PROVINCE OF THE WESTERN CAPE

WESTERN CAPE PROVINCIAL TRANSPORT INFRASTRUCTURE BILL

(As introduced)

(MINISTER OF TRANSPORT AND PUBLIC WORKS)

[B 5—2021]

PROVINSIE WES-KAAP

WES-KAAPSE WETSONTWERP OP PROVINSIALE VERVOERINFRASTRUKTUUR

(Soos ingedien)

(MINISTER VAN VERVOER EN OPENBARE WERKE)

[W 5—2021]

IPHONDO LENTSHONA KOLONI

UMTHETHO OSAYILWAYO WEZIBONELELO ZOTHUTHO KWIPHONDO LASENTSHONA KOLONI

(Njengoko wazisiwe)

(NGUMPHATHISWA WEZOTHUTHO NEMISEBENZI YOLUNTU)

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BILL

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

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

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CHAPTER 1

INTRODUCTORY PROVISIONS

Definitions

1. (1) In this Act, unless the context indicates otherwise—

"advertisement" means—

(a) 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, including a board or object normally used for such purposes, and includes images displayed by laser beams or similar devices, and displays that are electronically manipulated, even if actual information is not transferred thereby; and

(b) any physical structure built or capable of being used to display or support such a representation,

but does not include road traffic signs or traffic lights;

"Advertising on Roads and Ribbon Development Act" means the Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940);

"ancillary road infrastructure", unless the context indicates otherwise, means a provincial facility referred to in section 16(1) and declared as ancillary road infrastructure under section 22, and includes the land on which it is built;

"ancillary public transport infrastructure" means ancillary infrastructure in respect of public transport roads and ancillary infrastructure in respect of railway lines referred to in section 16(2) and declared under section 22 as ancillary public transport infrastructure, and includes all the land on which it was built;

"ancillary transport infrastructure" means ancillary road infrastructure or ancillary public transport infrastructure;

"arterial management plan" means a plan contemplated in section 18(3);

"authorised person" means a person authorised to act on behalf of the owner;

"boundary" means, in the case of—

(a) a road, the lines defining the outer edges of the reserve;

(b) a railway line, the line defining the outer edges of the area declared under section 22(1); and

(c) ancillary transport infrastructure, the line defining the outer perimeter of the area declared under section 22(1) for the purposes of the ancillary transport infrastructure;

"building line" means a line contemplated in section 17(1);

"building restriction area" means an area contemplated in section 17(2), (4) or (6);

"busway" means the demarcated lanes of a road reserved for exclusive use by buses or of vehicles authorised to use those lanes for emergency or other purposes;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"construction" includes reconstruction;

"Deeds Registries Act" means the Deeds Registries Act, 1937 (Act 47 of 1937);

"Department" means the provincial department responsible for transport matters in the Province;

"deploy" includes install, lay, construct or a similar activity;

"depot" means a place used for the impoundment of vehicles and—

(a) designated as a depot in terms of section 87 of the NLTA; or

(b) declared or designated as a place for the impoundment of vehicles in terms of any other law;

"direct access service site" means a facility adjacent to a freeway that—

(a) takes access directly off the freeway; and

(b) is intended specifically for users of the freeway or the control of transport operations;

"district road" means a road which has been categorised as a district road under section 7(1)*(c)* or (4), or is regarded as a district road in terms of section 8(4);

"erect", in relation to a fence, includes the re-erection of the fence, the entire replacement of the material of the fence and the addition to the fence of any material not required for the purpose of repairs or maintenance;

"fence" means any structure or device that serves the purpose of a fence, irrespective of the materials used for, or the manner of, its construction, and includes a wall and a hedge;

"freeway" means a road or section of a road that has been designated as a freeway in terms of the National Road Traffic Act;

"functional classification" means the description of the hierarchy of a road into one of the Classes 1 to 6, as prescribed;

"Head of Department" means the Head of the Department responsible for transport matters in the Province;

"heavy railway line" means a provincial rail system that—

(a) operates on rails within its own rail reserve;

(b) has a track gauge exceeding 600 millimetres; and

(c) has been classified as a heavy railway line under section 13(2);

"integrated transport plan" means a plan contemplated in section 36 of the NLTA;

"Intergovernmental Relations Framework Act" means the Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005);

"land" means land with or without improvements;

"light railway line" means a provincial rail system, including a system running on a monorail, a magnetic levitation system or a fixed rail or track system where the vehicles run on pneumatic tyres, that—

(a) operates within its own rail reserve, within an exclusive right of way within a road reserve, or in mixed traffic within a road reserve; and

(b) has been classified as a light railway line under section 13(2);

"main road" means a road which has been categorised as a main road under section 7(1)*(b)* or (4), or is regarded as a main road in terms of section 8(3);

"mining operations" means any operation relating to the act of mining and matters directly incidental thereto;

"minor road" means a road that has been categorised as a minor road under section 7(1)*(e)* or (4), or is regarded as a minor road in terms of section 8(3);

"mobility road" means a mobility road as contemplated in the Access Management Guidelines of 2020 published by the Province or any subsequent amendments;

"motor cattle-grid" means a thoroughfare located across a roadway that allows only vehicular traffic to pass by means of a ribbed platform;

"municipal road" means a road contemplated in section 5(2);

"National Minister" means the member of the National Cabinet responsible for transport matters;

"national road" means a national road as defined in the South African National Roads Agency Limited and National Roads Act, 1998 (Act 7 of 1998);

"National Road Traffic Act" means the National Road Traffic Act, 1996 (Act 93 of 1996);

"NEMA" means the National Environmental Management Act, 1998 (Act 107 of 1998);

"NLTA" means the National Land Transport Act, 2009 (Act 5 of 2009);

"non-motorised transport" includes pedestrians, pedal cycles and other vehicles powered by people or animals;

"official languages" means English, Afrikaans and Xhosa;

"Ordinance" means the Roads Ordinance, 1976 (Ordinance 19 of 1976);

"organ of state" means an organ of state as defined in section 239 of the Constitution;

"person" includes—

(a) an organ of state;

(b) a service provider;

"PFMA" means the Public Finance Management Act, 1999 (Act 1 of 1999);

"prescribed" means prescribed by regulations made under this Act;

"previously declared" means declared or regarded as declared in terms of the Ordinance or any other law in force at the commencement of this Act;

"Province" means the province of the Western Cape or the Western Cape Province, as the context indicates;

"provincial land transport framework" means the framework contemplated in section 35 of the NLTA;

"Provincial Minister" means the member of the Provincial Cabinet responsible for transport matters in the Province;

"Provincial Minister of Finance" means the member of the Provincial Cabinet responsible for financial affairs in the Province;

"Provincial Minister of Local Government" means the member of the Provincial Cabinet responsible for local government matters in the Province;

"provincial road" means a road contemplated in section 5(1)*(a)*;

"public path" means a pathway that has been categorised as a public path under section 7(1)*(f)* or (4) or is regarded as a public path in terms of section 8(3);

"public transport road" means a road used exclusively for public transport and that has been categorised as a public transport road in terms of section 7(1)*(d)* or (4);

"railway line" means a provincial rail system, and includes the full width of the rail reserve and the land and all works or anything forming part of or belonging to the railway line;

"reserve" means, in the case of—

(a) a road, its declared, altered or deemed width contemplated in section 15;

(b) a railway line, the whole declared width between its boundary edges;

(c) ancillary transport infrastructure, the whole declared area inside its boundary edges;

"responsible authority" means, in the case of—

(a) a road, the Province or the municipality responsible for administering the road concerned, as contemplated in section 5;

(b) a railway line declared under section 22(1), read with section 13, the Province;

(c) ancillary transport infrastructure declared under section 22(1), read with section 16(1) or (2), the Province;

"rest area" means an area set aside specifically to allow road users to interrupt their journey to stop and rest, located either adjacent to and part of the road reserve or remote from the road, and that may include commercial facilities;

"road" includes the road reserve and the land and all works or anything forming part of or belonging to the road;

"road of joint significance" means a road of joint municipal and provincial significance contemplated in section 5(3);

"roadside development environment" means the nature of the built environment abutting a road or section of road, or prevalent in the corridor of a road or in a section of the corridor of a road, as prescribed, providing information necessary for decision-making on intersection and access spacing;

"road subsidy" means a road subsidy contemplated in Chapter 8;

"road transfer agreement" means an agreement contemplated in section 12;

"roadway" means the part of a road intended for vehicles;

"SANRAL" means the South African National Roads Agency Limited established in terms of section 2 of the South African National Roads Agency Limited and National Roads Act;

"South African National Roads Agency Limited and National Roads Act" means the South African National Roads Agency Limited and National Roads Act, 1998 (Act 7 of 1998);

"service infrastructure" means a pipeline, sewer, wire, cable, electronic communication facility, conduit pipe, tunnel, tube, manhole, antenna, mast, or similar infrastructure, that can be used for the provision of electricity, water, gas, telephonic or electronic communications or in connection with sewage disposal, stormwater drainage, or a similar service;

"service infrastructure works" means to deploy, modify, upgrade, replace, repair, maintain, rehabilitate, reconstruct, relocate, remove, or a similar activity in relation to, service infrastructure;

"service provider" means a person providing or authorised to provide service infrastructure, and includes a successor in title, contractor or agent of the service provider;

"station" includes—

(a) in the case of a railway line, the areas within a station used for the track, civil infrastructure, buildings, train control systems, railway yards, sidings or signals, and all other facilities and systems necessary for or incidental to the operation, maintenance and administration of the railway line;

(b) in the case of a busway, the areas within the station used for the busway, civil infrastructure, buildings, signs, signals and markings, and all other facilities and systems necessary for or incidental to the operation, maintenance and administration of the bus system; and

(c) parking garages and areas, passenger drop-off and pick-up points and commercial and retail land uses forming part of the station premises;

"stock" means all categories of domestic farming livestock and game;

"stock camp" means a site for use in connection with the temporary encampment of stock while in transit;

"structure" means a building, structure or anything erected on, above or under the ground, whether permanent or temporary, irrespective of its nature or size;

"this Act" includes the regulations made under this Act;

"township" means an area divided into stands, erven or plots, whether with or without public open spaces, and established or recognised as a township under any law;

"traffic" means road or rail vehicular or non-motorised traffic and includes traffic safety considerations;

"traffic signs" means road traffic signs as contemplated in the National Road Traffic Act or rail signs or signals as contemplated in the National Railway Safety

Regulator Act, 2002 (Act 16 of 2002), and includes signs or signals for controlling road and rail traffic at level crossings and other locations where there are potential conflicts between rail and other traffic;

"transport infrastructure" means a provincial road, railway line or ancillary transport infrastructure, including its reserve;

"transport infrastructure works" means to deploy, modify, upgrade, replace, repair, maintain, rehabilitate, reconstruct, relocate, remove, or a similar activity in relation to, transport infrastructure;

"transport operations" means the transportation of goods, materials and people within a road system, with due regard to traffic volumes, traffic modes, physical constraints, climatic conditions and the physical form and condition of the road;

"trunk road" means a road that has been categorised as a trunk road under section 7(1)*(a)* or (4) or is regarded as a trunk road in terms of section 8(3);

"urban area" means an area consisting of—

(a) subject to paragraphs *(b)* and *(c)*, that portion of the area of jurisdiction of a local authority that has by survey been subdivided into erven of two hectares or less or is surrounded by such surveyed erven, and includes public roads abutting thereon;

(b) an area within the perimeter of the outer limit of urban expansion indicated on a spatial development framework adopted in terms of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014); or

(c) an area that has under subsection (2) been declared an urban area for the purposes of this Act, and—

(i) includes areas adjacent to an area referred to in paragraph *(a)*, *(b)* or *(c)* and extending outside the boundary of that area measured at right angles to the edge of the area, for a distance of 250 metres;

(ii) where the urban area referred to in paragraph *(a)*, *(b)* or *(c)* exists only on one side of a road, the road is within an urban area to the extent of the urban area on that side;

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

(3) Words derived from the word or terms defined have corresponding meanings, unless the context indicates otherwise.

(4) A reference to another law includes an amendment and a future amendment to that law.

Responsibilities of Province and municipalities

2. (1) The Provincial Minister and the Head of Department must, within the available resources of the Department, finance, plan, declare, design, construct, develop, maintain, control, manage, regulate, upgrade, protect and rehabilitate transport infrastructure in accordance with this Act and any other applicable law.

(2) The relevant municipality must, within its available resources, subject to this Act and any other applicable law, finance, plan, declare, design, construct, develop, maintain, control, manage, regulate, upgrade, protect and rehabilitate municipal roads, roads of joint significance and ancillary road infrastructure in its area of jurisdiction.

Professional Engineers or Registered Planners responsible for specific functions

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

(2) No person other than—

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

(b) a planner registered in terms of the Planning Professions Act, 2002 (Act 36 of 2002),

may be responsible for the oversight and approval of technical strategies or plans related to transport infrastructure contemplated in subsection (1).

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

(a) design of civil, structural, electrical or mechanical engineering components of transport infrastructure contemplated in subsection (1);

(b) development of remedial and maintenance strategies of existing transport infrastructure contemplated in subsection (1);

(c) management of the construction and maintenance of transport infrastructure contemplated in subsection (1); or

(d) other prescribed activities.

(4) The Head of Department must ensure that the Department's staff establishment includes professional engineers or town planners with sufficient appropriate experience and having the necessary competence for the purpose of supervising the undertaking of the activities contemplated in subsections (2) and (3).

Title to land for transport infrastructure

4. (1) Subject to this Act and applicable law, all rights and obligations attached to transport infrastructure and the land comprised therein vest in the Province.

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

(3) All land vested or registered in the name of the Roads Trustees vests in the Province.

(4) Subject to the available resources of the Department, from the date of commencement of this Act, title to land, including servitudes, newly acquired by the Province for transport infrastructure must be registered in the name of the Province.

(5) The Province may in terms of the applicable provincial law governing the acquisition and disposal of provincial state land, acquire land for the purposes of this Act by way of purchase, lease, expropriation subject to subsections (6) to (11), or any other applicable method.

(6) The Provincial Minister may, in accordance with the law governing the expropriation of property, expropriate land for the purpose of—

(a) transport infrastructure works or activities in connection therewith, including the temporary deviation of a road or railway line;

(b) subject to the NEMA and any other applicable law, the acquisition, mining or treatment, raising or removal of materials including gravel, stone, sand, clay, water other than water that has been artificially pumped for watering stock, and any other material or substance for purposes contemplated in this Act, outside an urban area;

(c) the accommodation of staff engaged in the building, rehabilitation, upgrading or maintenance of transport infrastructure; or

(d) the storage or maintenance of vehicles, machines, equipment, tools, stores or material.

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

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

(9) Where land or a portion thereof is prejudicially affected by the expropriation of other land by the Provincial Minister, the Provincial Minister may also expropriate the land or portion that is so affected.

(10) Subject to this Act and applicable law, where title to a previously declared road that vests in the Province remains in the name of a person other than the Province, and the road is utilised by the Province as a road, the Provincial Minister may, without the payment of compensation—

(a) cause a note to be endorsed on the title deed to the land concerned as contemplated in section 31(6) or 32(5), as applicable, of the Deeds Registries Act; or

(b) after taking the necessary steps contemplated in paragraph *(a)*, cause title to the land to be registered in the name of the Province as contemplated in section 31(1) of the Deeds Registries Act.

(11) The Provincial Minister may raise and remove materials on land owned by an organ of state, but only in terms of an agreement with that organ of state and subject to the NEMA and any other applicable law.

(12) Land vested in the Province and no longer required for any purpose related to transport infrastructure may be disposed of by the Provincial Minister in accordance with the law applicable to the disposal of provincial state land.

(13) Notwithstanding subsection (12), in the case where a road is located on land registered in the name of the title holder other than the Province in circumstances where—

(a) any part of the road is relocated, changed or permanently closed; or

(b) any part of the reserve of the road is reduced or changed,

and the land ceases to form a part of the road as a result of an action contemplated in paragraph *(a)* or *(b)*—

(i) in circumstances where the land was acquired by expropriation, the Head of Department may, subject to the Deeds Registries Act, apply for the removal of any endorsement on the title deed to the land pertaining to the rights of the Province in respect of the road;

(ii) in circumstances where the land vests in the Province, notwithstanding that the land was not acquired by expropriation, ownership of the land reverts to the title holder unless the Head of Department directs otherwise by publication of a notice in the *Provincial Gazette*.

(14) The Head of Department must in the circumstances contemplated in paragraph *(a)* and *(b)* of subsection (13) consider whether to apply for the removal of any endorsement on the title deed or to publish a notice as contemplated in that subsection, based on—

(a) whether the land is required for any purpose related to transport infrastructure; and

(b) the prescribed criteria, which must be consistent with the Government Immovable Asset Management Act, 2007 (Act 19 of 2007).

CHAPTER 2

CLASSIFICATION AND CATEGORISATION OF ROADS AND DECLARATION OF ROADS OF JOINT SIGNIFICANCE

Classification of roads

5. (1) Provincial roads administered by the Province consist of—

(a) roads declared by the Provincial Minister under section 22(1);

(b) roads that are deemed to be provincial roads in terms of section 8(1).

(2) Municipal roads administered by a municipality consist of—

(a) roads declared by municipalities under an applicable by-law;

(b) roads contemplated in section 8(2) in respect of which the classification as a road of joint significance has been withdrawn under section 6(1)*(c)* in order that it be reclassified as a municipal road by the municipality concerned;

(c) roads that have been transferred to a municipality in accordance with section 12(3), (4) or (5);

(d) roads that vest in a municipality as a result of the subdivision of land;

(e) roads that were not declared under the Ordinance and that are owned and administered by a municipality.

(3) Roads of joint significance administered by a municipality, subject to this Act, consist of—

(a) municipal roads that have been declared by the Provincial Minister to be roads of joint significance under section 6(1)*(a)*;

(b) municipal roads that are deemed to be roads of joint significance in terms of section 8(2).

(4) Subject to subsections (5) and (6), in determining whether a previously declared road or whether a new road is to be classified as a provincial road, a road of joint significance or a municipal road as contemplated in this Act, regard must be had to whether—

(a) the road starts and ends in different municipalities;

(b) a substantial number of trips on the road start and end in different municipalities;

(c) the road gives passage to a place that has substantial significance outside the municipality;

(d) the road is used for a purpose that has substantial significance outside the municipality; and

(e) the traffic on the road has a material impact on traffic on the provincial road network.

(5) If the road does not meet any of the criteria contemplated in subsection (4)*(a)* to *(e)*, it must be classified as a municipal road: Provided that, with due regard to the relative capacity of the Province and the municipality in which the road is situated, the road may be classified as a provincial road with the concurrence of the municipality concerned.

(6) If the road meets one or more of the criteria contemplated in subsection (4)*(a)* to *(e)*, it may be classified as a provincial road, a road of joint significance or a municipal road.

(7) The Provincial Minister may prescribe subcriteria under any of the criteria listed in subsection (4).

(8) The Head of Department may set guidelines for the purpose of guiding the application of the criteria listed in subsection (4) or any subcriteria that may be prescribed in addition.

Declaration of roads of joint significance by Provincial Minister

6. (1) The Provincial Minister may, with due regard to section 5(4)*(a)* to *(e)*, (5) and (6), by notice in the *Provincial Gazette—*

(a) declare a municipal road contemplated in section 5(2) to be a road of joint significance;

(b) withdraw a declaration contemplated in paragraph *(a)*;

(c) withdraw the classification of a road as a road of joint significance contemplated in section 8(2) in order that it be classified by the municipality concerned as a municipal road.

(2) The Provincial Minister must, before making or withdrawing a declaration or classification contemplated in subsection (1) consult the municipality concerned.

(3) A municipality may submit a request to the Provincial Minister, which must include a motivation, to make or withdraw a declaration or classification contemplated in subsection (1).

Categorisation of roads

7. (1) A provincial road may be categorised as:

(a) a trunk road;

(b) a main road;

(c) a district road;

(d) a public transport road;

(e) a minor road;

(f) a public path.

(2) A road of joint significance must be categorised as a main road.

(3) If the Provincial Minister has declared a road that is not a main road as a road of joint significance in terms of section 6(1)*(a)*, he or she must, by notice in the *Provincial Gazette*, alter the categorisation of the road concerned to a main road.

(4) The Provincial Minister must in every notice issued in terms of section 22(1), in respect of a provincial road, categorise the road as one of the categories listed in subsection (1).

(5) Subject to subsection (6) or an agreement contemplated in section 11(4), the Provincial Minister may, after consultation with the affected municipalities, alter the categorisation of a provincial road by notice in the *Provincial Gazette*.

(6) When undertaking the consultation process contemplated in subsection (5), the Provincial Minister must, in the prescribed manner, invite comment from interested and affected parties on the implications of the proposed alteration.

(7) When the Provincial Minister has altered the categorisation of a provincial road as contemplated in subsection (5), he or she may publish the particulars of the declaration or the withdrawal, as the case may be, by way of any effective media.

(8) The Provincial Minister may prescribe criteria for the categorisation of a road under subsection (1).

CHAPTER 3

DEEMING PROVISIONS FOR ROADS AND REGULATION OF MUNICIPAL ROADS AND ROADS OF JOINT SIGNIFICANCE BY MUNICIPALITIES

Deeming provisions in respect of roads

8. (1) Pending the joint assessment process contemplated in section 11, a previously declared road in respect of which the Provincial Minister is the road authority as contemplated in section 1 of the Ordinance is deemed to be a provincial road.

(2) Pending the joint assessment process contemplated in section 11, a previously declared road in respect of which a municipality is the road authority as contemplated in section 1 of the Ordinance is deemed to be a road of joint significance.

(3) All conditions relating to a previously declared road, including the categorisation of the road as a trunk road, main road, divisional road, minor road or public path, continue to apply, unless altered in terms of this Act.

(4) Every road previously declared as a divisional road is regarded as categorised as a district road in terms of this Act, unless the declaration is altered under section 7(5).

Regulation of municipal roads and roads of joint significance by municipalities

9. (1) A municipality must, within its available resources, regulate the financing, planning, declaration, design, construction, development, maintenance, control, management, regulation, upgrading, protection and rehabilitation of municipal roads, roads of joint significance and ancillary road infrastructure in the area of its jurisdiction.

(2) For the purposes of subsection (1), a municipality must at least provide for the following:

(a) the financing, planning, declaration, design, construction, development, maintenance, control, management, regulation, upgrading, protection, rehabilitation and closure of municipal roads, and roads of joint significance, in its area of jurisdiction;

(b) in respect of roads of joint significance—
  (i) the functional classification of the road and all municipal roads and private driveways crossing or joining the road;
  (ii) the determination of the roadside development environment; and
  (iii) the preparation of arterial management plans;

(c) reserve widths and building restriction lines;

(d) the acquisition of land for the purposes of establishing municipal roads and roads of joint significance;

(e) title to, vesting and transfer of land and rights;

(f) the management and protection of municipal roads, roads of joint significance and ancillary road infrastructure;

(g) the approval of land-use subdivisions and the intensification of land-use developments adjacent to municipal roads and roads of joint significance that may impact on the operation and safety of traffic and other users of the road;

(h) the control of structures and service infrastructure on, over or below street reserves or within specified distances of municipal roads and roads of joint significance;

(i) access to and exit from municipal roads and roads of joint significance;

(j) the regulation and management of the use of municipal roads and roads of joint significance;

(k) procedures in the event of contraventions of prohibitions.

(3) Before a municipality makes a by-law regulating roads of joint significance and ancillary road infrastructure, it must consult with the Provincial Minister.

(4) A municipality must ensure that functions performed in respect of transport system planning or project planning for roads of joint significance are undertaken under the responsibility and due diligence of a suitably qualified professional person contemplated in section 3(2) and (3) of this Act, to the extent described in those subsections.

(5) A municipality must—

(a) ensure that transport system planning of transport infrastructure under its authority in its area is included in its integrated transport plan;

(b) insofar as is practical, ensure that planning and budgeting for the construction, upgrading and maintenance of transport infrastructure under the authority of all organs of state in its municipal area and, where appropriate, bordering on

that area, are included in the annual updates of its integrated transport plan; and

(c) submit information on such planning and budgeting to the Head of Department timeously to ensure its inclusion in the relevant updates of the provincial land transport framework.

(6) A municipality responsible for the maintenance of a road of joint significance must install and operate such asset management systems, including condition-assessment and maintenance-management systems, that the Head of Department considers acceptable and suitable for the purpose.

(7) A municipality must—

(a) compile and keep up to date a list of roads of joint significance for which it is the responsible authority based on the same numbering or coding system referred to in section 19(5), as prescribed;

(b) ensure that the list is available for inspection by the public during office hours at the place or places designated by the municipality;

(c) update the list whenever any such road is declared, relocated, reclassified, transferred or closed, or when its declaration is withdrawn; and

(d) submit the list and any updates to the Head of Department for incorporation into the records contemplated in section 19.

(8) Municipalities must in planning, declaring, designing, constructing, developing, maintaining, controlling, managing, regulating, upgrading, protecting and rehabilitating roads of joint significance comply with the minimum requirements of standards, specifications and guidelines set by the Head of Department in terms of section 61, or may use their own standards, specifications and guidelines provided they are consistent with the standards, specifications and guidelines set by the Head of Department.

Joint planning, management and control of roads of joint significance by Province and municipalities

10. (1) As part of the transport system planning process for roads of joint significance, a municipality must—

(a) determine the functional classification of each of these roads and the functional classification of all municipal roads and private driveways crossing or joining these roads;

(b) determine the roadside development environment;

(c) prepare arterial management plans.

(2) When undertaking the activities contemplated in subsection (1), a municipality must—

(a) apply the applicable standards, specifications and guidelines contemplated in section 9(8);

(b) consult with the Head of Department; and

(c) ensure that all interested and affected stakeholders are consulted.

(3) The functional classifications, roadside development environment and arterial management plans determined or prepared as contemplated in subsection (1)*(a)*, *(b)* and *(c)* must—

(a) be submitted by the relevant municipality to the Head of Department in the prescribed manner for his or her comments and recommendations;

(b) be revised by the relevant municipality pursuant to the comments and recommendations contemplated in paragraph *(a)*;

(c) if acceptable to the Head of Department, be incorporated into the provincial spatial development framework and the provincial land transport framework.

(4) A municipality must—

(a) undertake a project planning process before undertaking the activities contemplated in subsection (6)*(a)* to *(e)* in respect of a road of joint significance, including the applicable technical processes to define the preferred alignment, layout, reserve or design of a road of joint significance;

(b) when undertaking the project planning process consult with the Head of Department;

(c) when undertaking the project planning process, comply with requirements prescribed in applicable legislation.

(5) A municipality must before declaring or constructing a new road that meets one or more of the criteria contemplated in section 5(4)*(a)* to *(e)* obtain and consider the written comment and recommendations of the Head of Department in the prescribed manner.

(6) A municipality may not undertake the following activities in the exercise of its functions as responsible authority in respect of an existing road of joint significance without obtaining the prior written comment and recommendations of the Head of Department based on the impact of the proposed activity on provincial traffic and provincial transport operations:

(a) construction on the road;

(b) the construction of non-motorised or public transport facilities in the road;

(c) the relocation or alteration of the road;

(d) the alteration of a reserve of the road;

(e) except in the case of an emergency, the temporary or permanent closure of the road;

(f) the declaration or removal of a building restriction area, the reduction of the width of a building restriction area or any other declaration in respect thereof;

(g) the construction of new or amended intersections or interchanges between the road and other public roads;

(h) the installation of traffic signals, stop signs, yield signs and any other traffic control devices, or any other traffic sign that may hamper the traffic-carrying capacity or operation of the road;

(i) an instruction to relocate, restrict or close a lawful access to land adjacent to the road giving entry to or exit from the road, or the construction of an access to and from adjacent land, regardless of the identity of the owner of the land.

(7) When requesting the written comment and recommendations of the Head of Department relating to an activity listed in subsection (6), a municipality must provide the Head of Department with the technical details of the activity sufficient to enable the Head of Department to determine any potential adverse impact on provincial traffic and provincial transport operations.

(8) The Head of Department must—

(a) if the technical details provided in subsection (7) are insufficient to enable the Head of Department to make the determination contemplated in that subsection, request further technical details from the municipality as may be necessary; and

(b) respond to the request for comments and recommendations contemplated in subsections (3) and (6), in the prescribed manner.

(9) If the comments and recommendations of the Head of Department contemplated in subsection (6) indicate that the activity is likely to have an adverse impact on provincial traffic and provincial transport operations, the proposed activity may not proceed until the Head of Department and the municipality concerned have reached agreement on the viability and technical details of that activity.

(10) In the circumstances contemplated in subsection (9) the Head of Department and municipality concerned must engage in the most appropriate and cost-effective manner jointly to—

(a) resolve to mitigate any negative impact of the proposed activity on provincial traffic and provincial transport by agreeing to an amendment or amendments to the technical details of the activity; or

(b) agree that the request by the municipality for agreement of the Head of Department to undertake the proposed activity be withdrawn by the municipality.

(11) For the purposes of resolving a dispute or reaching an agreement, the Head of Department and the municipality must cooperate and collaborate with one another in accordance with section 41 of the Constitution, which may include mediation by a person contemplated in section 3(2)*(a)* of this Act.

(12) If an activity undertaken by a municipality has an adverse impact on provincial traffic or provincial transport operations, the Head of Department may, in the prescribed manner, in writing inform a municipality of the need for it to undertake an action that is necessary in order to ensure compliance of a road of joint significance with any provision of this Act or any standards, specifications and guidelines set in terms of section 61.

(13) If a municipality fails to comply with or disputes a notification contemplated in subsection (12), the Head of Department and the municipality must take the necessary steps to reach agreement as contemplated in subsections (10) and (11).

(14) If a municipality requires to undertake an activity in a capacity other than the responsible authority in respect of a road of joint significance and in respect of which a written permission contemplated in subsection (15) is required, the municipality must

apply for the written permission in accordance with the applicable section contemplated in subsection (15), and all the related provisions of this Act apply.

(15) In respect of roads of joint significance—

(a) the written permissions required in terms of sections 32(1), 37(1), (2) and (4), 45(1), 47(1), 48(1), 51(2) and 67(3) are additional to any permission of the relevant municipality required in terms of an applicable municipal by-law, and the written permissions required in terms of the sections referred to in this subsection do not override the obligation to also obtain the permission of the relevant municipality required in terms of an applicable by-law; and

(b) if permissions granted by the Provincial Minister or the Head of Department pursuant to an application by the relevant municipality contemplated in paragraph *(a)* are both granted subject to conditions, the more onerous conditions apply.

(16) The Head of Department and, in the case of an appeal, the Provincial Minister, and the municipality concerned, must, in respect of sections 32(1), 37(1), (2) and (4), 45(1), 46(1), 47(1), 48(1), 51(2) and 67(3), take all reasonable steps to integrate the procedural requirements for decision-making and permissions in the manner contemplated in section 65.

CHAPTER 4

JOINT ASSESSMENT OF PREVIOUSLY DECLARED ROADS AND TRANSFER AGREEMENTS

Assessment of previously declared roads

11. (1) Not later than the date contemplated in subsection (2), the Provincial Minister must, with the concurrence of the Head of Department, initiate joint assessment processes with municipalities regarding previously declared roads in the respective areas concerned to determine in the prescribed manner in respect of each road—

(a) subject to section 5(4), (5) and (6), whether the road should be classified as a provincial road or a municipal road;

(b) whether the road should be declared a road of joint significance;

(c) the appropriateness of the categorisation of each such road in terms of section 8(3) and (4), as the case may be;

(d) the condition of the road and the current and future maintenance requirements, both physical and financial;

(e) whether the road should be closed and its declaration as a road withdrawn;

(f) any other matter that may be necessary, including the necessity for any infrastructure to be declared as ancillary transport infrastructure.

(2) The Provincial Minister may, by notice in the *Provincial Gazette*, determine the date on which the joint assessment process must commence in respect of previously declared roads in a particular municipality identified in the notice.

(3) As part of the joint assessment contemplated in subsection (1), the Head of Department must, in the prescribed manner, invite comment from interested and affected parties on the matters listed in subsection (1)*(a)* to *(f)*.

(4) Following the joint assessments contemplated in subsection (1) and the consideration of public comment received by virtue of subsection (3), but not later than two years from the date determined in terms of subsection (2) or a later date agreed on, the Provincial Minister with the concurrence of the Head of Department, and each municipality, must enter into a written agreement, which must specify in respect of each road, or set of roads, assessed—

(a) whether the road is to be classified as a provincial road or a municipal road;

(b) if the road is to be classified as a municipal road, whether it should be classified as a road of joint significance;

(c) whether the categorisation of each such road in terms of section 8(3) or (4) is to be altered;

(d) whether the road is to be closed and its declaration as a road withdrawn;

(e) any other matter that may be necessary including the necessity for any infrastructure to be declared as ancillary transport infrastructure.

(5) The Provincial Minister, the Head of Department and the municipality concerned must in undertaking the joint assessment process—

(a) consider the adoption of an implementation protocol as contemplated in section 35 of the Intergovernmental Relations Framework Act;

(b) cooperate and collaborate with one another in accordance with section 41 of the Constitution; and

(c) take all reasonable steps to reach agreement on the determination.

(6) If the agreement contemplated in subsection (4) is not reached within the period contemplated in that subsection, the Provincial Minister, with the concurrence of the Head of Department, may, subject to subsections (7) and (8), make a decision on the matters listed in subsection (4).

(7) The Provincial Minister and the Head of Department must prior to—

(a) entering into the agreement contemplated in subsection (4);

(b) the decision contemplated in subsection (6),

consult with the Provincial Minister of Finance and the Provincial Minister of Local Government.

(8) The Provincial Minister, with the concurrence of the Head of Department, must, before making a decision contemplated in subsection (6)—

(a) at least 30 days before the decision provide the municipality concerned with—

(i) written notice of his or her intended decision on all the matters listed in subsection (4) together with a full motivation for the decision;

(ii) a written record of the steps taken to comply with subsection (5); and

(iii) a written invitation to submit any objections to the intended decision, which objections must be fully motivated and submitted no later than 21 days after being provided with the written notice and record contemplated in subparagraphs (i) and (ii);

(b) consider any objections submitted pursuant to the invitation contemplated in paragraph *(a)*(iii).

(9) If an agreement contemplated in subsection (4) is reached or a decision contemplated in subsection (6) is made, subject to any applicable planning process in terms of section 20 and to the extent necessary—

(a) the Provincial Minister must in the *Provincial Gazette* make a declaration—

(i) contemplated in section 22(1)*(d)*, if a road of joint significance contemplated in section 8(2) is to be reclassified as a provincial road;

(ii) contemplated in section 22(1)*(c)*(iii)*(aa)*, if a provincial road is to be reclassified as a municipal road;

(iii) contemplated in section 6(1)*(c)*, if the classification of a road deemed to be a road of joint significance in terms of section 8(2) is withdrawn in order that it be reclassified as a municipal road by the municipality concerned;

(iv) contemplated in section 22(1)*(c)*(ii), if the declaration of the road is to be withdrawn and the road permanently closed;

(v) contemplated in section 7(4), if the categorisation of the road is to be altered;

(vi) vesting ownership of the land on which the road is situated in the municipality or the Province as contemplated in section 12(2), (3), (4) or (5), read with section 12(9), as the circumstances require;

(vii) concerning any other matter that circumstances may require, including the declaration of ancillary transport infrastructure in terms of section 22(1);

(b) the Head of Department must enter into a road transfer agreement contemplated in section 12.

(10) When the Provincial Minister has made a declaration contemplated in subsection (8)*(a)* he or she may publish particulars of the declaration by way of any effective media.

(11) A declaration contemplated in subsection (8)*(a)* and the road transfer agreement contemplated in subsection (8)*(b)* must inform the compilation of the records contemplated in section 19.

Road transfer agreements

12. (1) The transfer of responsibility for a road as contemplated in this section must, to the extent necessary, be regulated by a road transfer agreement between the Head of Department and the municipality concerned, which may include—

(a) provisions to give effect to the transfer of ownership of the land on which the road is situated as contemplated in this section and as the circumstances require;

(b) any other matter which may facilitate the transfer of responsibility in respect of the road.

(2) If the joint assessment process contemplated in section 11 determines that a municipal road or a road of joint significance is to be classified as a provincial road, responsibility for the road must be transferred by the municipality concerned to the Province.

(3) If the joint assessment process contemplated in section 11 determines that a provincial road is to be classified as a municipal road or a road of joint significance, responsibility for the road must be transferred by the Province to the municipality concerned.

(4) If a road is a road contemplated in section 5(6), responsibility for the road may, by agreement, at any time, be transferred from the Province to the relevant municipality, or from the relevant municipality to the Province, as required by the circumstances, in accordance with subsections (6) and (9).

(5) If at any time it is determined that a road is misclassified—

(a) in terms of section 8(1) or (2);

(b) due to a change of circumstances;

(c) due to administrative error;

(d) due to the application of a provision of the Ordinance that has not been given effect to,

responsibility for the road may, by agreement, be transferred by an agreement contemplated in subsection (1) from the Province to the municipality concerned, or from the municipality concerned to the Province, as required by the circumstances, in accordance with subsections (6) and (9).

(6) Prior to the transfer of responsibility for a road contemplated in subsection (4) or (5), the Provincial Minister must, in the prescribed manner, invite comment from interested and affected parties on the implications of the proposed change.

(7) Where responsibility for a road is transferred in the circumstances contemplated in subsections (4) and (5), the Provincial Minister must—

(a) if the road is to be reclassified as a provincial road, make a declaration in terms of section 22(1)*(d)*;

(b) if a provincial road is to be reclassified as a municipal road, make a declaration contemplated in section 22(1)*(c)*(iii)*(aa)*.

(8) When the Provincial Minister has made a declaration contemplated in subsection (7)*(a)* or *(b)*, he or she must publish an announcement of the declaration in at least one newspaper in the area concerned, which may indicate a time and place where the more detailed particulars may be inspected and, if effective, in other media.

(9) Where the responsibility for a road is transferred to another authority as contemplated in subsection (2), (3), (4) or (5), ownership of the land must be transferred to, or vested in, the other authority without cost, except the transfer costs, which may be carried by either party as agreed—

(a) by way of a road transfer agreement contemplated in subsection (1);

(b) by declaration in the *Provincial Gazette.*

(10) The transfer of a road in terms of this section must inform the compilation of records contemplated in section 19.

CHAPTER 5

RAILWAY LINES, PUBLIC TRANSPORT ROADS, RESERVE WIDTHS, ANCILLARY TRANSPORT INFRASTRUCTURE, BUILDING LINES AND BUILDING RESTRICTION AREAS

Categorisation of railway lines

13. (1) Railway lines administered by the Provincial Minister may comprise—

(a) heavy railway lines;

(b) light railway lines,

relating to a provincial function.

(2) The Provincial Minister must, in every notice issued in terms of section 22(1) in respect of a railway line, categorise the railway line to be one of the categories listed in subsection (1).

(3) Subject to the consultation process set out in subsection (4), the Provincial Minister may, after consultation with the affected municipalities, alter the categorisation of a railway line by notice in the *Provincial Gazette*.

(4) Before an alteration or categorisation contemplated in subsection (3), the Provincial Minister must, in the prescribed manner, invite comment from interested and affected parties on the implications of the proposed alteration.

(5) When the Provincial Minister has altered the categorisation of a railway line as contemplated in subsection (3), he or she may publish the particulars of the alteration by way of any effective media.

(6) A notice contemplated in subsection (3) must inform the compilation of the records contemplated in section 19.

Public transport roads

14. (1) A public transport road may be situated in its own exclusive reserve or within the reserve of a trunk, main, district or minor road.

(2) The Provincial Minister may set conditions for public transport roads and must make those conditions known by notice in the *Provincial Gazette*.

(3) Where a provincial public transport road is situated wholly within the reserve of a municipal road or a road of joint significance, the Provincial Minister and the municipality must, where appropriate, conclude a written agreement as to whether the Province or the municipality is the responsible authority for the maintenance, advertisement control and other relevant aspects in relation to the provincial public transport road.

Reserve widths of roads and railway lines

15. (1) Subject to subsection (2), the standard minimum reserve widths of provincial roads that have been declared in terms of section 22(1), roads of joint significance that have been declared in terms of section 6(1)*(a)* and provincial railway lines declared under Chapter 6 are as follows:

(a) trunk road: 30 metres;
(b) main road: 25 metres;
(c) district road: 20 metres;
(d) minor road: 20 metres;
(e) public transport road: 20 metres, except where the public transport road is declared within the reserve of a trunk, main, district or minor road;
(f) public path: 2 metres;
(g) heavy railway line: 20 metres; and
(h) light railway line: 10 metres.

(2) The Provincial Minister may, on declaration, relocation or alteration of a provincial road or provincial railway line, in a notice contemplated in section 22(1), determine that the road or railway line has a reserve width other than the standard minimum reserve width.

(3) The Provincial Minister may, in a notice contemplated in section 22(1)*(b)*, alter the standard minimum reserve width of a provincial road or provincial railway line, or portion thereof—

(a) after consultation with all affected municipalities;
(b) subject to the necessary project planning in terms of Chapter 6.

(4) Where a provincial road has an actual reserve width which has been determined as an outcome of the division or subdivision of land or which has been obtained in any other manner whatsoever and which is greater than the standard minimum reserve width, the reserve width of the provincial road shall be deemed to have been altered in accordance with such determined width.

(5) The Head of Department may, by notice in the *Provincial Gazette*, define the boundaries of the reserve of any provincial road in accordance with coordinated points on a plan published in the notice, provided that where the reserve is defined concurrently with the issue of any declaration contemplated by section 22(1), such definition may be included in such declaration.

(6) The reserve width of a road of joint significance is—

(a) the reserve width declared or altered by the municipality; or
(b) the actual width of the road;

whichever is greater.

(7) The reserve width of all—

(a) provincial roads; and
(b) roads of joint significance,

lawfully fixed or altered or deemed to have been fixed or altered in terms of the Ordinance and in force at the commencement of this Act remain in force unless altered under this Act or, in the case of a road of joint significance, by the municipality concerned.

Categorisation and reserves of ancillary transport infrastructure

16. (1) Ancillary road infrastructure must be categorised as follows:
(a) parking area;
(b) rest area;
(c) direct access service site;
(d) stopping place;
(e) weighbridge site;
(f) traffic control centre;
(g) stock camp;
(h) material storage site;
(i) depot; or
(j) a facility for an emerging technology in respect of transport operations, as may be prescribed.

(2) Ancillary public transport infrastructure must be categorised as follows:
(a) public transport interchange;
(b) station;
(c) marshalling facility;
(d) depot;
(e) control and information centre; or
(f) a facility for an emerging technology in respect of transport operations, as may be prescribed.

(3) The Provincial Minister must, in every notice published in terms of section 22(1) in respect of ancillary public transport infrastructure, categorise the ancillary transport infrastructure declared in the notice to be one of the types listed in subsection (1) or (2), except where the infrastructure is located within and forms part of the reserve of transport infrastructure.

(4) Subject to the consultation process set out in subsection (5), the Provincial Minister may, after consultation with the affected municipality, alter the categorisation of ancillary transport infrastructure for which the Provincial Minister is responsible by notice in the *Provincial Gazette.*

(5) Before a proposed change of categorisation contemplated in subsection (4), the Provincial Minister must, in the prescribed manner, invite comment from interested and affected parties on the implications of the proposed alteration.

(6) When the Provincial Minister has altered the category of ancillary transport infrastructure as contemplated in subsection (4), he or she may publish the particulars of the alteration by way of any effective media.

(7) The reserve of ancillary transport infrastructure must be determined through the project planning process undertaken in terms of Chapter 6 before the declaration of the ancillary transport infrastructure.

(8) The Provincial Minister may alter the reserve of ancillary transport infrastructure—
(a) after consultation with the affected municipality;
(b) subject to the necessary project planning in terms of Chapter 6; and
(c) by notice in the *Provincial Gazette* in the prescribed manner.

Building lines and building restriction areas

17. (1) There is a building line on each side of a provincial road or road of joint significance or railway line at a distance of five metres from the boundary of the reserve, measured at right angles to the centre line of the road or railway line.

(2) Outside an urban area, the Provincial Minister may, in respect of a provincial road that is a trunk road, main road, district road or public transport road or in respect of a railway line, declared before or after the commencement the commencement of this Act, by notice in the *Provincial Gazette*, declare that the road or railway line has a building restriction area—

(a) on each side of the road or railway line within a distance of 95 metres from the centre line, measured at right angles to the centre line of the road or railway line;

(b) within a distance of 500 metres from any point of intersection of the centre line of such road or railway line with the centre line of another such road or railway line.

(3) Before making a declaration in terms of subsection (2), the Provincial Minister must, in the prescribed manner, invite comment from interested and affected parties on the implications of the proposed alteration.

(4) A road or any portion thereof that was declared a building restriction road in terms of the Advertising on Roads and Ribbon Development Act is deemed to have a building restriction area as contemplated in subsection (2).

(5) Where an area adjacent to a road becomes an urban area, any building restriction area with respect to such road previously in existence ceases to exist.

(6) The Provincial Minister may, subject to consultation with the municipalities concerned, by notice in the *Provincial Gazette* in the prescribed manner, remove, reduce the width of, or determine categories of activities permitted in, a building restriction area for provincial roads, roads of joint significance and railway lines.

(7) Before making a declaration in terms of subsection (6), the Provincial Minister must, in the prescribed manner, invite comment from interested and affected parties on the implications of the proposed declaration.

CHAPTER 6

PLANNING AND DECLARATION OF TRANSPORT INFRASTRUCTURE

Transport system planning

18. (1) The Head of Department must—

(a) ensure that transport system planning of transport infrastructure is undertaken as prescribed;

(b) produce annual updates of such planning, including budgets, as input to the Department's budgeting cycles and implementation programmes; and

(c) make those updates available to municipalities before 15 March each year.

(2) The Head of Department must, in the prescribed manner, for provincial roads—

(a) determine the functional classification;

(b) determine the roadside development environment; and

(c) prepare arterial management plans.

