke punt van die geaffekteerde gedeelte of gedeeltes, wat sodanige bedoeling in elke amptelike taal aandui en meld aan wie kommentaar of besware gerig kan word. 15

(5) Die pad- of openbare vervoerinfrastruktuurowerheid moet met die betrokke munisipaliteite in wie se gebiede die vervoerinfrastruktuur geleë is of sal wees, oorleg pleeg en hulle versoek om binne 'n vasgestelde tyd skriftelike kommentaar voor te lê oor die evaluasie, met spesifieke verwysing ook na die uitwerking wat die voorgestelde sluiting kan hê op enige GVP, ruimtelike raamwerk of ander strategiese munisipale ontwikkelingsbeplanning van die betrokke munisipaliteit. Waar die sluiting 'n uitwerking het op vervoerinfrastruktuur onder die gesag van ander sfere van regering, moet daardie sfere van regering of hulle agentskappe ook geraadpleeg word. 20 25

Aansoek deur grondeienaar om vervoerinfrastruktuur te sluit, te verskuif of te verander

15. (1) Enige persoon wat regstreeks deur bestaande of voorgestelde vervoerinfrastruktuur geraak word, kan skriftelik by die pad- of openbare vervoerinfrastruktuurowerheid aansoek doen om 'n pad, spoorlyn of ander vervoerinfrastruktuur te sluit, te verskuif of te wysig. So 'n aansoek moet op die voorgeskrewe wyse voorgelê word en moet van die voorgeskrewe gelde vergesel gaan. 30

(2) By ontvangs van so 'n aansoek kan die pad- of openbare vervoerinfrastruktuurowerheid— 35

- (a) dit weier en redes vir sodanige weiering verstrek; of
- (b) indien hy dit steun, behoudens subartikel (3) 'n beplanningsproses of evaluasie ingevolge artikel 12 of 14 onderneem van die implikasies van die verskuiwing, sluiting of wysiging.

(3) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan alle uitgawes in verband met 'n aansoek en die beplanningsproses in subartikels (1) en (2) beoog, van die aansoeker verhaal. 40

Besluit deur pad- of openbare vervoerinfrastruktuurowerheid

16. (1) Na oorweging van kommentaar en vertoë voortspruitend uit artikel 12(5) en (6) moet die pad- of openbare vervoerinfrastruktuurowerheid die tegniese verslae voortspruitend uit die beplanning vir 'n nuwe, verskuifde, gewysigde roete of uitleg van die vervoerinfrastruktuur of die sluiting en intrekking van verklaring daarvan en enige verslae voortspruitend uit die omgewingsbestuursproses asook sodanige kommentaar en vertoë oorweeg. 45

(2) Die pad- of openbare vervoerinfrastruktuurowerheid moet binne 180 dae na ontvangs van alle verslae en kommentaar in subartikel (1) bedoel, voortgaan met óf— 50

- (a) die verklaring, verskuiwing, wysiging of sluiting van die vervoerinfrastruktuur, in welke geval, voordat daar met die prosedures ingevolge artikel 18 begin word, die besluit om so 'n verklaring te maak, in een koerant in elke amptelike taal wat in die gebied sirkuleer en die *Provinsiale Koerant* gepubliseer moet word en 'n tydperk van 30 dae na die datum van publikasie toegelaat word vir uitnodigings vir die indiening van appëlle; óf 55
- (b) die intrekking van sy voorneme om die vervoerinfrastruktuur te verklaar, te verskuif, te wysig of te sluit, in welke geval sy besluit in een koerant in elke

amptelike taal wat in die gebied sirkuleer en die *Provinsiale Koerant* gepubliseer moet word.

(3) Geskille oor die verklaring in subartikel (2)(a) bedoel en spesifieke kwessies voortspruitend uit die beplanningsproses en uit verslae wat beskikbaar gestel is aan belanghebbende en geaffekteerde partye in artikel 12(5) en (6) en artikel 14(3) en (5) bedoel, kan deur die pad- of openbare vervoerinfrastruktuurowerheid verwys word om hanteer te word deur die app lproses waarvoor artikel 65 voorsiening maak, waardeur sulke geskille en kwessies afgehandel moet word. 5

Reguleringsbeskermingsmaatreëls vir vervoerinfrastruktuur

17. (1) Met ingang van die datum van die besluit om 'n nuwe, verskuifde of 10 gewysigde roete of uitleg van vervoerinfrastruktuur te verklaar soos ingevolge artikel 16(2)(a) gepubliseer totdat die implementering van die vervoerinfrastruktuur afgehandel is, en ondanks die andersluidende bepalings van enige wet—

(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 in die WNOB beoog, toegestaan word nie— 15

(i) ten opsigte van 'n gebied binne die vervoerinfrastruktuur se reserwegrans wat verklaar is of bepaal is vir verklaring; of

(ii) op die basis van toekomstige toegang tot die vervoerinfrastruktuur 20 waarop genoemde roete of uitleg betrekking het, sonder die skriftelike toestemming van die pad- of openbare vervoerowerheid;

(b) is artikels 41 tot 49, 55 en 56 met die nodige veranderinge van toepassing op 'n boubeperringsgebied wat bestaan ten opsigte van die vervoerinfrastruktuurreserwes wat verklaar is of in die proses van verklaring is; en 25

(c) ondanks die bepalings van artikel 49, mag geen aansoek vir 'n verandering in grondgebruik ten opsigte van 'n stuk grond binne 250 meter van die naaste kant en aanliggend aan die vervoerinfrastruktuurreserwegrans in 'n stedelike gebied toegestaan word nie sonder dat die skriftelike kommentaar van die 30 pad- of openbare vervoerinfrastruktuurowerheid eers ooreenkomstig die toepaslike beplanningsprosedure verkry en oorweeg is deur die owerheid wat bevoeg is om veranderinge in grondgebruik toe te staan, wat sulke kommentaar behoorlik moet oorweeg.

(2) Nadat 'n besluit in artikel 16(2)(a) beoog, deur die pad- of openbare 35 vervoerinfrastruktuurowerheid geneem is en ondanks enige andersluidende wet, mag geen diensverskaffer enige pyleiding, elektrisiteitsleiding of -kabel, telefoonlyn of -kabel of enige ander struktuur op, oor of onder die gebied binne die vervoerinfrastruktuurreserwegrans lê, bou, verander of daartoe byvoeg nie of enige struktuur van enige aard hoegenaamd op, oor of onder sodanige gebied oprig, verander of daartoe 40 byvoeg nie, uitgesonderd—

(a) indien die skriftelike toestemming van die pad- of openbare vervoerinfrastruktuurowerheid verkry is en ooreenkomstig die voorwaardes wat daardie owerheid bepaal;

(b) ingevolge 'n bestaande geregistreerde serwituut; of 45

(c) kragtens 'n gebruiksreg uitgereik deur die pad- of openbare vervoerinfrastruktuurowerheid.

Verklaring van vervoerinfrastruktuur deur pad- of openbare vervoerinfrastruktuurowerheid

18. (1) Behoudens die voltooiing van 'n beplanningsproses uitgevoer ooreenkomstig 50 Deel 3, kan 'n pad- of openbare vervoerinfrastruktuurowerheid, behoudens subartikel (5), by kennisgewing in die *Provinsiale Koerant* en vergesel van 'n kennisgewing in een koerant in elke amptelike taal wat in die gebied sirkuleer, verklaar dat—

(a) daar 'n verklaarde pad, spoorlyn of ander bykomstige vervoerinfrastruktuur is, waar toepaslik ooreenkomstig 'n gepubliseerde plan en reserwe; 55

(b) 'n bestaande verklaarde pad of spoorlyn of ander vervoerinfrastruktuur verskuif of gewysig gaan word soos in die kennisgewing vermeld;

(c) 'n bestaande pad of spoorlyn of ander vervoerinfrastruktuur permanent gesluit gaan word soos in die kennisgewing vermeld; of

- (d) die reserwe van 'n gewese roete van 'n pad of spoorlyn of ander vervoerinfrastruktuur wat ingevolge paragraaf (b) verskuif of gewysig is, onder die gesag of eienaarskap van die pad- of openbare vervoerinfrastruktuurowerheid bly of na 'n ander eienaar oorgedra word, soos deur die pad- of openbare vervoerinfrastruktuurowerheid besluit. 5
- (2) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan, behoudens subartikel (3), by proklamasie in die *Provinsiale Koerant*, 'n verklaring wat ingevolge subartikel (1) uitgereik is, intrek nadat hy die toepaslike beplanningsproses ingevolge artikel 14 onderneem het, waarin die implikasies van die intrekking van die verklaring van die vervoerinfrastruktuur oorweeg word. 10
- (3) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan, by kennisgewing in die *Provinsiale Koerant*, die gesag, regte, verantwoordelikhede of eienaarskap van 'n pad, spoorlyn of ander vervoerinfrastruktuur gedeeltelik of in die geheel oordra na 'n ander pad- of openbare vervoerinfrastruktuurowerheid, behoudens 'n ooreenkoms tussen die partye, waarkragtens sekere werke voor die oordrag onderneem kan word. 15
- (4) Waar 'n munisipale pad- of openbare vervoerinfrastruktuurowerheid voornemens is om 'n pad, spoorlyn of ander vervoerinfrastruktuur te verklaar waarvoor hy voornemens is om 'n ooreenkoms met die Minister aan te gaan waarvolgens 'n subsidie deur die Provinsie betaal word met die oog op sy uitgawes, moet die munisipaliteit eers by die Minister aansoek doen vir goedkeuring om dit te verklaar, en enige besware wat ontvang is, aan die Minister deurgee tesame met sy kommentaar daarop en 'n afskrif van die advertensie. 20
- (5) 'n Kennisgewing wat ingevolge subartikel (1) uitgereik is, moet vir elke vervoerinfrastruktuur wat verklaar word—
- (a) meld watter regeringsentiteit die pad- of openbare vervoerinfrastruktuurowerheid vir die pad, spoorlyn of ander vervoerinfrastruktuur sal wees; 25
- (b) die klassifikasie ingevolge artikel 6 aandui in die geval van 'n pad of spoorlyn en artikel 5(1) of (2) in die geval van bykomstige vervoerinfrastruktuur;
- (c) besonderhede verskaf van die breedte of omvang van die reserwe ingevolge artikel 7(1) in die geval van 'n pad of spoorlyn of artikel 8(6) in die geval van bykomstige vervoerinfrastruktuur; 30
- (d) die ligging, roete en reserwe van die betrokke pad of spoorlyn of die uitleg van ander vervoerinfrastruktuur beskryf deur middel van 'n sketsplan wat by die kennisgewing aangeheg is, wat moet meld dat meer gedetailleerde inligting ter insae lê op 'n plek en op tye in die kennisgewing vermeld. 35
- (6) Waar 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur verskuif of gewysig is, word die verskuiwing of wysiging geag 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur te wees van dieselfde klassifikasie as dié wat onmiddellik voor die verklaring van die verskuiwing of wysiging op die verskuifde of gewysigde pad, spoorlyn of ander vervoerinfrastruktuur van toepassing was. 40

DEEL 4:

PROSEDURES BY SLUITING VAN VERVOERINFRASTRUKTUUR

Permanente sluiting van vervoerinfrastruktuur

- 19.** Die pad- of openbare vervoerinfrastruktuurowerheid moet, voor die fisiese sluiting van 'n pad of ander vervoerinfrastruktuur— 45
- (a) 'n kennisgewing by die punt van sluiting, of by elke punt van die gedeelte of gedeeltes wat gesluit gaan word, oprig wat die publiek inlig oor die besluit oor permanente sluiting; en
- (b) gepaste padverkeerstekens en merke aanbring wat die publiek van die sluiting waarsku en waar nodig gebruikers verwys na die alternatiewe roete, indien van toepassing. 50

Tydlike sluiting en verskuiwing van paaie en spoorlyne

- 20.** (1) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan 'n pad of spoorlyn waarvan hy die pad- of openbare vervoerinfrastruktuurowerheid is, of enige gedeelte daarvan, tydelik sluit of verlê of die gebruik daarvan beperk of reguleer— 55

- (a) vir die doel van of hangende die konstruksie, rekonstruksie, rehabilitasie, instandhouding of herstel daarvan;
 - (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 sodanige pad of spoorlyn of gedeelte daarvan; 5
 - (c) as gevolg van 'n openbare gebeurtenis wat spesiale maatreëls vereis vir die beheer van verkeer of spesiale voorsiening vir die akkommodering van skares;
 - (d) om enige ander rede wat sodanige optrede noodsaaklik maak; of 10
 - (e) op versoek van enige persoon of owerheid.
- (2) 'n Pad- of openbare vervoerinfrastruktuurowerheid moet die eienaar van grond wat beskadig is as gevolg van optrede ingevolge hierdie artikel, vergoed tot 'n bedrag van hoogstens die werklike finansiële verlies wat deur sodanige eienaar gely is, soos ooreengekom tussen sodanige eienaar en die pad- of openbare vervoerinfrastruktuurowerheid of soos ingevolge die Onteieningswet bepaal. 15
- (3) Wanneer 'n pad of spoorlyn of 'n gedeelte daarvan gesluit of verlê word ingevolge hierdie artikel, moet die pad- of openbare vervoerinfrastruktuurowerheid gepaste tekens wat sodanige sluiting of verlegging aandui, op die voorgeskrewe vorm en wyse oprig en in stand hou by elke punt van die geslote of verlegde deel, vir die duur van die sluiting of verlegging. 20
- (4) Behoudens die bepalinge van die Promotion of Administrative Justice Act moet 'n pad- of openbare vervoerinfrastruktuurowerheid voor die tydelike sluiting of verlegging van 'n pad of spoorlyn belanghebbende en geaffekteerde partye in kennis stel en ten minste 7 dae voor die sluiting of verlegging 'n kennisgewing laat publiseer in een koerant in elke amptelike taal wat in die gebied sirkuleer, bevattende: 25
- (a) 'n beskrywing van die besonderhede van die sluiting of verlegging;
 - (b) inligting oor die duur van die sluiting of verlegging;
 - (c) 'n kennisgewing waarin alle belanghebbende en geaffekteerde partye genooi word om verhoë tot die padowerheid te rig. 30
- (5) Enige persoon, maatskappy of ander owerheid wat die pad- of openbare vervoerinfrastruktuurowerheid ingevolge paragraaf (e) van subartikel (1) versoek om 'n pad of spoorlyn tydelik te sluit, te verlê of die gebruik daarvan te beperk of te reguleer, moet aan die pad- of openbare vervoerinfrastruktuurowerheid die koste betaal, soos deur die owerheid bepaal, van die sluiting, beperking, regulering of verlegging van die betrokke pad, spoorlyn of ander vervoerinfrastruktuur en van alle ander stappe of voorsorgmaatreëls wat nodig is vir die uitvoering van daardie stappe en om die veiligheid van die gebruikers van 'n pad, spoorlyn of ander vervoerinfrastruktuur te verseker. 35

Noodverskuiwing of -sluiting 40

21. (1) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan in noodgevalle die sluiting of verlegging van 'n pad, spoorlyn of ander vervoerinfrastruktuur en die verlegging van verkeer onderneem, behoudens subartikel (2).

(2) Waar die sluiting of verlegging gedoen moet word omrede 'n noodgeval waardeur dit in 'n toestand is wat gevaarlik is vir die publiek, eiendom of verkeer, moet 'n pad- of openbare vervoerinfrastruktuurowerheid— 45

- (a) waar die situasie dit toelaat, die betrokke owerhede onder wie se gesag nooddienste ingestel is vir die gebied wat deur die verskuiwing of sluiting geraak word, in kennis stel ten einde optrede te koördineer;
- (b) waarskuwings- en roeteleidingstekens voor die verskuiwing installeer om gebruikers in kennis te stel van die sluiting of verlegging en om veiligheid te verseker. 50

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

22. Die publiek kan 'n verklaarde pad of spoorlyn of gedeelte daarvan wat ingevolge hierdie Wet gesluit of verskuif is, gebruik totdat die pad- of openbare vervoerinfrastruktuurowerheid deur sigbare middele aangedui het dat die pad of spoorlyn vir openbare verkeer gesluit is. 55

DEEL 5:**FINANSIERING EN SUBSIDIEREËLINGS****Wes-Kaapse Provinsiale Vervoerinfrastruktuurfonds**

23. (1) Behoudens die WOVB kan die Minister 'n fonds instel wat as die Wes-Kaapse Provinsiale Vervoerinfrastruktuurfonds bekend staan, waarin die volgende gestort moet word: 5

- (a) geld wat deur die Parlement of die Provinsiale Wetgewer vir die Fonds bewillig is;
- (b) rente op kontantsaldo's in die Fonds;
- (c) enige ander heffings en enige gelde, huurgeld of ander gelde wat ingevolge hierdie Wet deur die Provinsie gehef word en aan hom betaalbaar is; 10
- (d) ondanks ander wette, boetes betaalbaar deur persone as straf by hulle skuldigbevinding vir misdrywe ingevolge hierdie Wet, asook siviele boetes vir oortredings daarvan;
- (e) gelde wat ontvang word by wyse van bewilliging of skenkings uit enige bron, hetsy binne of buite die Provinsie of die Republiek; en 15
- (f) enige ander geld wat ingevolge hierdie Wet aan die Provinsie betaalbaar is.

(2) Ondanks die bepalinge van die Wet op Tolpaaie, 1999 (Wet No. 11 van 1999), kan gelde wat uit tol verkry word of ander inkomste wat ingevolge daardie Wet ontvang word, in die Fonds gestort word. 20

(3) Die Minister beheer die Fonds en betaal daaruit alle uitgawes aangegaan in verband met die uitoefening van die bevoegdhede, funksies en pligte van die Minister ingevolge hierdie Wet, en die Minister kan na sy of haar goeëdunke en behoudens die voorwaardes wat hy of sy kan stel—

- (a) die koste van munisipaliteite in verband met verklaarde paaie, spoorlyne en ander vervoerinfrastruktuur bestry; en 25
- (b) navorsing of ondersoek onderneem, of opleiding verskaf, op die gebied van paaie, spoorlyne en ander vervoerinfrastruktuur.

(4) Die Minister moet jaarliks begrotings van uitgawes wat uit die Fonds bestry moet word, aan die Provinsiale Tesourie voorlê en mag geen betalings uit die Fonds maak nie, behalwe ooreenkomstig sodanige begrotings soos deur die Provinsiale Tesourie goedgekeur, maar hersiene begrotings kan van tyd tot tyd vir goedkeuring voorgelê word. 30

(5) Die Minister kan geld in die Fonds wat nie vir onmiddellike gebruik nodig is nie, belê ooreenkomstig die Wet op die Openbare Beleggingskorporasie, 2004 (Wet No. 23 van 2004), of by enige instelling wat skriftelik deur die Provinsiale Tesourie goedgekeur is. 35

(6) Die Minister moet behoorlike rekeninge hou van alle geld wat aan die Fonds toeval of daaruit betaal word, wat deur die Ouditeur-generaal geouditeer moet word.

(7) Die Minister moet 'n bankrekening vir die Fonds wat afsonderlik is van die bankrekenings van die Provinsiale Inkomstefonds, open by 'n geregistreerde finansiële instelling wat deur die Provinsiale Tesourie goedgekeur is. 40

(8) Hierdie artikel tree nie in werking nie totdat die uitsluiting van gelde in die Fonds van die Provinsiale Inkomstefonds goedgekeur is deur 'n wet van die nasionale Parlement ingevolge artikel 226(1) van die Grondwet. 45

Subsidieëlings met munisipaliteite

24. (1) Waar 'n munisipaliteit voornemens is om 'n subsidie-ooreenkoms met die Minister aan te gaan in verband met vervoerinfrastruktuur wat hy beoog om te verklaar, moet hy, voor die aanvang van die projekbeplanning ingevolge Deel 3, by die Minister aansoek doen vir goedkeuring van sy voorneme om sodanige vervoerinfrastruktuur te verklaar. 50

(2) Waar 'n munisipale pad voorheen in geheel of gedeeltelik deur die Provinsie befonds is onmiddellik voor die inwerkingtreding van hierdie Wet, kwalifiseer sodanige pad steeds vir 'n subsidie van die Provinsie.

(3) Waar 'n gewese primêre, hoof-, afdelings- of kleinpad waarvoor die Provinsie die padowerheid was, na 'n munisipaliteit oorgeplaas word by ooreenkoms ingevolge artikel 36, is hierdie Deel ook van toepassing, soos aangevul deur die bepalinge van die ooreenkoms. 55

- (4) 'n Munisipaliteit kan op die voorgeskrewe wyse by die Minister aansoek doen vir enige ander verklaarde munisipale pad, spoorlyn of ander vervoerinfrastruktuur om vir 'n provinsiale subsidie te kwalifiseer, en as die Minister instem, moet 'n skriftelike subsidie-ooreenkoms tussen die Provinsie en die munisipaliteit aangegaan word.
- (5) Subsidies wat deur die Provinsie betaalbaar is vir verklaarde munisipale paaie, spoorlyne en ander vervoerinfrastruktuur, moet aan hierdie Deel voldoen. 5
- (6) Die Minister kan die vorm van die ooreenkoms voorskryf, wat konstruksie-subsidies en bedryfs-/instandhoudingsubsidies afsonderlik moet dek, wat tussen die Provinsie en 'n munisipaliteit aangegaan moet word ingevolge waarvan 'n subsidie deur die Provinsie aan 'n munisipaliteit betaal word vir die konstruksie, instandhouding en bestuur van 'n verklaarde pad of spoorlyn of ander vervoerinfrastruktuur, of 'n groep verklaarde paaie of spoorlyne of ander vervoerinfrastruktuur. 10
- (7) Vir subsidiedoeleindes moet uitgawes wat munisipaliteite op gesubsidieerde paaie, spoorlyne en ander vervoerinfrastruktuur kan eis, in die volgende aktiwiteite ingedeel word, wat in meer besonderhede voorgeskryf kan word: 15
- (a) aan konstruksie;
 - (b) aan die instandhouding of herstel wat na die Minister se mening nie die horisontale of vertikale ligging van die betrokke ryvlak of infrastruktuur verander nie;
 - (c) aan die herbedekking van paaie; 20
 - (d) aan die oprigting van heinings;
 - (e) ten opsigte van vergoedingsbetalings ingevolge artikel 23(3); of
 - (f) wat na die mening van die Minister noodwendig aangegaan is aan die beplanning wat vereis word om die geskikste roete en reserwe te bepaal vir die pad of spoorlyn of die uitleg en reserwe van ander vervoerinfrastruktuur wat die owerheid voornemens is om te bou. 25

Begrotings van uitgawes vir subsidiedoeleindes

25. (1) Nie later nie as die eerste dag van Oktober elke jaar moet elke munisipaliteit met verklaarde gesubsidieerde paaie, spoorlyne en ander vervoerinfrastruktuur in sy gebied begrotings van uitgawes vir die volgende finansiële jaar aan sodanige verklaarde gesubsidieerde paaie, spoorweë of ander vervoerinfrastruktuur waarvan hy die pad- of openbare vervoerinfrastruktuurowerheid is ten opsigte waarvan subsidie ingevolge hierdie Wet geëis kan word in sy gebied, in die vorm deur die Minister voorgeskryf, aan die Minister voorlê vir goedkeuring. 30
- (2) Indien 'n munisipaliteit versuim om so 'n begroting van uitgawes voor te lê of om dit betyds te doen, kan die Minister die subsidie aan hom betaalbaar verminder met 'n bedrag wat die Minister bepaal. 35
- (3) Die Minister kan by die goedkeuring van enige begroting enige voorgestelde uitgawe in oorleg met die betrokke munisipaliteit wysig of skrap om enige rede wat hy of sy geskik ag. 40
- (4) 'n Munisipaliteit kan voorgestelde wysigings aan sodanige begroting te eniger tyd aan die Minister voorlê vir goedkeuring.

Bepaling van subsidie vir bedryf, instandhouding en kapitaalbesteding

26. (1) Waar 'n munisipaliteit uitgawes aan verklaarde paaie, spoorlyne of ander vervoerinfrastruktuur aangaan volgens ooreenkoms met die Minister, moet die Minister 'n subsidie betaal wat soos volg bereken word: 45
- (a) Op kapitaalbesteding—
 - (i) die persentasie van besteding aan die konstruksie van paaie of spoorlyne, insluitende die koste van die verbreding van paaie of spoorlyne of die wysiging van die uitleg van ander vervoerinfrastruktuur en die verkryging van eiendom vir die vergroting van die reserwe vir sodanige vervoerinfrastruktuur as wat die Minister voorskryf, hetsy in die algemeen of in 'n spesifieke geval; en 50
 - (ii) die persentasie van besteding aan die wysiging, verlegging of verwydering, meegebring deur die konstruksie van 'n pad, spoorlyn of ander vervoerinfrastruktuur, van enige pyp, paal, staanpaal, draad, kabel, geleibuis, riool, toestel, werk, artikel of ding wat deur 'n munisipaliteit gebruik word om enige munisipale diens te verskaf, wat die Minister voorskryf, hetsy in die algemeen of in 'n spesifieke geval. 55

- (b) Op bedryfs- en instandhoudingsuitgawes, waarvan die persentasie voorgeskryf word en wat kan verskil met betrekking tot verskillende tipes paaie, spoorlyne en ander vervoerinfrastruktuur.
- (2) Die persentasie subsidie vir kapitaal-, bedryfs- en instandhoudingsuitgawes van 'n openbare vervoerpad wat in geheel binne die reserwe van 'n primêre, hoof-, distriks- of kleinpad is, kan verskil van die subsidie van toepassing op die pad waarin dit geleë is, soos die Minister kan voorskryf. 5
- (3) Geen subsidie word betaal op enige vergoedingsbetalings vir die onteining van grond in verband met paaie, spoorlyne en ander vervoerinfrastruktuur wat ingevolge hierdie Wet verklaar is en waarvoor die Provinsie subsidie betaal nie, tensy— 10
- (a) die Minister se skriftelike toestemming om die betrokke eiendom te onteien, verkry is voor die eiendom onteien is; en
- (b) die Minister die betaling van sodanige vergoeding skriftelik goedgekeur het waar dit by ooreenkoms tussen die munisipaliteit en die eienaar bepaal is.

Subsidie beperk tot uitgawes in goedgekeurde begroting 15

27. (1) Die Minister moet vir elke munisipaliteit, na oorweging van die begroting in artikel 25 beoog, en behoudens die WOFB, 'n subsidie op goedgekeurde kapitaal-, bedryfs- en instandhoudingsuitgawes bepaal.
- (2) Die Minister kan 'n verhoging van die subsidie magtig vir sodanige goedgekeurde uitgawe in subartikel (1) bedoel. 20
- (3) Die Minister kan by die bepaling of verhoging van 'n goedgekeurde kapitaal-, bedryfs- en instandhoudingsuitgawe gelas dat enige item in of gedeelte van enige sodanige uitgawe nie vir subsidie ingevolge hierdie Wet kwalifiseer nie.
- (4) Die Minister kan by die goedkeuring van uitgawes ingevolge hierdie artikel die voorwaardes rakende die betrokke subsidie-uitgawe stel wat die Minister nodig of wenslik ag. 25
- (5) Geen munisipaliteit mag sonder die Minister se skriftelike goedkeuring die totale subsidiebedrag van uitgawe wat ingevolge hierdie artikel goedgekeur is, oorskry nie, en as hy dit wel doen, kan die Minister die subsidie betaalbaar aan sodanige owerheid verminder met die bedrag wat die Minister as gepas beskou. 30
- (6) Die subsidie betaalbaar aan 'n munisipaliteit ten opsigte van gesubsidieerde paaie of spoorlyne is die bedrag wat die Minister jaarliks bepaal, met inagneming van—
- (a) die begroting van uitgawes wat ingevolge artikel 25 voorgelê is;
- (b) die saamgestelde persentasie verhoging per jaar in die totale inkomste van die munisipaliteit gedurende die tydperk tussen die twee onmiddellik voorafgaande finansiële jare van die munisipaliteit; en 35
- (c) die ander faktore wat die Minister as tersaaklik beskou.

Huurgeld, verkoop en ander inkomste uit grond met subsidiegeld verkry

28. (1) Waar 'n munisipaliteit grond verkry het deur gebruik te maak van subsidiegeld wat deur die Provinsie betaal is, en 'n huur-, verkoop- of ander ooreenkoms aangegaan het rakende enige ongebruikte gedeelte of gebou op sodanige grond, moet hy die netto inkomste uit sodanige huur-, verkoop- of ander ooreenkoms en enige ander inkomste wat hy uit daardie grond verkry, aan die Provinsie betaal in verhouding tot die subsidiebydrae tot die verkryging daarvan, behoudens subartikel (2). 40
- (2) Waar sodanige grond binne 'n deel van 'n munisipale gebied val wat binne— 45
- (a) 'n metropolitaanse vervoergebied is wat ingevolge die Wet op Stedelike Vervoer verklaar is, kan die opbrengs uit sodanige huur-, verkoop- of ander ooreenkoms, met die goedkeuring van die Minister, gestort word in die Gekonsolideerde Metropolitaanse Vervoerfonds wat ingestel is vir die kernstad wat aldus verklaar is, of 50
- (b) 'n vervoergebied is wat ingevolge die NLTTA verklaar is, kan die opbrengs van sodanige huur-, verkoop- of ander ooreenkoms, met die goedkeuring van die Minister, aan daardie vervoerowerheid betaal word.

Gelykgestelde persentasiekoers van subsidie op kapitaalbesteding

29. (1) Elke munisipaliteit moet, voordat hy begin met enige konstruksie ten opsigte waarvan 'n kapitaalsubsidie ingevolge hierdie Wet betaalbaar is, 'n gedetailleerde begroting van uitgawes aan die Minister voorlê, ingedeel in subsidieerbare en 55

niesubsidieerbare items, en die Minister moet die relatiewe persentasiekoerse van toepassing ten opsigte van sodanige konstruksie gelykstel.

(2) Subsidie op die rente en delgingspaaielemente van enige lening wat met die goedkeuring van die Minister aangegaan is vir die doel van die konstruksie in subartikel (1) beoog, moet betaal word teen die gelykgestelde persentasiekoers aldus beoog. 5

(3) By voltooiing van die konstruksie in subartikel (1) beoog, moet die pad- of openbare vervoerinfrastruktuurowerheid 'n skriftelike staat van die werklike uitgawe, ingedeel in subsidieerbare en niesubsidieerbare items, aangegaan ten opsigte van sodanige konstruksie, aan die Minister voorlê, wat, indien daar afgewyk is van die begroting in subartikel (1) beoog, die gelykgestelde persentasiekoers in daardie subartikel beoog, kan hersien en wysig. 10

Bydraes uit ander bronne

30. Wanneer uitgawes wat vir subsidie kwalifiseer, aan of in verband met 'n pad, spoorlyn of ander vervoerinfrastruktuur aangegaan word en gedeeltelik of in geheel bestry word uit 'n bydrae uit 'n ander bron as die betrokke munisipaliteit of die Provinsie, kwalifiseer net die gedeelte van die uitgawe wat nie aldus bestry is nie, vir subsidie. 15

Betaling van subsidie

31. (1) 'n Subsidie wat ingevolge hierdie Wet betaalbaar is, word bereken tot die naaste duisend rand en is jaarliks betaalbaar na verstryking van die finansiële jaar ten opsigte waarvan dit verskuldig is, met voorlegging van 'n eis deur die munisipaliteit in die vorm wat die Minister bepaal. 20

(2) Die Minister kan rentevrye voorskotte op subsidies maak indien die totale bedrag van sodanige voorskotte aan 'n munisipaliteit gedurende enige finansiële jaar nie 90 persent van die geraamde totale bedrag van subsidies betaalbaar aan daardie munisipaliteit vir daardie finansiële jaar te bowe gaan nie, en die nodige aansuiwerings word gedoen met betaling van die eis vir subsidie ingevolge subartikel (1). 25

(3) Die Minister kan die bedrag van subsidies betaalbaar aan die munisipaliteit verminder indien die Minister van oordeel is dat—

- (a) enige werk nie bevredigend gedoen is nie; of 30
- (b) daar nie waarde ontvang is vir geld wat bestee is nie.

Rekords van uitgawes aan paaie, spoorlyne en ander vervoerinfrastruktuur

32. Elke munisipaliteit wat 'n subsidie ontvang of aansoek doen vir subsidie van die Provinsie, moet alle boeke, rekords, fakture, rekeninge en ander dokumente rakende enige uitgawe deur hom aangegaan aan of in verband met paaie, spoorlyne of ander vervoerinfrastruktuur, te alle tye beskikbaar hê vir insae deur die Minister. 35

Oormatige subsidie

33. (1) Indien die totale werklike uitgawe in enige finansiële jaar deur 'n munisipaliteit aangegaan aan of in verband met gesubsidieerde paaie, spoorlyne of ander vervoerinfrastruktuur minder is as die goedgekeurde regstreekse uitgawe vir die finansiële jaar, moet die subsidie ten opsigte van sodanige owerheid wat meer is as sodanige bedrae, aan die Provinsie betaal word na aftrekking van die bedrae in subartikel (2) beoog. 40

(2) Die bedrag wat van daardie oormatige bedrag afgetrek moet word, is die som van 'n bedrag gelyk aan die bedrag wat uit ander bronne ontvang is soos in artikel 30 beoog. 45

Subsidie op beplanning en grondverkryging

34. (1) Benewens enige ander subsidie wat ingevolge hierdie Wet betaalbaar is, kan die Minister aan 'n munisipale pad- of vervoerowerheid 'n subsidie betaal wat op die voorgeskrewe wyse bereken word—

- (a) op uitgawe deur hom aangegaan vir die beplanning wat ingevolge Deel 3 nodig is om die geskikste roete en reserwe te bepaal vir 'n pad, spoorlyn of ander vervoerinfrastruktuur wat verklaar staan te word; en 50

- (b) op die uitgawe deur hom aangegaan vir die verkryging van grond vir die konstruksie en instandhouding van 'n pad, spoorlyn of ander vervoer-infrastruktuur.

DEEL 6:

OORGANGSBEPALINGS

5

Assessering van bestaande paaie in Provinsie

35. (1) So gou moontlik na die inwerkingtreding van hierdie Wet moet die Minister gesamentlike assesserings met munisipaliteite in die Provinsie doen om alle paaie wat ingevolge die Ordonnansie verklaar is, te klassifiseer in die kategorieë in artikel 6 uiteengesit. 10

(2) Alle primêre paaie, hoofpaaie, distrikspaaie behoudens subartikel (3), kleinpaaie of openbare voetpaaie wat by die inwerkingtreding van hierdie Wet ingevolge die Ordonnansie verklaar is, word na inwerkingtreding geag 'n pad van dieselfde kategorie ingevolge hierdie Wet te wees en behou die status quo van alle voorwaardes rakende daardie vorige verklaring totdat die lys in artikel 11(1) beoog, opgestel, ooreengekom en gefinaliseer is. 15

(3) Met ingang van die datum van inwerkingtreding van hierdie Wet word alle paaie wat "afdelingspaaie" genoem word en ingevolge die Ordonnansie verklaar is of geag word verklaar te wees, ingevolge hierdie Wet "distrikspaaie" genoem.

(4) Die ooreenkomste wat tussen die partye aangegaan word na assesserings ingevolge subartikel (1), moet gebruik word by die samestelling van die rekords in artikel 11 beoog. 20

(5) Waar die klassifikasie van 'n pad verskil van die voorwaardes waarop die pad oorspronklik ingevolge die Ordonnansie verklaar is, insluitende die breedte van sy reserwe en die boubeperkingsgebiede, is die oorspronklike voorwaardes van toepassing op die pad wat aldus geklassifiseer is, tensy die padowerheid aan wie die pad oorgedra word, anders besluit, in welke geval die gepaste beplanningsproses ingevolge Deel 3 gevolg moet word tot die verklaring ingevolge artikel 18. 25

Oordragooreenkomste vir paaie by ordonnansie verklaar

36. (1) Waar gepas, kan die Provinsie en munisipaliteite onderhandelinge aanknoop om verantwoordelikheid vir die verklaring van paaie her toe te wys, wat ooreenkoms kan behels— 30

- (a) oor die oordrag van regte rakende sodanige paaie;
- (b) oor die finansiële en subsidiereëlings vir sodanige paaie;
- (c) oor die instelling van agentskapsooreenkomste waarvolgens een owerheid verantwoordelikhede aanvaar vir of betreffende paaie onder beheer van 'n ander owerheid, met of sonder betaling; en 35
- (d) oor enige ander aangeleentheid wat die partye as geskik beskou, behoudens hierdie Wet.

(2) Die oordrag van paaie ingevolge subartikel (1) moet by kennisgewing in die *Provinsiale Koerant* verklaar word en moet vergesel gaan van 'n kennisgewing in een koerant in elke amptelike taal wat in die gebied sirkuleer. 40

(3) Waar die grond waarop 'n pad wat na 'n ander padowerheid oorgedra word, geleë is, deur die oordraggewer besit word, moet dit na die ander owerheid oorgedra word sonder koste, uitgesonderd die oordragkoste, wat deur die oordragnemer gedra moet word. 45

(4) Enige pad wat oorgedra word deur die verklaring ingevolge subartikel (2), moet ingesluit word by die lys wat ingevolge artikel 10 saamgestel word, met die nodige veranderinge.

Oorgangsbepalings rakende advertensies

50

37. (1) Enige advertensie wat op die datum van inwerkingtreding van hierdie Wet operig of vertoon is, wat by hierdie Wet verbied word en nie 'n advertensie is waarvoor die pad- of openbare vervoerinfrastruktuurowerheid toestemming kan verleen nie, moet binne 90 dae na sodanige inwerkingtreding verwyder word.

(2) Behoudens subartikel (3) is artikel 41(2) nie van toepassing nie op 'n advertensie wat vertoon word ingevolge 'n magtiging wat voor die datum van inwerkingtreding van hierdie Wet kragtens 'n wet verleen is, solank die advertensie vertoon word ooreenkomstig die vereistes wat ingevolge daardie magtiging van toepassing is of onmiddellik voor sodanige datum van toepassing was. 5

(3) 'n Bestaande ooreenkoms of 'n ooreenkoms wat aangegaan staan te word tussen 'n eiendomseienaar en enige ander persoon ingevolge waarvan daardie persoon toegelaat word om reklame op die onderhawige eiendom te vertoon wat geleë is op of sigbaar is vanaf 'n verklaarde pad, moet 'n vervaldatum hê wat nie langer as 'n tydperk van drie jaar is nie. 10

(4) Waar 'n advertensie by die inwerkingtreding van hierdie Wet opgerig of vertoon is wat ingevolge hierdie Wet nie sonder die toestemming van die pad- of openbare vervoerinfrastruktuurowerheid of enige ander owerheid aldus opgerig of vertoon mag word nie, moet die eienaar van die advertensie of die persoon wat dit vertoon of toelaat dat dit vertoon word, of die eienaar van die grond waarop die advertensie vertoon word, binne 90 dae na sodanige inwerkingtreding by die pad- of openbare vervoerinfrastruktuurowerheid aansoek doen vir sodanige toestemming, by versuim waarvan die advertensie onverwyld verwyder moet word. 15

(5) Indien toestemming vir 'n advertensie in subartikel (3) beoog geweier is, moet die advertensie verwyder word binne 30 dae na ontvangs van 'n kennisgewing van sodanige weiering, en waar so 'n kennisgewing per geregistreerde pos gepos is, word die gedreerde geag dit te ontvang het agt dae nadat dit gepos is. 20

Ander oorgangsbepalings

38. (1) Proklamasies, kennisgewings, sertifikate, regulasies en verordeninge 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 of uitgesluit is, bly van krag en word geag ingevolge hierdie Wet uitgereik, gegee, gedoen, verrig of gedoen te wees, tensy dit onbestaanbaar is met die bepalinge van hierdie Wet. 25

(2) 'n Onteining wat begin is of verrigtinge vir die bepaling van vergoeding wat voor die inwerkingtreding van hierdie Wet deur 'n padowerheid ingestel is ingevolge 'n wet wat by hierdie Wet herroep is, word ingevolge die bepalinge van die herroepe wet afgehandel asof hierdie Wet nie aangeneem is nie, met dien verstande dat die partye kan ooreenkom om ooreenkomstig die bepalinge van hierdie Wet met sodanige onteining of verrigtinge voort te gaan. 35

DEEL 7:

ONTEIENING EN VERGOEDING

Verkryging, onteining van eiendom, reg om grond tydelik te gebruik en om materiaal te ontgin en te verwyder

39. (1) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan— 40

(a) eiendom, uitgesonderd eiendom wat deur 'n munisipaliteit, provinsie, nasionale regering of openbare entiteit besit word, onteien vir—

(i) 'n pad, spoorlyn of ander vervoerinfrastruktuur of vir werke of doeleindes wat daarmee in verband staan; en

(ii) die verkryging, ontginning of behandeling van gruis, klip, sand, klei, water of enige ander materiaal of stof; 45

(iii) die akkommodasie van personeel betrokke by die bou van vervoerinfrastruktuur, en

(iv) die opberging of instandhouding van voertuie, masjiene, toerusting, gereedskap, voorrade of materiaal; 50

(b) die reg neem om eiendom, uitgesonderd eiendom wat deur 'n munisipaliteit, provinsie, nasionale regering of openbare entiteit besit word, tydelik te gebruik; en

(c) materiaal, insluitende water, uitgesonderd water wat kunsmatig gepomp is vir veesuiping, ontgin en verwyder. 55

(2) Die prosedures en vereistes van die Onteieningswet, met die nodige veranderinge, is van toepassing op handelinge ingevolge subartikel (1).

- (3) Die pad- of openbare vervoerinfrastruktuurowerheid moet, waar gepas, vergoeding betaal ingevolge artikel 25 van die Grondwet en die Onteieningswet vir enige handeling ingevolge hierdie artikel of soos voorgeskryf.
- (4) Waar daar 'n botsing is tussen die Onteieningswet en hierdie Wet, is hierdie Wet deurslaggewend. 5
- (5) Die Provinsie kan materiaal ontgin en verwyder, behoudens die WNOB en goedkeuring deur die Departement van Minerale en Energie waar nodig—
- (a) op grond wat deur 'n munisipaliteit besit word, slegs by ooreenkoms met daardie munisipaliteit; en
 - (b) op grond wat deur die nasionale sfeer van regering besit word, slegs by ooreenkoms met die betrokke nasionale departement; 10
 - (c) op grond wat deur 'n openbare entiteit besit word, slegs by ooreenkoms met sodanige entiteit.
- (6) 'n Munisipaliteit kan materiaal ontgin en verwyder, behoudens die WNOB en goedkeuring deur die Departement van Minerale en Energie waar nodig— 15
- (a) op grond wat deur 'n ander munisipaliteit besit word, slegs by ooreenkoms met daardie munisipaliteit;
 - (b) op grond wat deur die Provinsie besit word, slegs by ooreenkoms met die Minister;
 - (c) op grond wat deur die nasionale sfeer van regering besit word, slegs by ooreenkoms met die betrokke nasionale departement; en 20
 - (d) op grond wat deur 'n openbare entiteit besit word, slegs by ooreenkoms met sodanige entiteit.
- (7) Waar 'n stuk grond onteien word en die eienaar die pad- of openbare vervoerinfrastruktuurowerheid oortuig dat die res van die grond vir die eienaar nutteloos geword het as gevolg van die onteiening, kan die pad- of openbare vervoerinfrastruktuurowerheid sodanige restant onteien. 25
- (8) Waar 'n pad- of openbare vervoerinfrastruktuurowerheid 'n toegang tot of uitgang uit grond permanent gesluit het en die eienaar van die grond dit nie voordelig kan gebruik nie as 'n regstreekse gevolg van sodanige sluiting of die pad- of openbare vervoerinfrastruktuurowerheid nie toegang tot sodanige grond kan verskaf nie, kan die pad- of openbare vervoerinfrastruktuurowerheid die grond onteien. 30
- (9) Waar grond of 'n gedeelte daarvan nadelig geraak word deur die onteiening van ander grond deur 'n pad- of openbare vervoerinfrastruktuurowerheid, kan laasgenoemde ook die grond of gedeelte wat aldus nadelig geraak word, onteien. 35
- (10) Hierdie artikel verhinder nie dat 'n pad- of openbare vervoerinfrastruktuurowerheid eiendom vir doeleindes van hierdie Wet verkry deur aankoop of deur enige ander metode as onteiening nie.

Betreding en besitneming van eiendom

- 40.** (1) Waar 'n pad- of openbare vervoerinfrastruktuurowerheid eiendom of die tydelike gebruik daarvan of enige materiaal daarop nodig vir 'n doel in subartikel (2) bedoel, kan die owerheid of enige persoon wat skriftelik deur sodanige owerheid gemagtig is, na redelike kennis van ten minste 48 uur aan die eienaar of okkupeerder van die eiendom of materiaal en met die instemming van sodanige eienaar of okkupeerder—
- (a) die grond betree met die nodige werkers, toerusting en voertuie; 45
 - (b) die oppervlakte en vlakke van die grond opmeet en bepaal;
 - (c) op of in die grond grawe of boor;
 - (d) waterwerke in enige rivier of stroom bou en in stand hou; of
 - (e) die grense van die eiendom of materiaal afbaken.
- (2) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan kragtens subartikel (1) optree—
- (a) om die waarde van die betrokke eiendom of materiaal te bepaal;
 - (b) om '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; 55
 - (c) om enige struktuur, apparaat, toestel, installasie of enige ander ding wat ingevolge hierdie Wet deur of namens die pad- of openbare vervoerinfrastruktuurowerheid op sodanige grond gebou, opgerig of geplaas is, te inspekteer, in stand te hou en te herstel;
 - (d) om hom in staat te stel om enige van sy ander funksies ingevolge hierdie Wet te verrig. 60

(3) Waar 'n eienaar of okkupeerder toestemming weier vir 'n pad- of openbare vervoerinfrastruktuurowerheid of persoon deur sodanige owerheid gemagtig om ingevolge subartikel (1) op te tree—

(a) moet die eienaar of okkupeerder redes verstrek waarom daar goeie rede is vir die weiering om toegang te verleen; en 5

(b) indien redes wat ingevolge paragraaf (a) verstrek is, nie vir die pad- of openbare vervoerinfrastruktuurowerheid aanvaarbaar is nie,

kan die owerheid by die gepaste hof met jurisdiksie aansoek doen vir 'n bevel wat sodanige optrede magtig, maar 'n hofbevel is nie nodig nie waar sodanige optrede dringend nodig is om dood of beserings van persone of wesenlike skade aan eiendom te voorkom. 10

(4) Sodanige hof moet die bevel gee en die eienaar of okkupeerder gelas om die koste van die aansoek te betaal as hy oortuig is dat die pad- of openbare vervoerinfrastruktuurowerheid redelikerwys opgetree het vir die doeleindes van hierdie Wet.