(3) Arterial management plans must—

(a) be incorporated into the relevant integrated transport plan, spatial development framework and the provincial land transport framework;

(b) define the policy for the existing and future use of the transport infrastructure concerned;

(c) include documents, reports or other instruments that will provide guidance on the plan;

(d) provide a physical plan guiding current management of the transport infrastructure and defined stages of future upgrading;

(e) include restrictions in respect of adjacent land use, access, parking, public transport and non-motorised transport; and

(f) incorporate the prescribed information and conceptual planning elements.

(4) The Head of Department must, when undertaking transport system planning, ensure that the necessary steps are taken to ensure compliance with applicable legislation and to ensure coordination, as contemplated in section 20(10).

Records of transport infrastructure and roads of joint of significance

19. (1) The Head of Department must compile a comprehensive list and associated database, as prescribed, of all transport infrastructure in the Province.

(2) The associated database referred to in subsection (1) must include appropriate management systems.

(3) The Head of Department must ensure that the list and associated database relate to relevant custodian and user management plans provided for in the Government Immovable Asset Management Act, 2007 (Act 19 of 2007).

(4) Before finalising the list and associated database, the Head of Department must—

(a) submit a draft of the list and database to all municipalities;

(b) request their comments in relation to the draft list and associated database within a date stated in the submission; and

(c) consider any comments received in terms of paragraph *(b)*.

(5) The Head of Department must allocate an identification number or code to each item of transport infrastructure listed in terms of subsection (1).

(6) The Head of Department must—

(a) update the list and associated database whenever any transport infrastructure in the Province is declared, relocated, reclassified, transferred or closed or when its declaration is withdrawn;

(b) by 30 June each year, ensure that the list and associated database is available for inspection by the public during office hours at the place or places designated by him or her.

(7) The Head of Department must update the management systems of transport infrastructure referred to in subsection (2) annually to reflect the current condition of transport infrastructure.

(8) On receipt of the list and associated database, or updates to the list or associated database, from a municipality in respect of roads of joint significance as contemplated in section 9(7), the Head of Department must consolidate this list and database with the list and database contemplated in subsection (1).

Project planning process

20. (1) The Head of Department must ensure that a project planning process has been undertaken in terms of this section before the declaration by the Provincial Minister of—

(a) a new road, railway line or ancillary transport infrastructure;

(b) the relocation of transport infrastructure;

(c) the alteration of the reserve of transport infrastructure;

(d) the withdrawal of a declaration of transport infrastructure that has not been constructed; or

(e) the withdrawal of a declaration of transport infrastructure in order to close it permanently.

(2) The project planning process contemplated in subsection (1) includes at least the following:

(a) in respect of subsection (1)*(a)* to *(c)*, technical planning carried out in the prescribed manner to define the preferred alignment or alternative alignments, layout or alternative layouts, the reserve of the transport infrastructure concerned and the property required for the transport infrastructure concerned;

(b) in respect of subsection (1)*(d)* and *(e)*, the identification of all the implications of the intended withdrawal contemplated in those paragraphs on adjacent land use and the surrounding areas, including, in the case of closure, the impact of the reassigned traffic;

(c) with due regard to section 24(4)*(a)* and *(b)* of the NEMA, the identification, investigation, assessment and communication of, or procedures for the identification, investigation, assessment and communication of, the potential consequences or impact of the project's activities on the environment, as well as to heritage, social, economic, health, safety and access considerations, where applicable;

(d) public participation required in terms of subsections (3) and (4) and, where applicable, public participation required in terms of subsection (9) in addition to that required under subsections (3) and (4).

(3) The Head of Department must, at the commencement of the planning, in the prescribed manner—

(a) notify interested and affected parties of;

(b) invite those parties to register their interest in respect of; and

(c) invite those parties to comment on,

the intended planning.

(4) After completion of the planning process, the Head of Department must, in the prescribed manner, notify the interested and affected parties who have registered their interest by virtue of subsection (3) of the outcome of the process and invite those parties to comment in writing on the technical planning not later than a date stated in the notice.

(5) The Head of Department must in respect of any declaration contemplated in subsection (1) consult with the municipalities in whose areas the transport infrastructure is or will be situated and request them to submit written comments on the planning within a specified period.

(6) Where the project will have an impact on roads or transport facilities administered under the authority of an organ of state in another sphere of government, that organ of state must also be consulted.

(7) Where redundant land is identified as a result of the relocation or permanent closure of a portion of transport infrastructure, the disposal of such land must be dealt with in terms of section 4(12) or section 4(13) and (14), as the case may be.

(8) Subject to subsection (9), the Head of Department may without undertaking a planning process in terms of this section alter the reserve of transport infrastructure if the widening or alteration is no longer than a continuous length of 1000 metres and—

(a) in the case of a road or railway line, the new reserve deviates from the existing reserve by not more than 20 metres on one or both sides of the reserve; or

(b) in the case of ancillary transport infrastructure, the new reserve is located not further than five metres from the existing reserve.

(9) Before acting in terms of subsection (8), the Head of Department must—

(a) notify the relevant municipality and, in the prescribed manner, invite comment from interested and affected parties; and

(b) ensure that the requirements in terms of other applicable legislation have been met.

(10) The Head of Department must—

(a) ensure that the necessary steps are taken to comply with all legislation relating to the activities listed in subsection (1), including applicable land-use planning legislation, that also require approval in terms of that legislation; and

(b) strive to coordinate and align the project planning processes required in terms of this section with the procedural requirements of the legislation contemplated in paragraph *(a)*, in the manner contemplated in section 65.

Decision by Provincial Minister

21. On the conclusion of the consultation processes contemplated in section 20, the Provincial Minister must consider all reports, comments and representations in connection with the proposed action and within 30 days make a decision—

(a) to proceed with the declaration contemplated in section 20(1); or

(b) not to proceed with such a declaration,

and give notice to that effect in at least one newspaper circulating in the area and, if effective, other media.

Declaration of transport infrastructure

22. (1) The Provincial Minister may, subject to subsection (2) and the completion of a project planning process in accordance with this Chapter, by notice in the *Provincial Gazette*, make a declaration—

(a) that there is transport infrastructure on or over any land in accordance with a plan published in the notice or available for inspection at a place and at the times stated in the notice;

(b) that existing transport infrastructure is relocated or altered to the extent specified in the notice and shown on a plan: Provided that a declaration is not required—

  (i) in the circumstances contemplated in section 20(8);

  (ii) where the relocation or alteration at no point would be further than 1000 metres from the nearest point on the centre line of the road or portion thereof proposed to be relocated or altered;

(c) that a declaration—

  (i) of transport infrastructure that has not been constructed is withdrawn;

  (ii) of existing transport infrastructure is withdrawn and such transport infrastructure permanently closed to the extent specified in the notice and shown on a plan;

(iii) of an existing provincial road is withdrawn to the extent specified in the notice and shown on a plan in order that it be—

(aa) transferred to a municipality and administered as a municipal road;

(bb) transferred to SANRAL and administered as a national road by SANRAL, subject to subsection (5); or

(cc) sold to a private person or entity;

(d) that a road of joint significance contemplated in subsection 8(2) is reclassified as a provincial road to the extent specified in the notice and shown on a plan;

(e) in respect of any other matter relating to transport infrastructure that may be necessary.

(2) A notice under subsection (1)*(a)*, *(b)* or *(d)* must, for each item of transport infrastructure being declared—

(a) state that the Province is the responsible authority;

(b) indicate the categorisation in terms of section 7 in the case of a road, section 13(1) in the case of a railway line and section 16(1) or (2) in the case of ancillary transport infrastructure;

(c) provide details of the reserve width or extent in terms of section 15, if applicable, in the case of a road or railway line or in terms section 16 in the case of ancillary transport infrastructure;

(d) describe the location, route and reserve of the road or railway line or the layout of other transport infrastructure concerned by means of a sketch plan annexed to the notice;

(e) provide details of the building restriction area in terms of section 17, if applicable; and

(f) state that more detailed information is available for inspection at a place and at the times specified in the notice.

(3) When the Provincial Minister has made a declaration in terms of subsection (1), he or she may publish particulars of the declaration or the withdrawal, as applicable, by way of any effective media.

(4) Where transport infrastructure is relocated or altered, the transport infrastructure concerned is regarded as having the same categorisation as that which applied to the relocated or altered transport infrastructure immediately before the declaration of the relocation or alteration.

(5) Any declaration of—

(a) a portion of a provincial road that has, after the commencement of this Act, been declared a national road by the National Minister and administered by SANRAL; and

(b) a portion of the road contemplated in paragraph *(a)* to be a building restriction road in terms of the Advertising on Roads and Ribbon Development Act,

ceases to exist: Provided that the declaration is in accordance with an agreement between the National Minister and the Premier in terms of the South African National Roads Agency Limited and National Roads Act under which the transfer of responsibility for the portion of road was concluded.

(6) Any declaration of—

(a) a portion of a previously declared road that was, before the commencement of this Act, declared by the National Minister to be a national road and administered by SANRAL; and

(b) a portion of the road contemplated in paragraph *(a)* to be a building restriction road in terms of the Advertising on Roads and Ribbon Development Act, before the commencement of this Act,

ceases to exist on commencement of this Act.

CHAPTER 7

PROCEDURES ON CLOSURE OF TRANSPORT INFRASTRUCTURE

Application to close, relocate or alter transport infrastructure

23. (1) Any person directly affected by existing or proposed transport infrastructure may apply to the Provincial Minister in the prescribed manner to have the transport infrastructure closed, relocated or altered.

(2) On receipt of an application contemplated in subsection (1), the Provincial Minister may, subject to subsection (3), undertake a planning process in terms of section 20 and, on completion thereof—

(a) support the application and make a declaration in terms of section 22(1)*(b)* or *(c)*; or

(b) refuse the application and provide reasons for the refusal.

(3) The applicant is liable for the costs incurred by the Department in the planning process contemplated in subsection (2), including advertising costs.

(4) The costs contemplated in subsection (3) may consist of separate amounts levied before and during the project planning process, regardless of the outcome.

Permanent closure of provincial road

24. The Provincial Minister must—

(a) before the permanent closure of a provincial road, erect and display for at least 60 days a notice, at the point of closure or at each end of the portion or portions to be closed, indicating in each official language the intended action and to whom comments or objections may be addressed;

(b) after the permanent closure of a provincial road, erect and maintain, for a period of at least 90 days, appropriate road traffic signs and road markings at each end of the closed section warning the public of the closure and, where applicable, redirecting users to an alternative route; and

(c) declare the permanent closure of the provincial road in terms of section 22(1)*(c)*(ii).

Temporary closure or deviation of road or railway line

25. (1) The Head of Department may temporarily close, deviate, restrict or regulate the use of a provincial road or railway line or any portion thereof—

(a) for the purpose of or pending the construction, rehabilitation, maintenance or repair of the road or railway line;

(b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under that road or railway line;

(c) because of a public event that requires special measures for the control of traffic or special provision for the accommodation of crowds;

(d) for any other reason that renders such action necessary; or

(e) at the request of any person.

(2) When a provincial road or portion thereof is closed or deviated in terms of this section, the Head of Department must for the duration of the closure or diversion, erect and maintain appropriate road signs or markings warning the public about the closure or diversion at each end of the closed or deviated section and, where applicable, redirecting users to an alternative route.

(3) The Head of Department must, before the temporary closure or deviation of a provincial road or railway line, in the prescribed manner, within a reasonable period before the closure or deviation, invite comments from interested and affected parties on the intended closure or deviation.

(4) A person may request the Head of Department in writing in the prescribed manner to temporarily close, deviate, restrict or regulate the use of a provincial road or railway line, or any portion thereof, as contemplated in subsection (1).

(5) A person making a request in terms of subsection (4) must pay to the Province the costs, as determined by the Head of Department, of complying with the request, including the costs of ensuring the safety of users of the road or railway line concerned.

Emergency closure or deviation

26. (1) In cases of emergency, the Head of Department may close or deviate transport infrastructure or deviate traffic on transport infrastructure.

(2) Without derogating from any other law, if there is danger to the public, property or traffic, the Head of Department must erect warning and route guidance signs to ensure safety and facilitate traffic flow.

Right of public to use closed or deviated road

27. The public may continue to use a road or portion thereof after the declaration of the permanent closure of the road concerned until such time as signs have been erected indicating the closure as contemplated in section 24*(b)*.

CHAPTER 8

ROAD SUBSIDY ARRANGEMENTS

Road subsidy arrangements with municipalities

28. (1) Subject to the PFMA and subsection (3), from the date of commencement of this Act, the Department may pay a road subsidy to a municipality for a road declared as a road of joint significance under section 6(1)*(a)*, or deemed to be a road of joint significance under section 8(2), for which the municipality is responsible.

(2) A municipality may apply to the Head of Department in the prescribed manner for the payment of a road subsidy in respect of the project planning, design, construction, maintenance or management of a road of joint significance for which it is responsible.

(3) Payment of a road subsidy is subject to—

(a) the submission to the Head of Department of the list and associated data contemplated in section 9(7) relating to roads of joint significance for which a municipality is responsible, and confirmation that the list and associated data is acceptable to the Head of Department;

(b) the submission to the Head of Department, not later than 1 December each year preceding the municipal financial year for which the road subsidy is to be applied, of an application for road subsidy as prescribed; and

(c) the available resources of the Department.

(4) No road subsidy is payable in respect of compensation paid for the expropriation or acquisition of land for a road of joint significance unless the Head of Department has—

(a) provided written consent to expropriate the land before it was expropriated; and

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

Rent, sale and other income from land acquired with subsidy under the Ordinance or road subsidy money

29. (1) A municipality must prior to concluding a lease, sale, or other agreement relating to land or any part of it acquired—

(a) using money paid as a subsidy under the Ordinance or a road subsidy under this Act; or

(b) using money received as a grant from the Province,

obtain the written comments and recommendations of the Head of Department and the Provincial Minister of Finance, if any.

(2) The same percentage of the net proceeds that was contributed by the Province for the purchase of the land contemplated in subsection (1) must, in the circumstances prescribed, be paid—

(a) to the Province;

(b) with the written permission of the Head of Department, if the municipality has established a municipal land transport fund in terms of section 27 of the NLTA, into that fund;

(3) The Head of Department may in writing, with or without conditions, permit a municipality to retain the proceeds referred to in subsection (2).

(4) The written permission of the Head of Department contemplated in subsections (2)*(b)* and (3) must be with the concurrence of the Provincial Minister of Finance.

Contributions from other sources

30. When expenditure incurred by a municipality on or in connection with a road of joint significance is—

(a) wholly funded from a source other than the municipality or the Province, the expenditure does not qualify for a road subsidy;

(b) partly funded from a source other than the municipality or the Province, only the portion of the expenditure that is not so funded qualifies for a road subsidy.

Regulations on road subsidy arrangements

31. The Provincial Minister may, with the concurrence of the Provincial Minister of Finance, make regulations prescribing—

(a) the percentage of expenditure by a municipality in relation to the activities referred to in section 28(2) that may be paid by the Department as a road subsidy, either generally or specifically;

(b) items that qualify or do not qualify for road subsidy in respect of any category of expenditure;

(c) factors for determining the amount of road subsidy payable;

(d) conditions on which road subsidy is payable; and

(e) procedures relating to subsidy claims and payments.

CHAPTER 9

ADVERTISEMENTS VISIBLE FROM PROVINCIAL ROADS AND ROADS OF JOINT SIGNIFICANCE

Prohibition of certain advertisements

32. (1) No person may display or cause or permit to be displayed an advertisement if the advertisement is—

(a) visible from a provincial road or a road of joint significance outside an urban area;

(b) within 50 metres from the boundary of a provincial road or road of joint significance in an urban area other than a freeway, and visible from that road;

(c) within 250 metres from the boundary of a provincial road or road of joint significance in an urban area that is a freeway, and visible from that freeway; or

(d) in, on or above any provincial road or road of joint significance,

without the prior written permission of the Head of Department, on application in the prescribed manner.

(2) When deciding whether to grant permission contemplated in subsection (1), the Head of Department must consider the impact of the proposed display on provincial traffic and provincial transport operations.

(3) Subsections (1) and (2) do not apply to the display of an advertisement—

(a) that was lawfully displayed immediately before the commencement of this Act or before the transport infrastructure concerned was declared under section 22 or the road was declared a road of joint significance under section 6(1), for as long as it is displayed continuously at the same place; or

(b) that must be displayed in terms of a law and is displayed strictly in terms of that law.

(4) Permission by the Head of Department in terms of subsection (1) does not provide exemption from section 47(1) or any other applicable law.

(5) The Provincial Minister may make regulations prescribing—

(a) in general or in relation to a specific road or portion of a road, the types of advertisements that are exempt from the application of subsection (1);

(b) the criteria to be used to assess the impact of a display referred to in subsection (1) on provincial road traffic and provincial transport operations;

(c) the general conditions of permission applicable to the display of all advertisements where permission has been granted in terms of subsection (1);

(*d*) the technical requirements applicable to the display of advertisements, including advertisements that are exempt from the application of subsection (1) and advertisements contemplated in paragraph *(a)*; and

(*e*) the manner in which an application for permission in terms of subsection (1) must be submitted.

Enforcement provisions in respect of advertisements

33. The provisions of section 57 apply in respect of a contravention of—

(*a*) section 32(1); or

(*b*) regulations made under section 32(5)*(d)*, whether or not the advertisement type is exempt in terms of regulations made under section 32(5)*(a)*.

Regulation of advertisements by municipalities

34. (1) A municipality must regulate the display of—

(*a*) advertisements on or above a road; and

(*b*) advertisements visible from a road.

(2) For the purposes of subsection (1), a municipality must at least establish a system for the submission and approval of applications for the display of advertisements, which must provide for—

(*a*) the classification of roads 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 permitted in each category;

(*b*) the classification of advertisements into categories for the purpose of regulating and controlling their display or erection;

(*c*) the procedures to be followed when applying for approval to display an advertisement and the fee payable on application for such approval;

(*d*) the assessment of the impact of such display on road traffic safety and transport operations;

(*e*) the assessment of the impact of such display on the environment;

(*f*) methods of display and illumination of advertisements;

(*g*) the assessment of the safety, amenity and decency of advertisements;

(*h*) the design and construction of advertisements and their supporting structures, their position, maintenance, alteration and future removal;

(*i*) categories of advertisements that may be erected or displayed without the permission of the municipality based on specified criteria; and

(*j*) the removal of unauthorised advertisements.

Presumptions relating to advertisements

35. For the purposes of this Act, in the absence of evidence to the contrary that raises reasonable doubt, an advertisement is regarded as displayed or to have been permitted to be displayed—

(*a*) by the person who erected it or otherwise caused it to appear;

(*b*) where it relates to a product or article produced or manufactured by a particular person, by that person;

(*c*) where it relates to a service rendered by a particular person, or a business undertaking or place owned by a particular person, by that person; or

(*d*) by the person who owns or occupies the land on which the advertisement is erected or displayed.

CHAPTER 10

MANAGEMENT AND CONTROL OF TRANSPORT INFRASTRUCTURE, ROADS OF JOINT SIGNIFICANCE AND ADJACENT LAND

Entry on and taking possession of property

36. (1) Where the Provincial Minister requires land or the temporary use thereof or any material thereon for a purpose referred to in subsection (2), the Provincial Minister may, after giving not less than 48 hours written notice of the proposed activity to the

owner or authorised person, with the written consent of the owner or authorised person concerned—

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

(2) The Provincial Minister may act under subsection (1)—

(a) to determine the value of the land or material concerned;
(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 or repair a structure, apparatus, appliance, installation or anything that is or has been constructed, erected or placed on such land by or on behalf of the Provincial Minister in terms of this Act; or
(d) to enable him or her to perform any of his or her other functions under this Act.

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

(4) The owner or authorised person must furnish reasons in writing for the refusal within the time specified by the Provincial Minister in terms of subsection (3).

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

(6) Despite subsections (3), (4) and (5), the Provincial Minister may, without complying with subsection (1) or applying for a court order in terms of subsection (5), perform any action contemplated in subsection (1) where that action is required urgently to prevent death, injury to persons or substantial damage to property.

(7) The Provincial Minster may pass over land to gain access to other land for the purposes mentioned in subsection (2), with the necessary workers, equipment and vehicles, with the written consent of the owner of the first-mentioned land or authorised person concerned, and, if such consent is refused, subsections (3), (4), (5) and (6) apply, with the necessary changes.

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

Access to and exit from provincial roads and roads of joint significance

37. (1) Subject to subsection (3), no person may enter or leave a provincial road or a road of joint significance by means of vehicular or non-motorised transport other than via a lawfully erected roadway, gate, bridge, stile or other passage without the prior written permission of the Head of Department on application in the prescribed manner.

(2) Subject to subsections (3) and (5), no person may—

(a) construct or provide an ingress or an exit from a provincial road or road of joint significance in any manner that permits vehicular or non-motorised transport access between the road and any property adjacent to the road; or
(b) provide a connection between a property referred to in paragraph *(a)* and any other adjacent property or properties that permits vehicular or non-motorised transport to use the ingress or exit to the road contemplated in that paragraph,

without the prior written permission of the Head of Department on application in the prescribed manner.

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

(4) A landowner with access to a provincial road or road of joint significance may apply to the Head of Department in the prescribed manner for written permission to relocate the access, provided that, where the application is granted, there is no liability on the Department to contribute to the cost of the relocation of the access.

(5) The Head of Department may not refuse an application for access referred to in subsection (2) by the owner of a subdivided property resulting from the subdivision of his or her original property if, in doing so, no other reasonable access to or exit from the

subdivided property to or from the provincial road or road of joint significance is available, where—

(a) a land surveyor surveyed the subdivided property and lodged a diagram thereof with the Surveyor-General before the commencement of this Act; and

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

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

(6) When considering an application for an activity referred to subsection (1), for access referred to in subsection (2) or for the relocation of an access referred to in subsection (4), the Head of Department must have regard to—

(a) the impact of the proposed activity on provincial traffic and provincial transport operations;

(b) the information contained in any applicable spatial development framework and arterial management plan;

(c) standards, specifications and guidelines determined by the Head of Department; and

(d) any requirements prescribed by the Provincial Minister.

(7) The Head of Department may, when granting written permission in terms of subsection (2), impose conditions including the determination of the nature of the access roadway, gate, bridge, stile or other passage and the place where and manner in which it must be constructed.

(8) The provisions of section 57 apply if subsection (1), (2) or (4) is contravened.

Relocation or closure of access to or exit from road

38. (1) The Head of Department may, by written order specifying the reasons for the order, direct a landowner who has lawfully erected an access to or exit from a provincial road to relocate, restrict or close the access or exit, in such a manner or to such an extent and for the period specified in the notice or permanently.

(2) Where the relocation, restriction or closure in terms of subsection (1) of any access to or exit from a provincial road necessitates the alteration, restriction, re-erection or reconstruction of any gate or driveway, the Head of Department must, subject to subsections (3) and (4)—

(a) carry out the work so necessitated; or

(b) permit the owner concerned to carry out the work at the cost of the Department in accordance with the standards, specifications and guidelines set by the Head of Department.

(3) The liability of the Department in terms of subsection (2) is limited to the cost of substituting gates or driveways of a similar standard to those which are, in terms of subsection (2), required to be relocated, restricted, re-erected or reconstructed.

(4) The Head of Department is not liable for the cost of replacing any gate or driveway where the access to or exit from the road concerned was gained in contravention of any law.

Restrictions on changes in land use

39. (1) A person applying to a municipality for the approval of a development involving a change or intensification of land use or the subdivision of land within—

(a) 95 metres of the centre line of a provincial road or a road of joint significance, measured at right angles to the centre line, outside an urban area; or

(b) 50 metres of the centre line of a provincial road or a road of joint significance, measured at right angles to the centre line, in an urban area,

must, in addition to obtaining the prior written permission of the municipality, in the prescribed manner obtain the prior written permission of the Head of Department relating to the impact of the development applied for on—

(i) provincial traffic and provincial transport operations;

(ii) any subsequent requirement for the erection of a new roadway, gate, bridge, stile or other passage to gain access to or exit from land to a provincial road or road of joint significance; and

(iii) any subsequent requirement for a change to an existing roadway, gate, bridge, stile or other passage to gain access to a provincial road or road of joint significance.

(2) The written permission contemplated in subsection (1)—

(a) in the circumstances contemplated in subparagraph (i) of subsection (1)—

(i) may include the imposition of conditions that relate to provincial traffic and provincial transport operations;

(ii) may be refused only if the impact of the approval applied for on provincial traffic and provincial transport operations cannot be mitigated through the imposition of conditions contemplated in paragraph *(a)*;

(b) in the circumstances contemplated in subparagraphs (ii) and (iii) of subsection (1)—

(i) may include the imposition of conditions contemplated in section 37(7);

(ii) must be guided by the factors listed in section 37(6).

(3) If a municipality has approved a subdivision of land contemplated in subsection (1), the applicant must, when submitting the information contemplated in section 36(7) of the Land Use Planning Act, 2014 (Act 3 of 2014), submit to the Surveyor-General the written permission of the Head of Department contemplated in subsection (1).

(4) A person contemplated in subsection (1) may not undertake a development contemplated in that subsection unless the Head of Department has granted his or her written permission as contemplated in subsection (1), read with subsection (2).

(5) A municipality must, prior to approving an application for a development contemplated in subsection (1), obtain the prior written comment of the Head of Department.

Distance indicators, signposts and warnings on roads

40. (1) Subject to the National Road Traffic Act, the Head of Department—

(a) must, subject to subsections (2) and (3), erect and maintain direction signs on provincial roads on the approaches to, and at the junctions with, every other provincial road, road of joint significance and national road;

(b) may erect and maintain traffic signals, stop signs, yield signs and any other traffic control device or traffic sign on provincial roads that are necessary for the safety or guidance of the public.

(2) The Head of Department may determine the functional classes of provincial roads in respect of which direction signs must be erected and maintained as contemplated in subsection (1)*(a)*.

(3) When erecting and maintaining direction signs on provincial roads on the approaches to, and at the junctions with national roads and roads of joint significance as contemplated in paragraph (1)*(a)*, the Head of Department must coordinate with the authority responsible for the national road or road of joint significance concerned on technical matters in connection with the erection and maintenance of those signs.

Obstructions and clearances

41. (1) The Head of Department may, by notice in writing, require the owner, or authorised person, of any land adjacent to—

(a) a provincial road;

(b) a railway line;

(c) ancillary transport infrastructure,

to reduce the height or width of any tree, bush, vegetation, wall, hedge, fence or any other obstruction affecting that road or railway line or the intersection with any other road or railway line that could impair the vision of a driver or cause unsafe conditions, to a height, width or length specified in the notice.

(2) The provisions of section 57 apply if the owner or authorised person fails to comply with a notice contemplated in subsection (1) within the time specified in the notice.

Fences along or within boundaries of transport infrastructure

42. (1) The Head of Department may erect a fence—

(a) along or within the boundary of transport infrastructure;

(b) around land from which materials are being or have been raised and removed by the Province for the purposes contemplated in section 36(1) or (2); or

(c) around a water supply provided or used by the Province for the purposes contemplated in section 36(1) or (2).

(2) The Department must cover the reasonable costs incurred by a person who erects a fence, according to standards, specifications and guidelines approved by the Head of Department, along the boundary of transport infrastructure because of—

(a) a notice issued in terms of section 43(4)*(a)* prohibiting the erection of a gate; or

(b) the removal by the Head of Department of one or more gates lawfully erected from the transport infrastructure under section 43(4)*(b)*.

(3) The Department may contribute to the costs incurred by a person who erects or reinstates a damaged fence along the boundary of transport infrastructure in cases not contemplated in subsection (2) if the fence is constructed according to standards, specifications and guidelines approved by the Head of Department.

(4) Unless otherwise agreed, the Department is not liable to pay for any additional costs incurred by a person who erects fencing, including game fencing, to specifications of a higher standard than that required by the Head of Department.

(5) No person other than the Head of Department may—

(a) erect a fence on or within the boundaries of any transport infrastructure without the prior written permission of the Head of Department on application in the prescribed manner, in accordance with standards, specifications and guidelines determined by the Head of Department; or

(b) without the prior written permission of the Head of Department on application in the prescribed manner, remove a fence erected in accordance with this section on or within the boundaries of any transport infrastructure.

(6) The Head of Department may not grant written permission for the removal of a fence referred to in subsection (5)*(b)* 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 the re-erection of the fence in accordance with standards, specifications and guidelines determined by the Head of Department.

(7) All fences lawfully erected and in existence on or within the boundaries of transport infrastructure immediately before the commencement of this Act are regarded to have been properly erected with the permission of the Head of Department.

(8) The Head of Department may at any time remove a fence referred to in subsection (7), but must replace it with a fence on or within the boundary of the transport infrastructure concerned at the cost of the Department.

(9) Where transport infrastructure is relocated, the Head of Department must, if an existing boundary fence is acceptable to him or her—

(a) move the fence to a new location of the transport infrastructure and erect it to the standard of the existing fence; or

(b) where the owner of the adjacent property moves the fence, compensate that person for moving the fence and erecting it on condition that it is erected to the standard of the existing fence.

(10)*(a)* Subject to the Fencing Act, 1963 (Act 31 of 1963), the owner of land abutting on the boundary of transport infrastructure must maintain a fence lawfully erected on or within that boundary.

(b) The Department may contribute to the costs of the maintenance contemplated in paragraph *(a)*.

(11) Where a fence on or within the boundary of transport infrastructure has been damaged—

(a) by the owner of the abutting land, repairs to the fence must be undertaken by the owner concerned no later than 21 days after the damage has occurred; and

(b) until repairs have been completed, the owner of the abutting land is responsible for ensuring that no livestock that may endanger users of the transport infrastructure enter the transport infrastructure.

(12) The Head of Department may at any time replace, at the cost of the Department, a fence erected or regarded to be erected in terms of this section.

(13) The provisions of section 57 apply if subsection (5) is contravened.

Gates across roads

43. (1) No person may erect a gate across a provincial road without the prior written permission of the Head of Department, on application in the prescribed manner and in accordance with standards, specifications and guidelines approved by the Head of Department.

(2) In the case of provincial roads that are trunk, main or district roads, outside an urban area, the permission contemplated in subsection (1) may not be granted unless—

(a) the Head of Department is prepared to construct a motor cattle-grid across the roadway alongside the gate;

(b) the person applying for permission has agreed to pay for the costs of construction of the motor cattle-grid and has provided security to the Department for the full estimated cost thereof;

(c) comments have been invited, in the prescribed manner, from interested and affected parties;

(d) the Head of Department has considered any comments received pursuant to the invitation contemplated in paragraph *(c)*.

(3) In the circumstances contemplated in subsection (2), the gate may not be constructed until the completion of the motor cattle-grid, which must be constructed as soon as possible after payment of the security contemplated in subsection (2)*(b)*.

(4) The Head of Department may—

(a) by notice in the *Provincial Gazette* or by regulation, prohibit the erection of a gate across any type or category of provincial road or road of joint significance or portion of a provincial road or road of joint significance;

(b) require a person who has been granted permission in terms of subsection (1) or the Ordinance to remove a gate.

(5) Before acting in terms of subsection (4), the Head of Department must, within a reasonable time before the intended removal, in the prescribed manner, invite comment from interested and affected parties—

(a) of his or her intention to remove the gate;

(b) stating that objections may be submitted on or before a date specified in the notice.

(6) No person may, at any time, lock any gate that has been approved by the Head of Department across a provincial road or deny the public unrestricted access by means of a gate across such road.

(7) The provisions of section 57 apply if subsection (1), or a prohibition imposed under subsection (4)*(a)*, is contravened.

Motor cattle-grids

44. (1) The Head of Department may construct, close or relocate a motor cattle-grid across a provincial road provided that, where necessary, the grid operates in conjunction with a gate alongside it.

(2) Before acting under subsection (1), the Head of Department must, in the prescribed manner, invite comment from interested and affected parties on the intended action.

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

(4) When the Head of Department removes a gate under section 43(4)*(b)*, he or she may also remove a motor cattle-grid that operates in conjunction with that gate.

Mining operations on or under transport infrastructure, roads of joint significance or building restriction areas

45. (1) No person may conduct any mining operations on or under any transport infrastructure, road of joint significance or building restriction area without the prior written permission of the Head of Department, on application in the prescribed manner.

(2) An application contemplated in subsection (1) may be granted or refused having regard to—

(a) in respect of a road, the impact of the proposed mining operations on provincial traffic and provincial transport operations;

(b) in respect of ancillary transport infrastructure, the impact of the proposed mining operations on the infrastructure concerned, taking account of the nature and purpose of that infrastructure;

(c) in respect of a railway line, the impact of the proposed mining operations on rail safety and operation.

(3) The provisions of section 57 apply if subsection (1) is contravened.

Trading on or in transport infrastructure or building restriction areas

46. (1) No person may, without the prior written permission of the Head of Department, on application in the prescribed manner, or contrary to the terms of such permission, carry on a trade, sell goods or exhibit, offer or manufacture for sale goods on or in, or within a building line or a building restriction area of, transport infrastructure.

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

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

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

(3) An application contemplated in subsection (1) may be granted or refused having regard to—

(a) in respect of a road, the impact of the proposed activity on provincial traffic and provincial transport operations;

(b) in respect of ancillary transport infrastructure, the impact of the proposed activity on the infrastructure concerned, taking account of the nature and purpose of that infrastructure;

(c) in respect of a railway line, the impact of the proposed activity on rail safety and operation.

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

(5) The provisions of section 57 apply if subsection (1) is contravened.

Structures other than service infrastructure in reserves or building lines or in building restriction areas of transport infrastructure or roads of joint significance

47. (1) Despite any other law, but subject to subsection (3) or (4), no person may without the prior written permission of the Head of Department, on application in the prescribed manner and in accordance with standards, specifications and guidelines approved by the Head of Department, undertake or cause or permit to be undertaken an activity referred to in subsection (2)—

(a) on or within the reserve of;

(b) within the building lines of; or

(c) within a building restriction area of,

transport infrastructure or a road of joint significance.

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

(a) erecting or installing a structure or anything that is attached to the land on which it stands, including a structure or anything that does not form part of that land;

(b) constructing or laying anything under or below the surface of the land;

(c) constructing anything that projects over the land; or

(d) making a structural addition or alteration to any structure or anything referred to in paragraph *(a)*, *(b)* or *(c)*.

(3) Subsection (1) does not apply to—

(a) the completion of a structure of which the erection was started before the commencement of this Act or before the restriction imposed by a building line or building restriction area came into effect; or

(b) any service infrastructure works.

(4) Paragraphs *(b)* and *(c)* of subsection (1) do not apply to an enclosure, fence, wall or hedge that does not rise higher than 1,8 metres above the surface of the land on which it stands.

(5) An application contemplated in subsection (1) may be granted or refused having regard to—

(a) in respect of a road, the impact of the proposed activity on provincial traffic and provincial transport operations;

(b) in respect of ancillary transport infrastructure, the impact of the proposed activity on the infrastructure concerned, taking account of the nature and purpose of that infrastructure;

(c) in respect of a railway line, the impact of the proposed activity on rail safety and operation.

(6) When granting written permission in terms of subsection (5), the Head of Department may impose conditions, including—

(a) specifications with which the structure, object, addition or alteration must comply;

(b) the manner and circumstances in which, the place where and the conditions on which it may be erected, installed, constructed or laid;

(c) duties to be fulfilled by the landowner, the applicant or other persons with regard to the proposed activities;

(d) a duty to reimburse the Province for costs incurred in monitoring the activities referred to in paragraphs *(a)*, *(b)* and *(c)*, either before the commencement of the work or at a later stage;

(e) a duty to pay rent as determined by the Head of Department for the use or occupation of land owned by the Province or under his or her authority;

(f) any other condition he or she considers necessary.

(7) If permission is granted in terms of subsection (5) on condition that a structure or object may be removed at a later stage, no compensation for the removal is payable to the owner of the structure or object, or to his or her successors in title, unless otherwise agreed to by the Head of Department.

(8) The provisions of section 57 apply if subsection (1), read with subsection (2), is contravened.

(9) Despite subsections (3)*(a)* and (8), the Head of Department may remove or shift to a place he or she determines a structure or object contemplated in subsection (2) that was erected, installed, constructed or laid before the date on which the transport infrastructure concerned was declared under section 22(1) or the road was declared a road of joint significance under section 6(1).

(10) Where the Head of Department removes or shifts a structure or object so erected, installed, constructed or laid, the Head of Department may recover the cost of the removal or shifting from the person who erected the structure contemplated in subsection (3)*(a)*.

CHAPTER 11

SERVICE INFRASTRUCTURE

Permission for service infrastructure works

48. (1) Despite any other law, no service provider may, without the prior written permission of the Head of Department on application in the prescribed manner, perform service infrastructure works within—

(a) a reserve;

(b) building lines; or

(c) a building restriction area,

of transport infrastructure or roads of joint significance.

(2) An application contemplated in subsection (1) may be granted or refused having regard to—

(a) in respect of a road, the impact of the proposed activity on provincial traffic and provincial transport operations;

(*b*) in respect of ancillary transport infrastructure, the impact of the proposed activity on the infrastructure concerned, taking account of the nature and purpose of that infrastructure;

(*c*) in respect of a railway line, the impact of the proposed activity on rail safety and operation.

(3) Subsection (1) does not apply to service infrastructure works that lawfully commenced before—

(*a*) the commencement of this Act; or

(*b*) the declaration of the relevant reserve, building line or building restriction area.

Standards, specifications, guidelines and fees

49. (1) The Head of Department may set standards, specifications and guidelines concerning the performance of service infrastructure works by a service provider, including—

(*a*) matters contemplated in section 51;

(*b*) the minimum qualification and registration requirements for a contractor who is permitted to perform the service infrastructure works;

(*c*) the minimum qualification and the duties of the independent professional person who must supervise the service infrastructure works;

(*d*) requirements for—

(i) health and safety measures;

(ii) traffic accommodation;

(iii) performing service infrastructure works;

(iv) using a method that does not cut into the pavement of a roadway;

(v) providing spare capacity in a conduit pipe, tunnel, manhole or similar service infrastructure for use by other service providers;

(vi) repairing any damage to transport infrastructure or road of joint significance;

(vii) restoring the site on completion of the service infrastructure works;

(viii) delivering to the Head of Department as-built drawings of the service infrastructure works;

(ix) future modification, upgrade, replacement, repair, maintenance, rehabilitation, reconstruction, relocation or removal of either the service infrastructure, transport infrastructure or road of joint significance;

(*e*) a deposit, guarantee or security to cover the potential cost of repairing any damage that service infrastructure works might cause to transport infrastructure;

(*f*) public liability insurance;

(*g*) maximum duration of service infrastructure works; and

(*h*) other relevant specifications.

(2) The Provincial Minister may impose fees, as prescribed, payable by the service provider for the application and the costs to the Province related to the service infrastructure works.

Decision on application

50. (1) The Head of Department must decide an application contemplated in section 48(1) within 90 days of—

(*a*) receipt of an application that, to the satisfaction of the Head of Department, complies with the information requirements in terms of sections 48 and 49; and

(*b*) payment of the fees contemplated in section 49(2).

(2) If, in the opinion of the Head of Department, it is appropriate to do so after consulting the service provider, the Head of Department may appoint, at the cost of the service provider, a professional person to advise the Head of Department in relation to an application contemplated in section 48(1).

(3) A written permission contemplated in section 48(1) must set out—

(*a*) the details of—

(i) the service provider;

(ii) each contractor who is permitted to perform the service infrastructure works; and

(iii) if applicable, the independent professional person who must supervise the service infrastructure works;

(b) the authorised horizontal and vertical alignment of the service infrastructure;

(c) any deviation granted from the standards, specifications and guidelines;

(d) any condition in terms of which the service provider may deploy the service infrastructure;

(e) any duty to use spare capacity in an existing or planned conduit pipe, tunnel, manhole or similar service infrastructure; and

(f) the standards, specifications and guidelines referred to in section 49(1) with which the service provider must comply, together with any additional or specific standards, specifications and guidelines not covered in the standards, specifications and guidelines published in terms of section 49(1).

Performance of service infrastructure works

51. (1) When performing service infrastructure works within a reserve, building lines or a building restriction area, a service provider must—

(a) comply with the terms of the written permission contemplated in section 48(1);

(b) comply with the standards, specifications and guidelines contemplated in section 49, except where the Head of Department grants a deviation as contemplated in section 50(3)*(c)*;

(c) not permit a contractor to perform the service infrastructure works or a person to supervise such works who is not authorised in the written permission contemplated in section 48(1);

(d) safeguard the public;

(e) protect transport infrastructure and roads of joint significance and public and private property from reasonably avoidable damage and minimise damage that cannot reasonably be avoided; and

(f) comply with sound engineering practice and standards regarding any matter not dealt with or fully dealt with in the written permission contemplated in section 48(1) or 49.

(2) A service provider may not, without the prior written permission of the Head of Department, deploy new service infrastructure within a reserve, building lines or a building restriction area if there is spare capacity in any existing service infrastructure on the same route.

(3) If in the opinion of the Head of Department it is appropriate to do so after consulting the service provider, he or she may, at the cost of the service provider, appoint a professional person to oversee the service infrastructure works to ensure that the service provider complies with its duties under this Chapter and to safeguard the interests of the Province in relation to transport infrastructure and roads of joint significance.

Ownership and control of spare capacity

52. Despite any other law—

(a) the Province owns and has the exclusive right to control the spare capacity in any conduit pipe, tunnel, manhole or similar service infrastructure situated in or attached to land or transport infrastructure owned by the Province; and

(b) no person may deny or restrict access by a service provider to a conduit pipe, tunnel, manhole or similar service infrastructure contemplated in paragraph *(a)* if the Head of Department requires the service provider to share available spare capacity.

Compensation

53. (1) Despite any other law, a service provider is liable to pay the Province reasonable compensation in proportion to the disadvantage suffered by it and the advantage gained by the service provider for the use by the service provider of the land for service infrastructure in respect of transport infrastructure, regardless of whether the service infrastructure is under or on the land, overhead or affixed to a structure.

(2) The Head of Department may determine a formula to serve as a guideline for the compensation payable.

(3) The Head of Department and the service provider may agree to compensation equal to, higher or lower than the amount calculated in accordance with any formula contemplated in subsection (2), and to the time and manner of payment.

(4) Where there is no agreement contemplated in subsection (3), a court must determine the amount of compensation and the time and manner of payment.

(5) The service provider may not commence or continue the service infrastructure works until the amount of compensation and the time and manner of payment are agreed on or determined by a court.

(6) Subsection (1) applies to the use of land from the date of the commencement of this Act, regardless of whether the service infrastructure was deployed before or after the commencement of this Act.

Relocation

54. (1) Despite any other law, and unless the Head of Department agrees otherwise, the service provider concerned must—

(a) at the cost of the service provider, relocate service infrastructure in a reserve, building lines or a building restriction area if the Head of Department considers such relocation necessary for provincial transport infrastructure works or the effective and safe operation of provincial traffic; and

(b) pay the costs of transport infrastructure works which the Head of Department considers necessary because of service infrastructure works.

(2) Despite subsection (1), the Head of Department may, at the cost of the Province, relocate service infrastructure that was deployed before the transport infrastructure concerned was declared.

Enforcement provisions in respect of service infrastructure

55. The provisions of section 57 apply if section 48(1), read with section 50(3) or 51(2), is contravened.

CHAPTER 12

GENERAL PROVISIONS

Applications and written permissions

56. (1) Where an applicant is not the owner of land to which an application in terms of any provision of this Act relates, the applicant must demonstrate to the satisfaction of the Head of Department that he or she is empowered to negotiate on behalf of and that the proposal is acceptable to the owner.

(2) When granting a written permission in terms of section 32(1), 37(1), (2), or (4), 39(1), 42(5), 43(1), 45(1), 46(1), 47(1), 48(1), 51(2) or 67(3), the Head of Department or the Provincial Minister, as the case may be, may—

(a) impose reasonable conditions, including a requirement to conclude an agreement on the provision of engineering services or plant and materials for transport infrastructure that relate to the permission concerned;

(b) on application, amend, suspend or withdraw a condition;

(c) withhold a permission from an applicant who, in the opinion of the Head of Department or Provincial Minister, as applicable, is in contravention of a provision of this Act to which the written permission applied for relates.

(3) A written permission contemplated in subsection (2) is transferable unless a condition contemplated in subsection (2)*(a)* indicates that the permission is not transferable.

(4) Subject to this Act, if—

(a) an activity authorised by a written permission has commenced or been completed; and

(b) the land to which the written permission relates has been sold subsequent to the granting of the written permission concerned,

the conditions of that written permission bind the successors in title of the land concerned.

(5) The Registrar of Deeds with jurisdiction must—

(a) at the written request of the Head of Department, note a condition contemplated in section 37(7), 39(2)*(a)*(i) or *(b)*(i) or 47(7) on the title deed of the affected land and in the appropriate registers; and

(b) in the case of section 39(2)*(b)*(i), endorse on the title deed retained by the person giving transfer each of those conditions that apply to the land so retained.

(6) If a condition inserted in or endorsed on a title deed—

(a) referred to in subsection (5);

(b) imposed in terms of a provision of a law repealed by this Act, has been amended or withdrawn as contemplated in subsection (2)*(b)*, the Registrar of Deeds must, at the written request of the Head of Department or the owner of the land, amend or cancel the condition concerned.

(7) In the circumstances contemplated in subsection (6), the owner of the land or the Head of Department, as the case may be, must submit to the Registrar of Deeds a copy of the decision concerned and proof that all mortgagees have been informed.