(5) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan oor grond beweeg om toegang tot ander grond te kry vir die doeleindes in subartikel (1) 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) en (4) met die nodige veranderinge van toepassing. 15

(6) Waar toegang verkry word tot grond wat omhein is, moet die pad- of openbare vervoerinfrastruktuurowerheid 'n hek in sodanige 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. 20

(7) Indien enige persoon skade gely het as gevolg van die uitoefening van 'n bevoegdheid wat by hierdie artikel verleen is, is die pad- of openbare vervoerinfrastruktuurowerheid aanspreeklik om die skade op sy koste te herstel of om skadevergoeding of vergoeding ten opsigte daarvan, wat bereken word en betaalbaar is in gevolge die Onteieningswet, aan daardie persoon te betaal. 25

DEEL 8:

BESTUUR EN BEHEER VAN REKLAME, TOEGANG EN DIE OMGEWING 30

Verbod op sekere reklame op of sigbaar vanaf verklaarde paaie, spoorlyne en ander vervoerinfrastruktuur

41. (1) Behoudens subartikel (2) mag niemand 'n advertensie vertoon of laat vertoon of toelaat dat dit vertoon word deur middel van 'n vaste struktuur of 'n mobiele voertuig toegerus vir die spesifieke doel van advertensie, uitgesonderd met die vooraf skriftelike toestemming van en ooreenkomstig artikel 42(1) en goedgekeur deur die betrokke pad- of openbare vervoerinfrastruktuurowerheid— 35

(a) in die reserwe van 'n verklaarde pad, spoorlyn of ander openbare vervoerinfrastruktuur;

(b) wat sigbaar is vanaf 'n verklaarde pad, spoorlyn of ander openbare vervoerinfrastruktuur buite 'n stedelike gebied; 40

(c) wat binne 50 meter van die grens van die reserwe van die verklaarde pad, spoorlyn of ander vervoerinfrastruktuur, uitgesonderd 'n deurpad in 'n stedelike gebied, is en sigbaar is vanaf die verklaarde pad, spoorlyn of ander vervoerinfrastruktuur; 45

(d) wat binne 250 meter is van die grens van die reserwe van 'n verklaarde pad wat 'n deurpad in 'n stedelike gebied is en vanaf die deurpad sigbaar is.

(2) Subartikel (1) is nie van toepassing nie op die vertoon van 'n advertensie wat voldoen aan die voorgeskrewe vereistes (as daar is) betreffende die aard, inhoud of grootte van so 'n advertensie of die tyd, wyse of plek van die vertoon daarvan, waar die vertoon daarvan gemagtig is by of ingevolge die betrokke regulasies, of die advertensie— 50

(a) wettig vertoon word op 'n plek onmiddellik voordat die onderhawige pad, spoorlyn of ander vervoerinfrastruktuur verklaar is, vir so lank as dit deurlopend op dieselfde plek vertoon word, tensy die verwydering daarvan ingevolge artikel 43 gelas is en die tydperk waarbinne dit verwyder moet word, verstryk het; of 55

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

(3) 'n Munisipaliteit kan verordeninge uitvaardig wat die vertoning van advertensies op of sigbaar van verklaarde munisipale paaie, spoorlyne en ander vervoerinfrastruktuur in sy regsgebied verder reguleer, wat enige van die bepalings van hierdie artikel en artikels 42 tot 44 kan vervang of wysig ten opsigte van sodanige munisipale paaie, spoorlyne en ander vervoerinfrastruktuur, met dien verstande dat hierdie verordeninge die vereistes van artikels 42 tot 44 as 'n minimum insluit. 5

Toestemming om advertensies op of sigbaar vanaf verklaarde paaie, spoorlyne of ander vervoerinfrastruktuur te vertoon

42. (1) Die Minister kan regulasies uitvaardig om die vertoning van advertensies te reguleer wat ingevolge artikel 41 toegelaat word, wat voorsiening maak vir— 10

- (a) die kategorieë advertensies wat net met die vooraf skriftelike toestemming van die betrokke pad- of openbare vervoerinfrastruktuurowerheid opgerig of vertoon mag word op die basis van kriteria in die regulasies uiteengesit;
- (b) prosedures wat gevolg moet word wanneer vir sodanige toestemming aansoek gedoen word; en 15
- (c) enige ander aangeleentheid wat sulke advertensies reguleer.

(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 paaie, spoorlyne of ander 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; 20
- (b) die klassifikasie van advertensies in kategorieë met die doel om die vertoning of oprigting daarvan te reguleer en te beheer;
- (c) behoudens subartikel (3), gelde wat betaalbaar is by aansoek vir sodanige toestemming of vir die verlening van sodanige toestemming; 25
- (d) metodes van vertoning en verligting;
- (e) die veiligheid, aanvaarbaarheid en ordentlikheid van advertensies; en
- (f) die ontwerp en konstruksie van advertensies en hulle steunstrukture, posisie, instandhouding en toekomstige verwydering. 30

(3) Aansoekgelde vir advertensies op of aanliggend aan vervoerinfrastruktuur betaalbaar ingevolge subartikel (2)(c) moet betaal word aan—

- (a) die Provinsie in die geval van vervoerinfrastruktuur waarvoor die Provinsie die pad- of openbare vervoerinfrastruktuurowerheid is; of
- (b) die munisipaliteit in die geval van vervoerinfrastruktuur waarvoor die munisipaliteit die pad- of openbare vervoerinfrastruktuurowerheid is. 35

(4) Voor die installering of enige wysiging van 'n padteken of padtekenvoorkant deur enige persoon moet daar aansoek gedoen word vir toestemming en moet skriftelike goedkeuring verleen word deur die pad- of openbare vervoerinfrastruktuurowerheid, behoudens— 40

- (a) 'n assessering deur die pad- of openbare vervoerinfrastruktuurowerheid van die implikasies van die teken vir die veiligheid van verkeers- en vervoerbedryf, volgens die beginsels en metodologie wat in gepubliseerde riglyne vervat is;
- (b) dat 'n aansoek vereis word elke keer wanneer 'n padtekenvoorkant verander word; en 45
- (c) dat 'n beregtingsproses deur die pad- of openbare vervoerinfrastruktuurowerheid gevolg word betreffende die uitvaardiging van regulasies.

Afdwinging en verwydering van ongemagtigde advertensies 50

43. (1) Advertensies wat opgerig is sonder dat dit deur die pad- of openbare vervoerinfrastruktuurowerheid goedgekeur is, kan deur die pad- of openbare vervoerinfrastruktuurowerheid verwyder word.

(2) Enigiemand wat 'n advertensie strydig met die bepalings van hierdie Wet vertoon of toelaat dat dit aldus vertoon word, of die eienaar van die grond waarop die advertensie vertoon word en wat by skriftelike kennisgewing deur die pad- of openbare vervoerinfrastruktuurowerheid 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. 55

(3) Indien die persoon aan wie 'n kennisgewing ingevolge subartikel (2) gerig is, versuim om die advertensie wat in die kennisgewing genoem word, te verwyder binne die tydperk daarin vermeld, kan die pad- of openbare vervoerinfrastruktuurowerheid die betrokke eiendom sonder die eienaar of okkupeerder se toestemming betree en dit verwyder sonder dat 'n bevel van 'n bevoegde hof verkry hoef te word, ondanks die ander bepalings van hierdie Wet, en die koste van die verwydering van daardie persoon verhaal. 5

(4) Ondanks subartikel (2), waar 'n advertensie strydig met hierdie artikel vertoon word en 'n onmiddellike of dringende veiligheidsgevaar skep of waarskynlik sal skep, kan die pad- of openbare vervoerinfrastruktuurowerheid ingevolge subartikel (3) in openbare belang of vir die openbare veiligheid sonder kennisgewing aan enige persoon optree om die advertensie te verwyder. 10

(5) 'n Persoon wat subartikel (1) oortree of versuim om 'n advertensie te verwyder wanneer hy of sy ingevolge subartikel (2) gelas word om dit te doen, is aan 'n misdryf skuldig. 15

Vermoedens rakende advertensies

44. Vir die doeleindes van hierdie Wet, tensy die teendeel bewys word—

- (a) word 'n advertensie geag vertoon te word—
 - (i) deur die persoon wat dit opgerig het of dit andersins laat verskyn het;
 - (ii) in die geval van 'n advertensie rakende 'n produk of artikel wat deur 'n bepaalde persoon geproduseer of vervaardig word, of rakende 'n diens wat deur 'n bepaalde persoon gelewer word, of rakende 'n besigheid, onderneming of plek wat deur 'n bepaalde persoon besit word, deur daardie persoon;
- (b) behoudens artikel 37(2), word advertensies geag vertoon te word na die inwerkingtreding van hierdie Wet; en 25
- (c) word 'n persoon wat grond besit of okkupeer waarop 'n advertensie vertoon word en die vervaardiger van 'n artikel of die eienaar van 'n besigheid of onderneming waarop so 'n advertensie betrekking het en 'n agent van so 'n vervaardiger of eienaar, geag daardie advertensie te vertoon het of die vertoning daarvan toegelaat het. 30

Toegang tot en uitgang uit pad, spoor en ander vervoerinfrastruktuur

45. (1) Behoudens subartikels (2) en (3), wanneer toegang tot of uitgang uit 'n pad, spoorlyn of ander vervoerinfrastruktuur na of van 'n aanliggende eiendom versper word deur 'n wettig opgerigte heining, muur, heg, sloot, voor of soortgelyke hindernis langs of naby die kant daarvan, mag niemand toegang tot of uitgang uit enige grond deur, onder of oor daardie heining, muur, heg, sloot, voor of ander hindernis deur middel van 'n toegangspad, hek, brug of ander oorgang verkry nie, tensy die pad- of openbare vervoerinfrastruktuurowerheid die konstruksie van die toegangspad, hek, brug of ander oorgang skriftelik gemagtig het. 35 40

(2) Subartikel (1) is nie van toepassing nie op 'n wettig opgerigte toegangspad, hek, brug of ander oorgang wat by die inwerkingtreding van hierdie Wet bestaan het en gebruik is en wat nie te eniger tyd daarna gesluit of verwyder is nie.

(3) 'n Pad- of openbare vervoerinfrastruktuurowerheid mag nie 'n magtiging in subartikel (1) bedoel, weerhou nie vir 'n hek, brug of ander oorgang wat nodig is om toegang tot of uitgang uit 'n stuk grond te verleen waartoe of waaruit daar geen ander redelike toegang of uitgang beskikbaar is nie of indien— 45

- (a) 'n landmeter die stuk grond opgemeet het en 'n diagram daarvan by die Landmeter-generaal ingedien het voor die inwerkingtreding van hierdie Wet of voor die datum van oprigting van die heining, muur, heg, sloot, voor of ander hindernis; en 50

- (b) voor daardie datum, 'n ander persoon as die eienaar van enige grond waarvan eersgenoemde stuk grond 'n deel uitgemaak het op die tyd toe genoemde opmeting gedoen is, die eienaarskap van daardie stuk grond verkry het of 'n verkoopsooreenkoms gesluit het om dit te verkry of dit gehuur het ingevolge 'n geregistreerde huurkontrak vir 'n tydperk van ten minste tien jaar, 55

tensy sodanige hek, brug of ander oorgang na die mening van die pad- of openbare vervoerinfrastruktuurowerheid onveilig is of onbestaanbaar is met die standaard vir toegang tot die vervoerinfrastruktuur waarvan toegang of uitgang verkry word.

- (4) By die oorweging van 'n aansoek vir toegang ingevolge subartikel (1) moet die pad- of openbare vervoerinfrastruktuurowerheid 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 'n plan in paragraaf (a) bedoel, riglyne oor die verlening van toegang op paaie wat deur die Provinsie of deur 'n munisipaliteit opgestel is en vir die Provinsie aanvaarbaar is. 5
- (5) By die verlening van die magtiging in subartikel (1) bedoel, kan die pad- of openbare vervoerinfrastruktuurowerheid die aard voorskryf van die toegangspad, hek, brug, oorklimtrap of ander oorgang en die plek waar en wyse waarop dit gebou moet word, en kan hy ander voorwaardes stel in verband daarmee of met die gebruik daarvan wat hy nodig ag, en kan hy die magtiging intrek indien enige vereiste of voorwaarde wat in die magtiging voorgeskryf of gestel word, nie nagekom word nie. 10
- (6) 'n Pad- of openbare vervoerinfrastruktuurowerheid moet, by die verlening van toegang aan voetgangers of fietsryers van 'n aanliggende eiendom tot 'n pad, spoorlyn of ander vervoerinfrastruktuur, verseker dat sulke voetgangers of fietsryers van veilige roetes en kruisings voorsien word. 15

Opdrag om toegang te verskuif

46. (1) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan by skriftelike lasgewing die eienaar van 'n eiendom of die eienaar van eiendomme wat toegang verkry tot 'n verklaarde pad of via 'n toegangspad deur hulle betrokke eiendom of eiendomme en wat 'n toegang of uitgang van 'n verklaarde pad of spoorlyn het waarvan hy die pad- of openbare vervoerinfrastruktuurowerheid is, gelas om sodanige 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. 25
- (2) (a) Waar die verskuiwing of sluiting van 'n toegang of uitgang ingevolge subartikel (1) die herbelyning en konstruksie van 'n nuwe toegangspad deur die eiendom of eiendomme en die verandering, herplasing, heroprigting of rekonstruksie noodsaak van 'n hek, private motorhuis of ander struktuur waarvoor die eienaar of eienaars vorige toestemming van die pad- of openbare vervoerinfrastruktuurowerheid het, moet daardie owerheid, behoudens paragraaf (b), die werk wat aldus genoodsaak word, op sy eie koste uitvoer of die eienaar of eienaars toelaat om die werk op die koste van die pad- of openbare vervoerinfrastruktuurowerheid uit te voer. 30
- (b) Die aanspreeklikheid van die pad- of openbare vervoerinfrastruktuurowerheid ingevolge paragraaf (a) is beperk tot die koste van die rekonstruksie van 'n toegangspad op die nuwe belyning ter vervanging van die toegangspad wat aldus geraak is, en die vervanging van hekke, motorhuise en ander infrastruktuur van 'n standaard soortgelyk aan dié wat verander, herplaas, heropgerig of herbou moet word. 35
- (3) Waar die eienaar van 'n eiendom of die eienaars van eiendomme wat toegang tot 'n verklaarde pad verkry, aansoek doen vir en toestemming verleen word deur die padowerheid om sodanige toegang te verskuif, rus daar geen aanspreeklikheid op die padowerheid om tot die koste van die werke by te dra nie. 40
- (4) 'n Persoon wat 'n pad, spoorlyn of ander openbare vervoerinfrastruktuur binnegaan of verlaat, of 'n hek, brug, oorklimtrap of ander oorgang bou of oprig strydig met hierdie artikel, is aan 'n misdryf skuldig. 45

Voertuie in onbruik, vullis, ens op of naby paaie, spoorlyne en ander vervoerinfrastruktuur

47. (1) Niemand mag—
- (a) 'n verouderde voertuig of masjien in onbruik of 'n verouderde onderdeel daarvan in onbruik of enige vullis op die reserwe van 'n verklaarde pad of spoorlyn of ander openbare vervoerinfrastruktuur plaas of laat nie; 50
 - (b) sonder die vooraf skriftelike toestemming van die betrokke pad- of openbare vervoerinfrastruktuurowerheid of strydig met 'n voorwaarde gestel deur sodanige owerheid en daarin uiteengesit, 'n verouderde voertuig, masjien of onderdeel daarvan in onbruik of enige vullis binne 200 meter van die middellyn van 'n verklaarde pad of spoorlyn of ander openbare vervoerinfrastruktuur plaas of laat sodat dit daarvandaan sigbaar is nie. 55
- (2) Die pad- of openbare vervoerinfrastruktuurowerheid kan 'n verouderde voertuig of masjien in onbruik of 'n onderdeel daarvan in onbruik of vullis wat op die reserwe van

'n pad of spoorlyn of ander vervoerinfrastruktuur aangetref word, verwyder en kan die koste van die verwydering verhaal van die persoon wat dit daar geplaas of gelaat het.

(3) Indien, op grond in subartikel (1)(b) bedoel, 'n verouderde voertuig of masjien in onbruik of 'n verouderde onderdeel daarvan in onbruik of vullis aangetref word wat sigbaar is vanaf die reserwe van 'n pad of spoorlyn of ander vervoerinfrastruktuur en binne 200 meter van die middellyn daarvan, en die persoon wat dit daar geplaas of gelaat het of 'n persoon wat daarop geregtig is om dit te verwyder, by skriftelike kennisgewing deur die pad- of openbare vervoerinfrastruktuurowerheid gelas is om dit van die grond af te verwyder of om die nodige stappe te doen om dit nie meer sigbaar te maak nie—

- (a) moet sodanige persoon dit van die land af verwyder of daardie nodige stappe doen binne die tydperk in die kennisgewing vermeld (wat nie minder as 14 dae na die datum van die kennisgewing mag wees nie);
- (b) kan die pad- of openbare vervoerinfrastruktuurowerheid dit van daardie grond af verwyder of enige stappe doen wat die pad- of openbare vervoerinfrastruktuurowerheid nodig ag om dit onsigbaar te maak vanaf die pad of spoorlyn of ander vervoerinfrastruktuur, en kan daardie owerheid die koste van die verwydering of van daardie stappe verhaal van die persoon wat ingevolge paragraaf (a) onder 'n plig was om dit te verwyder of om die nodige stappe te doen maar versuim het om dit te doen.

Strukture en ander werke op, oor of onder reserwes van paaie, spoorlyne en ander vervoerinfrastruktuur

48. (1) Ondanks enige ander wet, maar behoudens subartikel (4), mag niemand, behalwe met die vooraf skriftelike toestemming van, en ooreenkomstig standarde en spesifikasies goedgekeur deur, die pad- of openbare vervoerinfrastruktuurowerheid 'n aktiwiteit in subartikel (2) genoem, verrig nie—

- (a) op 'n verklaarde pad, spoorlyn of ander openbare vervoerinfrastruktuur of binne die reserwe van so 'n pad, spoorlyn of ander openbare vervoerinfrastruktuur; of
- (b) in 'n boubeperkingsgebied.

(2) Die aktiwiteite in subartikel (1) beoog, is die volgende:

- (a) 'n Struktuur of ander ding wat vas is aan die grond waarop dit staan, al maak dit nie deel van daardie grond uit nie, oprig of installeer of veroorsaak of toelaat dat dit opgerig of geïnstalleer word op grond wat besit word deur of onder die bestuur of beheer van sodanige persoon is;
- (b) enigiets onder of onderdeur die oppervlak van grond of wat oor die grond uitsteek, oprig of lê of toelaat dat dit opgerig of gelê word;
- (c) enige strukturele byvoeging of verandering aan enige sodanige struktuur of ding maak of toelaat dat dit gemaak word.

(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 betrokke pad of spoorlyn 'n boubeperkingsgebiedpad of -spoorlyn geword het;
- (b) 'n heining, omheining, muur of heg wat nie hoër as 1,6 meter bo die aanliggende oppervlak van die grond is waarop dit staan nie.

(4) Die pad- of openbare vervoerinfrastruktuurowerheid kan na goëddunke toestemming ingevolge subartikel (1) verleen of weier en kan, waar hy sodanige toestemming verleen—

- (a) die spesifikasies stel waaraan die struktuur, voorwerp, verandering of byvoeging moet voldoen;
- (b) die wyse en omstandighede en die plek bepaal waar en die voorwaardes waarop die struktuur, voorwerp, verandering of byvoeging opgerig, geïnstalleer, gebou of gelê mag word;
- (c) die verpligtinge bepaal wat deur die eienaar van die betrokke grond of deur ander persone nagekom moet word indien die struktuur, voorwerp, verandering of byvoeging opgerig, geïnstalleer, gebou of gelê is; en
- (d) 'n plig stel om die pad- of openbare vervoerinfrastruktuurowerheid te vergoed vir koste aangegaan in sy aktiwiteite ingevolge paragrafe (a) tot (c), voor die begin van enige werk.

(5) (a) Indien 'n verpligting om 'n struktuur of voorwerp te verwyder vereis word deur 'n voorwaarde wat ingevolge subartikel (4)(b) gestel is, kan die Registrateur van Aktes met jurisdiksie vir die betrokke gebied op die skriftelike versoek van die pad- of

openbare vervoerinfrastruktuurowerheid die verpligting op die titelakte van die grond wat daardeur geraak word en in die gepaste registers aanteken.

(b) Die koste in verband met daardie aantekening moet betaal word deur die persoon aan wie die toestemming verleen is.

(c) Die pad- of openbare vervoerinfrastruktuurowerheid kan voldoening afdwing aan 'n verpligting wat aldus aangeteken is. 5

(6) (a) Waar 'n struktuur of voorwerp opgerig, geïnstalleer, gebou of gelê is sonder die toestemming wat by subartikel (1) vereis word of strydig met sodanige toestemming, kan die pad- of openbare vervoerinfrastruktuurowerheid daardie persoon by skriftelike kennisgewing gelas om die ongemagtigde struktuur, voorwerp, verandering of byvoeging te verwyder binne 'n redelike tyd wat in die kennisgewing vermeld word maar wat nie korter as 30 dae na die datum van die kennisgewing mag wees nie. 10

(b) Indien die persoon aan wie 'n kennisgewing uitgereik is, versuim om aan die kennisgewing te voldoen binne die tydperk daarin vermeld, kan sodanige owerheid die struktuur verwyder en die koste van die verwydering van daardie persoon verhaal. 15

(7) (a) Ondanks die bepalings van ander wette kan 'n pad- of openbare vervoerinfrastruktuurowerheid 'n struktuur of voorwerp in subartikel (1) beoog wat geïnstalleer, gebou of gelê is voor die datum waarop die betrokke pad of spoorlyn of ander vervoerinfrastruktuur verklaar is, verwyder of verskuif na 'n plek wat hy bepaal.

(b) Waar 'n persoon ingevolge 'n wet verantwoordelik is om 'n struktuur of voorwerp wat aldus opgerig, geïnstalleer, gebou of gelê is, te verwyder of te verskuif, kan die pad- of openbare vervoerinfrastruktuurowerheid die koste van die verwydering of verskuiwing van daardie persoon verhaal. 20

(8) Enigiemand wat subartikel (1) oortree of versuim om te voldoen aan 'n kennisgewing ingevolge subartikel (6), is aan 'n misdryf skuldig. 25

Beperkings op veranderinge in grondgebruik

49. (1) Enige persoon wat van voorneme is om 'n ontwikkeling te onderneem wat 'n verandering of intensivering van grondgebruik behels—

(a) op 'n gedeelte of gedeeltes van grond binne die gebiede aanliggend aan bestaande vervoerinfrastruktuur in paragrawe (a) en (b) van subartikel (2) bedoel; of 30

(b) op 'n gedeelte of gedeeltes van grond binne die gebiede aanliggend aan toekomstige infrastruktuur in artikel 17(1)(c) bedoel,

moet, waar 'n verkeersinvloedbepaling of 'n openbarevervoerbepaling wat ingevolge die NLTTA voorgeskryf word, vereis word— 35

(i) die aanvaarding van die voorgestelde ontwikkeling deur die pad- of openbare vervoerinfrastruktuurowerheid verantwoordelik vir die vervoerinfrastruktuur wat aldus geraak word, verkry;

(ii) enige versagtingsmaatreëls implementeer wat by die verlening van daardie aanvaarding deur die pad- of openbare vervoerowerheid vereis word; en 40

(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 (hetsy saamgevoeg met of sonder deurgange en oop ruimtes wat openbare plekke is of bedoel is om te wees) of enige ander onderverdeling goedkeur nie indien enige deel van enige sodanige erf, standplaas, perseel of hoeve binne— 45

(a) 100 meter van die naaste reserwe van 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur buite 'n stedelike gebied val; of

(b) 50 meter van die naaste reserwe van 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur binne 'n stedelike gebied val, 50

tensy die algemene plan of diagram wesenlik ooreenstem met 'n plan of skets van die voorgestelde uitleg van die dorp of groep, wat die pad- of openbare vervoerinfrastruktuurowerheid skriftelik goedgekeur het.

(3) Subartikel (2) is ook, met die nodige veranderinge, van toepassing op 'n diagram van 'n stuk grond aangrensend aan 'n dorp of groep erwe, standplase, persele of hoewes indien enige deel van daardie stuk grond binne 100 meter is van die reserwe van 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur. 55

(4) So 'n pad- of openbare vervoerinfrastruktuurowerheid kan weier om ingevolge subartikel (1) goedkeuring te verleen slegs as hy oortuig is dat die onderhawige verdeling 'n doelwit van hierdie Wet kan verydel. 60

- (5) (a) Die pad- of openbare vervoerinfrastruktuurowerheid kan die goedkeuring ingevolge subartikel (1) verleen behoudens voorwaardes—
- (i) wat die verdeling of verdere verdeling van die grond of van 'n bepaalde deel daarvan verbied;
 - (ii) wat die gebruik beperk waarvoor die grond of 'n bepaalde deel daarvan aangewend mag word; 5
 - (iii) wat die getal of omvang beperk van geboue of ander strukture wat op die grond of 'n bepaalde deel daarvan opgerig mag word;
 - (iv) wat die oprigting, konstruksie of vestiging belet van 'n struktuur of voorwerp op, oor of onder die oppervlak van die grond, of op, oor of onder die oppervlak van 'n bepaalde deel daarvan of binne 'n bepaalde afstand van die onderhawige pad of spoorlyn of ander vervoerinfrastruktuur. 10
- (b) By die verlening van sodanige goedkeuring kan die pad- of openbare vervoerinfrastruktuurowerheid 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 paragraaf (a) gestel is. 15
- (6) 'n Voorwaarde in subartikel (5) bedoel, kan verwyder word ten einde voldoening daaraan of 'n afwyking daarvan toe te laat met die goedkeuring van die pad- of openbare vervoerinfrastruktuurowerheid. 20
- (7) (a) Ondanks andersluidende bepalings in die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937)—
- (i) moet die persoon wat oordrag gee van grond waarop voorwaardes in subartikel (5) bedoel van toepassing is, dit in die transportakte invoeg;
 - (ii) 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; 25
 - (ii) moet 'n sertifikaat van gekonsolideerde titel uitgereik ten opsigte van gekonsolideerde grond in subartikel (5)(b) bedoel, elke voorwaarde bevat waaraan die titel op daardie grond onderhewig is ingevolge 'n bepaling ingevolge daardie subartikel. 30
- (b) Die pad- of openbare vervoerinfrastruktuurowerheid kan nakoming van enige sodanige voorwaarde afdwing.
- (8) (a) Ondanks andersluidende bepalings in die Registrasie van Aktes Wet, 1937, of ander wette kan 'n Registrateur van Aktes, met die padowerheid 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. 35
- (b) Die kansellasië kan gedoen word op die skriftelike aansoek van die eienaar van die betrokke grond, vergesel van die pad- of openbare vervoerinfrastruktuurowerheid se skriftelike goedkeuring en bewys dat alle verbandhouders van die voorgestelde kansellasië in kennis gestel is. 40

Afstandaanwysers, padwysers en waarskuwings op verklaarde paaie

50. 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;
- (b) op paaie waarvan hy die padowerheid is, die afstandaanwysers, padwysers, aanwysings en waarskuwings oprig en in stand hou wat nodig of wenslik is vir die veiligheid of leiding van die publiek. 45

Visuele obstruksies

- 51.** (1) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan by skriftelike bevel van die eienaar of okkupeerder van enige grond vereis om die hoogte of breedte van enige boom, bos, plantegroei, muur, heg, heining of enige ander visuele obstruksie op enige plek of in enige omstandighede van 'n verklaarde pad of spoorlyn, waarvan hy die pad- of openbare vervoerinfrastruktuurowerheid is, met enige ander pad of spoorlyn wat die sig van 'n bestuurder of enige ander pad- of openbarevervoergebruiker tot 'n onveilige toestand kan belemmer, te verminder— 50
- (a) tot 'n hoogte of breedte in die bevel vermeld; of
 - (b) tot 'n lengte in die bevel vermeld. 55

(2) Waar die eenaar of okkupeerder versuim om te voldoen aan 'n bevel in subartikel (1) bedoel binne die tyd in die bevel vermeld, tot tevredenheid van die pad- of openbare vervoerinfrastruktuurowerheid, kan laasgenoemde sodanige grond betree en die nodige werk doen, en kan hy die koste daarvan van die eenaar of okkupeerder verhaal.

Heinings langs of binne die grense van verklaarde paaie, spoorlyne en ander vervoerinfrastruktuur 5

52. (1) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan 'n heining oprig—

- (a) langs die grens van 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur waarvan hy die pad- of openbare vervoerinfrastruktuurowerheid is; 10
- (b) rondom grond van waar materiaal ontgin en verwyder is of word; of
- (c) rondom watervoorsiening wat ingevolge hierdie Wet deur sodanige owerheid verskaf of gebruik word.

(2) 'n Pad- of openbare vervoerinfrastruktuurowerheid moet ten minste 60 persent bydra van die redelike koste aangegaan deur enige ander persoon by die oprigting van 'n heining langs die grens van die verklaarde reserwe van 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur waarvan hy die pad- of openbare vervoerinfrastruktuurowerheid is— 15

- (a) as gevolg van die uitreiking van 'n kennisgewing ingevolge artikel 53 wat die oprigting van 'n hek verbied; of
- (b) as gevolg van die verwydering met die goedkeuring van die pad- of openbare vervoerowerheid van een of meer hekke van sodanige pad of ander vervoerinfrastruktuur ingevolge daardie artikel, 20

indien die heining gebou word volgens standarde en spesifikasies wat deur die pad- of openbare vervoerinfrastruktuurowerheid goedgekeur is.

(3) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan bydra tot die koste aangegaan deur enige ander persoon by die oprigting van 'n heining langs die grens van die verklaarde reserwe van 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur waarvan hy die pad- of openbare vervoerinfrastruktuurowerheid is, in gevalle wat nie in subartikel (2) beoog word nie, indien die heining gebou word volgens standarde en spesifikasies wat deur die pad- of openbare vervoerinfrastruktuurowerheid goedgekeur is. 25 30

(4) Enige bykomende koste aangegaan by die oprigting van wildheining volgens spesifikasies benewens dié wat deur die pad- of openbare vervoerinfrastruktuurowerheid vereis word, is betaalbaar deur die eenaar of gebruiker van sodanige eiendom wat die wildheining verlang, tensy anders ooreengekom deur die pad- of openbare vervoerinfrastruktuurowerheid. 35

(5) Niemand anders as die betrokke pad- of openbare vervoerinfrastruktuurowerheid mag 'n heining op of binne die grense van 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur oprig nie, behalwe met die vooraf skriftelike toestemming van, en ooreenkomstig standarde en spesifikasies bepaal deur, sodanige owerheid, en geen persoon mag so 'n heining verwyder sonder toestemming wat aldus verleen is nie. 40

(6) 'n Pad- of openbare vervoerinfrastruktuurowerheid mag nie toestemming vir die verwydering van 'n heining in subartikel (5) beoog verleen nie tensy—

- (a) die toestand van die heining die vervanging daarvan vereis; of
- (b) die eenaar 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 deur sodanige owerheid bepaal. 45

(7) Alle heinings wat voor die inwerkingtreeding van hierdie Wet wettig opgerig is en bestaan op of binne die grense van verklaarde paaie, spoorlyne of ander vervoerinfrastruktuur, word geag behoorlik opgerig te wees met die toestemming van die betrokke pad- of openbare vervoerinfrastruktuurowerheid. 50

(8) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan 'n geagte toestemming ingevolge subartikel (7) te eniger tyd intrek, in welke geval die owerheid die heining moet verwyder en op die grens van die verklaarde pad, spoorlyn of ander vervoerinfrastruktuur heroprig op sy eie koste. 55

(9) Die betrokke pad- of openbare vervoerinfrastruktuurowerheid moet—

- (a) enige heining wat in stryd met hierdie artikel opgerig is, verwyder en dit heroprig op die grens van die verklaarde pad, spoorlyn of ander vervoerinfrastruktuur; en

(b) enige heining wat in stryd met hierdie artikel verwyder is, heroprig op die grens van die betrokke verklaarde pad, spoorlyn of ander vervoerinfrastruktuur.

(10) Waar 'n verklaarde pad of spoorlyn verskuif word, kan die pad- of openbare vervoerinfrastruktuurowerheid, indien hy bygedra het tot die koste van 'n heining langs daardie pad of spoorlyn, sodanige heining verskuif na die nuwe ligging van die pad, spoorlyn of ander vervoerinfrastruktuur. 5

(11) Behoudens die Omheiningswet, 1963 (Wet No. 31 van 1963), is die eienaar van grond grensend aan die grens van 'n verklaarde pad, spoorlyn of ander openbare vervoerinfrastruktuur verantwoordelik om enige heining wat wettig op of binne sodanige grens opgerig is, in stand te hou of te vervang. 10

(12) 'n Persoon wat hierdie artikel oortree, is aan 'n misdryf skuldig.

Hekke oor verklaarde paaie

53. (1) Niemand mag 'n hek oor 'n verklaarde pad oprig nie, behalwe met die vooraf skriftelike goedkeuring van, en ooreenkomstig standarde en spesifikasies goedgekeur deur, die betrokke pad- of openbare vervoerinfrastruktuurowerheid. 15

(2) In die geval van 'n verklaarde pad buite 'n stedelike gebied mag sodanige goedkeuring nie verleen word nie tensy—

(a) die padowerheid bereid is om 'n motorhek oor die ryvlak langs sodanige hek aan te bring; 20

(b) in die geval van 'n munisipale padowerheid, die Minister in kennis gestel is van die bou van so 'n motorhek en 'n geleentheid gebied is om kommentaar te lewer; en

(c) die persoon wat aansoek doen vir goedkeuring ten opsigte van 'n hek oor 'n verklaarde pad, sekuriteit aan die padowerheid, tot sy tevredenheid, verskaf het vir die betaling van ten minste 50 persent van die koste van die bou van die motorhek. 25

(3) Die betrokke padowerheid moet enige 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 ten opsigte waarvan die goedkeuring verleen is, in soverre fondse dit toelaat. 30

(5) Ondanks ander bepalings van hierdie Wet kan die Minister, by kennisgewing in die *Provinsiale Koerant*, die oprigting verbied van hekke oor enige tipe of kategorie verklaarde pad, of enige spesifieke openbare pad of gedeelte daarvan, wat in die kennisgewing vermeld word. 35

(6) 'n Persoon wat hierdie artikel oortree, is aan 'n misdryf skuldig.

(7) 'n Padowerheid kan, na voldoening aan subartikel (8), 'n hek oor 'n verklaarde pad waarvan hy die padowerheid is, verwyder.

(8) 'n Padowerheid wat voornemens is om ingevolge subartikel (7) op te tree, moet elke eienaar van grond wat nadelig geraak kan word deur die verwydering van sodanige hek, by skriftelike kennisgewing in kennis stel van sodanige 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. 40

Motorhekke 45

54. (1) 'n Padowerheid kan 'n motorhek oor 'n verklaarde pad bou waarvan hy die padowerheid is, 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 by die inwerkingtreding van hierdie Wet wettiglik bestaan, word geag ooreenkomstig subartikel (1) gebou te wees. 50

(3) 'n Padowerheid kan 'n motorhek oor 'n verklaarde pad waarvan hy die padowerheid is, sluit of verskuif, en artikel 20 is met die nodige veranderinge in sulke gevalle van toepassing.

(4) 'n Padowerheid moet 'n motorhek wat bedryf word saam met 'n hek wat ingevolge artikel 53(7) verwyder is, verwyder gelyktydig met die verwydering van die hek. 55

Mynbedrywighede op of onder verklaarde paaie, spoorlyne, ander vervoerinfrastruktuur of boubeperkingsgebiede

55. (1) Niemand mag enige mynbedrywighede op of onder 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur of boubeperkingsgebied uitvoer nie, behalwe met die skriftelike toestemming van die pad- of openbare vervoerinfrastruktuurowerheid, wat die toestemming kan verleen onderhewig aan voorwaardes wat gepas geag word. 5

(2) Waar dit nodig word om 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur te verskuif of te herbou omdat dit ondermyn raak na die skepping daarvan, hetsy voor die datum van inwerkingtreding van hierdie Wet of in stryd met subartikel (1), ten einde die veiligheid of belange van die publiek te bewaar, kan die pad- of openbare vervoerinfrastruktuurowerheid die persoon verantwoordelik vir die ondermyning gelas om die pad, spoorlyn of ander vervoerinfrastruktuur veilig te maak of om voorsiening te maak vir die rekonstruksie daarvan tot tevredenheid van die pad- of openbare vervoerinfrastruktuurowerheid, op die koste van sodanige persoon en binne 'n tyd wat die pad- of openbare vervoerinfrastruktuurowerheid bepaal, by versuim waarvan die owerheid die werk kan doen en die koste van sodanige persoon kan verhaal. 10 15

Handel dryf op verklaarde paaie, spoorlyne of ander vervoerinfrastruktuur of in boubeperkingsgebiede

56. (1) Behalwe soos in subartikel (3) bepaal, mag niemand sonder die pad- of openbare vervoerinfrastruktuurowerheid se skriftelike toestemming of strydig met die bepalinge van sodanige toestemming handel dryf of goedere blootstel, aanbied of vervaardig vir verkoop nie— 20

- (a) op 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur; of
- (b) op of in enige vervoerinfrastruktuur onder beheer van daardie owerheid; of 25
- (c) in 'n boubeperkingsgebied.

(2) Toestemming ingevolge subartikel (1) kan deur die pad- of openbare vervoerinfrastruktuurowerheid verleen word—

- (a) in die geval van paaie en bykomstige padinfrastruktuur, slegs ten opsigte van persele of gebiede wat ooreenkomstig die Nasionale Padverkeerswet vir daardie doel gesoneer of afgebaken is; en 30
- (b) in die geval van spoorlyne en bykomstige openbare vervoerinfrastruktuur, slegs ten opsigte van spesiale gebiede wat deur die pad- of openbare vervoerinfrastruktuurowerheid vir handelsdoeleindes aangewys is.

(3) Subartikel (3) is nie van toepassing nie op 'n persoon wat 'n besigheid of onderneming voortsit nadat 'n pad, spoorlyn of ander vervoerinfrastruktuur tot 'n pad, spoorlyn of ander vervoerinfrastruktuur verklaar is of grond 'n boubeperkingsgebied word, tensy daardie persoon by skriftelike kennisgewing deur die pad- of openbare vervoerinfrastruktuurowerheid gelas is om dit te staak. 35

(4) 'n Werknemer of persoon skriftelik daartoe gemagtig deur die pad- of openbare vervoerinfrastruktuurowerheid, 'n werknemer van 'n munisipaliteit wat aangewys of aangestel is om wetstoepassingsfunksies op 'n verklaarde pad, spoorlyn of ander vervoerinfrastruktuur te verrig, en 'n persoon wat ingevolge 'n padverkeerswet 'n verkeersbeampte vir die doel van die padverkeerswet is, kan— 40

- (a) indien sodanige werknemer, beampte of persoon (in hierdie artikel die "bevoegde beampte" genoem) op redelike gronde vermoed dat 'n persoon 'n handeling verrig het waarvoor die pad- of openbare vervoerinfrastruktuurowerheid se skriftelike toestemming ingevolge subartikel (1) vereis word, vereis dat die persoon die skriftelike toestemming om daardie handeling te verrig, aan die bevoegde beampte toon; 45 50

- (b) indien die persoon aan wie die eis gestel word, versuim om so 'n skriftelike toestemming aan die bevoegde beampte 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 deur daardie persoon verstrekk word; 55

- (ii) daardie persoon gelas om uit die boubeperkingsgebied of die provinsiale pad, spoorlyn of ander vervoerinfrastruktuur te verwyder—

- (aa) elke artikel waarmee of ten opsigte waarvan daardie handeling verrig is of wat die bevoegde beampte op redelike gronde vermoed 60

- bedoel is vir gebruik vir of in verband met die verrigting van so 'n daad deur daardie persoon; of
- (bb) 'n struktuur, tent, voertuig, implement of ander voorwerp waarin, waarop of waarmee daardie handeling verrig is, of waarin of waarop daar so 'n artikel is, of wat die bevoegde beampte op redelike gronde vermoed bedoel is vir gebruik vir of in verband met die verrigting van so 'n daad deur daardie persoon; 5
- (c) 'n artikel, struktuur, tent, voertuig, implement of ander voorwerp in paragraaf (b)(ii) genoem, of wat die bevoegde beampte op die verklaarde pad, spoorlyn of ander vervoerinfrastruktuur of in die boubeperkingsgebied vind en op redelike gronde vermoed dat dit deur 'n persoon gebruik is of bedoel is om gebruik te word in verband met 'n oortreding van subartikel (1), van die pad, spoorlyn of ander vervoerinfrastruktuur of die boubeperkingsgebied verwyder en die koste van die verwydering van die betrokke persoon terugeis. 10
- (5) 'n Persoon is aan 'n misdryf skuldig— 15
- (a) by oortreding van 'n bepaling van subartikel (1); of
- (b) by versuim om sy of haar volle naam en woonadres ingevolge subartikel (4)(b)(i) aan 'n bevoegde beampte te verstrek; of
- (c) by versuim om 'n bevel wat ingevolge subartikel (4)(b)(ii) gegee is, te gehoorsaam. 20
- (6) 'n Munisipaliteit kan die funksies van die Provinsie ingevolge hierdie artikel onderneem by ooreenkoms met die Minister.

DEEL 9:

BEVOEGDHEDE EN PLIGTE VAN MINISTER EN PAD- OF OPENBARE VERVOERINFRASTRUKTUURWERHEDE 25

Spesifieke bevoegdhede om paaie, spoorlyne en ander vervoerinfrastruktuur te finansier en te bestuur

- 57.** (1) Die konstruksie, finansiering, beheer, toesig, bestuur, ontwikkeling, instandhouding, beskerming en rehabilitasie van alle verklaarde provinsiale paaie, spoorlyne en ander provinsiale vervoerinfrastruktuur berus by die Minister, wat vir genoemde aktiwiteite verantwoordelik is binne beskikbare finansiële hulpbronne en behoudens artikel 5. 30
- (2) Die Minister kan—
- (a) 'n verklaarde provinsiale pad, spoorlyn of ander openbare vervoerinfrastruktuur en heinings wat daarmee verband hou, beplan, ontwerp, bou, finansier, beheer, bestuur, ontwikkel, in stand hou, beskerm en rehabiliteer; en 35
- (b) finansiële en ander bystand aan 'n munisipaliteit verleen op voorwaardes wat die Minister bepaal—
- (i) vir die konstruksie of instandhouding van vervoerinfrastruktuur in sy regsgebied; of 40
- (ii) vir die onteiening deur daardie munisipaliteit van grond of 'n reg op grond vir die doel in paragraaf (i) vermeld;
- (c) 'n verklaarde munisipale pad, spoorlyn of ander openbare vervoerinfrastruktuur of gedeelte daarvan in die regsgebied van 'n munisipaliteit namens daardie munisipaliteit beplan, ontwerp, bou of in stand hou; en 45
- (d) enige bevoegdheid uitoefen wat redelikerwys bykomend of bykomstig is by die bevoegdhede in paragrawe (a) tot (c) genoem.
- (3) Die beplanning, ontwerp, konstruksie, finansiering, beheer, toesig, bestuur, ontwikkeling, instandhouding, beskerming en rehabilitasie van alle verklaarde munisipale paaie, spoorlyne en ander vervoerinfrastruktuur berus by die betrokke munisipale pad- of openbare vervoerinfrastruktuurowerheid, wat vir genoemde aktiwiteite verantwoordelik is binne beskikbare finansiële hulpbronne en behoudens artikel 5. 50
- (4) 'n Munisipale pad- of openbare vervoerinfrastruktuurowerheid kan 'n munisipale pad, spoorlyn of ander munisipale openbare vervoerinfrastruktuur in sy gebied beplan, ontwerp, bou, finansier, beheer, bestuur, ontwikkel, in stand hou, beskerm en rehabiliteer. 55

Algemene bevoegdhede en pligte van pad- of openbare vervoerinfrastruktuurowerhede

- 58.** (1) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan—
- (a) 'n dier verwyder of daarvoor beskik wat strydig met die Nasionale Padverkeerswet of enige ander wet binne die reserwe van 'n pad, spoorlyn of ander openbare vervoerinfrastruktuur is, maar die owerheid is nie aanspreeklik om enige persoon te vergoed waar so 'n dier gedood of beseer word om gevaar vir verkeer te vermy nie; 5
 - (b) vervoerinfrastruktuur, boorgate, pompe en alle bybehore of geriewe verskaf en in stand hou wat hy nodig ag vir die reisende publiek; 10
 - (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 'n pad, spoorlyn of ander openbare vervoerinfrastruktuur; 15
 - (d) voorrade, 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 'n pad, spoorlyn of ander openbare vervoerinfrastruktuur berg; 20
 - (e) water neem of ander voorsiening maak vir water wat hy nodig ag om die bepalinge van hierdie Wet uit te voer: Met dien verstande dat water nie sonder die instemming van die eienaar uit 'n mensgemaakte dam, put of boorgat geneem mag word nie; 25
 - (f) behoudens die ander bepalinge van hierdie Wet, 'n ingang tot of uitgang uit 'n verklaarde pad, spoorlyn of ander openbare vervoerinfrastruktuur reguleer, beheer, sluit of verskuif; 25
 - (g) grond, implemente of toerusting wat hy besit, verhuur of daarvoor beskik, of regte op grond verhuur of daarvoor beskik wat verkry is vir of in verband met vervoerinfrastruktuur en nie onmiddellik benodig word nie, of sodanige implemente of toerusting uitleen of tydelike regte op sodanige grond toestaan, kosteloos; 30
 - (h) gebiede binne 'n pad, spoorlyn of ander vervoerinfrastruktuur rehabiliteer of belandskap of andersins verbeter; 35
 - (i) gelde of huurgeld vra vir enige magtiging, goedkeuring of toestemming wat aan 'n persoon verleen is vir die voorsiening, konstruksie, oprigting, vestiging, beoefening of bedryf op, oor of onder 'n pad, spoorlyn of ander vervoerinfrastruktuur van enigiets waarvoor hierdie Wet voorsiening maak bo en behalwe aansoekgelde, wat ook in voorgeskrewe bedrae gehef kan word; 35
 - (j) finansiële of ander bystand verleen, by ooreenkoms met 'n eienaar van grond, vir die bou van toegangspaaie en die oprigting of instandhouding van heinings, hekke of ander strukture op paaie, spoorlyne of ander openbare vervoerinfrastruktuur op grond aangrensend daaraan; 40
 - (k) 'n spoorlyn binne 'n pad lê, verskuif of verwyder; 45
 - (l) diensfasiliteite verskaf en die voorsiening van vulstasies, restaurante, speelgronde en ander fasiliteite toelaat vir gebruik deur die reisende publiek binne verklaarde paaie, spoorlyne of ander vervoerinfrastruktuur; 45
 - (m) by kennisgewing in die *Provinsiale Koerant* die beweging van lewende hawe of ander diere anders as in 'n voertuig op enige pad in die kennisgewing vermeld, verbied of beperk, of bepaal dat lewende hawe nie sonder die skriftelike goedkeuring van die padowerheid op so 'n pad beweeg mag word nie, en kan, waar sulke lewende hawe op so 'n pad aangetref word strydig met so 'n kennisgewing of sonder sodanige goedkeuring, dit op die voorgeskrewe wyse skut. 50
- (2) Behoudens die Nasionale Padverkeerswet kan pad- of openbare vervoerinfrastruktuurowerhede die verkeerstekens, verkeersbeheertoestelle en merke verskaf en in stand hou wat hulle nodig ag vir die leiding en veiligheid van verkeer op paaie, en gepaste sinjale en tekens op spoorlyne. 55

Agentskapsoreenkoms vir pad- of openbare vervoerfunksies

- 59.** (1) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan 'n ooreenkoms in subartikel (2) beoog, aangaan met—
- (a) die Minister;
 - (b) 'n munisipaliteit; 5
 - (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 No. 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 No. 9 van 1989); 10
 - (e) die maatskappy Transnet Beperk ingestel ingevolge artikel 2 van die Wet in paragraaf (d) genoem; of
 - (f) enige ander persoon of liggaam, 15
- in hierdie artikel “die ander party” genoem.
- (2) 'n Ooreenkoms in subartikel (1) beoog, kan aangegaan word waar—
- (a) die ander party enige van of alle verantwoordelikheid vir of in verband met 'n pad, spoorlyn of ander vervoerinfrastruktuur sal oorneem;
 - (b) die ander party werk in verband met 'n pad, spoorlyn of ander vervoerinfrastruktuur kan doen, insluitende die konstruksie en instandhouding daarvan, of die werk onder sy toesig kan laat doen, vir die rekening van die owerheid wat die pad, spoorlyn of ander vervoerinfrastruktuur besit, of dat die owerheid wat sodanige infrastruktuur besit, sodanige werk sal doen vir die rekening van die ander party, of anders ingevolge die ooreenkoms; 20
 - (c) die munisipaliteit waar die pad, spoorlyn of ander vervoerinfrastruktuur geleë is, verantwoordelik sal wees vir die wegdoen van alle stormwater vanaf sodanige pad, spoorlyn of ander vervoerinfrastruktuur of verlegging daarvan en uitgawe aangegaan in verband daarmee, en die pad- of openbare vervoerinfrastruktuurowerheid, 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; 30
 - (d) die owerheid wat die pad, spoorlyn of ander vervoerinfrastruktuur besit, enige van die funksies in hierdie Wet beoog, of werk vir die doel van of in verband met funksies van daardie aard, sal verrig in die regsgebied van, of op grond 35 behorende aan, die ander party, op koste van die ander owerheid, ooreenkomstig en behoudens hierdie Wet.
- (3) 'n Ooreenkoms ingevolge subartikel (2) kan voorsiening maak vir die deling van die koste van 'n projek tussen die partye.

DEEL 10: 40

WETLIKE EN ALGEMENE BEPALINGS

Eise teen pad- of openbare vervoerinfrastruktuurowerhede en beperking van aanspreeklikheid

- 60.** (1) Die Minister, enige munisipale pad- of openbare vervoerinfrastruktuurowerheid en enige agente of werknemers van die Minister of 'n 45 munisipale pad- of openbare vervoerinfrastruktuurowerheid, of beamptes of werknemers van sulke owerhede of enige persoon wat vervoerinfrastruktuur bedryf of bou, is nie aanspreeklik nie vir skade of verlies wat 'n persoon gely het—
- (a) deur die gebruik van 'n deel van 'n pad, spoorlyn of ander vervoerinfrastruktuur uitgesonder die ryvlak; of 50
 - (b) as gevolg van die sluiting of verskuiwing van 'n pad of spoorlyn ingevolge hierdie Wet.
- (2) Waar 'n nuwe pad, spoorlyn of ander vervoerinfrastruktuur beplan word, is die Minister of die pad- of openbare vervoerinfrastruktuurowerheid nie aanspreeklik vir eise vir waardevermindering van grond wat deur so 'n pad, spoorlyn of ander vervoerinfrastruktuur geraak sal of kan word deur eienaars van daardie grond of enige ander persoon nie. 55

- (3) Behalwe soos in subartikel (4) bepaal, kan geregtelike stappe nie teen die Minister, 'n munisipaliteit of enige ander persoon in diens van 'n pad- of openbare vervoerinfrastruktuurowerheid gedoen word nie vir verlies of skade wat na bewering gely is deur 'n persoon (in hierdie artikel "die eiser" genoem) as gevolg van enige handeling met betrekking tot 'n pad, spoorlyn of ander openbare vervoerinfrastruktuur wat na bewering verrig of begaan is deur die Minister, 'n munisipaliteit of so 'n werknemer handelende in die uitvoering van sy of haar pligte of enige persoon handelende ten behoeve van die Minister of sodanige owerheid— 5
- (a) tensy dit gedoen word binne 12 maande na die datum waarop die eiser bewus geword het van die beweerde handeling of versuim, of na die datum waarop daar redelikerwys van die eiser verwag kon word om bewus te word van die beweerde handeling of versuim, wat ook al die vroegste is; en 10
- (b) voor verstryking van ten minste 90 dae nadat skriftelike kennisgewing van die eiser se voorneme om die geregtelike stappe te doen, met voldoende besonderhede van die beweerde handeling of versuim, aan die verweerder of respondent beteken is, tensy die verweerder of respondent aanspreeklikheid skriftelik ontken. 15
- (4) Die Hoë Hof met jurisdiksie om die geregtelike stappe te bepaal, kan op aansoek deur die eiser gelas dat enige vereiste van subartikel (3)(a) laat vaar of verslap word, of dat nienakoming daarvan gekondoneer word, in belang van geregtigheid. 20

Algemene verbodinge

- 61.** (1) Ondanks enige ander wet, maar behoudens subartikel (4), mag geen persoon of instelling, insluitende 'n staatsorgaan soos omskryf in artikel 239 van die Grondwet, tensy by hierdie Wet gemagtig—
- (a) inbreuk maak op 'n pad, spoorlyn of ander vervoerinfrastruktuur deur 'n gebou, struktuur, heining, voor, kanaal, sloot, motorhek of ander hindernis op te rig of te maak of deur 'n pypleiding, draad of kabel op, oor of onder sodanige pad, spoorlyn of ander vervoerinfrastruktuur te lê nie; 25
- (b) 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 die reserwe van 'n pad, spoorlyn of ander vervoerinfrastruktuur plaas of laat nie; 30
- (c) 'n voertuig of deel daarvan op die reserwe van 'n pad, spoorlyn of ander vervoerinfrastruktuur laat nie; 35
- (d) 'n pad, spoorlyn of ander vervoerinfrastruktuur beskadig of brandstof of ander chemikalieë of gas op 'n pad, spoorlyn of ander vervoerinfrastruktuur of geplaveide oppervlak stort wat dit kan beskadig nie; 40
- (e) die grond, oppervlak, gruis, uitgrawings, verkantings of vore van 'n pad of spoorlyn of ander vervoerinfrastruktuur opgrawe, verwyder of verander nie; 45
- (f) 'n bord, kennisgewingraamwerk, steierwerk of ander toestel met behulp waarvan 'n advertensie vertoon kan word, in, op of oor 'n pad, spoorlyn of ander vervoerinfrastruktuur oprig, bou, plaas of vertoon nie, behalwe soos by hierdie Wet of 'n ander wet toegelaat; 50
- (g) 'n figuur, letter, tekening, teken, simbool, graffiti of ander soortgelyke voorwerp of simbool op die ryvlak of 'n brug of 'n verkeerstekens verf of aanbring nie; 55
- (h) 'n brug bo-oor of 'n duiker of duikweg onderdeur 'n pad, spoorlyn of ander vervoerinfrastruktuur bou nie, behalwe met die skriftelike toestemming van die pad- of openbare vervoerinfrastruktuurowerheid, wat voorwaardes kan stel wanneer sodanige toestemming verleen word; 60
- (i) elektriese of ander drade of pypleidings dra oor of ondergrondse kables of pypleidings lê oor, onder of op 'n pad, spoorlyn of ander vervoerinfrastruktuur nie;
- (j) 'n pad, spoorlyn of ander vervoerinfrastruktuur gebruik terwyl dit onder konstruksie of herstel is nie, behalwe op die wyse aangedui deur die pad- of openbare vervoerinfrastruktuurowerheid deur padtekens of ander metodes;
- (k) 'n pad, spoorlyn of ander vervoerinfrastruktuur sluit, verlê, verander of op enige manier inbreuk daarop maak nie;
- (l) penne of ander voorwerpe wat besering aan persone of diere of skade aan eiendom kan veroorsaak, aan 'n hek op 'n pad, spoorlyn of ander vervoerinfrastruktuur heg nie; 60

- (m) bome, struik of ander verbeterings op paaie, spoorlyne of ander vervoerinfrastruktuur opsetlik beskadig nie;
- (n) 'n beampte, werknemer of agent van 'n pad- of openbare vervoerinfrastruktuurowerheid of 'n ander persoon wat deur daardie owerheid gemagtig is, by die uitvoering van sy of haar pligte ingevolge hierdie Wet hinder of dwarsboom nie; 5
- (o) 'n pad, spoorlyn of ander vervoerinfrastruktuur wat die publiek geregtig is om te gebruik, sluit of 'n heining of ander versperring oprig om die publiek te verhinder om so 'n pad, spoorlyn of ander vervoerinfrastruktuur te gebruik nie; 10
- (p) ligte laat skyn, of die verligting versterk, op 'n pad, spoorlyn of ander vervoerinfrastruktuur op 'n wyse wat 'n gevaar vir die verkeer inhou nie;
- (q) 'n pad, spoorlyn of ander vervoerinfrastruktuur wat deur gepaste padtekens vir verkeer gesluit is, gebruik nie;
- (r) onwettig in die reserwe of binne die boubeperkingsgebied van 5 meter van 'n pad, spoorlyn of ander vervoerinfrastruktuur wat besit word deur of onder beheer is van 'n pad- of openbare vervoerinfrastruktuurowerheid, woon of dit okkupeer nie; 15
- (s) 'n verkeerstekens op enige pad, spoorlyn of ander vervoerinfrastruktuur oprig nie; 20
- (t) verkeer na 'n pad, spoorlyn of ander vervoerinfrastruktuur afkeer nie;
- (u) 'n opmeetpen wat deur die pad- of openbare vervoerinfrastruktuurowerheid of sy agent, landmeter of kontrakteur by die verrigting van sy of haar pligte geplaas is, verander, beweeg, versteur of beskadig nie;
- (v) lewende hawe op 'n pad, spoorlyn of ander vervoerinfrastruktuur beweeg nie sonder die vooraf goedkeuring van die pad- of openbare vervoerinfrastruktuurowerheid; 25
- (w) 'n toegang tot of 'n uitgang uit 'n pad, spoorlyn of ander vervoerinfrastruktuur en 'n aangrensende eiendom bou op enige manier wat ongemagtigde voertuig- of NGV-toegang tussen die pad, spoorlyn of ander vervoerinfrastruktuur en die eiendom moontlik maak nie. 30
- (2) Geen wet wat die verrigting van 'n handeling beoog in subartikel (1) magtig, verleen aan enige ander persoon as die pad- of openbare vervoerinfrastruktuurowerheid sodanige reg nie sonder die goedkeuring van die pad- of openbare vervoerinfrastruktuurowerheid. 35
- (3) 'n Pad- of openbare vervoerinfrastruktuurowerheid kan die verrigting van 'n handeling wat by subartikel (1) 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 pad, spoorlyn of ander vervoerinfrastruktuur of benadeling van die publiek daaruit kan voortvloei nie. 40
- (4) Sodanige gelde of huurgeld kan op 'n periodieke basis bepaal word of betaalbaar wees, en sodanige voorwaardes kan bepaal dat die aansoeker die koste daaraan verbonde moet betaal.

Misdrywe en strawwe

- 62.** (1) 'n Persoon wat 'n bepaling van artikel 61(1) of enige ander bepaling van hierdie Wet oortree wat nie elders tot 'n misdryf verklaar is nie, is aan 'n misdryf skuldig. 45
- (2) Sonder om die wye omvang van subartikel (1) in te kort, is 'n persoon wat—
- (a) 'n pad, spoorlyn of ander vervoerinfrastruktuur of enigiets daarop of wat deel daarvan uitmaak, beskadig, vernietig of ontsier; 50
- (b) sonder die vooraf skriftelike toestemming van die pad- of openbare vervoerinfrastruktuurowerheid 'n heining, muur, heg, sloot, voor of ander versperring langs, deur, oor of onder 'n pad, spoorlyn of ander vervoerinfrastruktuur oprig;
- (c) 'n obstruksie of hindernis op, in, oor of onder 'n pad, spoorlyn of ander vervoerinfrastruktuur plaas; 55
- (d) enigiets wat waarskynlik gevaarlik, skadelik of nadelig vir verkeer kan wees, op 'n pad, spoorlyn of ander vervoerinfrastruktuur gooi of plaas of veroorsaak of toelaat dat dit aldus gegooi of geplaas word;
- (e) op grond aangrensend aan 'n pad, spoorlyn of ander vervoerinfrastruktuur enige stof, materie of ding plaas, ophoop of stort of veroorsaak of toelaat dat 60

dit aldus geplaas, opgehoop of gestort word, wat op sodanige pad of spoorlyn of ander vervoerinfrastruktuur gewaai of gespoel word of waarskynlik sal word of waarskynlik aanstootlik, gevaarlik, skadelik of nadelig vir verkeer sal wees;

- (f) 'n werknemer, agent of kontrakteur van 'n pad- of openbare vervoerinfrastruktuurowerheid in die uitoefening of verrigting van die bevoegdheids, pligte en funksies verleen en opgedra aan sodanige werknemer of agent by of ingevolge hierdie Wet, dreig, weerstaan, hinder of belemmer of vuil, vernederende of beledigende taal teenoor sodanige werknemer, agent of kontrakteur gebruik; 5
10
- (g) valslik voorgee om 'n werknemer, agent of kontrakteur van 'n pad- of openbare vervoerinfrastruktuurowerheid te wees; of
- (h) 'n pen, baken of ander metode van identifikasie wat vir doeleindes van hierdie Wet deur of namens 'n pad- of openbare vervoerinfrastruktuurowerheid op, in, oor of onder of geheg aan die grond geplaas is, verskuif, verwyder, 15
beskadig of vernietig,

skuldig aan 'n misdryf.

(3) 'n Persoon wat skuldig bevind is aan 'n misdryf ingevolge subartikel (1) of (2), is strafbaar met gevangenisstraf van hoogstens een jaar of 'n boete van hoogstens R100 000. 20

(4) Benewens enige ander straf kan 'n hof wat 'n persoon skuldig bevind aan 'n misdryf ingevolge subartikel (1) of (2), die persoon vonnis tot 'n boete, betaalbaar aan die betrokke pad- of openbare vervoerinfrastruktuurowerheid, gelyk aan die bedrag van alle uitgawes deur sodanige owerheid aangegaan, of wat sodanige owerheid raam deur hom aangegaan is, in verband met enige werk wat nodig was om die verklaarde pad, spoorlyn of ander 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. 25

(5) Subartikel (4) verhinder nie die pad- of openbare vervoerinfrastruktuurowerheid 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. 30

Regulasies

63. (1) Die Minister kan regulasies uitvaardig— 35
- (a) wat standarde en kriteria voorskryf vir die beplanning, ontwerp, ontwikkeling, konstruksie, bestuur, beheer, instandhouding, beskerming en rehabilitasie van paaie, spoorlyne en ander vervoerinfrastruktuur of vir pad- en spoorveiligheid in die Provinsie, en hierdie standarde en kriteria kan verskil met betrekking tot verskillende tipes paaie of spoorlyne, met dien verstande dat sodanige standarde en kriteria betreffende spoorlyne en vervoerinfrastruktuur rakende spoorbedrywighede beheer word deur die betrokke bepalings van die Wet op die Regsopvolging van die Suid-Afrikaanse Vervoerdienste, 1989 (Wet No. 9 van 1989), en die National Rail Safety Regulator Act, 2002 (Wet No. 16 van 2002); 40
45
- (b) wat meganismes en vereistes voorskryf vir die monitering van die verrigting deur pad- of openbare vervoerinfrastruktuurowerhede van hulle funksies ingevolge hierdie Wet, prestasiestandaarde of -aanwysers en die finansiële en ander gevolge van versuim deur pad- of openbare vervoerinfrastruktuurowerhede om hulle pligte of funksies ingevolge hierdie Wet uit te voer of om dit toereikend uit te voer; 50
- (c) wat standarde en kriteria voorskryf vir die ontwerp, konstruksie, beheer en bestuur van motorhekke betreffende—
- (i) grootte, materiaal, modus van konstruksie, vlak en posisie;
- (ii) die lengte en breedte van aanlope van die ryvlak na 'n motorhek; 55
- (iii) die tekens wat opgerig en in stand gehou moet word om waarskuwing van 'n motorhek en die sluiting of verlegging van 'n motorhek te gee;
- (iv) die behoorlike bestuur, instandhouding en beheer van motorhekke;
- (d) wat die wyse en vorm voorskryf waarin enige aansoek gedoen moet word wat by hierdie Wet beoog word, die inligting wat daarin verstrekk moet word en die gelde, indien wel, wat vir die aansoek betaal moet word; 60

- (e) vir die gebruik, beheer en beskerming van ruskampe, rusplekke en veekampe op of as deel van verklaarde paaie;
- (f) wat die wyse voorskryf waarop pad- of openbare vervoerinfrastruktuurowerhede rekening moet hou van geld wat ontvang of uitbetaal word ten opsigte van paaie, en van betalings in en uit die Fonds; 5
- (g) wat voorskryf hoe die koste van pad-, spoorlyn- of ander vervoerinfrastruktuurwerke bereken moet word;
- (h) behoudens Deel 5—
- (i) wat items voorskryf wat in aanmerking kom vir subsidie en items wat nie aldus in aanmerking kom nie ten opsigte van enige kategorie uitgawe; 10
- (ii) wat voorsiening maak vir uitsluitings van betaling van subsidie-uitgawes in enige kategorie items wat die Minister as ongeregverdig of onnodig beskou; en
- (iii) wat die betaling van subsidie op die uitgawe aan enige werk afhanklik maak daarvan dat die werk uitgevoer word ooreenkomstig planne en spesifikasies wat deur die Minister goedgekeur is; 15
- (i) wat voorskryf aan wie, en datums waarop, eise vir subsidie voorgelê moet word;
- (j) wat 'n vorm voorskryf wat gebruik moet word in verband met enige eis vir vergoeding of in verband met enige aansoek, magtiging, goedkeuring, toestemming of vrystelling waarvoor hierdie Wet voorsiening maak, of wat die inligting voorskryf wat verstrekk moet word en die prosedure wat gevolg moet word in verband met enige van hierdie aangeleenthede; 20
- (k) wat gelde voorskryf wat betaal moet word vir enige aansoek, magtiging, goedkeuring, toestemming of vrystelling waarvoor hierdie Wet voorsiening maak; 25
- (l) behoudens die Wet op Besighede, 1991 (Wet No. 71 van 1991), wat handeldryf in of op enige vervoerinfrastruktuur reguleer;
- (m) met betrekking tot enige aangeleentheid wat, ingevolge hierdie Wet, deur die Minister voorgeskryf kan of moet word of beheer, gereguleer of bepaal kan of moet word deur middel van 'n regulasie deur die Minister uitgevaardig; en 30
- (n) oor enige ander aangeleentheid wat die Minister nodig of dienstig ag om die oogmerke van hierdie Wet te bevorder.
- (2) Sodanige regulasies kan, in gepaste gevalle, bepaal dat 'n oortreding van of versuim om te voldoen aan 'n regulasie 'n misdryf is, en kan voorsiening maak vir die oplegging van gevangenisstraf van hoogstens drie maande of 'n boete van hoogstens R100 000. 35
- (3) Verskillende regulasies kan ingevolge subartikel (1) vir verskillende tipes paaie, spoorlyne of openbare vervoerinfrastruktuur uitgevaardig word.
- (4) Die uitvaardiging of wysiging van regulasies ingevolge subartikel (1) wat finansiële implikasies het, moet in oorleg met die Minister van Finansies geskied. 40

Verordeninge

- 64.** (1) Waar 'n munisipale pad- of openbare vervoerinfrastruktuurowerheid verordeninge uitvaardig ten opsigte van verklaarde paaie, spoorlyne of ander openbare vervoerinfrastruktuur waarvan hy die pad- of openbare vervoerinfrastruktuurowerheid is, betreffende enige ander aangeleentheid wat die munisipaliteit as noodsaaklik of dienstig beskou om die oogmerke van hierdie Wet te bevorder met betrekking tot verklaarde munisipale paaie, spoorlyne of ander openbare vervoerinfrastruktuur, mag sodanige verordeninge nie met die bepalings van hierdie Wet strydig wees nie. 45
- (2) Waar sodanige verordeninge bepaal dat 'n oortreding van of versuim om te voldoen aan 'n verordening 'n misdryf is, moet die strawwe wat vir sodanige misdryf gestel word, by ooreenkoms met die Minister gestel word. 50
- (3) Die bepalings van die Grondwet en enige wet van toepassing op plaaslike regering betreffende die uitvaardiging van verordeninge is van toepassing op die uitvaardiging van verordeninge ingevolge hierdie artikel. 55

Appèlle

- 65.** (1) Enige geaffekteerde persoon kan na die Minister of 'n beampte van die Departement deur die Minister aangewys, appelleer teen 'n besluit wat ingevolge hierdie Wet deur 'n pad- of openbare vervoerinfrastruktuurowerheid geneem is.
- (2) 'n Appèl ingevolge subartikel (1) moet op die voorgeskrewe wyse en by betaling van die voorgeskrewe gelde aangeteken en hanteer word. 5
- (3) Die Minister kan 'n appèl oorweeg en beslis of kan 'n appèlpaneel aanstel wat saamgestel is soos voorgeskryf, om die appèl te oorweeg en die Minister daaroor te adviseer. 10
- (4) Die Minister kan, na oorweging van so 'n appèl, die besluit, bepaling, voorwaardes en 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.
- (5) 'n Appèl ingevolge hierdie artikel hef nie 'n besluit of noodsaaklike handeling in verband met die bepaling van hierdie Wet op nie, tensy die Minister anders gelas. 15

Delegasies

- 66.** (1) Behoudens subartikel (2) kan die Minister 'n plig, reg of bevoegdheid wat by hierdie Wet verleen of opgedra is, aan die Departementshoof of 'n beampte van die Departement deleger.
- (2) Subartikel (1) is nie op die bevoegdheid om eiendom of regte ingevolge artikel 39 te onteien of om regulasies ingevolge artikel 63 uit te vaardig, van toepassing nie. 20

DEEL 11:

ANDER BEPALINGS

Herroeping en uitsluiting

- 67.** (1) Die volgende wette en ordonnansies word uitgesluit van toepassing in die Provinsie: 25
- (a) die Wet op Adverteer langs en Toebou van Paaie, 1940 (Wet No. 21 van 1940);
 - (b) die Ordonnansie op Paaie [Kaap], 1976 (Ordonnansie No. 19 van 1976);
 - (c) die Wet op Uitbreiding van Bevoegdhede van Uitvoerende Komitees en Administrateurs, 1964 (Wet No. 41 van 1964). 30

Kort titel en inwerkingtreeding

- 68.** (1) Hierdie Wet heet die Wes-Kaapse Wet op Vervoerinfrastruktuur, 2008, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.
- (2) Verskillende bepalinge van hierdie Wet kan op verskillende datums in werking gestel word. 35

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE KONSEPWETSONTWERP OP VERVOERINFRASTRUKTUUR, 2008

Dit is die voorneme van die Departement van Vervoer en Openbare Werke om die Minister van Vervoer in die Wes-Kaapse Provinsiale Regering te versoek om die Wes-Kaapse Konsepwetsontwerp op Vervoerinfrastruktuur in die Wetgewer in te dien na afloop van die proses van openbare oorlegpleging oor die Konsepwetsontwerp. Die proses om die Wes-Kaapse Konsepwetsontwerp op Vervoerinfrastruktuur, 2008, te adverteer, is daarop gemik om kommentaar van die publiek in te win en om die kommentaar wat ontvang word, in die finale Wetsontwerp op te neem voordat dit deur die Minister by die Wetgewer ingedien word.

Die Wes-Kaapse Wet op Vervoerinfrastruktuur (WKWVI) sal, nadat dit gepromulgeer is, die Provinsie en munisipaliteite in staat stel om vervoerinfrastruktuur onder die kategorieë hoofpaaie, spoorlyne en ander vervoerinfrastruktuur te administreer onder 'n nuwe wetgewende raamwerk. 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 voortspruit uit die vereistes en mandate van die Provinsie en munisipaliteite om die rol van vervoer te verhoog deur infrastruktuur te verskaf wat die bedryf van alle vervoermodusse steun, insluitende niegemotoriseerde vervoer, openbare vervoer, die aflewering van goedere, en private voertuie. Dit word in hierdie memorandum verduidelik:

Vervanging van ander wetgewing deur WKWVI

- Die WKWVI is primêr daarop gemik om die Ordonnansie op Paaie, No. 19 van 1976, en die Wet op Adverteer langs en Toebou van Paaie, 1940 (Wet No. 21 van 1940), te vervang. Albei stukke wetgewing kom uit die era voor die Grondwet, Wet 108 van 1996, is onbestaanbaar met die institusionele strukture wat vandag ingevolge die nuwe bedeling bestaan en is nie 'n toereikende weerspieëling van die behoeftes nie.

Paaie teenoor strate—paaie wat ingevolge die Wetsontwerp hanteer word

- Die WKWVI sal in ooreenstemming met die Grondwet wees en sal noodsaaklike padbestuursfunksies wat deur die DB&OW 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 hoërorde munisipale verkeersaarfunksies vervul.

Administrasie van munisipale strate

- Munisipale strate, synde laerorderstrate wat onder 'n munisipaliteit ressorteer, word van die Wetsontwerp uitgesluit, in die verwagting dat dit ingevolge die Munisipale Ordonnansie of 'n vervangende Provinsiale wet of ingevolge 'n munisipale verordening op strate geadministreer sal word.
- Die bepalings van hierdie Wet betreffende die verklaring, regulering, beheer en bestuur van verklaarde munisipale paaie is nie bedoel om inbreuk te maak op bevoegdhede van munisipaliteit 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 bevoegdhede ingevolge artikel 156(1) en (2) van die Grondwet aan munisipaliteite verleen word nie, maar sal aan munisipaliteite opsionele bemagtigende bepalings, standaarde, moniteermeganismes en subsidies vir sulke paaie bied.
- Dit volg dat munisipaliteite verordeninge vir die administrasie van munisipale paaie kan uitvaardig om enige deel van hierdie Wet 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 die administrasie van die munisipale pad ingevolge hierdie Wet moet geskied.

Uitbreiding van bestek om openbare vervoerinfrastruktuur in te sluit

- Die WKWVI vergroot die bestek van vervoerinfrastruktuurwetgewing verder as dit wat in die huidige Ordonnansie en ARRDA gedek word, wat in wese uitsluitlik bedoel is vir die verklaring en administrasie van padkonstruksie en instandhouding

van Provinsiale paaie en die finansiering van “geproklameerde” munisipale hoofpaaie.

- Die KWVVI sal nou benewens paaie voorsiening maak vir die verklaring van openbare vervoerinfrastruktuur, soos swaar of ligte spoorstelsels en hoë-orde openbare vervoerstelsels vir BRT-tipe stelsels.
- Die funksies van die Provinsie en munisipaliteite wat in hierdie Wet beoog word betreffende die administrasie van spoorlyne en ander openbare vervoerinfrastruktuur, val binne die funksies van “openbare vervoer” en “munisipale openbare vervoer” wat in Bylae 4 van die Grondwet genoem word, en dit moet saam met die NLTTA gelees word.

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 hiervan is rusgebiede, dienssentrums met regstreekse toegang, weegbrûe en verkeersbeheersentrums.
- Daar word verder vir bykomstige vervoerinfrastruktuur voorsiening gemaak deurdat fasiliteite vir die bedryf van openbare vervoer, wat geleë is op persele afsonderlik van die paaie of spoorlyne wat vir openbarevervoervoertuie gereserveer is, verklaar kan word. Voorbeelde hiervan is openbare-vervoerwisselaars, rangeerwerwe en depots.

Verklaring van paaie deur ’n munisipaliteit

- ’n Belangrike beleid in die Wetsontwerp is die steun vir munisipaliteite waar hoë-ordepaaie waarvoor ’n munisipaliteit die padowerheid is, deur ’n munisipaliteit self verklaar kan word, wat sodoende voordeel kan trek uit die bestuur- en beheerbepalings van die KWVVI. Munisipaliteite sal paaie onafhanklik van die Provinsie kan verklaar, waarvoor hulle uitsluitlike besluitneembevoegdhede het.
- In gevalle waar ’n munisipale pad verklaar word, sal dit nodig wees om te voldoen aan norme en standaarde waarvoor in die Wetsontwerp en sy regulasies voorsiening gemaak word. Die Provinsie sal in dié verband ’n toesigrol vervul om te verseker dat sulke munisipale paaie ooreenkomstig sodanige norme en standaarde bestuur word.

Insluiting van vereistes vir strategiese en projekbeplanning

- Strategiese vooruitbeplanning van vervoerinfrastruktuur soos ingevolge die NLTTA vereis, word versterk in hierdie Wetsontwerp, wat verdere tydraamwerke verskaf vir die begrotingsproses waar subsidies verlang word. Die Provinsie se vervoerinfrastruktuurbeplanning word in die Wetsontwerp ’n statutêre vereiste gemaak sodat munisipaliteite hulle projekte in jaarlikse aanvullings van hulle geïntegreerde vervoerplanne kan insluit.
- Die Wetsontwerp stel ’n prosedure in vir die beplanning van vervoerinfrastruktuur, wat gevolg moet word waar ’n nuwe pad, spoorlyn of ander bykomstige vervoerinfrastruktuur beplan, verskuif of verbreed word of sluiting oorweeg word.

Voorsiening vir die betaling van subsidie aan munisipaliteite

- Nog ’n belangrike beginsel is dat die Wetsontwerp bepaal dat ’n pad wat deur ’n munisipaliteit verklaar is, ’n subsidie van die Provinsie kan ontvang. Waar dit gebeur, sal daar ’n subsidie-ooreenkoms tussen die munisipaliteit en die Minister wees wat die voorwaardes van die ooreenkoms dek.
- Waar daar ’n subsidie-ooreenkoms vir ’n verklaarde munisipale pad bestaan, sal belangrike besluitneming betreffende standaarde en veranderinge aan die pad die toestemming van die DV&OW vereis, hetsy deur die norme en standaarde wat in die Wetsontwerp opgeneem is of deur koördinerende strukture tussen die sfere.

Ander belangrike finansiële bepalinge

- Die Wetsontwerp het ander finansiële bepalinge, en ’n belangrike bepaling is die instelling van die Vervoerinfrastruktuurfonds, wat ’n toegewyde fonds sal wees waarin bewilligings deur die Provinsie gestort sal word, asook boetes vir oortredings, gelde wat betaal word, tolgeld wat ontvang word en geld uit ander bronne deur openbaar-privaat vennootskapsreëlings (soos vir dienssentrums met regstreekse toegang).
- Die Fonds sal gebruik word om die koste van Provinsiale paaie, spoorlyne en ander vervoerinfrastruktuur te bestry, en as ’n kanaal vir die betaling van subsidies aan munisipaliteite. Die Fonds, wat onafhanklik van die Provinsiale Inkomstefonds sal

wees, sal rente verdien en sal dit moontlik maak om fondse oor te rol na daaropvolgende finansiële jare.

Oorgangsbepalings

- Met ingang van die datum van inwerkingtreding van hierdie Wet sal alle primêre, hoof-, distriks- en kleinpaaie en openbare voetpaaie wat voorheen ingevolge Ordonnansie op Paaie verklaar is, geag word ingevolge hierdie Wet 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 ingevolge hierdie Wet.
- Daar word beoog dat 'n proses met die promulgering van die Wetsontwerp 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 verklaar is en vir die herklassifisering van sulke paaie ingevolge hierdie Wet waar nodig. Hierdie proses sal ook behels dat party van hierdie paaie aan die betrokke munisipaliteit oorgedra word wat in die beste posisie is om die pad oor te neem, en dat paaie wat nie oorgedra word nie, onder die eienaarskap en gesag van die Provinsie bly. Paaie wat deur die Provinsie aan munisipaliteite oorgedra word, sal ingevolge voorwaardes van ooreenkomste oorgedra word.

Owerhede, eienaarskap en professionele verantwoordelikhede

- Die Wetsontwerp bepaal dat die Minister of 'n munisipaliteit die pad- of openbare vervoerinfrastruktuurowerheid kan wees en as sodanig alle funksies van beplanning, ontwerp, onteiening, konstruksie, bestuur en finansiering van vervoerinfrastruktuur wat onder sy beheer val, verrig.
- Die eienaarskap van vervoerinfrastruktuur asook die grond tussen die reserwes berus by die Provinsie of 'n munisipaliteit. Die Wetsontwerp maak voorsiening vir buigsamheid in die regsreëlings rakende grondeienaarskap—eienaarskap van die reserwe kan geneem word terwyl titel op die grond by die oorspronklike eienaar bly, of anders kan die reserwe vervreem word en die titel oorgedra word aan die Provinsie of munisipaliteit, na gelang van wie die pad- of openbare vervoerinfrastruktuurowerheid is.
- Die verantwoordelikheid van die Minister of 'n munisipaliteit as pad- of openbare vervoerinfrastruktuurowerheid gaan ook gepaard met 'n voorbehoudsbepaling in die Wetsontwerp dat sekere sleutel tegniese funksies net onder die verantwoordelikheid en noulettende toesig van 'n professionele ingenieur of tegnoloog verrig mag word.

UMTHETHO OYILWAYO KA-2008

WENTSHONA KOLONI

WEZIBONELELO ZEZOTHUTHO

Kwenzelwa isicwangciso, uyilo, ingcaciso, ukwakha, ulondolozo, isikhokelo, ulawulo, umqathango, ukuphucula nokubuyiselwa kwimo yakuqala yeendlela, yemizila yoololiwe nezinye iindlela ze-infrastrakhtsha eNtshona Koloni; neminye ke imicimbi enxulumene noko.

MAWUGUNYAZISWE njengomThetho yiNdlu yoWiso-mthetho yePhondo kwiPhondo leNtshona Koloni ngolu hlobo:

OKUNGAPHAKATHI / IZIQLATHO

ISIGABA 1: AMALUNGISELELO AYINTSHAYELELO

- | | | |
|----|--|----|
| 1. | Inkcazelo | 5 |
| 2. | Umda walo mThetho | |
| 3. | Oogunyaziwe abanoxanduva lwezibonelelo zezothutho | |
| 4. | Ubunini bezibonelelo zezothutho | |
| 5. | IiNjineli eziziiNgcali, abaCwangcisi beeDolophu nabaYili bezaKhiwo amabajongane nemisebenzi ethile | 10 |

ISIGABA 2: UCALULO NGOKWEENDIDI NOKUBEKIWEYO OKUSEMGANGATHO WEZIBONELELO ZEZOTHUTHO

- | | | |
|----|---|----|
| 6. | Ucalulo lweendlela zephondo nezikamasipala ezibhengeziweyo kunye nemizila kaloliwe | |
| 7. | Ubuncinane obusemgangathweni bobubanzi obugciniweyo beendlela kunye nemizila kaloliwe ebhengeziweyo | 15 |
| 8. | Ucalulo nokubekwa kwezibonelelo zezothutho ezisemacaleni | |
| 9. | Imigca yezakhiwo nokwakhiwa kweengqingqi zothintelo | |

ISIGABA 3: UCWANGCISO NOKUBHENGEZWA KWEZIBONELELO ZEZOTHUTHO 20

- | | | |
|-----|---|----|
| 10. | Isicwangciso senkqubo yezoThutho | |
| 11. | ubungqina obubhaliweyo bezibonelelo zezothutho kwiphondo nakoomasipala | |
| 12. | Inkqubo yesicwangciso seproyujekhthi | |
| 13. | Inkqubo yolawulo yokusingqongileyo okuhlanganisiweyo nentatho-nxaxheba yoluntu | 25 |
| 14. | Isicwangciso phambi kokuba kuvelwe unomphelo | |
| 15. | Ukufakwa kwesicelo ngumnini-mhlaba sokuvala okanye kufuduswe izibonelelo zezothutho infrastructure | |
| 16. | Isiqqibo soogunyaziwe bezibonelelo zeendlela okanye zezithuthi zikawonke-wonke | 30 |
| 17. | Imizamo yokhuselo lwemimiselo kwizibonelelo esele zichaziwe | |
| 18. | Ukwaziswa kwezibonelelo zezothutho ngoogunyaziwe bezibonelelo zeendlela okanye zezithuthi zikawonke-wonke | |

ISIGABA 4: IINKQUBO MALUNGA NOKUVALWA KWEZIBONELELO ZOTHUTHO 35

- | | | |
|-----|---|--|
| 19. | Ukuvalwa okusisigxina kwezibonelelo zothutho | |
| 20. | Ukuvalwa okwexeshana nokumiswa kwezinye iindawo kweendlela nemizila yoololiwe | |
| 21. | Ukumiswa kwezinye iindawo okukhawulezileyo nokuvala | |

22. Ilungelo labantu lokusebenzisa indlela emisiweyo okanye umzila kaloliwe ovaliweyo.

ISIGABA 5: UKUKHUPHELA IMALI NAMALUNGISELELO ENKXASO-MALI

23. INgxowamali ye-infrastrakhtsha yezoThutho kwinqanaba lePhondo kwi- 5
Phondo leNtshona Koloni
24. Amalungiselelo enkxaso-mali noomasipala
25. Uqikelelo lwenkcitho ngeenjongo zokulungiselela inkxaso-mali
26. Isigqibo senkxaso-mali ekusebenzeni, kulondolozo nakwinkcitho eyinkunzi
27. Inkxaso-mali exhomekeke kwinkcitho yengqikelelo eyamkelekileyo 10
28. Irhafy nanye ingeniso evela emhlabeni efumaneka ngenkxaso-mali
29. Umyinge wepesenti elinganisiweyo kwinkcitho eyinkunzi
30. Imali ezivela kweminye imithombo
31. Ukuhlawulwa kwenkxaso-mali
32. Ubungqina obubhaliweyo benkcitho ezindleleni, kwimizila yoololiwe nakwe- 15
zinye iindlela zokubonelela.
33. Uchatha wenkxaso-mali
34. Inkxaso-mali yesicwangciso nokufumaneka komhlaba

ISIGABA 6: IZIBONELELO ZODLULISELO/ZOGQITHISO

35. Uhlolo lweendlela ezikhoyo kwiPhondo 20
36. Izivumelwano zodlulisele lweendlela ezibhengezwe phantsi komMiselo
37. Izibonelelo zodlulisele ezinxulumene nezaziso
38. Ezinye izibonelelo zodlulisele

ISIGABA 7: UKUHLUTHWA NEMBUYEKEZO

39. Ukuzuzwa, ukuhluthwa kwemihlaba nezakhiwo, ilungelo lokusebenzisa 25
umhlaba okwexeshana ukuqweba nokususa izinto zokusebenza
40. Ukungena nokuthathela kuwe izakhiwo nomhlaba

ISIGABA 8: ULAWULO NEMPATHO YEZAZISO, UKUFIKELELA NEMEKO ENGQONGILEYO

41. Ukuthintelwa kobhengezo lwamaphepha nosasazo oluthile lweendlela 30
ezibonakalayo nezichaziweyo, imizila yoololiwe nolwezinye izibonelelo zezothutho
42. Imvume yokubhencwa kwezibhengezo ezibonakala kwiindlela ekuthethwayo ngazo, kwimizila yoololiwe nakwezinye izibonelelo zezothutho
43. Ukunyanzeliswa nokususwa kwezaziso ezingagunyaziswanga 35
44. Izizindlo ezinxulumene nezaziso okanye nezibhengezo
45. Indlela yokufikelela nokuphuma kwiindlela nakwimizila yoololiwe ebekelweyo
46. Umyalelo yokulusa kwenye indawo ufikelelo
47. Izithuthi ezingasetyenziswayo, imfungumfungu, njalo-njalo, 40
ngasezindleleni okanye ezindleleni, kwimizila yoololiwe nakwezinye izibonelelo zezothutho
48. Ubume nobunye ubugoqo obungaphezulu, okanye obusezindleleni nakwi-
mizila yoololiwe ababekelweyo, nakwezinye iindlela zezothutho
49. Izithintelo kwinguqulo yokusetyenziswa komhlaba 45
50. Izalathisi zemigama ehanjwayo, iibhodi ezalathisayo nezilumkiso kwiindlela ezibhengeziweyo
51. Izithintelo ezibonakalayo
52. Iingcingo ezigudlileyo emideni yeendlela ezibhengeziweyo, kwimizila yoololiwe nakwezinye izibonelelo zezothutho 50
53. Amasango avalileyo ezindleleni ezibhengeziweyo
54. Iindle azeemoto ezineentsimbi ezixwesileyo ezithintela ukuwela kweenkomo
55. Imisebenzi yasemigodini ephezu okanye ephantsi kweendlela ezibhengeziweyo, kwimizila yoololiwe, kwizibonelela zezithuthi ezizezinye, nakwiindawo ekungasafunekiyo ukuba kwakhiwe kuzo. 55

56. Ukurhweba ezindleleni ezibhengeziweyo, kwimizila yoololiwe, kwezinye izibonelelo zezothutho okanye kwiindawo ekungasafunekiyo ukuba kwakhiwekuzo

ISIGABA 9: AMAGUNYA NOMSEBENZI WOMPHATHISWA KUNYE NOOGUNYAZIWE BEZIBONELELO ZEENDLELA OKANYE ZEZITHUTHI ZIKAWONKE-WONKE 5

57. Amagunya athile okunceda ngezimali, awokuzalisekisa nokulawula iindlela nemizila yoololiwe, nezinye izibonelelo zezothutho
58. Amagunya jikelele nemisebenzi yabasemagunyeni bezibonelelo zezithuthi zikawonke-wonke 10
59. Izivumelwano zee-arhente kwimisebenzi yeendlela okanye yezithuthi zikawonke-wonke

ISIGABA 10: IZIBONELELO ZASEMTHETHWENI NEZIQHELEKILEYO

60. Ubango olujongene noogunyaziwe bezibonelelo zezithuthi zikawonke-wonke okanye iindlela, ukunqongophala kweemfanelo 15
61. Izithintelo ngokubanzi
62. Ulwaphulo-mthetho nezohlwayo
63. Imimiselo/imiqathango Regulations
64. imithetho yedolophu
65. Ukubhena 20
66. Amaqela abathunywa

ISIGABA 11: EZINYE IZIBONELELO

67. Ukubhangisa nokukhethwa / nokuthintwa
68. Isihloko esifutshane nokuqalisa

ISIGABA 1: 25

AMALUNGISELELO ENTSHAYELELO

Inkcazelo

1. Kulo mThetho, ngaphandle kokuba imeko yalatha ndlela yimbi
- “**ukwazisa**” kuthetha nakuphi na ukumelwa okubonakalayo kwesibizo, kwegama, konobumba, kwenani, kwento, kophawu, kwelogo okanye komqondiso okanye kwesifinyezo sesibizo okanye segama, okanye kwayo nayiphi na nindibaniso yezo zinto zinegalelo lokudlulisela ulwazi okanye lokutsalela inyameko entweni, kubandakanye ibhodi, okanye into edla ngokusetyenziselwa ezo njongo, kanti nemifuziselo eboniswayo ngezixhobo ezifana nezo, nokuba ezona nkukukacha azidluliselwa apho; 30
- “**izibonelelo zeendlela ezisecaleni**” kuthethwa ngoncedo lwephondo okanye olukamasipala, olubhengezwe ngokumalunga necandelo 8(1)(a) ukuya ku-(h), kubandakanywa indawo yokupaka izithuthi, eyokuphumla, indawo eyenzelwe abasebenzisa izithuthi, indawo ekumiswa kuyo, kulapho kukho isikali esikhulu esineqonga lokuveyisha izithuthi, iziko lokulawulwa kwezithuthi nawo onke amanye amancedo ayamene noko, kuqukwa namancedo orhwebo; 40
- “**izibonelelo ezisecaleni zezithuthi zikawonke-wonke**” kuthethwa ngamancedo ephondo nakamasipala abhengeziweyo malunga necandelo 8(2)(a) ukuya ku-(d) afunelwa ukuba asetyenziselwe iinkonzo zezithuthi zikawonke-wonke, oko kuquka ukwananisa ngezithuthi zikawonke-wonke ukuze zisetyenziswe okanye kulawulwe oololiwe, iibhasi okanye iitekisi nabakhwelayo kuzo, indawo ekudityaniswa kuyo iibhasi kusenzelwa iinkonzo zazo, indawo yokugcina izithuthi ecamngcelwe phantsi kwecandelo 124 le-NLTTA, iziko lolawulo okanye eleenkukacha ngokusetyenziswa kwezithuthi zikawonke-wonke, nayo yonke impahla engashenxiswayo neenkonzo eziquka amancedo kwezorhwebo, okusetyenziselwa malunga nezibonelelo ezinjalo; 45
- “**isicwangciso solawulo esibalulekileyo**” kuthethwa ngesicwangciso senyoba esenzelwa indlela ebalulekileyo okanye icandelo lendlela ebalulekileyo, 50

esamkelweyo yi-infrastrakhtsha yeendlela okanye ngoogunyaziwe bezithuthi zikawonke-wonke saza sadityaniswa kwezi zinto: ITP, ubume bendawo yophuhliso ne-PLTF, kulapho kunikwa inkcazelo mgomgaqo-nkqubo yokusetyenziswa okusele kukho nokwexesha elizayo kwamancedo, sibonelela ngendlela yokusebenza ekhokela ulawulo olukhoyo namanyathelo ekuchaziweyo 5 ngawo ophuculo lwexesha elizayo, sibandakanya izithintelo kutshintsho ekusetyenzisweni komhlaba owayame apho, ukufikelela, indawo yokupaka, izithuthi zikawonke-wonke, i-NMT, nendlela abaza kukhokelwa bajike banqwanqwadwe ngayo bonke abasebenzisi benyoba leyo;