Enforcement provisions

57. (1) If a person contravenes a provision of this Act, the Provincial Minister may—

(a) without notice—

(i) issue a compliance notice that orders the person to comply within a specified time with the provision concerned; or

(ii) apply to a competent court for appropriate relief;

(b) issue a directive that directs the person to, within a specified time, where relevant—

(i) stop any—

(aa) activity;

(bb) service infrastructure works,

in contravention of this Act;

(ii) prevent or rectify the contravention;

(iii) remove service infrastructure that is deployed in contravention of Chapter 11;

(iv) remove any advertisement, access, structure, fence, gate or other object erected, installed, constructed or laid in contravention of this Act; or

(iv) take measures specified in the directive to comply with any provision in this Act;

(c) withdraw a permission granted in terms of this Act.

(2) Before issuing a directive or withdrawing a permission, the Provincial Minister must give the person concerned a reasonable opportunity to make written representations.

(3) If urgent action is necessary to safeguard the public or protect transport infrastructure or roads of joint significance, the Provincial Minister may—

(a) issue a directive and give the person concerned an opportunity to make representations as soon thereafter as is reasonable; or

(b) take measures that the Provincial Minister considers necessary given the urgency and authorise another person to take such measures.

(4) If a person contravenes a directive issued under subsection (1)*(b)*, the Provincial Minister may take measures that he or she considers appropriate and may authorise another person to take such measures.

(5) Subject to subsection (3), in circumstances where the measures contemplated in subsection (4) require entry onto property that is not owned by or under the control of the Province, the Provincial Minister or other person with the necessary authority may not take the measures concerned without the written consent of the owner or authorised person without an order of a competent court.

(6) Before or after taking the measures contemplated in subsection (3) or (4), the Provincial Minister may recover the costs incurred by the Provincial Minister or other person with the necessary authority of taking those measures, including any costs incurred as contemplated in subsection (8), from any or all persons on whom the directive was issued, who are each jointly and severally liable, and may use any deposit, guarantee or security contemplated in section 49(1)*(e)*.

(7) The costs contemplated in subsection (6) must be reasonable and may include without being limited to, labour, administrative, operational, capital, overhead and legal costs.

(8) Where service infrastructure, an advertisement, an access, a structure, a fence, a gate or another object is removed in terms of subsection (4)—

(a) the Provincial Minister must take all reasonable steps to inform the person on whom the directive was served to collect the service infrastructure, advertisement, structure, fence, gate or other object from the location where the relevant items were sent for storage; and

(b) the Head of Department may dispose of such object if not collected after a period of three months from the date of removal.

(9) The Head of Department may impose an administrative penalty, as prescribed, on a person who contravenes a provision of this Act.

(10) Before imposing an administrative penalty, the Head of Department must, in writing—

(a) inform the person of the intention to impose a penalty;

(b) specify the particulars of the alleged contravention;

(c) provide reasons for the penalty intended to be imposed;

(d) specify the amount of the penalty intended to be imposed; and

(e) invite the interested person to make representations within a specified period.

(11) If the Head of Department, after consideration of the representations made, or if no representations are received at the expiry of the period contemplated in subsection (10)*(e)*, decides to impose an administrative penalty, the Head of Department must by written notice inform the person that he or she must, within 30 days—

(a) pay the penalty to the Province; or

(b) appeal to the Provincial Minister in accordance with section 69.

(12) If a person fails to pay an administrative penalty within the specified period, the Provincial Minister may, in addition to the other measures contemplated in this Chapter, by way of civil action in a competent court recover the amount of the administrative penalty from such person.

(13) Subject to the provisions in this Chapter, any one or more of the enforcement measures contemplated in this section may be taken, and they may be taken in any order or combination or with one as an alternative to another in the event of a failure to comply, or sequentially.

Specific powers of Head of Department

58. Subject to the PFMA, the Head of Department may—

(a) notwithstanding the provisions of Chapter 8 and on conditions that the Head of Department determines, grant financial or other assistance to a municipality with the concurrence of that municipality—

(i) for the construction or maintenance of roads of joint significance;

(ii) for the acquisition by that municipality of property for the purpose of roads of joint significance;

(iii) in order for the municipality to comply with a notification by the Head of Department contemplated in section 10(12);

(iv) in order for the municipality to perform the functions contemplated in section 9(6); or

(v) in order for the municipality to comply with its duties set out in section 2(2), read with section 9(2), in respect of a road of joint significance;

(b) notwithstanding the provisions of Chapter 8, plan, design, construct or maintain roads of joint significance in the area of a municipality with the concurrence of that municipality;

(c) manage transport infrastructure assets for which the Department is responsible, subject to any applicable law governing the management of immovable assets;

(d) exercise any power that is reasonably incidental or ancillary to a power listed in paragraphs *(a)* to *(c)*.

General powers and duties of Head of Department

59. (1) The Head of Department may—

(a) subject to applicable law, remove or dispose of an animal that is on transport infrastructure or within the reserve of transport infrastructure in contravention of the National Road Traffic Act or any other law, but is not liable to compensate any person where such an animal is killed or injured while in the process of being removed or disposed of in order to avoid danger to traffic;

(b) provide and maintain on transport infrastructure boreholes, pumps and all appurtenances or conveniences he or she regards necessary;

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

(d) store either on or, subject to this Act, outside the reserve of transport infrastructure, plant, machinery, equipment or anything that he or she regards necessary for the construction or maintenance of the transport infrastructure;

(e) subject to the law governing the acquisition and disposal of provincial state land, lease out or dispose of rights held in land that was acquired for or in connection with transport infrastructure and is not required immediately, or grant temporary rights to such land free of charge;

(f) rehabilitate or landscape or otherwise improve areas within transport infrastructure;

(g) lay, move or remove a railway line in a road;

(h) within the boundaries of transport infrastructure provide for or authorise service facilities, including filling stations, restaurants, playgrounds and other facilities for the use of the travelling public;

(i) by notice in the *Provincial Gazette* prohibit or restrict the movement of stock otherwise than in a vehicle on any road specified in the notice, or provide that stock may not be moved on such a road without the prior written permission of the Head of Department.

(2) The provisions of section 57 apply where stock is found on a road in contravention of a notice referred to in subsection (1)*(i)*.

(3) Subject to section 40 and the National Road Traffic Act, the Head of Department may provide and maintain traffic signs, traffic control devices and markings necessary for the guidance and safety of traffic on roads and appropriate signals and signs on railway lines.

Regulations

60. (1) The Provincial Minister must make regulations regarding any matter in respect of which this Act requires regulations.

(2) The Provincial Minister may make regulations—

(a) prescribing mechanisms and requirements for monitoring the performance by authorities of their functions under this Act, performance standards or indicators and the financial and other consequences of failure by authorities to perform those functions or to perform them adequately;

(b) prescribing—

(i) the manner and form in which any application in connection with any authorisation, approval, permission or exemption contemplated in this Act must be made, the information to be submitted therewith and the fees, if any, to be paid for the application;

(ii) requirements for the publishing and serving of notices and notifying interested and affected parties;

(iii) the information that must be included in a notice contemplated in this Act;

(iv) the period within which any application submitted in terms of this Act must be decided;

(c) prescribing a fee for any authorisation, approval or permission granted in terms of this Act over and above the application fees prescribed under paragraph *(b)*(i) or in cases where no application fee is prescribed;

(d) prescribing the manner in which authorities must keep account of money received or paid out in respect of transport infrastructure;

(e) prescribing how transport infrastructure works must be costed;
(f) prescribing transport system planning and project planning processes in respect of transport infrastructure;
(g) prescribing criteria to be applied in the categorisation of roads as contemplated in section 7(1);
(h) prescribing subcriteria under any or all of the criteria listed in section 5(4)*(a)* to *(e)*;
(i) prescribing the description of the hierarchy of a road into one of the functional classes 1 to 6;
(j) prescribing categories of ancillary transport infrastructure for emerging technologies;
(k) prescribing the categorisation of roadside development environments;
(l) prescribing the information and conceptual planning elements that must be included in an arterial management plan;
(m) subject to the Businesses Act, 1991 (Act 71 of 1991), regulating trading on or in transport infrastructure;
(n) minimum requirements for an agreement for the provision of engineering services or plant and materials as contemplated in sections 56(2)*(a)* and 64(2);
(o) with regard to any matter that in terms of this Act may be prescribed, regulated or determined by regulation;
(p) generally, regarding any other ancillary or incidental matter that is necessary or expedient to prescribe for the proper implementation or administration of this Act.

(3) The regulations may provide that a contravention of a provision thereof or failure to comply therewith is an offence punishable with a fine or imprisonment for a period not exceeding 12 months, or both such fine and imprisonment.

(4) Different regulations may be made under this section for different types of transport infrastructure.

(5) The making or amendment of regulations under this Act that have financial implications must be done with the concurrence of the Provincial Minister of Finance.

(6) A regulation made in terms of the Ordinance and in force immediately before the commencement of this Act in regard to a matter on which the Provincial Minister may or must make regulations is regarded as a regulation made under this Act, until repealed or superseded by a new regulation under this section.

Standards, specifications and guidelines

61. (1) The Head of Department may set standards, specifications and guidelines for transport infrastructure and roads of joint significance, including—

(a) standards, specifications and guidelines for providing access to roads;
(b) standards, specifications and guidelines for—
   (i) the planning, design, declaring, development, construction, management, control, regulation, upgrading, maintenance, protection and rehabilitation of transport infrastructure and roads of joint significance;
   (ii) road and rail safety in the Province;
   (iii) the regulation of advertisements in relation to provincial traffic and provincial transport operations;
   (iv) the erection of fences, gates and structures;
   (v) service infrastructure works, including the matters listed in section 49(1);
   (vi) the application of the criteria contemplated in sections 5(4), (5) and (6) and 13(1),

   which standards, specifications and guidelines may differ in relation to different types of transport infrastructure and are subject to, in the case of roads, the National Road Traffic Act;
(c) standards, specifications and guidelines for the design, construction, control and management of motor cattle-grids, including—
   (i) the size, material to be used, mode of construction, level and position;
   (ii) the length and width of approaches from the roadway to a motor cattle-grid;
   (iii) the signs to be erected and maintained to give warning of a motor cattle-grid and the closing or diversion of a motor cattle-grid; and
   (iv) the proper management, maintenance and control of motor cattle-grids;

(d) standards, specifications and guidelines on the use, control and protection of rest camps, rest places, stock camps and other ancillary road infrastructure, whether or not they form part of roads.

(2) The Head of Department may set guidelines for determining the impact of an activity contemplated in this Act on provincial traffic and provincial transport operations.

(3) Prior to being set or amended by the Head of Department, standards, specifications and guidelines contemplated in subsection (1), must be made available for public comment for a minimum period of 30 days.

(4) Standards, specifications and guidelines set by the Head of Department in terms of this Act—

(a) must be published by the department by making them available through electronic media or the official departmental website;

(b) may be published in the *Provincial Gazette*.

Delegation

62. (1) Subject to subsection (4), the Provincial Minister may delegate any of his or her powers or assign any of his or her duties in terms of this Act to the Head of Department.

(2) The Head of Department may delegate any of his or her powers or assign any of his or her duties in terms of this Act or delegated to the Head of Department in terms of subsection (1) to an official of the Department or to a municipality.

(3) The Head of Department may only with the concurrence of the Provincial Minister, the Provincial Minister of Local Government and the municipality concerned delegate any of his or her powers or assign any of his or her duties in terms of this Act to a municipality.

(4) Subsection (1) does not apply to the power to make regulations or to make a declaration in terms of section 22.

(5) A delegation or assignment referred to in subsection (1), (2) or (3)—

(a) must be in writing;

(b) may be made subject to conditions;

(c) may be withdrawn or amended in writing by the Provincial Minister or the Head of Department, as the case may be;

(d) may permit the further delegation of that power or further assignment of that duty;

(e) does not preclude the Provincial Minister or Head of Department, as the case may be, from exercising that power or performing that duty;

(f) does not divest the Provincial Minister or the Head of Department, as the case may be, of the responsibility regarding the exercise of the delegated power or the performance of the assigned duty.

Agreements relating to transport infrastructure functions

63. (1) The Provincial Minister, with the concurrence the Head of Department, may conclude an agreement contemplated in subsection (2) with any person or body (in this section called ''the other party''), including—

(a) a municipality;

(b) SANRAL;

(c) the Passenger Rail Agency of South Africa, established in terms of section 22(1) of the Legal Succession to the South African Transport Services Act, 1989 (Act 9 of 1989); and

(d) Transnet Limited, established in terms of section 2 of the Act referred to in paragraph *(c)*.

(2) An agreement contemplated in subsection (1) may provide that—

(a) the other party takes over any or all responsibility for or in relation to any transport infrastructure;

(b) the Provincial Minister takes over any or all responsibility for or in relation to a municipal road or a road of joint significance;

(c) the other party does work in connection with transport infrastructure, including the construction and maintenance thereof, or has the work done under its supervision, for the account of the Department, or in respect of a

municipal road or road of joint significance, that the Department will do such work for the account of the other party, or otherwise in terms of the agreement;

(d) the municipality in whose area transport infrastructure, a municipal road or road of joint significance is situated is responsible for the disposal of all stormwater from that transport infrastructure, municipal road or road of joint significance or deviation thereof and expenditure incurred in connection therewith, and that the Provincial Minister is not responsible for any damage caused by or arising from the disposal or deviation of stormwater by that municipality or the failure by it to dispose of stormwater;

(e) the Provincial Minister performs any of the functions contemplated in this Act, or work relating thereto, in the area of jurisdiction of or on land belonging to the other party, at the cost of the Department or of the other party, or in terms of subsection (3), in accordance with and subject to this Act.

(3) An agreement contemplated in subsection (2) may provide for the sharing of the costs of a project between the parties.

(4) An agreement in terms of which the Provincial Minister takes over responsibility for or in relation to a municipal road or road of joint significance on behalf of a municipality must be concluded in accordance with Part 2 of Chapter 8 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

(5) The Provincial Minister must, in concluding an agreement that has financial implications for the Province, act with the concurrence of the Provincial Minister of Finance.

Agreement to share costs in respect of transport infrastructure

64. (1) Subject to the PFMA, the Head of Department may enter into an agreement with one or more landowners or another entity or entities that such landowners or entities will contribute towards the cost of the construction, upgrading or maintenance of transport infrastructure.

(2) The agreement contemplated in subsection (1) may provide that the landowner, landowners, entity or entities concerned will provide engineering services or plant and materials for the construction, upgrading or maintenance of transport infrastructure.

Integrated procedures and decisions

65. (1) The Provincial Minister, Head of Department, municipalities and other organs of state that administer other legislation relating to activities that require approval in accordance with this Act as well as that legislation—

(a) must strive to coordinate and align the procedural requirements for decision-making in terms of this Act and that legislation to avoid duplication; and

(b) may enter into written agreements with one another to avoid duplication in the submission of information or the execution of a process.

(2) An agreement contemplated in subsection (1)*(b)* may—

(a) provide for integrated approvals;

(b) facilitate the integrated submission, public and intergovernmental consultation and assessment of multiple applications by municipalities, the Head of Department and other organs of state, for a specific proposed development or utilisation of land;

(c) facilitate the simultaneous publication of the decisions of municipalities, the Provincial Minister, the Head of Department and other organs of state; or

(d) provide a framework for the coordination of procedural requirements for applications imposed by or under by-laws, this Act or other legislation.

(3) An integrated approval contemplated in subsection (2)*(a)* may be approved only if—

(a) a written agreement has been entered into between the organs of state approving the integrated approval;

(b) all relevant provisions of applicable by-laws, this Act and the other legislation have been complied with;

(c) the approval specifies—

(i) the provisions in terms of which it is approved; and

(ii) the organs of state approving it; and

(d) the respective decisions of the organs of state that form part of the integrated approval are published simultaneously in the media if publication thereof is required.

(4) The Provincial Minister may make regulations or issue guidelines to coordinate and align procedural requirements imposed in terms of—

(a) this Act; and

(b) other legislation relating to activities that require approval in accordance with this Act.

(5) An organ of state that has entered into a written agreement contemplated in subsection (1)*(b)* may take account of any process authorised by the legislation covered by that agreement as adequate for meeting the requirements of this Act.

(6) The Head of Department or Provincial Minister, as the case may be, may decide an application that also requires approval in terms of other legislation on the basis of a process prescribed under that legislation, but only if that process meets the requirements of this Act.

Limitation of liability and indemnity

66. (1) The Provincial Minister, the Head of Department, and any person acting under the authority of the Provincial Minister or Head of Department, as the case may be, are not liable for any loss sustained by or damage caused to a person—

(a) through the use of that part of transport infrastructure not intended or constructed for the use of vehicles;

(b) by an act or omission in good faith relating to the performance of a function under this Act,

unless gross negligence is proved.

(2) The Provincial Minister is not liable for claims by the landowner for diminution in value of land by or as a result of the declaration of transport infrastructure.

General prohibitions

67. (1) No person or institution, including an organ of state, may—

(a) leave or place obstructions that may be dangerous to traffic, or any refuse, debris, ash heaps, earthenware, glass, tins, nails, pieces of metal, timber, tree stumps, stones or other material on any transport infrastructure or road of joint significance;

(b) damage transport infrastructure or a road of joint significance or spill fuel or other chemicals or gas thereon that may damage it;

(c) wilfully damage trees, shrubs or other improvements on transport infrastructure or a road of joint significance;

(d) attach to a gate or place on any transport infrastructure or road of joint significance spikes or other objects that may cause injury to persons or animals or damage to property;

(e) obstruct, threaten or hinder, or use foul, abusive or insulting language to an official, employee, agent or contractor of the Department, or a person authorised by the Department, in the execution of his or her duties under this Act;

(f) shine lights onto or increase the lighting on transport infrastructure or a road of joint significance in a manner that could endanger traffic;

(g) unlawfully occupy, or reside in or within five metres of, transport infrastructure, a road of joint significance or a building restriction area;

(h) deposit, accumulate or discharge or cause or permit to be deposited, accumulated or discharged on land abutting on any transport infrastructure or road of joint significance any substance, matter or object that is or is likely to be blown or washed onto the transport infrastructure or road of joint significance or is likely to be offensive, dangerous, harmful or injurious to traffic thereon;

(i) falsely claim to be an official, employee, agent or contractor of the Department; or

(j) in any manner deface, damage or remove a road traffic sign.

(2) No person or institution, including an organ of state, may, unless authorised by or in terms of this Act or any other law—

(a) dig up, remove or alter the soil, surface, gravel, cuttings, banks or drains of any transport infrastructure or road of joint significance;

(b) paint or affix a figure, letter, drawing, sign, symbol, graffito or other like object or symbol on a roadway or bridge forming part of transport infrastructure, a road of joint significance or on a traffic sign erected on transport infrastructure or a road of joint significance;

(c) erect a traffic sign on any transport infrastructure or road of joint significance;

(d) use any transport infrastructure or road of joint significance while it is under construction or repair, except in the manner indicated by the responsible authority by road signs or other methods;

(e) close, deviate, alter or in any other manner encroach on any transport infrastructure or road of joint significance;

(f) close transport infrastructure, or a road of joint significance, that the public is entitled to use, or erect a fence or other barrier to prevent the public from using such transport infrastructure or road of joint significance;

(g) use transport infrastructure or a road of joint significance that has been closed to traffic and the closure of which has been indicated by appropriate road signs;

(h) deviate traffic onto a road or railway line, except in the case of an emergency;

(i) alter, move, remove, disturb, damage or destroy a peg, beacon or other means of identification placed on, in, over, under or attached to land for the purposes of this Act;

(j) deposit or leave a disused vehicle or machine or part thereof on any transport infrastructure or road of joint significance;

(k) deposit or leave a disused vehicle or machine or part thereof or any refuse within 200 metres from the centre line of any road or railway line where it is visible from that road or railway line.

(3) The Head of Department may, on application in the prescribed manner, grant written permission for the doing of an act prohibited by subsection (2), subject to the conditions and for the period he or she determines.

(4) When considering an application contemplated in subsection (3), the Head of Department must have regard to—

(a) in respect of a road, the impact of the proposed activity on provincial traffic and provincial transport operations;

(b) potential damage to the transport infrastructure concerned or prejudice to the public;

(c) in respect of ancillary transport infrastructure, the impact of the proposed act on the infrastructure concerned, taking account of the nature and purpose of that infrastructure;

(d) in respect of a railway line, the impact of the proposed act on rail safety and operation.

Offences and penalties

68. (1) A person commits an offence if he or she—

(a) contravenes section 3(2) or (3), 32(1), 37(1) or (2), 39(1), 42(5), 43(1), 45(1), 46(1), 47(1), 48(1), 51(2) or 67(1) or (2);

(b) fails to comply with a compliance notice under section 57(1)*(a)* or a directive under section 57(1)*(b)* within the period stated in the notice or directive;

(c) fails to meet a condition imposed under section 47(6)*(a)*, *(b)* or *(c)*;

(d) fails to comply with a condition imposed under section 56(2)*(a)*.

(2) A person convicted of an offence under subsection (1) is liable to a fine or imprisonment for a period not exceeding 12 months or to both the fine and imprisonment.

(3) Such fines must be paid to the Province where the Province is the responsible authority or to the municipality where the municipality is the responsible authority.

(4) In addition to any other penalty, a court convicting a person of an offence under subsection (1) may sentence the person to a penalty equivalent to—

(a) the amount of all expenditure incurred by or estimated by the Province or municipality concerned, as the case may be, in connection with any work

necessary to restore the transport infrastructure or road of joint significance to its former state; or

(b) where applicable, the amount required to repair the damage in question, payable to the responsible authority undertaking the necessary work, and, failing payment of such penalty, to imprisonment for a period not exceeding three months.

(5) Subsection (4) does not preclude the Provincial Minister from recovering any amount that he or she is entitled to recover from a person, minus, where applicable, any penalty paid in terms of subsection (4), whether or not the person has been charged with or convicted of an offence in terms of this section.

Appeals against decision by Head of Department or official

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

(2) An appeal under subsection (1) must be submitted in the prescribed manner.

(3) The Provincial Minister may, in considering the appeal, appoint an appeal panel constituted in the prescribed manner to consider and advise him or her on the appeal.

(4) The Provincial Minister must, after considering an appeal, confirm, set aside or vary the decision, provision, conditions or directive appealed against or may make any other appropriate order.

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

Exemptions in respect of roads of joint significance

70. (1) The Provincial Minister may, by notice in the *Provincial Gazett*e, make a declaration exempting persons, including municipalities, from the requirements of any provision of this Act in respect of—

(a) a specific road of joint significance or portion of a road of joint significance;

(b) all roads of joint significance in a specific municipality.

(2) The Provincial Minister may—

(a) impose conditions on;

(b) withdraw or amend a condition of,

an exemption contemplated in subsection (1).

(3) When acting under subsection (1) or (2), the Provincial Minister must take account of—

(a) the financial or administrative burden of an integrated application process contemplated in section 65;

(b) the application of the criteria in section 5(4), (5) and (6); and

(c) the relative capacity of the municipality responsible for the road.

Transitional provisions

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

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

Relation of Act to other laws

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

(2) Unless the context indicates to the contrary, no provision of this Act may be construed as preventing the provision of transport infrastructure or part thereof in the Province by any person or in any manner permitted by law.

Repeal of laws

73. Subject to section 71(1), the laws specified in the second column of the Schedule, in so far as they apply in or have been assigned to the Province, are repealed to the extent indicated in the third column thereof.

Short title and commencement

74. (1) This Act is called the Western Cape Provincial Transport Infrastructure Act, 2021, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

(2) Different dates may be determined under subsection (1) in respect of different municipal areas in the Province.

(3) If the Premier determines different dates for the commencement of different provisions of this Act, a reference in a provision of this Act to the date of commencement of this Act must be construed as a reference to the date determined by the Premier for the commencement of that section in the municipal area concerned.

SCHEDULE

LAWS REPEALED

Number and year of law	Short title	Extent of repeal
Act 1 of 2013	Western Cape Transport Infrastructure Act, 2013	The whole
Act 21 of 1940	Advertising on Roads and Ribbon Development Act, 1940	The whole
Act 22 of 1944	National Roads and Ribbon Development Amendment Act, 1944	The whole
Act 28 of 1952	Advertising on Roads and Ribbon Development Amendment Act, 1952	The whole
Act 16 of 1962	Advertising on Roads and Ribbon Development Amendment Act, 1962	The whole
Act 16 of 1966	Advertising on Roads and Ribbon Development Amendment Act, 1966	The whole
Act 6 of 1976	Advertising on Roads and Ribbon Development Amendment Act, 1976	The whole
Act 2 of 1979	Advertising on Roads and Ribbon Development Amendment Act, 1979	The whole
Act 43 of 1985	Advertising on Roads and Ribbon Development Amendment Act, 1985	The whole
Ordinance 19 of 1976	Roads Ordinance, 1976	The whole
Ordinance 18 of 1977	Roads Amendment Ordinance, 1977	The whole
Ordinance 11 of 1978	Roads Amendment Ordinance, 1978	The whole
Ordinance 6 of 1980	Roads Amendment Ordinance, 1980	Sections 1 to 8
Ordinance 28 of 1980	Roads Second Amendment Ordinance, 1980	The whole
Ordinance 5 of 1982	Roads Amendment Ordinance, 1982	The whole
Ordinance 20 of 1983	Roads Amendment Ordinance, 1983	The whole
Ordinance 13 of 1985	Roads Amendment Ordinance, 1985	The whole
Ordinance 16 of 1986	Roads Amendment Ordinance, 1986	The whole

MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE PROVINCIAL TRANSPORT INFRASTRUCTURE BILL

1. BACKGROUND

1.1 The Western Cape Transport Infrastructure Act, 2013 (Act 1 of 2013) (the Act), was assented to by the Premier on 3 April 2013, but to date has not been brought into operation. This Act was intended to replace the existing legislation dealing with declared roads in the Province, namely the Roads Ordinance, 1976 (the Ordinance), and the Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940) (the ARRDA).

1.2 During the course of drafting of regulations that were necessary for the Act to be brought into operation, amendments to the Act were found to be necessary, including technical amendments and developments addressing difficulties with the provision of service infrastructure that have an impact on roads. The Draft Western Cape Transport Infrastructure Amendment Bill, 2017 (the Amendment Bill), was accordingly drafted to deal with these issues and was published for comment. The Amendment Bill, after further consideration and with due regard to the comments received, was found to be too cumbersome. Hence it was decided to prepare a new Western Cape Transport Infrastructure Bill, 2021 (the Bill), which will, on enactment, repeal the Act, the Ordinance and the ARRDA.

2. OBJECTS OF BILL

2.1 Once in operation, the Bill will allow the Province to administer its provincial roads, railway lines and ancillary transport infrastructure in terms of a new legislative framework. Procedures are incorporated in the Bill that will allow for the declaration of provincial roads, railway lines and ancillary transport infrastructure, and for planning, expropriation, construction, management, control and maintenance of such transport infrastructure.

2.2 The scope of the Act and the Bill extends beyond that covered by the Ordinance and the ARRDA, insofar as the former makes provision for the declaration of public transport infrastructure, such as heavy or light rail systems and high-order public transport roads for bus-rapid-transit-type systems. The Act and the Bill also make provision for a planning process that must take place in specified circumstances, including the declaration of roads and when roads are altered or relocated. The Act recognises that the declaration, construction and management of roads have an impact on related functional areas, including land-use planning and the environment, and contemplates a cooperative approach with other affected organs of state and functionaries.

2.3 The principal changes incorporated in the Bill in relation to the Act involve provisions that will allow for the joint administration of municipal roads of joint municipal and provincial significance (roads of joint significance) by the relevant municipality and the Province. Roads of joint significance essentially form the higher-order road network of municipalities and are roads which were declared by the Administrator and are jointly managed by municipalities and the Province under the Ordinance. They are owned by municipalities, subsidised by the Province and form an integral and critical component of the provincial road network. Broad criteria are now also included in the Bill that are intended to guide the Province and municipalities in determining how roads are to be classified as either provincial roads or municipal roads going forward. New technical provisions are also included in the Bill that will better facilitate the reassessment of previously declared roads to determine the appropriateness of the existing road authority and to reclassify them accordingly, and to reassess the categorisation of the roads. Deeming provisions are included, and a deadlock-breaking mechanism in the joint assessment process, provided in the event of the failure of the Province and

relevant municipality to agree on the classification and categorisation of roads or related matters subject to the assessment.

2.4 The Bill also includes provisions that will empower the Province in some instances to assist municipalities with the execution of their task of managing their roads of joint significance. Insofar as activities on these roads may have a direct impact on the provincial road network, the Bill requires the Province and the municipality who is the responsible authority for the road to reach agreement on specified matters such as construction activities, the relocation and alteration of, and the construction of new and amended interchanges on, these roads prior to the activity commencing if the activity concerned is likely to have an adverse impact on provincial traffic and provincial transport operations. This is required to be done in accordance with the principles of cooperative governance. The Bill furthermore, for the same reason, prohibits certain specified activities on roads of joint significance (such as construction of accesses, the erection of structures and the installation of service infrastructure) by all persons without the prior written permission of the Head of Department, based on the impact of the activity on provincial traffic and provincial transport operations. The permission of the Head of Department is additional to any necessary permission required to be obtained from the relevant municipality. It is noted that ‘‘municipal roads’’ in the Bill refer to what have been historically known as ‘‘streets’’, and, insofar as these roads are a municipal function only, they are not directly regulated in the Bill. The Department has, however, initiated a process to produce standard draft by-laws regulating municipal roads, roads of joint significance and the display of advertising signs, which municipalities will be encouraged to adopt as appropriate.

2.5 New provisions are also included in the Bill regulating the provision of service infrastructure in roads, including telecommunications cables and pipelines for water, gas, oil and other services, and further technical adjustments.

3. CONTENTS OF BILL

3.1 **Clause 1** provides for a comprehensive set of definitions and related technical matters.

3.2 **Clause 2** provides that the Provincial Minister and the Head of Department must undertake the functions of the financing, planning, declaration, design, construction, development, maintenance, control, management, regulation, upgrading, protection and rehabilitation of transport infrastructure in the Province, and for a municipality to undertake the same functions regarding municipal roads, roads of joint significance and ancillary road infrastructure under its control and in its area of jurisdiction.

3.3 **Clause 3** provides that the Provincial Minister must ensure that certain key technical functions in terms of the Bill are performed only under the responsibility and due diligence of a suitably qualified professional person. This clause furthermore provides that the Head of Department must ensure that the Department’s staff establishment includes professional engineers or town planners having the necessary competence for the purpose of supervising these activities.

3.4 **Clause 4** provides for technical matters pertaining to the vesting of ownership and title to land on which transport infrastructure is located, including the acquisition and disposal of land necessary for transport infrastructure.

3.5 **Clause 5** establishes the classification system to be applied to roads, separating them into provincial roads, municipal roads and roads of joint significance and provides for broad criteria to be used in the classification process.

3.6 **Clause 6** provides more detail on roads of joint significance and, in particular, the process for the declaration of such roads by the Provincial Minister and the withdrawal of such declaration.

3.7 **Clause 7** provides for the categorisation of roads into the categories of trunk roads, main roads, district roads, public transport roads, minor roads and public paths and provides that roads of joint significance must be categorised as main roads.

3.8 **Clause 8** provides for deeming provisions in respect of roads and, in particular, the retention of the existing classification and categorisation of roads under the Ordinance until a redetermination in terms of the Bill.

3.9 **Clause 9** provides for the regulation of municipal roads and roads of joint significance by municipalities, by providing—

3.9.1 that a municipality must, within its available resources, regulate the financing, planning, declaration, design, construction, development, maintenance, control, management, regulation, upgrading, protection and rehabilitation of municipal roads and roads of joint significance in the area of its jurisdiction, which are the matters for which a municipality must at least provide;

3.9.2 that before a municipality makes a by-law regulating roads of joint significance and ancillary road infrastructure, it must consult with the Provincial Minister;

3.9.3 that a municipality must, for roads of joint significance, ensure that certain key technical functions are performed only under the responsibility and due diligence of a suitably qualified professional person;

3.9.4 for the keeping of certain records by a municipality in respect of roads of joint significance;

3.9.5 for municipalities to undertake planning for their roads of joint significance and to include the results and the plans of other organs of state in their integrated transport plans and to furnish the Provincial Minister with this information for inclusion in the Provincial Land Transport Framework;

3.9.6 for the installation and operation of asset-management systems, including condition assessment and maintenance management systems in respect of roads of joint significance;

3.9.7 that in performing the functions referred to in paragraph 3.9.1 a municipality must comply with the minimum requirements of standards, specifications and guidelines set by the Head of Department, or it may use its own standards, specifications and guidelines provided that they are consistent with those set by the Head of Department.

3.10 **Clause 10** provides for the joint planning, management and control of roads of joint significance by the Province and municipalities, by providing—

3.10.1 for municipalities to undertake the preparation of arterial management plans, the determination of the roadside development environment and the functional classification of roads of joint significance and, in addition, the functional classification of municipal roads and private driveways crossing or joining provincial roads and roads of joint significance;

3.10.2 that, for a set of activities listed in respect of roads of joint significance, the Province and the relevant municipality must reach agreement on the viability and technical details of an activity before it commences, in accordance with the principles of cooperative governance;

3.10.3 that a municipality may not declare or construct a road that meets certain criteria without obtaining the written comment and recommendations of the Head of Department; and

3.10.4 that, in respect of roads of joint significance, the specified written permissions required in terms of the Bill are additional to any required permissions of the relevant municipality, and that the Provincial Minister, the Head of Department and municipality concerned must take steps to integrate the procedural requirements of decision-making and permission as contemplated in clause 65.

3.11 **Clause 11** provides for a joint assessment process to be undertaken in respect of existing roads of joint significance and provincial roads to be undertaken by the Provincial Minister in cooperation with the Head of Department and the relevant municipalities after the coming into operation of the Bill, including—

3.11.1 the appropriate classification of the road as a provincial road, road of joint significance or municipal road (applying the principles set out in clause 5), the appropriate categorisation of the road as one of the categories set out in clause 7, whether the road should be closed and any other related matter;

3.11.2 where necessary, the planning processes and public participation to be followed, a deadlock-breaking mechanism, provisions for an agreement to be entered into between the Province and the relevant municipality and provisions for the necessary declaration in the *Provincial Gazette.*

3.12 **Clause 12** provides for road transfer agreements, which may include provisions to give effect to the transfer of ownership from the Province to the relevant municipality or the relevant municipality to the Province, if required in the event of a change in classification of the road pursuant to the joint assessment process, or at any other time in the circumstances specified, and any other matter necessary to facilitate the transfer of responsibility in respect of the road.

3.13 **Clause 13** provides for the categorisation of railway lines administered by the Provincial Minister, as heavy railway lines or light railway lines and for the procedure to change such categorisation.

3.14 **Clause 14** provides for technical matters pertaining to public transport roads.

3.15 **Clause 15** provides for the standard minimum reserve widths of roads and railway lines, the possibility of the determination of reserve widths other than the standard minimum reserve widths, the alteration of the standard minimum reserve width and a deemed standard minimum reserve width where the actual reserve width is greater than the standard minimum reserve width. This clause also provides for the Head of Department to define the boundaries of a reserve by the publication of a notice in the *Provincial Gazette* and a deeming provision in respect of reserve widths in force at the commencement of the Bill.

3.16 **Clause 16** provides for the categorisation and reserves of ancillary transport infrastructure.

3.17 **Clause 17** provides for building lines and building restriction areas and related technical matters.

3.18 **Clause 18** provides for transport system planning requirements, specifically for the Head of Department to undertake the planning of transport infrastructure, to include the resultant plans and budgets in the Department's budgeting processes and to make these known to municipalities. This clause also provides for the Head of Department to determine the functional classification of roads and the roadside development environment and to prepare arterial management plans for provincial roads.

3.19 **Clause 19** provides for the Head of Department to compile and update a comprehensive list and associated databases of transport infrastructure in the Province and for the consolidation of this list and associated databases with the list and associated database submitted by municipalities in respect of roads of joint significance.

3.20 **Clause 20** provides for the Head of Department to ensure that a project planning process is undertaken before the declaration of provincial roads, railway lines or ancillary transport infrastructure by the Provincial Minister and the relocation, alteration or closure of such infrastructure as well as the withdrawal of a declaration of a classification as a road of joint significance. This clause also sets out the requirements for the planning process and the circumstances in which a planning process is not required. It further provides that the Head of Department must ensure that the necessary steps are taken to comply with other applicable legislation, and in such circumstances he or she must strive to coordinate and align the planning process with the procedural requirements of such legislation in the manner contemplated in clause 65, which provides for integrated procedures and decisions.

3.21 **Clause 21** provides for a decision by the Provincial Minister pursuant to the consultation processes contemplated in clause 20.

3.22 **Clause 22** provides for the declaration of transport infrastructure and related declarations regarding transport infrastructure by the Provincial Minister.

3.23 **Clause 23** provides for applications to the Provincial Minister for the closure, relocation or alteration of transport infrastructure.

3.24 **Clause 24** provides for the permanent closure of a provincial road by the Provincial Minister.

3.25 **Clause 25** provides for the temporary closure or deviation of a provincial road or railway line by the Head of Department.

3.26 **Clause 26** provides for the closure or deviation of transport infrastructure by the Head of Department in cases of emergency.

3.27 **Clause 27** provides that the public may continue to use a road or portion thereof after permanent closure until signs have been erected indicating the closure as contemplated in clause 24.

3.28 **Clause 28** provides for the Department to pay a road subsidy to a municipality for roads of joint significance and the requirements for the payment of a road subsidy.

3.29 **Clause 29** provides that, where a municipality concludes a lease, sale or other agreement relating to land for which the municipality has received a road subsidy, a subsidy under the Ordinance or grant money from the Province, it must pay the net proceeds received from such lease, sale or other agreement to the Province in proportion to the subsidy contribution. This clause further provides for an alternative specified fund into which the municipality may pay these net proceeds and for the granting of permission for the municipality to retain these proceeds. It also provides for a municipality to obtain the prior written comments of the Head of Department and the Provincial Minister of Finance prior to entering such a transaction.

3.30 **Clause 30** provides that, where expenditure is incurred by a municipality from a source wholly or partly other than the municipality or the Province, such expenditure does not qualify for road subsidy.

3.31 **Clause 31** provides for the Provincial Minister to make regulations on specified matters relating to the payment of road subsidies.

3.32 **Clause 32** prohibits the display of advertisements within specified distances of provincial roads and roads of joint significance without the permission of the Head of Department.

3.33 **Clause 33** provides that, in the event of a contravention of clause 32, the enforcement provisions as set out in clause 57 apply.

3.34 **Clause 34** sets out the minimum requirements with which a municipality must comply in regulating the display of advertisements on or above or visible from a road.

3.35 **Clause 35** provides for presumptions relating to advertisements.

3.36 **Clause 36** sets out the procedure with which the Provincial Minister must comply when land or the temporary use thereof is required for certain specified purposes.

3.37 **Clause 37** provides for applications to the Head of Department for permissions in specified circumstances relating to the provision of access to and exit from provincial roads and roads of joint significance.

3.38 **Clause 38** provides for the relocation or closure of an access to or exit from a provincial road on the instruction of the Head of Department.

3.39 **Clause 39** provides that a person applying to a municipality for approval of a development involving a change or intensification of land use, or subdivisions of land within certain distances of provincial roads or roads of joint significance, must, in addition to obtaining the prior written permission of the municipality, also obtain the prior written permission of the Head of Department relating to the impact of the development applied for on road traffic safety and transport operations or any subsequent requirement for the erection of a new access or a change to an existing access. This clause further provides that a municipality must, prior to approving an application for a development as aforesaid, obtain the prior written comment of the Head of Department.

3.40 **Clause 40** provides for the Head of Department to erect and maintain direction signs and other information signs.

3.41 **Clause 41** provides for certain actions to be taken by the Head of Department in respect of obstructions affecting provincial roads, railway lines and ancillary transport infrastructure that could impair the vision of a driver or cause unsafe conditions.

3.42 **Clause 42** provides for the erection of fences by the Head of Department in certain specified instances, circumstances in which the Head of Department is empowered to make a contribution towards the costs incurred by a person who erects a fence, and the prohibition of the erection of fences by persons on or within the boundaries of transport infrastructure without the permission of the Head of Department and provides for related matters.

3.43 **Clause 43** prohibits the erection of gates across provincial roads and provides for related matters.

3.44 **Clause 44** regulates the construction, closure and relocation of motor cattle-grids across provincial roads by the Head of Department and provides for related matters.

3.45 **Clause 45** prohibits mining operations on or under transport infrastructure, roads of joint significance or building restriction areas without the permission of the Head of Department and provides for related matters.

3.46 **Clause 46** prohibits trading in or within a building line or building restriction area of transport infrastructure without the permission of the Head of Department and provides for related matters.

3.47 **Clause 47** prohibits the erection or installation of any kind of structure on or within the reserve of transport infrastructure or roads of joint significance, within a building line or within a building restriction area without the prior written permission of the Head of Department and provides for related matters.

3.48 **Clause 48** provides that no service provider may perform service infrastructure works within the reserve, the building lines, or a building restriction area, of transport infrastructure or roads of joint significance without the prior written permission of the Head of Department.

3.49 **Clause 49** empowers the Head of Department to set standards, specifications and guidelines concerning the performance of service infrastructure works and empowers the Provincial Minister to set fees payable by a service provider.

3.50 **Clause 50** sets out the requirements relating to a decision by the Head of Department in respect of an application contemplated in clause 48(1).

3.51 **Clause 51** provides for matters relating to the performance of service infrastructure works by a service provider.

3.52 **Clause 52** provides that the Province owns and has the exclusive right to control the spare capacity in a conduit, pipe, tunnel, manhole or similar service infrastructure situated in or attached to land or transport infrastructure owned by the Province and provides for the sharing of such spare capacity by service providers.

3.53 **Clause 53** provides for the payment of compensation by the service provider to the Province in proportion to the disadvantage suffered by the Province and the advantage gained by the service provider for the use of land by the service provider and related matters.

3.54 **Clause 54** provides for matters pertaining to the relocation of service infrastructure.

3.55 **Clause 55** provides that the enforcement provisions contained in clause 57 apply if clause 48(1), 50(3) or 51(2) are contravened.

3.56 **Clause 56** provides for general requirements relating to applications and written permissions in terms of the Bill.

3.57 **Clause 57** sets out the enforcement provisions that may be applied by the Provincial Minister if a person contravenes a provision of the Bill.

3.58 **Clause 58** provides for specific powers of the Head of Department relating to transport infrastructure and roads of joint significance, including the granting of financial or other assistance to a municipality.

3.59 **Clause 59** provides for general powers of the Head of Department relating to transport infrastructure.

3.60 **Clause 60** empowers the Provincial Minister to make regulations on specified matters. The matters that this clause contemplates and that will be contained in regulations are administrative and of such a nature that it is appropriate to deal with in regulations rather than in the Bill. No specific provision is included for parliamentary control over the regulations.

3.61 **Clause 61** empowers the Head of Department to set standards, specifications and guidelines for transport infrastructure and roads of joint significance on specified matters.

3.62 **Clause 62** authorises the Provincial Minister and Head of Department to delegate their powers or assign their duties in terms of the Bill in the manner provided therein.

3.63 **Clause 63** provides for the Provincial Minister and the Head of Department to conclude agreements in relation to specified matters.

3.64 **Clause 64** provides for the Head of Department to enter into an agreement with one or more landowners or another entity providing that such landowners or entities will contribute towards the costs of the construction, upgrading or maintenance of transport infrastructure.

3.65 **Clause 65** provides for the possibility of integrated procedures and approvals where activities that require approvals in terms of the Bill also require approval in terms of other legislation.

3.66 **Clause 66** provides for the limitation of liability and indemnity.

3.67 **Clause 67** sets out general prohibitions relating to transport infrastructure. This clause further provides that the Head of Department may grant permission in respect of such a prohibited matter on application to him or her.

3.68 **Clause 68** provides for offences and penalties in the event of a contravention of the Bill.

3.69 **Clause 69** provides for the possibility of an appeal to the Provincial Minister by a person affected by a decision of the Head of Department or an official of the Department in terms of the Bill.

3.70 **Clause 70** provides for the possibility of the Provincial Minister to exempt persons, including municipalities, from the requirements of any provisions of the Bill in relation to specific roads of joint significance, or a portion thereof, or all roads of joint significance within a municipality. It further provides for the withdrawal and imposition of conditions in respect of such an exemption, as well as the criteria that must be applied when an exemption is granted.

3.71 **Clause 71** provides for transitional matters.

3.72 **Clause 72** provides that the provisions of the Bill are additional to and not in substitution of other laws dealing with matters related to the matters dealt with by the Bill and related matters.

3.73 **Clause 73** provides for the repeal of the laws specified in the Schedule.

3.74 **Clause 74** provides for the short title and commencement of the Bill.

4. CONSULTATION

Department of the Premier: Legal Services
Department of Environmental Affairs and Development Planning
Provincial Treasury
Department of Economic Development and Tourism
South African Local Government Association

City of Cape Town
District and local municipalities in the Province

5. PERSONNEL IMPLICATIONS

There will be no personnel implications arising from the replacement of the Ordinance and the ARRDA by the Bill or by the repeal of the Act.

6. FINANCIAL IMPLICATIONS

6.1 As indicated in paragraph 5, the implementation of the Bill and the repeal of the Ordinance, the ARRDA and Act 1 of 2013 will not require the introduction of new operational components to the Department that would have consequent increases in professional and other staff. In this respect the Bill will not place new financial implications on the departmental budget. There are, however, new processes introduced by the Bill (as were also introduced by Act 1 of 2013) that will have financial implications, but which will be minimal in relation to the departmental approximately R4 billion annual budget and will be accommodated without motivating for additional budget. The implications are as follows:

6.2 Administering roads of joint significance in conjunction with the municipalities (clauses 9 and 10) — these procedures will entail ensuring that municipalities undertake management actions on their roads of joint significance and monitoring compliance. Much of the work in monitoring compliance in respect of actions taken on these roads and engagements with municipalities already occurs at an operational level in the Department under the Ordinance.