“umda wendlela” umda wendawo ebekelwe indlela leyo; 10

“inkqubo yokuhamba kwebhasi” kuthethwa inkqubo esebenza mhlawumbi ekwabelwana ngayo nezinye izithuthi, okanye le nkqubo igunyaziselwe ukuba isebenzise indlela ebekelwe yona yodwa;

“Umgca wesakhiwo” kuthethwa umgca ongama 5 iimitha ngaphandle kwendlela okanye indlela ebekwe bucala yomzila kaloliwe eneemitha ezi5 ekungena kwandiselwa kuyo isakhiwo okanye nasiphi na isakhiwo esisesinye; 15

“indawo ekungavunyelwa zakhiwo kuyo” yindawo esecaleni kwendlela okanye komzila woololiwe okanye apho kuhlangukhona iindlela ezimbini ekungavunyelwayo ukuba kwakhiwe kuyo naluphi na uhlobo lwendlu ngaphandle kwemvume yendlela okanye kagunyaziwe wezibonelelo zothutho; 20

“ukwakha” kubandakanya nokuphinda kwakhiwe;

“umGaqo-siseko” uthetha umGaqo-siseko weRiphabhlikhi yoMzantsi-Afrika ka-1996 (umThetho onguNombolo 108 ka-1996);

“indlela ebhengeziweyo” yindlela enkulu ephangaleleyo, ingayindlela yesithili, ingayindlela engabalulekanga okanye ingayindlela kawonke-wonke ebhengeziweyo ngokubhekiselele kulo mThetho, okanye esaza kubhengezwa ngokubhekiselele kulo mThetho; 25

“umzila kaloliwe obhengeziweyo” ngumzila obhengeziweyo ngokumalunga nalo mThetho;

“ISebe” kuthethwa ngeSebe likaRhulumente wePhondo elijongene neendlela zephondokunye nemicimbi yezithuthi zikawonke-wonke okanye ingalelinye iSebe elinyulwe yiNkulumbuso; 30

“Indawo ekhethelwe abasebenzisi nabalawuli bezithuthi” kuthethwa ngoncedo olukhethelwe abasebenzisi bezithuthi okanye ulawulo lwemisebenzi ejongene nezithuthi olunendawo ebekelwe bucala kwindlela ke ebhengeziweyo; 35

“Icandelo elithile lendlela” kuthethwa ngendlela ebikhe yacalulwa kuqala njengaleyo iphantsi komMiselo, lucalulo olo luguqulweyo phantsi kwecandelo 35(3) le ‘ndlela yesithili’;

“Indlela yesithili” kuthethwa indlela yephondo okanye ekamasipala eyabhengezwayo ngaphambili “njengecandelo elithile lendlela” nokumalunga nomMiselo okanye eye yacalulwa ngolo hlobo ngokubhekiselele kwicandelo 6(1)(c); 40

“UMasipala wesithili” ungumasipala ochazwe njengalowo ukwicandelo 1 lomThetho woBume/woYilo;

“ukumisa/ukwakha” malunga ncingo ukwakha kubandakanya ukufakwa kwakhona kocingo, ukulungiswa ngokupheleleyo kocingo nezinto ezihamba nalo, okongeziweyo elucingweni kwaso nasiphi na isixhobo sokusebenza esingafunelwa zinjongo zokulungisa nalulondolozo; 45

“ukuhlutha” kwimeko yecandelo 39 kuthetha ukuhlutha umnini propathi umhlaba wakhe okanye ukusetyenziswa komhlaba wakhe; 50

“umThetho wokuHlutha” kuthethwa ngomThetho wokuHluthwa ka-1975 (umThetho onguNombolo 63 ka-1975) okanye naluphi na uwiso-mthetho olubekwa endaweni yaloo mThetho;

“Ucingo” luthetha nantoni nna efakiweyo okanye emisiweyo okanye nasiphina isixhobo esisebenza njengocingo, akujongwa zinto zisetyenzisiweyo, okanye indlela le nto yakhiwe ngayo, oko kuquka udonga kunye nothango oluyimithi etyaliweyo; 55

“Yindlela okanye licandelo layo” kuthethwa ngendlela okanye icandelo lendlela elinyulwe njengendlela kawonke-wonke ngokubhekiselele kumThetho weziThuthi zeeNdelela zikaZwelonke; 60

“Ingxowa-mali” ithetha iNgxowamali yeziBonelelo zezoThutho yeNtshona Koloni esekwe ngokumalunga nesiGaba 5;

“IGazethi” yiGazethi kwiPhondo, iyeyePhondo;

- “Umzila ozinzileyo wokuthutha abantu”** umzila wokuthuthwa kwabantu onezi mpawu—
- (a) usetyenziswa kwimizila yoololiwe ngokwelungelo lale nkqubo, wahlukile kweminye imizila enakho ukuphazamisa okanye kwezinye izithuthi zendlela wahlukile ngokwamancedo ajongene nawo; 5
 - (b) uvumela abakhwelayo ukuba bathenge amatikiti phami kokuba bakhwele kwisithuthi;
 - (c) liyaqingqwa inani labantu abangenayo, bayaphuma emakharejinikuphela xa besihlela kwiiplathifom ezisezitishini apho uloliwe lowo ama ngxi;
 - (d) amandla okuhamba isithuthi siwafumana embaneni mhlawumbi ongasentla phezu kololiwe lowo okanye umbane ukwalapha esiporweni kumzila, okanye amandla isithuthi siwafumana kwidizili; yaye 10
 - (e) isithuthi sinomlinganiselo womzila ongaphezulu kwiimilimitha ezingama-600, yaye **“ukuhamba komzila”** kwakubanentsingiselo ehambelana noko; 15
- “ITP”** ithetha isicwangciso sezothutho esihlanganisiweyo esicangcwe kwicandelo 27 le-NLTTA;
- “umzila kaloliwe ongenabunzima kangako”** kuthethwa ngomzila kaloliwe obandakanya—
- (a) inkqubo yesithuthi enomlinganiselo womzila ongaphantsi kweemilimitha ezingama-600; 20
 - (b) isithuthi esihamba kumzila owodwa okanye isithuthi esindandayo;
 - (c) umzila ondaweninye ongashenxiyo okanye umzila ekuhanjwa kuwo zizithuthi ezinamathayara anomoya; kunye
 - (d) nayiphi na enye inkqubo yothutho ebhengezwe njengaleyo ikhaphukhaphu okanye ingenabunzima bubhekephi ngumPhathiswa ngesaziso *esikwiGazethi*, isaziso singaquka isithuthi esinomlinganiselo womzila oqithileyo kuma-600 eemilimitha, 25
- Umzila ungakwindawo yawo ebekelwe bucala, okanye ungaphakathi kwezinye izithuthi kwindlela esecaleni, yaye **“udluliso lomzila okhaphukhaphu(LRT)”** lunganentsingiselo ehambelana noko; 30
- “umasipala wommandla”** uthetha umasipala ochazwe njengalowo ukwicandelo 1 lomThetho woBume;
- “indlela yezithuthi ebhengeziweyo”** yindlela yephondo okanye kamasipala ebhengeziweyo ngokubhekiselele kumMiselo okanye ecaluliweyo ngokumalunga necandelo 6(1)(b); 35
- “imisebenzi yemigodi”** ithetha nayiphi na indlela yokusebenza enxulumene nomthetho wemigodi nemicimbi yeziganeko ezithe ngqo apho;
- “umasipala wesiXeko saseKapa”** uthetha uMasipala wesiXeko saseKapa nawo nawuphi na umthetho wesixeko njengoko kuchaziwe kwicandelo 1 lomThetho woBume onokusekwa kwiPhondo emva kokuba sowusetyenziswa lo mThetho; 40
- “I-MFMA”** imele i-Local Government: Municipal Finance Management Act, 2003 (umThetho onguNombolo 56 ka-2003);
- “Indlela engabalulekanga”** yindlela yephondo okanye ekamasipala ebibhengeziwe ngokohlobo lomMiselo okanye phantsi kwecandelo 6(1)(d); 45
- “UmPhathiswa”** uliLungu leKhabhinethi yePhondo, yena uthwele uxanduva lwemicimbi yezothutho kwiPhondo eli;
- “UmPhathiswa weziMali”** uliLungu leKhabhinethi yePhondo, yena uthwele uxanduva lemicimbi yezimali zePhondo;
- “UmPhathiswa woRhulumente womMandla”** uliLungu leKhabhinethi yePhondo ejongene noxanduva likarhulumente womandla nezezindlu kwiPhondo;
- “yindawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo”** yindayo yokuwela kwezithuthi exabe endleleni yaye ineentsimbi ezixabe phezu komhadi, ivumela ukugqitha kwezithuthi kumgangatho oneentsimbi ezixabileyo, le ndawana yakhiwe ngokweemfuno zoogunyaziwe bezibonelelo zeendlela; 55
- “umasipala”** uthetha zonke iindidi zoomasipala;
- “indlela kamasipala”** yindlela ephangaleleyo, yindlela yesithili, yindlela engabalulekanga okanye yindlela yezithuthi zikawonke-wonke ebhengeziweyo ngokumalunga nomMiselo okanye phantsi kwecandelo 6(1) apho umasipala angugunyaziwe wezibonelelo zeendlela; 60
- “isitrato esiphantsi komasipala”** sisitrato esiphantsi kwegunya likamasipala ngokumalunga nomMiselo kaMasipala okanye lolunye uwise-mthetho

olusendaweni yomMiselo olungabandakanyi zindlela zibhengezwe okanye zijongeka njengezo ziphantsi kwalo mThetho;

“UmThetho kaMasipala” ungumMiselo kaMasipala ka-1974 (umMiselo onguNombolo 20 ka-1974);

“Indlela kaZwelonke” (iNdlela kawonke-wonke kuZwelonke); ithetha indlela 5
kawonke-wonke echaziweyo kwi-South African National Roads Agency Limited and National Roads Act, 1998 (umThetho onguNombolo 7 ka-1998);

“i-National Road Traffic Act” uthetha umThetho ka-1996 weziThuthi kwiiNdlela zikaZwelonke, (umThetho onguNombolo 93 ka-1996);

“U-NEMA” umele i-National Environmental Management Act ka-1998, 10
(umThetho onguNombolo 107 ka-1998);

“I-NLTTA”, aba nobumba bamele i-National Land Transport Transition Act, 2000 (umThetho onguNombolo 22 ka-2000);

“I-NMT”, aba nobumba bamele abantu abahamba ngeenyawo nezinye izithuthi, eziqhutywa ngokusebenzisa amandla omntu aziinyawo njengezithuthuthu, 15
nezithuthi ezitsalwa zizilwanyana ezifana namahashe needondi;

“UMhlali-ndaweni” nguye nawuphi na umntu ohlala endaweni mhlawumbi okwexeshana ibe yona iphantsi kolawulo lwakhe njengomnini wayo, njengoqeshisiweyo, njengonemvume yokuhlala kuyo okanye ngenxa yaso nasiphi na isizathu; 20

“endleleni okanye kumzila woololiwe” kuthethwa endaweni esecalweni kwindlela okanye komzila onxulumene nalapho;

“UmThetho obizwa njenge-Ordinance” ungumMiselo weeNdlela zeKapa ka-1976 (umMiselo onguNombolo 19 ka-1976);

“Ubunini bendlela, bomzila kaloliwe okanye beinfrastrakhtsha yezothutho eyenye” kuthethwa ilungelo lePhondo lokushishina okanye likamsipala kumhlaba obekelwe bucala kwindlela ebhengeziweyo, kumzila kaloliwe okanye kwezinye izibonelelo zothutho; 25

“Ubunini bomhlaba onendlela, onomzila kaloliwe okanye oneinfrastrakhtsha yezothutho eyenye ezibhengeziweyo” kuthethwa ubunini propathi kumntu onegama ebizwa ngalo itayitile yepropathi nguMbhali wamaXwebhu amalungelo omhlaba; 30

“U-PFMA” umele la magama: Public Finance Management Act, 1999, (umThetho onguNombolo 1 ka-1999). Lo ngumThetho woLawulo lweziMali zikaRhulumente; 35

“U-PLTF” umele ubume beendlela zomhlaba wephondo ngamagama athi: “provincial land transport framework” acamngcwayo kwicandelo 22 le-NLTTA;

“eyamkelekileyo” okanye **“eyamkelwe ngokommiselo”** ibhekisa kwinto eyamkeleweyo ngumPhathiswa ngokommiselo okwiGazethi;

“Iphondo” lithetha iPhondo okanye uRhulumente wePhondo leNtshona Koloni njengoko imeko esingqongileyo isalatha; 40

“indlela ekwiphondo” yiloo ndlela iphangaleleyo, inkulu inguhola, indlela yesithili, yindlela engabalulekanga, yindlela yezithuthi zikawonke-wonke ekucamngcwa ngayo kwicandelo 6(1) apho iPhondo linegunya kwizibonelelo zeendlela; 45

“UmThetho ka-2000 oKhuthaza uBulungisa boLawulo”: (ngumThetho onguNombolo 3 ka-2000);

“indledlana yoluntu” yindlelana kamasipala okanye yephondo ebhengeziweyo ngokubhekiselele kumMiselo okanye ecalulwe ngokumalunga necandelo 6(1)(f);

“ugunyaziwe wezibonelelo zezithuthi zikawonke-wonke”, ngumPhathiswa okanye ngumasipala ekungena phantsi kwakhe umzila woololiwe obhengeziweyo okanye ezinye izibonelelo malunga nezithuthi zikawonke-wonke; 50

“ulwananiselwano ngokwezithuthi zikawonke-wonke”, luthetha izibonelelo ezisecaleni zezithuthi zikawonke-wonke eziquka iindawo ezisebenzela kuzo izithuthi zikawonke-wonke, iindawo ekuthulwa kuzo abantu, nalapho 55
bakhweliswa khona kwizithuthi; izakhiwo ezisetyenziselwa ulawulo, imisebenzi yorhwebo neyentengiso idibene, kubandakanywa ukulinda, amancedo entlambululo yabakhwela izithuthi, oko kungaquka nesitishi;

“indlela yezithuthi zikawonke-wonke” iyindlela yephondo okanye ekamasipala ecalulweyo ngokumalunga necandelo 6(1)(e), enokuba sendaweni yayo ebucala okanye ibekelwe bucala kwindlela ephangaleleyo, kwisithili okanye kwindlela, kwindlela engabalulekanga, ikakhulu isetyenziswa ziibhasi, zii-minibus-taxi neeteksi ezihamba ngokujonga umgama ngokweemitha, yeyezithuthi zikawonke-

wonke ngokubhekiselele kwiimeko ezibekiweyo ngoogunyaziwe bezibonelelo zeendlela zikawonke-wonke zaza zabhengezwa ngezaziso kwiGazethi okanye ngokomThetho weziThuthi zeeNdlela wesiZwe;

“umzila kaloliwe” ungumzila woololiwe wephondo okanye kamasipala obhengeziweyo ngokumalunga necandelo 6(1)(g) necandelo (h) onokusetyenziswa 5 zizithuthi ezinzima okanye ezikhaphukhaphu, yaye bandakanya ububanzi obupheleleyo bomzila obekiweyo, uquka yonke into eyinxalenye, onnxulumene okanye ongowaloo mzila, kodwa ongapheliselwanga apho ngokokuhamba, izinto ezinzima zokuzinzisa nemizila kaloliwe, izitishi, iibhrorho, amatonela, amancedo olawulo lwemisebenzi yezithuthi nezalathisi-ndlela ezidanyazayo, namanye 10 amancedo anxulumene noko akwalapho kuloo ndawo ibucala, nayiphi na indawana yaloo mzila kaloliwe;

“indawo ebekwe bucala” yileyo ngokumalunga nendlela okanye nomzila kaloliwe, inobubanzi obupheleleyo nobubhengeziweyo phakathi kweziphelo zaloo ndawo ibekwe bucala; malunga nezibonelelo zezithuthi ezisemacaleni, indawo 15 yonke ephakathi komda womjikelezo kweso siza;

“indawo yokuphumla” yindawo ebekelwe bucala yokuvumela abasebenzisi beendlela ukukha bathi khedu bamise bapake izithuthi, ingasecaleni kwaleyo ibekwe bucala okanye ibe yinxalenye yayo, okanye ithi qelele ebndleleni, lungakhona kuyo uncedo kwezorhwebo; 20

“indlela” ithetha indlela yephondo mokanye ekamasipala ebhengeziweyo ngokwecandelo 6(1)(a) ukuya ku-(e) okanye ngokubhekiselele kumMiselo wokusetyenziswa kwezinto ezingezizo izithuthi ezinenjini njengezi: abantu abahamba ngeenyawo, izithuthi ezithwala impahla mhlawumbi yezindlu nezigadla zezithuthi zikawonke-wonkanye ziquka ububanzi obupheleleyo bendawo 25 ebekwe bucala, kuquka yonke imisebenzi okanye izinto ezikwayinxalenye yayo, ezinxulumene okanye ezizezindlela leyo, kodwa ezingabophelelekanga kuyo, indlela yezithuthi, ulwananiso, indawana ezingavumeli kuwela kwemfuyo, iipavimente, iindlela zokuhamba izithuthuthu, izangqa zokuthintela isantya seemoto, iindawo ezinengca kwasendleleni ekunokujikwa kuzo ziimoto ukuze 30 abahamba ngeenyawo babalekele kuzo, inkqubo yezothutho echubekileyo, ukumela elungqamekweni kwezithuthi zisuke endleleni, ilitye okanye umhlaba onqanda amanzi angezi endleleni yezithuthi, izinto ezisusiweyo kunciphiswa okanye kuphungulwa, itonela eliphantsi komhlaba elikhuphela amanzi ngaphaya kwendlela yezithuthi, izikhuphi-manzi ezindleleni, uphuma-ngaphantsi oyindlela, 35 amadama, iingcingo, ubiyelo oluludonga olunqanda abantu bangaweli phantsi phambi kwemijelo, izithinteli-ngozi, izibane ezisezitratweni, amatonela, iibhrorho, ii-ponts, iindawo zokupaka izithuthi, iindawo zokuphumla, iibhodi ezalathisa iindlela, izalathisi zemigama, imiqondiso esezibhodini ebonisa iindawo nemigama, iimbombo emakuyiwe kuzo, izilumkiso nayo nayiphi na indawana yendlela leyo; 40

“Umgangatho wokuFikelela eziNdleleni” yimigaqo-nkqubo nezikhokelo zeSebe njengoko inokwamkelwa ukuze kusetyenziswe izithethe nomgangatho onxulumene neendlela zonke ezibhengeziweyo ukuze zisetyenziswe ngoogunyaziwe beendlela kwiPhondo xakuxakekiwe ngesicwangciso-nkqubo sokufikelela ngasendleleni ebhengeziweyo naxa kuqwalaselwa izicelo ezifakiweyo 45 zokufikelela nasekusetyenzisweni komhlaba osecaleni kwendlela ebhengeziweyo;

“ugunyaziwe wezibonelelo zeendlela” uthetha, ngokuxhomekeka kucalulo okanye kutshintsho olulapho ngokubhekiselele kwisiGaba 2, umPhathiswa okanye umasipala apho indlela leyo ibhengeziweyo iphantsi kolawulo negunya lakhe;

“umnini-ndlela okanye umnini-mzila woololiwe”, kubhekiswa kugunyaziwe 50 wezibonelelo zezithuthi zikawonke-wonke okanye zeendlela kusenzelwa indlela okanye umzila woololiwe;

“isitishi” siquka iindawo ezinesikhululo esisetyenziselwa umzila, izibonelelo zoluntu, iindlela zokulawula oololiwe, umhlathana wemizila kaloliwe obiyelweyo, umzila omfutshane osecaleni ongenisa oololiwe abatshayintayo, imiqondiso 55 evezwayo mananye amancedo afunekayo okanye asenokufuneka xa kusetyenzwa, ulondolozo nolawulo lwenkqubo yemizila yoololiwe, yaye oko kuquka, kodwa akuphelelanga apho, iigaraji zokupaka neendawo, apho kuhla khona abantu nalapho bakhwelela khona kuloliwe, ukusetyenziswa komhlaba ngorhwebo nangentengiso nakokuyinxalenye yomhlaba wesitishi; 60

“imfuyo” ziindidi zonke zemfuyo esefama kunye nezilwanyana zasendle;

“indawo ekugcinwa kuyo impahla”, yileyo isetyenziselwa ukugcinwa kwempahla ngeli xesha abantu beseluhambeni;

- “**isakhiwo**” yiyo nayiphi na indlu, uyilo okanye isigqubuthelo esimisiweyo esiphezu komhlaba okanye phantsi kwawo, ingasisakhiwo sexeshana okanye esanaphakade, nokuba sinjani na okanye singakanani na;
- “**isitrato**”, kuthethwa ngesitrato sikamasipala;
- “**UmThetho woBume/weZakhiwo**”, kuthethwa ngomThetho ka-1998 kaRhulumente womMandla noBume boMasipala, (umThetho onguNombolo 117 ka-1998);
- “**izibonelelo kwinkxaso yezothutho**”, kuthethwa ngezibhengeziweyo izibonelelo zezothutho kumasipala, apho kukho inkxaso-mali evela kumPhathiswa ngokumalunga nesivumelwano esiphakathi komasipala ongugunyaziwe wezibonelelo zezithuthi zikawonke-wonke kunye nomPhathiswa;
- “**lo mThetho**” uquka nawuphi na ummiselo oqulunqwe phantsi kwalo mThetho;
- “**indlela ehlawulisayo**” kuthethwa indlela yephondo ebhengezwe njengendlela ehlawulisayo ngokumalunga nomThetho weeNdlela eziHlawulisayo zeNtshona Koloni, 1999 (umThetho 11 wowe 1999);
- “**ilokishi**” yindawo eyahlulwe ngokusemthethweni yaba ziziza, yimihlatyana, okanye nokuba akukho zithuba zivulekileyo kuluntu okanye zikhona, kukho nezitrato ezirhangqwe ziziza, ziiplothi nezithuba ezivulekileyo zingenanto yaye—
- (a) isekiwe yaza yaziwa njengelokishi ephantsi kwawo nawuphi na umthetho; okanye
- (b) iqaphelwe yamkelwa ngumPhathiswa kaRhulumente womMandla njengelokishi ngokweenjongo zalo mThetho, nangokwendlela oko kwamkeleke ngayo;
- “**izithuthi**” zithetha izithuthi ezihamba ezindleleni nakwimizila yoololiwe ne-NMT;
- “**imiqondiso esezindleleni**” ibhekisa kwimiqondiso okanye kwiimpawu ezisezindleleni njengoko kuchaziwe kumThetho weziThuthi zeeNdlela kuZwelonke yaye oko kuquka imiqondiso okanye izilumkiso zokulawula izithuthi ezisezindleleni nezikwimizila yoololiwe, apho izithuthi zivelela kwelinye icala nakwezinye iindawo apho kusenokubakho ingozi phakathi koololiwe nezinye izithuthi;
- “**Izibonelelo zothutho**” ziquka iindlela ezibhengeziweyo zephondo nezikamsipala, izibonelelo zeendlela ezisemacaleni, imizila yoololiwe nezibonelelo zezithuthi zikawonke-wonke;
- “**indlela ephangaleleyo**” ithetha indlela yephondo ebhengeziweyo ngokwecandelo lomMiselo okanye efakwe kwicandelo 6(1)(a);
- “**ummandla wedolophu**” uthetha indawo eyenziwe zezi ndawana—
- (a) yilokishi ekhankanyiweyo emhlathini (a) wenkcazelo “yelokishi” okanye indawo eyahlulwa-hlulweyo kwada kwaphuma imihlatyana yokuba kulinywe okanye iifama ezizihlektare ezimbini okanye ezingaphantsi kunezo, umhlaba ongafakwayo apho ngololu hlobo—
- (i) ikomanishi, engumhlaba kawonke-wonke; okanye
- (ii) mhlaba lowo usetyenziselwa okanye kujongwe ukuba usebenze njengefama enokulinywa, okanye enenkuku okanye eyokugcina izilo okanye
- (iii) umhlaba unesithuba esivulekileyo nesingazange siphuhlise okanye sibekelwe iimfuno ezithile zoluntu; okanye
- (b) ilokishi ekhankanyiweyo emhlathini (b) walaa nkcazelo apho umPhathiswa ngokucebisana nomPhathiswa kaRhulumente womMandla, ngesaziso esikwiGazethi, uye wawubhengeza njengommandla wedolophu ngenxa yalo mThetho; kunye
- (c) neendawo ezisecaleni kweelokishi zaza zaphumela ngaphandle kommandla wedolophu ekunikwe inkcazelo ngayo ku-(a) naku-(b), zilinganiselwe malunga nendlela ebhengeziweyo zaya kwindawo engenguwo ummandla wedolophu kangangomgama ongama-250 eemitha ukususela kulaa ndawo kuvunyelwa ukufikelela kuyo elokishini, ikufutshane nomda wommandla wedolophu; kunye
- (d) nalapho indlela yabucala yezothutho inomda wedolophu kwelinye icala ize kwelinye icala ibenomda wendawo engasiyodolophu, imicimbi elawulwa zizibonelelo zamacandelo 9, 17, 41, 42, 43, 48, nele 49 iya kugwetywa ngokwemeko yedolophu okanye yamaphandle efanele icala elo umda ungakulo.

Umda walo mThetho

2. Lo mThetho kucamngcwa ukuba mawulawule ezephondo nezikamasipala iindlela, imizila yoololiwe nezinye izibonelelo zothutho ezibhengeziweyo okanye kukho imfuneko yokuba zibhengezwe phantsi kwalo mThetho, oko kuquka isicwangciso, ubhengezo, ukwazisa, ulawulo lokufikelela, inkxaso nokuncedwa ngezimali kwizibonelelo zothutho ezinjalo. 5

Oogunyaziwe abanoxanduva lwezibonelelo zothutho

3. (1) Oogunyaziwe abanoxanduva lwezibonelelo zothutho bajongene nokucwangcisa, nokuyila, nokubhengeza, nokuhlutha, nokwakha, nokulondoloza, nempatho, nolawulo, nomqathango, nophucula kunye nokubuyiselwa kwisimo sangaphambili kweendlela, kwemizila yoololiwe nezinye izibonelelo zothutho bangaba— 10

(a) ngumPhathiswa kwicala leendlela eziphangaleleyo, ezinkulu, ezesithili, iindlela ezingabalulekanga, iindlela zezithuthi zikawonke-wonke, iindledlana zoluntu ezibhengeziweyo ngokubhekiselele kumMiselo okanye phantsi kwecandelo 18, apho ugunyaziwe wendlela leyo, wezibonelelo zothutho okanye wemizila yoololiwe iliPhondo; 15

(b) ngumasipala obandakanyekayo kwicala lendlela ephangaleleyo, enkulu kwisithili, lendlela engabalulekanga kwiindledlana zoluntu, kwimizila yoololiwe ebhengeziweyo ngokumalunga nomMiselo okanye phantsi kwecandelo 18, xa ingumasipala ongunya kwezo ndlela, kwezo zibonelelo zikawonke-wonke nakuloo mizila yoololiwe. 20

(2) Oogunyaziwe abanoxanduva lwezibonelelo zothutho bajongene nokucwangcisa, nokuyila, nokubhengeza, nokuhlutha, nokwakha, nokulondoloza, nempatho, nolawulo, nomqathango, nophucula kunye nokubuyiselwa kwisimo sangaphambili kweendlela, kwemizila yoololiwe nezinye izibonelelo zothutho bangaba— 25

(a) ngumPhathiswa kwicala lendlela esecaleni nezibonelelo zezithuthi zikawonke-wonke ezibhengeziweyo ngokubhekiselele kwecandelo 18, apho iPhondo lingugunyaziwe wendlela, okanye wezibonelelo zezithuthi zikawonke-wonke ukulungiselela ezo ndawo; 30

(b) ngumasipala obandakanyekayo kwicala lendlela esecaleni zezithuthi zikawonke-wonke ezibhengeziweyo phantsi kwecandelo 18, apho ugunyaziwe ingumasipala wendlela okanye wezibonelelo ezo zezithuthi zikawonke-wonke. 35

(3) ngumPhathiswa okanye ngumasipala, njengoko kusenokuba njalo, oyakuba noxanduva lwemisebenzi ekhankanyiweyo kumacandelwana (1) nelesi-(2), oko kungaxhomekeka kwimithombo yezimali ezifumanekayo. 40

(4) Ugunyaziwe wendlela okanye wezibonelelo zezithuthi zikawonke-wonke angavumelana nomnye ugunyaziwe wendlela okanye wezibonelelo zezithuthi zikawonke-wonke ngokuthi uxanduva olujongene nemicimbi ethile okanye lwemicimbi yonke enxulumene nezibonelelo zeendlela ezibhengeziweyo ezikhankanyiweyo kwicandelwana (1) nakwelingu-(2) luya kudluliselwa komnye ugunyaziwe wendlela okanye wezibonelelo zezithuthi zikawonke-wonke phantsi kwezivumelwano neemeko ekuvunyelweneyo ngazo, eklufuneka ziquke iimeko iimeko zoxanduva lwezimali zemicimbi leyo iphethweyo, ukuba isaziso sipapashiwe kwiGazethi edandalazisa isivumelwano esinjalo. 45

Ukuba ngumnini wezibonelelo zothutho

4. (1) Ubunini bendlela, bomzila kaloliwe okanye isisibonelelo esisenye sothutho, obubhengezwe ngokumalunga neOrdinance okanye phantsi kwecandelo 18 lelePhondo apho ugunyaziwe wendlela okanye wesibonelelo sothutho sikawonke-wonke ingumPhathiswa okanye nomasipala apho ugunyaziwe wendlela okanye wesibonelelo sothutho sikawonke-wonke ingumasipala. 50

(2) Impatho nolawulo lweendlela, lwemizila kaloliwe okanye ezinye izizibonelelo zothuthi nolomhlaba ophakathi kweendawo ezibekelwe bucala zendlela ezibhengeziweyo, konke oko kusezandleni zikagunyaziwe wendlela okanye wezibonelelo zezithuthi zikawonke-wonke apho kubhengeziweyo ngokubhekiselele kumMiselo okanye phantsi kwecandelo 18. 55

(3) Onke amasuntsu emihlaba afunyenwe kubanini ncakasana bokuqala angabekelwa bucala aze asuswe kumnini atshintshelwe kwiPhondo okanye kumasipala xa icela njalo indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke, kwaye iitayitile zaloo masuntsu omhlaba zibhaliswe ngePhondo okanye umasipala.

(4) Izithintelo ezenziwe bubukho bomhlaba wabucala kuwo onke amasuntsu omhlaba akumhalaba obekelwe bucala apho itayitile yepropathi ekuthe kwabhengewa kuyo umhlaba, umzila kaloliwe okanye esinye isibonelelo sothutho ihlala ikwigama lomnini wokuqala, kwaye mayibhaliswe kumBhalisi wabanini miHlabakuze kuboniswe oko kwitayitile yepropathi nganye, ngokuxhomekeke ekubeni akuyomfuneko ukubhaliswa ezo zithintelo ngokumalunga neendlela ezikhoyo ekuqaliseni kokusebenza kwalo mThetho kwaye bezingavalwanga nagaliphi na ixesha emva koko.

(5) Ukuqalela ngosuku lokuqalisa kwalo mThetho, onke amaXwebhu ngokweLungelo lemiHlaba, apho ubunini-mhlaba kuqala babusezandleni zabaThenjwa beeNdlela ngokusekwa ngumMiselo babe baphantsi kwamandla eli candelwana, kudluliselwa kwiPhondo.

(6) Ubunini bendlela, bomzila kaloliwe okanye esinye isisibonelelo sothutho bungatshintshelwa negunya labo, namalungelo kunye nezibonelelo, njengenxenywe okanye ngokupheleleyo lususwa kwenye lusiya kwenye indlela okanye kwigunya lezibonelelo zikawonkewonke ngokumalunga necandelo 18(3) okanye apho iNational Roads Agency Limited yomZantsi Afrika ithatha indlela yesizwe ngokumalunga neRoads Agency Limited nomThetho weeNdlela zesiZwe, 1998 (umThethi Na. 7 wowe1998).

(7) Ukuba—

(a) nayiphi na indlela, umzila woololiwe okanye ezinye izibonelelo zothuthozifudusiwe, zilungisiwe okanye zivalwe ngonaphakade; okanye

(b) indawo yendlela ebekwe bucala, umzila woololiwe okanye ezinye izibonelelo zothutho buyancitshiswa ububanzi okanye ziyalungiswa; isiphumo sesokuba umhlaba usuka ungafuneki; okanye

(c) ugunyaziwe wendlela okanye wezibonelelo zezithuthi zikawonke-wonke wazisa umnini-mhlaba ukuba yena gunyaziwe akasenazinjongo zokuqhabela phambili ngomsebenzi wokumbiwa kwamatye obusenziwa kuloo mhlaba ngugunyaziwe wendlela okanye wezibonelelo zezithuthi zikawonke-wonke;

Amalungelo alingana nawendlela, nawomzila kaloliwe okanye enye inkonzo yesibonelelo sothutho lwendlela ngokuyeka ukuba yinxalenye yendlela, yomzila woololiwe okanye ngumnini, ukulawula nokuphatha ezinye izibonelelo zothutho, nemisebenzi kunye nezinto zonke ezidibene noko; ngaphandle kokuba ugunyaziwe wendlela okanye wezibonelelo zezithuthi zikawonke-wonke, ngokufaka isaziso kwiGazethi; yena mnini-mhlaba ngenye indlela uya kuyalela, uya kudlulisela ubunini baloo mhlaba nezakhiwo ezandleni zomntu owayesakuba ngumnini-mhlaba lowo ngaphambi kokuba indlela, umzila ,woololiwe nezibonelelo zothutho zibhengezwe; ngokuxhomekeke ekubeni ukubuyekwezwa ngokumalunga nolo tshintsho lwamalungelo, ekuthe xa ibalwa yamiselwa, bungafunwa kwaye, ngaphandle kokuba igatya leli candela alisayi kusebenza emhlabeni osezandleni zabaThenjwa beeNdlela.

(8) Umhlaba osemagunyeni obunini bePhondo ngenxa yokudluliselwa kobunini okusuka kubaThenjwa beeNdlela phantsi kwecandelo (3) nongasafunelwa nayiphi na injongo enxulumene nezibonelelo zothutho ezinokuthengiswa okanye zilahlwe liPhondo.

IiNjineli zodidi lweengcali, abaCwangcisi beeDolophu okanye abaYili bezaKhiwo mabaluthwale uxanduva olujongene nemisebenzi ekhethekileyo

5. (1) UmPhathiswa okanye umasipala, njengoko kunokubanjalo, makaqinisekise ukuba imisebenzi eyenziweyo ngokumalunga nomThetho yenziwe phantsi koxanduva nenkuthalo elindelekileyo yomntu oyingcali nofanelekileyo, ngopkubhekiselele kwicandelwana (2).

(2) Akukho mntu, ngaphandle kweNjineli eyiNgcali okanye kweNgcali yeThekhnoloji ebhalisiweyo liBhunga leeNjineli zoMzantsi-Afrika ngokusekwe phantsi komThetho weeNgcali zobuNjineli, (umThetho onguNombolo 46 ka-2000) okanye umcwangcisi dolophu okanye umyili wendlela obhaliswe ngokumalunga banganalo uxanduva lokujongana nolawulo nokwamkeleka kwezicwangciso-nkqubo zobungcali okanye nezicwangciso ezinxulumene nophando, ukuhlalutywa kobuchwepheshe kunye neengcebiso malunga nezibonelelo zothutho zexesha elizayo:

- (3) Akukho mntu ngaphandle kweNgcali yeNjineli okanye iNgcaphephe yesiFundiswa seTekhnoloji ebhaliswe liQumrhu leeNjineli zomZantsi Afrika elisekwe ngokomThetho wabaseBenzi abaziiNjineli (umThetho Na. 46 wowe 200) anganoxanduva lokujonga ngokubanzi nokuphumeza imisebenzi izicwangciso ezinxulumene nale misebenzi ilandelayo, enokukumiselwa ngummiselo: 5
- (a) Uyilo lobunjini beebhrorho, ukwakha, ezombane nobunjini bokukhanda izithuthi kwicala lezibonelelo;
- (b) Uphuhliso lwamalinge okulungisa nolondolozo lwezibonelelo zothutho ezisele zikhona;
- (c) Ukuphathwa kolondolozo lwezibonelelo zothutho. 10

ISIGABA 2:

UHLELO NOBUBANZI BOKUGCINWA KOMGANGATHO WEZIBONELELO ZOTHUTHO

Ukuhlelwa kwezibhengeziweyo iindlela nemizila yoololiwe bephondo nabakamasipala 15

6. (1) Iindlela nemizila yoololiwe kweli Phondo ihlelwe ngolu hlobo:
- (a) Iindlela eziphangaleleyo, ziphantsi kolawulo lomPhathiswa;
- (b) Iindlela ezinkulu ziphantsi kolawulo lomPhathiswa okanye lukamasipala;
- (c) Iindlela zezithili ziphantsi kolawulo lomPhathiswa okanye olukamasipala;
- (d) Iindlela ezingabalulekanga ziphantsi kolawulo lomPhathiswa okanye olukamasipala; 20
- (e) Iindlela zezithuthi zikawonke-wonke, ziphantsi kolawulo lomPhathiswa okanye olukamasipala
- (f) Iindlela ekundwandwadwa kuzo abahamba ngeenyawo ziphantsi kolawulo lomPhathiswa okanye olukamasipala; 25
- (g) Imizila yoololiwe enobunzima, iphantsi kolawulo lomPhathiswa okanye olukamasipala
- (h) Imizila yoololiwe ekhaphukhaphu, iphantsi kolawulo lomPhathiswa okanye olukamasipala.
- (2) Oogunyaziwe beendlela nezithuthi zikawonke-wonke kufuneka, kwisaziso ngasinye esikhutshwe kwiGazethi ngokubhekiselele kwicandelo 18, bayihlele indlela okanye umzila yoololiwe obhengezwe kwisaziso esinjalo njengenye yeendlela ezidwelisiweyo kwicandelwana (1) yaye baxele ukuba zakulawulwa ngumPhathiswa na okanye zakulawulwa ngumasipala. 30
- (3) Indlela yezithuthi zikawonke-wonke eyenziwe kanye kwindawo ebekelwe bucala kwindlela ephangaleleyo, kwenkulu, kwindlela yesithili okanye kwindlela engabalulekanga, yona iya kubamba uhlelo lwendlela ephakathi kwindawo ebekelwe bucala kanye apho ikhoyo.. 35
- (4) UmPhathiswa kumaxesha ngamaxesha, emva kokucebisa noomasipala abachaphazelekayo, angalutshintsha uhlelo lwendlela yephondo okanye lomzila kaloliwe ngesaziso esikwiGazethi. 40
- (5) UmPhathiswa angayibhengeza indlela yephondo ehlelwe kwicandelwana (1) (a) ukuya ku(e) ibe yindlela yephondo ehlawulisayo ngokumalunga, kwaye emva kwezi zaziso zomThetho weendlela eziHlawulisayo zaseNtshona Koloni, 1999 (umThetho 11 wowe 1999). 45
- (6) Umasipala kumaxesha ngamaxesha, emva kokucebisa nomPhathiswa nabanye oomasipala abachaphazelekayo, bangalutshintsha uhlelo lwendlela kamasipala okanye lomzila kaloliwe ngesaziso esikwiGazethi, ngokufakwa kwicandelwana (7).
- (7) Xa indlela kamasipala okanye umzila kaloliwe ufumana inkxaso kumPhathiswa ngokubhekiselele kwisivumelwano esicamngciweyo kwicandelo 24, umasipala makafumana ubungqina bokwamkelwa kolo tshintsho lohlelo phambi kokuba indlela okanye umzila upapashwe ngesaziso esikwiGazethi. 50

Umgangatho wobuncinane obugcinakeleyo bobubanzi beendlela nemizila kaloliwe ebhengeziweyo

7. (1) Ngokwecandelwana (2), ubuncinane bomgangatho ogcinekileyo wobubanzi beendlela nemizila yoololiwe ebhengeziweyo phantsi kwesiGaba 4 uyakuba lolu hlobo:
- (a) Iindlela eziphangaleleyo: ngama-30 eemitha;

- (b) Iindlela ezinkulu: ngama-25 eemitha;
- (c) Iindlela zezithili: ngama-20 eemitha;
- (d) Iindlela ezingabalulekanga: ngama-20 eemitha;
- (e) Iindlela zezithuthi zikawonke-wonke: ngama-20 eemitha, kumaxa indlela leyo ibhengezwe njengoncedo oluzimele geqe; 5
- (f) Iindlelana zokukhokelwa koluntu: zi-2 iimitha;
- (g) Imizila yoololiwe enobunzima: ngama-20 eemitha;
- (h) Imizila yoololiwe ekhaphukhaphu: li-10 leemitha.

(2) UmPhathiswa okanye umasipala xa kubhengezwa, kufuduswa okanye kutshintshwa indlela okanye umzila kaloliwe phantsi kwecandelo 18, anganesigqibo sokuba indlela leyo okanye umzila lowo kaloliwe kufuneka ube nobubanzi obugcinekileyo ngaphandle kobuya bubanzi bukumgangatho ogcinekileyo, eklubeni lo mbandela kuhlangebezwana nawo kwinkqubo yesicwangciso seprowujekhthi ephethweyo ngokumalunga nesiGaba 3.

(3) UmPhathiswa, malunga nendlela okanye umzila kaloliwe okanye nomhlathiyana nje, apho iPhondo lingugunyaziwe wendlela okanye lezibonelelo lezithuthi zikawonke-wonke, angabutshintsha ububanzi obugcinekileyo njengoko kubhengezwe nayiphi na indlela okanye umzila kaloliwe okanye uhlobo lwendlela okanye uhlobo lomzila kaloliwe, oko kuxhomekeke—

- (a) ekucebisaneni kwakhe noomasipala bonke abachaphazelekayo; 20
- (b) kwintsebenzo yesicwangciso seprowujekhthi esifunekayo ngokubhekiselele kwisiGaba 3;
- (c) kwisaziso esipapashwe kwiGazethi.

(4) Umasipala, malunga nendlela, nomzila kaloliwe, okanye nomhlathiyana nje apho yena masipala angugunyaziwe wendlela okanye wezibonelelo zezithuthi zikawonke-wonke; angabutshintsha ububanzi obugcinekileyo njengoko kubhekezwe nayiphi na indlela, umzila kaloliwe okanye uhlobo lwendlela okanye olomzila kaloliwe, oko kuxhomekeke-

- (a) ekucebisaneni kwakhe noomasipala bonke abachaphazelekayo, yaye xa kuvumeleka, nomPhathiswa; 30
- (b) kwintsebenzo yesicwangciso seprowujekhthi esifunekayo ngokubhekiselele kwisiGaba 3;
- (c) apho umasipala angugunyaziwe othwele uxanduva lwendlela okanye lwezibonelelo zezithuthi zikawonke-wonke, yaye izibonelelo zixhaswa liphondo, ngokwamkelwa ngumPhathiswa ukuba lungabakho utshintsho olunjalo; kunye 35
- (d) nesaziso esipapashwe kwiGazethi sinika inkcazelo ngoklo tshintsho.

(5) Ububanzi obugcinekileyo bazo zonke ezibhengeziweyo iindlela okanye imizila yoololiwe efakwe yaza yazinziswa ngokusemthethweni okanye yatshintshwa ngumMiselo yaza yaba iyanzeliswa ekuqalekeni kwalo mThetho; konke oko kwakuhlala kunyanzelekile ukuba kube njalo ngaphandle kokuba kutshintshiwe phantsi kwalo mThetho.

Uhlelo neendawo ezibekwe bucala zezibonelelo zothutho ezisecaleni nezi-bhengeziweyo

8. (1) Izibonelelo zeendlela ezisecaleni phantsi kolawulo lomPhathiswa okanye lomasipala zihlelwe ngolu hlobo:

- (a) Indawo yokupaka;
- (b) Indawo yokuphumla;
- (c) Indawo yokufikelela ngqo kwiinkonzo;
- (d) Indawo ekumiswa kuyo; 50
- (e) Isikali esineqonga ekuveyishwa kuso izithuthi;
- (f) Iziko lolawulo lwezithuthi;
- (g) Indawo ekugcinwa kuyo impahla ngeli xesha abantu beseluhambeni; kunye
- (h) nendawo ekuhlaliswa kuyo impahla esetyenziswayo.

(2) Izibonelelo zezithuthi zikawonke-wonke ezisecaleni ezilawulwa ngumPhathiswa okanye ngumasipala zihlelwa ngolu hlobo:

- (a) unaniselwano ngezithuthi zikawonke-wonke;
- (b) Amancedo okutshayintiswa koololiwe kwimizila yabo;
- (c) Indawo ekuhlaliswa kuyo izithuthi; kunye
- (d) neziko lolawulo kunye neenkukacha 60

(3) Ugunyaziwe wendlela okanye wezibonelelo zezithuthi zikawonke-wonke kufuneka, kwisaziso ngasinye sesibhengezo esikhutshwayo ngokubhekiselele kwicandelo 18 elipapashiweyo kwi*Gazethi*, azihlele izibonelelo zezothutho ezibhengeziweyo kwisaziso esinjalo njengesinye seentlobo ezidwelisiweyo kwicandelwana (1) nakwicandelwana (2) ngaphandle kwaxa izibonelelo zothutho ezincedisayo zikwindawo okanye ziyinxalenye yezibonelelo zabucala ezibhengezwe ngokumalunga necandelo 6. 5

(4) UmPhathiswa okanye umasipala, njengoko kusenokubanjalo, ngokucebisana nabasemagunyeni abachaphazelekayo, angalutshintsha uhlelo lwezibonelelo zothutho ezisecaleni zephojndo okanye ezikamasipala ngesaziso esikwi*Gazethi*, ngokwecandelwana (5). 10

(5) Apho ezikamasipala izibonelelo zothutho ezisecaleni zixhaswayo ngumPhathiswa ngokumalunga nesivumelwano esicingiweyo kwicandelo 24, umasipala makafumane imvume yotshintsho lohlelo olunjalo phambi kokuba kuqaliswe inkqubo yesicwangciso seprowujekhthi. 15

(6) Okugcinwe bucala kwezibonelelo zothutho ezisecaleni kwakwenziwa izigqibo ngako kwinkqubo yokucwangciseka iprowujekhthi eqaliswayo ngokubhekiselele kwisiGaba 3 phambi kwesibhengezo sezibonelelo zothutho ezisecaleni.

(7) UmPhathiswa angayitshintsha indawo egciniweyo yezibonelelo zezothutho ezisecaleni ezazibhengezwe kwakuqala, apho yena mPhathiswa anamagunya ezibonelelo zezithuthi zikawonke-wonke okanye endlela; ngokuxhomekeka— 20

(a) ekucebisaneni kwakhe noomasipala bonke abachaphazelekayo;

(b) kwintsebenzo yophononongo lwesicwangciso esifunekayo ngokumalunga nesiGaba 3;

(c) kwisaziso esipapashwe kwi*Gazethi*. 25

(8) Umasipala angayitshintsha indawo ebekiweyo yezibonelelo zothutho ezisecaleni ezabhengezwa kwangaphambili, apho yena masipala anamagunya endlela okanye awezibonelelo zezithuthi zikawonke-wonke, ngokuxhomekeka-

(a) ekucebisaneni nabo baonke oomasipala abachaphazelekayo, nalapho kuvumelekayo, umPhathiswa; 30

(b) kwintsebenzo yophononongo lwesicwangciso esifunekayo ngokumalunga nesiGaba 3;

(c) apho umasipala anamagunya endlela okanye ezibonelelo zezithuthi zikawonke-wonke, inkxaso ivela kwiPhondo, utshintsho olunjalo lwamke-lweyo ngumPhathiswa; kananjalo 35

(d) nakwisaziso esipapashiweyo kwi*Gazethi*.

Imigca yezaKhiwo kunye neendawo ezivumelekanga kwakhiwe kuzo

9. (1) Akukho mntu, ngaphandle kwalowo unamagunya endlela okanye ezibonelelo zezithuthi zikawonke-wonke, uvumelekileyo ukuba makakhe okanye amisele okanye abe ngunobangela wokuba kwakhiwe okanye kumiselwe emhlabeni ongowakhe okanye ophantsi kolawulo lwakhe okanye kwempatho, naluphi na uhlobo lwesakhiwo apho indawo yonke okanye nayiphi na inxalenye iwela phakathi— 40

(a) kwendawo egciniweyo yazo naziphi na izibonelelo zothutho,

(b) kumgca wokwakhiwa kwendlela okanye yomzila kaloliwe, (c) indawo yendlela okanye yomzila kaloliwe ekungavumelekanga kwakhiwe kuyo 45

ngaphandle kokuba kungemvume yalowo unegunya lendlela okanye lezibonelelo zezithuthi zikawonke-wonke.

(2) Imigca yezakhiwo neendawo ekungavumelekanga kwakhiwe kuzo ziya kubakho kuzo zonke iindlela eziphangaleleyo, ezinkulu, kwiindlela zesithili, ezindleleni zezithuthi zikawonke-wonke nakwimizila yoololiwe ebhengeziweyo phantsi koMmiselo okanye omnye umthetho zihalal zimalunga nesibhengezo kwesiGaba 4 sangaphambili. 50

(3) Ezindaweni ezingaphandle kommandla wedolophu, indawo yesakhiwo esithintelayo ikhona ngaphaya kwaleyo obekwe bucala yendlela nomzila kaloliwe obhengeziweyo kwicala ngalinye lendlela okanye lomzila kaloliwe okwaphakathi: 55

(a) Umgca wesakhiwo ukhona udlule ngaphaya kwendawo ekungavumelekanga kwakhiwe kuyo kwicala ngalinye lendlela okanye lomzila kaloliwe kumgama ongama-85 eemitha olinganiselwa kumadolo-xande ajongene nomgca osembindini wendlela okanye womzila kaloliwe,

- (b) indawo ekungakhiwa kuyo ikungama ongama 100mitha kwicala ngalinye kwaye ezikoneni ukusuka embindini wendlela okanye womzila kaloliwe; kunye
- (c) nendawo ekungavumelekanga kwakhiwe kuyo kwisazinge esinomakhasangqa oziimitha ezingama-500 ezilinganiselwa ukuqalela kwincam yokunqamleza komgca osembindini wendlela okanye womzila kaloliwe. 5
- (4) Ezindaweni eziphakathi kommandla wedolophu ikhona umgca wesakhiwo ungaphaya kwendawo yokuthintelwa kwezakhiwo ngaphaya kwendawo ebekelwe bucala yendlela okanye yomzila kaloliwe obhengeziweyo kwicala ngalinye lendlela okanye lomzila kaloliwe kungama oziimitha ezi-5 ezilinganiswa kumadolo-xande ajongene nomgca osembindini wendlela okanye womzila kaloliwe. 10
- (5) Iziphathamandla zezibonelelo zezithuthi zikawonke-wonke okanye zendlela zinganakho, ngokumalunga nendlela, nomzila kaloliwe okanye nendawana ekwalapho ephantsi kolawulo lwesiphathamandla, ukuyandisa okanye ukuyicutha indawo ethintela ukuba kwakhiwe ngesaziso esikwiGazethi. 15
- (6) Nabani na angafasika isicelo kwisiphathamandla sezibonelelo sezithuthi zikawonke-wonke, ngendlela eyamkelekileyo nangokuhlawula imali ekuvunyelweneyo ngayo njengentlawulo, ukuba kungemkiwa kwiindawo ezithintelwayo nokwesigunyaziso esimalunga nendawo leyo okanye apho ukumiswa kwesakhiwo kwindawo ebekelwe bucala kusacingwayo ngayo, sicelo eso sinokwamkelwa okanye sikhatywe ngokujongisisa imeko yendlela, yomzila kaloliwe okanye yezinye izibonelelo zezothutho zibandakanyelayo, uphuhliso okanye isindululo sophuhliso esisecaleni kwendlela leyo, komzila kaloliwe okanye kwezibonelelo zothutho ezizezinye kunye nezinye iimeko ezithathwa njengezichaphazelekayo sisiphathamandla sendlela okanye sezibonelelo sezithuthi zikawonke-wonke. Apho ofaka isicelo engsingomnini wepropathi yesakhiwo apho kufunwa ukungenziwa kwezithintelo, kufuneka abonise esanelisa ugunyaziwe wendlela okanye wesibonelelo ukuba unegunya lokuthethathethana egameni lomnini nokuba isicelo sivumelekile kumnini. 20
- (7) Apho kuthe kwafakwa isicelo ngokumalunga necandelwana (6), isiphathamandla sendlela okanye sezibonelelo zezithuthi zokawonke-wonke; singakwamkela ukumiswa kwesakhiwo phakathi kwindawo eyinqandayo inkqubo yokwakha echaphazela umhlatyana othile okanye umhlatyana olapho okanye phakathi kwendawo egciniweyo. 25
- (8) Malunga nezibonelelo zothutho ezifumana inkxaso phantsi kokuvumelana nomPhathiswa, isiphathamandla sezibonelelo zezithuthi zikawonke-wonke okanye esendlela masicebisane nomPhathiswa phambi kokuba sense okulungiselelweyo kumacandelwana (5) necandelwana (7). 30 35

ISIGABA 3:

ISICWANGCISO NESIBHENGEZO SEZIBONELELO ZOTHUTHO

Isicwangciso senkqubo yezoThutho

10. (1) UmPhathiswa makaqinisekise ukuba isicwangciso senkqubo yezothutho seendlela, semizila yoololiwe nesezinye izibonelelo zothutho apho iPhondo lisisiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke, kwenziwa njengoko kunokwamkeleka, nokuvelisa uhlaziyo lonyaka lwesicwangciso esinjalo, kuqukwa uhlahlo lwabiwo-mali, njengegalelo kwimijikelo yaso yohlahlo lwabiwo-mali neenkqubo zozalisekiso. Olu hlaziyo maluziswe koomasipala kwiPhondo ukuze iprowujekhthi neenkqubo ezinxulumene nook zingadityaniswa kwii-ITPs zikamasipala yaye kufuneka zivele kuhlaziyo lwe-PLTF. 40 45

(2) Bonke oomasipala kufuneka—

- (a) baqinisekise ukuba isicwangciso senkqubo yezothutho seendlela, semizila yoololiwe nesezinye izibonelelo zothutho kwiindawo zazo masidityaniswe kwezazo ii-ITPs njengoko kufunwa yi-NLTTA, yimiqathango maziimfuno ezenziweyo ngokubhekiselele kulaa mThetho; 50
- (b) baqinisekise ukuba isicwangciso nohlahlo lwabiwo-mali sokwakha, sokuphucula nokunyaswa komgangatho kunye nokulondolozwa kweendlela, kwemizila yoololiwe nezinye izibonelelo zothutho phantsi kwamagunya amacandelo onke karhulumente aziziphathamandla zendlela okanye azizibonelelo zezithuthi zikawonke-wonke kwindawo kamasipala, kuqukwa nabanye oomasipala, iPhondo noRhulumente kaZwelonke, bayadityaniswa kuhlaziyo lonyaka lwee-ITPs; kananjalo 55

- (c) bangenise iinkcukacha zesicwangciso esinjalo kunye nohlahlo lwabiwo-mali kumPhathiswa ngexesha elifanelekielyo ukuze kuqinisekiswa ngokudityaniswa kwazo kuhlaziyo olwayamene noko lwe-PLTF yePhondo.

Ingxelo ebhaliweyo yezibonelelo zithutho lukamasipala nolwephondo

11. (1) Emva komhla wokuqalisa kwalo mThetho umPhathiswa kufuneka aqulunqe uludwe oluntsonkothileyo lweenkcukacha njengoko mkuya kwamkelwa ezibhengeziweyo izibonelelo zothutho ezizezephondo nezikamasipala kwiPhondo nokuze zihlelwe ngokumalunga necandelo 6 nelesi-8, asekelwe kwingqikelelo ekucingwe ngayo kwicandelo 35(1). 5
- (2) Phambi kokulugqibezela uludwe umPhathiswa kufuneka— 10
- (a) angenise uyilo kengoko kubo bonke oomasipala abanxulumene noko;
- (b) makacele ugxeke-ncomo lwabo mayelana noyilo ngexesha leentsuku ezili-180 zokufumaneka koludwe, aze
- (c) abonise inkathalo nakoluphi na ugxeke-ncomo alufumeneyo ngokuphathelelene nomhlathi (b) makafake inombolo yokuchonga okanye ikhowudi kwindlela nganye, kumzila ngamnye kaloliwe nakwezinye izibonelelo zothutho ezidwelisiweyo phantsi kwecandelwana (1). 15
- (3) Emva kokuqulunqwa koludwe kwicandelwana (1), umPhathiswa kufuneka alugcine aze asoloko eluhlaziya olu ludwe ekufuneka lube— 20
- (a) luyafumaneka xa kuhlolwa luluntu ngexesha leeyure zomsebenzi kwindawo okanye ezindaweni ezinyuliweyo ngumPhathiswa, zaza
- (b) zahlaziywa qho xa indlela, umzila kaloliwe okanye izibonelelo zezithuthi zikawonke-wonke zibhengeziweyo, zifudusiweyo, ziphinde zahlelwa, zivaliweyo okanye xa ubhengezo koludwe kurhoxisiwe. 25
- (4) Wonke umasipala kwiPhondo makagcine uludwe olubhalisiweyo lwazo zonke ezibhengeziweyo ezephondo nezikamasipala iindlela, imizila yoololiwe nezinye izibonelelo zothutho endaweni kamasipala esekelwe kwindlela efanayo yokufakwa kwamanani okanye kwinkqubo yokufakwa kweekhowudi ekubhekiswa kuyo kwicandelwana (3), nakwicandelwana (4)(a) naku-(b), macandelwana lawo asebenza ngeenguqulelo ezikolo ludwe. 30

Inkqubo yesicwangciso seprowujekhthi

12. (1) Isiphathamandla sendlela okanye sezibonelelo sezithuthi zikawonke-wonke kufuneka siqalise ngenkqubo yokucwangcisa iprowujekhthi phambi kobhengezo oluphantsi kwecandelo 18 apho kukho injongo yokubhengeza— 35
- (a) ubukho bendlela entsha, bomzila kaloliwe, bezibonelelo zendlela esecaleni okanye bezibonelelo zezithuthi zikawonke-wonke ezisecaleni;
- (b) Ukumiswa kwenye indawo kwendlela ekhoyo enbhengeziweyo okanye komzila woololiwe apho indawo yonke ebicwangciselwe ukuba ebekelwe bucala, isuka iwele ngaphandle kwendawo ebekiweyo esele ikho;
- (c) ukwenziwa banzi kwendawo egciniweyo yendlela okanye yomzila woololiwe okanye ukulungiswa kwendawo egciniweyo yezibonelelo zendlela esecaleni ebhengeziweyo okanye kwezibonelelo zezithuthi zikawonke-wonke ezisecaleni, ngokuxhomekeka kwicandelo 12(8); 40
- (d) Ukumiswa kwenye indawo okanye ukulungiswa kwezibonelelo zothutho ezicwangcisiweyo nezibhengeziweyo nezisaza kwakhiwa; kunye 45
- (e) ukuvalwa ngokupheleleyo nangokusisigxina kwendlela ebhengeziweyo, komzila kaloliwe okanye kwezinye izibonelelo zothutho.
- (2) Phambi kokuba kuqaliswe inkqubo yopkucwangcisa iprowujekhthi, kusenzelwa omnye wemisebenzi edweliswe kwicandelwana (1)(a) ukuya ku-(e), kufuneka kwenziwe isivumelwano phakathi kwesiphathamandla sendlela okanye esezibonelelo zezithuthi zikawonke-wonke naso nasiphina isiphathamandla ekufuneka sibandakanywe kwiinkqubo ngokumalunga ne-NEMA okanye i-National Heritage Resources Act (umThetho onguNombolo 25 ka-1999) kumdaf: 50
- (a) wesicwangciso sobuchule njengoko kungafunekayo ukuze kunikwe inkcazelo ngokulungelelwaniso olukhethwayo okanye olulolunye uhlobo ulungelelwaniso, imbonakalo yomsebenzi wonke, ukufumaneka kwendawo emayigcinwe nemihlaba kunye nezakhiwo ezisendleleni, ezikumzila woololiwe okanye ezinye izibonelelo zothutho; 55

- (b) Inkqubo yolawulo lokusingqongileyo okuhlanganisiweyo ngokumalunga ne-NEMA, ukua ikho;
- (c) intatho-nxaxheba yoluntu ngokumalunga ne-NEMA nangendlela ekulungiselelwe ngayo kwicandelo, ukuba ikho; kunye
- (d) nengqikelelo enegalelo kwilifa ngokumalunga ne-National Heritage Resources Act (umThetho onguNombolo 25 ka-1999), ukuba ikho. 5
- (3) Isicwangciso sobuchule masenziwe kunjalo neenkukacha zaso zibhalwe ngokwaneleyo—
- (a) ezona zinto zingundoqo nezirheshayo zokuzalisekiswa kwendlela, okanye uyilo, okanye ezinye ezichasene nezo njengoko zinokuchongwa, ekufuneka zibandakanye impembelelo yezothutho, impembelelo yesicwangciso sokusetyenziswa kwemihlaba ekufuneka ifynyanwe ukuze kuzalisekise umcimbi wendlela okanye indlela nganye eyenye, ukuba ikhona, ingachongwa; yaye 10
- (b) emva kokuqwalasela inkcazelo okanye amagqabantshintshi avela kwinkqubo yokucabisana noluntu kwicandelwana (5), isiphumo senkqubo yokucwangcisa ivelise izincomo eziqinisekisiyo ngokumalunga nendlela ekhethiweyo okanye noyilo kunye kunye nendawo egciniweyo. 15
- (4) Malunga nenkqubo yesicwangciso eqaliswayo njengenxalenye yenkqubo yolawulo lokusingqongileyo okuhlanganisiweyo ngokumalunga ne-NEMA, isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka, njengenxalenye yenkqubo yesicwangciso, siqalise ngenkqubo yokwaziswa koluntu ngokumalunga neemfuno ze-NEMA. 20
- (5) Xa ingaqaliswanga inkqubo yesicwangciso njengenxalenye yenkqubo yolawulo lokusingqongileyo okuhlanganisiweyo ngokumalunga ne-NEMA, isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka, emva kokuyigqiba inkqubo yesicwangciso, masibaxelele abanomdla nabachaphazelekayo kananjalo sifake isaziso emasipapashwe lunye oluthethwa kuloo ndawo, ukuze kubekho ezi ziqulatho— 25
- (a) inkcazelo yesindululo sendlela okanye uyilo, okanye iindlela ezizezinye okanye uyilo olulolunye; 30
- (b) iinkcukacha ezimalunga namaxesha kunye neendawo ekunokuhlolwa kuzo kujike kubekho iikopi ezifumanekayo eziqulathe okufunyenweyo kwinkqubo yesicwangciso kunye nenkqubo yolawulo lokusingqongileyo; 35
- (c) isaziso esibamemayo bonke abanomdla nabachaphazelekayo ukuze benze amagqabantshintshi abawabhalileyo phambi kolo suku, akufuneki iintsuku zibe ngaphantsi kwama-30 emva kokuba isaziso sesipapashiwe, kwizinto ezirheshayo zeendlela kunye noyilo olulolunye. 40
- (6) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka sicebisane noomasipala abanxulumene nalo mcimbi, apho kwiindawo zabo izibonelelo zikawonke-wonke zakhiweyo okanye ziza kwakhiwa ukuze bacelewe, ngexesha elithile elikhethiweyo, ukuba mabangenise amagqabantshintshi abhaliweyo malunga nesicwangciso sobuchule yaye kufuneka neengxelo zokusingqongileyo ngokumalunga ke ne-NEMA, ukuze kananjalo kukhangelisiswe kwigalelo okanye kwimpembelelo enokwenziwa seso sindululo sendlela eyenye okanye soyilo olulolunye kuyo nayiphi na i-ITP, uyilo lwezithuba okanye sesinye isicwangciso esinobuqili sophuhliso lukamasipala ochaphazelekayo. Apho iprowujekhthi inempembelelo kwizibonelelo zothutho ezilawulwa sisiphathamandla selinye icandelo okanye samanye amacandelo karhulumente, elo candela okanye loo macandelo karhulumente okanye ii-arhente zawo makukhe kucetyiswane nazo. 45
- (7) Apho inxalenye yendlela, yomzila woololiwe okanye ezinye izibonelelo zothutho kufuneka zifuduselwe kwenye indawo, Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka siqalise inkqubo yesicwangciso ejongene nezibonelelo zothutho ezingasafunekiyo, lowo ingangumsebenzi owenzeka wodwa okanye okanye ube yinxalenye yenkqubo yokumiswa kwenye indawo kwezibonelelo, ukuze eso senzo sibe nempembelelo kwenye okanye kwezininzi izinto kwezi zilandelayo: 50
- (a) kuhlelwe ngenye indlela;
- (b) kurhoxiswe isibhengezo;
- (c) izibonelelo, imihlaba mhlawumbi nezakhiwo ezilapho zingadluliselwa kumntu wabucala ozimeleyo geqe, kwikhampani yabucala okanye kwesinye isiphathamandla; okanye 60
- (d) kuvalwe kungabi senzeka nto.

(8) Indlela ecwangcisiweyo okanye esele ikho kunye nendawo egciniweyo okanye icandelo lendlela, elomzila woololiwe okanye umhlaba owandisiweyo nalowo ugciniweyo wezinye izibonelelo zothutho, ezabhengezwayo kwangaphambili ngokumalunga neenkqubo ezikphantsi kwecandelo 18 zingenziwa banzi okanye zilungiswe sisiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kungekho mfuneko yokuqalisa inkqubo yesicwangciso ngokubhekiselele kwicandelwana (1) ukuya kwicandelwana (7) ukuba phofu: 5

- (a) inxalenye yendawo efudusiweyo okanye yelungisiweyo indawo egciniweyo ayisatenxi ukusuka kwekhoyo indawo egciniweyo kangangokuba ingade ingene ngokupheleleyokwindawo eyenziwe bannzi okanye kwindawo egciniweyo nelungisiweyo; 10
- (b) kwimeko yendlela okanye yomzila kaloliwe indawo entsha egciniweyo iyanxaxha ukusuka kwindawo ekhoyo egciniweyo ngomgama ongagqithanga kwimitha ezi-5 kwicala elinye okanye kuwo omabini amacala endawo egciniweyo; kwimeko yezibonelelo zothutho ezincedisayo, indawo egciniweyo entsha ikumgama ongama 5m ukusuka kwindawo egciniweyo esele ikho; 15
- (c) ubude bendawo eyenziwe banzi okanye elungisiweyo ayinkulwanga kunobude obuqhubela phambili obuyi-1 000 yeemitha; 20
- (d) bonke abanomdla nabachaphazelekayo baxelwe ngembalelwano sisiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke, yaye bamenyiwe ukuba mabazokwenza amagqabantshintshi abawabhalileyo phambi kolo suku, zingagqithanga iintsuku ezingama-30 emva kokuphuma kwesaziso. 20

(9) Igunya lesiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke ekucingwe ngazo kwicandelwana (8), lingasetyenziswa elo gunya kwisicelo esibhaliweyo nangubani na onqwenela ukuba indlela enjalo okanye isicwangciso soyilo masilungiswe, esikhatshwa yintlawulo eyimali evumelekileyo, yaye kuloo meko isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kungagqitya ekubeni makulungiswe uyilo phantsi kweli candelo. Icandelo 15 liyasebenza kwisicelo esinjalo ukuze kubekho izinto eziguquliweyo ngokuyimfuneko. 30

Inkqubo yolawulo lokusingqongileyo okuhlanganisiweyo nentatho-nxaxheba yoluntu

13. (1) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka siqinisekise ngokuqaliswa kwenkqubo yolawulo lokusingqongileyo ngokuhambelana nasicwangciso sobuchule sendlela esisindululo okanye sendlela eyenye yale ndlela okanye yale mizila yoololiwe, okanye yoyilo okanye yoyilo olulolunye lwezibonelelo zothutho ezisecaleni, ukuze izinto ezirheshayo zesisicwangciso sobuchule sezo ndlela okanye salo olo yilo zithathelwe ingqalelo ngokubhekiselele kwicandelwana (3), zithathelw ingqalelo kunye ngokufanayo nokusingqongileyo nokunye okurheshayo kweprowujekhthi. 40

(2) Inkqubo yolawulo lokusingqongileyo okuhlanganisiweyo mayiqaliswe ngokubhekiselele kwisaHluko sesi-5 se-NEMA.

(3) Inkqubo yokuthatha ixaxheba koluntu echazwe phantsi kwe-NEMA kufuneka ibandakanye inkqubo yokebisana efunekayo ukuze kusasazwe kulungiswe amagqabantshintshi kunye nozathuzo malunga neempembelelo zemeko yonke yeprowujekhthi. 45

(4) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke esilawula inkqubo yolawulo lokusingqongileyo okuhlanganisiweyo ekucingwe ngaso kwi-NEMA kufuneka silungelelanise zonke iinkqubo yolawulo lokusingqongileyo okuhlanganisiweyo, kuqukwa nophando lobuchule, okufunyenweyo ngabakhethekileyo nenkqubo yokuthatha inxaxheba koluntu ukuze ibe yinkqubo eyodwa. 50

Inkqubo yokucwangcisa ephambi kokuba kuvalwe unomphelo

14. (1) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka siqalise ngenkqubo yokunika ixabiso phambi kokuba kubhengezwe phantsi kwecandelo 18 loko kurheshayo— 55

- (a) injongo yokurhoxiswa kwesibhengezo sendlela, somzila woololiwe okanye sezinye izibonelelo zothutho ukuze kunyanzeleke ukuba ivalwe unaphakade ide itshintshelwe ukuba isetyenziselwe nto yimbi;

- (b) injongo yokurhoxiswa kwesibhengezo sendlela, somzila woololiwe okanye sezinye izibonelelo zothutho nokutshintshwa kwayo isitrato okulawulwa ngumasipala; okanye
- (c) ukurhoxiswa kwesibhengezo sezibonelelo zothutho ezibhengeziweyo zaza zacwangciswa, nezisaza kwakhiwa. 5

Ngokuxhomekeke ekubeni kucetywa ukuvalwa kwendawo, ukuvavanywa makwenzeke ngendlela yokuvavanya emiselwe kwiNEMA.

(2) Inkqubo yesicwangciso ecamngcwayo kwicandelwana (1) kufuneka, phakathi kwezinto ezininzi, sichonge okurheshayo kokuvalwa kwezibonelelo zothutho emhlabeni osecaleni kwalapho neempembelelo zokuphinda kusetyenzwe zizithuthi ezisebenzisa izibonelelo zothutho phambi kokuba kuvalwe ezinye izibonelelo zothutho njengesiphumo sokuvala. 10

(3) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka, emva kokugqiba ukunikwa kwexabiso, masazise bonke abanomdla nabachaphazelekayo ukuze siqinisekise ngesaziso ukuba masipapashwe kwiphephanda elinye ngolwimi ngalunye oluthethwa kuloo ndawo: 15

- (a) inkcazelo yezibonelelo ekufuneka zivaliwe;
- (b) iinkcukacka zamaxesha neendawo apho okufumanekileyo kwendlela yokunika ixabiso lokuvala lunakho ukuhlolwa, kunye
- (c) isaziso sokumema bonke abanomdla nabachaphazelekayo ukuba benze amagqabantshintshi ngembalelwano phambi kolo suku, zingagqithanga iintsuku ezingama-30 emva kokuphuma kwesaziso ngokurheshayo okumalunga nokuvala. 20

(4) Nanini na xa injongo ikukuvala indlela leyo ngokumalunga neli candelo, ugunyaziwe wendlela okanye wendlela kawonkewonke makaxhome isaziso ithuba leentsuku ezingama 60 kwindawo leyo ekujongwe ukuba ivalwe, okanye ekuphelelwa kwaloo ndawo inengxaki okanye ezo ndawo ngolwimi ngalunye loo njongo nothe wanikwa amanqaku okanye okuchaswayo kungalungiswa. 25

(5) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka, bacebisane noomasipala abanxulumene noko apho ezo ndawo zezibonelelo zothutho okanye ziza kwakhiwa ukuze bacelwe, ngexesha elimisiweyo, ukuba mabangenise amagqabantshintshi abhaliweyo malunga nokunikwa kwexabiso, kananjalo kuthathelwe ingqalelo kwimpembelelo enokubakho ngenxa yeso sindululo sokuvala kuyo nayiphi na i-ITP, uyilo lwezithutha okanye esinye isicwangciso sikamasipala esiliqili saloo masipala uchaphazelekayo. Ukuba ukuvala kwenze impembelelo kwizibonelelo zezothutho phantsi kwesiphathamandla selinye icandelo likarhulumente, la macandelo okanye ii-arhente zawo makuboniswane nazo. 30 35

Isicelo esifakwe ngumnini-mhlaba sokuba makuvalwe, kuyokumiswa kwenye indawo okanye kulungiswe izibonelelo zezothutho

15. (1) Nawuphi na umntu ochaphazelwa ngokuthe ngqo zezikhoyo okanye zezindululwayo izibonelelo zezothutho, angafaka isicelo esibhaliweyo kwisiphathamandla sezibonelelo zezithuthi zikawonke-wonke okanye sendlela esinxulumene noko sokuba makuvalwe indlela, umzila woololiwe okanye ezinye izibonelelo zezothutho, isicelo siingathi makumiswe kwenye indawo okanye kulungiswe. Isicelo esinjalo masifakwe ngendlela eyamkelekileyo yaye kufuneka sikhathshwe yimali efanelekileyo nekuvunyelweneyo ngayo. 40 45

(2) Sakufumaneka isicelo esinjalo, isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke sinakho—

- (a) ukungayivumeli yonke loo nto sijike sinike izizathu sokwala kwaso, okanye
- (b) ukuba isicelo esifakiweyo siyaxhaswa kufuneka, ngokumalunga necandelwana (3) makuqaliswe ngenkqubo yesicwangciso okanye kunikwe ixabiso lokurheshayo ngokuya kumisa kwenye indawo, ngokuvala, okanye ngokulungisa okanye ngezilungiso ezibhekiselele kwicandelo 12 okanye 14. 50

(3) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke sinakho ukufuna kulowo ebefake isicelo zonke iindleko ezimalunga nesicelo esifakiweyo nezenkqubo yesicwangciso ekucamngcwayo ngayo kwicandelwana (1) nakwicandelwana (2)(b). 55

Isigqibo esithathwa sisiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke

16. (1) Emva kokuthathela ingqalelo amagqabantshintshi kunye nozathuzo oluphuma kwicandelwana 12(5) necandelwana (6), isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka sizithathele ingqalelo iingxelo ezivela kwisicwangciso sentsha, emele ukumiswa kwenye indawo okanye emele ukulungiswa indlela okanye uyilo lwezibonelelo zothutho okanye sokuvala nokurhoxiswa kwesibhengezo yaye naziphi na iingxelo eziphuma kwinkqubo yolawulo lokusingqongileyo, kumagqabantshintshi nakulo uzathuzo. 5

(2) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka ngeentsuku ezili-180 zokufumaneka kwazo zonke iingxelo nama-gqabantshintshi ekujoliswe kuwo kwicandelwana (1) siqhubele phambiki nokuba: 10

(a) kungesibhengezo, kungokuya kumiswa kwenye indawo, zezilolunye uhlobo okanye kungokuvalwa kwezibonelelo zothutho, apho ke, phambi kokuba kuqaliswe ngeenkqubo eziphantsi kwecandelo 18, isigqibo sokukhutshwa kwesibhengezo esinjalo masipapashwe masipapashwe kwiphephanda elinye ngolwimi ngalunye oluthethwa kuloo ndawo nakwi*Gazethi*, yaye izimemo zokubhena emazingeniswe zavumela ixesha eliziintsuku ezingama-30 emva kosuku lokupapasha; okanye 15

(b) kukurhoxiswa kweenjongo zokubhengeza, zokumisa kwenye indawo, zokulungisa okanye zokuzivala izibonelelo zothutho, kwimeko enjalo ezo zigqibo mazipapashwe masipapashwe kwiphephanda elinye ngolwimi ngalunye oluthethwa kuloo ndawo: nakwi*Gazethi*. 20

(3) Iingxwabangxwaba ngesibhengezo ekuthethwa ngaso kwicandelwana (2)(a) neyona mibandela ikhethekileyo iphuma kwinkqubo yesicwangciso nakwiingxelo eziye zafunyanwa ngabanomdla nabo bachaphazelekayo kubhekiswa kubo kwicandelwana 12(5) nakwicandelwana (6) nakwicandelwana 14(3) nelesi-() zingasiwa kwisiphathamandla sezibonelelo zezithuthi zikawonke-wonke ukuze kujongwane nazo kwinkqubo yezibheno elungisiweyo kwicandelo 65, apho iingxwabangxwaba ezinjalo kunye nemibandela kumele ukwenziwa izigqibo ngayo. 30

Imimiselo yeendlela zokhusela lwezibonelelo zothutho

17. (1) Ukususela ngomhla omalunga nesigqibo sokubhengezwa kwentsha, kwemiswa kwenye indawo okanye kwemayilungiswe indlela okanye uyilo lwezibonelelo zothutho njengoko kupapashiwe malunga necandelo 16(2)(a) zide zibe zizalisekisiwe zagqitywa izibonelelo zothutho, yaye ngaphandle kwamagatya awo nawuphi na umthetho ongomnye— 35

(a) akukho sicelo, sokwakhiwa kwelokishi, okanye samacandelwana omhlala, nakweyiphi na indlela yokutshintshwa komhlaba osetyenziswayo, ngokubhekiselele nakowuphi na umthetho okanye isikumu socwangciso lwedolophu okanye salo naluphi na ugunyaziso olucetywayo kwi-NEMA, sinakho ukwamkelwa— 40

(i) malunga nemida yeendawo ezigciniweyo kwindawo egciniweyo yezibonelelo zothutho ebhengeziweyo kanye ekukho izigqobo zokuba mayibhengezwe; okanye

(ii) malunga nokufikelela kwizibonelelo zothutho ezikwindlela ekuthethwa ngayo okanye indlela eza kumiswa ngayo ngaphandle kwemvume ebhaliweyo kagunyaziwendela okanye wezithuthi zikawonkewonke; 45

(b) amacandelo 41 kude kuyiwe kwelama-49, elama-55 nelama-56 asebenza kunye neenguquko ezifunekayo kwindawo ekungafunekiyo ukuba kwakhiwe kuyo eseke ikho ngenxa yeendawo ezigciniweyo zothutho ezibhengeziweyo okanye ezisaza kubhengezwa; yaye 50

(c) nangona amatya ecandelo 49 engamelani nnesicelo sokutshintshwa kwendlela yokusetyenziswa komhlaba malunga nendawana yomhlaba kumgama ongama-250 eemitha kwicala elikufutshane yaye ecaleni komda wendawo egciniweyo yezibonelelo zothutho kummandla osedolophini, oko kungamkelwa engekho amagqabantshintshi abhaliweyo esiphathamandla sezibonelelo zezithuthi zikawonke-wonke okuba makufumaneke wona kuqala ukuze aqwalaselwe ngokumalunga nenkqubo yesicwangciso esetyenziswayo sisiphathamandla esixhotyisiweyo ngokuza neenguguko 55

ekusetyezisweni komhlaba, zinguquko ezo kufuneka ziqwalasele loo magqabantshintshi.

(2) Emva kwesigqibo ekucingwe ngaso kwicandelo 16(2)(a), nesithathiweyo sisiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke yaye ngaphandle kwawo mawuphi na umthetho ongomnye, akakho umniki-nkonzo unakho ukubeka, ukwakha, ukuguqula okanye ukongeza naluphi na uluhlu lemibhobho, iingcingo zombane ezihamba phantsi komhlaba, iingcingo zefowuni okanye nantoni na, ngaphezulu nangaphantsi kwendawo ekwalapho kwimida yendawo egciniweyo yezibonelelo zothutho okanye kungakhiwa, kutshintshwe okanye kongezwe nakwisiphi na isakhiwo, nokuba sinjani na, ngaphezulu okanye ngaphantsi kwendawo enjelo, ngaphandle kokuba:

- (a) ukuba kukho imvume ebhaliweyo yesiphathamandla sendlela okanye sezibonelelo zothutho efunyenweyo yaye ngokumalunga neemeko ezinjalo ngokwendlela esinokugqiba ngayo isiphathamandla;
- (b) ngokubhekiselele kwezikhoyo iinkonzo ezibhalisiweyo; okanye
- (c) phantsi kwegunya lokufikelela emhlabeni onikezelwe ngumnini wawo emva kwentlawulo, gunya elo likhutshwe sisiphathamandla sezibonelelo zezithuthi zikawonke-wonke okanye sendlela.

Ukubhengezwa kwezibonelelo zothutho sisiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke

18. (1) Ngokokugqitywa kwenkqubo yesicwangciso ebisenziwa malunga nesiGaba 3, isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke sinakho, ngokumalunga necandelwana (5), ngesaziso esikwi*Gazethi* yaye esikhatshwa sisaziso esikwiphephandaba elinye esibhalwe ngolwimi ngalunye olusemthethweni olusetyenziswayo nguwonke-wonke kuloo nqila, singabhengeza ukuba—

- (a) kuza kubakho ebhengeziweyo indlela, umzila kaloliwe, ezinye izibonelelo zothutho ezisemacaleni, ukuba oko kunokwenzeka ngokubhekiselele kwisicwangciso esipapashiweyo kunye nendawo egciniweyo;
- (b) indlela esele ikho nebhengeziweyo okanye umzila woololiwe okanye ezinye izibonelelo zothutho ziya kumiswa kwenye indawo okanye zitshintshwe ngokubhekiselele kubude bexesha lesaziso;
- (c) indlela esele ikho nebhengeziweyo okanye umzila woololiwe, uya kuvalwa unaphakade ngokubhekiselele kwixesha elibekiweyo kwisaziso; okanye
- (d) indawo egciniweyo yomkhondo wokuqala wendlela okanye yomzila woololiwe okanye yezinye izibonelelo zendlela, mkhondo wendlela leyo ufudusiweyo okanye utshintshiweyo phantsi komhlathi (b) uya kuhlala ulawulwa sisiphathamandla okanye ugqithiselwe ukuba ube ngowomnye umntu okanye, ngokwesigqibo sikagunyaziwe wendlela okanye wezibonelelo zezithuthi zikawonke-wonke.

(2) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke singanakho, ngokwecandelwana (3), ngesimemezolo esikwi*Gazethi*, ukulurhoxisa ubhengezo olukhutshwe phantsi kwecandelwana (1) emva kokuba siqalise inkqubo yesicwangciso esebenzayo ngokubhekiselele kwicandelo 14 apho ukurhesha korhoxiso olo lwesibhengezo sezibonelelo zothutho zithathelwa ingqalelo.

(3) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke singanakho; ngesaziso esikwi*Gazethi*, ukudlilisa igunya, amalungelo, uxanduva omaluthwalwe okanye ubunini bendlela, bomzila woololiwe okanye ezinye izibonelelo zothutho ngokwenxalenye yamaguinya aso athile okanye ngokwegunya elipheleleyo kwesinye isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke, ngokwesivumelwano esiphakathi kwamagela, apho imisebenzi ethile isenokuqaliswa phambi kodluliselo.

(4) Apho isiphathamandla sendlela kamasipala okanye sezibonelelo zezithuthi zikawonke-wonke sinomnqweno wokubhengeza indlela, umzila kaloliwe okanye ezinye izibonelelo zothutho, apho sona sifuna ukuba nnesivumelwano nomPhathiswa, apho inkxaso-mali iza kuvela kwiPhondo ngenxa yenkcitho eyenziweyo, umasipala kuqala makafake isicelo kumPhathiswa ukuze ukubhengeza oko kwamkelwe, yaye ukuba oko akwamkeleli, makudluliselwe kumPhathiswa kunye namagqabantshintshi ahamba nokungamkeleli, makubekho nekopi yesaziso eso besipapashiwe.

(5) Isaziso esikhutshwe phantsi kwecandelwana (1) kufuneka, kwisibonelelo ngasinye sezothutho esibhengeziweyo:

- (a) sichaze ukuba isiphathamandla sendlela okanye sezibonelelo sezithuthi zikawonke-wonke, somzila woololiwe sikweliphi na icandeli likarhulumente;
- (b) makunikwe inkcazelo ngohlelo malunga necandelo 6 malunga nendlela okanye nomzila woololiwe kunye necandelo 5(1) okanye icandelo (2) ngokumalunga nezibonelelo zothutho ezisecaleni; 5
- (c) makubekho inkcazelo ngobubanzi bendawo egciniweyo okanye ngokwandiswa kwayo ngokubhekiselele kwicandelo 7(1) ngokumalunga nendlela okanye nomzila woololiwe okanye necandelo 8(6) ngokumalunga nezibonelelo zezithuthi ezisecaleni;
- (c) makunikwe inkcazelo ngendawo, ngomkhondo wendawo egciniweyo yendlela, yomzila woololiwe okanye yoyilo lwezinye izibonelelo zothutho ezichaphazelekayo ngendlela yesicwangciso esiyiliweyo nesiqho-tyoshelweyo apho kwisaziso, ekufuneka sicacisile ukuba kusekho iinkcukacha ezifumanekayo ezinokuhlolwa kwindawo nangexesha elikhethiweyo kwisaziso eso. 10 15
- (6) Apho indlela ebhengeziweyo, umzila woololiwe okanye ezinye izibonelelo zothutho zifudusiweyo okanye zitshintshiweyo, ukufuduswa okanye utshintsho lwakuthathwa njengendlela ebhengeziweyo, okanye njengomzila kaloliwe okanye njengezinye izibonelelo zothutho zohlelo olukwafanayo nalo lusetyenziselwe efudusiweyo okanye etshintshiweyo kwangoko indlela, umzila woololiwe okanye ezinye izibonelelo zezithuthi zikawonke-wonke, phambi kokubhengezwa kofuduso okanye kotshintsho. 20

ISIGABA 4:

IINKQUBO ZOKUVALWA KWEZIBONELELO ZOTHUTHO

Ukuvalwa ngonaphakade kwezibonelelo zothutho 25

19. Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka, phambi kokuba ivalwe ngci indlela, umzila woololiwe okanye ezinye izibonelelo zothutho, masimise—

- (a) isaziso kuloo ndawo ivaliweyo, okanye esiphelweni ngasinye sendawo evaliweyo, apho kwaziswa uluntu ngezizigqibo ezithathiweyo zokuvalwa indlela leyo ngonaphakade; kanaanjalo 30
- (b) makumiswe imiqondiso yeendlela efanelekileyo neempawu ezilumkisiyo eluntwini ngokuvalwa oko, yaye xa kufuneka abasebenzisi bendlela leyo mabanikwe isikhokelo re-directing users to the alternative route, if applicable.

Ukuvalwa kwendlela okwexeshana okanye ukuphambukiswa kwendlela okanye komzila woololiwe 35

20. (1) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke singanakho ukuvala okwexeshana, singathintela okanye silawule ukusetyenziswa okanye ukuphambukiswa kwendlela okanye okomzila woololiwe apho ongugunyaziwe lowo wendlela okanye wezibonelelo zezithuthi zikawonke-wonke okanye nayiphina indawo elapho— 40

- (a) ngeenjongo okanye ngokuxhomekeka kwisakhiwo, ekuphindeneni kwakhiwe, ekubuyiselweni kwimo yangaphambili, ekulondolozeni okanye ekulungiseni;
- (b) ngeenjongo okanye ngokuxhomekeka kwisakhiwo, ekumisweni kwesakhiwo, ekubekweni, ekwandisweni, ekulondolozeni, ekulungiseni okanye ekudilizweni kwaso nasiphi na isakhiwo, kuyilo, emisebenzini okanye kwinkonzo ekhoyo, phezu, ngaphaya, kuyo, ngaphezulu okanye ngaphantsi kwenjalo indlela okanye umzila woololiwe okanye indawana elapho; 45
- (c) ngenxa yesiganeko okanye yomcimbi woluntu ofuna imilinganiselo ethile yokulawulwa kwezithuthi okanye amalungiselelo athile okwamkelela apho izihlwele; 50
- (d) ngaso nasiphi na isizathu esifuna imfuneko yesenzo esinjalo; okanye
- (e) ngenxa yesicela sakhe nawuphi na umntu okanye nasiphi na isiphathamandla.

(2) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka sibuyekeze umnini-mhlaba nangantoni na eyonakalisiweyo esisiphumo soko bekusenziwa phantsi kweli candela ngemali engadlulanga kweyona lahleko imchaphazeleyo umnini-mhlaba lowo, njengoko kubekho isivumelwano phakathi 55

konini lowo kunye nesiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke, okanye ngokwendlela ekugqitywe ngayo phantsi komThetho wokuHlutha.

(3) Nangaliphi na ixesha indlela okanye umzila woololiwe okanye indawana nje ivalwa okanye iphambukiswa ngokumalunga neli candelo, isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka simise sijike silondolozwe iimpawu nemiqondiso efanelekileyo ebonisa ukuba kuvaliwe okanye kuyaphambukwa esiphelweni ngasinye secala elivaliweyo okanye eliphambukisiweyo, oko kwenziwe kwifom eyamkelweyo nangendlela eyamkelekayo, kangangexesha lokuvalwa oko okanye lokuphambukiswa kwezithuthi. 10

(4) Ngokumalunga namagatya omThetho oKhuthaza uLawulo lobuLungisa, isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka, phambi kokuba kuvalwe okwexeshana okanye kuphambukiswe indlela okanye umzila kaloliwe, makwazise abantu abanomdla nabo bachaphazelekayo, yenze ukuba isaziso sipapashwe masipapashwe kwiphephanda elinye ngolwimi ngalunye oluthethwa kuloo ndawo zingaphelanga iintsuku ezisixhenxe phambi kokuba kuvalwe okanye kuphambukiswe izithuthi; saziso eso masiqulathe: 15

- (a) inkcazelo eziinkcukacha zokuvala okanye zokuphambukisa;
- (b) inkcazelo yobungakanani bexesha lokuvala okanye lokuphambukisa; kunye
- (c) isaziso esimema bonke abanomdla nabachaphazelekayo ukuba bayokwenza uzathuzo kwisiphathamandla. 20

(5) Nawuphi na umntu, ikhampani okanye isiphathamandla esithe, ngokubhekiselele kumhlathi (e) wecandelwana (1) ocele ukuba isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke masivale okwexeshana, masithintele okanye silawule ukusetyenziswa okanye ukuphambukiswa kwendlela okanye komzila woololiwe; makayokuhlalulela iindleko kwisiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke, njengoko kugqityiwe ngosemagunyeni, okuvala, okuthintela, okulawula okanye okuyiphambukisa indlela leyo, umzila lowo woololiwe okanye ezinye izibonelelo zothutho nokuthatha amanye amanyathelo okanye izilumkiso eziyimfuneko kulungiselelwa ukuba kusebenzeke kakuhle, nokuqinisekisa ngokhuseleko lwabo bayisebenzisayo indlela, umzila woololiwe okanye izibonelelo zezothutho. 30

Ukufuduka okanye ukuvala okungxamisekileyo

21. (1) Isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke singaqalisa ukuvala okanye siyiphambukise indlela, umzila woololiwe okanye ezinye izibonelelo zothutho kunye nokuphambukiswa kwezithuthi ngexesha elingxamisekileyo, malunga necandelwana (2). 35

(2) Apho ukuvala okanye ukuphambukiswa kufuneka kuqaliswe ngenxa yongxamiseko kuphinde oko kubonakale kuyingozi eluntwini, kwizakhiwo nemihlaba okanye kwizithuthi, isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke kufuneka: 40

- (a) xa imeko ivuma, masizazise iziphathamandla ezichaphazelekayo, apho iinkonzo zongxamiseko nokusekwa kwazo kuphantsi kwazo malunga naloo ndawo ichaphazelekayo ngenxa yoko kufuduswa okanye yoko kuvala ukuze kubekho uqhagamshelwano ngezinto ezenziwayo; 45
- (b) masigxumeke izilumkiso nemiqondiso esisikhokelo sendlela kwangethuba elifanelekileyo kungekafudukwa, izilumkiso mazazise uluntu ngemfuduko okanye ngokuphambukiswa kwezithuthi kuqinisekiswa ukuba ukhuseleko lwakubakhona.