6.3 Undertaking the assessment of previously declared roads (clause 11) — this will be a one-off process of assessing the 32 000 km of declared provincial roads that will lead to transferring roads to the appropriate road authority where some roads are retained by the Province and some are transferred to municipalities according to the function of the roads and the relative capacity of the relevant municipalities. This process is underway in the City of Cape Town, and consultants will continue to assist the Province in undertaking the process in other municipalities.

6.4 Compiling and updating the list and associated database of transport infrastructure (clause 19) — much of the data required to develop the list and database already exists in the Departmental RNIS database, and compliance with clause 19 will largely require reformatting and adding existing records located in various systems to bring all information into a consolidated system.

6.5 Payment of road subsidy to municipalities for management of roads of joint significance (clauses 28 to 31) — the road subsidy provisions of the Bill, supplemented by the Regulations, will replace provisions of the Ordinance under which the Department has for many years subsidised proclaimed main roads (in the Bill renamed roads of joint significance). The Department currently budgets approximately R100 million annually toward the subsidy payments. The payment of subsidy to municipalities is subject to assessment by the Department and within the available financial resources of the Department.

7. LEGISLATIVE COMPETENCE

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

WETSONTWERP

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

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

INDELING VAN ARTIKELS

Artikels

HOOFSTUK 1

INLEIDENDE BEPALINGS

1. Woordomskrywing
2. Verantwoordelikhede van Provinsie en munisipaliteite
3. Professionele Ingenieurs of Geregistreerde Beplanners verantwoordelik vir spesifieke werksaamhede
4. Titel tot grond vir vervoerinfrastruktuur

HOOFSTUK 2

KLASSIFIKASIE EN KATEGORISERING VAN PAAIE EN VERKLARING VAN PAAIE VAN GEMEENSKAPLIKE BELANG

5. Klassifikasie van paaie
6. Verklaring van paaie van gemeenskaplike belang deur Provinsiale Minister
7. Kategorisering van paaie

HOOFSTUK 3

BESKOUINGSBEPALINGS VIR PAAIE EN REGULERING VAN MUNISIPALE PAAIE EN PAAIE VAN GEMEENSKAPLIKE BELANG DEUR MUNISIPALITEITE

8. Beskouingsbepalings ten opsigte van paaie
9. Regulering van munisipale paaie en paaie van gemeenskaplike belang deur munisipaliteite
10. Gesamentlike beplanning, bestuur en beheer van paaie van gemeenskaplike belang deur Provinsie en munisipaliteite

HOOFSTUK 4

GESAMENTLIKE EVALUERING VAN VOORHEEN VERKLAARDE PAAIE EN OORDRAGOOREENKOMSTE

11. Evaluering van voorheen verklaarde paaie
12. Padoordragooreenkomste

HOOFSTUK 5

SPOORLYNE, OPENBAREVERVOERPAAIE, RESERWEBREEDTES, BYKOMSTIGE VERVOERINFRASTRUKTUUR, BOULYNE EN BOUBEBERKINGSGEBIEDE

13. Kategorisering van spoorlyne
14. Openbarevervoerpaaie
15. Reserwebreedtes van paaie en spoorlyne
16. Kategorisering en reserwes van bykomstige vervoerinfrastruktuur
17. Boulyne en boubeperkingsgebiede

HOOFSTUK 6

BEPLANNING EN VERKLARING VAN VERVOERINFRASTRUKTUUR

18. Vervoerstelselbeplanning
19. Rekords van vervoerinfrastruktuur en paaie van gemeenskaplike belang
20. Projekbeplanningsproses
21. Besluit deur Provinsiale Minister
22. Verklaring van vervoerinfrastruktuur

HOOFSTUK 7

PROSEDURES BY SLUITING VAN VERVOERINFRASTRUKTUUR

23. Aansoek om vervoerinfrastruktuur te sluit, te verskuif of te verander
24. Permanente sluiting van provinsiale pad
25. Tydelike sluiting of verlegging van pad of spoorlyn
26. Noodsluiting of -verlegging
27. Reg van publiek om geslote of verlegde pad te gebruik

HOOFSTUK 8

PADSUBSIDIEREËLINGS

28. Padsubsidiereëlings met munisipaliteite
29. Huurgeld, verkoop en ander inkomste uit grond verkry met subsidie kragtens die Ordonnansie of padsubsidiegeld
30. Bydraes vanaf ander bronne
31. Regulasies vir padsubsidiereëlings

HOOFSTUK 9

ADVERTENSIES SIGBAAR VANAF PROVINSIALE PAAIE EN PAAIE VAN GEMEENSKAPLIKE BELANG

32. Verbod op sekere advertensies
33. Afdwingingsbepalings ten opsigte van advertensies
34. Regulering van advertensies deur munisipaliteite
35. Vermoedens rakende advertensies

HOOFSTUK 10

BESTUUR EN BEHEER VAN VERVOERINFRASTRUKTUUR, PAAIE VAN GEMEENSKAPLIKE BELANG EN AANGRENSENDE GROND

36. Betreding op en besitneming van eiendom
37. Toegang tot en uitgang vanaf provinsiale paaie en paaie van gemeenskaplike belang
38. Verskuiwing of sluiting van toegang tot of uitgang vanaf pad
39. Beperkings op veranderinge in grondgebruik
40. Afstandaanwysers, padwysers en waarskuwings op paaie
41. Versperrings en vry ruimtes
42. Heinings langs of binne grense van vervoerinfrastruktuur
43. Hekke oor paaie

44. Motorhekke
45. Mynbedrywighede op of onder vervoerinfrastruktuur, paaie van gemeenskaplike belang of boubeperkingsgebiede
46. Handel dryf op of in vervoerinfrastruktuur of boubeperkingsgebiede
47. Strukture buiten diensinfrastruktuur in reserwes of boulyne of in boubeperkingsgebiede van vervoerinfrastruktuur of paaie van gemeenskaplike belang

HOOFSTUK 11

DIENSINFRASTRUKTUUR

48. Toestemming vir diensinfrastruktuurwerke
49. Standaarde, spesifikasies, riglyne en gelde
50. Besluit oor aansoek
51. Verrigting van diensinfrastruktuurwerke
52. Eienaarskap en beheer van spaarkapasiteit
53. Vergoeding
54. Verskuiwing
55. Afdwingingsbepalings ten opsigte van diensinfrastruktuur

HOOFSTUK 12

ALGEMENE BEPALINGS

56. Aansoeke en skriftelike toestemmings
57. Afdwingingsbepalings
58. Spesifieke bevoegdhede van Departementshoof
59. Algemene bevoegdhede en pligte van Departementshoof
60. Regulasies
61. Standaarde, spesifikasies en riglyne
62. Delegasie
63. Ooreenkomste rakende vervoerinfrastruktuurwerksaamhede
64. Ooreenkoms om koste ten opsigte van paaie of vervoerinfrastruktuur te deel
65. Geïntegreerde prosedures en besluite
66. Beperking van aanspreeklikheid en vrywaring
67. Algemene verbiedinge
68. Misdrywe en strawwe
69. Appèlle teen besluit van Departementshoof of beampte
70. Vrystellings ten opsigte van paaie van gemeenskaplike belang
71. Oorgangsbepalings
72. Verhouding van Wet tot ander wette
73. Herroeping van wette
74. Kort titel en inwerkingtreding

BYLAE: WETTE HERROEP

HOOFSTUK 1

INLEIDENDE BEPALINGS

Woordomskrywing

1. (1) In hierdie Wet, tensy dit uit die samehang anders blyk, beteken—

"advertensie"—

(a) enige sigbare voorstelling van 'n woord, naam, letter, syfer, voorwerp, merk, logo of simbool of van 'n afkorting van 'n woord of naam of enige kombinasie van sodanige elemente wat die uitwerking het om inligting oor te dra of die aandag op iets te vestig, insluitende 'n bord of voorwerp wat gewoonlik vir sodanige doeleindes gebruik word, en ook beelde wat deur laserstrale of soortgelyke toestelle vertoon word, en vertonings wat elektronies gemanipuleer word, selfs al word werklike inligting nie daardeur oorgedra nie; en

(b) enige fisiese struktuur wat gebou is of gebruik kan word om so 'n voorstelling te vertoon of ondersteun,

maar nie ook padverkeerstekens of verkeersligte insluit nie;

"amptelike tale" Engels, Afrikaans en Xhosa;
"boubeperkingsgebied" 'n gebied beoog in artikel 17(2), (4) of (6);
"boulyn" 'n lyn beoog in artikel 17(1);
"busbaan" die afgebakende bane van 'n pad wat gereserveer is vir uitsluitlike gebruik deur busse of deur voertuie wat gemagtig is om daardie bane vir nood- of ander doeleindes te gebruik;
"bykomstige openbarevervoerinfrastruktuur" bykomstige infrastruktuur ten opsigte van openbarevervoerpaaie en bykomstige infrastruktuur ten opsigte van spoorlyne bedoel in artikel 16(2) en verklaar kragtens artikel 22 as bykomstige openbarevervoerinfrastruktuur, en ook alle grond waarop dit gebou is;
"bykomstige padinfrastruktuur", tensy dit uit die samehang anders blyk, 'n provinsiale fasiliteit bedoel in artikel 16(1) en verklaar as bykomstige padinfrastruktuur kragtens artikel 22, en ook die grond waarop dit gebou is;
"bykomstige vervoerinfrastruktuur" bykomstige padinfrastruktuur of bykomstige openbarevervoerinfrastruktuur;
"Departement" die provinsiale departement verantwoordelik vir vervoeraangeleenthede in die Provinsie;
"Departementshoof" die Hoof van die Departement verantwoordelik vir vervoeraangeleenthede in die Provinsie;
"depot" 'n plek wat gebruik word vir die skut van voertuie en—
(a) wat ingevolge artikel 87 van die NLTA as 'n depot aangewys is; of
(b) wat verklaar of aangewys is as 'n plek vir die skut van voertuie ingevolge enige ander wet;
"deurpad" 'n pad of gedeelte van 'n pad wat ingevolge die Nasionale Padverkeerswet as 'n deurpad aangewys is;
"diensinfrastruktuur" 'n pypleiding, riolering, draad, kabel, elektroniesekommunikasiefasiliteit, geleipyp, tonnel, buis, mangat, antenna, mas, of soortgelyke infrastruktuur, wat gebruik kan word vir die verskaffing van elektrisiteit, water, gas, telefoniese of elektroniese kommunikasie of in verband met rioolverwydering, stormwaterdreinering, of 'n soortgelyke diens;
"diensinfrastruktuurwerke" om diensinfrastruktuur te ontplooi, te verander, op te gradeer, te vervang, te herstel, in stand te hou, te rehabiliteer, te herbou, te verskuif, te verwyder of 'n soortgelyke aktiwiteit in verband met diensinfrastruktuur;
"diensperseel met direkte toegang" 'n fasiliteit wat grens aan 'n deurpad wat—
(a) toegang direk vanaf die deurpad ontvang; en
(b) spesifiek vir die gebruikers van die deurpad of die beheer van vervoerbedrywighede bedoel is;
"diensverskaffer" 'n persoon wat diensinfrastruktuur verskaf of gemagtig is om diensinfrastruktuur te verskaf, en ook 'n regsopvolger, kontrakteur of agent van die diensverskaffer;
"distrikspad" 'n pad wat kragtens artikel 7(1)*(c)* of (4) as 'n distrikspad gekategoriseer is of wat ingevolge artikel 8(4) geag word 'n distrikspad te wees;
"dorp" 'n gebied wat in standplase, erwe of hoewes verdeel is, hetsy met of sonder openbare oop ruimtes, en wat kragtens enige wet gestig is of erken word as 'n dorp;
"funksionele klassifikasie" die beskrywing van die indeling van 'n pad in een van die Klasse 1 tot 6, soos voorgeskryf;
"geïntegreerde vervoerplan" 'n plan beoog in artikel 36 van die NLTA;
"gemagtigde persoon" 'n persoon gemagtig om namens die eienaar op te tree;
"grens", in die geval van—
(a) 'n pad, die lyne wat die buitenste rande van die reserwe afbaken;
(b) 'n spoorlyn, die lyn wat die buitenste rande van die gebied afbaken wat kragtens artikel 22(1) verklaar is; en
(c) bykomstige vervoerinfrastruktuur, die lyn wat die buiteperimeter van die gebied afbaken wat kragtens artikel 22(1) vir die doeleindes van die bykomstige vervoerinfrastruktuur verklaar is;
"grond" grond met of sonder verbeterings;
"Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1996;
"heining" enige struktuur of toestel wat die doel van 'n heining dien, ongeag die materiaal wat gebruik word vir, of die wyse van, die konstruksie daarvan, en ook 'n muur en 'n heg;
"hierdie Wet" ook die regulasies gemaak kragtens hierdie Wet;

“hoofpad” ’n pad wat kragtens artikel 7(1)*(b)* of (4) as ’n hoofpad gekategoriseer is, of ingevolge artikel 8(3) as ’n hoofpad geag word;

“konstruksie” ook rekonstruksie;

“ligte spoorlyn” ’n provinsiale spoorstelsel, insluitende ’n stelsel wat op ’n enkelspoor, ’n magnetiese levitasiestelsel of ’n vaste spoor- of baanstelsel loop waar die voertuie op lugbande loop, wat—

(a) binne sy eie spoorreserwe, binne ’n eksklusiewe reg van weg binne ’n padreserwe, of in gemengde verkeer binne ’n padreserwe bedryf word; en

(b) kragtens artikel 13(2) as ’n ligte spoorlyn geklassifiseer is;

“mobiliteitspad” ’n mobiliteitspad soos beoog in die ‘‘Access Management Guidelines’’ gepubliseer deur die Provinsie in 2020 of enige daaropvolgende wysigings;

“motorhek” ’n deurgang wat oor ’n ryvlak geleë is wat deur middel van ’n geribde platform slegs voertuigverkeer deurlaat;

“munisipale pad” ’n pad beoog in artikel 5(2);

“mynbedrywighede” enige bedrywigheid wat met die handeling van mynbou en aangeleenthede direk bykomstig daartoe verband hou;

“Nasionale Minister” die lid van die Nasionale Kabinet verantwoordelik vir vervoeraangeleenthede;

“nasionale pad” ’n nasionale pad soos omskryf in die Wet op die Suid-Afrikaanse Nasionale Padagentskap Beperk en op Nasionale Paaie, 1998 (Wet 7 van 1998);

“Nasionale Padverkeerswet” die Nasionale Padverkeerswet, 1996 (Wet 93 van 1996);

“niegemotoriseerde vervoer” ook voetgangers, trapfietse en ander voertuie wat deur mense of diere aangedryf word;

“NLTA” die ‘‘National Land Transport Act, 2009’’ (Wet 5 van 2009);

“ondergeskikte pad” ’n pad wat ingevolge artikel 7(1)*(e)* of (4) as ’n ondergeskikte pad gekategoriseer is, of ingevolge artikel 8(3) as ’n ondergeskikte pad geag word;

“ontplooi” ook installeer, lê, bou of ’n soortgelyke aktiwiteit;

“openbare voetpad” ’n voetpad wat kragtens artikel 7(1)*(f)* of (4) as ’n openbare voetpad gekategoriseer is of ingevolge artikel 8(3) as ’n openbare voetpad geag word;

“openbarevervoerpad” ’n pad wat uitsluitlik vir openbare vervoer gebruik word en wat ingevolge artikel 7(1)*(d)* of (4) as ’n openbarevervoerpad gekategoriseer is;

“oprig”, met betrekking tot ’n heining, ook die heroprigting van die heining, die algehele vervanging van die materiaal van die heining en die byvoeging tot die heining van enige materiaal wat nie vir die doel van herstelwerk of instandhouding nodig is nie;

“Ordonnansie” die Ordonnansie op Paaie, 1976 (Ordonnansie 19 van 1976);

“pad” ook die padreserwe en die grond en alle werke of enigiets wat deel uitmaak van of hoort by die pad;

“padbaan” die gedeelte van ’n pad wat vir voertuie bedoel is;

“padkantontwikkelingsomgewing” die aard van die beboude omgewing aangrensend tot ’n pad of ’n gedeelte van ’n pad, of wat oorheersend in die gang van ’n pad of ’n gedeelte van ’n pad voorkom, soos voorgeskryf, wat inligting verskaf wat nodig is vir besluitneming oor die spasiëring van kruispaaie en toegange;

“padsubsidie” ’n padsubsidie beoog in Hoofstuk 8;

“pad van gemeenskaplike belang” ’n pad van gemeenskaplike munisipale en provinsiale belang beoog in artikel 5(3);

“padoordragooreenkoms” ’n ooreenkoms beoog in artikel 12;

“persoon” ook—

(a) ’n staatsorgaan;

(b) ’n diensverskaffer;

“primêre pad” ’n pad wat kragtens artikel 7(1)*(a)* of (4) as ’n primêre pad gekategoriseer is of ingevolge artikel 8(3) as ’n primêre pad geag word;

“provinsiale landvervoerraamwerk” die raamwerk beoog in artikel 35 van die NLTA;

“Provinsiale Minister” die lid van die Provinsiale Kabinet verantwoordelik vir vervoeraangeleenthede in die Provinsie;

“Provinsiale Minister van Finansies” die lid van die Provinsiale Kabinet verantwoordelik vir finansiële aangeleenthede in die Provinsie;

“Provinsiale Minister van Plaaslike Regering” die lid van die Provinsiale Kabinet verantwoordelik vir plaaslikeregeringsaangeleenthede in die Provinsie;

“provinsiale pad” ’n pad beoog in artikel 5(1)*(a)*;

“Provinsie” die provinsie van die Wes-Kaap of die Provinsie Wes-Kaap, na gelang van die samehang;

“Raamwerkwet op Interregeringsbetrekkinge” die ‘‘Intergovernmental Relations Framework Act, 2005’’ (Wet 13 van 2005);

“Registrasie van Aktes Wet” die Registrasie van Aktes Wet, 1937 (Wet 47 van 1937);

“reserwe”, in die geval van—

(a) ’n pad, die verklaarde, veranderde of geagte breedte daarvan beoog in artikel 15;

(b) ’n spoorlyn, die volle verklaarde breedte tussen die grenskante daarvan;

(c) bykomstige vervoerinfrastruktuur, die volle verklaarde gebied binne die grenskante daarvan;

“rusgebied” ’n gebied wat opsygesit is spesifiek om padgebruikers toe te laat om hul reis te onderbreek om stil te hou en te rus, geleë óf aangrensend tot die pad en deel van die padreserwe óf weg van die pad, en wat kommersiële fasiliteite kan insluit;

“ryvlak” die gedeelte van ’n pad wat vir voertuie bedoel is;

“SANRAL” die Suid-Afrikaanse Nasionale Padagentskap Beperk wat ingevolge artikel 2 van die Wet op die Suid-Afrikaanse Nasionale Padagentskap Beperk en op Nasionale Paaie ingestel is;

“spoorlyn” ’n provinsiale spoorstelsel, en ook die volledige breedte van die spoorreserwe en die grond en alle werke of enigiets wat deel uitmaak van of hoort by die spoorlyn;

“staatsorgaan” ’n staatsorgaan soos omskryf in artikel 239 van die Grondwet;

“stasie” ook—

(a) in die geval van ’n spoorlyn, die gebiede binne ’n stasie wat gebruik word vir die spoorbaan, siviele infrastruktuur, geboue, treinbeheerstelsels, spoorwegwerwe, sylyne of sinjale, en alle ander fasiliteite en stelsels wat nodig is vir of bykomstig is tot die bedryf, instandhouding en administrasie van die spoorlyn;

(b) in die geval van ’n busbaan, die gebiede binne die stasie wat gebruik word vir die buspad, siviele infrastruktuur, geboue, tekens, sinjale en merke, en alle ander fasiliteite en stelsels wat nodig is vir of bykomstig is tot die bedryf, instandhouding en administrasie van die busstelsel; en

(c) parkeergarages en -gebiede, op- en aflaaipunte vir passasiers en kommersiële en kleinhandelgrondgebruike wat van die stasieperseel deel uitmaak;

“stedelike gebied” ’n gebied wat bestaan uit—

(a) behoudens paragrawe *(b)* en *(c)*, daardie gedeelte van die regsgebied van ’n plaaslike owerheid wat by opmeting onderverdeel is in erwe van twee hektaar of kleiner of wat deur sodanige opgemete erwe omring word, en ook openbare paaie wat daaraan grens;

(b) ’n gebied binne die perimeter van die buitenste grens van stedelike uitbreiding aangedui op ’n ruimtelike ontwikkelingsraamwerk wat ingevolge die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014 (Wet 3 van 2014), aangeneem is; of

(c) ’n gebied wat kragtens subartikel (2) vir die doeleindes van hierdie Wet as ’n stedelike gebied verklaar is,

en—

(i) ook gebiede aangrensend tot ’n gebied bedoel in paragraaf *(a)*, *(b)* of *(c)* en wat buite die grens van daardie gebied strek, reghoekig tot die rand van die gebied gemeet, vir ’n afstand van 250 meter;

(ii) waar die stedelike gebied bedoel in paragraaf *(a)*, *(b)* of *(c)* slegs aan een kant van ’n pad bestaan, is die pad binne ’n stedelike gebied in die mate waarin die stedelike gebied aan daardie kant strek;

“struktuur” ’n gebou, struktuur of enigiets wat opgerig is op, bo of onder die grond, hetsy permanent of tydelik, ongeag die aard of grootte daarvan;

“swaar spoorlyn” ’n provinsiale spoorstelsel wat—

(a) op spore binne sy eie spoorreserwe bedryf word;

(b) ’n baanbreedte van meer as 600 millimeter het; en

(c) kragtens artikel 13(2) as ’n swaar spoorlyn geklassifiseer is;

“vee” alle kategorieë mak plaasvee en wild;

“veekamp” ’n terrein vir gebruik in verband met die tydelike inkamping van vee terwyl hulle in transito is;

“verantwoordelike owerheid”, in die geval van—

(a) ’n pad, die Provinsie of die munisipaliteit verantwoordelik vir die administrasie van die betrokke pad, soos beoog in artikel 5;

(b) ’n spoorlyn verklaar kragtens artikel 22(1), saamgelees met artikel 13, die Provinsie;

(c) bykomstige vervoerinfrastruktuur verklaar kragtens artikel 22(1), saamgelees met artikel 16(1) of (2), die Provinsie;

“verkeer” padvoertuig- of spoorvoertuig- of niegemotoriseerde verkeer en ook verkeersveiligheidsoorwegings;

“verkeersaarbestuursplan” ’n plan beoog in artikel 18(3);

“verkeerstekens” padverkeerstekens soos beoog in die Nasionale Padverkeerswet of spoortekens of -sinjale soos beoog in die “National Railway Safety Regulator Act, 2002” (Wet 16 van 2002), en ook tekens of sinjale vir die beheer van pad- en spoorverkeer by spooroorgange en ander plekke waar daar moontlik konflik tussen spoorverkeer en ander verkeer kan wees;

“vervoerbedrywighede” die vervoer van goedere, materiaal en mense binne ’n padstelsel, met behoorlike inagneming van verkeersvolumes, verkeersmodusse, fisiese beperkings, klimaatstoestande en die fisiese vorm en toestand van die pad;

“vervoerinfrastruktuur” ’n provinsiale pad, spoorlyn of bykomstige vervoerinfrastruktuur, insluitende die reserwe daarvan;

“vervoerinfrastruktuurwerke” om vervoerinfrastruktuur te ontplooi, te verander, op te gradeer, te vervang, te herstel, in stand te hou, te rehabiliteer, te herbou, te verskuif, te verwyder of ’n soortgelyke aktiwiteit in verband met vervoerinfrastruktuur;

“voorgeskryf” voorgeskryf by regulasies gemaak kragtens hierdie Wet;

“voorheen verklaar” verklaar of geag verklaar te wees ingevolge die Ordonnansie of enige ander wet wat by die inwerkingtreding van hierdie Wet van krag is;

“Wet op Adverteer langs en Toebou van Paaie” die Wet op Adverteer langs en Toebou van Paaie, 1940 (Wet 21 van 1940);

“Wet op die Suid-Afrikaanse Nasionale Padagentskap Beperk en op Nasionale Paaie” die Wet op die Suid-Afrikaanse Nasionale Padagentskap Beperk en op Nasionale Paaie, 1998 (Wet 7 van 1998);

“WNOB” die Wet op Nasionale Omgewingsbestuur, 1998 (Wet 107 van 1998);

“WOFB” die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999).

(2) Die Provinsiale Minister, met die instemming van die Provinsiale Minister van Plaaslike Regering, kan by kennisgewing in die *Provinsiale Koerant* enige gebied vir die doeleindes van hierdie Wet as ’n stedelike gebied verklaar.

(3) Woorde wat afgelei word van die woorde of terme wat omskryf word, het ooreenstemmende betekenisse, tensy dit uit die samehang anders blyk.

(4) ’n Verwysing na ’n ander wet sluit ’n wysiging en ’n toekomstige wysiging van daardie wet in.

Verantwoordelikhede van Provinsie en munisipaliteite

2. (1) Die Provinsiale Minister en die Departementshoof moet, binne die beskikbare hulpbronne van die Departement, vervoerinfrastruktuur ooreenkomstig hierdie Wet en enige ander toepaslike reg finansier, beplan, verklaar, ontwerp, bou, ontwikkel, in stand hou, beheer, bestuur, reguleer, opgradeer, beskerm en rehabiliteer.

(2) Die betrokke munisipaliteit moet, binne sy beskikbare hulpbronne, behoudens hierdie Wet en enige ander toepaslike reg, munisipale paaie, paaie van gemeenskaplike belang en bykomstige padinfrastruktuur in sy regsgebied finansier, beplan, verklaar, ontwerp, bou, ontwikkel, in stand hou, beheer, bestuur, reguleer, opgradeer, beskerm en rehabiliteer.

Professionele Ingenieurs of Geregistreerde Beplanners verantwoordelik vir spesifieke werksaamhede

3. (1) Die Provinsiale Minister moet toesien dat werksaamhede wat ingevolge hierdie Wet verrig word, onder die verantwoordelikheid en noulettendheid van ’n gepas gekwalifiseerde professionele persoon onderneem word, behoudens subartikels (2) en (3).

(2) Geen persoon buiten—

(a) 'n persoon geregistreer as 'n Professionele Ingenieur of Professionele Ingenieurstegnoloog ingevolge die Wet op die Ingenieursweseprofessie, 2000 (Wet 46 van 2000); of

(b) 'n beplanner geregistreer ingevolge die Wet op die Beplanningsprofessie, 2002 (Wet 36 van 2002),

mag verantwoordelik wees vir die toesig oor en goedkeuring van tegniese strategieë of planne in verband met vervoerinfrastruktuur beoog in subartikel (1) nie.

(3) Geen persoon buiten so 'n Professionele Ingenieur of Professionele Ingenieurstegnoloog mag verantwoordelik wees vir die toesig oor en goedkeuring van tegniese strategieë of planne in verband met die volgende aktiwiteite nie:

(a) ontwerp van siviele-, strukturele-, elektriese- of meganiese-ingenieurskomponente van vervoerinfrastruktuur beoog in subartikel (1);

(b) ontwikkeling van remediërende en instandhoudingstrategieë van bestaande vervoerinfrastruktuur beoog in subartikel (1);

(c) bestuur van die konstruksie en instandhouding van vervoerinfrastruktuur beoog in subartikel (1); of

(d) ander voorgeskrewe aktiwiteite.

(4) Die Departementshoof moet toesien dat die Departement se personeeldiensstaat professionele ingenieurs of stadsbeplanners insluit met voldoende toepaslike ondervinding en die nodige bevoegdheid ten einde toesig te hou oor die onderneming van die aktiwiteite beoog in subartikels (2) en (3).

Titel tot grond vir vervoerinfrastruktuur

4. (1) Behoudens hierdie Wet en die toepaslike reg vestig alle regte en verpligtinge wat aan vervoerinfrastruktuur gekoppel is en die grond wat daarin bevat word, in die Provinsie.

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

(3) Alle grond wat in die naam van die Padtrustees vestig of geregistreer is, vestig in die Provinsie.

(4) Behoudens die beskikbare hulpbronne van die Departement, vanaf die datum van inwerkingtreding van hierdie Wet, moet titel tot grond, insluitende serwitute, wat die Provinsie nuut verkry vir vervoerinfrastruktuur, in die naam van die Provinsie geregistreer word.

(5) Die Provinsie kan ingevolge die toepaslike provinsiale wet wat die verkryging en vervreemding van provinsiale staatsgrond reguleer, grond vir die doeleindes van hierdie Wet verkry deur dit te koop, te huur, te onteien behoudens subartikels (6) tot (11), of op enige ander toepaslike wyse.

(6) Die Provinsiale Minister kan, ooreenkomstig die reg wat die onteiening van eiendom reguleer, grond onteien vir die doel van—

(a) vervoerinfrastruktuurwerke of aktiwiteite in verband daarmee, insluitende die tydelike verlegging van 'n pad of spoorlyn;

(b) buite 'n stedelike gebied, behoudens die WNOB en enige ander toepaslike reg, die verkryging, myn of behandeling, die uithaal of verwydering van materiaal insluitende gruis, klip, sand, klei, water buiten water wat kunsmatig gepomp is vir veesuiping en enige ander materiaal of stof vir doeleindes beoog in hierdie Wet;

(c) die akkommodasie van personeel betrokke by die konstruksie, rehabilitasie, opgradering of instandhouding van vervoerinfrastruktuur; of

(d) die berging of instandhouding van voertuie, masjinerie, toerusting, gereedskap, voorraad of materiaal.

(7) Waar 'n gedeelte van grond onteien is en die eienaar die Provinsiale Minister tevrede stel dat die restant van die grond as 'n direkte gevolg van die onteiening vir die eienaar nutteloos geword het, kan die Provinsiale Minister ook daardie restant onteien.

(8) Waar die Provinsiale Minister 'n toegang tot of uitgang vanaf grond permanent gesluit het en die eienaar van die grond weens die sluiting nie die grond tot voordeel kan benut nie of die vervoerinfrastruktuur nie toegang tot daardie grond kan bied nie, kan die Provinsiale Minister die grond onteien.

(9) Waar grond of 'n gedeelte daarvan nadelig geraak word deur die onteiening van ander grond deur die Provinsiale Minister, kan die Provinsiale Minister die grond of gedeelte wat aldus geraak word, ook onteien.

(10) Behoudens hierdie Wet en die toepaslike reg, waar titel tot 'n voorheen verklaarde pad wat in die Provinsie vestig, in die naam bly van 'n persoon wat nie die Provinsie is nie, en die pad word deur die Provinsie aangewend as 'n pad, kan die Provinsiale Minister, sonder die betaling van vergoeding—

(a) 'n endossement op die titelbewys tot die betrokke grond laat aanbring soos beoog in artikel 31(6) of 32(5), soos van toepassing, van die Registrasie van Aktes Wet; of

(b) nadat die nodige stappe beoog in paragraaf *(a)* gedoen is, titel tot die grond soos beoog in artikel 31(1) van die Registrasie van Aktes Wet in die naam van die Provinsie laat registreer.

(11) Die Provinsiale Minister kan op grond wat die eiendom van 'n staatsorgaan is, materiaal uithaal en verwyder, maar slegs ingevolge 'n ooreenkoms met daardie staatsorgaan en behoudens die WNOB en enige ander toepaslike reg.

(12) Grond wat in die Provinsie vestig en nie meer vir enige doel in verband met vervoerinfrastruktuur benodig word nie, kan deur die Provinsiale Minister vervreem word ooreenkomstig die toepaslike reg op die vervreemding van provinsiale staatsgrond.

(13) Ondanks subartikel (12), in die geval waar 'n pad op grond geleë is wat in die naam van die titelhouer wat nie die Provinsie is nie, geregistreer is in omstandighede waar—

(a) enige gedeelte van die pad verskuif, verander of permanent gesluit is; of

(b) enige gedeelte van die reserwe van die pad verklein of verander is,

en die grond ophou om deel uit te maak van die pad as gevolg van 'n handeling beoog in paragraaf *(a)* of *(b)*—

(i) in omstandighede waar die grond deur onteiening verkry is, kan die Departementshoof, behoudens die Registrasie van Aktes Wet, aansoek doen om die verwydering van enige endossement op die titelbewys tot die grond met betrekking tot die regte van die Provinsie ten opsigte van die pad;

(ii) in omstandighede waar die grond in die Provinsie vestig, nieteenstaande dat die grond nie deur onteiening verkry is nie, val eiendomsreg van die grond terug op die titelhouer, tensy die Departementshoof by kennisgewing in die *Provinsiale Koerant* anders gelas.

(14) Die Departementshoof moet in die omstandighede beoog in paragraaf *(a)* en *(b)* van subartikel (13) oorweeg om vir die verwydering van enige endossement op die titelbewys aansoek te doen of om 'n kennisgewing beoog in daardie subartikel te publiseer, gegrond op—

(a) of die grond vir enige doeleinde in verband met vervoerinfrastruktuur benodig word; en

(b) die voorgeskrewe maatstawwe, wat bestaanbaar moet wees met die Wet op die Bestuur van Onroerende Regeringsbates, 2007 (Wet 19 van 2007).

HOOFSTUK 2

KLASSIFIKASIE EN KATEGORISERING VAN PAAIE EN VERKLARING VAN PAAIE VAN GEMEENSKAPLIKE BELANG

Klassifikasie van paaie

5. (1) Provinsiale paaie wat die Provinsie administreer, bestaan uit—

(a) paaie wat kragtens artikel 22(1) deur die Provinsiale Minister verklaar is;

(b) paaie wat ingevolge artikel 8(1) geag word provinsiale paaie te wees.

(2) Munisipale paaie wat deur 'n munisipaliteit geadministreer word, bestaan uit—

(a) paaie wat kragtens 'n toepaslike verordening deur munisipaliteite verklaar is;

(b) paaie beoog in artikel 8(2) ten opsigte waarvan die klassifikasie as 'n pad van gemeenskaplike belang ingetrek is kragtens artikel 6(1)*(c)* sodat dit deur 'n munisipaliteit as 'n munisipale pad geherklassifiseer word;

(c) paaie wat ooreenkomstig artikel 12(3), (4) of (5) na 'n munisipaliteit oorgedra is;

(d) paaie wat in 'n munisipaliteit vestig as gevolg van die onderverdeling van grond;

(e) paaie wat nie ingevolge die Ordonnansie verklaar is nie en wat deur 'n munisipaliteit besit en geadministreer word.

(3) Paaie van gemeenskaplike belang wat, behoudens hierdie Wet, deur 'n munisipaliteit geadministreer word, bestaan uit—

(a) munisipale paaie wat kragtens artikel 6(1)*(a)* deur die Provinsiale Minister tot paaie van gemeenskaplike belang verklaar is;

(b) munisipale paaie wat ingevolge artikel 8(2) geag word paaie van gemeenskaplike belang te wees.

(4) Behoudens subartikels (5) en (6), by die bepaling of 'n voorheen verklaarde pad of 'n nuwe pad geklassifiseer moet word as 'n provinsiale pad, 'n pad van gemeenskaplike belang of 'n munisipale pad soos beoog in hierdie Wet, moet daar in ag geneem word of—

(a) die pad in verskillende munisipaliteite begin en eindig;

(b) 'n beduidende getal reise op die pad in verskillende munisipaliteite begin en eindig;

(c) die pad deurgang gee na 'n plek van wesenlike belang buite die munisipaliteit;

(d) die pad gebruik word vir 'n doel wat van wesenlike belang buite die munisipaliteit is; en

(e) die verkeer op die pad 'n wesenlike impak het op die provinsiale padnetwerk.

(5) Indien die pad nie aan enige van die maatstawwe beoog in subartikel (4)*(a)* tot *(e)* voldoen nie, moet die pad geklassifiseer word as 'n munisipale pad: Met dien verstande dat, met behoorlike inagneming van die relatiewe kapasiteit van die Provinsie en die munisipaliteit waarin die pad geleë is, die pad, met die instemming van die betrokke munisipaliteit, as 'n provinsiale pad geklassifiseer kan word.

(6) Indien die pad aan een of meer van die maatstawwe beoog in subartikel (4)*(a)* tot *(e)* voldoen, kan dit as 'n provinsiale pad, 'n pad van gemeenskaplike belang of 'n munisipale pad geklassifiseer word.

(7) Die Provinsiale Minister kan submaatstawwe voorskryf onder enige van die maatstawwe gelys in subartikel (4).

(8) Die Departementshoof kan riglyne stel om die toepassing van die maatstawwe gelys in subartikel (4) of enige submaatstawwe wat daarbenewens voorgeskryf kan word, te lei.

Verklaring van paaie van gemeenskaplike belang deur Provinsiale Minister

6. (1) Die Provinsiale Minister kan, met behoorlike inagneming van artikel 5(4)*(a)* tot *(e)*, (5) en (6), by kennisgewing in die *Provinsiale Koerant*—

(a) 'n munisipale pad beoog in artikel 5(2) tot 'n pad van gemeenskaplike belang verklaar;

(b) 'n verklaring beoog in paragraaf *(a)* intrek;

(c) die klassifikasie van 'n pad as 'n pad van gemeenskaplike belang beoog in artikel 8(2) intrek sodat dit deur die betrokke munisipaliteit as 'n munisipale pad geklassifiseer word.

(2) Die Provinsiale Minister moet, voor hy of sy 'n verklaring of klassifikasie beoog in subartikel (1) maak of intrek, met die betrokke munisipaliteit oorleg pleeg.

(3) 'n Munisipaliteit kan 'n versoek aan die Provinsiale Minister rig, wat 'n motivering moet bevat, om 'n verklaring of klassifikasie beoog in subartikel (1) te maak of in te trek.

Kategorisering van paaie

7. (1) 'n Provinsiale pad kan gekategoriseer word as—

(a) 'n primêre pad;

(b) 'n hoofpad;

(c) 'n distrikspad;

(d) 'n openbarevervoerpad;

(e) 'n ondergeskikte pad;

(f) 'n openbare voetpad.

(2) 'n Pad van gemeenskaplike belang moet as 'n hoofpad gekategoriseer word.

(3) Indien die Provinsiale Minister ingevolge artikel 6(1)*(a)* 'n pad wat nie 'n hoofpad is nie as 'n pad van gemeenskaplike belang verklaar het, moet die Provinsiale Minister, by kennisgewing in die *Provinsiale Koerant*, die kategorie van die betrokke pad na 'n hoofpad verander.

(4) Die Provinsiale Minister moet in elke kennisgewing uitgereik ingevolge artikel 22(1), ten opsigte van 'n provinsiale pad, die pad as een van die kategorieë gelys in subartikel (1) kategoriseer.

(5) Behoudens subartikel (6) of ’n ooreenkoms beoog in artikel 11(4) kan die Provinsiale Minister, ná oorleg met die geraakte munisipaliteite, by kennisgewing in die *Provinsiale Koerant*, die kategorie van ’n provinsiale pad verander.

(6) Wanneer die Provinsiale Minister die oorlegplegingsproses beoog in subartikel (5) onderneem, moet hy of sy, op die voorgeskrewe wyse, kommentaar oor die implikasies van die voorgestelde verandering van belanghebbende en geraakte partye aanvra.

(7) Wanneer die Provinsiale Minister die kategorie van ’n provinsiale pad soos beoog in subartikel (5) verander het, kan hy of sy die besonderhede van die verklaring of die intrekking, na gelang van die geval, deur middel van enige doeltreffende media publiseer.

(8) Die Provinsiale Minister kan maatstawwe voorskryf vir die kategorisering van ’n pad kragtens subartikel (1).

HOOFSTUK 3

BESKOUINGSBEPALINGS VIR PAAIE EN REGULERING VAN MUNISIPALE PAAIE EN PAAIE VAN GEMEENSKAPLIKE BELANG DEUR MUNISIPALITEITE

Beskouingsbepalings ten opsigte van paaie

8. (1) Hangende die gesamentlike evalueringsproses beoog in artikel 11, word ’n voorheen verklaarde pad ten opsigte waarvan die Provinsiale Minister die padowerheid soos beoog in artikel 1 van die Ordonnansie is, geag ’n provinsiale pad te wees.

(2) Hangende die gesamentlike evalueringsproses beoog in artikel 11, word ’n voorheen verklaarde pad ten opsigte waarvan ’n munisipaliteit die padowerheid soos beoog in artikel 1 van die Ordonnansie is, geag ’n pad van gemeenskaplike belang te wees.

(3) Alle voorwaardes ten opsigte van ’n voorheen verklaarde pad, insluitende die kategorisering van die pad as ’n primêre pad, hoofpad, afdelingspad, ondergeskikte pad of openbare voetpad, is steeds van toepassing, tensy dit ingevolge hierdie Wet verander word.

(4) Elke pad voorheen verklaar as ’n afdelingspad, word geag ingevolge hierdie Wet gekategoriseer te wees as ’n distrikspad, tensy die verklaring kragtens artikel 7(5) verander word.

Regulering van munisipale paaie en paaie van gemeenskaplike belang deur munisipaliteite

9. (1) ’n Munisipaliteit moet, binne sy beskikbare hulpbronne, die finansiering, beplanning, verklaring, ontwerp, konstruksie, ontwikkeling, instandhouding, beheer, bestuur, regulering, opgradering, beskerming en rehabilitasie van munisipale paaie, paaie van gemeenskaplike belang en bykomstige vervoerinfrastruktuur in sy regsgebied reguleer.

(2) Vir die doeleindes van subartikel (1) moet ’n munisipaliteit minstens vir die volgende voorsiening maak:

(a) die finansiering, beplanning, verklaring, ontwerp, konstruksie, ontwikkeling, instandhouding, beheer, bestuur, regulering, opgradering, beskerming, rehabilitasie en sluiting van munisipale paaie, en paaie van gemeenskaplike belang, in sy regsgebied;

(b) ten opsigte van paaie van gemeenskaplike belang—

  (i) die funksionele klassifikasie van die pad en alle munisipale paaie en privaat opritte wat die pad kruis of daarby aansluit;

  (ii) die bepaling van die padkantontwikkelingsomgewing; en

  (iii) die voorbereiding van verkeersaarbestuursplanne;

(c) reserwebreedtes en boubeperkingslyne;

(d) die verkryging van grond vir die doel om munisipale paaie en paaie van gemeenskaplike belang in te stel;

(e) titel tot, vestiging en oordrag van grond en regte;

(f) die bestuur en beskerming van munisipale paaie, paaie van gemeenskaplike belang en bykomstige padinfrastruktuur;

(g) die goedkeuring van grondgebruikonderverdelings en die intensivering van grondgebruikontwikkelings wat aan munisipale paaie en paaie van gemeen-

skaplike belang grens en 'n impak kan hê op die werking en veiligheid van verkeer en ander gebruikers van die pad;

(h) die beheer van strukture en diensinfrastruktuur op, oor of onder straatreserwes of binne bepaalde afstande vanaf munisipale paaie en paaie van gemeenskaplike belang;

(i) toegang tot en uitgang vanaf munisipale paaie en paaie van gemeenskaplike belang;

(j) die regulering en bestuur van die gebruik van munisipale paaie en paaie van gemeenskaplike belang;

(k) prosedures in die geval van oortredings van verbiedinge.

(3) Voor 'n munisipaliteit 'n verordening maak wat paaie van gemeenskaplike belang en bykomstige padinfrastruktuur reguleer, moet hy met die Provinsiale Minister oorleg pleeg.

(4) 'n Munisipaliteit moet toesien dat werksaamhede wat ten opsigte van vervoerstelselbeplanning of projekbeplanning vir paaie van gemeenskaplike belang verrig word, onder die verantwoordelikheid en noulettendheid van 'n gepas gekwalifiseerde professionele persoon beoog in artikel 3(2) en (3) van hierdie Wet, in die mate beskryf in daardie subartikels, verrig word.

(5) 'n Munisipaliteit moet—

(a) toesien dat vervoerstelselbeplanning van vervoerinfrastruktuur onder sy gesag in sy gebied by sy geïntegreerde vervoerplan ingesluit word;

(b) vir sover dit doenlik is, toesien dat beplanning en begroting vir die konstruksie, opgradering en instandhouding van vervoerinfrastruktuur onder die gesag van alle staatsorgane in sy munisipale gebied en, waar toepaslik, wat aan daardie gebied grens, ingesluit word by die jaarlikse bywerking van sy geïntegreerde vervoerplan; en

(c) inligting oor sodanige beplanning en begroting tydig aan die Departementshoof voorlê vir die insluiting daarvan in die toepaslike bywerkings van die provinsiale landvervoerrraamwerk.

(6) 'n Munisipaliteit wat vir die instandhouding van 'n pad van gemeenskaplike belang verantwoordelik is, moet die batebestuurstelsels, insluitende toestandassesserings- en instandhoudingsbestuurstelsels, wat die Departementshoof aanvaarbaar en vir die doel geskik ag, installeer en in bedryf hou.

(7) 'n Munisipaliteit moet—

(a) 'n lys saamstel en byhou van paaie van gemeenskaplike belang waarvoor hy die verantwoordelike owerheid is, wat gebaseer is op dieselfde nommerings- of kodestelsel bedoel in artikel 19(5), soos voorgeskryf;

(b) toesien dat die lys beskikbaar is, vir insae deur die publiek gedurende kantoorure by die plek of plekke aangewys deur die munisipaliteit;

(c) die lys bywerk wanneer ook al enige sodanige pad verklaar, verskuif, geherklassifiseer, oorgedra of gesluit word, of wanneer die verklaring daarvan ingetrek word; en

(d) die lys en enige bywerkings aan die Departementshoof voorlê vir insluiting in die rekords beoog in artikel 19.

(8) Munisipaliteite moet, wanneer hulle paaie van gemeenskaplike belang beplan, verklaar, ontwerp, bou, ontwikkel, in stand hou, beheer, bestuur, reguleer, opgradeer, beskerm en rehabiliteer, voldoen aan die minimum vereistes van standaarde, spesifikasies en riglyne gestel deur die Departementshoof ingevolge artikel 61, of kan hul eie standaarde, spesifikasies en riglyne gebruik mits dit met die standaarde, spesifikasies en riglyne gestel deur die Departementshoof bestaanbaar is.