Ilungelo loluntu lokusebenzisa indlela okanye umzila woololiwe ovaliweyo okanye omiswe kwenye indawo 50

22. Uluntu lungayisebenzisa indlela okanye umzila woololiwe okanye indawana ethile evaliweyo okanye emiswe kwenye indawo phantsi kwalo mThetho side isiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke sibonise ngeendlela ezicacileyo ukuba indlela okanye umzila lowo woololiwe uvaliwe ukuba ungasetyenziswa zizithuthi zoluntu. 55

ICANDELO 5:**AMALUNGISELELO OKUNCEDA NGEZIMALI NANGENKXASO****INgxowa-mali yezibonelelo zezithuthi zePhondo leNtshona Koloni**

23. (1) Ngokumalunga ne-PFMA, umPhathiswa unakho ukuseka ingxowa-mali eyaziwa njengeNngxowamali yeziBonelelo zoThutho kwiPhondo leNtshona Koloni, apho kuyo kufuneka kungeniswe— 5

- (a) imali ebekelwe iNngxowamali yiPalamente okanye liqumrhu loWiso-mthetho lwePhondo;
- (b) inzala kumncono wezimalini ezikwiNngxowamali;
- (c) nazo naziphi na iirhafu okanye intlawulo, irenti okanye okanye ezinye iimali ekufuneka zihlawulwe kwiPhondo ngokumalunga nalo mThetho; 10
- (d) ngaphandle kweminya imithetho, izohlwayo ezihlawulwa ngabantu ngenxa yolwaphulo-mthetho phantsi kwamo mThetho, kunye nezinye nje izohlwayo zokona;
- (e) iimali ezifunyanwayo njengeegranti okanye izipho okanye ziphuma nakowuphi na umthombo, ngaphakathi okanye ngaphandle kwePhondo okanye kweRiphabhlikhi; kunye 15
- (f) naziphi na ezinye iimali ezihlawulwa kwiPhondo phantsi kwalo mThetho.

(2) Nangona izizibonelelo zomThetho weToll Roads, 199 (umThetho 11 wowe 1999) iimali ezifunyenwe ngentlawulo okanye ingeniso efunyenwe ngokumalunga naloo mThethi zingahlawulwa kwiNngxowamali. 20

(3) UmPhathiswa nguye olawula iNngxowamali ukuze ahlawulele zonke iindleko ezenziweyo ethatha kuyo, kumalunga nokuthatha kwakhe amagunya, amatheko kunye nomsebenzi ojongene nomPhathiswa malunga nalo mThetho, yaye umPhathiswa ngokubona kwakhe, naphantsi kweemeko angagunyazisa ukuba: 25

- (a) angazibhatala iindleko zoomasipala ezibhekiselele ezindleleni ezibhe-ngeziweyo, kwimizila yoololiwe okanye kwizibonelelo zothutho ezizezinye; yaye
- (b) kungaqaliswa ngophengu-phengululo okanye uphando okanye kubonelelwe ngoqeqesho kwimisebenzi yeendlela, yemizila yoololiwe kunye nezinye izibonelelo zothutho. 30

(4) Qho ngonyaka umPhathiswa kufuneka angenise kwi-Ofisi kaNondyebo kwinqanaba lePhondo yonke ingqikelelo yenkcitho emayihlawulelwe ngokuthatha imali kwiNngxowamali, yaye kusenokungafuneki ukuba makenze intlawulo esuka kwiNngxowamali ngaphandle kokuba kumalunga naloo ngqikelelo ngokwamkelwa phofu yi-Ofisi kaNondyebo wePhondo, noxa kunjalo ingqikelelo ehlaziyiweyo ingangeniswa ukwenzela ukuba yamkelwe ngokuhamba kwamaxesha. 35

(5) UmPhathiswa angatyala imali kwiNngxowamali, mali leyo ingazokusetyenziswa kwamsinyane ngokumalunga ke nomThetho onguNombolo 23 ka-2004 we-Public Investment Corporation okanye nalo naliphi na iziko elamkelweyo ngembalelwano yi-Ofisi kaNondyebo kwiPhondo. 40

(6) UmPhathiswa kufuneka agcine ii-akhawunti ezifanelekileyo zemali yonke eyongezelekayo okanye engeniswayo kwiNngxowamali, mali leyo kufuneka iphicothwe ngokwasezincwadini nguye umPhicothi-zincwadi Jikelele.

(7) UmPhathiswa kufuneka avule i-akhawunti ebhankeni yeNngxowamali leyo, yahlukile kwii-akhawunti zebhanka zeNngxowamali yeNgeniso yePhondo, akhawunti leyo mayibhaliswe kwiziko lezimali esele libhalisiwe laza lamkelwa yi-Osisi kaNondyebo kwiPhondo. 45

(8) Eli candela alizokusetyenziswa kude kubekho ukwahlulwa nokukhutshwa ezimalini kwiNngxowamali leyo, zahluke kwezo mali zeNngxowamali yeNgeniso kwiPhondo, oko kwakelwa yiPalamente yeSizwe ngokubhekiselele kwicandelo 226(1) lomGaqo-siseko. 50

Amalungiselelo enkxaso noomasipala

24. (1) Apho umasipala azimisele ukungenelela kwisivumelwano senkxaso ekunye nomPhathiswa, malunga nezibonelelo zothutho afuna yena ukuzibhengeza, kuyafuneka, phambi kokuqaliswa kwesicwangciso seprowujekhthi ngokubhekiselele kwisiGaba sesi-3, afake isicelo kumPhathiswa ukuze kwamkelwe iinjongo zakhe zokubhengeza izibonelelo zothutho ezinjalo. 55

(2) Apho indlela kamasipala yayifumana imali kwiPhondo, mhlawumbi kunikezelwa ngenxakenye ethile okanye kuhlawulwa yonke into; kwangoko phambi kokuba uqaliswe lo mThetho, indlela enjalo iya kusoloko iluzuzo olo ncedo lwenkxaso luvela kwiPhondo.

(3) Apho indlela indlela enkulu, yezithuthi zikawonke-wonke, icandelo lendlela, indlela engabalulekanga; iphantsi kwegunya lePhondo; ibe ngoku idluliselwa kumasipala ngokwesivumelwano esibhekiselele kwicandelo 36; esi siGaba naso siya kusebenza, njengoko kwamkelekile kwimimiselo yesivumelwano.

(4) Umasipala angafaka isicelo kumPhathiswa ngendlela eyamkelekileyo esenzela nayiphi na ebhengeziweyo indlela kamasipala, umzila woololiwe okanye ezinye izibonelelo zothutho ukuze ayifanele ukuyifumana inkxaso yephondo yaye, ukuba umPhathiswa uyavuma makwenziwe izigqibo ngenkxaso phakathi kwePhondo nomasipala.

(5) Inkxaso ekhutshwa liPhondo ngeendlela zikamasipala ezibhengeziweyo, ngemizila yoololiwe nangezinye izibonelelo zothutho; zonke kufuneka zisithobebe esi siGaba.

(6) UmPhathiswa angagunyazisa ngohlobo lwesivumelano, esiya kubandakanya inkxaso yesakhiwo kunye nenkxaso yomsebenzi okanye yolondolozo ngokwahlukileyo, makubekho izigqibo phakathi kwePhondo nomasipala ngokubhekiselele ekubeni yeyiphi kanye inkxaso ehlawulwa liPhondo inika umasipala ukuba makwakhiwe, makulondolozwe kujike kulawulwe ebhengeziweyo indlela okanye umzila woololiwe okanye ezinye izibonelelo zothutho, okanye iqela leendlela ezibhengeziweyo okanye imizila yoololiwe okanye ezinye izibonelelo zothutho.

(7) Ngenjongo yenkcitho yenkxaso njengoko kuvunyiwe ukuba mayibangwe ngoomasipala kwiindlela ezinikwa inkxaso, kwimizila yoololiwe nakwezinye izibonelelo zothutho; mazahlulwe zibe yile misebenzi ilandelayo, njengoko zinakho ukwamkelwa ngokweenkcukacha ngokubanzi:

- (a) xa kusakhiwa;
- (b) kulondolozo olunjalo okanye kulungiso njengoko kungenzeki, kwezam iibono, ukuba umPhathiswa makatshintshe ukunyuka okanye ukuxwesa kwendawo esendleleni okanye ekwisibonelelo esinjalo;
- (c) ekulungisweni komphezulu weendlela;
- (d) ekugxunyekweni kweengcingo;
- (e) ngokwembuyekezo eyintlawulo eyenziwe malunga necandelo 23(3); okanye
- (f) mali leyo, ngokweembono zomPhathiswa kwanyanzeleka ukuba isetyenziswe kwisicwangciso esasifuneka ukuze kuqinisekwe ngeyona ndlela ifanelekileyo nendawo egcinekileyo yendlela okanye yomzila woololiwe okanye yoyilo lwendawo egciniweyo yezinye izibonelelo zothutho nekukho isindululo sokuba mazakhiwe ngokwasemagunyeni.

Ingcikelelo yenkcitho ngeenjongo zenkxaso

25. (1) Lungagqithanga usuku lokuqala lwenyanga u-Oktobha kunyaka ngamnye, wonke umasipala onezibhengeziweyo nezifumana inkxaso iindlela, imizila yoololiwe nezinye izibonelelo zothutho kwindawo yakhe makanikezele kumPhathiswa ukuze afumane ukwamkeleka yonke ingqokelelo yenkcitho yonyakamali olandelayo; ngqikelelo leyo iyeyeendlela ezinenkxaso, iyeyemizila yoololiwe okanye iyeyezinye izibonelelo zothutho apho isisiphathamandla sendlela okanye sezibonelelo zezithuthi zikawonke-wonke esenza ubango lwenkxaso leyo ngokubhekiselele kulo mThetho kwindawo yaso, oko makwenziwe kwifom eyamkelweyo ngumPhathiswa.

(2) Xa umasipala esilela ekunikezeleni ngale ngqikelelo okanye loo nto engayenzi ngexesha elifanelekileyo, umPhathiswa angayinciphisa inkxaso enikwa umasipala lowo ngemali ethile ekugqitywe ngayo ngumPhathiswa.

(3) Ekwamkeleni nayiphi na ingqikelelo, umPhathiswa anganakho, ukutshintsha okanye ukucima nasiphi na isindululo senkcitho ngokucebisana nomasipala lowo uchaphazelekayo, oko kungenzeka ngenxa yaso nasiphi na isizathu esaziwa ngumPhathiswa.

(4) Umasipala angangenisa izindululo zezilungiso zengqikelelo enjalo kumPhathiswa nangaliphi na ixesha ecela ukuba zamkeleke.

Isigqibo senkxaso malunga nomsebenzi, nolondolozo kunye nenkcitho yezinto zexabiso ezihlala iminyakaka emininzi

26. (1) Apho umasipala angene ezindlekweni ngenxa yezibhengeziweyo iindlela, yemizila yoololiwe okanye ngenxa yezibonelelo zothutho ezizezinye ngokuvumelana nomPhathiswa, umPhathiswa makabhatale ngokwenkxaso ebalwe ngolu hlobo: 5
- (a) kwinkcitho yezinto zexabiso ezihlala iminyaka emininzi—
- (i) ipesenti yenkcitho ekwakhiweni kweendlela okanye kwemizila yoololiwe, oko kuquka neendleko zokuzenza banzi iindlela okanye imizila yoololiwe okanye ukutshintshwa koyilo lwezibonelelo zothutho ezizezinye nokufunyanwa kwemihlaba kunye nezakhiwo ukuze kwandiswe indawo egciniweyo yezo zibonelelo zothutho, njengoko enze izigqibo umPhathiswa, kungenzeka oko ngokwesiqhelo okanye ngendlela ekhethekileyo, kunye 10
- (ii) nepesenti yenkcitho yokutshintsha, yokuphambukisa okanye yokususa, ethe yafuneka ekwakhiweni kwendlela, komzila woololiwe okanye kwezinye izibonelelo zothutho, kwawo nawuphi na umbhobho, isibonda sezaziso, umgangatho, ucingo, ucingo lombane, umbhobho weengcingo zombane okanye umsele, umjelo ohamba phantsi komhlaba wamanzi amdaka edolophu, izixhobo ekusetyenzwayo ngazo, umsebenzi, isixhobo esisetyenziswa ngumasipala esenzela inkonzo ethile, njengoko egqibile umPhathiswa, mhlawumbi ngokuqhelekileyo okanye ngendlela ekhethekileyo ethile. 15
- (b) Kwinkcitho yomsebenzi neyolondolozo, ipesenti iza kwamkeleka yaye inakho ukwahluka ngenxa yeendidi zeendlela, zemila yoololiwe neyezibonelelo zothutho ezizezinye. 20
- (2) Ipesenti yenkxaso malunga nenkcitho yezinto zexabiso ezihlala iminyaka emininzi, inkcitho yezinto zokusebenza kunye nenkcitho yokulondoloza izithuthi zikawonke-wonke ngokupheleleyo ezisebenza kanye kwindawo egciniweyo yendlela enkulu, yendlela enguhola, yendlela yesithili okanye inkcitho yendlela engabalulekanga; oko kungahluka kwinkxaso ekhutshelwa indlela esendaweni ethile, oko kungaxhomekeka kwisigqibo somPhathiswa. 25
- (3) Akukho nkxaso iza kubhatalwa nayiphi na imbuyekezo eyenzelwe ukuhluthwa komhlaba onxulumene neendlela, nemizila yoololiwe kunye nezibonelelo zothutho ezizezinye ezibhengezwe phantsi kwalo mThetho nalapho inkxaso ibhatalwa liPhondo ngaphandle kokuba— 30
- (a) bekufumaneke imvume ebhaliweyo evela kumPhathiswa malunga nokuhluthwa komhlaba lowo phambi kokuba ube uhluthiwe, yaye 35
- (b) umPhathiswe uvumile ngembalelwano ukuba uya kubhatala esenza imbuyekezo xa bekukho isivumelwano phakathi komasipala nomnini-mhlaba. 40

Inkxaso ehamba nobungakanani benkcitho kwingqikelelo evunyiweyo

27. (1) UmPhathiswa makenze izigqibo ngomasipala ngamnye, emva kokuqwalasela ingqikelelo ekucamngciweyo ngayo kwicandelo 25, yaye malunga ne-PFMA, inkxaso yamkelelwa ukuthenga izinto zexabiso ezihlala iminyaka emininzi, yenkcitho yokusebenza nokulondoloza izixhobo zokusebenza. 45
- (2) UmPhathiswa angagunyazisa ukuba makubekho uchatha kwinkxaso kusenzelwa inkcitho enjalo nevunyiweyo ekwadwelisiweyo kwicandelwana (1).
- (3) Ekwenzeni izigqibo zokuvumela ukunyuswa kwenkcitho kwizinto zexabiso ezilala iminyaka emininzi, kwinkcitho yezinto zokusebenza okanye ezokulondoloza, umPhathiswa angayalela ukuba nayiphi na into okanye nayiphi na inxalenye yenkcitho enjalo ayinakuyifanela inkxaso phantsi kwalo mThetho. 50
- (4) Xa evumela inkcitho phantsi kwelicandelo, umPhathiswa angazinyanzelisa iimeko ezinjalo ezinxulumene nenkcitho ekwinkxaso ekuthethwa ngayo kanye ngendlela yena mPhathiswa abona ngayo.
- (5) Akukho masipala unakho ukugqitha kwinkxaso yenkcitho evunyelwe phantsi kweli candela ngaphandle kwemvume ebhaliweyo ngumPhathiswa, yaye xa umasipala egqithisa kwinkxaso, umPhathiswa anganakho ukuyicutha inkxaso enikezelwayo kweso siphathamandla, ubungakanani bemali ecuthwayo bungaxhomekeka kwisigqibo somPhathiswa. 55

(6) Inkxaso ebhatalawa kumasipala ikhutshwa kuba kuxhaswa iindlela okanye imizila yoololiwe iyakuba yimali yonyaka ekugqitywe ngayo ngumPhathiswa, ngokuqwalaselaazi zinto—

- (a) ingqikelelo yenkcitho engenisiweyo ngokubhekiselele kwicandelo 25;
- (b) ipesenti eyimbumba enyuswa ngonyaka kwingeniso epheleleyo kamasipala ngexesha eliphakathi koonyakamali ababini abalandela kwangoko kumasipala lowo; kunye
- (c) nezinye iimeko abonayo yena mPhathiswa ukuba zinxulumene noko.

Irenti, intengiso nenye ingeniso evela emhlabeni efumaneke ngenxa yenkxaso

28. (1) Apho umasipala afumene umhlaba ngokusebenzisa inkxaso ayifumene kwiPhondo, yaye kugqitywe ngengqeshiso, ngentengiso okanye ngesinye isivumelwano esinxulumene nayo nayiphina indawo engasetyenziswanga okanye isakhiwo kuloo mhlaba, makuhlawulwe ingeniso esele kutsaliwe kuyo esuka kuloo ngqeshiso, ntengiso okanye kweso sivumelwano, yaye nayiphina ingeniso efumanekayo kuloo mhlaba, isiya kwiPhondo ngokomndilili wenkxaso eyenziwa ngokufumaneka kwawo, ngokubhekiselele kwicandelwana (2).

(2) Xa umhlaba onjalo usendaweni kamasipala wakwalapho:

- (a) Indawo yezoThutho yesiXeko esiKhulu ebhengezwe phantsi komThetho wezoThutho kuHlangothi lweeDolophu, inkqubo yengqeshiso enjalo, yentengiso okanye yezinye izivumelwano somPhathiswa iya kuhlululelwa kwi-Consolidated Metropolitan Transport Fund eyasekwa yi-Core City ebhengeziweyo, okanye
- (b) INdawo yezoThutho ebhengezwe phantsi kwe-NLTTA, tinkqubo yengqeshiso enjalo, yentengiso okanye yesinye isivumelwano somPhathiswa iya kubhatalwa kweso siphathamandla sezothutho.

Umyinge wepesenti owenziwe walingana wenkxaso yenkcitho eyikapitali

29. (1) Wonke umasipala kufuneka, phambi kokuqalisa ukwakha, apho kuhlululelwa khona okanye kunikezelwa ngenkxaso yomsebenzi ngokumalunga nalo mThetho, makangenise kumPhathiswa ingqikelelo eneenkcukacha zenkcitho, yahlulwe ngokwamacandelo axhasiweyo nangaxhaswanga, yaye umPhathiswa makalinganise umyinge wepesenti enxulumene noko esebenzayo ngokumalunga nesakhiwo eso.

(2) Inkxaso yenzala nezavenga ezifezekisiweyo zayo nayiphi na imbolekomali eyenziweyo ngemvume yomPhathiswa ngenjongo yokwakha ekucingwa ngayo kwicandelwana (1) makuhlawulwe ngokwepesenti elinganisiweyo nekucamngciweyo ngayo.

(3) Sakugqitywa isakhiwo ekucingiweyo ngaso kwicandelwana (1), isiphathamandla sendlela okanye esezibonelelzo zezithuthi zikawonke-wonke kufuneka singenise ingxelo ebhaliweyo seyona nkcitho, yahlulwe ngokwemisebenzi efanele inkxaso naleyo ingayifumenanga, incitho ekungenwe kuyo malunga neso sakhiwo, mayingeniswe kumPhathiswa onakho, ukuba ingqikelelo ecamngcwayo kwicandelwana (1) kumkiwe kuyo, makuhlaziywe kuze kutshintshwe umyinge wepesenti elinganisiweyo ekucamngcwayo ngayo kwelo candelwana.

Igalelo elivela kweminye imithombo

30. Naxesha liphi na kukho inkcitho ehambelana nenkxaso okanye malunga nendlela, nomzila kaloliwe okanye nezinye izibonelelo zothutho yaye kuhlululelwe inxalenye yenkxaso okanye inkxaso ihlawulwe yonke ngokwegalelo lomnye umthombo, ngaphandle komasipala ochaphazelekayo okanye kwePhondo, yiloo ndawana yenkcitho kanye njengokoingabhatalwanga, yiyo eya kuyifanela inkxaso.

Ukuhlawulwa kwenkxaso

31. (1) Inkxaso ebhatalwa phantsi kwalo mThetho iya kubalwa ide isondele kwiwaka elikufutshane yaye iya kubhatalwangonyaka emva kokuphela konyakamali ezijongene nawo ezo ntlawulo, ngokungeniswa kobango ngumasipala ngendlela acwangcise wazawagqiba ngayo umPhathiswa.

(2) UmPhathiswa anganikezela ngoncedo lwezimali, kungafakwanga nzala, malunga nenkxaso, ukuba ubungakanani bemali yoncedo olo lunikwa umasipala ngalo naliphi na

ixesha lonyakamali; ayigqithi kwii pesenti ezingama-90 semali eqikelelweyo yenkxaso enikwa umasipala lowo kuloo nyakamali, yaye ulungiso olufunekayo lwenziwa kwintlawulo xa kubhatelelwa ubango olo kusenzelwa inkxaso ephantsi kwecandelwana (1).

(3) UmPhathiswa angayithoba imali yenkxaso enikwa umasipala xa yena mPhathiswa ethathela ingqalelo into yokuba— 5

(a) wonke umsebenzi khange wenziwe ngendlela eyanelisayo; okanye

(b) khange kufikelelwe kwixabiso layo nayiphina imali echithiweyo.

Imibhalo egciniweyo yenkcitho yezeendlela, yemizila yoololiwe okanye yezinye izibonelelo zothutho 10

32. Wonke umasipala ofumanayo okanye ofaka isicelo senkxaso yePhondo, maxa onke kufuneka enazo zonke kunjalo zifumaneke ukuze zihlolwe; ngumPhathiswa, zonke iincwadi, imibhalo eselugcinweni, ii-invoyisi, ii-akhawunti namanye amaxwebhu anxulumene nayo nayiphi na inkcitho ekungenwe kuyo ngumasipala lowo okanye ngokumalunga neendlela, nemizila yoololiwe okanye nezinye izibonelelo zothutho. 15

Uchatha wenkxaso

33. (1) Ukuba inkcitho yonke iphelele ekungenwe kuyo nakowuphi na unyakamali ngumasipala malunga neendlela ezixhaswayo, nemizila yoololiwe okanye nezinye izibonelelo zothutho; ingaphantsi kwaleyo yamkelweyo njengenkcitho ethe ngqo kunyakamali wochatha lwenkxaso malunga nesiphathamandla eso, kwiimali ezinjalo kufuneka, emva kokutsalwa kwezimali ekucingwa ngazo kwicandelwana (2), mazibhatalwe kwiPhondo. 20

(2) Imali emayitsalwe kuchatha lowo iyakuba sisixa esilinganayo nemali efunyenweyo kweminya imithombo njengoko kucingwa kwicandelo 30.

Inkxaso yesicwangciso nokufunyanwa komhlaba 25

34. Ukongeza kuyo nayiphi na inkxaso ekhutshwa phantsi kwalo mThetho, umPhathiswa angahlawula kwisiphathamandla sendlela kamasipala okanye sothutho inkxaso ebalwa ngolu hlobo—

(a) kwiindleko ekungenwe kuzo ngenxa yesicwangciso ebesifuneka ngokumalunga nesiGaba sesi-3 ukuze kugqitywe ngeyona ndlela ifanelekileyo nendawo egciniweyo yendlela, yomzila woololiwe okanye yezinye izibonelelo zothutho nekucamngcwayo ukuba mazibhengezwe; kunye 30

(b) ngenkcitho ekungenwe kuyo ekufunyanweni komhlaba wokwakha nokulondoloza iindlela, umzila woololiwe okanye ezinye izibonelelo zothutho. 35

ISIGABA 6:

AMALUNGISELELO EXESHA LENGUQUKO

Uhlolo lweendlela ezikhoyo kwiPhondo

35. (1) Ngoko nangoko uqale ukusebenza lo mThetho umPhathiswa kufuneka ahlanganisane noomasipala kuhlolo lokuhlela zonke iindlela kwiPhondo phantsi kweentlobo ezibekwe kwicandelo 6. 40

(2) Zonke iindlela zezithuthi ezibhengeziweyo, iindlela zesithili, ngokwecandelwana (3), iindlela ezingabalulekanga, okanye iindlelana zoluntu ezibhengezwe ngokumalunga nomMiselo ekuqaliseni kokusebenza kwalo mThetho iya kuthathwa ngokuba yindlela yohlobo olufanelekileyo phantsi kwalo mThetho kwaye iya kuhlala phantsi kwezi meko eziphathelele kwisibhengezo sangaphambili de uludwe olucetywayo kwicandelo 11(1) lwenziwe, luvunywe kwaye lugqityezelwe. 45

(3) Ngokumalunga nomhla wokuqala kokusebenza kwalo Mthetho, zonke iindlela ezibizwa ngokuba “ziindlela ezahluliweyo” ezibhengeziweyo okanye ezithathwa ngokuba zibhengeziwe phantsi kwalo mMiselo iya kubizwa ngokuba “ziindlela zesithili” phantsi kwalo Mthetho. 50

(4) Izivumelwano ekufikelelwe kuzo phakathi kwaba balandela uhlobo phantsi kwecandelwano (1) mazisetyenziswe ekwenzeni iirekhodi ezicetywa kwicandelo 11.

(5) Apho ukuhlulwa kwendlela kusahluka kwiimeko ekuthe phantsi kwazo indlela yaqaliswa ukubhengezwa phantsi komMiselo kubandakanywa nobubanzi bomhlaba wayo obekwe bucala neendawo ezibekelwe izikhiwo, iimeko zokuqala ziya kusebenza kwindlela ehlelwe kanjalo ngaphandle kokuba igunya lendlela ekutshintshelwa kulo indlela ligqiba ngenye indlela, kwimeko apho inkqubo yokucwangcisa phantsi kwesiGaba 3 mayithathwe phambi kokubakubhengezwe phantsi kwecandelo 18. 5

Izivumelwano zodluliselo lweendlela ezibhengezwe phantsi kwalo mMiselo

36. (1) Apho kufanelekileyo, iPhondo noomasipala mazenze uthethathethwano lokukwabelana ngoxanduva lweendlela ezibhengeziweyo, ezinokubandakanya isivumelwano— 10

- (a) Ngokwamalungelo adluliselwayo aphahelele kwezo ndlela;
- (b) ngokwamalungiselelo ezemali nezibonelelo zeendlela ezinjalo;
- (c) kusekwa izivumelwano zeziko apho ugunyaziwe omnye eya kuba noxanduva lokuba okanye oluphethelwe kwiindlela eziphantsi kwelinye igunya, kunye okanye ngaphandle kwentlawulo; kunye 15
- (d) nawuphi na umcimbi ongomnye ekuthi ngawo abachaphazelekayo bawubone ufanelekile, ngokwalo mThetho.

(2) Ukudluliselwa kweendlela okwenziwa phantsi kwecandelwano (1) malubhengezwe ngesaziso kwiGazethi kwaye lukhatshwe sisaziso esipapashwe kwiphephanda elinye ngolwimi ngalunye oluthethwa kuloo ndawo.

(3) Umhlaba apho indlela edluliselwa komnye ugunyaziwe wendlela umi khona ingowomntu owudluliselayokuwo mawudluliselwe komnye ugunyaziwe ngaphandle kwendleko kwelinye iqela, ngaphandle kokuba iindleko zokudlulisela eziyakuba luxanduva lalowo odluliselayo. 25

(4) Nayiphi na indlela edluliselwa ngokubhengezwa ngokumalunga necandelwano (2) mayibandakanywe kuludwe olwenziwe phantsi kwecandelo 10 kunye nenguqulelo ezenziweyo.

Izibonelelo zodluliselo ezinxulumene nezaziso 30

37. (1) Nakuphi na ukwazisa okwamiswa okanye kwaboniswa ngomhla wokuqalisa ukusebenza kwalo mThetho okuthintelwayo ngulo mThetho kwaye ingeyisozaziso ekuthe ngaso indlela okanye ugunyaziwe wezibonelelo zezithuthi zikawonke-wonke lanika imvume, masisuswe zingaphelanga iintsuku ezingama 90 ekuqaleni kwaso.

(2) Ngokuxhomekeke kwicandelwano (3), icandelo 41(2) alisayi kusebenza kwisaziso esibonise ngokumalunga negunya elinikwe phambi komhla wokusebenza kwalo mThetho ngaphantsi komthetho, nanjengokuba isaziso sibonise ngokweemfuneko ezithi, ngokumalunga nelo gunya zisebenze okanye bezisebenza kufutshane nje naloo mhla. 35

(3) Isivumelwano esikhoyo okanye isivumelwano esiza kwenziwa phakathi komnini propathi naye nawuphi na umntu ongomnye ekuthe ngaso wavunyelwa loo mntu ukuba abonise isaziso kwipropathi ekuthethwa ngayo emi apho okanye ebonakalayo kwindlela ebhengeziweyo siya kuba nomhla wokuphelelwa ongekho ngaphezulu kweminyaka emithathu. 40

(4) Apho isaziso sibonisiweyo okanye simisiweyo ekuqaliseni ukusebenza kwalo mThetho, ngokumalunga nalo mThetho, asinakumiswa okanye sibonise ngaphandle kwemvume kagunyaziwe wezibonelelo zezithuthi zikawonke-wonke okanye naliphi na igunya elilinye, umnini saziso okanye umntu osiboniso okanye ovumela ukuba sibonise, kufuneka afake isicelo kwigunya lezibonelelo zezithuthi zikawonke-wonke zingaphelanga iintsuku ezingama 90 zokuqalisa kwaso, kungenjalo isaziso masisuswe kamsinya. 50

(5) Ukuba imvume ecetywayo kwicandelwano (3) ayinikwanga, isaziso masisuswe zingaphelanga iintsuku ezingama 30 emva kokufumana isaziso sokungaphumeleli kwesicelo, kwaye apho eso saziso siposiweyo ngeposi yerejista, obhalelwayo uya kuthathwa ngokuba usifumene emva kweentsuku ezisibhozo siposiwe. 55

Ezinye izibonelelo zodluliselo

38. (1) Upapasho, izaziso, iziqinisekiso, imimiselo kunye nemithetho yedolophu ekhutshiweyo, naluphi na ulawulo, imvume yalo naluphi uhlobo okanye igunya elinikiweyo naliphi na idinga elenziweyo okanye inyathelo elithathiweyo okanye into eyenziweyo okanye phantsi komthetho obhangiswayo okanye obekwa bucala ngulo mThetho uya kuhlala usebenza uze uthathwe ngoba ukhutshiwe, unikiwe, umiselwe, okanye wenziwe ngokwalo mThetho, ngaphandle kokuba awuhambelani nezibonelelo zalo mThetho. 5

(2) Ukuhluthwa okuqalileyo okanye izindululo zokumisela ukubuyiselwa ezithe zamiselwa ligunya lendlela phambi kokuqala ukusebenza kwalo mThetho ngokumalunga nomThetho obhangiswa ngulo mThetho, mazigqityezelwe ngokwezibonelelo zomThetho obhangiswayo, ngokungathi lo mThetho awukaphunyezwa, ngokuxhomekeke ekubeni abachaphazelekayo bayavumelana ukuqhubeka nokuhluthwa oko okanye nezimangalo ezingqinelana nezibonelelo zalo mThetho. 10 15

ISIGABA 7:

UKUHLUTHWA NEMBUYEKEZO

Ukufumana, ukuhluthwa kwepropathi, ilungelo lokusebenzisa umhlaba okwethutyana nelokukhupha nokususa izinto

39. (1) Indlela okanye igunya lezibonelelo zezithuthi zikawonke-wonke linokuthi— 20
- (a) lihluthe ipropathi, ngaphandle kwepropathi kamasipala, yephondo, karhulumente wesizwe okanye into yoluntu, ukulungiselela:
- (i) indlela, umzila kaloliwe okanye ezinye izibonelelo zothutho okanye imisebenzi okanye iinjongo ezinxlumene noko, kunye
- (ii) nokufumana, ukumba imigodi okanye ukulungiswa kwegrabile, kwelitye, kodongwe, kwamanzi okanye nayiphi na impahla okanye into; 25
- (iii) Indawo yokuhlala yabasebenzi abakha izizibonelelo zothutho, kunye
- (iv) Ukugcinwa nokulondolozwa kwezithuthi, oomatshini, izizxhobo, izizinto zokusebenza, iindawo zokugcina okanye izizinto; 30
- (b) Nokuthatha ilungelo lokusebenzisa ipropathi okwethutyana, ngaphandle kwepropathi kamasipala, liphondo, ngurhulumente wesizwe okanye igunya loluntu; kunye
- (c) Nokukhuphula nokususa izizinto, kubandakanywa amanzi, ngaphandle kwamanzi ampontshwe ngomatshini okuseza imfuyo. 35
- (2) Iinkqubo neemfuneko zomThetho wokuHlutha, oneenguquleleo ezifunekayo, uyasebenza kwizenzo ezenziwa phantsi kwecandelwana (1).
- (3) Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke makahlawule imbuyekezo, apho kufanelekileyo, ngokumalunga necandelo lomGaqo-siseko nomThetho wokuHluthwa kuso nasiphi na isenzo esiphantsi kweli candela okanye njengoko kunokumiselwa. 40
- (4) Apho kukho impikiswano phakathi komThetho wokuHlutha nalo mThetho, lo mThetho uya kusebenza.
- (5) IPhondo linokumba lisuse izinto, phantsi kweNEMA nemvume yeSebe leziMbiwa naMandla apho kufunekayo—
- (a) kwindawo yolawulo lukamasipala, kuphela ngesivumelwano naloo masipala, kwaye 45
- (b) kumhlaba karhulumente wesizwe kuphela ngemvume nesebe lesizwe elo lichaphazelekayo;
- (c) igunya loluntu kuphela ngemvume nelo gunya.
- (6) Umasipala angemba asuse izinto, phantsi kweNEMA nemvume yeSebe leziMbiwa naMandla apho kufunekayo— 50
- (a) kumhlaba womnye umasipala, kuphela ngemvume nomPhathiswa, ukuze
- (b) kumhlaba wePhondo kuphela ngemvume nomPhathiswa, ukuze
- (c) kumhlaba karhulumente wesizwe kuphela ngemvume nesebe lesizwe elo lichaphazelekayo; 55
- (d) igunya loluntu kuphela ngemvume nelo gunya.
- (7) Apho inxalenye yomhlaba ihluthiweyo kwaye umnini wayanelisa indlela okanye ugunyaziwe ngokuba intsalela yomhlaba ithi yaphelelwa lixabiso kumnini ngenxa

yokuhluthwa, indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke angayihlutha loo ntsalela.

(8) Apho indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke ithe yavala ngokusisigxina, isango okanye ithuba lokungena kumhlaba kwaye umnini womhlaba akakwazi ukuyisebenzisa ngendlela ngenxa yoko kuvalwa okanye indlela nesibonelelo sothutho sikawonkewonke asikwazi ukubonelela ngesango eliya kuloo mhlaba, indlela okanye ugunyaziwe wezithuthi zikawonkewonke angawuhlutha umhlaba. 5

(9) Apho umhlaba okanye inxalenye yawo ichatshazelwe kakubi kukuhluthwa komnye umhlaba yindlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke, lo wokugqibela naye angawuhlutha umhlaba okanye inxalenye leyo yenzakaliswe kakubi. 10

(10) Eli candelo alisayi kuthintela indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke ukuba afumane ipropathi ngeenjongo zalo mThetho ngokuthenga okanye nangayiphi na indlela ngaphandle kokuhluthwa. 15

Ukungena nokuthatha ipropathi

40. (1) Apho indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke afuna ipropathi okanye ukuyisebenzisa okwethutyana okanye nayiphi na into yoko ngenjongo ekhankanywe kwicandelwana (2), ugunyaziwe, okanye nawuphi na umntu ogunyaziswe ngokubhala lelo gunya angathi, emva kokunika isaziso esamkelekileyo esingekho ngaphantsi kweeyure ezingama 48 kumnini okanye ohlalo kwipropathi okanye into kwaye ngemvume yaloo mnini okanye umhlali— 20

- (a) angene kumhlaba nabasebenzi abafunekayo, izixhobo nezithuthi;
- (b) aphanze kabanzi aze agqibe ngommandla kunye nemiganagatho yomhlaba;
- (c) embe okanye abhore kuyo okanye emhlabnei; 25
- (d) akhe aze alondolozwe imisebenzi yamanzi nakuwuphi na umlambo okanye umfula; okanye
- (e) ahlule imida yepropathi okanye yezinto.

(2) Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke akanakho ukusebenza phantsi kwecandelwana (1)— 30

- (a) ajonga ixabiso lepropathi efanelekileyo okanye into;
- (b) ukwenza naluphi uhlolo, ukubuza, ukuphanda, okanye uphando banzi ngokusebenzisa okanye ukwenza amagunya, imisebenzi ayinikwe okanye ethitywenglo oaken phantsi kwalo mThetho;
- (c) ukuhlola, alondolozwe aze alungise nasiphi isakhiwo, isixhobo, into yokusebenza, ukufaka okanye nayiphi na enye into okanye eyakhiwe, yamiliselwa okanye yabekwa kuloo mhlaba ngu okanye egameni lendlela okanye logunyaziwe wezibonelelo zothutho lukawonkewonke ngokumalunga nalo mThetho; 35
- (d) ukwenza isebenze ukwenza nayiphi eminye imisebenzi ephantsi kwalo mThetho. 40

(3) Apho umnini okanye umhlali angayinikanga imvume yendlela okanye kagunyaziwe wezibonelelo zothutho lukawonkewonke okanye umntu ogunyaziswe zizo ukuba asebenze phantsi kwecandelwana (1)—

- (a) umnini okanye umhlali makanikwe izizathu zokuba kutheni na kukho isizathu esifanlele ukuba kungavunywa kungenwe; kwaye 45
- (b) ukuba izizathu ezinikiweyo phantsi komhlathi (a) azamkelekanga kwindlela okanye kugunyaziwe wezibonelelo zothutho lukawonkewonke;

Ugunyaziwe angenza isicelo kwinkundla efanelekileyo enolawulo lomnyalelo ogunyazisa oko kusebenza, kodwa umnyalelo wenkundla awufuneki apho lo msebenzi ufunwa ngokungxamisekileyo ukuthintela ukufa okanye ingozi kubantu okanye ukonakalisa okubonakalayo kwipropathi. 50

(4) Loo nkundla mayinike umnyalelo ize iyalele umnini okanye ohlalayo ahlawule iindlelko zokwenza isicelo ukuba wnelisekile ukuba indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke usebenze ngokufanelekileyo ngokweenjongo zalo mThetho. 55

(5) Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke angadlulisela umhlaba ukuze akwazi ukungena komnye umhlaba ngeenjongo ezicetywa kwicandelwana (1), nabasebenzi abafunekayo, isixhobo nezithuthi, ngemvume yomnini okanye ohlalayo kumhlaba okhankanywe kuqala, kwaye ukuba akuvunyanga, 60 icandelwana (3) nele (4) liya kusebenza neengqulelo ezifunekayo.

(6) Apho ukungena kufunyenweyo kumhlaba ojikelezwe lucingo, indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke makafake isango kwaye xa kungekho mntu malibonelelwe ngesitshixo, kwaye isango malihlale likhuselekile ngokuchanekileyo.

(7) Ukuba nawuphi na umntu ulimele ngenxa yokusetyenziswa kwegunya elinikwe kweli candela indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke uya kuya kufaneleka alungise umonakalo ngendleko zakhe okanye ahlawue umonakalo okanye imbuyekezo mgokumalunga noko kuloo mntu, zibalwe ze zihlwulwe ngokumalunga nomThetho wokuHluthwa. 5

ISIGABA 8:

10

ULAWULO NEMPATHO YEZAZISO, UKUFIKELELA NEMEKO ENGQONGILEYO

Ukuthintelwa kwezaziso ezithile ezimalunga okanye ezibonakala kwiindlela ezibhengeziweyo okanye imizila kaloliwe nezinye izibonelelo zothutho

41. (1) Phantsi kwecandelwana (2), akukho mntu unokubonisa okanye enze kuboniswe okanye avume kuxhonywe ngendlela yokwakheka okusisigxina okanye isisthuthi esihambayo esilungiselelwe injongo yokwazisa, ngaphandle kokuqala afumane imvume ebhaliweyo kwaye ngokumalunga necandelo 42(1) kwaye eliphunyezwe yindlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke ofanelekileyo, isaziso— 15 20

- (a) kumhlaba obekelwe bucala wendlela ebhengeziweyo, womzila kaloliwe okanye esinye isibonelelo sothutho lukawonkewonke;
- (b) esibonakalayo kwiindlela ebhengeziweyo, kumzila kaloliwe okanye kwisibonelelo sothutho lukawonkewonke ngaphandle kommandla wedolophu; 25
- (c) oko kuthi zingaphelanga ii50mitha ukusuka kumda wendawo ebekelwe bucala yendlela ebhengeziweyo, umzila kaloliwe okanye esinye isibonelelo sothutho ngaphandle kwendlela enguhola kummandla wedolophu, kwaye iyabonakala kwiindlela ebhengeziweyo, kumzila kaloliwe okanye esinye isisibonelelo sothutho; 30
- (d) oko kuthi zingaphelanga ii250mitha ukusuka kumda kwendawo ebekwe bucala kwiindlela ebhengeziweyo eyindlela enguhola kummandla wedolophu, kwaye iyabonakala kwiindlela enguhola. 30

(2) Icandelwana (1) alisayi kusebenza xa kuboniswe isaziso esivumelana neemfuneko ezimiseliweyo (ukuba zikho) ngokwemo, okuqulethweyo okanye ubukhuu beso saziso okanye ixesha, indlela okanye indawo esiboniswa kuyo, apho ukuboniswa kwaso kugunyaziswe ngu okanye phantsi kwemimiselo echaphazelekayo, okanye isaziso— 35

- (a) siboniswe ngokusemthethweni kwindawo kufutshane nje phambi kokuba indlela okanye isibonelelo sothutho esisesinye sibhengezwe ngendlela yokuba siboniswe ngokuqhubekayo kwindawo enye, ngaphandle kokuba ukususwa kwaso kulawulwe phantsi kwecandelo 43 kwaye ithuba ekuthe ngalo kwafuneka sisuswe liphelelwe; okanye 40
- (b) masiboniswe ngokumalunga nomthetho kwaye siboniswe kuphela ngokumalunga naloo mthetho. 45

(3) Umasipala angenza imithetho yedolophu eyeminye elawula izaziso phambi okanye ukusuka kwiindlela zikamasipala ezibhengeziweyo, imizila kaloliwe nezinye izibonelelo zothutho kulo mmandla wolawulo, ezinokuthi sibekwe endaweni okanye zifakele umbandela nakuziphi na izibonelelo zeli candela kunye namacandelo 42 ukuya ku44 ngokumalunga neendlela zoomasipala, imizila yoololiwe nezinye izibonelelo zothutho, ngokuxhomekeke ekubeni le mithetho yedolophu ibandakanya iimfuneko zamacandelo 42 ukuya ku44 njengobuncinane. 50

Imvume yokubonisa izaziso kwiindlela okanye zibonakale kwiindlela ezibhengeziweyo, imizila kaloliwe okanye kwezinye izibonelelo zothutho

42. (1) UmPhathiswa angenza imimiselo elawula ukuboniswa kwezaziso ezivunyelwe ngokumalunga necandelo 41, ngokuxhomekeke— 55

- (a) kwiindidi zezaziso ezinokuxhonywa okanye ziboniswe kuphela ngokuqala ufumane imvume ebhaliweyo kwindlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke ngokwemfuneko ezibekwee kwimimiselo;
- (b) iinkqubo emazilandelwe ekusebenziseni loo mvume; kunye
- (c) nawuphi na omnye umcimbi olawula ezo zaziso. 5
- (2) Ngaphandle kokugxeka ububanzi becandelwana (1), imimiselo eyenziwe phantsi kwecandelwana (1) ingabonelela—
- (a) ukuhlelwa kweendlela, imizila yoololiwe okanye izibonelelo ezizezinye ngokweendidi ngokwembonakalo yelizwe, okungqongileyo okanye ukubaluleka ngokobugcisa bokwakha, okanye ngezinto ezifana nezo, ngenjongo yokwahlula phakathi kweendidi zezaziso ezimelekileyo kudidi ngalunye; 10
- (b) ukuhlelwa kwezaziso kube ziindidi ngenjongo yokulawula ukuboniswa okanye ukuxhonywa kwayo;
- (c) ngokuxhomekeke kwicandelwana (3), umrhumo ohlawulwayo kwisicelo saloo mvume okanye sokunika loo mvume; 15
- (d) seseendlela zokubonisa nokuuselela;
- (e) ukhuseleko, izinto eziluncedo nokuhlonipheka kwezaziso; kunye
- (f) nokuyila nokwakha izaziso nezakhiwo zazo ezixhasayo, indawo yazo, ulondolozo nokususwa kwixesha elizayo. 20
- (3) Imirhumo yokwenza izicelo zezaziso kwindawo esecaleni kwesibonelelo sothuthi ehlawuleka ngokwecandelwana (2) mayihlawulwe—
- (a) kwiPhondo kwimeko yezibonelelo zothutho apho iPhondo liyindlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke; okanye
- (b) kumasipala kwimeko yesibonelelo sothutho athi umasipala abe yindlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke. 25
- (4) Phambi kokuba kufakwe okanye naluphi ufakelo mibandela lomqondiso okanye ubuso bomqondiso nanguwuphi umntu, imvume mayicelwe kwaye imvume ebhaliweyo mayinikwe ziindlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke, phantsi— 30
- (a) kohlolo yindlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke malunga neenjongo zomqondiso kukhuseleko lwezithuthi nokusebenza kothutho, ngokumalunga nemigaqo nendlela ebekwe phantsi kwizikhokelo ezipapashiweyo; kunye
- (b) nesicelo esifunwayo kwimeko nganye yokutshintshwa kobuso bomqondiso; 35 kunye
- (c) nenkqubo yokugweba eqhutywa yindlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke ngokumalunga nemimiselo eyenziweyo.