Gesamentlike beplanning, bestuur en beheer van paaie van gemeenskaplike belang deur Provinsie en munisipaliteite

10. (1) As 'n deel van die vervoerstelselbeplanningsproses vir paaie van gemeenskaplike belang moet 'n munisipaliteit—

(a) die funksionele klassifikasie van elk van hierdie paaie en die funksionele klassifikasie van alle munisipale paaie en privaat opritte wat met hierdie paaie kruis of daarby aansluit, bepaal;

(b) die padkantontwikkelingsomgewing bepaal;

(c) verkeersaarbestuursplanne opstel.

(2) By die onderneming van die aktiwiteite beoog in subartikel (1) moet 'n munisipaliteit—

(a) die toepaslike standaarde, spesifikasies en riglyne beoog in artikel 9(8) toepas;

(b) met die Departementshoof oorleg pleeg; en

(c) toesien dat daar met alle belanghebbende en geraakte partye oorleg gepleeg word.

(3) Die funksionele klassifikasies, padkantontwikkelingsomgewing en verkeersaarbestuursplanne bepaal of opgestel soos beoog in subartikel (1)*(a)*, *(b)* en *(c)* moet—

(a) deur die betrokke munisipaliteit op die voorgeskrewe wyse aan die Departementshoof vir sy of haar kommentaar en aanbevelings voorgelê word;

(b) na aanleiding van die kommentaar en aanbevelings beoog in paragraaf *(a)*, deur die betrokke munisipaliteit hersien word;

(c) indien dit vir die Departementshoof aanvaarbaar is, by die provinsiale ruimtelike ontwikkelingsraamwerk en die provinsiale landvervoerraamwerk ingesluit word.

(4) 'n Munisipaliteit moet—

(a) voor hy die aktiwiteite beoog in subartikel (6)*(a)* tot *(e)* ten opsigte van 'n pad van gemeenskaplike belang onderneem, 'n projekbeplanningsproses onderneem, insluitende die toepaslike tegniese prosesse om die verkose gerigtheid, uitleg, reserwe of ontwerp van 'n pad van gemeenskaplike belang te omskryf;

(b) wanneer hy die projekbeplanningsproses onderneem, met die Departementshoof oorleg pleeg;

(c) wanneer hy die projekbeplanningsproses onderneem, aan die vereistes voorgeskryf in toepaslike wetgewing voldoen.

(5) 'n Munisipaliteit moet, voor hy 'n nuwe pad verklaar of bou wat aan een of meer van die maatstawwe beoog in artikel 5(4)*(a)* tot *(e)* voldoen, die skriftelike kommentaar en aanbevelings van die Departementshoof op die voorgeskrewe wyse verkry en oorweeg.

(6) 'n Munisipaliteit mag nie die volgende aktiwiteite by die uitvoering van sy werksaamhede as verantwoordelike owerheid ten opsigte van 'n bestaande pad van gemeenskaplike belang onderneem sonder om die vooraf verkreë skriftelike kommentaar en aanbevelings van die Departementshoof te verkry nie, gegrond op die impak van die voorgestelde aktiwiteit op provinsiale verkeer en provinsiale vervoerbedrywighede:

(a) konstruksie op die pad;

(b) die konstruksie van nie-gemotoriseerde of openbarevervoerfasiliteite in die pad;

(c) die verskuiwing of verandering van die pad;

(d) die verandering van 'n reserwe van die pad;

(e) behalwe in 'n noodgeval, die tydelike of permanente sluiting van die pad;

(f) die verklaring of verwydering van 'n boubeperkingsgebied, die vernouing van die breedte van 'n boubeperkingsgebied of enige ander verklaring ten opsigte daarvan;

(g) die konstruksie van nuwe of veranderde kruisings en wisselaars tussen die pad en ander openbare paaie;

(h) die installering van verkeerstekens, stoptekens, toegeetekens en enige ander verkeersbeheertoestelle, of enige ander verkeersteken wat die pad se vermoë om verkeer te dra of die bedrywighede van die pad kan belemmer;

(i) 'n opdrag om 'n wettige toegang tot grond aangrensend tot die pad wat toegang en uitgang na en van die pad verskaf, te verskuif, te beperk of te sluit, of die konstruksie van 'n toegang na en vanaf aangrensende grond, ongeag die identiteit van die eienaar van die grond.

(7) Wanneer 'n munisipaliteit skriftelike kommentaar en aanbevelings van die Departementshoof versoek in verband met 'n aktiwiteit gelys in subartikel (6), moet 'n munisipaliteit voldoende tegniese besonderhede van die aktiwiteit aan die Departementshoof verskaf om die Departementshoof in staat te stel om enige moontlike nadelige impak op provinsiale verkeer en provinsiale vervoerbedrywighede te bepaal.

(8) Die Departementshoof moet—

(a) indien die tegniese besonderhede bepaal in subartikel (7) onvoldoende is om die Departementshoof in staat te stel om 'n bepaling beoog in daardie subartikel te maak, die verdere tegniese besonderhede soos nodig kan wees van die munisipaliteit versoek; en

(b) antwoord op die versoek om kommentaar en aanbevelings beoog in subartikels (3) en (6),

op die voorgeskrewe wyse.

(9) Indien die kommentaar en aanbevelings van die Departementshoof beoog in subartikel (6) daarop aandui dat die aktiwiteit waarskynlik ’n negatiewe impak op provinsiale verkeer en provinsiale vervoerbedrywighede sal hê, mag die voorgestelde aktiwiteit nie voortgaan totdat die Departementshoof en die betrokke munisipaliteit ’n ooreenkoms bereik het oor die lewensvatbaarheid en tegniese besonderhede van daardie aktiwiteit nie.

(10) In die omstandighede beoog in subartikel (9) moet die Departementshoof en die betrokke munisipaliteit op die geskikste en kostedoeltreffendste wyse beraadslaag ten einde gesamentlik—

(a) te besluit om enige negatiewe impak van die voorgestelde aktiwiteit op provinsiale verkeer en provinsiale vervoerbedrywighede te versag deur ooreen te kom oor ’n wysiging of wysigings van die tegniese besonderhede van die aktiwiteit; of

(b) ooreenkom dat die versoek deur die munisipaliteit om die instemming van die Departementshoof om die voorgestelde aktiwiteit te onderneem, deur die munisipaliteit teruggetrek word.

(11) Ten einde ’n geskil te besleg of ’n ooreenkoms te bereik, moet die Departementshoof en die munisipaliteit ooreenkomstig artikel 41 van die Grondwet met mekaar saamwerk en meewerk, wat bemiddeling deur ’n persoon beoog in artikel 3(2)*(a)* kan insluit.

(12) Indien ’n aktiwiteit wat deur ’n munisipaliteit onderneem is, ’n nadelige impak op provinsiale verkeer of provinsiale vervoerbedrywighede het, kan die Departementshoof, op die voorgeskrewe wyse, die munisipaliteit skriftelik in kennis stel van die noodsaaklikheid om ’n aktiwiteit te onderneem wat nodig is om die voldoening te verseker van ’n pad van gemeenskaplike belang aan enige bepalings van hierdie Wet of enige standaarde, spesifikasies en riglyne wat ingevolge artikel 61 gestel is.

(13) Indien ’n munisipaliteit versuim om te voldoen aan ’n kennisgewing beoog in subartikel (12) of dit betwis, moet die Departementshoof en die munisipaliteit die nodige stappe doen om soos beoog in subartikels (10) en (11) ’n ooreenkoms te bereik.

(14) Indien ’n munisipaliteit nodig het om ’n aktiwiteit te onderneem in ’n ander hoedanigheid as die verantwoordelike owerheid ten opsigte van ’n pad van gemeenskaplike belang en ten opsigte waarvan skriftelike toestemming beoog in subartikel (15) benodig word, moet die munisipaliteit ooreenkomstig die toepaslike artikel beoog in subartikel (15) aansoek doen om die skriftelike toestemming, en alle verwante bepalings van hierdie Wet is van toepassing.

(15) Ten opsigte van paaie van gemeenskaplike belang—

(a) is die skriftelike toestemmings wat ingevolge artikels 32(1), 37(1), (2) en (4), 45(1), 47(1), 48(1), 51(2) en 67(3) vereis word, bykomend tot enige toestemming van die betrokke munisipaliteit ingevolge ’n toepaslike munisipale verordening, en die skriftelike toestemmings wat ingevolge die artikels bedoel in hierdie subartikel vereis word, neem nie die verpligting weg om ook die toestemming van die betrokke munisipaliteit ingevolge ’n toepaslike verordening te verkry nie; en

(b) indien toestemmings verleen deur die Provinsiale Minister of die Departementshoof na aanleiding van ’n aansoek deur die betrokke munisipaliteit beoog in paragraaf *(a)* albei behoudens voorwaardes toegestaan word, is die swaarder voorwaardes van toepassing.

(16) Die Departementshoof en, in die geval van ’n appèl, die Provinsiale Minister, en die betrokke munisipaliteit, moet, ten opsigte van artikels 32(1), 37(1), (2) en (4), 45(1), 46(1), 47(1), 48(1), 51(2) en 67(3), alle redelike stappe doen om die prosedurele vereistes vir besluitneming en toestemmings op die wyse beoog in artikel 65 te integreer.

HOOFSTUK 4

GESAMENTLIKE EVALUERING VAN VOORHEEN VERKLAARDE PAAIE EN OORDRAGOOREENKOMSTE

Evaluering van voorheen verklaarde paaie

11. (1) Nie later nie as die datum beoog in subartikel (2) moet die Provinsiale Minister, met die instemming van die Departementshoof, gesamentlike evalueringsprosesse met munisipaliteite aanvoor rakende voorheen verklaarde paaie in die onderskeie betrokke gebiede om op die voorgeskrewe wyse ten opsigte van elke pad die volgende te bepaal:

(a) behoudens artikel 5(4), (5) en (6), of die pad as 'n provinsiale pad of 'n munisipale pad geklassifiseer behoort te word;
(b) of die pad as 'n pad van gemeenskaplike belang verklaar behoort te word;
(c) die gepastheid van die kategorisering van elke sodanige pad ingevolge artikel 8(3) en (4), na gelang van die geval;
(d) die toestand van die pad en die huidige en toekomstige instandhoudingsvereistes, beide fisies en finansieel;
(e) of die pad gesluit en die verklaring daarvan as 'n pad ingetrek behoort te word;
(f) enige ander aangeleentheid wat nodig kan wees, insluitende die noodsaaklikheid dat enige infrastruktuur as bykomstige vervoerinfrastruktuur verklaar word.

(2) Die Provinsiale Minister kan, by kennisgewing in die *Provinsiale Koerant*, die datum bepaal waarop die gesamentlike evalueringsproses ten opsigte van voorheen verklaarde paaie in 'n bepaalde munisipaliteit vermeld in die kennisgewing moet begin.

(3) As 'n deel van die gesamentlike evaluering beoog in subartikel (1) moet die Departementshoof, op die voorgeskrewe wyse, kommentaar op die aangeleenthede gelys in subartikel (1)*(a)* tot *(f)* van belanghebbende en geraakte partye aanvra.

(4) Ná afloop van die gesamentlike evaluerings beoog in subartikel (1) en die oorweging van openbare kommentaar wat uit hoofde van subartikel (3) ontvang is, maar nie later nie as twee jaar vanaf die datum bepaal ingevolge subartikel (2), of 'n latere datum waaroor ooreengekom is, moet die Provinsiale Minister met die instemming van die Departementshoof, en elke munisipaliteit, 'n skriftelike ooreenkoms aangaan, wat die volgende ten opsigte van elke pad, of stel paaie, wat geëvalueer is, moet vermeld:

(a) of die pad as 'n provinsiale pad of 'n munisipale pad geklassifiseer sal word;
(b) indien die pad as 'n munisipale pad geklassifiseer sal word, of dit as 'n pad van gemeenskaplike belang geklassifiseer behoort te word;
(c) of die kategorie van elke sodanige pad ingevolge artikel 8(3) of (4) verander sal word;
(d) of die pad gesluit sal word en die verklaring daarvan as 'n pad ingetrek sal word;
(e) enige ander aangeleentheid wat nodig kan wees, insluitende die noodsaaklikheid om enige infrastruktuur as bykomstige vervoerinfrastruktuur te verklaar.

(5) Die Provinsiale Minister, die Departementshoof en die betrokke munisipaliteit moet by die onderneming van die gesamentlike evalueringsproses—

(a) die aanneming van 'n implementeringsprotokol beoog in artikel 35 van die Raamwerkwet op Interregeringsbetrekkinge oorweeg;
(b) met mekaar saamwerk en meewerk ooreenkomstig artikel 41 van die Grondwet; en
(c) alle redelike stappe doen om 'n ooreenkoms oor die bepaling te bereik.

(6) Indien die ooreenkoms beoog in subartikel (4) nie binne die tydperk beoog in daardie subartikel bereik word nie, kan die Provinsiale Minister, met die instemming van die Departementshoof, behoudens subartikel (7), oor die aangeleenthede gelys in subartikel (4) 'n besluit neem.

(7) Die Provinsiale Minister en die Departementshoof moet voor—

(a) die aangaan van 'n ooreenkoms beoog in subartikel (4);
(b) die besluit beoog in subartikel (6),

met die Provinsiale Minister van Finansies en die Provinsiale Minister van Plaaslike Regering oorleg pleeg.

(8) Die Provinsiale Minister moet, met die instemming van die Departementshoof, voor die neem van ’n besluit beoog in subartikel (6)—

(a) minstens 30 dae voor die besluit aan die betrokke munisipaliteit die volgende verskaf:

(i) skriftelike kennisgewing van sy of haar beoogde besluit oor alle aangeleenthede gelys in subartikel (4) tesame met ’n volledige motivering vir die besluit;

(ii) ’n skriftelike rekord van die stappe wat gedoen is om aan subartikel (5) te voldoen; en

(iii) ’n skriftelike uitnodiging om enige besware op die beoogde besluit voor te lê, welke besware volledig gemotiveer moet wees en hoogstens 21 dae ná ontvangs van die skriftelike kennisgewing en rekord beoog in subparagrawe (i) en (ii) voorgelê moet word en;

(b) enige besware wat na aanleiding van die uitnodiging beoog in paragraaf *(a)*(iii) voorgelê is, oorweeg.

(9) Indien ’n ooreenkoms beoog in subartikel (4) bereik word of ’n besluit beoog in subartikel (6) geneem word, behoudens enige toepaslike beplanningsproses ingevolge artikel 20 en in die mate wat nodig is—

(a) moet die Provinsiale Minister in die *Provinsiale Koerant* ’n verklaring maak—

(i) soos beoog in artikel 22(1)*(d)*, indien ’n pad van gemeenskaplike belang beoog in artikel 8(2) as ’n provinsiale pad geherklassifiseer sal word;

(ii) soos beoog in artikel 22(1)*(c)*(iii)*(aa)*, indien ’n provinsiale pad as ’n munisipale pad geherklassifiseer sal word;

(iii) soos beoog in artikel 6(1)*(c)*, indien die klassifikasie van ’n pad wat ingevolge artikel 8(2) geag word ’n pad van gemeenskaplike belang te wees, ingetrek word sodat dit deur die betrokke munisipaliteit as ’n munisipale pad geherklassifiseer word;

(iv) soos beoog in artikel 22(1)*(c)*(ii), indien die verklaring van die pad ingetrek en die pad permanent gesluit sal word;

(v) soos beoog in artikel 7(4), indien die kategorie van die pad verander sal word;

(vi) wat eienaarskap van die grond waarop die pad geleë is, in die munisipaliteit of die Provinsie vestig soos beoog in artikel 12(2), (3), (4) of (5), saamgelees met artikel 12(9), soos die omstandighede vereis;

(vii) rakende enige ander aangeleentheid wat omstandighede kan vereis, insluitende die verklaring van bykomstige vervoerinfrastruktuur ingevolge artikel 22(1);

(b) moet die Departementshoof ’n padoordragooreenkoms beoog in artikel 12 aangaan.

(10) Wanneer die Provinsiale Minister ’n verklaring beoog in subartikel (8)*(a)* gemaak het, kan hy of sy die besonderhede van die verklaring deur middel van enige doeltreffende media publiseer.

(11) ’n Verklaring beoog in subartikel (8)*(a)* en die padoordragooreenkoms beoog in subartikel (8)*(b)* moet in die rekords beoog in artikel 19 weergegee word.

Padoordragooreenkomste

12. (1) Die oordrag van verantwoordelikheid vir ’n pad soos beoog in hierdie artikel moet, in die mate wat nodig is, deur ’n padoordragooreenkoms tussen die Departementshoof en die betrokke munisipaliteit gereguleer word, wat die volgende kan insluit:

(a) bepalings om gevolg te gee aan die oordrag van eienaarskap van die grond waarop die pad geleë is, soos beoog in hierdie artikel en soos die omstandighede vereis;

(b) enige ander aangeleentheid wat die oordrag van verantwoordelikheid ten opsigte van die pad kan vergemaklik.

(2) Indien die gesamentlike evalueringsproses beoog in artikel 11 bepaal dat ’n munisipale pad of ’n pad van gemeenskaplike belang as ’n provinsiale pad geklassifiseer sal word, moet verantwoordelikheid vir die pad deur die betrokke munisipaliteit na die Provinsie oorgedra word.

(3) Indien die gesamentlike evalueringsproses beoog in artikel 11 bepaal dat ’n provinsiale pad as ’n munisipale pad of ’n pad van gemeenskaplike belang geklassifiseer

sal word, moet verantwoordelikheid vir die pad deur die Provinsie na die betrokke munisipaliteit oorgedra word.

(4) Indien 'n pad 'n pad beoog in artikel 5(6) is, kan verantwoordelikheid vir die pad, by ooreenkoms en ooreenkomstig subartikels (6) en (9), te eniger tyd oorgedra word van die Provinsie na die betrokke munisipaliteit of van die betrokke munisipaliteit na die Provinsie, na gelang van die omstandighede.

(5) Indien daar te eniger tyd bepaal word dat 'n pad verkeerd geklassifiseer is—

(a) ingevolge artikel 8(1) of (2);

(b) weens 'n verandering van omstandighede;

(c) weens 'n administratiewe fout;

(d) weens die toepassing van 'n bepaling van die Ordonnansie waaraan daar nie gevolg gegee is nie,

kan verantwoordelikheid vir die pad, by 'n ooreenkoms beoog in subartikel (1), van die Provinsie na die betrokke munisipaliteit oorgedra word, of van die betrokke munisipaliteit na die Provinsie, na gelang van die omstandighede, ooreenkomstig subartikels (6) en (9).

(6) Voor die oordrag van verantwoordelikheid vir 'n pad beoog in subartikel (4) of (5) moet die Provinsiale Minister, op die voorgeskrewe wyse, kommentaar van belanghebbende en geraakte partye aanvra oor die implikasies van die voorgestelde verandering.

(7) Waar verantwoordelikheid vir 'n pad oorgedra word in die omstandighede beoog in subartikels (4) en (5), moet die Provinsiale Minister—

(a) indien die pad as 'n provinsiale pad geherklassifiseer sal word, 'n verklaring ingevolge artikel 22(1)*(d)* maak;

(b) indien 'n provinsiale pad as 'n munisipale pad geherklassifiseer sal word, 'n verklaring beoog in artikel 22(1)*(c)*(iii)*(aa)* maak.

(8) Wanneer die Provinsiale Minister 'n verklaring beoog in subartikel (7)*(a)* of *(b)* gemaak het, moet hy of sy 'n aankondiging van die verklaring in minstens een koerant in die betrokke gebied publiseer, wat 'n tyd en plek kan aandui waar insae in fyner besonderhede gekry kan word, en, indien doeltreffend, in ander media.

(9) Waar die verantwoordelikheid vir 'n pad oorgedra word na 'n ander owerheid soos beoog in subartikel (2), (3), (4) of (5), moet eienaarskap van die grond sonder koste na die ander owerheid oorgedra word of in hom vestig, behalwe vir die oordragkoste, wat gedra kan word deur enigeen van die partye soos ooreengekom—

(a) deur middel van 'n padoordragooreenkoms beoog in subartikel (1);

(b) deur middel van 'n verklaring in die *Provinsiale Koerant*.

(10) Die oordrag van 'n pad ingevolge hierdie artikel moet in die rekords beoog in artikel 19 weergegee word.

HOOFSTUK 5

SPOORLYNE, OPENBAREVERVOERPAAIE, RESERWEBREEDTES, BYKOMSTIGE VERVOERINFRASTRUKTUUR, BOULYNE EN BOUBEPERKINGSGEBIEDE

Kategorisering van spoorlyne

13. (1) Spoorlyne wat deur die Provinsiale Minister geadministreer word, kan bestaan uit—

(a) swaar spoorlyne;

(b) ligte spoorlyne,

met betrekking tot 'n provinsiale werksaamheid.

(2) Die Provinsiale Minister moet, in elke kennisgewing uitgereik ingevolge artikel 22(1) ten opsigte van 'n spoorlyn, die spoorlyn as een van die kategorieë gelys in subartikel (1) kategoriseer.

(3) Behoudens die oorlegplegingsproses uiteengesit in subartikel (4) kan die Provinsiale Minister, ná oorleg met die geraakte munisipaliteite, die kategorie van 'n spoorlyn by kennisgewing in die *Provinsiale Koerant* verander.

(4) Voor 'n verandering of kategorisering beoog in subartikel (3) moet die Provinsiale Minister, op die voorgeskrewe wyse, kommentaar van belanghebbende en geraakte partye aanvra oor die implikasies van die voorgestelde verandering.

(5) Wanneer die Provinsiale Minister die kategorie van 'n spoorlyn verander het soos beoog in subartikel (3), kan hy of sy die besonderhede van die verandering deur middel van enige doeltreffende media publiseer.

(6) ’n Kennisgewing beoog in subartikel (3) moet in die rekords beoog in artikel 19 weergegee word.

Openbarevervoerpaaie

14. (1) ’n Openbarevervoerpad kan in sy eie, eksklusiewe reserwe geleë wees of binne die reserwe van ’n primêre, hoof-, distriks- of ondergeskikte pad.

(2) Die Provinsiale Minister kan voorwaardes vir openbarevervoerpaaie stel en moet daardie voorwaardes by kennisgewing in die *Provinsiale Koerant* bekendmaak.

(3) Waar ’n provinsiale openbarevervoerpad in die geheel binne die reserwe van ’n munisipale pad of ’n pad van gemeenskaplike belang geleë is, moet die Provinsiale Minister en die munisipaliteit, waar gepas, ’n skriftelike ooreenkoms sluit oor of die Provinsie of die munisipaliteit die verantwoordelike owerheid is vir die instandhouding, advertensiebeheer en ander tersaaklike aspekte in verband met die provinsiale openbarevervoerpad.

Reserwebreedtes van paaie en spoorlyne

15. (1) Behoudens subartikel (2) is die standaard- minimum reserwebreedtes van provinsiale paaie wat ingevolge artikel 22(1) verklaar is, paaie van gemeenskaplike belang wat ingevolge artikel 6(1)*(a)* verklaar is, en provinsiale spoorlyne wat kragtens Hoofstuk 6 verklaar is, soos volg:

(a) primêre pad: 30 meter;
(b) hoofpad: 25 meter;
(c) distrikspad: 20 meter;
(d) ondergeskikte pad: 20 meter;
(e) openbarevervoerpad: 20 meter, behalwe waar die openbarevervoerpad binne die reserwe van ’n primêre, hoof-, distriks- of ondergeskikte pad verklaar is;
(f) openbare voetpad: 2 meter;
(g) swaar spoorlyn: 20 meter; en
(h) ligte spoorlyn: 10 meter.

(2) Die Provinsiale Minister kan, by die verklaring, verskuiwing of verandering van ’n provinsiale pad of provinsiale spoorlyn, in ’n kennisgewing beoog in artikel 22(1), bepaal dat die pad of spoorlyn ’n reserwebreedte het wat van die standaard- minimum reserwebreedte afwyk.

(3) Die Provinsiale Minister kan, in ’n kennisgewing beoog in artikel 22(1)*(b)*, die standaard- minimum reserwebreedte van ’n provinsiale pad of provinsiale spoorlyn, of ’n gedeelte daarvan, verander—

(a) ná oorleg met alle geraakte munisipaliteite;
(b) behoudens die nodige projekbeplanning ingevolge Hoofstuk 6.

(4) Waar ’n provinsiale pad ’n werklike reserwebreedte het wat bepaal is as ’n uitkoms van die verdeling of onderverdeling van grond of wat op enige ander wyse hoegenaamd verkry is en wat groter is as die standaard- minimum reserwebreedte, moet die reserwebreedte van die provinsiale pad geag word verander te wees ooreenkomstig sodanige bepaalde breedte.

(5) Die Departementshoof kan, by kennisgewing in die *Provinsiale Koerant*, die grense van die reserwe van enige provinsiale pad beskryf ooreenkomstig gekoördineerde punte op ’n plan wat in die kennisgewing gepubliseer is, met dien verstande dat, waar die reserwe gelyktydig met die uitreiking van enige verklaring beoog in artikel 22(1) beskryf word, sodanige beskrywing by sodanige verklaring ingesluit kan word.

(6) Die reserwebreedte van ’n pad van gemeenskaplike belang is—

(a) die reserwebreedte wat deur die munisipaliteit verklaar of verander is; of
(b) die werklike breedte van die pad,

watter een ook al groter is.

(7) Die reserwebreedte van alle—

(a) provinsiale paaie; en
(b) paaie van gemeenskaplike belang,

wat regmatig vasgestel of verander is of geag word ingevolge die Ordonnansie vasgestel of verander te wees en wat by die inwerkingtreding van hierdie Wet van krag is, bly van krag, tensy dit kragtens hierdie Wet of, in die geval van ’n pad van gemeenskaplike belang deur die betrokke munisipaliteit verander word.

Kategorisering en reserwes van bykomstige vervoerinfrastruktuur

16. (1) Bykomstige padinfrastruktuur moet soos volg gekategoriseer word:

(a) parkeergebied;
(b) rusgebied;
(c) diensperseel met direkte toegang;
(d) stilhouplek;
(e) weegbrugterrein;
(f) verkeersbeheersentrum;
(g) veekamp;
(h) materiaalbergingsterrein;
(i) depot; of
(j) 'n fasiliteit vir ontluikende tegnologie ten opsigte van vervoerbedrywighede, soos voorgeskryf kan word.

(2) Bykomstige openbarevervoerinfrastruktuur moet soos volg gekategoriseer word:

(a) openbarevervoerwisselaar;
(b) stasie;
(c) rangeerfasiliteit;
(d) depot;
(e) beheer- en inligtingsentrum; of
(f) 'n fasiliteit vir ontluikende tegnologie ten opsigte van vervoerbedrywighede, soos voorgeskryf kan word.

(3) Die Provinsiale Minister moet, in elke kennisgewing wat ingevolge artikel 22(1) ten opsigte van bykomstige openbarevervoerinfrastruktuur gepubliseer word, die bykomstige vervoerinfrastruktuur wat in die kennisgewing verklaar word, kategoriseer as een van die soorte gelys in subartikel (1) of (2), behalwe waar die infrastruktuur geleë is binne en deel uitmaak van die reserwe van vervoerinfrastruktuur.

(4) Behoudens die oorlegplegingsproses uiteengesit in subartikel (5) kan die Provinsiale Minister, ná oorleg met die geraakte munisipaliteit, die kategorie van bykomstige vervoerinfrastruktuur waarvoor die Provinsiale Minister verantwoordelik is, by kennisgewing in die *Provinsiale Koerant* verander.

(5) Voor 'n voorgestelde verandering van kategorie beoog in subartikel (4) moet die Provinsiale Minister, op die voorgeskrewe wyse, kommentaar van belanghebbende en geraakte partye aanvra oor die implikasies van die voorgestelde verandering.

(6) Wanneer die Provinsiale Minister die kategorie van bykomstige vervoerinfrastruktuur soos beoog in subartikel (4) verander het, kan hy of sy die besonderhede van die verandering deur middel van enige doeltreffende media publiseer.

(7) Die reserwe van bykomstige vervoerinfrastruktuur moet voor die verklaring van die bykomstige vervoerinfrastruktuur deur die projekbeplanningsproses onderneem ingevolge Hoofstuk 6 bepaal word.

(8) Die Provinsiale Minister kan die reserwe van bykomstige vervoerinfrastruktuur verander—

(a) ná oorleg met die geraakte munisipaliteit;
(b) behoudens die nodige projekbeplanning ingevolge Hoofstuk 6; en
(c) by kennisgewing in die *Provinsiale Koerant* op die voorgeskrewe wyse.

Boulyne en boubeperkingsgebiede

17. (1) Daar is 'n boulyn aan elke kant van 'n provinsiale pad of pad van gemeenskaplike belang of spoorlyn vir 'n afstand van vyf meter vanaf die grens van die reserwe, reghoekig gemeet vanaf die middellyn van die pad of spoorlyn.

(2) Buite 'n stedelike gebied kan die Provinsiale Minister, ten opsigte van 'n provinsiale pad wat 'n primêre pad, hoofpad, distrikspad of openbarevervoerpad is, of ten opsigte van 'n spoorlyn, wat voor of ná die inwerkingtreding van hierdie Wet verklaar is, by kennisgewing in die *Provinsiale Koerant* verklaar dat die pad of spoorlyn 'n boubeperkingsgebied het—

(a) aan elke kant van die pad of spoorlyn binne 'n afstand van 95 meter vanaf die middellyn, reghoekig gemeet vanaf die middellyn van die pad of spoorlyn;
(b) binne 'n afstand van 500 meter vanaf enige punt van kruising van die middellyn van sodanige pad of spoorlyn met die middellyn van 'n ander sodanige pad of spoorlyn.

(3) Voor die Provinsiale Minister 'n verklaring ingevolge subartikel (2) maak, moet hy of sy, op die voorgeskrewe wyse, kommentaar van belanghebbende en geraakte partye aanvra oor die implikasies van die voorgestelde verandering.

(4) 'n Pad of enige gedeelte daarvan wat ingevolge die Wet op Adverteer langs en Toebou van Paaie tot 'n boubeperkingspad verklaar is, word geag 'n boubeperkingsgebied soos beoog in subartikel (2) te hê.

(5) Waar 'n gebied aangrensend tot 'n pad 'n stedelike gebied word, hou enige boubeperkingsgebied wat voorheen ten opsigte van sodanige pad bestaan het, op om te bestaan.

(6) Die Provinsiale Minister kan, behoudens oorlegpleging met die betrokke munisipaliteite, by kennisgewing in die *Provinsiale Koerant* op die voorgeskrewe wyse, 'n boubeperkingsgebied vir provinsiale paaie, paaie van gemeenskaplike belang en spoorlyne verwyder, die breedte daarvan verminder of die kategorieë van aktiwiteite wat daarin toegelaat word, bepaal.

(7) Voor die Provinsiale Minister 'n verklaring ingevolge subartikel (6) maak, moet hy of sy, op die voorgeskrewe wyse, kommentaar van belanghebbende en geraakte partye aanvra oor die implikasies van die voorgestelde verklaring.

HOOFSTUK 6

BEPLANNING EN VERKLARING VAN VERVOERINFRASTRUKTUUR

Vervoerstelselbeplanning

18. (1) Die Departementshoof moet—

(a) toesien dat vervoerstelselbeplanning van vervoerinfrastruktuur soos voorgeskryf onderneem word;

(b) jaarlikse bywerkings van sodanige beplanning skep, insluitende begrotings, as insette in die Departement se begrotingsiklusse en implementeringsprogramme; en

(c) voor 15 Maart elke jaar daardie bywerkings aan munisipaliteite beskikbaar stel.

(2) Die Departementshoof moet, op die voorgeskrewe wyse, vir provinsiale paaie—

(a) die funksionele klassifikasie daarvan bepaal;

(b) die padkantontwikkelingsomgewing bepaal; en

(c) verkeersaarbestuursplanne opstel.

(3) Verkeersaarbestuursplanne moet—

(a) ingewerk word by die betrokke geïntegreerde vervoerplan, ruimtelike ontwikkelingsraamwerk en die provinsiale landvervoerraamwerk;

(b) die beleid vir die bestaande en toekomstige gebruik van die betrokke vervoerinfrastruktuur neerlê;

(c) dokumente, verslae of ander instrumente insluit wat leiding oor die plan sal gee;

(d) 'n fisiese plan verskaf wat die huidige bestuur van die vervoerinfrastruktuur en vasgestelde stappe van toekomstige opgradering lei, neerlê;

(e) beperkings ten opsigte van aangrensende grond, toegang, parkering, openbare vervoer en niegemotoriseerde vervoer insluit; en

(f) die voorgeskrewe inligting en konseptuele beplanningselemente inwerk.

(4) Die Departementshoof moet, soos beoog in artikel 20(10), toesien dat wanneer hy of sy vervoerstelselbeplanning onderneem, die nodige stappe gedoen word om voldoening aan toepaslike wetgewing en koördinasie te verseker.

Rekords van vervoerinfrastruktuur en paaie van gemeenskaplike belang

19. (1) Die Departementshoof moet 'n omvattende lys en gepaardgaande databasis, soos voorgeskryf, van alle vervoerinfrastruktuur in die Provinsie opstel.

(2) Die gepaardgaande databasis bedoel in subartikel (1) moet gepaste bestuurstelsels insluit.

(3) Die Departementshoof moet toesien dat die lys en gepaardgaande databasis aansluit by tersaaklike bewaarder- en gebruikerbestuursplanne waarvoor daar in die Wet op die Bestuur van Onroerende Regeringsbates, 2007 (Wet 19 van 2007), voorsiening gemaak word.

(4) Voor die Departementshoof die lys en gepaardgaande databasis finaliseer, moet hy of sy—

(a) 'n konsep van die lys en databasis aan alle munisipaliteite voorlê;

(b) hul kommentaar aanvra ten opsigte van die konseplys en gepaardgaande databasis binne 'n datum vermeld in die voorlegging; en

(c) enige kommentaar wat ingevolge paragraaf *(b)* ontvang is, oorweeg.

(5) Die Departementshoof moet 'n identifikasienommer of -kode toeken aan elke item vervoerinfrastruktuur wat ingevolge subartikel (1) gelys word.

(6) Die Departementshoof moet—

(a) die lys en gepaardgaande databasis bywerk wanneer ook al enige vervoerinfrastruktuur in die Provinsie verklaar, verskuif, geherklassifiseer, oorgedra of gesluit word of wanneer die verklaring daarvan ingetrek word; en

(b) teen 30 Junie elke jaar toesien dat die lys en gepaardgaande databasis vir insae deur die publiek beskikbaar is gedurende kantoorure by die plek of plekke deur hom of haar aangewys.

(7) Die Departementshoof moet die bestuurstelsels van vervoerinfrastruktuur bedoel in subartikel (2) jaarliks bywerk om die huidige toestand van vervoerinfrastruktuur weer te gee.

(8) By ontvangs van die lys en gepaardgaande databasis, of van bywerkings aan die lys of gepaardgaande databasis, van 'n munisipaliteit ten opsigte van paaie van gemeenskaplike belang soos beoog in artikel 9(7), moet die Departementshoof die lys en databasis met die lys en databasis beoog in subartikel (1) konsolideer.

Projekbeplanningsproses

20. (1) Die Departementshoof moet toesien dat 'n projekbeplanningsproses ingevolge hierdie artikel onderneem is voor die Provinsiale Minister die volgende verklaar:

(a) 'n nuwe pad, spoorlyn of bykomstige vervoerinfrastruktuur;

(b) die verskuiwing van vervoerinfrastruktuur;

(c) die verandering van die reserwe van vervoerinfrastruktuur;

(d) die intrekking van 'n verklaring van vervoerinfrastruktuur wat nog nie gebou is nie; of

(e) die intrekking van 'n verklaring van vervoerinfrastruktuur ten einde dit permanent te sluit.

(2) Die projekbeplanningsproses beoog in subartikel (1) sluit minstens die volgende in:

(a) ten opsigte van subartikel (1)*(a)* tot *(c)*, tegniese beplanning uitgevoer op die voorgeskrewe wyse om die verkose gerigtheid of alternatiewe gerigthede, uitleg of alternatiewe uitlegte, die reserwe van die betrokke vervoerinfrastruktuur en die eiendom benodig vir die betrokke vervoerinfrastruktuur omskryf;

(b) ten opsigte van subartikel (1)*(d)* en *(e)*, die identifisering van alle implikasies van die voorgenome intrekking beoog in daardie paragrawe op aangrensende grondgebruik en die omliggende gebiede, insluitende, in die geval van sluiting, die impak van die hertoegewysde verkeer;

(c) met behoorlike inagneming van artikel 24(4)*(a)* en *(b)* van die WNOB, die identifisering, ondersoek, evaluering en kommunikasie van, of prosedures vir die identifisering, ondersoek, evaluering en kommunikasie van, die moontlike gevolge of impak van die projek se aktiwiteite op die omgewing, asook van erfenis-, maatskaplike, ekonomiese, gesondheids-, veiligheids- en toegangsoorwegings, waar van toepassing; en

(d) openbare deelname wat ingevolge subartikels (3) en (4) vereis word en, waar van toepassing, openbare deelname wat ingevolge subartikel (9) vereis word benewens wat kragtens subartikels (3) en (4) vereis word.

(3) Die Departementshoof moet, by die begin van die beplanning, op die voorgeskrewe wyse—

(a) belanghebbende en geraakte partye in kennis stel van;

(b) daardie partye uitnooi om hul belang te registreer ten opsigte van; en

(c) van daardie partye kommentaar aanvra op,

die voorgenome beplanning.

(4) Ná voltooiing van die beplanningsproses moet die Departementshoof, op die voorgeskrewe wyse, die belanghebbende en geraakte partye wat hul belang uit hoofde van subartikel (3) geregistreer het, in kennis stel van die uitkoms van die proses en

daardie partye uitnooi om nie later nie as 'n datum vermeld in die kennisgewing skriftelik op die tegniese beplanning kommentaar te lewer.

(5) Die Departementshoof moet ten opsigte van enige verklaring beoog in subartikel (1) oorleg pleeg met die munisipaliteite in wie se gebiede die vervoerinfrastruktuur geleë is of sal wees en hulle versoek om binne 'n vermelde tydperk skriftelike kommentaar op die beplanning in te dien.

(6) Waar die projek 'n impak sal hê op paaie of vervoerfasiliteite wat onder die gesag van 'n staatsorgaan in 'n ander regeringsfeer geadministreer word, moet oorleg ook met daardie staatsorgaan gepleeg word.

(7) Waar oortollige grond as gevolg van die verskuiwing of permanente sluiting van 'n gedeelte vervoerinfrastruktuur geïdentifiseer word, moet die vervreemding van sodanige grond ingevolge artikel 4(12) of artikel 4(13) en (14), na gelang van die geval, hanteer word.

(8) Behoudens subartikel (9) kan die Departementshoof sonder die onderneming van 'n beplanningsproses ingevolge hierdie artikel die reserwe van vervoerinfrastruktuur verander indien die verbreding of verandering nie 'n aaneenlopende lengte van 1000 meter oorskry nie en—

(a) in die geval van 'n pad of spoorlyn, die nuwe reserwe nie met meer as 20 meter aan een of beide kante van die reserwe afwyk van die bestaande reserwe nie; of

(b) in die geval van bykomstige vervoerinfrastruktuur, die nuwe reserwe nie verder as vyf meter vanaf die bestaande reserwe geleë is nie.

(9) Voor die Departementshoof ingevolge subartikel (8) handel, moet hy of sy—

(a) die betrokke munisipaliteit in kennis stel en, op die voorgeskrewe wyse, kommentaar van belanghebbende en geraakte partye aanvra; en

(b) toesien dat daar aan die vereistes ingevolge ander toepaslike wetgewing voldoen is.

(10) Die Departementshoof moet—

(a) toesien dat die nodige stappe gedoen word om aan alle wetgewing in verband met die aktiwiteite gelys in subartikel (1) te voldoen, insluitende toepaslike wetgewing vir grondgebruikbeplanning, wat ook goedkeuring ingevolge daardie wetgewing vereis;

(b) daarna streef om die projekbeplanningsprosesse wat ingevolge hierdie artikel vereis word, met die prosedurele vereistes van die wetgewing beoog in paragraaf *(a)* te koördineer en dit in ooreenstemming te bring, op die wyse beoog in artikel 65.

Besluit deur Provinsiale Minister

21. By afsluiting van die oorlegplegingsprosesse beoog in artikel 20 moet die Provinsiale Minister alle verslae, kommentaar en vertoë in verband met die voorgestelde handeling oorweeg en binne 30 dae 'n besluit neem—

(a) om met die verklaring beoog in artikel 20(1) voort te gaan; of

(b) om nie met so 'n verklaring voort te gaan nie,

en te dien effekte kennis gee in minstens een koerant wat in die gebied sirkuleer en, indien doeltreffend, in ander media.

Verklaring van vervoerinfrastruktuur

22. (1) Die Provinsiale Minister kan, behoudens subartikel (2) en die afhandeling van 'n projekbeplanningsproses ooreenkomstig hierdie Hoofstuk, by kennisgewing in die *Provinsiale Koerant* 'n verklaring maak—

(a) dat daar vervoerinfrastruktuur op of oor enige grond is ooreenkomstig 'n plan gepubliseer in die kennisgewing of wat vir insae beskikbaar is op 'n plek en op die tye vermeld in die kennisgewing;

(b) dat bestaande vervoerinfrastruktuur verskuif of verander is in die mate vermeld in die kennisgewing en aangedui op 'n plan: Met dien verstande dat 'n verklaring nie vereis word nie—

(i) in die omstandighede beoog in artikel 20(8);

(ii) waar die verskuiwing of verandering op geen plek verder as 1000 meter vanaf die naaste punt op die middellyn sal wees van die pad of 'n gedeelte daarvan wat voorgestel word om verskuif of verlê te word nie;

(c) dat 'n verklaring—

(i) van vervoerinfrastruktuur wat nog nie gebou is nie, ingetrek word;

(ii) van bestaande vervoerinfrastruktuur ingetrek word en sodanige vervoerinfrastruktuur in die mate vermeld in die kennisgewing en aangedui op 'n plan permanent gesluit word;

(iii) van 'n bestaande provinsiale pad in die mate vermeld in die kennisgewing en aangedui op 'n plan ingetrek word sodat dit—

(aa) na 'n munisipaliteit oorgedra en as 'n munisipale pad geadministreer word;

(bb) na SANRAL oorgedra en as 'n nasionale pad deur SANRAL geadministreer word, behoudens subartikel (5); of

(cc) aan 'n privaat persoon of entiteit verkoop word;

(d) dat 'n pad van gemeenskaplike belang beoog in subartikel 8(2) in die mate vermeld in die kennisgewing en aangedui op 'n plan as 'n provinsiale pad geherklassifiseer word;

(e) ten opsigte van enige ander aangeleentheid in verband met vervoerinfrastruktuur wat nodig kan wees.

(2) 'n Kennisgewing kragtens subartikel (1)*(a)*, *(b)* of *(d)* moet, vir elke item vervoerinfrastruktuur wat verklaar word—

(a) vermeld dat die Provinsie die verantwoordelike owerheid is;

(b) die kategorisering aandui ingevolge artikel 7 in die geval van 'n pad, artikel 13(1) in die geval van 'n spoorlyn en artikel 16(1) of (2) in die geval van bykomstige vervoerinfrastruktuur;

(c) besonderhede verskaf van die reserwebreedte of omvang ingevolge artikel 15, indien van toepassing, in die geval van 'n pad of spoorlyn of ingevolge artikel 16 in die geval van bykomstige vervoerinfrastruktuur;

(d) die ligging, roete en reserwe van die pad of spoorlyn of die uitleg van ander betrokke vervoerinfrastruktuur beskryf met behulp van 'n sketsplan aangeheg by die kennisgewing;

(e) besonderhede van die boubeperkingsgebied ingevolge artikel 17 verskaf, indien van toepassing; en

(f) vermeld dat fyner besonderhede vir insae beskikbaar is op 'n plek en op die tye vermeld in die kennisgewing.

(3) Wanneer die Provinsiale Minister 'n verklaring ingevolge subartikel (1) gemaak het, kan hy of sy die besonderhede van die verklaring of die intrekking, soos van toepassing, deur middel van enige doeltreffende media publiseer.

(4) Waar vervoerinfrastruktuur verskuif of verander word, word die betrokke vervoerinfrastruktuur geag dieselfde kategorisering te hê as dit wat onmiddellik voor die verklaring van die verskuiwing of verandering op die verskuifde of veranderde vervoerinfrastruktuur van toepassing was.

(5) Enige verklaring van—

(a) 'n gedeelte van 'n provinsiale pad wat, ná die inwerkingtreding van hierdie Wet, deur die Nasionale Minister as 'n nasionale pad verklaar is en deur SANRAL geadministreer word; en

(b) 'n gedeelte van die pad beoog in paragraaf *(a)* as 'n boubeperkingspad ingevolge die Wet op Adverteer langs en Toebou van Paaie,

hou op om te bestaan: Met dien verstande dat die verklaring ooreenstem met 'n ooreenkoms tussen die Nasionale Minister en die Premier ingevolge die Wet op die Suid-Afrikaanse Nasionale Padagentskap Beperk en op Nasionale Paaie waarkragtens die oordrag van verantwoordelikheid vir die gedeelte pad gesluit is.

(6) Enige verklaring van—

(a) 'n gedeelte van 'n voorheen verklaarde pad wat, voor die inwerkingtreding van hierdie Wet, deur die Nasionale Minister as 'n nasionale pad verklaar is en deur SANRAL geadministreer word; en

(b) 'n gedeelte van die pad beoog in paragraaf *(a)* as 'n boubeperkingspad ingevolge die Wet op Adverteer langs en Toebou van Paaie, voor die inwerkingtreding van hierdie Wet,

hou op om te bestaan by die inwerkingtreding van hierdie Wet.

HOOFSTUK 7

PROSEDURES VIR SLUITING VAN VERVOERINFRASTRUKTUUR

Aansoek om vervoerinfrastruktuur te sluit, te verskuif of te verander

23. (1) Enige persoon wat direk deur bestaande of voorgestelde vervoerinfrastruktuur geraak word, kan op die voorgeskrewe wyse by die Provinsiale Minister aansoek doen om die sluiting, verskuiwing of verandering van die vervoerinfrastruktuur.

(2) By ontvangs van 'n aansoek beoog in subartikel (1) kan die Provinsiale Minister, behoudens subartikel (3), 'n beplanningsproses ingevolge artikel 20 onderneem en, by voltooiing daarvan—

(a) die aansoek ondersteun en 'n verklaring ingevolge artikel 22(1)*(b)* of *(c)* maak; of

(b) die aansoek weier en redes vir die weiering verskaf.

(3) Die aansoeker is aanspreeklik vir die koste aangegaan deur die Departement by die beplanningsproses beoog in subartikel (2), insluitende advertensiekoste.

(4) Die koste beoog in subartikel (3) kan uit aparte bedrae bestaan wat voor of gedurende die projekbeplanningsproses gehef word, ongeag die uitkoms.

Permanente sluiting van provinsiale pad

24. Die Provinsiale Minister moet—

(a) voor die permanente sluiting van 'n provinsiale pad, by die punt van sluiting of aan elke kant van die gedeelte of gedeeltes wat gesluit sal word, 'n kennisgewing oprig wat in elke amptelike taal die voorgenome handeling en aan wie kommentaar of vertoë gerig kan word, aandui en dit vir minstens 60 dae vertoon;

(b) ná die permanente sluiting van 'n provinsiale pad vir 'n tydperk van minstens 90 dae, aan elke kant van die geslote gedeelte gepaste padverkeerstekens en padmerke aanbring wat die publiek van die sluiting waarsku en, waar van toepassing, gebruikers na 'n alternatiewe roete herlei; en

(c) die permanente sluiting van die provinsiale pad ingevolge artikel 22(1)*(c)*(ii) verklaar.

Tydelike sluiting of verlegging van pad of spoorlyn

25. (1) Die Departementshoof kan 'n provinsiale pad of spoorlyn of enige gedeelte daarvan tydelik sluit, verlê of die gebruik daarvan tydelik beperk of reguleer—

(a) vir die doel van of hangende die konstruksie, rehabilitasie, instandhouding of herstel van die pad of spoorlyn;

(b) vir die doel van of hangende die konstruksie, oprigting, lê, uitbreiding, instandhouding, herstel of sloping van enige gebou, struktuur, werke of diens langs, op, oor, deur, bo-oor of onder daardie pad of spoorlyn;

(c) as gevolg van 'n openbare gebeurtenis wat spesiale maatreëls vir die beheer van verkeer of spesiale voorsiening vir die akkommodasie van skares vereis;

(d) om enige ander rede wat sodanige handeling noodsaak; of

(e) op versoek van enige persoon.

(2) Wanneer 'n provinsiale pad of 'n gedeelte daarvan ingevolge hierdie artikel gesluit of verlê word, moet die Departementshoof vir die duur van die sluiting of verlegging aan elke kant van die geslote of verlegde gedeelte gepaste padtekens of -merke aanbring en in stand hou wat die publiek oor die sluiting of verlegging waarsku en, waar van toepassing, gebruikers na 'n alternatiewe roete herlei.

(3) Die Departementshoof moet, binne 'n redelike tydperk voor die tydelike sluiting of verlegging van 'n provinsiale pad of spoorlyn op die voorgeskrewe wyse van belanghebbende en geraakte partye kommentaar op die voorgenome sluiting of verlegging aanvra.

(4) 'n Persoon kan die Departementshoof skriftelik op die voorgeskrewe wyse versoek om 'n provinsiale pad of spoorlyn, of enige gedeelte daarvan, soos beoog in subartikel (1) tydelik te sluit, te verlê of die gebruik daarvan te beperk of reguleer.

(5) 'n Persoon wat 'n versoek ingevolge subartikel (4) rig, moet aan die Provinsie die koste, soos bepaal deur die Departementshoof, van voldoening aan die versoek betaal, insluitende die koste om die veiligheid van gebruikers van die betrokke pad of spoorlyn te verseker.

Noodsluiting of -verlegging

26. (1) In noodgevalle kan die Departementshoof vervoerinfrastruktuur sluit of verlê of verkeer op vervoerinfrastruktuur herlei.

(2) Sonder om afbreuk te doen aan enige ander wet, indien daar 'n gevaar vir die publiek, eiendom of verkeer bestaan, moet die Departementshoof waarskuwingstekens en roeteaanwysingstekens oprig om veiligheid te verseker en verkeersvloei te fasiliteer.

Reg van publiek om geslote of verlegde pad te gebruik

27. Die publiek kan aanhou om 'n pad of 'n gedeelte daarvan te gebruik ná die verklaring van die permanente sluiting van die betrokke pad totdat tekens opgerig is wat die sluiting soos beoog in artikel 24*(b)* aandui.

HOOFSTUK 8

PADSUBSIDIEREËLINGS

Padsubsidiereëlings met munisipaliteite

28. (1) Behoudens die WOFB en subartikel (3), vanaf die datum van inwerkingtreding van hierdie Wet, kan die Departement 'n padsubsidie aan 'n munisipaliteit betaal vir 'n pad wat kragtens artikel 6(1)*(a)* as 'n pad van gemeenskaplike belang verklaar is, of kragtens artikel 8(2) geag word 'n pad van gemeenskaplike belang te wees, waarvoor die munisipaliteit verantwoordelik is.

(2) 'n Munisipaliteit kan op die voorgeskrewe wyse by die Departementshoof aansoek doen om die betaling van 'n padsubsidie ten opsigte van die projekbeplanning, ontwerp, konstruksie, instandhouding of bestuur van 'n pad van gemeenskaplike belang waarvoor die munisipaliteit verantwoordelik is.

(3) Betaling van padsubsidie is onderhewig aan—

(a) die voorlegging aan die Departementshoof van die lys en gepaardgaande data beoog in artikel 9(7) ten opsigte van paaie van gemeenskaplike belang waarvoor die munisipaliteit verantwoordelik is, en bevestiging dat die lys en gepaardgaande data vir die Departementshoof aanvaarbaar is;

(b) die voorlegging aan die Departementshoof van 'n aansoek om padsubsidie soos voorgeskryf, elke jaar nie later nie as 1 Desember van die jaar wat die munisipale finansiële jaar voorafgaan waarvoor die padsubsidieaansoek gedoen word; en

(c) die beskikbare hulpbronne van die Departement.

(4) Geen padsubsidie is betaalbaar ten opsigte van vergoeding vir die onteiening of verkryging van grond vir 'n pad van gemeenskaplike belang nie, tensy die Departementshoof—

(a) skriftelike toestemming gegee het om die grond te onteien voor dit onteien is; en

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

Huurgeld, verkoop en ander inkomste uit grond verkry met subsidie kragtens die Ordonnansie of padsubsidiegeld

29. (1) 'n Munisipaliteit moet voor hy 'n huur-, koop- of ander ooreenkoms sluit met betrekking tot grond of enige gedeelte daarvan wat verkry is—

(a) met behulp van geld wat kragtens die Ordonnansie of 'n padsubsidie kragtens hierdie Wet betaal is; of

(b) met behulp van geld wat as 'n toekenning van die Provinsie ontvang is,

die skriftelike kommentaar en aanbevelings van die Departementshoof en die Provinsiale Minister van Finansies verkry, indien enige.

(2) Dieselfde persentasie van die netto opbrengs wat die Provinsie bygedra het vir die aankoop van die grond beoog in subartikel (1) moet, in die voorgeskrewe omstandighede, betaal word—

(a) aan die Provinsie;

(b) met die skriftelike toestemming van die Departementshoof, indien die munisipaliteit 'n munisipale landvervoerfonds ingevolge artikel 27 van die NLTA ingestel het, in daardie fonds in.

(3) Die Departementshoof kan skriftelik, met of sonder voorwaardes, 'n munisipaliteit toelaat om die opbrengs bedoel in subartikel (2) te behou.

(4) Die skriftelike toestemming van die Departementshoof beoog in subartikels (2)*(b)* en (3) moet met die instemming van die Provinsiale Minister van Finansies geskied.

Bydraes vanaf ander bronne

30. Wanneer uitgawes deur 'n munisipaliteit op of in verband met 'n pad van gemeenskaplike belang aangegaan is—

(a) wat in die geheel uit 'n bron buiten die munisipaliteit of die Provinsie befonds word, kwalifiseer die uitgawes nie vir 'n padsubsidie nie;

(b) wat gedeeltelik uit 'n bron buiten die munisipaliteit of die Provinsie befonds word, kwalifiseer slegs die gedeelte van die uitgawes wat nie aldus befonds is nie, vir 'n padsubsidie.

Regulasies vir padsubsidiereëlings

31. Die Provinsiale Minister kan, met die instemming van die Provinsiale Minister van Finansies, regulasies maak wat die volgende voorskryf:

(a) die persentasie uitgawes deur 'n munisipaliteit ten opsigte van aktiwiteite bedoel in artikel 28(2) wat die Departement as 'n padsubsidie kan betaal, hetsy in die algemeen of in die besonder;

(b) items wat vir 'n padsubsidie kwalifiseer of nie kwalifiseer nie ten opsigte van enige kategorie uitgawes;

(c) faktore vir die bepaling van die bedrag betaalbaar vir padsubsidie;

(d) voorwaardes waarop padsubsidie betaalbaar is; en

(e) prosedures vir subsidie-eise en -betalings.

HOOFSTUK 9

ADVERTENSIES SIGBAAR VANAF PROVINSIALE PAAIE EN PAAIE VAN GEMEENSKAPLIKE BELANG

Verbod op sekere advertensies

32. (1) Geen persoon mag 'n advertensie vertoon of toelaat dat dit vertoon word nie indien die advertensie—

(a) sigbaar is vanaf 'n provinsiale pad of pad van gemeenskaplike belang buite 'n stedelike gebied;

(b) binne 50 meter is vanaf die grens van 'n provinsiale pad of pad van gemeenskaplike belang in 'n stedelike gebied, buiten 'n deurpad, en vanaf daardie pad sigbaar is;

(c) binne 250 meter is vanaf die grens van 'n provinsiale pad of pad van gemeenskaplike belang in 'n stedelike gebied wat 'n deurpad is, en vanaf daardie deurpad sigbaar is; of

(d) in, op of bo enige provinsiale pad of pad van gemeenskaplike belang is,

sonder die skriftelike toestemming van die Departementshoof, op aansoek op die voorgeskrewe wyse.

(2) Wanneer die Departementshoof besluit om toestemming beoog in subartikel (1) te verleen, moet hy of sy die impak van die voorgestelde vertoning op provinsiale verkeer en provinsiale vervoerbedrywighede oorweeg.

(3) Subartikels (1) en (2) is nie van toepassing nie op die vertoning van 'n advertensie—

(a) wat onmiddellik voor die inwerkingtreding van hierdie Wet of voor die betrokke vervoerinfrastruktuur kragtens artikel 22 verklaar is, of die pad kragtens artikel 6(1) as 'n pad van gemeenskaplike belang verklaar is, wettig vertoon is, vir so lank as wat dit aaneenlopend op dieselfde plek vertoon word; of

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

(4) Toestemming deur die Departementshoof ingevolge subartikel (1) verleen, gee nie vrystelling van artikel 47(1) of enige ander toepaslike reg nie.

(5) Die Provinsiale Minister kan regulasies maak wat die volgende voorskryf:

(a) in die algemeen of ten opsigte van ’n spesifieke pad of gedeelte van ’n pad, die soorte advertensies wat van die toepassing van subartikel (1) vrygestel is;
(b) die maatstawwe wat gebruik moet word om die impak van ’n vertoning bedoel in subartikel (1) op provinsiale padverkeersveiligheid en provinsiale vervoerbedrywighede te evalueer;
(c) die algemene voorwaardes van toestemming wat van toepassing is op die vertoning van alle advertensies waar toestemming ingevolge subartikel (1) verleen is;
(d) die tegniese vereistes van toepassing op die vertoning van advertensies, insluitende advertensies wat van die toepassing van subartikel (1) vrygestel is, en advertensies beoog in paragraaf *(a)*; en
(e) die wyse waarop ’n aansoek om toestemming ingevolge subartikel (1) ingedien moet word.

Afdwingingsbepalings ten opsigte van advertensies

33. Die bepalings van artikel 57 is van toepassing ten opsigte van ’n oortreding van—
(a) artikel 32(1); of
(b) regulasies gemaak kragtens artikel 32(5)*(d)*, ongeag of die soort advertensie ingevolge regulasies gemaak kragtens artikel 32(5)*(a)* vrygestel is.

Regulering van advertensies deur munisipaliteite

34. (1) ’n Munisipaliteit moet die vertoning reguleer van—
(a) advertensies op of bo ’n pad; en
(b) advertensies sigbaar vanaf ’n pad.

(2) Vir die doeleindes van subartikel (1) moet ’n munisipaliteit minstens ’n stelsel vir die indiening en goedkeuring van aansoeke om die vertoning van advertensies instel, wat vir die volgende voorsiening moet maak:
(a) die klassifikasie van paaie in kategorieë gegrond op hul natuurskoon-, omgewings- of argitektoniese belang of op ander soortgelyke gronde vir die doel om te onderskei tussen die soorte advertensies wat in elke kategorie toegelaat word;
(b) die klassifikasie van advertensies in kategorieë vir die doel om hul vertoning of oprigting te reguleer en te beheer;
(c) die prosedures wat gevolg moet word wanneer aansoek om goedkeuring gedoen word om ’n advertensie te vertoon en die gelde betaalbaar by aansoek om sodanige goedkeuring;
(d) die evaluering van die impak van sodanige vertoning op padverkeersveiligheid en vervoerbedrywighede;
(e) die evaluering van die impak van sodanige vertoning op die omgewing;
(f) metodes van vertoning en verligting van advertensies;
(g) die evaluering van die veiligheid, aanvaarbaarheid en welvoeglikheid van advertensies;
(h) die ontwerp en konstruksie van advertensies en hul ondersteunende strukture, hul posisie, instandhouding, verandering en toekomstige verwydering;
(i) kategorieë advertensies wat opgerig of vertoon kan word sonder die toestemming van die munisipaliteit op grond van bepaalde maatstawwe; en
(j) die verwydering van ongemagtigde advertensies.

Vermoedens rakende advertensies

35. Vir die doeleindes van hierdie Wet, by die afwesigheid van bewyse tot die teendeel wat redelike twyfel wek, word ’n advertensie geag vertoon te wees of toegelaat te gewees het om vertoon te word—
(a) deur die persoon wat dit opgerig of dit andersins laat verskyn het;
(b) waar dit verband hou met ’n produk of artikel wat deur ’n bepaalde persoon geproduseer of vervaardig word, deur daardie persoon;
(c) waar dit verband hou met ’n diens gelewer deur ’n bepaalde persoon, of ’n sakeonderneming of plek wat deur ’n bepaalde persoon besit word, deur daardie persoon; of
(d) deur die persoon wat die grond besit of okkupeer waarop die advertensie opgerig is of vertoon word.

HOOFSTUK 10

BESTUUR EN BEHEER VAN VERVOERINFRASTRUKTUUR, PAAIE VAN GEMEENSKAPLIKE BELANG EN AANGRENSENDE GROND

Betreding op en besitneming van eiendom

36. (1) Waar die Provinsiale Minister grond of die tydelike gebruik daarvan of enige materiaal daarop benodig vir 'n doel bedoel in subartikel (2), kan die Provinsiale Minister, nadat nie minder nie as 48 uur skriftelike kennis van die voorgestelde aktiwiteit gegee is aan die eienaar of 'n gemagtigde persoon, met die skriftelike toestemming van die betrokke eienaar of gemagtigde persoon—

(a) die grond met die nodige werkers, toerusting en voertuie betree;

(b) die oppervlakte en hoogte van die grond opmeet en bepaal;

(c) op of in die grond grawe of boor; of

(d) die grense van die grond of materiaal afbaken.

(2) Die Provinsiale Minister kan kragtens subartikel (1) handel—

(a) om die waarde van die betrokke grond of materiaal te bepaal;

(b) om enige inspeksie, navraag, ondersoek of opmeting te doen in verband met die uitoefening of verrigting van die bevoegdhede, pligte en werksaamhede verleen of opgelê by of kragtens hierdie Wet;

(c) om 'n struktuur, apparaat, toestel, installasie of enigiets wat op sodanige grond deur of namens die Provinsiale Minister ingevolge hierdie Wet gebou, opgerig of geplaas word of is, te inspekteer, in stand te hou of te herstel; of

(d) om hom of haar in staat te stel om enige van sy of haar ander werksaamhede kragtens hierdie Wet te verrig.

(3) Waar 'n eienaar of gemagtigde persoon skriftelike toestemming geweier het dat die Provinsiale Minister of 'n persoon gemagtig deur hom of haar kragtens subartikel (1) handel, moet die Provinsiale Minister die eienaar of gemagtigde persoon skriftelik versoek om redes vir die weiering te verskaf binne die tyd wat die Provinsiale Minister toelaat, wat minstens sewe dae moet wees.

(4) Die eienaar of gemagtigde persoon moet binne die tyd vermeld deur die Provinsiale Minister ingevolge subartikel (3) skriftelik redes vir die weiering verskaf.

(5) Indien sodanige redes nie binne die aldus vermelde tyd verskaf word nie of nie vir die Provinsiale Minister aanvaarbaar is nie, kan hy of sy by 'n hof met jurisdiksie aansoek doen om 'n bevel wat enige handeling beoog in subartikel (1) magtig.

(6) Ondanks subartikels (3), (4) en (5) kan die Provinsiale Minister, sonder om aan subartikel (1) te voldoen of aansoek te doen om 'n hofbevel ingevolge subartikel (5), enige handeling beoog in subartikel (1) verrig waar daardie handeling dringend vereis word om dood, besering van persone of wesenlike skade aan eiendom te voorkom.

(7) Die Provinsiale Minister kan met die nodige werkers, toerusting en voertuie oor grond beweeg om toegang tot ander grond te kry vir die doeleindes bedoel in subartikel (2), met die skriftelike toestemming van die betrokke eienaar van die eersgenoemde grond of gemagtigde persoon, en, indien sodanige toestemming geweier word, is subartikels (3), (4), (5) en (6) van toepassing, met die nodige veranderinge.

(8) Waar toegang ingevolge hierdie artikel verkry word tot grond wat afgesper word met 'n heining sonder 'n hek, kan die Provinsiale Minister 'n hek in die heining oprig, wat beman moet word en, wanneer onbeman, van 'n slot voorsien moet wees en behoorlik gesluit moet word.

Toegang tot en uitgang vanaf provinsiale paaie en paaie van gemeenskaplike belang

37. (1) Behoudens subartikel (3) mag geen persoon 'n provinsiale pad of pad van gemeenskaplike belang deur middel van voertuig- of niegemotoriseerde vervoer binnegaan of verlaat buiten deur 'n wettiglik opgerigte ryvlak, hek, brug, oorklimtrap of ander deurgang sonder die vooraf verkreë skriftelike toestemming van die Departementshoof, op aansoek op die voorgeskrewe wyse, nie.

(2) Behoudens subartikels (3) en (5) mag geen persoon—

(a) 'n ingang tot of uitgang vanaf 'n provinsiale pad of pad van gemeenskaplike belang bou of verskaf op enige wyse wat aan voertuig- of niegemotoriseerde vervoer toelaat om toegang tussen die pad en enige eiendom aangrensend tot die pad te verkry nie; of

(*b*) 'n verbinding tussen 'n eiendom bedoel in paragraaf *(a)* en enige ander aangrensende eiendom of eiendomme verskaf wat voertuig- of niegemotoriseerde vervoer toelaat om die ingang of uitgang tot die pad beoog in daardie paragraaf te gebruik nie,

sonder die vooraf verkreë skriftelike toestemming van die Departementshoof op aansoek op die voorgeskrewe wyse.

(3) Subartikel (1) en (2) is nie van toepassing nie op 'n wettiglik opgerigte toegangsryvlak, -hek, -brug, oorklimtrap of ander deurgang wat onmiddellik voor die inwerkingtreding van hierdie Wet bestaan het en nie op enige tydstip daarna gesluit of verwyder is nie.

(4) 'n Grondeienaar met toegang tot 'n provinsiale pad of pad van gemeenskaplike belang kan op die voorgeskrewe wyse by die Departementshoof aansoek doen om skriftelike toestemming om die toegang te verskuif, met dien verstande dat, waar die aansoek toegestaan word, die Departement nie aanspreeklik is om by te dra tot die koste van die verskuiwing van die toegang nie.

(5) Die Departementshoof mag nie 'n aansoek om toegang bedoel in subartikel (2) deur die eienaar van 'n onderverdeelde eiendom as gevolg van die onderverdeling van sy of haar oorspronklike eiendom weier nie indien, deur dit te doen, geen ander redelike toegang tot of uitgang vanaf die onderverdeelde eiendom of na of vanaf die provinsiale pad of pad van gemeenskaplike belang beskikbaar is nie, waar—

(*a*) 'n landmeter voor die inwerkingtreding van hierdie Wet die onderverdeelde eiendom opgemeet het en 'n diagram daarvan by die Landmeter-generaal ingedien het; en

(*b*) ná die opmeting van die eiendom en die datum van indiening van die diagram by die Landmeter-generaal en voor die inwerkingtreding van hierdie Wet, 'n persoon buiten die eienaar van die eiendom waarvan die onderverdeelde eiendom 'n gedeelte uitgemaak het toe die genoemde opmeting gemaak is 'n koopooreenkoms verkry of gesluit het, om die eienaarskap van daardie onderverdeelde eiendom te verkry,

tensy die ryvlak, hek, brug, oorklimtrap of ander deurgang wat vir toegang tot of uitgang vanaf die pad gebruik staan te word, onveilig is of strydig is met standaarde, spesifikasies en riglyne wat die Departementshoof vir toegang tot die pad bepaal het.

(6) By oorweging van 'n aansoek om 'n aktiwiteit bedoel in artikel (1), om toegang bedoel in subartikel (2) of om die verskuiwing van 'n toegang ingevolge subartikel (4), moet die Departementshoof die volgende in ag neem:

(*a*) die impak van die voorgestelde aktiwiteit op provinsiale verkeer en provinsiale vervoerbedrywighede;

(*b*) die inligting vervat in enige toepaslike ruimtelike ontwikkelingsraamwerk en verkeersaarbestuursplan;

(*c*) standaarde, spesifikasies en riglyne bepaal deur die Departementshoof; en

(*d*) enige vereistes voorgeskryf deur die Provinsiale Minister.

(7) Die Departementshoof kan, wanneer hy of sy skriftelike goedkeuring ingevolge subartikel (2) verleen, voorwaardes oplê, insluitende die bepaling van die aard van die toegangsryvlak, -hek, -brug, oorklimtrap of ander toegang en die plek waar en wyse waarop dit gebou moet word.

(8) Die bepalings van artikel 57 is van toepassing indien subartikel (1), (2), of (4) oortree word.

Verskuiwing of sluiting van toegang tot of uitgang vanaf pad

38. (1) Die Departementshoof kan, by skriftelike lasgewing wat die redes vir die lasgewing vermeld, 'n grondeienaar wat wettiglik 'n toegang tot of uitgang vanaf 'n provinsiale pad opgerig het, gelas om die toegang of uitgang te verskuif, te beperk of te sluit, op die wyse en in die mate en vir die tydperk wat in die kennisgewing vermeld word of permanent.

(2) Waar die verskuiwing, beperking of sluiting ingevolge subartikel (1) van enige toegang tot of uitgang vanaf 'n provinsiale pad die verandering, beperking, heroprigting of herkonstruksie van enige hek of oprit noodsaak, moet die Departementshoof, behoudens subartikels (3) en (4)—

(*a*) die werk wat aldus genoodsaak word, uitvoer; of

(*b*) die betrokke eienaar toelaat om die werk te verrig op die onkoste van die Departement ooreenkomstig die standaarde, spesifikasies en riglyne gestel deur die Departementshoof.

(3) Die aanspreeklikheid van die Departement ingevolge subartikel (2) is beperk tot die koste van die vervanging van hekke of opritte van ’n soortgelyke standaard as wat ingevolge subartikel (2) vereis word om verskuif, beperk, heropgerig of herbou te word.

(4) Die Departementshoof is nie aanspreeklik vir die koste van die vervanging van enige hek of oprit waar die toegang tot of uitgang vanaf die betrokke pad strydig met enige wet verkry is nie.

Beperkings op veranderinge in grondgebruik

39. (1) ’n Persoon wat by ’n munisipaliteit aansoek doen om die goedkeuring van ’n ontwikkeling wat ’n verandering of intensivering van grondgebruik of die onderverdeling van grond behels binne—

(a) 95 meter vanaf die middellyn van ’n provinsiale pad of ’n pad van gemeenskaplike belang, reghoekig tot die middellyn gemeet, buite ’n stedelike gebied; of

(b) 50 meter vanaf die middellyn van ’n provinsiale pad of ’n pad van gemeenskaplike belang, reghoekig tot die middellyn gemeet, in ’n stedelike gebied,

moet, benewens die verkryging van die toestemming van die munisipaliteit, op die voorgeskrewe wyse die vooraf skriftelike toestemming van die Departementshoof verkry in verband met die impak van die ontwikkeling waarom aansoek gedoen word op—

(i) provinsiale verkeer en provinsiale vervoerbedrywighede;

(ii) enige daaropvolgende vereiste vir die oprigting van ’n nuwe padbaan, hek, brug, oorklimtrap of ander deurgang om toegang tot ’n provinsiale pad of pad van gemeenskaplike belang te verkry; en

(iii) enige daaropvolgende vereiste vir ’n verandering aan ’n bestaande padbaan, hek, brug, oorklimtrap of ander deurgang om toegang tot ’n provinsiale pad of pad van gemeenskaplike belang te kry.

(2) Die skriftelike toestemming beoog in subartikel (1)—

(a) in die omstandighede beoog in subparagraaf (i) van subartikel (1)—

(i) kan die oplegging van voorwaardes wat verband hou met provinsiale verkeer en provinsiale vervoerbedrywighede insluit;

(ii) mag geweier word slegs indien die impak van die goedkeuring waarvoor aansoek gedoen word op provinsiale verkeer en provinsiale vervoerbedrywighede nie deur die oplegging van voorwaardes beoog in paragraaf *(a)* versag kan word nie;

(b) in die omstandighede beoog in subparagrawe (ii) en (iii) van subartikel (1)—

(i) kan die oplegging van voorwaardes beoog in artikel 37(7) insluit;

(ii) moet deur die faktore gelys in artikel 37(6) gelei word.

(3) Indien ’n munisipaliteit ’n onderverdeling van grond beoog in subartikel (1) goedgekeur het, moet die aansoeker, wanneer die inligting beoog in artikel 36(7) van die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014 (Wet 3 van 2014), ingedien word, by die Landmeter-generaal die skriftelike toestemming van die Departementshoof beoog in subartikel (1) indien.

(4) ’n Persoon beoog in subartikel (1) mag nie ’n ontwikkeling beoog in daardie subartikel onderneem nie tensy die Departementshoof sy of haar skriftelike toestemming soos beoog in subartikel (1), saamgelees met subartikel (2), verleen het.

(5) Voor ’n munisipaliteit ’n aansoek om ’n ontwikkeling beoog in subartikel (1) goedkeur, moet hy die vooraf skriftelike kommentaar van die Departementshoof verkry.

Afstandaanwysers, padwysers en waarskuwings op paaie

40. (1) Behoudens die Nasionale Padverkeerswet—

(a) moet die Departementshoof, behoudens subartikels (2) en (3), rigtingaanwysers oprig en in stand hou op provinsiale paaie by die aanloop tot en by die kruisings met elke ander provinsiale pad, pad van gemeenskaplike belang en nasionale pad;

(b) kan die Departementshoof verkeerstekens, stoptekens, toegeetekens en enige ander verkeersbeheertoestel of verkeersteken op provinsiale paaie oprig en in stand hou wat nodig is vir die veiligheid en wegwysing van die publiek.

(2) Die Departementshoof kan die funksionele klasse van provinsiale paaie bepaal ten opsigte waarvan rigtingaanwysers soos beoog in subartikel (1)*(a)* opgerig en in stand gehou moet word.

Versperrings en vry ruimtes

41. (1) Die Departementshoof kan, by skriftelike kennisgewing, van die eienaar of gemagtigde persoon van enige grond wat grens aan—

(a) 'n provinsiale pad;
(b) 'n spoorlyn;
(c) bykomstige vervoerinfrastruktuur,

vereis om die hoogte of breedte te verminder van enige boom, bos, plantegroei, muur, heg, heining of enige ander versperring wat 'n uitwerking het op daardie pad of spoorlyn of die kruising met enige ander pad of spoorlyn wat die sig van 'n bestuurder moontlik kan belemmer of onveilige toestande moontlik kan veroorsaak, tot 'n hoogte, breedte of lengte vermeld in die kennisgewing.

(2) Die bepalings van artikel 57 is van toepassing indien die eienaar of gemagtigde persoon versuim om aan 'n kennisgewing beoog in subartikel (1) binne die tyd vermeld in die kennisgewing te voldoen.

Heinings langs of binne grense van vervoerinfrastruktuur

42. (1) Die Departementshoof kan 'n heining oprig—

(a) langs of binne die grens van vervoerinfrastruktuur;
(b) rondom grond van waar materiale deur die Provinsie vir die doeleindes beoog in artikel 36(1) of (2) uitgehaal en verwyder word of is; of
(c) rondom 'n watervoorraad wat die Provinsie verskaf of gebruik vir die doeleindes beoog in artikel 36(1) of (2).

(2) Die Departement moet die redelike koste dek wat aangegaan word deur 'n persoon wat langs die grens van vervoerinfrastruktuur 'n heining oprig volgens die standaarde, spesifikasies en riglyne goedgekeur deur die Departementshoof as gevolg van—

(a) 'n kennisgewing uitgereik ingevolge artikel 43(4)*(a)* wat die oprigting van 'n hek verbied; of
(b) die verwydering deur die Departementshoof van een of meer hekke wat wettiglik opgerig is, vanaf die vervoerinfrastruktuur ingevolge artikel 43(4)*(b)*.

(3) Die Departement kan tot die koste bydra wat 'n persoon aangaan wat langs die grens van vervoerinfrastruktuur 'n heining oprig of 'n beskadigde heining herstel in gevalle wat nie in subartikel (2) beoog word nie, indien die heining volgens standaarde, spesifikasies en riglyne goedgekeur deur die Departementshoof gebou word.

(4) Tensy anders ooreengekom, is die Departement nie aanspreeklik nie vir die betaling van enige bykomende koste aangegaan deur 'n persoon wat 'n heining oprig, insluitende wildheinings, volgens spesifikasies van 'n hoër standaard as wat die Departementshoof vereis.

(5) Geen persoon buiten die Departementshoof mag—

(a) 'n heining oprig op of binne die grense van enige vervoerinfrastruktuur nie, sonder die vooraf verkreë skriftelike toestemming van die Departementshoof op aansoek op die voorgeskrewe wyse en ooreenkomstig standaarde, spesifikasies en riglyne bepaal deur die Departementshoof;
(b) sonder die vooraf verkreë skriftelike toestemming van die Departementshoof op aansoek op die voorgeskrewe wyse 'n heining verwyder wat ooreenkomstig hierdie artikel op of binne die grense van enige vervoerinfrastruktuur opgerig is nie.

(6) Die Departementshoof mag nie skriftelike toestemming verleen vir die verwydering van 'n heining bedoel in subartikel (5)*(b)* nie, tensy—

(a) die toestand van die heining die vervanging daarvan noodsaak; of
(b) die eienaar van die grond waarop dit geleë is, skriftelik onderneem om die koste van die verwydering en die heroprigting van die heining ooreenkomstig standaarde, spesifikasies en riglyne bepaal deur die Departementshoof te dra.

(7) Alle heinings wat onmiddellik voor die inwerkingtreding van hierdie Wet wettiglik op of binne die grense van vervoerinfrastruktuur opgerig is en bestaan, word geag behoorlik en met die toestemming van die Departementshoof opgerig te wees.

(8) Die Departementshoof kan te eniger tyd 'n heining bedoel in subartikel (7) verwyder, maar moet dit vervang met 'n heining op of binne die grens van die betrokke vervoerinfrastruktuur op die onkoste van die Departement.

(9) Waar vervoerinfrastruktuur verskuif word, moet die Departementshoof, indien 'n bestaande grensheining vir hom of haar aanvaarbaar is—

(a) die heining na 'n nuwe ligging van die vervoerinfrastruktuur skuif en dit volgens die standaard van die bestaande heining oprig; of

(b) waar die eienaar van die aangrensende eiendom die heining skuif, daardie persoon vir die verskuiwing en oprigting van die heining vergoed, op die voorwaarde dat dit volgens die standaard van die bestaande heining opgerig is.

(10)*(a)* Behoudens die Omheiningswet, 1963 (Wet 31 van 1963), moet die eienaar van grond aangrensend tot die grens van vervoerinfrastruktuur 'n heining wat wettiglik op of binne daardie grens opgerig is, in stand hou.

(b) Die Departement kan tot die koste van die instandhouding beoog in paragraaf *(a)* bydra.

(11) Waar 'n heining op of binne die grens van vervoerinfrastruktuur beskadig is—

(a) deur die eienaar van die aangrensende grond, moet herstelwerk nie later nie as 21 dae ná die ontstaan van die skade deur die betrokke eienaar onderneem word; en

(b) totdat herstelwerk voltooi is, is die eienaar van die aangrensende grond daarvoor verantwoordelik om toe te sien dat geen vee wat gebruikers van die vervoerinfrastruktuur in gevaar kan stel, die vervoerinfrastruktuur betree nie.

(12) Die Departementshoof kan te eniger tyd, op die onkoste van die Departement, 'n heining wat ingevolge hierdie artikel opgerig is of geag word opgerig te wees, vervang.

(13) Die bepalings van artikel 57 is van toepassing indien subartikel (5) oortree word.

Hekke oor paaie

43. (1) Geen persoon mag 'n hek oor 'n provinsiale pad oprig sonder die vooraf verkreë skriftelike toestemming van die Departementshoof nie, op aansoek op die voorgeskrewe wyse en ooreenkomstig standaarde, spesifikasies en riglyne goedgekeur deur die Departementshoof.

(2) In die geval van provinsiale paaie wat primêre, hoof- of distrikspaaie is buite 'n stedelike gebied, mag die toestemming beoog in subartikel (1) nie verleen word nie, tensy—

(a) die Departementshoof bereid is om 'n motorhek oor die ryvlak langs die hek te bou; en

(b) die persoon wat om toestemming aansoek doen, ingestem het om die koste van die konstruksie van die motorhek te dra en sekuriteit aan die Departement verskaf het vir die volle geraamde koste daarvan;

(c) kommentaar, op die voorgeskrewe wyse, van belanghebbende en geraakte partye aangevra is;

(d) die Departementshoof enige kommentaar wat uit hoofde van paragraaf *(c)* ontvang is, oorweeg het.

(3) In die omstandighede beoog in subartikel (2) mag die hek nie gebou word totdat die motorhek voltooi is nie, wat so gou as moontlik ná betaling van die sekuriteit beoog in subartikel (2)*(b)* gebou moet word.

(4) Die Departementshoof kan—

(a) by kennisgewing in die *Provinsiale Koerant* of by regulasie, die oprigting van 'n hek oor enige soort of kategorie provinsiale pad of pad van gemeenskaplike belang of gedeelte van 'n provinsiale pad of pad van gemeenskaplike belang verbied;

(b) van 'n persoon aan wie toestemming ingevolge subartikel (1) of die Ordonnansie verleen is, vereis om 'n hek te verwyder.

(5) Voor die Departementshoof ingevolge subartikel (4) handel, moet hy of sy binne 'n redelike tyd voor die voorgenome verwydering, op die voorgeskrewe wyse, kommentaar van belanghebbende en geraakte partye aanvra—

(a) van sy of haar voorneme om die hek te verwyder;

(b) wat vermeld dat besware voor 'n datum vermeld in die kennisgewing ingedien kan word.

(6) Geen persoon mag, te eniger tyd, enige hek wat deur die Departementshoof goedgekeur is, oor 'n provinsiale pad sluit of deur middel van 'n hek oor sodanige pad die publiek onbeperkte toegang weier nie.

(7) Die bepalings van artikel 57 is van toepassing indien subartikel (1), of 'n verbod opgelê kragtens artikel 4*(a)*, oortree word.

Motorhekke

44. (1) Die Departementshoof kan 'n motorhek oor 'n provinsiale pad bou, sluit of verskuif, mits die motorhek, waar nodig, 'n hek daarnaas in werking het.

(2) Voor die Departementshoof kragtens subartikel (1) handel, moet hy of sy op die voorgeskrewe wyse kommentaar oor die voorgenome handeling van belanghebbende en geraakte partye aanvra.

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

(4) Wanneer die Provinsiale Minister ingevolge artikel 43(4)*(b)* 'n hek verwyder, kan hy of sy ook 'n motorhek wat saam met daardie hek werk, verwyder.

Mynbedrywighede op of onder vervoerinfrastruktuur, paaie van gemeenskaplike belang of boubeperkingsgebiede

45. (1) Geen persoon mag op of onder enige vervoerinfrastruktuur, pad van gemeenskaplike belang of boubeperkingsgebied enige mynbedrywighede uitvoer sonder die vooraf verkreë skriftelike toestemming van die Departementshoof op aansoek op die voorgeskrewe wyse nie.

(2) 'n Aansoek beoog in subartikel (1) mag toegestaan of geweier word met inagneming van—

(a) ten opsigte van 'n pad, die impak van die voorgestelde mynbedrywighede op provinsiale verkeer en provinsiale vervoerbedrywighede;

(b) ten opsigte van bykomstige vervoerinfrastruktuur, die impak van die voorgestelde mynbedrywighede op die betrokke infrastruktuur, met inagneming van die aard en doel van daardie infrastruktuur;

(c) ten opsigte van 'n spoorlyn, die impak van die voorgestelde mynbedrywighede op spoorveiligheid en -werking.

(3) Die bepalings van artikel 57 is van toepassing indien subartikel (1) oortree word.

Handel dryf op of in vervoerinfrastruktuur of boubeperkingsgebiede

46. (1) Geen persoon mag, sonder die vooraf verkreë skriftelike toestemming van die Departementshoof, op aansoek op die voorgeskrewe wyse, of strydig met die bepalings van sodanige toestemming, handel dryf, goedere verkoop of uitstal of goedere te koop aanbied of vervaardig op of in of binne 'n boulyn of 'n boubeperkingsgebied van vervoerinfrastruktuur nie.

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

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

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

(3) 'n Aansoek beoog in subartikel (1) kan toegestaan word of geweier word met inagneming van—

(a) ten opsigte van 'n pad, die impak van die voorgestelde aktiwiteit op provinsiale verkeer en provinsiale vervoerbedrywighede;

(b) ten opsigte van bykomstige vervoerinfrastruktuur, die impak van die voorgestelde aktiwiteit op die betrokke infrastruktuur met inagneming van die aard en doel van daardie infrastruktuur;

(c) ten opsigte van 'n spoorlyn, die impak van die voorgestelde aktiwiteit op spoorveiligheid en -werking.

(4) Subartikel (1) is nie van toepassing op 'n persoon wat sake gedoen het op enige grond voor die verklaring van vervoerinfrastruktuur oor daardie grond en ná die verklaring voortgaan met die sakebedrywighede nie, tensy daardie persoon by skriftelike kennisgewing deur die Departementshoof gelas is om dit te staak ter wille van padveiligheid of die werking van verkeer op die vervoerinfrastruktuur.

(5) Die bepalings van artikel 57 is van toepassing indien subartikel (1) oortree word.

Strukture buiten diensinfrastruktuur binne reserwes of boulyne of in boubeperkingsgebiede van vervoerinfrastruktuur of paaie van gemeenskaplike belang

47. (1) Ondanks enige ander wet, maar behoudens subartikel (3) of (4), mag geen persoon sonder die vooraf verkreë skriftelike toestemming van die Departementshoof op aansoek op die voorgeskrewe wyse, en ooreenkomstig standaarde, spesifikasies en riglyne goedgekeur deur die Departementshoof 'n aktiwiteit bedoel in subartikel (2) onderneem of laat onderneem of toelaat dat dit onderneem word nie—

(a) op of binne die reserwe van;

(b) binne die boulyne van; of

(c) binne 'n boubeperkingsgebied van,

vervoerinfrastruktuur of 'n pad van gemeenskaplike belang.

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

(a) die oprigting of installering van 'n struktuur of enigiets wat vas is aan die grond waarop dit staan, insluitende 'n struktuur of enigiets wat nie deel uitmaak van daardie grond nie;

(b) die konstruksie of lê van enigiets onder die oppervlakte van die grond;

(c) die konstruksie van enigiets wat oor die grond uitsteek; of

(d) die aanbring van 'n strukturele byvoeging tot of verandering aan enige struktuur of enigiets bedoel in paragraaf *(a)*, *(b)* of *(c)*.

(3) Subartikel (1) is nie van toepassing nie op—

(a) die voltooiing van 'n struktuur waarvan die oprigting voor die inwerkingtreding van hierdie Wet begin het of voor die beperking opgelê deur 'n boulyn of boubeperkingsgebied in werking getree het; of

(b) enige diensinfrastruktuurwerke.

(4) Paragrawe *(b)* en *(c)* van subartikel (1) is nie van toepassing op 'n omheining, heining, muur of heg wat nie hoër as 1,8 meter bo die oppervlak van die grond waarop dit staan, is nie.

(5) 'n Aansoek bedoel in subartikel (1) kan toegestaan of geweier word met inagneming van—

(a) ten opsigte van 'n pad, die impak van die voorgestelde aktiwiteit op provinsiale verkeer en provinsiale vervoerbedrywighede;

(b) ten opsigte van bykomstige vervoerinfrastruktuur, die impak van die voorgestelde aktiwiteit op die betrokke infrastruktuur, met inagneming van die aard en doel van daardie infrastruktuur;

(c) ten opsigte van 'n spoorlyn, die impak van die voorgestelde aktiwiteit op spoorveiligheid en -werking.

(6) Wanneer die Departementshoof skriftelike toestemming ingevolge subartikel (5) verleen, kan die Departementshoof voorwaardes oplê, insluitende:

(a) spesifikasies waaraan die struktuur, voorwerp, byvoeging of verandering moet voldoen;

(b) die wyse waarop en omstandighede waarin, die plek waar en die voorwaardes waarop dit opgerig, geïnstalleer, gebou of gelê kan word;

(c) pligte wat die grondeienaar, die aansoeker of ander persone ten opsigte van die voorgestelde aktiwiteite moet nakom;

(d) 'n plig om die Provinsie te vergoed vir koste aangegaan by die monitering van die aktiwiteite bedoel in paragrawe *(a)*, *(b)* en *(c)*, hetsy voor die begin van die werk of op 'n later stadium;

(e) 'n plig om huurgeld soos bepaal deur die Departementshoof te betaal vir die gebruik of okkupasie van grond wat die Provinsie besit of wat onder sy of haar gesag is;

(f) enige ander voorwaarde wat hy of sy nodig ag.

(7) Indien toestemming ingevolge subartikel (5) toegestaan word op voorwaarde dat 'n struktuur of voorwerp op 'n later stadium verwyder kan word, is geen vergoeding vir die verwydering aan die eienaar van die struktuur of voorwerp, of aan sy of haar regsopvolgers, betaalbaar nie, tensy anders ooreengekom met die Departementshoof.

(8) Die bepalings van subartikel 57 is van toepassing indien subartikel (1), saamgelees met subartikel (2), oortree word.

(9) Ondanks subartikels (3)*(a)* en (8) kan die Departementshoof 'n struktuur of voorwerp beoog in subartikel (2) wat opgerig, geïnstalleer, gebou of gelê is voor die datum waarop die betrokke vervoerinfrastruktuur kragtens artikel 22(1) verklaar is of die pad kragtens artikel 6(1) as 'n pad van gemeenskaplike belang verklaar is, verwyder of skuif na 'n plek wat hy of sy bepaal.

(10) Waar die Departementshoof ’n struktuur of voorwerp wat aldus opgerig, geïnstalleer, gebou of gelê is, verwyder of skuif, kan die Departementshoof die koste van die verwydering of verskuiwing van die persoon verhaal wat die struktuur beoog in subartikel (3)*(a)* opgerig het.

HOOFSTUK 11

DIENSINFRASTRUKTUUR

Toestemming vir diensinfrastruktuurwerke

48. (1) Ondanks enige ander wet mag geen diensverskaffer sonder die vooraf verkreë skriftelike toestemming van die Departementshoof, op aansoek op die voorgeskrewe wyse, diensinfrastruktuurwerke verrig binne—

(a) ’n reserwe;
(b) boulyne; of
(c) ’n boubeperkingsgebied,

van vervoerinfrastruktuur of paaie van gemeenskaplike belang nie.

(2) ’n Aansoek beoog in subartikel (1) kan toegestaan of geweier word met inagneming van—

(a) ten opsigte van ’n pad, die impak van die voorgestelde aktiwiteit op provinsiale verkeer en provinsiale vervoerbedrywighede;
(b) ten opsigte van bykomstige vervoerinfrastruktuur, die impak van die voorgestelde aktiwiteit op die betrokke infrastruktuur, met inagneming van die aard en doel van daardie infrastruktuur;
(c) ten opsigte van ’n spoorlyn, die impak van die voorgestelde aktiwiteit op spoorveiligheid en -werking.

(3) Subartikel (1) is nie van toepassing nie op diensinfrastruktuur wat wettiglik begin is voor—

(a) die inwerkingtreding van hierdie Wet; of
(b) die verklaring van die betrokke reserwe, boulyn of boubeperkingsgebied.