Ukunyanzela nokususa izaziso ezingagunyaziswanga

43. (1) Izaziso ezimiswe ngaphandle kwemvume yindlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke angasuswa yindela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke. 40
- (2) Nabani na obonisa isaziso echasa izibonelelo zalo mThetho okanye evumela ukuba kuboniswe okanye umnini womhlaba ekuboniswe kuwo isaziso kwaye eyalelwa yindlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke ngesaziso esibhaliweyo ukuba makayisuse, makenze njalo lingaphelanga ithuba elichazwe kwisaziso, elingenakub lifutshane kuneentsuku ezingama 14. 45
- (3) Ukuba umntu othe wayalelwa ngesaziso ngokumalunga necandelwana (2) akaphumeleli ukususa isaziso esicacisiweyo kwisaziso lingaphelanga ithuba elichazwe apho. Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke angangena kuloo propathi ichaphazelekayo ngaphandle kwemvume yomniniyo okanye yohlalayo aze asisuse ngaphandle kwemfuneko yokufumana umyalelo kwinkundla efanelekileyo, ngaphandle kwezinye izibonelelo zalo mThetho, aze indleko yokususa ayifune kuloo mntu. 50
- (4) Nangona icandelwana (2), apho isaziso siboniswe ngokuchasene neli candelo kwaye linyanzelisa kwaye linokunyanzelisa ukuba ingozi kukhuseleko olukhoyo, indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke angenza phantsi kwecandelwana (3) elungiselela uluntu okanye ukhuseleko loluntu ngaphandle kwesaziso nabani na asuse isaziso. 55
- (5) Umntu ochasa icandelwana (1) okanye ongaphumeleliyo ukususa isaziso xa eyalelwe ukuba enze njalo phantsi kwecandelwana (2), unetyala lokwaphula umthetho. 60

Usetyenziso oluphathelele kwizaziso

- 44.** Ngokweenjongo zalo mThetho, ngaphandle kokuba kuyaphikiswa—
- (a) isaziso sithathwa ngokuba sibonisiwe—
 - (i) ngumntu osimisileyo okanye owenze savela;
 - (ii) kwimeko yesaziso esinxulumene nemveliso okanye loo nto iveliswa wayo ngumntu othile, okanye kwinkonzo enikwe ngumntu othile, okanye kwishishini, kwisenzo okanye kwindawo yomntu othile, nguloo mntu;
 - (b) ngaphantsi kwecandelwana 37(2), izaziso zithathwa ngokuba zibonisiwe emva kokuqala ukusebenza kwalo mThetho; kwaye
 - (c) umntu onomhlaba okanye ohlala kumhlaba ekuboniswe kwaye umvelisi waso nasiphi isicatshulwa okanye usomashishini walo naliphi ishishini okanye into eyenziwayo enxulumene neso saziso kwaye nayiphi na iarhente yaloo mvelisi okanye somashishini iya kuthathwa ngokuba isibonisiwe eso saziso okanye uvume ukuba sibonisiwe.

Ukungena nokuphuma kwindlela, kwisiporo nakwezinye izibonelelo zothutho 15

45. (1) Phantsi kwamacandelwana (2) nele (3), xa ukungena okanye ukuphuma kwindlela, kumzila kaloliwe okanye esinye isibonelelo sothutho okanye kwipropathi esecaleni kuthintelwa lucingo olubekwe ngokwasemthethweni, udonga, uthango, umsele, umngxuma okanye isithintelo esifana nezi ecaleni okanye kufutshene nesiphelo sayo, akukho mntu unokungena okanye aphume nakuwuphi na umhlaba ngokuthubeleza okanye ngaphezulu kolo cingo, donga, thango, msele, mngxuma okanye esinye isithintelo ngendlela engenayo, isango, ibrorho okanye ithuba, ngaphandle kokuba indlela okanye ugunyaziwe wezibonelelo zezithuthi zikawonkewonke ugunyazise ngokubhala ukwakhiwa kwaloo ndlela ingenayo, isango, ibrorho, okanye ithuba.

(2) Icandelwana (1) alisayi kusebenza kwisango lendlela elivulwe ngokwasemthethweni, isango, ibrorho, okanye ithuba ebelikho lize lisetyenziswe ekuqaliseni ukusebenza kwalo mThetho kwaye ebelingavalwanga okanye lingasuswanga nangaliphi na ixesha emva koko.

(3) Ndlela okanye ugunyaziwe wezibonelelo zezithuthi zikawonkewonke akanakwala ukugunyaziswa okucetywa kwicandelwana (1) lesango, ibrorho okanye elinye ithuba elifunekayo ukwenza kungenwe okanye kuphunywe kwicandelo lomhlaba ekuthi kungabikho elinye isango lokungena elifanelekileyo elikhoyo okanye ukuba—

(a) umcandi womhlaba uphandile ngomhlaba waza wenza umzobo wawunika umCandi-Jikelele phambi kokuqalisa ukusebenza kwalo mThetho okanye phambi komhla wokufaka ucingo, udonga, uthango, umsele, umngxuma okanye esinye isithintelo; kwaye

(b) phambi kwaloo mhla, umntu ngaphandle komnini wawo nawuphi na umhlaba ekuthe ngawo umhlaba okhankanywe kuqala walicandelo lawo ngelo xesha xa kusenziwa olu cando, lufunyanwa okanye lugqityezelwa, isivumelwano sentengiso sokuba ngumnini waloo mhlaba okanye sokuwuqesha ngokumalunga nesivumelwano sokubolekisa ithuba elingekho ngaphezulu kweminyaka elishumi

Ngaphandle kokuba isango, ibrorho, okanye elinye ithuba, ngokwezimvo zendlela okanye zikagunyaziwe wezibonelelo zezithuthi zikawonkewonke, azikhuselekanga okanye azingqinelani nemigangatho yokungena kwisibonelelo sothutho ekufunyanelw ukungena nokuphuma kuzo.

(4) Xa kuqwalaselwa isiqinisekiso sokungena phantsi kwecandelwana (1), indlela okanye ugunyaziwe wezibonelelo zezithuthi zikawonkewonke mazijonge iimfanelo—

(a) umzobo wophuhliso lwendawo okanye isicwangciso sokuphathwa kwemijelo esibonisa imeko ekuthi kuzo kuphunyezwe; okanye

(b) Xa kungekho sicwangciso esikhankanywe kumhlathi (a), isikhokelo ngesibonelelo sokungena kwiindlela esilungiselelwe liPhondo okanye ngumasipala saza samkelwa liPhondo.

(5) Xa kunikwa ugunyaziso olukhankanywe kwicandelwana (1), indlela okanye ugunyaziwe wezibonelelo zezithuthi zikawonkewonke angamisela indlela yokungena kumzila wendlela, isango, ibrorho, ileli yokuqabela uthango okanye elinye ithuba nendawo apho nendlela ekufuneka yakhiwe ngayo, kwaye inokwenza ezinye imeko ngokunxulumene nayo okanye nokusetyenziswa kwayo ethathwa ngokuba ifanelekile,

kwaye ingarhoxisa ugunyaziso ukuba iimfuneko ezimiselweyo okanye imeko ebekwayo kugunyaziso ayiqwalaselwanga.

(6) Indlela okanye ugunyaziwe wezibonelelo zezithuthi zikawonkewonke, xa enika ukungena kwabahambi ngeenyawo okanye ngeebhayisekile besuka kwipropathi esecaleni kwindlela, komzila kaloliwe okanye esinye isibonelelo sothutho, masiqinisekise ukuba abo bahambi ngeenyawo okanye bakhweli zibhayisekile banikwe iindlela ezikhuselekileyo kunye nezinqumlayo. 5

Umyalelo wokubeka kwenye indawo kwendawo yokungena

46. (1) Indlela okanye ugunyaziwe wezibonelelo zikawonke-wonke unokuthi, ngomyalelo obhaliweyo, alawule umnini wepropati okanye umnini weepropati ezingena kwindlela ebhengeziweyo okanye ezidlula kwindlela engenayo edlula kwipropati yabo okanye iipropati ekuthethwa ngazo, kwaye ezingena okanye eziphuma kwindlela ebhengeziweyo okanye umzila kaloliwe aho iba yindlela okanye ugunyaziwe wezibonelelo zothutho lukawonke-wonke, elibeka kwenye indawo, elivimba oknye elivala ukungena okanye uphuma, ngendlela ethi, okanye kangangokuba kwaye ngethuba elicaciswe kwisaziso, okanye ngokusisigxina. 10 15

(2) (a) Apho ukusiwa kwenye indawo okanye ukuvalwa kokungena okanye ukuphuma ngokumalunga necandelwana (1) lwenza kubekho ukulungiswa nokwakhiwa nokuguqulwa ubume, ukusikwa kakutsha, ukumiswa kakuthsa okanye ukwakhiwa kwakhona kwalo naliphi na isango, igaraji yangasese okanye esinye isakhiwo ekuthi ngaso umnini okanye abanini abenemvume yangaphambili evela kwindlela okanye kwigunya lezibonelelo zothutho sikawonke-wonke. 20

(b) Uxanduva lokuhlawula lwendlela okanye ugunyaziwe wezibonelelo zikawonke-wonke ngokumalunga nomhlathi (a) luya kuba lixabiso lokwakha indlela yokungena ukulungelelanisa kakutsha nokubuyisela indlela leyo ethe yachaphazeleka, nokufaka amanye amasango, iigaraji nezinye izibonelelo ezikwakuloo mgangatho wezo zitshintshwayo, ezibekwa kwenye indawo, ezimiliselwa kakutsha okanye ezakhiwa kakutsha. 25

(3) Apho umnini propathi okanye abanini propathi bangena kwindlela ebhengeziweyo kwaye banikwa imvume ligunya lendlela ukuba loo mvume yokungena bayidlulisele, akusayi kubakho butyala kwigunya lendlela lokuhlawulela imisebenzi. 30

(4) Umntu ongena okanye oshiya indlela, umzila kaloliwe okanye isibonelelo sothutho esisesinye, okanye owakha okanye omilisele kakutsha isango, ibhulorho, ileli yokuqabela uthango okanye elinye ithuba ngokuchasene neli candela, waphula umthetho. 35

Izithuthi ezingasetyenziswayo, ezenkunkuma njl. eisendleleni okanye kufutshane neendlela, nemizila kaloliwe nezibonelelo zothutho ezizezinye

47. (1) Akukho mntu unokuthi—

(a) unokulahla okanye ashiye isithuthi esidala esingasebenziyo okanye umatshini okanye ilungu lazo, okanye nayiphi na inkunkuma kumhlaba obekelwe indlela ebhengeziweyo okanye umzila kaloliwe okanye nasiphi na isibonelelo sezithuthi zikawonkewonke; 40

(b) ngaphandle kokuqala afumane imvume ebhaliweyo yendlela efanelekileyo okanye ugunyaziwe wezibonelelo zezithuthi zikawonkewonke, okanye ngokuchasene nemeko enyanzelwa ligunya elo, abeke ngokunjalo, alahle okanye ashiye, ngokubonakalayo kwindlela ebhengeziweyo, kumzila kaloliwe okanye nasiphi na isibonelelo sikawonkewonke, isithuthi esidala esingasebenziyo umatshini okanye ilungu lazo, okanye nayiphi na inkunkuma malunga nama 200 mitha ukusuka kumgca osembindini woko. 45

(2) Indlela okanye ugunyaziwe wezibonelelo zezithuthi zikawonkewonke angasisusa isithuthi esidala okanye umatshini okanye ilungu lazo, okanye inkunkuma efunyenwe kumhlaba wendlela, womzila kaloliwe okanye wesinye isisibonelelo sezithuthi, kwaye angabuyisela ixabiso lokususa kumntu lowo oyilahle okanye oyishiye apho. 50

(3) Ukuba kusemhlabeni okhankanywe kwicandelwana (1)(b) kunyenwe isithuthi esidala esingasebenziyo okanye umatshini okanye indawo yaso endala engsebenziyo, okanye inkunkuma ebonakalyo kwindawo ebekwe bucala yomzila kaloliwe okanye esinye isisibonelelo sothutho kwaye simalunga nama200 mitha ukusuka kumgca ophakathi yoko, kwaye umntu ozilahlileyo okanye ozishiye apho okanye umntu onelungelo lokuzisusa, uyalelwe yindlela okanye sisibonelelo sothutho 55

sikawonkewonke ngesaziso ngokubhala ukuba ayisuse kumhlaba okanye ukuba athathe amanqanaba okuba ayenze ingabonakali—

- (a) loo mntu kufuneka ayisuse kumhlaba okanye athathe loo manyathelo lingaphelanga ithuba elichazwe kwisaziso (elingekho ngaphantsi kweentsuku ezili 14 ukusuka kumhla wesaziso); 5
- (b) indlela okanye ugunyaziwe wezibonelelo zezithuthi zikawonkewonke angayisusa kuloo mhlaba okanye athathe amanyathelo okuba indlela okanye ugunyaziwe wezibonelelo zezithuthi zikawonkewonke azibona zifanelekile ukuyenza ingabonakali endleleni, kumzila kaloliwe okanye esinye isibonelelo sothutho, kwaye unobuyisela indleko zokususa okanye zalo manyathelo kumntu othe ngokumalunga nomhlathi (a) wabe usembenzini wokususa okanye wokuthatha amanyathelo kodwa akaphumelela ukwenza njalo. 10

Izakhiwo neminye imisebenzi ekwindlela, ngaphezu okanye ngaphantsi kwemihlaba yeendlela, yemizila kaloliwe nezibonelelo zezithuthi ezizezinye 15

48. (1) Nangona umthetho ongmnye, kodwa phantsi kwecandelwana (4), akukho mntu unokuthi, ngaphandle kokuqala ufumane imvume ebhaliweyo, kwaye ngokumalunga nemigangatho kunye nemimiselo ephunyezwe, yindlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke wenza umsebenzi okhankanywe kwicandelwana (2)— 20

- (a) kwindlela ebhengeziweyo, kumzila kaloliwe okanye esinye izibonelelo okanye kwindawo ebekwe bucala yaloo ndlela, mzila kaloliwe okanye esinye isibonelelo sothutho; okanye
- (b) kwindawo ebekwe isakhiwo bucala.

(2) Imisebenzi ecetywa licandelwana (1) yile ilandelayo: 25

- (a) Ukumiliselwa okanye ukugxumeka okanye ukwenza ukuvumela kumiliselwe okanye kugxunyekwe kumhlaba okanye kumhlaba ophethweyo okanye ukulawula loo mntu, isakhiwo okanye enye into encamathele emhlabeni emi kuwo, nakuba ingasiyonxalenye yaloo mhlaba;
- (b) ukwakha okanye ukubeka okanye ukuvumela ukwakha okanye kubekwe nantoni na phantsi okanye ngaphantsi kompheuu womhlaba okanye iiprojekhthi phezu komhlaba 30
- (c) ukwenza okanye ukuvumela kwenziwe nasiphi na isandiso sesakhiwo okanye utshintsho lweso sakhiwo.

(3) Icandelwana (1) alisayi kusebenza— 35

- (a) xa kugqityezelwa isakhiwo, into, ukutshintsha okanye ukongeza makuvumele imimiselo;
- (b) indawo ekhuselekileyo, ucingo, udonga, okanye uthango olungekho ngaphezulu kwe 1,6 mitha ecaleni komphezulu osecaleni kwawo.

(4) Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke unokuthi, ngokuzikhethela, anike okanye ale ukunika imvume ngokumalunga necandelwana (1), kwaye, apho linika loo mvume, linokumisela— 40

- (a) imimiselo ekufanlele isakhiwo, into, utshintsho okanye malufaneleke;
- (b) indlela kunye neemeko ekuthi kuzo, indawo apho kunye neemeko isakhiwo, into, ukutshintshwa okanye ulongezo lwakhiwe okanye lubekiwe 45
- (c) izinyanzelo emazifezekiswe ngumnini womhlaba ekuthethwa ngaye okanye ngabanye abantu ukuba isakhiwo, into, utshintsho, okanye ulongezolumiliselweyi kwakhiweyo
- (d) Umsebenzi wokubuyisela indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke unokuthi ngeendleko ezenziweyo kwimisebenzi yakhe phantsi kwecandelwana (a) ukuya u (c) phambi kokuqalisa ukwenza nawuphi na umsebenzi. 50

(5) (a) Ukuba isinyanzelo sokususa isakhiwo okanye into siyafuneka ngenxa yemeko emiselwe phantsi kwecandelwana (4)(b), uMbhali Bunini-mhlabaenolawulo lommandla echaphazelekayo unokuthi, kwisicelo sendlela okanye sikagunyaziwe wezibonelelo zothutho lukawonkewonke, aqaphele isinyanzelo kwitayitile yomhlaba echaphazelekayo kwaye kwiirejista ezichanekileyo. 55

(b) Indleko enxulumne noko kuqaphela mayihlawulwe ngumntu onikwe imvume.

(c) Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke inganyanzelisa ukungqinelana nesinyanzelo esiphawuliweyo. 60

(6) (a) Apho isakhiwo okanye into imiliselweyo, imisiweyo, yakhiwa okanye yebelwa ngaphandle kwemvume efuneka kwicandelwana (1) okanye ngokuchasene naloo mvume, indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke ngesaziso esibhaliweyo angayalela ukuba umntu asuse isakhiwo esingavumelekanga, into. kodwa kwithuba elingekho ngaphantsi kweentsuku ezingama 30 ukusuka kumhla wesaziso. 5

(b) Ukuba umntu onikwe isaziso akaphumeleli ukwenza isaziso ngexesha elicaciswe kuso, loo gunyaziwe angasusa isakhiwo aze abuyisele iindleko zokususa kuloo mntu.

(7) (a) Nangona izibonelelo zeminye imithetho, indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke angasusa okanye ashenxise ase kwindawo eyikhethayo, isakhiwo, okanye into ecetywa kwicandelwana (1) eyayimiliselwe, yakhiwa okanye yabekwa phambi komhla ekwathi ngawo indlela, umzila kaloliwe okanye isibonelelo sothutho esichaphazelekayo sabhengezwa. 10

(b) Apho umntu onoxanduva ngokumalunga nomthetho wokususa okanye ukushenxisa isakhiwo okanye into emiliselweyo, emisisweyo, eyakhiweyo okanye ebekiweyo, indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke angabuyisela indleko yokususwa okanye yokushenxisa kuloo mntu. 15

(8) nabani na ochasa icandelwana (1) okanye ogaphumeleliyo ukuthobela isaziso phantsi kwecandelwana (6) unetyala lokwaphula umthetho.

(a) Kwindlela ebhengeziweyo, kumzila kaloliwe okanye isibonelelo sezithuthi zikawonkewonke esisesinye okanye malunga nomhlaba obekelwe indlela leyo, umzila kaloliwe okanye isibonelelo sezithuthi zikawonkewonke; okanye 20

(b) Kummandla osikelwe isakhiwo

(3) Imisebenzi ecetywa licandelwana (1) yile ilandelayo: (a)

Izithintelo kwinguqulelo zokusetyenziswa komhlaba 25

49. (1) Nawuphi umntu ofuna ukwenza uphuhliso olubandakanya uthsintsho okanye ukugxininiswa kokusetyenziswa komhlaba—

(a) kwicandelo okanye kumacandelo omhlaba kwiindawo ezisecaleni kwezibonelelo zothutho ezikhoyo ezikhankanywe kwimihalathi (a) no (b) yecandelwana (2); okanye 30

(b) kwicandelo okanye kumacandelo omhlaba kwindawo ezisecaleni kwezibonelelo ezizayo ezikhanaknywe kwicandelo 17(1)(c);

makathi apho kufuneka uhlolo lobuninzi bezithuthi okanye uhlolo lwezithuthi zikawonkewonke olumiselwe phantsi kweNLTTA luyafuneka—

(i) afumane ukwamkelwa kuphuhliso olucetywayo yindlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke onoxanduva lwesibonelelo sothutho esichaphazelekayo; 35

(ii) enze nawuphi na malungiselleo afunwa ngugunyaziwe wendlela okanye wezithuthi zikawonke-wonke ukunika loo mvume; aze

(iii) Afumane imvume kugunyaziwe onalo anike imvume yezi nguqulelo oknaye komelezwa. 40

(2) UMcandi-Jikelele angangasivumi isicwangciso ngokubanzi okanye umzobo wesiza, amanxiwa, izabelo ezithi zizonke zenze ilokishi (nokuba zihlanganiswe okanye azinandawo zakuphuma kwaye iindawo ezivulekileyouba ziindawo zikawonkewonke), okanye naluphi na olunye ulwahlulo, ukuba nayiphi na ecandelo yeso siza, inxiwa, izabelo sikwisithuba— 45

(a) see-100 mitha kufutshane nomhlaba obekelwe bucala wendlela ebhengeziweyo, yomzila kaloliwe okanye esinye isibonelelo sothutho esingaphandle kommandla wedolophu; okanye

(b) see-50 mitha kufutshane nomhlaba obekelwe bucala wendlela ebhengeziweyo, yomzila kaloliwe okanye esinye isibonelelo sothutho kummandla wedolophu; 50

ngaphandle kokuba isicwangciso ngokubanzi okanye umzobo uyangqinelana nesicwangciso okanye nesiketshi sokuba kwelokishi okucetywayo okanye seqela, ethe indlela okanye ugunyaziwe wesibonelelo sothutho lukawonkewonke ivumile ngokubhala phantsi. 55

(3) Icandelwana (2) liya kusebenza nalo, kunye neengulwelo ezifunekayo, kumzobo wecandelo lomhlaba ongenela elokishini a leziza okanye izabelo, ukuba naliphi icandelo laloo mhlaba alifikanga kuma100mitha omhlaba obekwe bucala wendlela ebhengeziweyo, yomzila kaloliwe okanye esinye isibonelelo sothutho. 60

- (4) Indlela leyo okanye ugunyaziwe wezibonelelo zothutho lukawonke wonke angala ukunika imvume phantsi kwecandelwana (1) kuphela xa anelisiwe ukuba ulwahlulo olo lungenza ngaphandle kokuba wanelisiwe ukuba ulwahlulo okuthethwa ngako lungaphazamisa into yalo mThetho—
- (5) (a) Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonke anganika 5
isivumelwano phantsi kwecandelwana (1) phantsi kwezi meko—
- (i) kuthintelwa ulwahlulo okanye ukwahlulwa ngakumbi komhlaba okanye inxalenye yoko;
 - (ii) ukuthintela ukusetyenziswa komhlaba okanye indawo ecacisiweyo ongabekwa.
 - (iii) bethintela ukumiliselwa, ukwakha okanye ukuseka isakhiwo sento emiliselwe emhlabeni okanye kwindawo ethi echaziweyo; 10
 - (iv) ethintela ukumiliselwa, ukwakha okanye ukuseka isakhiwo oknye into, ngaphezulu okanye ngaphantsi komphezulu womhlaba okanye kwindawo ecacisiweyo. kumgama ukusuka kwindlela, kumzila kaloliwe okanye kwesinye isibonelelo, kumzila kaloliwe, okanye isibonelelo esichaphazelekayo. 15
- (b) Ekunikeni loo mvume indlela okanye V angacebisa ukuba umhlaba okanye indawo ecacisiweyo ingaxela ukuba ukuba umhlaba okanye indawo ecacisiweyo iyashwankathelwe nomnye umhlaba, itayitile kulo mhlaba uhlanganisiweyo iya kuba phantsi kwemeko enyanzelwa kumhlathi (a).
- (6) Imeko ebizwa ngokuba licandelwana (5) ingasuswa ukuze kuvunyelwe 20 ukuvumela okanye ukumka kuloo nto nendlela okanye imvume kagunyaziwe wezibonelelo zothutho lukawonkewonke.
- (7) (a) Nakuba kukho izizibonelelo ezichasayo kumThetho wee—Rejista zoBhaliso mhlaba, 1937 (UmThetho Na. 47 wowe 1937)—
- (i) umntu onika ukutshintshwa komhlaba ekusebenza kuwo iimeko 25 ezikwicandelwana (5), makazifake kwitayitile yokutshintshela;
 - (ii) Umbhalisi Bunini bemihlaba makagximfise kwitayitile yomhlaba egcinwe ngumntu onika utshintsho, enye yezo meko esebenz kumhlsbs ogciniweyo.
 - (iii) isiqinisekiso wemicimbi yetayitile eshwankathelweyo ngokumalunga nomhlaba okhankanywe kwicandelwana (5)(b), masibe nazo znke iimeko 30 ekuthe kuzo itayitile yaloo mhlaba yaphantsi kokucacisiweyo okwenziwe phantsi kwecandelwana.
- (b) Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke anganyanzelisa ukuthotyelwa kwayo nayiphi na loo meko.
- (8) (a) Nakuba kukho izibonelelo ezichasayo kumThetho woBhaliso bunini 35 beetayitile, 1937, okanye eminye imithetho, umBhalisi Bunini mhkaba, enemvume kagunyaziwe wendlela ebhaliweyo, angayihlaba imeko ethe ngokumalunga necandelwana yafakelwa kwitayitile yotshintsho okanye kwisiqinisekiso setayitile eshwankathelweyo okanye igxininiswe kwitayitile yomhlaba.
- (b) Ukurhoxiswa kungenziwa ngesicelo esibhaliweyo somnini womhlaba ekuthethwa 40 ngawo, ekhatshwa yindlela okanye imvume ebhaliweyo nesiqinisekiso sokuba bonke abachaphazelekayo bazisiwe ngokuhlalywa okucetywayo sikagunyaziwe wezibonelelo zothutho lukawonkewonke.

Izikhombisi ndlela kunye nezilumkiso kwiindlela ezibhengeziweyo

- 50.** Phantsi komThetho weziThuthi zeNdelela yesiZwe, naliphi na igunya lendlela 45 malimise kwaye lilondoloze—
- (a) imiqondiso ekhombisa indlela kwindawo ekuhlangana indlela apho iligunya lendlela nayiphi na enye indlela;
 - (b) kwiindlela apho ingugunyaziwe wendlela, loo miqondiso ebonisa umgama, imiqondiso yokukhombisa, amacala ekuyiwa ngakuwo nezilumkiso njengoko 50 kukho kunokubskho imfuneko okanye efunelwa ukhuseleko okanye ukukhokela uluntu.

Izithintelo ezibonakalayo

- 51.** (1) Indlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke angafuna umni okanye ohalalayo nakuwuphi na umhlaba ngomyalelo obhaliweyo 55 athobe umphakamo okanye anciphise ububanzi bawo nawuphi umthi, ityholo, utyani, udonga, ucingo okanye nayiphi enye indlela okanye nayiphi na enye into ebonakalayo, nakuyiphi na indawo okanye nayiphi na imeko yendlela ebhengeziweyo okanye umzila kaloliwe, apho indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke,

neyiphi na indlela okanye umzila kaloliwe enokutyhaphaza amehlo omqhubi okanye nangaphantsi kwayo nayiphi na indlela ayisebenzisayo okanye isithuthi sikawonkewonke kunye nayiphi na indlela okanye umzila kaloliwe aziswa ngemeko yongakhuseleki—

- (a) kumphakamao okanye ububanzi ngendlela; okanye 5
- (b) kubude obucaciswe ngokulandelelana.

(2) Apho umnini okanye ohlayo akaphumeleli ukwenza ioda ekhankanywe kwicandelwana (1) lingaphelanga ixesha elimiselweyo kumyalelo, ukwanelisa indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke, lo wokugqibela angangena kuloo mhlaba aze enze umsebenzi ofanelekileyo kwaye iindleko ezo uya kuzifumana kumnini okanye ohlalayo. 10

Iingcingo ezisecaleni okanye kwimida yeendlela ezibhengeziweyo, imizila kaloliwe okanye kwizibonelelo zothutho

52. (1) Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke angamisa ucinga— 15

- (a) kumda wendlela ebhengeziweyo, kumzila kaloliwe okanye kwesinye isibonelelo sothutho apho siyindlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke;
- (b) ajikelelze umhlaba ekuthe kuwo kwembiwa izinto zaza zasukwa, okanye
- (c) ajikelelze amanzi abonelelwayo okanye asetyenziswa ngugunyaziwe lowo phantsi kwalo mThetho. 20

(2) Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke makabe negalelo leendleko ezingekho ngaphantsi kwama 60 pesenti ezifunyenwe nanguabani na ekubiyeni ucingo kumda wendawo ebekwe bucala ebhengeziweyo yendlela ebhengeziweyo, umzila kaloliwe okanye esinye isibonelelo sothutho esiyindlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke— 25

- (a) ngenxa yokukhupha isaziso ngokumalunga necandelo 53 esithintela ukufakwa kwesango, okanye
- (b) ngenxa yokususa elinye isango okanye amanye amasango kuloo ndlela ngemvume kagunyaziwe wendlela okanye wezithuthi zikawonkewonke, mzila kaloliwe okanye esinye isibonelelo sothutho ngokumalunga nelo candelo, ukuba ucingo lwakhiwe ngokumalunga nemigangatho nemimiselo ephunyezwe yindlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke. 30

(3) Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke anganegalelo kwiindleko ezifunyenwe nguloo mntu xa ebiya kumda wendawo ebekwe bucala yendlela ebhengeziweyo, yomzila kaloliwe okanye esinye isibonelelo sothutho apho iyindlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke kwiimeko ezingacetywanga kwicandelwana (2), ukuba ucingo lwakhiwe ngokumalunga nemigangatho nemimiselo ephunyezwe yindlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke. 35

(4) Naziphi iindleko ezizezinye ezifunyenweyo xa kubiywa indawo yezilwanyana ngokumalunga nemimiselo efunekayo kunaleyo ifunyanwa yindlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke ziya kuhlululwa ngumnini okanye umsebenzisi waloo propathi efuna ukubiyelwa kwezilwanyana, ngaphandle kokuba kuvunyelwene yindlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke. 40

(5) Akukho mntu ngaphandle kwendlela efanelekileyo okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke onokubiya kwimida okanye kufutshane nemida yendlela ebhengeziweyo, umzila kaloliwe okanye esinye isibonelelo sothutho, ngaphandle kokuqala afuamne imvume ebhaliweyo yoko, kwaye ngokumalunga nemignangatho nemimiselo emiselwe ligunya elo, kwaye akukho mntu onokususa olo cingo ngaphandle kokunikwa imvume. 50

(6) Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke akasayi kukhupha imvume yokususa kocingo ukuze kususwe ucingo olucetywa kwacandelwana (5) ngaphandle— 55

- (a) kokuba imeko yocingo ifuna ukuthsintshwa, okanye
- (b) umnini womhlaba apho lufakwe khona uthi ungcwadi ebhaliweyo uya kuhlululwa iindleko zokususa nokuphinda kufakwe ucingo ngokumalunga nemigangatho nemimiselo emiselwe nguloo gunyaziwe. 60

- (7) Zonke iingcingo ezifakwe ngokusemthethweni kwaye zikho kuyo okanye kufutshane nemida yeendlela ezibhengeziweyo, imizila kaloliwe okanye esinye isibonelelo sothutho phambi kokuba kuqale ukusebenza kwalo mThetho siya kuthathwa ngokuba silufake ngokuchanekileyo ngemvume yendlela efanelekileyo okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke. 5
- (8) Indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke angayiehoxisa imvume enikiweyo phantsi kwecandelwana (7) nanini na, kwimeko apho ugunyaziwe makasuse kwaye aphinde abeke umda kumda wendlela ebhengeziweyo, umzila kaloliwe okanye esinye isibonelelo sothutho ngendleko yazo. 10
- (9) Indlela efanelekileyo okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke kufuneka—
- (a) asuse naluphi na ucingo oluchsenen neli candela aze aphinde alufake kumda wendlela ebhengeziweyo, umzila kaloliwe okanye esinye izibonelelo sothutho, aze 15
- (b) aphinde afake naluphi na ucingo olususwe ngokuchasenen neli candelo kumda wendlela ebhengeziweyo, umzila kaloliwe okanye esinye isibonelelo sothutho esichapahazelekayo. 15
- (10) Apho indlela ebhengeziweyo okanye umzila kaloliwe usiwe kwenye indawo, indlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke angathi, ukuba ubenegalelo kwindleko yocingo olusecaleni kwendlela ebhengeziweyo okanye umzila kaloliwe, asuse olo cingo luye kwindawo entsha yendlela, yomzila kaloliwe okanye yesinye isibonelelo sothutho. 20
- (11) Phantsi komThetho wokuBiya, 1963 (umThetho Na. 31 wowe 1963), umnini womhlaba okumda wendlela ebhengeziweyo, umzila kaloliwe okanye esinye isibonelelo sothutho sikawonkewonke unoxanduva lokugcina okanye sokubuyisela naluphi na ucingo olumiswe ngokusemthethweni kumda okanye kufutshane naloo mda. 25
- (12) Umntu ochasa eli candelo uya kubanetyala lokwaphula umthetho.

Amasango anqumla iindlela ezibhengeziweyo

- 53.** (1) Akukho mntu oya kumisa isango elinqumla indlela ebhengeziweyo ngaphandle kokuqala afumane imvume ebhaliweyo yoko, kwaye ngokumalunga nemigangatho neempawu ezivunyiweyo, yindlela efanelekileyo okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke. 30
- (2) Kwimeko yendlela ebhengezwe ngaphandle ngaphandle komhlaba wedolophu, loo mvume ayinakunikwa ngaohandle kokuba—
- (a) ugunyaziwe wendlela ukulungela ukwakha indawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo ecaleni kwelo sango; 35
- (b) kwimeko kagunyaziwe wendlela kamasipala, umPhathiswa umPhathiswa wazisiwe ngokwakhiwa kwaloo ndawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo kwaye unikwe ithuba lokunika amanqaku; kwaye 40
- (c) umntu owenza isicelo semvume ngokumalunga nesango elinqumla indlela ebhengeziweyo ubinelele ukhuseleko kugunyaziwe wendlela, ngokwaneleisayo, ukuhlawula ubuncinane ama50 epesenti eendlelko zokwakha indawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo. 45
- (3) Ugunyaziwe wendlela ofanelekileyo makasuse naliphi na isango elimiliselwe ngokuchasene neli candelo.
- (4) Ugunyaziwe wendlela onike imvume phantsi kwecandelwana (2) makakhe indawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo kunye okanye kufutshane nje emva kokwakhiwa kwesango ekuthe ngalo kwanikwa imvume ngokweemali ezikhoyo. 50
- (5) Nangona kukho ezinye izibonelelo zalo mThetho, umPhathiswa angenza ngesaziso kwiGazethi, kuthintelwe ukumiswa kwamasango alo naluphi na uhlobo okanye udidi lwendlela ebhengeziweyo, okanye nayiphi indlela ethile kawonkewonke okanye inxalenye yayo, ecaciswe kwisaziso. 55
- (6) Umntu ochasa eli candelo uya kuba netyala.
- (7) Ugunyaziwe wendlela unokuthi, emva kokungqinelana necandelwana (8), asuse isango elinqumla indlela ebhengeziweyo.
- (8) Ugunyaziwe wendlela ofuna ukwenza phantsi kwecandelwana (7) makathi ngesaziso esibhaliweyo, azise nawuphi na umnini womhlaba ophazamiseka kakubi ngokususwa kwelo sango laloo njongo, kwaye inkcaso yoko ingafakwa kugunyaziwe 60

ngomhla okanye phambi komhla ocaciswe kwisaziso, ungekho ngaphantsi kweentsuku ezingama 21 emva komhla wesaziso.

Indawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo

54. (1) Ugunyaziwe wendlela angakha indawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo inqumle indlela ebhengeziweyo ekuthi ibe ngugunyaziwe, okanye kuvalwe okanye kuyiwe kwenye indawo kwaloo ndawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo, ngokuxhomekeke ekubeni aphao kufanelekileyo indawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo isebenza ngokunxulumene nesango elisecaleni kwendawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo. 5

(2) Indawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo nesango elikho ngokwasemethethweni ekuqaliseni ukusebenza kwalo mThetho liya kuthathwa ngokuba lakhiwe ngomalunga necandelwana (1). 10

(3) Ugunyaziwe wendlela angayivala okanye ayise kwenye indawo indawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo enqumla indlela ebhengeziweyo ekuthi ibe ligunya lendlela necandelo 20 kunye notsho olufunekayo eziya kusebenza kuloo meko. 15

(4) Ugunyaziwe wendlela makasuse indawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo esebenza ngokunxulumene nesango elisuswe kunye nesango phantsi kwecandelo 53(7). 20

Imisebenzi yemigodi kwiindlela okanye phantsi kweendlela ezibhengeziweyo, imizila kaloliwe nezinye izibonelelo zothutho lukawonkewonke okanye iindawo ezisikelwe izakhiwo

55. (1) Akukho mntu onkwenza nayiphi na imisebenzi yemigodikwindlela ebhengeziweyo, kumzila kaloliwe okanye esinye isisibonelelo sothutho okanye indawo esikelwe isakhiwo, ngaphandle kwemvume ebahliweyo yendlela okanye kagunyaziwe wezibonelelo zothutho zikawonke wonke, onokunika imvume phantsi kweemeko ekucingwa zifanelekile. 25

(2) Apho kufanelekileyo ukuya kwenye indawo okanye ukuphinda wakhe indlela ebhengeziweyo okanye ezinye isisibonelelo sothutho siphelellwe ngenxa yokuyilwayo, phambi kokuqala ukusebenza kwalo mThetho okanye xa kuchaswa icandelwana (1), ukuze kugcinwe ukhuseleko okanye imidla kawonkewonke, indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke anika umyalelo umntu ochaphazekekayo ngokuphelelwa kokuqinisekisa ukhuseleko lwendlela, lomzila kaloliwe okanye abonelel ukwaxhiwa kakutsha ukwanelisa indlela, umzila kaloliwe okanye omnye ugunyaziwe wezibonelelo zothutho, ngeendlelko zaloo mntu kwaye kwixesha elimiselwe yindlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke, kungenjalo ugunyaziwe angenza umsebenzi aze iindleko azifune kuloo mntu. 30

Ukurhweba kwiindlela ezibhengeziweyo, imizila kaloliwe, okanye kwezinye izibonelelo zothutho okanye kwiindawo ezisikelwe izakhiwo kuphela

56. (1) Ngaphandle kokubonelelwa kwicandelwana (3), akukho mntu onokuthi ngaphandle kwemvume ebhaliweyo yendlela okanye kagunyaziwe wezibonelelo zothutho lukawonkewonke okanye ngokuchasene neemeko zaloo mvume, arhweba okanye abonise, anike okanyeavelise iimpahla zokuthengisa— 45

(a) kwiindlela ebhengeziweyo, kumzila kaloliwe okanye esinye isisibonelelo sothutho; okanye

(b) kwisiboneleleo okanya nakusiphi isisibonelelo sothutho esiphantsi kolawulo laloo gunyaziwe, okanye

(c) kwiindawo esikelwe izakhiwo kuphela. 50

(2) Imvume phantsi kwecandelwana (1) inganikwa yindlela okanye ngugunyaziwe wezibonelelo zothutho—

(a) kwimeko yeendlela nezibonelelo zendlela ezincedisayo, kwenzeka kuphela ngokumalunga neendawo okanye iindawo ezisikelwe okanye ezahlulelwe loo njongo ngokumalunga nomThetho woThutho lwendlela yesiZwe 55

- (b) kwimeko yemizila kaloliwe nezibonelelo zothutho zikawonkewonke ezincedisayo, kwenzeka kuphela ngokumalunga neendawo ezi ezizodwa ezimiselwe urhwebo ngugunyaziwe wezothutho lukawonkewonke.
- (3) Icandelwana (1) alisayi kusebenza kumntu oqhubeka nokushishina okanyeumsebenzi othile emva kokuba indlela, umzila kaloliwe okanye esinye isibonelelo sothutho sibhengezwe njengendlela, umzila kaloliwe okanye isibonelelo sothutho esisesinye okanye umhlaba uba yindawo emiselwe isakhiwo kuphela ngaphandle kokuba loo mntu uyalelwe yindlela okanye ngugunyaziwe wezibonelelo zothutho ukuba ayeke ngesaziso esibhaliweyo. 5
- (4) Umsebenzi okanye umntu ogunyaziswe njalo ngokubhaliweyo yindlela okanye ngugunyaziwe wezibonelelo zothutho lukawonkewonke, umsebenzi kamasipala omiselwe okanye onyulelwe ukwenza imisebenzi yokunyanzela ukwenziwa komthetho kwindlela ebhengeziweyo, kumzila kaloliwe okanye kwisibonelelo zothutho esisesinye, kwaye umntu othi ngokumalunga nomthetho wothutho lwendlela ligosa lendlela ngenjongo yomthetho wothutho wendlela, unokuthi— 10
- (a) ukuba lo msebenzi, elo gosa okanye umntu (kweli candela obizwa ngokuba ligosa eliyingcali yokwenza) usola phantsi kwemihlaba ebonakalyo ukuba umntu wenze isenzo ekufuneka ngokumalunga necandelwana (1) abe nemvume ebhaliweyo yendlela, yomzila kaloliwe okanye kagunyaziwe wezibonelelo zothutho zikawonkewonke. 20
- (b) Ukuba umntu ekufakwa kuye ibo, akaphumeleli ukubonisa igosa elinobungcali imvume leyo ebhaliweyo, okanye ukuba igosa elinobungcali lisola ngokwemihlaba ebonakalayo ukuba umntu wenze isenzo esingekho mthethweni ngokumalunga necandelwana (1)—
- (i) nyanzelisa ukunikwa ngulowo wamva igama laloo mntu elipheleleyo kunye nendawo ahlala kuyo ngoko nangoko; 25
- (ii) yalela ukuba loo mntu asuse indawo emiselwe isakhiwo okanye indlela yephondo okanye yomzila kaloliwe okanye esinye isibonelelo sothutho—
- (aa) onke amanqaku ekuthe ngawo okanye ngokumalunga nawo kwenziwa eso senzo okanye esisolwa ligosa eliyingcali ngokwemihlaba ebonakalyo ngokuba sifanele ukusetyenziselwa okanye ngokunxulumene nokwenziwa kweso senzo nguloo mntu; okanye 30
- (bb) isakhiwo, intente, isithuthi, isixhobo okanye enye into, ekwenziwe kuyo okanye ngayo eso senzo, okanye esisolwa ligosa eliyingcali ngemihlaba ebonakalyo ngokuba simiselwe ukusebenza okanye ngokunxulumene nokwenziwa kweso senzo nguloo mntu; 35
- (c) asuse endleleni, kumzila kaloliwe okanye kwisibonelelo sothutho esisesinye, okanye indawo esikelwe isakhiwo inqaku, isakhiwo, intente, isithuthi, isixhobo okanye enye into ekhankanywe kumhlathi (b)(ii), okanye efunyanwa ligosa eliyingcali kwindlela ebhengeziweyo, kumzila kaloliwe okanye kwesinye isibonelelo sothutho sikawonkewonke okanye kwindawo esikelwe isakhiwo nelisola phantsi kwemihlaba ebonakalyo ukuba sisetyenzisiwe, ngumntu ngokunxulumene nokuchasa icandelwana (1), kwaye ubanga iindlelo zokususwa kwazo kuloo mntu uchaphazelekayo. 45
- (5) Umntu unetyala—
- (a) emva kokuchasa isisibonelelo secandelwana (1); okanye
- (b) xa engaphumeleli ukunika igosa eliyingcali igama lalowo elipheleleyo neadresi yendawo ahlala kuyo ngokumalunga necandelwana (4)(i); okanye 50
- (c) xa ethe akathobela umyalelo onikwe phantsi kwecandelwana (4)(b)(ii).
- (6) Umasipala angenza imisebenzi yePhondo phantsi kwecandelo, ngokuvumelana nomPhathiswa.

ISIGABA 9:

AMAGUNYA NOMSEBENZI WOMPHATHISWA KUNYE NOOGUNYAZIWE BEZIBONELELO ZEENDLELA OKANYE ZEZITHUTHI ZIKAWONKE-WONKE 55

57. (1) Ukwakhiwa, ukuhlawulelwa, ukulawulwa, ukuphathwa, ulawulo, uphuhliso, ukulondolozwa, ukukhuselwa nokubuyiselwa kwisimo kwazo zonke iindlela zikawonke-wonke zephondo, iindlela zikaloliwe nezinye izinto zokwakheka 60

kwezothutho ziya kubaphantsi koMphathiswa oya kuthi, kwiimali ezikhoyo, kwaye ngokuxhomekeke kwicandelo 5, abenoxanduva lwale misebenzi kuthethwa ngayo.

(2) UMphathiswa oya kuthi—

- (a) acwangcise, ayile, akhe, ahlalule, alawule, aphaathe, aphuhlise, alondolozwe, akhusele aze abuyisele kwisimo indlela ethile... yephondo, isiporo sikaloliwe okanye okanye ukwakheka kwezothutho kukawonkewonke neengcingo eziphathelele koku aze: 5
- (b) anikezele ngezimali okanye uncedo olulolunye kumasipala, phantsi kweemeko ekuya kuthi ngazo uMphathiswa amisele-
- (c) acwangcise, ayile, akhe okanye agcine kakuhle indlela ethile ethe yayilwa, isiporo sikaloliwe okanye enye indlela kawonkewonke eyakhiweyo kwindawo elawulwa ngumasipala egameni likamasipala; aze 10
- (d) asebenzi naliphi na igunya elinokwenzeka okanye elincedisa amagunye adweliswe kwimihlathi (a) ukuya ku (c).

(3) Ucwangciso, uyilo, ukwakhiwa. Ukunikezwa iimali, ukulawulwa, ukongamela, ukuphathwa, uphuhliso, ukugcinwa ngendlela, ukukhusela kunye nokubuyiselwa esimeni kwazo zonke iindlela zikamasipala, iindlela zikaloliwe nezinye izakhiwo zothutho luya kunikelwa kwindlela kamasipala efanelekileyo okanye igunya lokwakheka kwezothutho eliya kuthi, ngokweemali ezikhoyo, kwaye ngokwecandelo 5, libe noxanduva lwale misebenzi kuthethwa ngayo. 20

(4) Indlela kamasipala okanye igunya lezakhiwo zothutho zikawonkewonke lingacwangcisa. Liyile, lakhe, linikezele ngemali, lilawule, liphathe, liphuhlise, ligcine ngendlela, likhusele kwaye libuyisele esimeni indlela kamasipala, indlela kaloliwe okanye nasiphi isakhiwo sothutho sikamasipala esikuloo ndawo.