Standaarde, spesifikasies, riglyne en gelde

49. (1) Die Departementshoof kan standaarde, spesifikasies en riglyne stel vir die verrigting van diensinfrastruktuurwerke deur ’n diensverskaffer, insluitende—

(a) aangeleenthede beoog in artikel 51;
(b) die minimum kwalifikasie en registrasievereistes vir ’n kontrakteur wat toegelaat word om diensinfrastruktuurwerke te verrig;
(c) die minimum kwalifikasie en die pligte van die onafhanklike professionele persoon wat oor die diensinfrastruktuurwerke toesig moet hou;
(d) vereistes vir—
  (i) gesondheids- en veiligheidsmaatreëls;
  (ii) verkeersakkommodasie;
  (iii) die verrigting van diensinfrastruktuurwerke;
  (iv) die gebruik van ’n metode wat nie in die sypaadjie van ’n ryvlak insny nie;
  (v) die verskaffing van spaarkapasiteit in ’n pypleiding, tonnel, mangat of soortgelyke diensinfrastruktuur vir gebruik deur ander diensverskaffers;
  (vi) die herstel van enige skade aan vervoerinfrastruktuur of pad van gemeenskaplike belang;
  (vii) die herstel van die terrein by voltooiing van die diensinfrastruktuurwerke;
  (viii) die lewering aan die Departementshoof van soosgeboutekeninge van die diensinfrastruktuurwerke;
  (ix) die toekomstige verandering, opgradering, vervanging, herstel, instandhouding, rehabilitasie, herkonstruksie, verskuiwing of verwydering van hetsy die diensinfrastruktuur, vervoerinfrastruktuur of pad van gemeenskaplike belang;
(e) ’n deposito, waarborg of sekuriteit om die moontlike koste van die herstel van enige skade wat diensinfrastruktuurwerke moontlik aan vervoerinfrastruktuur kan aanrig, te dek;
(f) versekering vir openbare aanspreeklikheid;

(g) die maksimum duur van diensinfrastruktuurwerke; en

(h) ander tersaaklike spesifikasies.

(2) Die Provinsiale Minister kan gelde, soos voorgeskryf, betaalbaar deur die diensverskaffer vir die aansoek en die koste aan die Provinsie met betrekking tot die diensinfrastruktuurwerke oplê.

Besluit oor aansoek

50. (1) Die Departementshoof moet oor 'n aansoek beoog in artikel 48(1) besluit binne 90 dae vanaf—

(a) ontvangs van 'n aansoek wat, tot die tevredenheid van die Departementshoof, aan die inligtingsvereistes ingevolge artikels 48 en 49 voldoen; en

(b) betaling van die gelde beoog in artikel 49(2).

(2) Indien die Departementshoof, ná oorleg met die diensverskaffer, van mening is dat dit gepas is om dit te doen, kan die Departementshoof, op die onkoste van die diensverskaffer, 'n professionele persoon aanstel om die Departementshoof met betrekking tot 'n aansoek beoog in artikel 48(1) raad te gee.

(3) 'n Skriftelike toestemming beoog in artikel 48(1) moet die volgende uiteensit:

(a) die besonderhede van—

(i) die diensverskaffer;

(ii) elke kontrakteur wat toegelaat word om die diensinfrastruktuurwerke te verrig; en

(iii) indien van toepassing, die onafhanklike professionele persoon wat oor die diensinfrastruktuurwerke toesig moet hou;

(b) die gemagtigde horisontale en vertikale gerigtheid van die diensinfrastruktuur;

(c) enige afwyking van die standaarde, spesifikasies en riglyne wat toegestaan word;

(d) enige voorwaarde ingevolge waarvan die diensverskaffer die diensinfrastruktuur kan ontplooi;

(e) enige plig om spaarkapasiteit in 'n bestaande of beplande pypleiding, tonnel, mangat of soortgelyke diensinfrastruktuur te gebruik; en

(f) die standaarde, spesifikasies en riglyne bedoel in artikel 49(1) waaraan die diensverskaffer moet voldoen, tesame met enige bykomende of spesifieke standaarde, spesifikasies en riglyne wat nie gedek word in die standaarde, spesifikasies en riglyne wat ingevolge artikel 49(1) gepubliseer is nie.

Verrigting van diensinfrastruktuurwerke

51. (1) Wanneer 'n diensverskaffer diensinfrastruktuurwerke binne 'n reserwe, boulyne of 'n boubeperkingsgebied verrig, moet die diensverskaffer—

(a) aan die bepalings van die skriftelike toestemming beoog in artikel 48(1) voldoen;

(b) aan die standaarde, spesifikasies en riglyne beoog in artikel 49 voldoen, behalwe waar die Departementshoof 'n afwyking soos beoog in artikel 50(3)*(c)* toestaan;

(c) nie 'n kontrakteur toelaat om die diensinfrastruktuurwerke te verrig, of 'n persoon toelaat om oor sodanige werke toesig te hou wat nie in die skriftelike toestemming beoog in artikel 48(1) gemagtig is nie;

(d) die publiek beveilig;

(e) vervoerinfrastruktuur en paaie van gemeenskaplike belang en openbare en privaat eiendom beskerm teen redelik voorkombare skade, en skade wat nie redelikerwys voorkom kan word nie, minimaliseer; en

(f) aan behoorlike ingenieurspraktyke en -standaarde voldoen rakende enige aangeleentheid wat nie in die skriftelike toestemming beoog in artikel 48(1) of 49 hanteer of ten volle hanteer word nie.

(2) 'n Diensverskaffer mag nie sonder die vooraf verkreë skriftelike toestemming van die Departementshoof nuwe diensinfrastruktuur binne 'n reserwe, boulyne of 'n boubeperkingsgebied ontplooi indien daar spaarkapasiteit in enige bestaande diensinfrastruktuur op dieselfde roete is nie.

(3) Indien die Departementshoof, ná oorleg met die diensverskaffer, van mening is dat dit gepas is om dit te doen, kan die Departementshoof, op die onkoste van die diensverskaffer, 'n professionele persoon aanstel om oor die diensinfrastruktuurwerke

toesig te hou om toe te sien dat die diensverskaffer sy pligte kragtens hierdie Hoofstuk nakom en om die belange van die Provinsie ten opsigte van vervoerinfrastruktuur en paaie van gemeenskaplike belang te beskerm.

Eienaarskap en beheer van spaarkapasiteit

52. Ondanks enige ander wet—

(a) besit die Provinsie die spaarkapasiteit in enige pypleiding, tonnel, mangat of soortgelyke diensinfrastruktuur geleë in of vas aan grond of vervoerinfrastruktuur wat die Provinsie besit, en het die Provinsie die eksklusiewe reg om dit te beheer; en

(b) geen persoon mag 'n diensverskaffer toegang tot 'n pypleiding, tonnel, mangat of soortgelyke diensinfrastruktuur beoog in paragraaf *(a)* weier of beperk indien die Departementshoof van die diensverskaffer vereis om beskikbare spaarkapasiteit te deel nie.

Vergoeding

53. (1) Ondanks enige ander wet is 'n diensverskaffer aanspreeklik om aan die Provinsie redelike vergoeding te betaal in verhouding tot die nadeel gely deur die Provinsie en die voordeel wat die diensverskaffer trek uit die diensverskaffer se gebruik van die grond vir diensinfrastruktuur ten opsigte van vervoerinfrastruktuur, ongeag of die diensinfrastruktuur onder of op die grond, in die lug of vasgemaak aan 'n struktuur is.

(2) Die Departementshoof kan 'n formule bepaal om as 'n riglyn te dien vir die vergoeding wat betaalbaar is.

(3) Die Departementshoof en die diensverskaffer kan ooreenkom oor vergoeding gelyk aan, hoër of laer as die bedrag wat ooreenkomstig enige formule beoog in subartikel (2) bereken is, en oor die tyd en wyse van betaling.

(4) Waar geen ooreenkoms beoog in subartikel (3) bestaan nie, moet 'n hof die bedrag van vergoeding en die tyd en wyse van betaling bepaal.

(5) Die diensverskaffer mag nie met die diensinfrastruktuurwerke begin of voortgaan totdat daar ooreengekom is of 'n hof beslis het oor die bedrag van vergoeding en die tyd en wyse van betaling nie.

(6) Subartikel (1) is van toepassing op die gebruik van grond vanaf die datum van inwerkingtreding van hierdie Wet, ongeag of die diensinfrastruktuur voor of ná die inwerkingtreding van hierdie Wet ontplooi is.

Verskuiwing

54. (1) Ondanks enige ander wet, en tensy die Departementshoof anders ooreenkom, moet die betrokke diensverskaffer—

(a) op die onkoste van die diensverskaffer, diensinfrastruktuur in 'n reserwe, boulyne of 'n boubeperkingsgebied verskuif indien die Departementshoof sodanige verskuiwing nodig ag vir provinsiale vervoerinfrastruktuurwerke of die doeltreffende en veilige werking van provinsiale verkeer; en

(b) die koste van vervoerinfrastruktuurwerke wat die Departementshoof ag genoodsaak word weens diensinfrastruktuurwerke, betaal.

(2) Ondanks subartikel (1) kan die Departementshoof, op die onkoste van die Provinsie, diensinfrastruktuur wat ontplooi is voor die betrokke vervoerinfrastruktuur verklaar is, verskuif.

Afdwingingsbepalings ten opsigte van diensinfrastruktuur

55. Die bepalings van artikel 57 is van toepassing indien artikel 48(1), saamgelees met artikel 50(3) of 51(2), oortree word.

HOOFSTUK 12

ALGEMENE BEPALINGS

Aansoeke en skriftelike toestemmings

56. (1) Waar 'n aansoeker nie die eienaar van grond is waarmee 'n aansoek ingevolge enige bepaling van hierdie Wet verband hou nie, moet die aansoeker tot die tevredenheid van die Departementshoof bewys lewer dat hy of sy gemagtig is om namens die eienaar te onderhandel en dat die voorstel vir die eienaar aanvaarbaar is.

(2) By die verlening van 'n skriftelike toestemming ingevolge artikel 32(1), 37(1), (2), of (4), 39(1), 42(5), 43(1), 45(1), 46(1), 47(1), 48(1), 51(2) of 67(3), kan die Departementshoof of die Provinsiale Minister, na gelang van die geval—

(a) redelike voorwaardes oplê, insluitende 'n vereiste om 'n ooreenkoms te sluit oor die verskaffing van ingenieursdienste of installasies en materiaal vir vervoerinfrastruktuur wat met die betrokke toestemming verband hou;

(b) op aansoek, 'n voorwaarde wysig, opskort of intrek;

(c) toestemming weerhou van 'n aansoeker wat, na die mening van die Departementshoof of die Provinsiale Minister, soos van toepassing, in stryd is met 'n bepaling van hierdie Wet waarmee die skriftelike toestemming waarvoor aansoek gedoen is, verband hou.

(3) 'n Skriftelike toestemming beoog in subartikel (2) is oordraagbaar tensy 'n voorwaarde beoog in subartikel (2)*(a)* vermeld dat die toestemming onoordraagbaar is.

(4) Behoudens hierdie Wet, indien—

(a) 'n aktiwiteit gemagtig deur 'n skriftelike toestemming begin of voltooi is; en

(b) die grond waarop die skriftelike toestemming betrekking het, verkoop is ná die toestaan van die betrokke skriftelike toestemming,

bind die voorwaardes van daardie skriftelike toestemming die opvolgers in titel tot die betrokke grond.

(5) Die Registrateur van Aktes met jurisdiksie moet—

(a) op die skriftelike versoek van die Departementshoof, 'n voorwaarde beoog in artikel 37(7), 39(2)*(a)*(i) of *(b)*(i) of 47(7) op die titelbewys van die geraakte grond en in die toepaslike registers endosseer; en

(b) in die geval van artikel 39(2)*(b)*(i), op die titelbewys behou deur die persoon wat oordrag gee, elk van daardie voorwaardes wat van toepassing is op die grond wat aldus behou is, endosseer.

(6) Indien 'n voorwaarde wat op 'n titelbewys ingevoeg of geëndosseer is—

(a) bedoel in subartikel (5);

(b) opgelê ingevolge 'n bepaling van 'n wet wat by hierdie Wet herroep word,

gewysig of ingetrek is soos beoog in subartikel 2*(b)*, moet die Registrateur van Aktes, op skriftelike versoek van die Departementshoof of die eienaar van die grond, die betrokke voorwaarde wysig of kanselleer.

(7) In die omstandighede beoog in subartikel (6) moet die eienaar van die grond of die Departementshoof, na gelang van die geval, 'n afskrif van die betrokke besluit en bewys dat alle verbandhouers in kennis gestel is, aan die Registrateur van Aktes voorlê.

Afdwingingsbepalings

57. (1) Indien 'n persoon 'n bepaling van hierdie Wet oortree, kan die Provinsiale Minister—

(a) sonder kennisgewing—

(i) 'n voldoeningskennisgewing uitreik wat die persoon beveel om binne 'n vermelde tyd aan die betrokke bepaling te voldoen; of

(ii) by 'n bevoegde hof gepaste regshulp aanvra;

(b) 'n lasgewing uitreik wat daardie persoon opdrag gee om, binne 'n vermelde tyd, waar tersaaklik—

(i) enige—

(aa) aktiwiteit;

(bb) diensinfrastruktuurwerke,

wat strydig is met hierdie Wet, te staak;

(ii) die oortreding te voorkom of reg te stel;

(iii) diensinfrastruktuur wat strydig met Hoofstuk 11 ontplooi is, te verwyder;

(iv) enige advertensie, toegang, struktuur, heining, hek of ander voorwerp wat strydig met hierdie Wet opgerig, geïnstalleer, gebou of gelê is, te verwyder; of

(iv) maatreëls vermeld in die lasgewing te tref om aan enige bepaling in hierdie Wet te voldoen;

(c) 'n toestemming wat ingevolge hierdie Wet verleen is, intrek.

(2) Voor die Provinsiale Minister 'n lasgewing uitreik of 'n toestemming intrek, moet hy of sy die betrokke persoon 'n redelike geleentheid gee om skriftelik vertoë te rig.

(3) Indien dringende optrede nodig is om die publiek te beveilig of vervoerinfrastruktuur of 'n pad van gemeenskaplike belang te beskerm, kan die Provinsiale Minister—

(a) 'n lasgewing uitreik en die betrokke persoon 'n geleentheid gee om so gou as wat redelik is daarna vertoë te rig; of

(b) maatreëls tref wat die Provinsiale Minister weens die dringendheid nodig ag, en 'n ander persoon magtig om sodanige maatreëls te tref.

(4) Indien 'n persoon 'n lasgewing uitgereik kragtens subartikel (1)*(b)* oortree, kan die Provinsiale Minister maatreëls tref wat hy of sy gepas ag en 'n ander persoon magtig om sodanige maatreëls te tref.

(5) Behoudens subartikel (3), in omstandighede waar die maatreëls beoog in subartikel (4) betreding vereis op eiendom wat nie behoort aan of onder die beheer is van die Provinsie nie, mag die Provinsiale Minister of 'n ander persoon met die nodige gesag nie die betrokke maatreëls tref sonder die skriftelike toestemming van die eienaar of gemagtigde persoon sonder 'n bevel van 'n bevoegde hof nie.

(6) Voor of nadat die Provinsiale Minister die maatreëls beoog in subartikels (3) of (4) tref, kan die Provinsiale Minister die koste verhaal wat aangegaan is deur die Provinsiale Minister of 'n ander persoon met die nodige gesag om daardie maatreëls te tref, insluitende enige koste aangegaan soos beoog in subartikel (8), van enige of al die persone op wie die lasgewing uitgereik is, wat elk gesamentlik en afsonderlik aanspreeklik is, en kan hy of sy enige deposito, waarborg of sekuriteit beoog in artikel 49(1)*(e)* gebruik.

(7) Die koste beoog in subartikel (6) moet redelik wees en kan arbeids-, administratiewe, bedryfs-, kapitaal-, oorhoofse en regskoste insluit, sonder om daartoe beperk te wees.

(8) Waar diensinfrastruktuur, 'n advertensie, 'n toegang, 'n struktuur, 'n heining, 'n hek of ander voorwerp ingevolge subartikel (4) verwyder word—

(a) moet die Provinsiale Minister alle redelike stappe doen om die persoon op wie die lasgewing beteken is, in kennis te stel om die diensinfrastruktuur, advertensie, struktuur, heining, hek of ander voorwerp by die plek af te haal waarheen die betrokke items vir berging gestuur is; en

(b) kan die Departementshoof met sodanige voorwerp wegdoen indien dit ná 'n tydperk van drie maande vanaf die datum van verwydering nie afgehaal is nie.

(9) Die Departementshoof kan 'n administratiewe boete, soos voorgeskryf, oplê op 'n persoon wat 'n bepaling van hierdie Wet oortree.

(10) Voor die Departementshoof 'n administratiewe boete oplê, moet hy of sy skriftelik—

(a) die persoon in kennis stel van die voorneme om 'n boete op te lê;

(b) die besonderhede van die beweerde oortreding vermeld;

(c) redes verskaf vir die boete wat beoog word om opgelê te word;

(d) die bedrag van die boete wat beoog word om opgelê te word, vermeld; en

(e) die belanghebbende persoon nooi om binne 'n vermelde tydperk vertoë te rig.

(11) Indien die Departementshoof, ná oorweging van die vertoë wat gerig is, of indien geen vertoë ontvang is teen die verstryking van die tydperk beoog in subartikel (10)*(e)* nie, besluit om 'n administratiewe boete op te lê, moet die Departementshoof by skriftelike kennisgewing die persoon in kennis stel dat die persoon binne 30 dae—

(a) die boete aan die Provinsie moet betaal; of

(b) na die Provinsiale Minister ooreenkomstig artikel 69 moet appelleer.

(12) Indien 'n persoon versuim om 'n administratiewe boete binne die vermelde tydperk te betaal, kan die Provinsiale Minister, benewens ander maatreëls beoog in hierdie Hoofstuk, deur middel van 'n privaatregtelike proses in 'n bevoegde hof die bedrag van die administratiewe boete van sodanige persoon verhaal.

(13) Behoudens die bepalings in hierdie Hoofstuk kan enige een of meer van die afdwingingsmaatreëls beoog in hierdie artikel getref word, en kan dit getref word in enige volgorde of kombinasie of met een as alternatief vir die ander in die geval van 'n versuim om te voldoen, of opeenvolgend.

Spesifieke bevoegdhede van Departementshoof

58. Behoudens die WOFB kan die Departementshoof—

(a) ondanks die bepalings van Hoofstuk 8 en op voorwaardes bepaal deur die Departementshoof, met die instemming van daardie munisipaliteit, finansiële of ander bystand aan daardie munisipaliteit verleen—

(i) vir die konstruksie of instandhouding van paaie van gemeenskaplike belang;

(ii) vir die verkryging deur daardie munisipaliteit van eiendom vir die doel van paaie van gemeenskaplike belang;

(iii) sodat die munisipaliteit aan ’n kennisgewing deur die Departementshoof beoog in artikel 10(12) voldoen;

(iv) sodat die munisipaliteit die werksaamhede beoog in artikel 9(6) verrig; of

(v) sodat die munisipaliteit sy pligte uiteengesit in artikel 2(2), saamgelees met artikel 9(2), ten opsigte van ’n pad van gemeenskaplike belang nakom;

(b) ondanks die bepalings van Hoofstuk 8, paaie van gemeenskaplike belang in die gebied van ’n munisipaliteit met die instemming van die munisipaliteit beplan, ontwerp, bou of in stand hou;

(c) vervoerinfrastruktuurbates waarvoor die Departement verantwoordelik is, bestuur, behoudens enige toepaslike reg wat die bestuur van onroerende bates reguleer;

(d) enige bevoegdheid uitoefen wat redelikerwys verband hou met of bykomstig is by ’n bevoegdheid vermeld in paragrawe *(a)* tot *(c)*.

Algemene bevoegdhede en pligte van Departementshoof

59. (1) Die Departementshoof kan—

(a) behoudens toepaslike reg ’n dier wat strydig met die Nasionale Padverkeerswet of enige ander wet op vervoerinfrastruktuur of binne die reserwe van vervoerinfrastruktuur is, verwyder of daarmee wegdoen, maar is nie aanspreeklik om enige persoon te vergoed waar so ’n dier vrek of beseer word terwyl die dier verwyder of mee weggedoen word om gevaar vir die verkeer te vermy nie;

(b) op vervoerinfrastruktuur boorgate, pompe en alle toebehore of geriewe wat hy of sy nodig ag, verskaf en in stand hou;

(c) hetsy op of, behoudens hierdie Wet, buite die reserwe van vervoerinfrastruktuur ’n gebou, hut, tent of ander struktuur oprig, bou en in stand hou vir die akkommodasie van beamptes en werkers wat werk op daardie vervoerinfrastruktuur of wat werke in verband daarmee uitvoer;

(d) hetsy op of, behoudens hierdie Wet, buite die reserwe van vervoerinfrastruktuur, installasies, masjinerie, toerusting of enigiets stoor wat hy of sy vir die konstruksie of instandhouding van die vervoerinfrastruktuur nodig ag;

(e) behoudens die reg wat die verkryging en vervreemding van provinsiale staatsgrond reguleer, regte gehou in grond wat verkry is vir of in verband met vervoerinfrastruktuur en wat nie onmiddellik benodig word nie, uitverhuur of vervreem, of tydelike regte tot sodanige grond gratis verleen;

(f) gebiede binne vervoerinfrastruktuur rehabiliteer of verfraai of dit andersins verbeter;

(g) ’n spoorlyn in ’n pad lê, skuif of verwyder;

(h) binne die grense van vervoerinfrastruktuur voorsiening maak of magtiging gee vir diensfasiliteite, insluitende vulstasies, restaurante, speelgronde en ander fasiliteite vir die gebruik van die publiek op reis;

(i) by kennisgewing in die *Provinsiale Koerant* die verskuiwing van vee, behalwe in ’n voertuig, op enige pad vermeld in die kennisgewing verbied of beperk, of bepaal dat vee nie op so ’n pad verskuif mag word sonder die vooraf verkreë skriftelike toestemming van die Departementshoof nie.

(2) Die bepalings van artikel 57 is van toepassing waar vee strydig met ’n kennisgewing bedoel in subartikel (1)*(i)* op ’n pad gevind word.

(3) Behoudens artikel 40 en die Nasionale Padverkeerswet kan die Departementshoof verkeerstekens, verkeersbeheertoestelle en merke vir die wegwysing en veiligheid van verkeer op paaie en gepaste sinjale en tekens op spoorlyne verskaf en in stand hou.

Regulasies

60. (1) Die Provinsiale Minister moet regulasies maak rakende enige aangeleentheid ten opsigte waarvan hierdie Wet regulasies vereis.

(2) Die Provinsiale Minister kan regulasies maak—

(a) wat meganismes en vereistes voorskryf vir die monitering van die verrigting deur owerhede van hul werksaamhede kragtens hierdie Wet, prestasiestandaarde of -aanwysers en die finansiële en ander gevolge van versuim deur owerhede om daardie werksaamhede te verrig of om dit voldoende te verrig;

(b) wat die volgende voorskryf:

(i) die wyse waarop en vorm waarin enige aansoek in verband met enige magtiging, goedkeuring, toestemming of vrystelling beoog in hierdie Wet gedoen moet word, die inligting wat daarmee saam ingedien moet word en, indien enige, die gelde wat vir die aansoek betaal moet word;

(ii) vereistes vir die publikasie en betekening van kennisgewings en die verwittiging van belanghebbende en geraakte partye;

(iii) die inligting wat ingesluit moet word in ’n kennisgewing beoog in hierdie Wet;

(iv) die tydperk waarbinne daar oor enige aansoek wat ingevolge hierdie Wet ingedien is, besluit moet word;

(c) wat gelde voorskryf vir enige magtiging, goedkeuring of toestemming wat ingevolge hierdie Wet verleen word, bo en behalwe die aansoekgelde voorgeskryf kragtens paragraaf *(b)*(i) of in gevalle waar geen aansoekgelde voorgeskryf word nie;

(d) wat die wyse voorskryf waarop owerhede rekenskap moet hou van geld wat ten opsigte van vervoerinfrastruktuur ontvang of uitbetaal is;

(e) wat voorskryf hoe die koste van vervoerinfrastruktuurwerke bereken moet word;

(f) wat vervoerstelselbeplanning en projekbeplanningsprosesse ten opsigte van vervoerinfrastruktuur voorskryf;

(g) wat maatstawwe vir die kategorisering van paaie soos beoog in artikel 7(1) voorskryf;

(h) wat submaatstawwe onder enige of alle maatstawwe gelys in artikel 5(4)*(a)* tot *(e)* voorskryf;

(i) wat die beskrywing van die indeling van ’n pad in funksionele klasse 1 tot 6 voorskryf;

(j) wat kategorieë van bykomstige vervoerinfrastruktuur vir ontluikende tegnologieë voorskryf;

(k) wat die kategorisering van padkantontwikkelings voorskryf;

(l) wat die inligting en konseptuele beplanningselemente voorskryf wat by ’n verkeersaarbestuursplan ingesluit moet word;

(m) behoudens die Wet op Besighede, 1991 (Wet 71 van 1991), wat die dryf van handel op of in vervoerinfrastruktuur reguleer;

(n) wat minimum vereistes voorskryf vir ’n ooreenkoms vir die verskaffing van ingenieursdienste of installasies en materiale soos beoog in artikels 56(2)*(a)* en 64(2);

(o) ten opsigte van enige ander aangeleentheid wat ingevolge hierdie Wet by regulasie voorgeskryf, gereguleer of bepaal kan word;

(p) in die algemeen, rakende enige ander ondergeskikte of bykomstige aangeleentheid wat nodig of dienstig is om vir die behoorlike implementering of administrasie van hierdie Wet voor te skryf.

(3) Die regulasies kan bepaal dat ’n oortreding van ’n bepaling daarvan of ’n versuim om daaraan te voldoen ’n misdryf is wat strafbaar is met ’n boete of gevangenisstraf vir ’n tydperk van hoogstens 12 maande, of met beide sodanige boete en gevangenisstraf.

(4) Verskillende regulasies kan kragtens hierdie artikel vir verskillende soorte vervoerinfrastruktuur gemaak word.

(5) Die maak of wysiging van regulasies kragtens hierdie Wet wat finansiële implikasies het, moet met die instemming van die Provinsiale Minister van Finansies gedoen word.

(6) ’n Regulasie wat ingevolge die Ordonnansie gemaak is en onmiddellik voor die inwerkingtreding van hierdie Wet van krag is ten opsigte van ’n aangeleentheid waarvoor die Provinsiale Minister regulasies kan of moet maak, word geag ’n regulasie

te wees wat kragtens hierdie Wet gemaak is, totdat dit deur ’n nuwe regulasie kragtens hierdie artikel herroep of vervang word.

Standaarde, spesifikasies en riglyne

61. (1) Die Departementshoof kan standaarde, spesifikasies en riglyne vir vervoerinfrastruktuur en paaie van gemeenskaplike belang stel, insluitende—

(a) standaarde, spesifikasies en riglyne vir die verskaffing van toegang tot paaie;

(b) standaarde, spesifikasies en riglyne vir—

(i) die beplanning, ontwerp, verklaring, ontwikkeling, konstruksie, bestuur, beheer, regulering, opgradering, instandhouding, beskerming, en rehabilitasie van vervoerinfrastruktuur en paaie van gemeenskaplike belang;

(ii) pad- en spoorveiligheid in die Provinsie;

(iii) die regulering van advertensies ten opsigte van provinsiale verkeer en provinsiale vervoerbedrywighede;

(iv) die oprigting van heinings, hekke en strukture;

(v) diensinfrastruktuurwerke, insluitende aangeleenthede gelys in artikel 49(1);

(vi) die toepassing van die maatstawwe beoog in artikels 5(4), (5) en (6) en 13(1),

welke standaarde, spesifikasies en riglyne kan verskil ten opsigte van verskillende soorte vervoerinfrastruktuur en, in die geval van paaie, aan die Nasionale Padverkeerswet onderhewig is;

(c) standaarde spesifikasies en riglyne vir die ontwerp, konstruksie, beheer en bestuur van motorhekke, insluitende—

(i) die grootte, materiaal wat gebruik moet word, wyse van konstruksie, vlak en posisie;

(ii) die lengte en breedte van toegangspaaie vanaf die ryvlak tot by ’n motorhek;

(iii) die tekens wat opgerig en in stand gehou moet word om as waarskuwing van ’n motorhek te dien en die sluiting of verlegging van ’n motorhek; en

(iv) die behoorlike bestuur, instandhouding en beheer van motorhekke;

(d) standaarde, spesifikasies en riglyne vir die gebruik, beheer en beskerming van ruskampe, rusplekke, veekampe en ander bykomstige padinfrastruktuur, ongeag of dit deel uitmaak van paaie.

(2) Die Departementshoof kan riglyne stel vir die bepaling van die impak van ’n aktiwiteit beoog in hierdie Wet op provinsiale verkeer en provinsiale vervoerbedrywighede.

(3) Voor die Departementshoof standaarde, spesifikasies en riglyne beoog in subartikel (1) stel of wysig, moet dit vir openbare kommentaar vir ’n minimum tydperk van 30 dae beskikbaar gestel word.

(4) Standaarde, spesifikasies en riglyne gestel deur die Departementshoof ingevolge hierdie Wet—

(a) moet deur die Departement gepubliseer word deur dit beskikbaar te stel deur elektroniese media of die amptelike departementele webblad;

(b) kan in die *Provinsiale Koerant* gepubliseer word.

Delegasie

62. (1) Behoudens subartikel (4) kan die Provinsiale Minister enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet aan die Departementshoof delegeer of opdra.

(2) Die Departementshoof kan enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet of wat ingevolge subartikel (1) gedelegeer of opgedra is aan die Departementshoof, aan ’n beampte van die Departement of aan ’n munisipaliteit delegeer of opdra.

(3) Die Departementshoof mag slegs met die instemming van die Provinsiale Minister, die Provinsiale Minister van Plaaslike Regering en die betrokke munisipaliteit enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet aan ’n munisipaliteit delegeer of opdra.

(4) Subartikel (1) is nie van toepassing op die bevoegdheid om regulasies of ’n verklaring ingevolge artikel 22 te maak nie.

(5) ’n Delegasie of opdrag bedoel in subartikel (1), (2) of (3)—

(a) moet op skrif wees;

(b) kan onderworpe aan voorwaardes gemaak word;

(c) kan skriftelik ingetrek of gewysig word deur die Provinsiale Minister of die Departementshoof, na gelang van die geval;

(d) kan die verdere delegasie van daardie bevoegdheid of verdere opdrag van daardie plig toelaat;

(e) verhoed nie die Provinsiale Minister of Departementshoof, na gelang van die geval, om daardie bevoegdheid uit te oefen of daardie plig te verrig nie;

(f) ontdoen nie die Provinsiale Minister of die Departementshoof, na gelang van die geval, van die verantwoordelikheid rakende die uitoefening van die gedelegeerde bevoegdheid of die verrigting van die opgedraagde plig nie.

Ooreenkomste rakende vervoerinfrastruktuurwerksaamhede

63. (1) Die Provinsiale Minister kan met die instemming van die Departementshoof ’n ooreenkoms beoog in subartikel (2) met enige persoon of liggaam (in hierdie artikel ‘‘die ander party’’ genoem) sluit, insluitende—

(a) ’n munisipaliteit;

(b) SANRAL;

(c) die Passasierspooragentskap van Suid-Afrika, ingestel ingevolge artikel 22(1) van die Wet op die Regsopvolging van die Suid-Afrikaanse Vervoerdienste, 1989 (Wet 9 van 1989); en

(d) Transnet Beperk, ingestel ingevolge artikel 2 van die Wet bedoel in paragraaf *(c)*.

(2) ’n Ooreenkoms beoog in subartikel (1) kan bepaal dat—

(a) die ander party enige of alle verantwoordelikheid vir of in verband met enige vervoerinfrastruktuur oorneem;

(b) die Provinsiale Minister enige of alle verantwoordelikheid vir of in verband met ’n munisipale pad of ’n pad van gemeenskaplike belang oorneem;

(c) die ander party werk verrig in verband met vervoerinfrastruktuur, insluitende die konstruksie en instandhouding daarvan, of die werk onder sy toesig laat doen, vir die rekening van die Departement, of ten opsigte van ’n munisipale pad of pad van gemeenskaplike belang, dat die Departement sodanige werk vir die rekening van die ander party sal verrig, of ’n ander reëling ingevolge die ooreenkoms;

(d) die munisipaliteit in wie se gebied vervoerinfrastruktuur, ’n munisipale pad of pad van gemeenskaplike belang geleë is, verantwoordelik is vir die verwydering of afkeer van alle stormwater vanaf daardie vervoerinfrastruktuur, munisipale pad of pad van gemeenskaplike belang en vir uitgawes aangegaan in verband daarmee, en dat die Provinsiale Minister nie verantwoordelik is nie vir enige skade veroorsaak deur, of wat ontstaan uit, die verwydering of afkeer van stormwater deur daardie munisipaliteit of die versuim om stormwater te verwyder;

(e) die Provinsiale Minister enige van die werksaamhede beoog in hierdie Wet, of werk in verband daarmee, verrig in die regsgebied van of op grond wat aan die ander party behoort, op die onkoste van die Departement of van die ander party, of ingevolge subartikel (3), ooreenkomstig en behoudens hierdie Wet.

(3) ’n Ooreenkoms beoog in subartikel (2) kan voorsiening maak dat die partye die koste van ’n projek tussen hulle deel.

(4) ’n Ooreenkoms ingevolge waarvan die Provinsiale Minister die verantwoordelikheid vir of in verband met ’n munisipale pad of pad van gemeenskaplike belang namens ’n munisipaliteit oorneem, moet ooreenkomstig Deel 2 van Hoofstuk 8 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000), gesluit word.

(5) Die Provinsiale Minister moet, by die sluit van ’n ooreenkoms wat finansiële implikasies vir die Provinsie het, met die instemming van die Provinsiale Minister van Finansies handel.

Ooreenkoms om koste ten opsigte van paaie of vervoerinfrastruktuur te deel

64. (1) Behoudens die WOFB kan die Departementshoof met een of meer grondeienaars of ’n ander entiteit of entiteite ’n ooreenkoms aangaan dat sodanige grondeienaars of entiteite tot die koste van die konstruksie, opgradering of instandhouding van vervoerinfrastruktuur sal bydra.

(2) Die ooreenkoms beoog in subartikel (1) moet daarvoor voorsiening maak dat die grondeienaar, grondeienaars, entiteit of entiteite ingenieursdienste of installasies en materiaal sal verskaf vir die konstruksie, opgradering of instandhouding van vervoerinfrastruktuur.

Geïntegreerde prosedures en besluite

65. (1) Die Provinsiale Minister, Departementshoof, munisipaliteite en ander staatsorgane wat ander wetgewing administreer in verband met aktiwiteite wat goedkeuring ooreenkomstig hierdie Wet asook daardie wetgewing vereis—

(a) moet poog om die prosedurele vereistes vir besluitneming ingevolge hierdie Wet en daardie wetgewing te koördineer en in ooreenstemming te bring ten einde duplikasie te vermy; en

(b) kan skriftelike ooreenkomste met mekaar aangaan om duplikasie by die indiening van inligting of die uitvoering van ’n proses te vermy.

(2) ’n Ooreenkoms beoog in subartikel (1)*(b)* kan—

(a) vir geïntegreerde goedkeurings voorsiening maak;

(b) die geïntegreerde indiening, openbare en interregeringsoorlegpleging en die evaluering van veelvoudige aansoeke deur munisipaliteite, die Departementshoof en ander staatsorgane vir ’n bepaalde voorgestelde ontwikkeling of aanwending van grond fasiliteer;

(c) die gelyktydige publikasie van die besluite van munisipaliteite, die Provinsiale Minister, die Departementshoof en ander staatsorgane fasiliteer; of

(d) ’n raamwerk verskaf vir die koördinering van prosedurele vereistes vir aansoeke opgelê by of kragtens verordenings, hierdie Wet of ander wetgewing.

(3) ’n Geïntegreerde goedkeuring beoog in subartikel (2)*(a)* mag goedgekeur word slegs indien—

(a) ’n skriftelike ooreenkoms tussen die staatsorgane aangegaan is wat die geïntegreerde goedkeuring goedkeur;

(b) daar aan alle tersaaklike bepalings van toepaslike verordenings, hierdie Wet en die ander wetgewing voldoen is;

(c) die goedkeuring die volgende vermeld:

(i) die bepalings ingevolge waarvan dit goedgekeur word; en

(ii) die staatsorgane wat dit goedkeur; en

(d) die onderskeie besluite van die staatsorgane wat deel uitmaak van die geïntegreerde goedkeuring gelyktydig in die media gepubliseer word indien publikasie daarvan vereis word.

(4) Die Provinsiale Minister kan regulasies maak of riglyne uitreik om prosedurele vereistes te koördineer wat opgelê word ingevolge—

(a) hierdie Wet; en

(b) ander wetgewing in verband met aktiwiteite wat goedkeuring ooreenkomstig hierdie Wet vereis.

(5) ’n Staatsorgaan wat ’n skriftelike ooreenkoms beoog in subartikel (1)*(b)* aangegaan het, kan enige proses wat gemagtig is deur die wetgewing gedek deur daardie ooreenkoms as voldoende beskou vir voldoening aan die vereistes van hierdie Wet.

(6) Die Departementshoof of Provinsiale Minister, na gelang van die geval, kan oor ’n aansoek besluit wat ook goedkeuring ingevolge ander wetgewing vereis op grond van ’n proses wat kragtens daardie wetgewing voorgeskryf word, maar slegs indien daardie proses aan die vereistes van hierdie Wet voldoen.

Beperking van aanspreeklikheid en vrywaring

66. (1) Die Provinsiale Minister, die Departementshoof en enigiemand wat kragtens die magtiging van die Provinsiale Minister of Departementshoof handel, na gelang van die geval, is nie aanspreeklik nie vir enige verlies wat gely is deur of skade wat aangerig is aan ’n persoon—

(a) deur die gebruik van ’n gedeelte van vervoerinfrastruktuur wat nie bedoel is of gebou is vir die gebruik van voertuie nie;

(b) deur ’n handeling of nalating te goeder trou in verband met die verrigting van ’n werksaamheid kragtens hierdie Wet,

tensy growwe nalatigheid bewys word.

(2) Die Provinsiale Minister is nie aanspreeklik vir eise deur die grondeienaar vir die vermindering van waarde van grond deur of as gevolg van die verklaring van vervoerinfrastruktuur nie.

Algemene verbiedinge

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

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

(b) vervoerinfrastruktuur of 'n pad van gemeenskaplike belang beskadig of brandstof of ander chemikalieë of gas wat dit kan beskadig, daarop stort nie;

(c) bome, struike of ander verbeterings op vervoerinfrastruktuur of 'n pad van gemeenskaplike belang opsetlik beskadig nie;

(d) aan 'n hek of plek op enige vervoerinfrastruktuur of pad van gemeenskaplike belang penne of ander voorwerpe heg wat persone of diere kan beseer of eiendom kan beskadig nie;

(e) 'n beampte, werknemer, agent of kontrakteur van die Departement, of 'n persoon gemagtig deur die Departement, by die uitvoering van sy of haar pligte kragtens hierdie Wet dwarsboom, dreig of hinder of vuil, kwetsende of beledigende taal teenoor so iemand gebruik nie;

(f) ligte skyn op of die beligting verskerp op vervoerinfrastruktuur of 'n pad van gemeenskaplike belang op 'n wyse wat verkeer in gevaar kan stel nie;

(g) vervoerinfrastruktuur, 'n pad van gemeenskaplike belang of 'n boubeperkingsgebied onregmatig okkupeer of daarin of binne vyf meter daarvan woon nie;

(h) op grond wat aan enige vervoerinfrastruktuur of pad van gemeenskaplike belang grens, enige middel, stof of voorwerp wat waarskynlik op die vervoerinfrastruktuur of pad van gemeenskaplike belang gewaai of gespoel sal word of wat waarskynlik aanstootlik, gevaarlik, skadelik of nadelig vir verkeer daarop sal wees, plaas, opgaar of vrystel of veroorsaak of toelaat dat dit geplaas, opgegaar of vrygestel word nie;

(i) valslik voorgee om 'n beampte, werknemer, agent of kontrakteur van die Departement te wees nie; of

(j) op enige wyse 'n padverkeersteken ontsier, beskadig of verwyder nie.

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

(a) die grond, oppervlak, gruis, uitgrawings, verkantings of dreine van enige vervoerinfrastruktuur of op pad van gemeenskaplike belang opgrawe, verwyder of verander nie;

(b) 'n syfer, letter, tekening, teken, simbool, graffito of ander soortgelyke voorwerp of simbool verf of aanbring op 'n ryvlak of brug wat deel uitmaak van vervoerinfrastruktuur, 'n pad van gemeenskaplike belang of op 'n verkeersteken wat op vervoerinfrastruktuur of 'n pad van gemeenskaplike belang opgerig is nie;

(c) 'n verkeersteken op enige vervoerinfrastruktuur of pad van gemeenskaplike belang oprig nie;

(d) enige vervoerinfrastruktuur of pad van gemeenskaplike belang gebruik terwyl dit in aanbou is of herstel word nie, behalwe op die wyse aangedui deur die verantwoordelike owerheid deur padtekens of ander metodes;

(e) enige vervoerinfrastruktuur of pad van gemeenskaplike belang sluit, verlê, verander of op enige ander wyse daarop inbreuk maak nie;

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

(g) vervoerinfrastruktuur of 'n pad van gemeenskaplike belang gebruik wat vir verkeer gesluit is en waarvan die sluiting aangedui word deur gepaste padtekens nie;

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

(i) ’n opmeetpen, baken of ander middel van identifikasie wat vir die doeleindes van hierdie Wet op, in, oor, onder die grond geplaas is of daaraan vas is, verander, skuif, verwyder, versteur, beskadig of vernietig nie;

(j) ’n ongebruikte voertuig of masjien of ’n gedeelte daarvan op enige vervoerinfrastruktuur of pad van gemeenskaplike belang plaas of laat nie;

(k) ’n ongebruikte voertuig of masjien of gedeelte daarvan of enige vullis binne 200 meter vanaf die middellyn van enige pad of spoorlyn waar dit vanaf daardie pad of spoorlyn sigbaar is, plaas of laat nie.

(3) Die Departementshoof kan, op aansoek op die voorgeskrewe wyse, skriftelike toestemming vir die verrigting van ’n handeling wat by subartikel (2) verbied word, verleen behoudens die voorwaardes en vir die tydperk wat hy of sy bepaal.

(4) Wanneer die Departementshoof ’n aansoek beoog in subartikel (3) oorweeg, moet hy of sy die volgende in ag neem:

(a) ten opsigte van ’n pad, die impak van die voorgestelde aktiwiteit op provinsiale verkeer en provinsiale vervoerbedrywighede;

(b) moontlike skade aan die betrokke vervoerinfrastruktuur of nadeel vir die publiek;

(c) ten opsigte van bykomstige vervoerinfrastruktuur, die impak van die voorgestelde handeling op die betrokke infrastruktuur, met inagneming van die aard en doel van daardie infrastruktuur;

(d) ten opsigte van ’n spoorlyn, die impak van die voorgestelde handeling op spoorveiligheid en -werking.

Misdrywe en strawwe

68. (1) ’n Persoon pleeg ’n misdryf indien hy of sy—

(a) artikel 3(2) of (3), 32(1), 37(1) of (2), 39(1), 42(5), 43(1), 45(1), 46(1), 47(1), 48(1), 51(2) of 67(1) of (2) oortree;

(b) versuim om aan ’n voldoeningskennisgewing kragtens artikel 57(1)*(a)* of ’n lasgewing kragtens artikel 57(1)*(b)* binne die tydperk vermeld in die kennisgewing of lasgewing te voldoen;

(c) versuim om aan ’n voorwaarde opgelê kragtens artikel 47(6)*(a)*, *(b)* of *(c)* te voldoen;

(d) versuim om aan ’n voorwaarde opgelê kragtens artikel 56(2)*(a)* te voldoen.

(2) ’n Persoon wat skuldig bevind word aan ’n misdryf kragtens subartikel (1), is strafbaar met ’n boete of gevangenisstraf vir ’n tydperk van hoogstens 12 maande of met beide die boete en gevangenisstraf.

(3) Sodanige boetes moet aan die Provinsie betaal word waar die Provinsie die verantwoordelike owerheid is of aan die munisipaliteit waar die munisipaliteit die verantwoordelike owerheid is.

(4) Benewens enige ander boete kan ’n hof wat ’n persoon aan ’n misdryf kragtens subartikel (1) skuldig bevind, die persoon vonnis tot ’n boete gelykstaande aan—

(a) die bedrag van alle uitgawes wat deur die Provinsie of die munisipaliteit, na gelang van die geval, aangegaan is in verband met enige werk wat nodig is om die vervoerinfrastruktuur of pad van gemeenskaplike belang tot sy vorige toestand te herstel, of

(b) waar van toepassing, die bedrag benodig om die betrokke skade te herstel,

betaalbaar aan die verantwoordelike owerheid wat die nodige werk onderneem en, by versuim van betaling van sodanige boete, tot gevangenisstraf vir ’n tydperk van hoogstens drie maande.

(5) Subartikel (4) verhoed nie die Provinsiale Minister om enige bedrag te verhaal wat hy of sy geregtig is om van ’n persoon te verhaal nie, minus, waar van toepassing, enige boete wat ingevolge subartikel (4) betaal is, ongeag of die persoon aangekla is van of skuldig bevind is aan ’n misdryf ingevolge hierdie artikel.

Appèlle teen besluit deur Departementshoof of beampte

69. (1) ’n Persoon geraak deur ’n besluit van die Departementshoof of ’n beampte van die Departement ingevolge hierdie Wet kan na die Provinsiale Minister teen die besluit appelleer.