Amagunya ngokubanzi kunye nemisebenzi yamagunya ezendlela okanye izakhiwo zezothutho zikawonkewonke 25

58. (1) Indlela okanye igunya lesakhiwo sothutho sikawonkewonke siya kuthi—

- (a) lisuse okanye lilahle nasiphi na isilwanyana esigciwe endleleni, kwindlela kaloliwe okanye nasiphi isakhiwo sothutho sikawonkewonke soMthetho weSizwe okanye nawuphi na umthetho ongomnye, kodwa igunya alisayi kubanoxanduva lokuhlawula nawuphi na umntu apho eso silwanyana sifileyo okanye silimeleyo kuthintelwa ingozi yeithuthi; 30
- (b) libonelele kwaye ligcine ngendlela isakhiwo sothutho, imingxuma yezitsalamanzi, iimpompo nezinto ezihamba nazo okanye amancedo afanelekileyo oluntu oluthatha uhambo; 35
- (c) kumisa, bakhe baze bagcine ngendlela ngokoMthetho okanye phantsi koMthetho ngaphandle komhlaba wabucala wendlela, yomzila kaloliwe okanye esinye isisibonelelo sothutho sikawonkewonke isakhiwo, indlu, intente okanye esinye isakhiwo sokuhlala amagosa nabasebenzi abaqeshiweyo kwizibonelelo zothutho okanye besenza eminye imisebenzi ngokunxulumene noko; 40
- (d) bagcine okanye pahantsi kwalo mThetho, ngaphandle komhlaba wabucala wendlela, womzila kaloliwe okanye iindawo zokugcina izibonelelo zothutho lukawonkewonke, umzi mveliso, izixhobo zikamatshini okanye ezinye izinto abazithatha ngokuba zizakhiwo okanye ulondolozo lwezibonelelo zothutho; 45
- (e) athathe amanzi okanye enze zinye izibonelelo zamanzi ezithatha ngokuba zilungele ukwenza imimiselo yalo mThetho; ngokuxhomeke ekubeni amanzi akankuthathwa kwidami elenziwe ngumntu, iqula okanye umthombo ngaphandle kwemvume yomnini; 50
- (f) Ngokuxhomekeke kwezinye izizibonelelo zalo mThetho, lawula, gcina, vala okanye vula ecaleni indawo yokungena okanye yokuphuma kwindlela ebhengeziweyo, umzila kaloliwe okanye esinye isibonelelo sothutho; 50
- (g) qeshisa okanye tshalalalisa umhlaba, amakhuba, izixhobo zawo okanye ubolekise ngazo okanye uthathe amalungelo asemhlabeni afunyenwe ngokumalunga nezibonelelo zothutho kwaye zingekafunwa ngoku, okanye uboleke loo makhuba okanye izixhobo okanye unike amalungelo ethutyana kuloo mhlaba wasimahla; 55
- (h) abuyisele esimeni okanye umhlaba okanye aphucul iindawo kwindlela, kumzila kaloliwe okanye esinye isisibonelelo sothutho; 55
- (i) abize umrhumo okanye irenti nangaliphi na igunya, imvume enikwe umntu ukubonelela, ukwakha, ukumiliselela, ukuseka, ukuthwala okanye ukusebenza 60

- ngaphezulu okanye ngaphantsi kwendlela, umzila kaloliwe okanye esinye isibonelelo esisesinye, sayo nantoni na ebonelelwe kulo mThetho ngaphezulu kwemirhumo yezice;o. enokubizwa ngezixa ezimiselweyo;
- (j) ubonelela ngamali okanye uncedo, ngokuvumelana nomnini womhlaba, ukuze kwakhiwe iindlela ezingenzyo, kumiliselwe okanye kulondolozwe iingcingo, amasango okanye ezinye izakhiwo zendlela, zemizila kaloliwe planye ezinye izibonelelo zothutho zikawonkewonke okanye umhlaba osecaleni kwazo; 5
- (k) abeke, asuse okanye ashenxise umzila kaloliwe endleleni;
- (l) abonelele ngeenkonzo zamancedo aze avumele izizibonelelo zamaziko okuthela amafutha, iikhefi, amabala okudlala namanye amancedo okusetyenziswa xa kuthathwa uhambo kwindlela ezibhengeziweyo, kwimizila kaloliwe okanye ezinye izizibonelelo zothutho; 10
- (m) ngesaziso kwiGazethi athintele okanye avale intshukumo yemfuyo okanye ezinye izilwanyana ngaphandle kwezithuthi azinakushukunyiswa kuloo ndlela ngaphandle kwemvume ebhaliweyo okanye ugunyaziwe wendlela uunokuthi, apho loo mfuyo ifunyanwa khona kuloo ndlela ngokuchasene nesaziso okanye ngaphandle kwemvume, ayithimbe ngendlela emiselweyo. 15
- (2) Phantsi komThetho weziThuthi zeNdllela zesiZwe, indlela okanye oogunyaziwe bothutho lukawonkewonke malibonelel kwaye lugcine loo miqondiso yendlela, izizxhobo zokulawula izithuthi kunye neempawu njengoko zithatha ngokuba kuyafuneka ukuze kukhokelwe kukhuselwe izizithuthi ezindleleni, kwaye imiqondiso echanekileyo neesayini kwimizila kaloliwe. 20

Izivumelwano zomancedo zemisebenzi yendlela nezothutho

- 59.** (1) Indlela okanye ugunyaziwe wezothutho lukawonkewonke angenza isivumelwano esicetywa kwicandelwano (2) kunye— 25
- (a) nomPhathiswa;
- (b) nomasipala
- (c) neGunya leeNdllela zesiZwe lasemZantsi Afrika elisekwe kwicandelo 2 lomThetho weGunya leeNdllela lasemZantsi Afrika kunye nomThetho weendlela zesiZwe, 1998 (umThetho Na. 9 wowe 1989); 30
- (d) IMbumba yabaHambi ngoLoliwe yasemZantsi Afrika esekwe ngokumalunga necandelo 22(1) somThetho wokukuLandeledana ngokwasemThethweni kwiiNkonzo zoThutho zasemZantsi Afrika, 1989 (umThetho Na. 9 wowe 1989); 35
- (e) Inkamapani iTransnet Limited esekwe phantsi kwecandelo 2 somThetho okhankanywe kumhlathi (d); okanye
- (f) Nawuphi umntu okanye iqumrhu, othi kweli candelo abizwe ngokuba “Ielinye iqela“
- (2) Isivumelwano esicetywa kwicandelwana (1) singaphethwa aphao— 40
- (a) elinye iqela liya kutha naluphi na okanye lonke uxanduva lwayo okanye oluphathelele kwindlela, umzila kaloliwe okanye isibonelelo sothutho esisesinye;
- (b) elinye iqela lingenza umsebenzi onxulumene nendlela, nomzila kaloliwe okanye esinye isibonelelo sothutho, kubandakanywa ukwakhiwa nokulondolozwa kwazo okanye lenze kwenziwe umsebenzi phantsi kolongamelo, besenza phantsi kogunyaziwe ongumnini ndlela, umzila kaloliwe okanye esinye isibonelelo sothutho, okanye ugunyaziwe ongumnini weso sibonelelo uya kwenza loo msebenzi esenzela elinye iqela, okanye ngokumalunga nesivumelwano; okanye 50
- (c) umasipala emi kuye indlela, umzila kaloliwe okanye esinye isibonelelo sothutho siya kuba noxanduva sokupheliswa kwawo onke amanzi eenkqwithela kuloo ndlela, mzila kaloliwe okanye esinye isibonelelo sothutho okanye ukuphambukela koko nenkcitho efunyenwe ngokunxulumene noku, kwaye indlela, umzila kaloliwe okanye ugunyaziwe wezibonelelo zothutho, xa ingengomasipala, abasayi kuba noxanduva lomonakalo owenziwe okanye ovele xa kususwa amanzi eenkqwithela nguloo masipala okanye ukungaphumeleli kwawo ukususa amanzi eenkqwithela; 55
- (d) ugunyaziwe ongumnini ndlela, womzila kaloliwe okanye wesinye isibonelelo sothutho uya kwenza nayiphi na imisebenzi ecetywa kulo mThetho, okanye umsebenzi weenjongo okanye onxulumene nemisebenzi yaloo meko, apho, 60

okanye nemisebenzi yaloo meko, kwindawo yolawulo mthetho oaba welinye iqela, ngendleko zemnye ugunyaziwe, ngokumalunga kwaye phantsi kwalo mThetho.

(3) Isivumelwano ngokumalunga necandelwana (2) singabonelela ngokwabelana ngeendleko zeprojekhthi phakathi kwamaqela. 5

ISIGABA 10:

IZIBONELELO ZASEMTHETHWENI NEZIQHELEKILEYO

Amabango enziwa kwindlela, koogunyaziwe bezibonelelo zothutho lukawonkewonke nokusikelwa imida kokubanoxanduva

60. (1) UMphathiswa, naliphi na igunya lokwakheka kweendlela zikawonkewonke naliphi na okanye abasebenzi boMphathiswa okanye indlela kamasipala okanye igunya lezakhiwo kweendlela zikawonkewonke, okanye amagosa okanye abasebenzi bamagunya lawo okanye nawuphi na umntu osebenza okanye owakhe isakhiwo sothutho, akasayi kufaneleka aphenandlele ingozi okanye ilahleko yomntu—

(a) othe ngokusebenzisa icandelo lendlela, lesiporo sikaloliwe okanye icandelo elithile lokwakheka kwezothutho elingasiyondlela; okanye 15

(b) ngenxa yokualwa okanye ukwabiwa ngokutsha kwendlela okanye umzila kaloliwe phantsi kwalo Mthetho.

(2) Apho indlela entsha, umzila kaloliwe okanye esinye isibonelelo icwangciselwe khona, uMphathiswa okanye ugunyaziwe wendlela okanye wezibonelelo zothutho lukawonkewonke akasayi kuba noxanduva lokugwetyelwa iimali ezilixabiso lomhlaba eziya kuthi okanye zingachapahzeleki ngenxa yaloo mntu. 20

(3) Ngaphandle kokuba kubonelelwe kwicandelwana (4), umPhathiswa, umasipala, okanye nawuphi na umntu oqeshwe ngugunyaziwe wendlela okanye wezibonelelo zothutho ngelahleko okanye umonakalo ofunyenwe yindlela, ngumzila kaloliwe okanye esinye isibonelelo sothutho esenziwe okanye esenziwe nguMphathiswa, ngumasipala okanye nguloo msebenzi omelet umsebenzi wakhe okanye nawuphi na umntu owenza egameni lo phthiswa okanye elo gunya— 25

(a) ngaphandle kokuba limiselwe kwiinyanga ezili 12 emva komhla athe ofaka isicelo wawukhumbula ngokwenziwa kwaso senzo okanye ukusihiywa kwaso okanye ngomhla ofaka isicelo walindelwa ukuba sele esazi isenzo, nayiphi na eyenzeka kuqala; 30

(b) Phambi kokuba kuphele ubuncinane iintsuku ezili 90 emva kokwaziswa ngenceedi ebhaliweyo malunga nenjongo yomceli yokuqhubeka nokumangala, kukho iinkcukacha ezaneleyo zesi senzi, inikwe ummangalelwa okaye omelet ummangali, ngaphandle kokuba ummangalelwa okanye ommeleyo walile ukuba unetyala ngokubhala. 35

(4) INkundla ePhakamileyo inegunya lokubona iinkqubo zenkundla, ingathi ngesicelo ngulowo ofaka isicelo, inike umyalelo wokuba naziphi na iimfuno zecandelwana (3)(a) ziyekwe okanye zingaqhutyelwa phambili, okanye ukungafikeleli kwimfuno kuphunyezwe, ngenxa yomdla wenkundla. 40

Izithintelo ngokubanzi

61. (1) Ngaphandle kwawo nawuphi umthetho ongomnye, kodwa phantsi kwecandelwana (4), akukho mntu okanye iziko, kubandakanywa nemibutho karhulumente yokwenza izinto ezithile echazwe kwicandelo 239 lomGaqosiseko, unokuthi, ngaphandle kokuba ugunyaziswa ngulo Mthetho— 45

(a) angenelele endleleni, kumzila kaloliwe okanye esinye isibonelelo sothutho ngokumiliselela okanye enze isakhiwo, uthango, ucingo, umsele, umzila, umngxuma, uthungelwano lwemoto okanye esinye isithintelo okanye ngokufaka umbhobho, ucingo okanye iintambo kwindlela, ngaphezu okanye ngaphantsi kwendlela leyo, komzila kaloliwe okanye esinye isibonelelo sothutho; 50

(b) ashiye okanye abeke isithintelo esinokuthi sibe nbungozi kwizithuthi, okanye nayiphi na inkunkuma, udoti;

(c) Ashiye isithuthi okanye ilungu laso kumhlaba wendlela, kumhlaba womzila kaloliwe okanye isibonelelo sothutho esisesinye; 55

- (d) Onakalise indlela, umzila kaloliwe okanye esinye isibonelelo sothutho okanye achithe amafutha okanye ezinye okanye igesi endleleni, kumzila kaloliwe okanye kwisibonelelo sothutho esisesinye okanye umphezulu wendlela oganagathiweyo onokuyonakalisa;
- (e) Embe, asuse okanye aguqule umhlaba, umphezulu, igrabile, idrayi, iindonga okanye imisele yendlela, yomzila kaloliwe okanye nasiphi isibonelelo sothutho esinye; 5
- (f) Amilisele, ache, abeke okanye abonise kwindlela, kumzila kaloliwe okanye kwisibonelelo sothutho esisesinye ibhodi, isaziso, isikafula okanye esinye isixhobo ekuthi ngazo kuboniswe isaziso sokuthengisa, ngaphandle kokuvunyelwa ngulo mThetho okanye ngumthethi ongomnye; okanye 10
- (g) Apeyinte okanye ancamathisele umzobo, incwadi, umzobo, isayini, umqondiso, imikrwelo okanye into efana nezo okanye umqondiso kwindlela yezithuthi okanye ibrorho okanye kumqondiso wendlela;
- (h) Akhe ibrorho enqumlayo okanye umjelo onqamleza phantsi kwindlela, umzila kaloliwe okanye esinye isisibonelelo sothutho, ngaphandle kwemvume ebhaliweyo yegunya lendlela okanye likagunyaziwe wezibonelelo zothutho lukawonkewonke, abanokumisela iimeko enikwe phantsi kwazo imvume leyoo; 15
- (i) Athwale umbane okanye ezinye iintambo okanye uluhlu lwemibhobho enqumlayo okanye afakele iingcingo ezihamba phantsi komhlaba okanye uluhlu lwemibhobho ngaphezu, ngaphantsi okanye kwindlela, kumzila kaloliwe okanye esinye isisibonelelo sothutho esisesinye; 20
- (j) ukusetyenziswa kwindlela, umzila kaloliwe okanye esinye isibonelelo sothutho ngeli xa isakhiwa okanye ilungiswa, ngaphandle kwemiqondiso okanye ezinye iindlela eboniswe ngugunyaziwe wendlela okanye wezibonelelo zothutho lukawonkewonke. 25
- (k) Avale, atenxe, aguqule okanye ngangayiphi na indlela angene endleleni, kumzila wendlela okanye esinye isisibonelelo sothutho;
- (l) Ancamathisele esangweni lendlela, lomzila kaloliwe okanye kwesinye isibonelelo sothutho okanye kwezinye izinto ezinokuba nobungozi ebantwini okanye kwizilwanyana okanye zonakalise ipropathi; 30
- (m) Anakalise ngenjongo imithi, izizhlahla okanye esinye isibonelelo sothutho;
- (n) Athintele okanye avale igosa, umqeshwa okanye ummeli wegunya lendlela okanye lesithuthi sikawonkewonke okanye omnye umntu ogunyazisiweyo nguloo gunyaziwe bangakwazi ukwenza imisebenzi yabo phantsi kwalo mThetho. 35
- (o) Avale indlela, umzila kaloliwe okanye wesinye isisibonelelo sothutho ekufanele isetyenziswe nguwonkewonke okanye amise ucingo okanye esinye isithintelo sokuba uluntu lungakwazi ukusebenzisa indlela, imzila kaloliwe okanye esinye isisibonelelo sothutho. 40
- (p) Akhanyise izibane, okanye andise ukhanyiso, kwindlela, kumzila kaloliwe okanye esinye isibonelelo sothuthi ngendlela eya kuba nobungozi kwizithuthi.
- (q) Asebenzise indlela, umzila kaloliwe okanye esinye isisibonelelo sothutho evaliweyo ingasetyenziswa zizithuthi ngemiqondiso efanelekileyo; 45
- (r) Ahlale ngokungekho semthethweni okanye ahlale kwindawo ekungavumelekanga isetyenziswe okanye kumgama ongama 5m yendlela ekungavumelekanga sakhiwo kuwo, yomzila kaloliwe okanye esinye isibonelelo sothutho esimnino okanye esiphantsi kolawulo lukagunyaziwe wendlela. 50
- (s) Axhome umqondiso wendlela nakuyiphi na indlela, umzila kaloliwe okanye esinye isisibonelelo sothutho.
- (t) Ajike izithuthi ziye kwindlela okanye kumzila kaloliwe, ngaphandle kwakwimeko yengozi; 55
- (u) Aguqule, asuse, aphazamise okanye onakalise nayiphi na iphegi yendlela ebekwe ngugunyaziwe wezithuthi zikawonkewonke okanye ummeli wawo, umcandi okanye ikontraka eyenza imisebenzi yayo;
- (v) Ahambise imfuyo endleleni, kumzila kaloliwe okanye esinye isibonelelo sothutho ngaphandle kwemvume kagunyaziwe wendlela okanye wezibonelelo zothutho. 60
- (w) Ache ithuba lokungena okanye lokuphuma kwindlela, kumzila kaloliwe okanye wesinye isibonelelo sothuthi okanye ipropathi esecaleni kwaso

nakuyiphi na indlela evumela izithuthi ezingevumeleknaga okanye ukungena kweNMT phakathi kweendlela, komzila kaloliwe okanye esinye isisibonelelo nepropathi.

(2) Akukho mThetho ogunyazisa ukwenziwa kwesenzo esicitywa kwicandelwana (1) elinika nawuphi na umntu ngaphandle kogunyaziwe wendlela okanye wezibonelelo zothutho lukawonkewonke ezifana namalungelo ngaphandle kwemvume kagunyaziwe wendlela okanye wezibonelelo zezithuthi zikawonkewonke. 5

(3) Ugunyaziwe wendlela okanye wezibonelelo zothutho lukawonkewonke angagunyazisa ukwenziwa kwesenzi esithintelwa kwicandelwana (1) ngokubhala, ngokuxhomekeke kwiimeko, ithuba kwaye emva kokuhlululwa kwemirhumo okanye irenti, ukuba lanelisekile ukuba akukho ngozi kwindlela okanye kwisibonelelo sothutho okanye mpazamiseko kuluntu oluza kwenzeka ngenxa yoko. 10

(4) Loo mirhumo okanye irenti ingamiselwa okanye ihlawulwe ngamaxesha athi;e, kwaye ezo meko zinokubonelela ukuba umenzi sicelo uya kuhlulwula iindleko ezibandakanyekayo. 15

Ulwaphulo-mthetho nezohlwayo

62. (1) Umtu owaphula isibonelelo secandelo 61(1) okanye nasiphi na isibonelelo salo mThetho esingabhengezwanga njengetyala, unetyala.

(2) Ngaphandle kokugxeka intetho jikelele yecandelwana (1), umntu othe—

(a) wenzakalisa, watshabalalisa okanye wonakalisa inkangeleko yendlela, yomzila kaloliwe okanye esinye isisibonelelo sothutho okanye nantoni na ekuzo okanye eyinxalenye yazo; 20

(b) ngaphandle kokuqala afumane imvume ebhaliweyo kwindlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke, amilisele naluphi ucingo, udonga, uthango, umsele, umngxuma okanye esinye isithintelo ecaleni, oluphuma, ngaphaya okanye ngaphantsi kwendlela, komzila kaloliwe okanye esinye isibonelelo sothutho; 25

(c) obeka nasiphi na isithintelo okanye okuvalindlela, ngaphezulu, kwi okanye ngaphaya okanye ngaphantsi kwendlela, komzila kaloliwe okanye esinye isisibonelelo sothutho; 30

(d) olahla okanye ofaka okanye ovumela ukuba kulahlwe okanye kuphoswe kwindela, kumzila kaloliwe okanye esinye isisibonelelo sothutho nantoni na enokuthi ibe nobungozi, yonakalise okanye ingoze izithuthi; 30

(e) aphose, anqumbanise okanye khupha into okanye owenza okanye ovumela kuphoswe, kunqunjaniswe okanye kukhutshwe into emhlabeni okwindlela, kumzila kaloliwe okanye kwesinye isisibonelelo sothutho nantoni na, into enokuthi iphephethwe okanye imke namanzi okanye kuloo ndlela, mzila kaloliwe okanye kwesinye isibonelelo sothutho okanye enokuthi inuke, ibe nobungozi, yenzakalise izithuthi ezilapho; 35

(f) ebonakala inobungozi, ethintela, evalela okanye esebenzisa ulwimi oluthukayo, olukrwada okanye olubeka ibala nawuphi na umsebenzi, iarhente okanye ikontraka kagunyaziwe wendlela okanye wezibonelelo zothutho lukawonkewonke xa kusenziwa amagunya, imisebezi abayibekelwe okanye ephezu kwentloko yaloo msebenzi okanye arhente ngulo okanye phantsi kwalo mThetho; 40

(g) oxoka ngokuba ungumsebenzi, yiarhente okanye ikontraka kagunyaziwe wendlela okanye wesibonelelo sothutho; okanye 45

(h) ohambisa, osusa, owenzakalisa okanye atshabalalise iphegi, ibhakala okanye ezinye iindlela zokubonisa ezibekiweyo, phezu, kwi, ngaphaya okanye ngaphantsi okanye encanyathiselwe emhlabeni ngenjongo yalo mThetho ngu okanye egameni likagunyaziwe wendlela okanye wezibonelelo zothutho lukawonkewonke, uya kuba netyala lokophula umthetho. 50

(3) Umntu ofunyaniswe enetyala phantsi kwecandelwana (1) okanye (2) unokohlwaywa ngethuba lokuvalelwa entolongweni elingekho ngaphezulu konyaka okanye intlawulo engekho ngaphezulu kwama R100 000. 55

(4) Ukongeza nakusiphi na isohlwayo, inkundla egweba umntu ngetyala phantsi kwamacandelwana (1) okanye (2) ingamohlwaya onetyala ngesohlwayo, esiya kuhlululwa kugunyaziwe wendlela okanye wezibonelelo zezithuthi zoluntu ezifanelekileyo, ngokulingana nesixamali esilingana sazo zonke iindleko ezenziweyo lilo, ngokunxulumene nawuphi na umsebenzi wokubuyisela indlela okanye isibonelelo sothutho esisesinye kwimeko yaso yangaphambili okanye, apho kufanlekileyo, alungise 60

umonakalo okhoyo, kwaye, intlawulo engahlawulwayo, ukuya kuvalelo ntolongweni olungekho ngaphezulu kweenyanga ezintathu.

(5) Icandelwana (4) alisayi kumvalela ugunyaziwe wendlela okanye wezibonelelo zothutho ukuba abuyisele nasiphi na isisxamali esililungelo lakhe ukuba asifumane kumntu lowo, apho kufanelekileyo, nasiphi na isohlwayo esifanelekileyo phantsi kweli candelwana (4), nokba okanye akasohlwayangwa umntu okanye egwetyelwe ityala ngokumalunga neli candelo. 5

Imimiselo

63. (1) UmPhathiswa unokwenza imimiselo—

- (a) emisela imigangatho nemigomo yokulinganisa yokucwangcisa, yokuyila yophuhliso, yokwakha, yokuphatha, yokulawula, yokulondoloza, yokukhusela nokubuyisela esimeni iindlela, imizila kaloliwe nezinye izibonelelo zothutho, okanye ezokhuseleko lwendlela nemizila yoololiwe kwiPhondo, kwaye loo migangatho nemigomo yokulinganisa ingahluka ngokuxhomekeke kwiindidi zeendlela okanye imizila kaloliwe, ngokuxhomekeke ekubeni loo migangatho nemigomo inxulumene nemizila kaloliwe nezibonelelo zothutho ezinxulumene nemisebenzi yemizila kaloliwe esikelwe imida zizibonelelo ezifanelekileyo ngumThetho wokuLandeledana kumThetho weenkonzo zoThutho lwaseMzantsi Afrika (umThetho Namba 9 wowe 1989) nomThetho oLawula imiZila yooLoliwe yesiZwe (umThetho Namba 16 wowe 2002); 10
- (b) emisela iindlela neemfuneko zokujonga indlela ezenza ngayo imisebenzi yazo iindlela okanye amagunya ezithuthi zikawonkewonke phantsi kwalo mThetho, imigangatho yokusebenza okanye izikhombisi zemali kunye neziphumo zokungaphumeleli kwendlela namagunya ezithuthi kawonkewonke ukwenza imisebenzi yazo okanye imisebenzi ephantsi kwalo mThetho okanye ukwenza ukuyenza ngokupheleleyo; 15
- (c) emisela imigangatho nemigomo yokuyila, ukwakha, ukulawula nokuphatha indawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo ngokunxulumene— 30
- (i) nobukhulu, into eyenziwe ngayo, indlela yokwakha, umgangatho nendawo;
- (ii) ngokunxulumene nobude nobubanzi beendlela ukusuka nendlela yezithuthi eya kwisango lezithuthi;
- (iii) iimpawu emazimiliselwe kwaye zigcinwe ezinika isilumkiso se ndawana eneentsimbi ezixabe endleleni yezithuthi ethintela ukuwela kwemfuyo; 35
- (iv) ukuphathwa ngendlela, ukulondolozwa nokulawulwa kweendawana ezineentsimbi ezixabe endleleni yezithuthi ezithintela ukuwela kwemfuyo;
- (d) emisela uhlobo nendlela ekufanele kwenziwe ngayo nasiphi isicelo esicitywayo ngokwalo mThetho, ulwazi emalungeniswe naso kunye nemirhumo, ukuba ikho, emayihlawulelwe isicelo; 40
- (e) emisela ukusebenza, ukulawula nokukhusela iinkampu zokuphumla, iindawo zokuphumla namadlelo emfuyo akwiindlela okanye ayinxalenye yeendlela ezibhengeziweyo; 45
- (f) emisela indlela ekuthi ngayo indlela okanye oogunyaziwe bezithuthi zikawonkewonke zigcine iincwadi zemali efunyenweyo okanye ehlawuliweyo ngokumalunga neendlela, neentlawulo ezenziwe kwiNgxowamali neziphuma kuyo;
- (g) emisela indlela yokunika ixabiso lemali indlela, umzila kaloliwe okanye nayiphi na imisebenzi yezibonelelo zezithuthi zikawonkewonke; 50
- (h) ngaphantsi kwesiGaba 5
- (i) Emisela umntu ezithunyelwa kuye kunye neentsuku ekuya kungeniswa ngayo izicelo zenkxaso;
- (j) Emisela uhlobo olusetyenziswayo ngokunxulumene nalo naliphi na ibango lokubuyekezwa okanye ngokunxulumene naso nasiphi na isicelo, igunya, ukwamkela, imvume, okanye ukuxolelwa okubenelelwa kulo mThetho, okanye emisela ulwazi omalunikwe kunye nendlela yokwenza emayilandelwe ngokunxulumene nayo nayiphi imicimbi yezi zinto; 55
- (k) Emisela umrhumo omawuhlawulelwe nasiphi isicelo, ukugunyaziswa, 60 ukwamkelwa, imvume okanye ukuxolelwa okubonelelwe kulo mThetho;

- (l) Ngaphantsi komThetho wamaShishini, 1991 (umThetho 71 wowe 1991), olawula ukurhweba nge okanye nangasiphi isibonelelo sothutho;
- (m) Ngokumalunga nawo nawuphi umcimbi othi, ngokumalunga nalo mThetho, onokuthi okanye omawumiselwe ngumPhathiswa okanye ulawulwe, umiselwe okanye umiselwe ngendlela yommiselo owenziwe ngumPhathiswa; 5 kunye
- (n) Nawuphi na umcimbi ongomnye anokuthi umPhathiswa awubone ufanelekile okanye ungxamisekile ukuba ukhuthaze izinto zalo mThetho.
- (2) Imimiselo enjalo inokuthi, kwiimeko ezifanelekileyo, ibonelele ukuba ukwaphulwa okanye ukungaphumeleli ukwenza ngokommiselo lityala, kwaye ibonelele ngokubekwa kwethuba lokubanjwa elingasayi kuba ngaphezulu kweenyanga ezintathu okanye isohlwayo esungekho ngaphezulu kwama R100 000. 10
- (3) Imimiselo eyahlukileyo ingenzelwa iindidi zeendlela, imizila kaloliwe okanye isibonelelo sesithuthi sikawonkewonke phantsi kwecandelwana (1).
- (4) Ukwenziwa okanye ukufakelwa kwemibandela kwimimiselo phantsi kwecandelwana (1) oluneephumela yemali makwenziwe ngokuxhumana nomPhathiswa weziMali. 15

Imithetho yedolophu

64. (1) Apho indlela kamasipala okanye ugunyaziwe wesithuthi sikawonkewonke enza imithetho yedolophu ngokumalunga neendlela ezibhengeziweyo, imizila kaloliwe okanye esinye isibonelelo sesithuthi sikawonkewonke ekuthi ibe ngugunyaziwe wezibonelelo zezithuthi zikawonkewonke, ngokubhekiselele nakuwuphi na umcimbi ayibona ifanelekile umasipala okanye ingxamisekile ukukhuthaza izinto zalo mThetho ngokunxulumene neendlela zikamasipala ezibhengeziweyo, imizila kaloliwe nezinye izibonelelo zothutho zikawonkewonke, loo mithetho yedolophu akufuneki ichasane nezibonelelo zalo mThethi. 20 25
- (2) ukungaphumeleli ukwenza ngokomthetho wedolophu lityala, izohlwayo ezibekelwe elo tyala mazibekwe ngokuvumelana nomPhathiswa.
- (3) Izibonelelo zomGaqosiseko kunye nawuphi umthetho osebenzayo kurhulumente wephondo onxulumene nokwenziwa kwemithetho yedolophu ziya kusebenza xa kusenziwa imithetho yedolophu phantsi kweli candelo. 30

Izibhenzo

65. (1) Nawuphi na umntu ochaphazelekayo unokubhena kumPhathiswa okanye kwigosa leSebe elinyulwe ngumPhathiswa, echasa isigqibo esithathwe ngaphantsi kwalo mThetho yindlela okanye ugunyaziwe wezibonelelo zothutho. 35
- (2) Isibhenzo ngaphantsi kwecandelwana (1) masiphawulwe size sisetyenzwe ngendlela emiselweyo emva kokuhlawula umrhumo omiselweyo.
- (3) UmPhathiswa unokuqwalasela aze athathe isigqibo ngesibhenzo okanye anyule uluhlu lwabantu abanyulwe ngendlela emiselweyo ukuba bahlaalele baze bacebise umPhathiswa ngesibhenzo. 40
- (4) UmPhathiswa unokuthi, emva kokuqwalasela isisibhenzo eso, angqine, aphikise okanye anike esinye isigqibo, isisibonelelo, iimeko kunye nolawulo okanye angenza nawuphi na umyalelo ofanelekileyo, obandakanya umyalelo wokuba umrhumo ohawulwe ngulowo ubhenayo, okanye inxalenye yawo, ubuyiselwe kuye.
- (5) Isibhenzo phantsi kweli candelo asimisi nasiphi na isigqibo okanye isenzo esinxulumene nezibonelelo zalo mThetho, ngaophandle kokuba umPhathiswa uyalela ngenye indlela. 45

Ukuthuma

66. (1) Ngaphantsi kwecandelwana (2), UmPhathiswa anganikela umsebenzi, ilungelo okanye igunya elinikwayo okanye elimiselwe ngulo mThetho kwiNtloko yeSebe okanye kwigosa leSebe. 50
- (2) Icandelwana (1) alisayi kusebenza kwigunya ukuhlutha ipropathi okanye amalungelo aphantsi kwecandelo 39 okanye ukwenza imimiselo phantsi kwamacandelo 63.

ISIGABA 12:**EZINYE IZIBONELELO****Ukubhangiswa nokubekwa bucala**

67. (1) Le miThetho ilandelayo nemiMiselo iyabhangiswa ukuba isetyenziswe kwiPhondo: 5

- (a) ISaziso seeNdlela kunye nomThetho wophuhliso lweRibhoni, 1940 (umThetho 21 wowe 1940);
- (b) umMiselo weendlela (waseKapa), 1976 (umMiselo 19 wowe 1976);
- (c) UmThetho woLwandiso lwamaGunya eeKomiti eziPhetheyo nabaLawuli, wowe 1964 (umThetho 41 wowe 1964). 10

Isihloko esifutshane nokuqala

68. (1) Lo mThetho ubizwa ngokuba ngumThetho weziBonelelo zezoThutho weNtshona Koloni, ka-2008 kwaye uya kuqala ukusebenza ngomhla omuselwe yiNkulumbuso ngokubhengezwa kwiGazethi.

(2) Izibonelelo ezahlukileyo zalo mThetho zingenziwa zisebenze ngeentsuku 15 ezahlukileyo.

IMEMORANDUM KWIZINTO ZOMTHETHO OYILWAYO WEZINTO ZOTHUTHO WASENTSHONA KOLONI

Yinjongo yeSebe lezoThutho neleMisebenzi yoLuntu ukucela umPhathiswa wezoThutho kaRhulumente wePhondo laseNtshona Koloni ukuba azise umThetho weZibonelelo zoThutho oYilwayo eNtshona Koloni kwindlu yoWiso-mThetho yakuphela inkqubo yokucela izimvo namanqaku kuwonkewonke ngalo mThetho oYilwayo. Inkqubo yokwaZisa umThetho oYilwayo weZibonelelo zoThutho eNtshona Koloni, 2008 unenjongo yokufumana ngokubuza amanqaku kawonkewonke aze loo manqaka awafake njengoko efika kumThetho oyilwayo wokugqibela phambi kokuba waziswe ngumPhathiswa kwiNdlu yoWiso-mThetho.

UmThetho weZibonelelo zoThutho eNtshona Koloni (WCTIB), owakha wabhengezwa, uvumela iPhondo noomasipala balalwile izizibonelelo zothutho phantsi kweendidi zeendlela ezingundoqo, imizila yoololiwe nezinye izibonelelo zothutho phantsi kobume obutsha bowiso-mthetho. Iinkqubo eziya kuvumela ukubhengezwa kwezibonelelo zothutho zifakiwe, kwakunye nezocwangciso, ezokuhluthwa, ezokwakha, ezokuphathwa, ezokulawulwa nokulondolozwa kwezibonelelo.

UmThetho oYilwayo ubekwa uthatha indawo yemisebenzi ebonelelwe phantsi kwemithetho ekhoyo, kodwa uneempawu ezininzi ezintsha kwaye uphendula iimfuneko nezigunyaziso zePhondo noomasipala zokukhuphula indima yezothutho ngokubonelela ngezibonelelo ezixhasa ukusebenza kwazo zonke iindlela zothutho, kubandakanywa uthutho olungezomoto, uthutho lukawonkewonke, ukuthuthwa kweempahla nezithuthi zangasese ezizebantú. Ezi zicacisiwe lule memorandam.

Ukutshintshwa kweminye imithetho yiWCTIB

- IWCTIB imiselwe ncakasana ukuba ibekwe endaweni yoMmiselo weeNdlalela, 19 wowe 1976 kunye nokuPapasha iiNdlalela kunye nomThetho woPhuhliso lweRibbon, 21 wowe 1940. Zonke izizungqo zomthetho ziphikisana nemGaqosiseko, 108, wowe 1996, azihambelani nemibutho yamaziko ekhoyo namhlanje phantsi lolawulo olukhutshwayo kwaye azizifikeleli iimfuno ngokupheleleyo.

Iindlela ziphikisana nezitrato — iindlela ekuthethwe ngazo phantsi koMthetho oYilwayo

- IWCTIB iya kulungelelaniswa nomGaqo-siseko, kwaye iya kuzisa imisebenzi yokuphathwa kwendlela kakuhle okufunwa yiDT&PW. UmThetho Oyilwayo ugxininisa ukuphathwa kwizinga eliphezulu kwendlela ephangaleleyo, indlela ebhengeziweyo, iindlela zesithili kwiPhondo, esisebenza njengejelo elihlanganisa iidolophu namaphandle kunye nemisebenzi yamazelo endlela kamasipala yodidi oluphezulu.

Ukulawulwa kwezitrato zikamasipala

- Izitrato zikamasipala, izindlela ezikwixabiso elisezantsi eziphantsi kukamasipala, azifakwanga kulo mThetho oYilwayo, kucingwa ukuba ziya kulawulwa phantsi komMiselo kaMasipala okanye umthetho wePhondo owumelayo, okanye phantsi komthetho wedolophu olawula izitrato zikamasipala.
- Izibonelelo zalo mThetho ezinxulumene nesibhengezo, nokumiselwa, nokulawula nokuphathwa kweendlela zikamasipala azilindelwanga ukuba zigabadele zingenelele amagunya oomasipala okulawula umcimbi “wendlela zikamasipala” odweliswe kwiCandelo B weShedyuli 5 womGaqosiseko kwaye ekuthe ngawo kwanikelwa amagunya anikelwa koomasipala ngokumalunga necandelo 156(1) nelle (2) lomGaqosiseko, kodwa liya kubonelela oomasipala ngesibonelelo ezizezinye, imigangatho, iindlela zokuhlola kunye nenkxaso yezo ndlela,
- Okulandelayo kukuba oomasipala banokwenza imithetho yedolophu yokulawula iindlela zikamasipala endaweni okanye zandise naliphi na icandelo lalo mThetho, ngaphandle kwalapho kufneleke ukuba indlela kamasipala ifumane inkxaso kwiPhondo, kwimeko apho ulawulo lwendlela kamasipala malube malunga nalo mThetho.

Ukwandiswa kwemida ukuze kubandakanywe nezibonelelo zothutho lukawonkewonke

- IWCTIB yandisa umda womthethi wezibonelelo zothutho ngaphezulu kwalowo okumMiselo neARRDA, ezimiselwe ukubhengeza ngokupheleleyo nokulawula ukwakhiwa kwendlela kunye nokulondolozwa kwendlela zePhondo nokuxhaswa ngemali kweendlela ezinguhola “ezibhengezwayo”.

- IWCTIB iza kuthi ngoku ukongeza kwiindlela ibonelele ngokubhengezwa kwezibonelelo zothutho lukawonkewonke, ezifana neenkqubi zoololiwe zinzima okanye ezilula kunye nendlela zodidi oluphezulu zothutho loluntu kwiinkqubo zohlobo lweBRT.
- Imisebenzi yePhondo neyoomasipala ecetywa kulo mThetho enxulumene nolawulo lwemizila kaloliwe nezinye izizibonelelo zothutho lukawonkewonke ziwela phantsi kwemisebenzi “kwezithuthi zikawonkewonke” kunye “nezithuthi zikawonkewonke zoomasipala” ezidweliswe kwiShedyuli 4 yomGaqosiseko, kwaye ezi kufuneka zifundwe kunye neNLTTA.

Izibonelelo zothutho ezisecaleni

- Izibonelelo zothutho ezincedisayo zibonelelwe kulo mThetho oYilwayo, ngokuba izizibonelelo ezahlukileyo kwindlela, kodwa zilungiselelwe iinjongo zendlela zingabhengezwa. Imizekelo yezi ziindawo zokuphumla, ukunge ngqo kumaziko eenkonzo, iibhulorho zobunzima kunye namaziko olawulo lwezithuthi.
- Izibonelelo zothutho ezisecaleni nazo zibonelelwe, kuba izibonelelo ezixhasa ukusebenza kwezithuthi zikawonkewonke, kunye nezikwindawo ezahluliweyo kwimizila yoololiwe okanye iindlela ezigcinelwe izithuthi zothutho lukawonkewonke zingabhengezwa. Imizekelo zizithuthi zikawonkewonke ezitshintshatshintshwayo, iiyadi zemikhosi needepho.

Ukubhengezwa kweendlela ngumasipala

- Ikqubo ebalulekileyo efakiweyo kukuxhaswa koomasipala apho iindlela ezibalulekileyo athi ngazo umasipala abe ngugunyaziwe zingabhengezwa ngumasipala ngokwakhe, kwaye ngoko azuze ekuphatheni nasekulawuleni izibonelelo zeWCTIB. Oomasipala baya kukwazi ukubhengeza iindlela ngokungaxhomekekanga kwiPhondo, ekuthi ngazo babenamagunya abo bodwa okuthatha isigqibo.
- Kwiimeko apho indlela kamasipala ibhengeziweyo, kuya kufuneka kuthotyelwe izithethe nemigangatho ebonelelwe kumThetho oYilwayo nenimiselelo yawo. IPhondo liya kuthi kule meko lidlale indima yokongamela ukuqinisekisa ukuba ezo ndlela zikamasipala ziphathwa ngokungqinelana nezo zithethe nemigangatho.

Ukubandakanywa kweemfuneko nobuchule bokwenza nokucwangcisa iprojekhthi

- Ukucwangciselwa ikamva kwezibonelelo zothutho njengoko kufunwa ngokumalunga neNLTTA kugxininisiwe kumThetho oYilwayo, ethi ibonelele kwakhona ngamaxesha okuba kwenziwe ulwabiwo-mali apho inkxaso ifunekayo. Ucwangciso lwePhondo lwezibonelelo zothutho lwenziwe lwayimfuno ngokwasemthethweni kumThetho oYilwayo ukuze oomasipala babandakanye iiprojekhthi zabo xa kuhlaziywa izizcwangciso zothutho ezihlanganisiweyo.
- UmThetho iYilwayo wazisa indlela yokucwangcisa izizibonelelo zothutho, ekufuneka yenziwe apho indlela entsha, umzila kaloliwe kunye nezinye izibonelelo zothutho ezincedisayo zicwangciswayo, zisiwa kwenye indawo, zandiswayo okanye ezivalwayo ezicetywayo.

Isibonelelo senkxaso ehlawulwa koomasipala

- Omnye umgaqo obalulekileyo ngowokuba umThetho oYilwayo ubonelela indlela entle ebhengezwe ngumasipala ukuba ifimane inkxaso kwiPhondo. Apho kwenzeka khona oku, kuya kubakho isivumelwano senkxaso phakathi kukamasipala nomPhathiswa esineemeko ezilawula isivumelwano.
- Apho isivumelwano senkxaso sikhoyo kwindlela kamasipala ebhengeziweyo, ukuthathwa kwesigqibo esibalulekileyo ngokumalunga nemiganagatho nokuguqulwa kwendlela kuya kufuna isiqiniseko seDT&PW, ngezithethe nemigangatho ebandakanywe kumThetho oYilwayo, okanye imibutho eququzela phakathi kwala maqela.

Ezinye izibonelelo zemali ezibalulekileyo

- UmThetho oYilwayo unezinye izizibonelelo zemali, umgaqo okukusekwa kweNgxowamali yeziBonelelo zoThutho, eya kuba yingxowa ejonje kwaye ekuhlawulwa kuyo izabelo zePhondo, izohlwayo zamatyala, imirhumo ehlawulwayo, iirhafu ezifunyenweyo kunye nanezinye iindawo zamalungiseleleo endlela zokwakha ubuhlobo (PPP) (ezifana namaziko eenkonzo ekufuneka uzifikelele ngokwakho)
- INgxowamali iya kusetyenziselwa ukuhlawula iindleko zeendlela zePhondo, zemizila kaloliwe nezinye izizibonelelo zothutho, nanjengendlela yokuhlawula inkxaso koomasipala. INgxowamali, izimele ngaphandle kweNgxowamali

yeziMali yePhondo, iya kinzala kwaye iya kwenza kukwazeke ukuba iimali ziqhubekeke zisiwe kwiimali zeminyaka elandaleyo.

Izibonelelo zexesha lenguqu

- Ukusuka kumhla wokuqalisa ukusebenza kwalo mThetho Zonke iindlela eziphangaleleyo, ezingabalulekanga, kunye iindleldlana zoluntu phantsi komMiselo weeNdlela ziya kuthathwa ngokuba zibhengeziwe phantsi kwalo mThetho, kwaye zonke iimeko ezingqumene nolo bhengezo ziya kuqhubeka zisebenza ngokungathi indlela okanye indleldana yoluntu ibe iphantsi kweendlela zokucwangcisa iprojekhthi nobhengezo phantsi kwalo mThetho.
- Kulungiselelwe ukuba inkqubo iqale ekupapashweni kwalo mThetho oYilwayo ukuvumela ukuhlelwa nobunini beendlela kwiPhondo ukuba zilungiselelwe. Izibonelelo zexesha lenguqu kumThetho oYilwayo zivumela ukufakwa kwikhathalokhu kwazo zonke iindlela ezazibhengezwe kumMiselo, kunye nokuphinda kuhlelwe ezi ndlela phantsi kwalo mThetho apho kuyimfuneko. Le nkqubo iya kubandakanya ukwabelwa koomasipala abafanelekileyo ukugcina ezi ndlela , ezinye zezi ndlela kwaye ezo zingabiwanga zihlala izezikagunyaziwe wePhondo. Iindlela ezabiwe liPhondo koomasipala ziya kuthathwa ngokumalunga neemeko zezivumelwano.

Oogunyaziwe, ubunini noxanduva lobusebenzi

- UmThetho oYilwayo ubonelela ukuba uMphathiswa okanye umasipala angayindlela okanye ugunyaziwe wezithuthi zikawonkewonke, kwaye njengoko esenza yonke imisebenzi yokucwangcisa, yokuyila, yokuhlutha, yokwakha, yokuphatha nokunika imali izibonelelo zothutho eziphantsi kolawulo lwazo.
- Ubunini bezibonelelo zothutho kwakunye nomhlaba ophakathi kweendawo ezibekwe bucala zisezandleni zePhondo okanye ezikamasipala. umThetho oYilwayo ubonelela ukuba nokuguquka kumalungiselelo asemthethweni apha thelele kubunini bomhlaba — ubunini bendawo ebekwe bucala bungathathwa ngelixa itayitile yomhlaba iseyeyomnini wancakasana, kungenjalo indawo ebekwe bucala ingabekwa bucala ize itayitile itshintshelwe kwiPhondo okanye kumasipala, nayiphi na eyindlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke.
- Uxanduva lomPhathiswa okanye lukamasipala njengoko indlela okanye ugunyaziwe wezibonelelo zothutho lukawonkewonke lunesihlomelo kumThetho oYilwayo sokuba imisebenzi engundoqo yobugcisa inokwenziwa kuphela phantsi kwenxaxheba nokusebenza ngenkuthalo kweNjineli eyiNgcaphephe okanye iMfundimani yobuGcisa.