(2) ’n Appèl kragtens subartikel (1) moet op die voorgeskrewe wyse ingedien word.

(3) Die Provinsiale Minister kan by oorweging van die appèl 'n appèlpaneel saamgestel op die voorgeskrewe wyse aanstel om die appèl te oorweeg en die Provinsiale Minister daaroor raad te gee.

(4) Die Provinsiale Minister moet, ná oorweging van 'n appèl, die besluit, bepaling, voorwaardes of lasgewing waarteen geappelleer word, bevestig, ter syde stel of verander of kan enige ander gepaste opdrag gee.

(5) 'n Appèl kragtens hierdie artikel skort nie die besluit waarteen die appèl ingedien is op nie, tensy die Provinsiale Minister anders opdrag gee.

Vrystellings ten opsigte van paaie van gemeenskaplike belang

70. (1) Die Provinsiale Minister kan, by kennisgewing in die *Provinsiale Koerant*, 'n verklaring maak wat persone, insluitende munisipaliteite, van die vereistes van enige bepaling van hierdie Wet vrystel, ten opsigte van—

(a) 'n spesifieke pad van gemeenskaplike belang of gedeelte van 'n pad van gemeenskaplike belang;
(b) alle paaie van gemeenskaplike belang in 'n bepaalde munisipaliteit.

(2) Die Provinsiale Minister kan—

(a) voorwaardes oplê vir;
(b) 'n voorwaarde intrek of wysig van,

'n vrystelling beoog in subartikel (1).

(3) Wanneer die Provinsiale Minister kragtens subartikel (1) of (2) handel, moet hy of sy die volgende in aanmerking neem:

(a) die finansiële of administratiewe las van 'n geïntegreerde aansoekproses beoog in artikel 65;
(b) die toepassing van die maatstawwe in artikel 5(4), (5) en (6); en
(c) die relatiewe kapasiteit van die munisipaliteit wat vir die pad verantwoordelik is.

Oorgangsbepalings

71. (1) Enige proklamasie, kennisgewing, sertifikaat, regulasie of verordening gemaak of uitgereik, en enige lasgewing, goedkeuring, instemming, toestemming of magtiging gegee en enige aanstelling gemaak of enige ander handeling verrig of daad gedoen kragtens 'n wet wat by hierdie Wet herroep word en wat onmiddellik voor die inwerkingtreding van hierdie Wet van krag was, en wat kragtens enige bepaling van hierdie Wet gemaak, uitgereik, gegee, verrig of gedoen kon gewees het, bly van krag en word geag kragtens hierdie Wet gemaak, uitgereik, gegee, verrig of gedoen te wees.

(2) 'n Onteiening wat begin het, en verrigtinge wat vir die bepaling van vergoeding ingestel is deur die Provinsiale Minister, voor die inwerkingtreding van hierdie Wet ingevolge 'n wet wat by hierdie Wet herroep word, moet afgehandel word ingevolge die herroepe wet asof hierdie Wet nie in werking is nie, maar die partye kan ooreenkom om ooreenkomstig hierdie Wet met die onteiening of verrigtinge voort te gaan.

Verhouding van Wet tot ander wette

72. (1) Die bepalings van hierdie Wet is bykomend tot en vervang nie ander wette wat handel met aangeleenthede wat verband hou met die aangeleenthede waarmee hierdie Wet handel nie.

(2) Tensy die teendeel uit die samehang blyk, mag geen bepaling van hierdie Wet uitgelê word as dat dit die verskaffing in die Provinsie van vervoerinfrastruktuur of 'n gedeelte daarvan deur enige persoon of op enige wyse wat regtens toegelaat word, verhoed nie.

Herroeping van wette

73. Behoudens artikel 70(1) word die wette vermeld in die tweede kolom van die Bylae, vir sover hulle van toepassing is in of opgedra is aan die Provinsie, herroep in die mate aangedui in die derde kolom van die Bylae.

Kort titel en inwerkingtreding

74. (1) Hierdie Wet heet die Wes-Kaapse Wet op Provinsiale Vervoerinfrastruktuur, 2021, en tree in werking op ’n datum bepaal deur die Premier by kennisgewing in die *Provinsiale Koerant*.

(2) Verskillende datums kan kragtens subartikel (1) bepaal word ten opsigte van verskillende munisipale gebiede in die Provinsie.

(3) Indien die Premier verskillende datums vir die inwerkingtreding van verskillende bepalings van hierdie Wet bepaal, moet ’n verwysing in ’n bepaling van hierdie Wet na die datum van inwerkingtreding van hierdie Wet uitgelê word as ’n verwysing na die datum bepaal deur die Premier vir die inwerkingtreding van daardie artikel in die betrokke munisipale gebied.

BYLAE

WETTE HERROEP

Nommer en jaar van wet	Kort titel	Omvang van herroeping
Wet 1 van 2013	Wes-Kaapse Wet op Vervoerinfrastruktuur, 2013	Die geheel
Wet 21 van 1940	Wet op Adverteer langs en Toebou van Paaie, 1940	Die geheel
Wet 22 van 1944	Wysigingswet op Nasionale Paaie en Toebou van Paaie, 1944	Die geheel
Wet 28 van 1952	Wysigingswet op Adverteer langs en Toebou van Paaie, 1952	Die geheel
Wet 16 van 1962	Wysigingswet op Adverteer langs en Toebou van Paaie, 1962	Die geheel
Wet 16 van 1966	Wysigingswet op Adverteer langs en Toebou van Paaie, 1966	Die geheel
Wet 6 van 1976	Wysigingswet op Adverteer langs en Toebou van Paaie, 1976	Die geheel
Wet 2 van 1979	Wysigingswet op Adverteer langs en Toebou van Paaie, 1979	Die geheel
Wet 43 van 1985	Wysigingswet op Adverteer langs en Toebou van Paaie, 1985	Die geheel
Ordonnansie 19 van 1976	Ordonnansie op Paaie, 1976	Die geheel
Ordonnansie 18 van 1977	Wysigingsordonnansie op Paaie, 1977	Die geheel
Ordonnansie 11 van 1978	Wysigingsordonnansie op Paaie, 1978	Die geheel
Ordonnansie 6 van 1980	Wysigingsordonnansie op Paaie, 1980	Artikels 1 tot 8
Ordonnansie 28 van 1980	Tweede Wysigingsordonnansie op Paaie, 1980	Die geheel
Ordonnansie 5 van 1982	Wysigingsordonnansie op Paaie, 1982	Die geheel
Ordonnansie 20 van 1983	Wysigingsordonnansie op Paaie, 1983	Die geheel
Ordonnansie 13 van 1985	Wysigingsordonnansie op Paaie, 1985	Die geheel
Ordonnansie 16 van 1986	Wysigingsordonnansie op Paaie, 1986	Die geheel

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE WETSONTWERP OP PROVINSIALE VERVOERINFRASTRUKTUUR

1. AGTERGROND

1.1 Die Wes-Kaapse Wet op Vervoerinfrastruktuur, 2013 (Wet 1 van 2013) (die Wet), is op 3 April 2013 deur die Premier bekragtig, maar tot op hede is dit nie in werking gestel nie. Hierdie Wet was bedoel om die bestaande wetgewing wat met verklaarde paaie in die Provinsie handel, naamlik die Ordonnansie op Paaie, 1976 (die Ordonnansie), en die Wet op Adverteer langs en Toebou van Paaie, 1940 (die WALTP), te vervang.

1.2 Gedurende die opstel van regulasies wat nodig was om die Wet in werking te stel, is daar bevind dat wysigings aan die Wet nodig is, insluitende tegniese wysigings en ontwikkelings wat die probleme met die verskaffing van diensinfrastruktuur wat ’n uitwerking op paaie het, die hoof bied. Die Wes-Kaapse Wysigingswetsontwerp op Vervoerinfrastruktuur, 2017 (die Wysigingswetsontwerp), is dienooreenkomstig opgestel om hierdie kwessies die hoof te bied en is vir kommentaar gepubliseer. Ná verdere oorweging en met behoorlike inagneming van die kommentaar wat ontvang is, is die Wysigingswetsontwerp te omslagtig gevind. Vervolgens is daar besluit om ’n nuwe Wes-Kaapse Wetsontwerp op Vervoerinfrastruktuur, 2021 (die Wetsontwerp), op te stel, wat, wanneer dit in werking tree, die Wet, die Ordonnansie en die WALTP sal herroep.

2. OOGMERKE VAN WETSONTWERP

2.1 Wanneer die Wetsontwerp in werking tree, sal dit die Provinsie in staat stel om sy provinsiale paaie, spoorlyne en bykomstige vervoerinfrastruktuur ingevolge ’n nuwe wetgewende raamwerk te administreer. Prosedures is by die Wetsontwerp ingewerk wat die verklaring van provinsiale paaie, spoorlyne en bykomstige vervoerinfrastruktuur en die beplanning, onteiening, konstruksie, bestuur, beheer en instandhouding van sodanige vervoerinfrastruktuur sal toelaat.

2.2 Die omvang van die Wet en die Wetsontwerp strek weier as wat die Ordonnansie en die WALTP dek, vir sover eersgenoemde voorsiening maak vir die verklaring van openbarevervoerinfrastruktuur, soos swaar of ligte spoorstelsels en hoë-orde-openbarevervoerpaaie vir snelbusvervoer-tipe stelsels. Die Wet en die Wetsontwerp maak ook voorsiening vir ’n beplanningsproses wat in bepaalde omstandighede moet plaasvind, insluitende die verklaring van paaie en wanneer paaie verander of verskuif word. Die Wet erken dat die verklaring, konstruksie en bestuur van paaie ’n impak op verwante funksionele gebiede het, insluitende grondgebruikbeplanning en die omgewing, en beoog ’n samewerkende benadering met ander geraakte staatsorgane en funksionarisse.

2.3 Die hoofveranderinge wat by die Wetsontwerp ingewerk is met betrekking tot die Wet, behels bepalings wat vir die gesamentlike administrasie van munisipale paaie van gemeenskaplike munisipale en provinsiale belang (paaie van gemeenskaplike belang) deur die betrokke munisipaliteit en die Provinsie voorsiening maak. Paaie van gemeenskaplike belang maak hoofsaaklik die hoë-ordepadnetwerk van munisipaliteite uit en is paaie wat die Administrateur verklaar het en wat kragtens die Ordonnansie gesamentlik deur munisipaliteite en die Provinsie bestuur word. Hulle word deur munisipaliteite besit, deur die Provinsie gesubsidieer en is ’n integrale en kritieke komponent van die provinsiale padnetwerk. Breë maatstawwe word nou by die Wetsontwerp ingesluit met die doel om vir die Provinsie en munisipaliteite in die toekoms as gids te dien by die bepaling van hoe paaie geklassifiseer moet word as óf provinsiale paaie óf munisipale paaie. Nuwe tegniese bepalings word ook by die Wetsontwerp ingesluit wat die herevaluering van voorheen verklaarde paaie beter sal fasiliteer om die geskiktheid van die bestaande padowerheid te bepaal en hulle dienooreenkomstig te herklassifiseer, en die kategorisering

van die paaie te herevalueer. Beskouingsbepalings word ingesluit en 'n meganisme om dooiepunte by die gesamentlike evalueringsproses op te los, waarvoor voorsiening gemaak word in die geval waar die Provinsie en die betrokke munisipaliteit nie ooreenstem oor die klassifikasie en kategorisering van paaie of verwante aangeleenthede onderhewig aan die evaluering nie.

2.4 Die Wetsontwerp sluit ook bepalings in wat in sekere gevalle die Provinsie sal bemagtig om munisipaliteite by te staan met die uitvoering van hul taak om hul paaie van gemeenskaplike belang te bestuur. Vir sover aktiwiteite op hierdie paaie 'n direkte impak op die provinsiale padnetwerk kan hê, vereis die Wetsontwerp dat die Provinsie en die munisipaliteit wat die verantwoordelike owerheid vir die pad is, ooreenstemming bereik oor bepaalde aangeleenthede soos konstruksieaktiwiteite, die verskuiwing en verandering van en die konstruksie van nuwe en veranderde wisselaars op hierdie paaie voordat die aktiwiteit begin indien die betrokke aktiwiteit waarskynlik 'n negatiewe impak op provinsiale verkeer en provinsiale vervoerbedrywighede sal hê. Dit moet ooreenkomstig die beginsels van samewerkende regering geskied. Die Wetsontwerp, om dieselfde rede, verbied verder sekere bepaalde aktiwiteite op paaie van gemeenskaplike belang (soos die bou van toegange, die oprigting van strukture en die installering van diensinfrastruktuur) deur alle persone sonder die vooraf verkreë skriftelike toestemming van die Departementshoof, gegrond op die impak van die aktiwiteit op provinsiale verkeer en provinsiale vervoerbedrywighede. Die toestemming van die Departementshoof is bykomend tot enige nodige toestemming wat van die betrokke munisipaliteit verkry moet word. Let daarop dat ''munisipale paaie'' in die Wetsontwerp geskiedkundig as ''strate'' bekend staan en, vir sover hierdie paaie slegs 'n munisipale funksie is, word hulle nie direk deur die Wetsontwerp gereguleer nie. Die Departement het egter 'n proses begin om standaardkonsep-verordenings op te stel wat munisipale paaie, paaie van gemeenskaplike belang en die vertoon van advertensietekens, wat munisipaliteite aangemoedig sal word om soos gepas aan te neem.

2.5 Nuwe bepalings word ook in die Wetsontwerp ingesluit om die verskaffing van diensinfrastruktuur op paaie te reguleer, insluitende telekommunikasiekabels en pypleidings vir water, gas, olie en ander dienste, en verdere tegniese aanpassings.

3. INHOUD VAN WETSONTWERP

3.1 **Klousule 1** maak voorsiening vir 'n omvattende stel definisies en verwante tegniese aangeleenthede.

3.2 **Klousule 2** bepaal dat die Provinsiale Minister en die Departementshoof die werksaamhede van die finansiering, beplanning, verklaring, ontwerp, konstruksie, ontwikkeling, instandhouding, beheer, bestuur, regulering, opgradering, beskerming en rehabilitering van vervoerinfrastruktuur in die Provinsie moet onderneem, en dat 'n munisipaliteit dieselfde werksaamhede ten opsigte van munisipale paaie, paaie van gemeenskaplike belang en bykomstige padinfrastruktuur onder sy beheer en in sy regsgebied moet onderneem.

3.3 **Klousule 3** bepaal dat die Provinsiale Minister moet toesien dat sekere sleutel- tegniese werksaamhede ingevolge die Wetsontwerp slegs onder die verantwoordelikheid en noulettendheid van 'n gepas gekwalifiseerde professionele persoon verrig word. Hierdie klousule bepaal voorts dat die Departementshoof moet toesien dat die personeeldiensstaat van die Departement professionele ingenieurs of stadsbeplanners bevat wat die nodige bevoegdheid het vir die doel om oor hierdie aktiwiteite toesig te hou.

3.4 **Klousule 4** maak voorsiening vir tegniese aangeleenthede rakende die vestiging van eienaarskap en titel tot grond waarop vervoerinfrastruktuur

geleë is, insluitende die verkryging en vervreemding van grond wat vir vervoerinfrastruktuur benodig word.

3.5 **Klousule 5** stel die klassifikasiestelsel in wat op paaie toegepas moet word, wat hulle verdeel in provinsiale paaie, munisipale paaie en paaie van gemeenskaplike belang en maak voorsiening vir breë maatstawwe om by die klassifikasieproses te gebruik.

3.6 **Klousule 6** verskaf meer besonderhede oor paaie van gemeenskaplike belang en, in die besonder, die proses vir die verklaring van sodanige paaie deur die Provinsiale Minister en die intrekking van sodanige verklaring.

3.7 **Klousule 7** maak voorsiening vir die kategorisering van paaie in die kategorieë primêre paaie, hoofpaaie, distrikspaaie, openbarevervoerpaaie, ondergeskikte paaie en openbare voetpaaie en bepaal dat paaie van gemeenskaplike belang as hoofpaaie gekategoriseer moet word.

3.8 **Klousule 8** maak voorsiening vir beskouingsbepalings ten opsigte van paaie en, in die besonder, die behoud van die bestaande klassifikasie en kategorisering van paaie kragtens die Ordonnansie tot ’n herbepaling ingevolge die Wetsontwerp.

3.9 **Klousule 9** maak voorsiening vir die regulering van munisipale paaie en paaie van gemeenskaplike belang, deur—

3.9.1 te bepaal dat ’n munisipaliteit, binne sy beskikbare hulpbronne, die finansiering, beplanning, verklaring, ontwerp, konstruksie, ontwikkeling, instandhouding, beheer, bestuur, regulering, opgradering, beskerming en rehabilitasie van munisipale paaie en paaie van gemeenskaplike belang in sy regsgebied moet reguleer, wat die aangeleenthede is waarvoor ’n munisipaliteit ten minste voorsiening moet maak;

3.9.2 te bepaal dat, voordat ’n munisipaliteit ’n verordening maak wat paaie van gemeenskaplike belang en bykomstige vervoerinfrastruktuur reguleer, die munisipaliteit eers met die Provinsiale Minister moet oorleg pleeg;

3.9.3 te bepaal dat ’n munisipaliteit, vir paaie van gemeenskaplike belang, moet toesien dat sekere sleutel- tegniese werksaamhede onder die verantwoordelikheid en noulettendheid van ’n gepas gekwalifiseerde professionele persoon verrig word;

3.9.4 te bepaal dat sekere rekords ten opsigte van paaie van gemeenskaplike belang deur ’n munisipaliteit gehou word;

3.9.5 te bepaal dat munisipaliteite beplanning vir hul paaie van gemeenskaplike belang moet onderneem en die resultate daarvan en die planne van ander staatsorgane by hul geïntegreerde vervoerplanne moet insluit en hierdie inligting aan die Provinsiale Minister vir insluiting in die provinsiale landvervoerraamwerk moet verskaf;

3.9.6 voorsiening te maak vir die installering en bedryf van batebestuurstelsels, insluitende toestandevaluerings- en instandhoudingsbestuurstelsels ten opsigte van paaie van gemeenskaplike belang;

3.9.7 te bepaal dat, by die verrigting van die werksaamhede bedoel in paragraaf 3.9.1 ’n munisipaliteit aan die minimum vereistes van standaarde, spesifikasies en riglyne gestel deur die Departementshoof moet voldoen, of ’n munisipaliteit mag sy eie standaarde, spesifikasies en riglyne gebruik, mits dit bestaanbaar met dié gestel deur die Departementshoof is.

3.10 **Klousule 10** maak voorsiening vir die gesamentlike beplanning, bestuur en beheer van paaie van gemeenskaplike belang deur die Provinsie en munisipaliteite, deur—

3.10.1 voorsiening te maak dat munisipaliteite hul verkeersaarbestuursplanne opstel, die padkantontwikkelingsomgewing bepaal en die funksionele klassifikasie onderneem van paaie van gemeenskaplike belang en, hierbenewens, die funksionele klassifikasie van munisipale paaie en privaat opritte wat provinsiale paaie en paaie van gemeenskaplike belang of daarby aansluit;

3.10.2 te bepaal dat, vir 'n stel aktiwiteite gelys ten opsigte van paaie van gemeenskaplike belang, die Provinsie en die betrokke munisipaliteit moet ooreenkom oor die lewensvatbaarheid en tegniese besonderhede van 'n aktiwiteit voordat dit begin, ooreenkomstig die beginsels van samewerkende regering;

3.10.3 te bepaal dat 'n munisipaliteit nie 'n pad mag verklaar of bou wat aan sekere maatstawwe voldoen sonder om die skriftelike kommentaar en aanbevelings van die Departementshoof te verkry nie; en

3.10.4 te bepaal dat, ten opsigte van paaie van gemeenskaplike belang, die bepaalde skriftelike toestemmings wat ingevolge die Wetsontwerp vereis word, bykomend is tot enige vereiste toestemmings van die betrokke munisipaliteit, en dat die Provinsiale Minister, die Departementshoof en die betrokke munisipaliteit stappe moet doen om die prosedurele vereistes vir besluitneming en toestemming soos beoog in klousule 65 te integreer.

3.11 **Klousule 11** maak voorsiening vir 'n gesamentlike evalueringsproses wat ná die inwerkingtreding van die Wetsontwerp deur die Provinsiale Minister onderneem moet word met die samewerking van die Departementshoof en die betrokke munisipaliteite ten opsigte van bestaande paaie van gemeenskaplike belang en provinsiale paaie, insluitende—

3.11.1 die gepaste klassifisering van die pad as 'n provinsiale pad, pad van gemeenskaplike belang of munisipale pad (met die toepassing van die beginsels uiteengesit in klousule 5), die gepaste kategorisering van die pad as een van die kategorieë uiteengesit in klousule 7, of die pad gesluit behoort te word en vir enige verbandhoudende aangeleentheid;

3.11.2 waar nodig, die beplanningsproses en openbare deelname wat gevolg moet word, 'n dooiepuntoplosmeganisme, bepalings vir 'n ooreenkoms wat aangegaan staan te word tussen die Provinsie en die betrokke munisipaliteit en bepalings vir die nodige verklaring in die *Provinsiale Koerant*.

3.12 **Klousule 12** maak voorsiening vir padoordragooreenkomste, wat bepalings kan insluit om uitvoering te gee aan die oordrag van eienaarskap van die Provinsie na die betrokke munisipaliteit of van die betrokke munisipaliteit na die Provinsie, indien nodig in die geval van 'n verandering in klassifikasie van die pad na aanleiding van die gesamentlike evalueringsproses, of te eniger ander tyd in die vermelde omstandighede, en enige ander aangeleentheid wat nodig is om die oordrag van verantwoordelikheid ten opsigte van die pad te fasiliteer.

3.13 **Klousule 13** maak voorsiening vir die kategorisering van spoorlyne wat deur die Provinsiale Minister geadministreer word, as swaar spoorlyne of ligte spoorlyne en vir die prosedure om sodanige kategorisering te verander.

3.14 **Klousule 14** maak voorsiening vir tegniese aangeleenthede rakende openbarevervoerpaaie.

3.15 **Klousule 15** maak voorsiening vir die standaard- minimum reserwebreedtes van paaie en spoorlyne, die moontlikheid van die bepaling van reserwebreedtes wat van die standaard- minimum reserwebreedtes afwyk, die verandering van die standaard- minimum reserwebreedte en 'n geagte standaard- minimum reserwebreedte waar die werklike reserwebreedte groter is as die standaard- minimum reserwebreedte. Hierdie klousule maak ook voorsiening vir die Departementshoof om die grense van 'n reserwe by publikasie van 'n kennisgewing in die *Provinsiale Koerant* te omskryf en 'n beskouingsbepaling ten opsigte van reserwebreedtes wat by die inwerkingtreding van die Wetsontwerp van krag is.

3.16 **Klousule 16** maak voorsiening vir die kategorisering en reserwes van bykomstige vervoerinfrastruktuur.

3.17 **Klousule 17** maak voorsiening vir boulyne en boubeperkingsgebiede en vir verbandhoudende tegniese aangeleenthede.

3.18 **Klousule 18** maak voorsiening vir vereistes vir vervoerstelselbeplanning, spesifiek dat die Departementshoof die beplanning van vervoerinfrastruktuur moet onderneem, om die gevolglike planne en begrotings by die Departement se begrotingsprosesse in te sluit en om dit aan munisipaliteite bekend te maak. Hierdie klousule maak ook voorsiening vir die Departementshoof om die funksionele klassifikasie van paaie en die padkantontwikkelingsomgewing te bepaal en verkeersaarbestuurplanne vir provinsiale paaie op te stel.

3.19 **Klousule 19** maak voorsiening vir die Departementshoof om 'n omvattende lys en gepaardgaande databasisse van vervoerinfrastruktuur in die Provinsie op te stel en by te hou en vir die konsolidasie van hierdie lys en gepaardgaande databasisse met die lys en gepaardgaande databasis ingedien deur munisipaliteite ten opsigte van paaie van gemeenskaplike belang.

3.20 **Klousule 20** maak voorsiening vir die Departementshoof om toe te sien dat 'n projekbeplanningsproses onderneem word voor die verklaring van provinsiale paaie, spoorlyne of bykomstige vervoerinfrastruktuur deur die Provinsiale Minister en die verskuiwing, verandering of sluiting van sodanige infrastruktuur asook die intrekking van 'n verklaring van 'n klassifikasie as 'n pad van gemeenskaplike belang. Hierdie klousule sit ook die vereistes vir die beplanningsproses en die omstandighede waarin 'n beplanningsproses nie vereis word nie, uiteen. Dit bepaal verder dat die Departementshoof moet toesien dat die nodige stappe gedoen word om aan ander toepaslike wetgewing te voldoen, en in sodanige omstandighede moet hy of sy daarna streef om die beplanningsproses met die prosedurele vereistes van sodanige wetgewing op die wyse beoog in klousule 65, wat vir geïntegreerde prosedures en besluite voorsiening maak, te koördineer en in ooreenstemming te bring.

3.21 **Klousule 21** maak voorsiening vir 'n besluit deur die Provinsiale Minister na aanleiding van die oorlegplegingsprosesse beoog in klousule 20.

3.22 **Klousule 22** maak voorsiening vir die verklaring van vervoerinfrastruktuur en verwante verklarings rakende vervoerinfrastruktuur deur die Provinsiale Minister.

3.23 **Klousule 23** maak voorsiening vir aansoeke by die Provinsiale Minister om die sluiting, verskuiwing of verandering van vervoerinfrastruktuur.

3.24 **Klousule 24** maak voorsiening vir die permanente sluiting van 'n provinsiale pad deur die Provinsiale Minister.

3.25 **Klousule 25** maak voorsiening vir die tydelike sluiting of verlegging van 'n provinsiale pad of spoorlyn deur die Departementshoof.

3.26 **Klousule 26** maak voorsiening vir die sluiting of verlegging van vervoer-infrastruktuur deur die Departementshoof in noodgevalle.

3.27 **Klousule 27** bepaal dat die publiek kan voortgaan om 'n pad of 'n gedeelte daarvan te gebruik ná die permanente sluiting daarvan totdat tekens opgerig is wat die sluiting soos beoog in klousule 24 aandui.

3.28 **Klousule 28** maak voorsiening vir die Departement om aan 'n munisipaliteit 'n padsubsidie te betaal vir paaie van gemeenskaplike belang en vir die vereistes vir die betaling van 'n subsidie.

3.29 **Klousule 29** bepaal dat, waar 'n munisipaliteit 'n huur-, koop- of ander ooreenkoms aangaan met betrekking tot grond waarvoor die munisipaliteit 'n padsubsidie, 'n subsidie kragtens die Ordonnansie of toekenningsgeld van die Provinsie ontvang het, moet die munisipaliteit die netto opbrengs ontvang van sodanige huur-, koop- of ander ooreenkoms aan die Provinsie in verhouding tot die subsidiebydrae betaal. Hierdie klousule maak verder voorsiening vir 'n bepaalde alternatiewe fonds waarin die munisipaliteit hierdie netto opbrengste kan inbetaal en vir die verlening van toestemming vir die munisipaliteit om hierdie opbrengste te behou. Dit maak ook voorsiening vir 'n munisipaliteit om vooraf skriftelike kommentaar van die Departementshoof en die Provinsiale Minister van Finansies te verkry voordat so 'n transaksie aangaan word.

3.30 **Klousule 30** bepaal dat, waar uitgawes aangegaan is deur 'n munisipaliteit vanuit 'n bron wat in die geheel of gedeeltelik nie die munisipaliteit of die Provinsie is nie, kwalifiseer sodanige uitgawes nie vir padsubsidie nie.

3.31 **Klousule 31** maak voorsiening vir die Provinsiale Minister om regulasies te maak oor bepaalde aangeleenthede rakende die betaling van padsubsidies.

3.32 **Klousule 32** verbied die vertoon van advertensies binne bepaalde afstande vanaf provinsiale paaie en paaie van gemeenskaplike belang sonder die toestemming van die Departementshoof.

3.33 **Klousule 33** bepaal dat, in die geval van 'n oortreding van klousule 32, die afdwingingsbepalings soos uiteengesit in klousule 57 van toepassing is.

3.34 **Klousule 34** sit die minimum vereistes uiteen waaraan 'n munisipaliteit moet voldoen by die regulering van die vertoon van advertensies op of oor of sigbaar vanaf 'n pad.

3.35 **Klousule 35** maak voorsiening vir vermoedens met betrekking tot advertensies.

3.36 **Klousule 36** sit die prosedure uiteen waaraan die Provinsiale Minister moet voldoen wanneer grond of die tydelike gebruik daarvan vir sekere bepaalde doeleindes benodig word.

3.37 **Klousule 37** maak voorsiening vir aansoeke by die Departementshoof om toestemmings in bepaalde omstandighede in verband met die verskaffing van toegang tot en uitgang vanaf provinsiale paaie en paaie van gemeenskaplike belang.

3.38 **Klousule 38** maak voorsiening vir die verskuiwing of sluiting van 'n toegang tot of uitgang vanaf 'n provinsiale pad op die opdrag van die Departementshoof.

3.39 **Klousule 39** bepaal dat 'n persoon wat by 'n munisipaliteit aansoek doen om die goedkeuring van 'n ontwikkeling wat 'n verandering of intensivering van grondgebruik of onderverdelings van grond behels binne sekere afstande vanaf provinsiale paaie of paaie van gemeenskaplike belang, benewens die vooraf verkreë skriftelike toestemming van die munisipaliteit ook die vooraf verkreë skriftelike toestemming van die Departementshoof moet kry met

betrekking tot die impak van die ontwikkeling waarvoor aansoek gedoen word op padverkeersveiligheid en vervoerbedrywighede, of enige daaropvolgende vereiste vir die oprigting van 'n nuwe toegang of 'n verandering van 'n bestaande toegang. Hierdie klousule bepaal verder dat 'n munisipaliteit, voordat hy 'n aansoek om 'n ontwikkeling soos genoem goedkeur, eers die vooraf verkreë skriftelike kommentaar van die Departementshoof moet verkry.

3.40 **Klousule 40** maak voorsiening vir die Departementshoof om rigtingaanwysers en ander inligtingstekens op te rig en in stand te hou.

3.41 **Klousule 41** maak voorsiening vir sekere stappe wat die Departementshoof moet doen ten opsigte van versperrings rakende provinsiale paaie, spoorlyne en bykomstige vervoerinfrastruktuur wat die sig van 'n bestuurder kan belemmer of onveilige toestande kan skep.

3.42 **Klousule 42** maak voorsiening vir die oprigting van heinings deur die Departementshoof in sekere bepaalde gevalle, die omstandighede waarin die Departementshoof die bevoegdheid het om 'n bydrae te lewer tot die koste aangegaan deur 'n persoon wat 'n heining oprig, en die verbod op die oprigting deur persone van heinings op of binne die grense van vervoerinfrastruktuur sonder die toestemming van die Departementshoof en maak vir verbandhoudende aangeleenthede voorsiening.

3.43 **Klousule 43** verbied die oprigting van hekke oor provinsiale paaie, en maak vir verbandhoudende aangeleenthede voorsiening.

3.44 **Klousule 44** reguleer die konstruksie, sluiting en verskuiwing van motorhekke oor provinsiale paaie deur die Departementshoof en maak vir verbandhoudende aangeleenthede voorsiening.

3.45 **Klousule 45** verbied mynbedrywighede op of onder vervoerinfrastruktuur, paaie van gemeenskaplike belang of boubeperkingsgebiede sonder die toestemming van die Departementshoof, en maak vir verbandhoudende aangeleenthede voorsiening.

3.46 **Klousule 46** verbied die dryf van handel in of binne 'n boulyn of boubeperkingsgebied van vervoerinfrastruktuur sonder die toestemming van die Departementshoof en maak vir verbandhoudende aangeleenthede voorsiening.

3.47 **Klousule 47** verbied die oprigting of installering van enige soort struktuur op of binne die reserwe van vervoerinfrastruktuur of paaie van gemeenskaplike belang, binne 'n boulyn of binne 'n boubeperkingsgebied sonder die vooraf verkreë skriftelike toestemming van die Departementshoof en maak vir verbandhoudende aangeleenthede voorsiening.

3.48 **Klousule 48** bepaal dat geen diensverskaffer diensinfrastruktuurwerke binne die reserwe, die boulyne, of 'n boubeperkingsgebied, van vervoerinfrastruktuur of paaie van gemeenskaplike belang mag verrig sonder die vooraf verkreë skriftelike toestemming van die Departementshoof nie.

3.49 **Klousule 49** verleen aan die Departementshoof die bevoegdheid om standaarde, spesifikasies en riglyne rakende die verrigting van diensinfrastruktuurwerke te stel en verleen aan die Provinsiale Minister die bevoegdheid om gelde betaalbaar deur 'n diensverskaffer te stel.

3.50 **Klousule 50** sit die vereistes uiteen in verband met 'n besluit deur die Departementshoof ten opsigte van 'n aansoek beoog in klousule 48(1).

3.51 **Klousule 51** maak voorsiening vir aangeleenthede in verband met die verrigting van diensinfrastruktuurwerke deur 'n diensverskaffer.

3.52 **Klousule 52** bepaal dat die Provinsie die spaarkapasiteit besit in ’n pypleiding, pyp, tonnel, mangat of soortgelyke diensinfrastruktuur wat geleë is in of geheg is aan grond of vervoerinfrastruktuur wat die Provinsie besit, en dat die Provinsie die eksklusiewe reg het om dit te beheer en maak voorsiening vir die deel van sodanige spaarkapasiteit deur diensverskaffers.

3.53 **Klousule 53** maak voorsiening vir die betaling aan die Provinsie van vergoeding deur die diensverskaffer in verhouding tot die nadeel gely deur die Provinsie en die voordeel getrek deur die diensverskaffer uit die gebruik van grond deur die diensverskaffer en vir verbandhoudende aangeleenthede.

3.54 **Klousule 54** maak voorsiening vir aangeleenthede rakende die verskuiwing van diensinfrastruktuur.

3.55 **Klousule 55** bepaal dat die afdwingingsbepalings vervat in klousule 57 van toepassing is indien klousule 48(1), 50(3) of 51(2) oortree word.

3.56 **Klousule 56** maak voorsiening vir algemene vereistes met betrekking tot aansoeke en skriftelike toestemmings ingevolge die Wetsontwerp.

3.57 **Klousule 57** sit die afdwingingsbepalings uiteen wat die Provinsiale Minister kan toepas indien ’n persoon ’n bepaling van die Wetsontwerp oortree.

3.58 **Klousule 58** maak voorsiening vir spesifieke bevoegdhede van die Departementshoof met betrekking tot vervoerinfrastruktuur en paaie van gemeenskaplike belang, insluitende die toestaan van finansiële of ander bystand aan ’n munisipaliteit.

3.59 **Klousule 59** maak voorsiening vir algemene bevoegdhede van die Departementshoof met betrekking tot infrastruktuur.

3.60 **Klousule 60** verleen aan die Provinsiale Minister die bevoegdheid om regulasies oor bepaalde aangeleenthede te maak. Die aangeleenthede beoog in hierdie klousule en wat in regulasies bevat sal word, is administratief en van so ’n aard dat dit gepas is om dit in regulasies eerder as in die Wetsontwerp te hanteer. Geen spesifieke bepaling vir parlementêre beheer oor die regulasies word ingesluit nie.

3.61 **Klousule 61** verleen aan die Departementshoof die bevoegdheid om oor bepaalde aangeleenthede standaarde, spesifikasies en riglyne vir vervoerinfrastruktuur en paaie van gemeenskaplike belang te stel.

3.62 **Klousule 62** magtig die Provinsiale Minister en die Departementshoof om hul bevoegdhede of pligte ingevolge die Wetsontwerp te delegeer of op te dra op die wyse daarin bepaal.

3.63 **Klousule 63** maak voorsiening vir die Provinsiale Minister en die Departementshoof om ooreenkomste ten opsigte van bepaalde aangeleenthede te sluit.

3.64 **Klousule 64** maak voorsiening vir die Departementshoof om ’n ooreenkoms met een of meer grondeienaars of ’n ander entiteit aan te gaan wat bepaal dat sodanige grondeienaars of entiteite tot die koste van die konstruksie, opgradering of instandhouding van vervoerinfrastruktuur sal bydra.

3.65 **Klousule 65** maak voorsiening vir die moontlikheid van geïntegreerde prosedures en goedkeurings waar aktiwiteite wat goedkeurings ingevolge die Wetsontwerp vereis, ook goedkeuring ingevolge ander wetgewing vereis.

3.66 **Klousule 66** maak voorsiening vir die beperking van aanspreeklikheid en vrywaring.

3.67 **Klousule 67** sit die algemene verbiedinge met betrekking tot vervoerinfrastruktuur uiteen. Hierdie klousule bepaal verder dat die Departementshoof op

aansoek by hom of haar toestemming mag verleen ten opsigte van so 'n verbode aangeleentheid.

3.68 **Klousule 68** maak voorsiening vir misdrywe en strawwe in die geval van 'n oortreding van die Wetsontwerp.

3.69 **Klousule 69** maak voorsiening vir die moontlikheid van 'n appèl na die Provinsiale Minister deur 'n persoon wat deur 'n besluit van die Departementshoof of 'n beampte van die Departement ingevolge die Wetsontwerp geraak is.

3.70 **Klousule 70** maak voorsiening vir die moontlikheid dat die Provinsiale Minister persone, insluitende munisipaliteite, vrystel van die vereistes van enige bepalings van die Wetsontwerp met betrekking tot spesifieke paaie van gemeenskaplike belang of 'n gedeelte daarvan of alle paaie van gemeenskaplike belang binne 'n munisipaliteit. Dit maak verder voorsiening vir die intrekking en oplegging van voorwaardes ten opsigte van so 'n vrystelling, asook die maatstawwe wat toegepas moet word wanneer 'n vrystelling verleen word.

3.71 **Klousule 71** maak voorsiening vir oorgangsbepalings.

3.72 **Klousule 72** bepaal dat die bepalings van die Wetsontwerp bykomend is tot ander wette wat handel met aangeleenthede wat verband hou met aangeleenthede waarmee die Wetsontwerp handel, en dit nie vervang nie en maak voorsiening vir verbandhoudende aangeleenthede.

3.73 **Klousule 73** maak voorsiening vir die herroeping van die wette vermeld in die Bylae.

3.74 **Klousule 74** maak voorsiening vir die kort titel en inwerkingtreding van die Wetsontwerp.

4. OORLEGPLEGING

Departement van die Premier: Regsdienste
Departement van Omgewingsake en Ontwikkelingsbeplanning
Provinsiale Tesourie
Departement van Ekonomiese Ontwikkeling en Toerisme
Suid-Afrikaanse Vereniging vir Plaaslike Regerings
Stad Kaapstad
Distriks- en plaaslike munisipaliteite in die Provinsie

5. PERSONEELIMPLIKASIES

Daar sal geen personeelimplikasies uit die vervanging van die Ordonnansie en die WALTP deur die Wetsontwerp of die herroeping van die Wet ontstaan nie.

6. FINANSIËLE IMPLIKASIES

6.1 Soos aangedui in paragraaf 5 sal die implementering van die Wetsontwerp en die herroeping van die Ordonnansie, die WALTP en Wet 1 van 2013 nie die inbring van nuwe bedryfskomponente in die Departement teweegbring wat tot 'n gevolglike toename in professionele en ander personeel sal lei nie. In hierdie opsig sal die Wetsontwerp nie nuwe finansiële implikasies vir die departementele begroting inhou nie. Die Wetsontwerp stel egter nuwe prosesse bekend (soos ook by Wet 1 van 2013 bekendgestel is) wat finansiële implikasies sal hê, maar wat minimaal sal wees in verhouding tot die jaarlikse departementele begroting van ongeveer R4 miljard en geakkommodeer sal word sonder dat daar vir bykomende begrotings gemotiveer hoef te word. Die implikasies is soos volg:

6.2 Die administrasie van paaie van gemeenskaplike belang in samewerking met munisipaliteite (klousules 9 en 10) — hierdie prosedures sal behels om toe te sien dat munisipaliteite bestuursoptrede ten opsigte van hul paaie van gemeenskaplike belang onderneem en om nakoming te moniteer. Baie van die werk van die monitering van nakoming ten opsigte van optrede wat op hierdie paaie geneem word, en interaksie met munisipaliteite vind reeds op 'n bedryfsvlak plaas in die Departement kragtens die Ordonnansie.

6.3 Die onderneming van die evaluering van voorheen verklaarde paaie (klousule 11) — dit sal 'n eenmalige proses wees wat die 32 000 km verklaarde Provinsiale paaie evalueer wat tot die oordrag van die paaie na die gepaste owerheid sal lei, waar sommige paaie deur die Provinsie behou word en sommige na munisipaliteite oorgedra word ooreenkomstig die funksie van die paaie en die relatiewe kapasiteit van die betrokke munisipaliteite. Hierdie proses is aan die gang in die Stad Kaapstad, en konsultante sal voortgaan om die Provinsie by te staan by die onderneming van die proses in ander munisipaliteite.

6.4 Die opstel en bywerking van die lys en gepaardgaande databasis van vervoerinfrastruktuur (klousule 19) — baie van die data wat benodig word om die lys en databasis te ontwikkel, bestaan reeds in die Departement se RNIS-databasis, en nakoming van klousule 19 sal grootliks die herformatering en byvoeging van bestaande rekords geleë in verskeie stelsels vereis om alle inligting na 'n gekonsolideerde stelsel te bring.

6.5 Betaling van padsubsidies aan munisipaliteite vir die bestuur van paaie van gemeenskaplike belang (klousules 28 tot 31) — die padsubsidiebepalings van die Wetsontwerp, aangevul deur die regulasies, sal bepalings van die Ordonnansie vervang, waarkragtens die Departement vir baie jare geproklameerde hoofpaaie (in die Wetsontwerp hernoem tot paaie van gemeenskaplike belang) gesubsidieer het. Die Departement begroot tans jaarliks ongeveer R100 miljoen vir die subsidiebetalings. Die betaling van subsidie aan munisipaliteite is onderhewig aan evaluering deur die Departement en geskied binne die beskikbare finansiële hulpbronne van die Departement.

7. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister verantwoordelik vir vervoer en openbare werke is tevrede dat die bepalings van die Wetsontwerp binne die wetgewende bevoegdheid van die Provinsie ressorteer.

UMTHETHO OSAYILWAYO

Ukulungiselela ngesicwangciso, isibhengezo, uyilo, ukwakhiwa, ukugcinwa, ukulawulwa, ukuphathwa, ukumiselwa, ukuphuculwa nokuvuselelwa kwakhona kweendlela, imizila kaloliwe kunye nezinye izibonelelo zothutho eNtshona Koloni; kwaye ngokwemicimbi enxulumene noko.

KE NGOKO UMILISELWE kwiPalamente yePhondo laseNtshona Koloni, ngolu hlobo:—

LUNGISELELO LWAMACANDELO

Amacandelo

ISAHLUKO SOKU-1

INTSHAYELELO YOLUNGISELELO

1. Iingcaciso
2. Uxanduva loMphathiswa wePhondo kunye noloomasipala
3. IiNjineli ezinobuChule okanye abaCwangcisi abaBhalisiweyo abanoxanduva lwemisebenzi ethile
4. Ilungelo kumhlaba wezibonelelo zothutho

ISAHLUKO SESI-2

UCALULO LOKUHLELWA NOKWAHLULWA KWEENDLELA NGOKODIDI LWAZO KUNYE NOKWAZISWA KWEENDLELA EZIDIBENEYO

5. Ukuhlelwa kweendlela
6. Ukwaziswa kweendlela ezidibeneyo nguMphathiswa wePhondo
7. Ukwahlulwa kweendlela ngokweendidi

ISAHLUKO SESI-3

UKUCINGA NGOLUNGISELELO LWEENDLELA KUNYE NOMMISELO WEENDLELA ZIKAMASIPALA NOKUHLANGANA KWEENDLELA EZIDIBENEYO ZOOMASIPALA

8. Iingcamango ngolungiselelo ngokuphathelele kwindlela
9. Ummiselo weendlela zikamasipala neendlela ezidibeneyo
10. Isivumelwano esifunekayo kuMphathiswa wePhondo nakwiNtloko yeSebe seendlela ezidibeneyo

ISAHLUKO SESI-4

UVAVANYO OLUHLANGENEYO LWEENDLELA EBEZIFUDULA ZIBHENGEZIWE KUNYE NEZIVUMELWANO ZODLULISO

11. Uvavanyo lweendlela obelufudula lubhengeziwe
12. Izivumelwano zotshintsho lwendlela

ISAHLUKO SESI-5

IMIZILA KALOLIWE, IINDLELA ZOTHUTHO LOLUNTU, NOKUGCINWA KOBUBANZI, NEZIBONELELO EZINCEDISA KWEZOTHUTHO, IMIZILA YEZAKHIWO KUNYE NEENDAWO ZEZAKHIWO EZINEZITHINTELO

13. Ukuhlelwa kwemizila kaloliwe
14. Iindlela zothutho loluntu
15. Ububanzi bomhlaba obekiweyo weendlela nowemizila kaloliwe
16. Ukwahlulwa nokugcinwa kwezibonelelo ezincedisa kwezothutho
17. Imizila yesakhiwo kunye nesakhiwo seendawo ezinezithintelo

ISAHLUKO SESI-6

UKUCWANGCISWA NOKWAZISWA KWEZIBONELELO EZINCEDISA KWEZOTHUTHO

18. Ukucwangciswa kwenkqubo yezothutho
19. Iirekhodi zezibonelelo zothutho
20. Inkqubo yokucwangcisa iprojekthi
21. Isigqibo soMphathiswa wePhondo
22. Isibhengezo sezibonelelo ezincedisa kwezothutho

ISAHLUKO SESI-7

IINKQUBO KUVALO LWEZIBONELELO ZOTHUTHO

23. Isicelo sokuvala, ukumisa kwenye indawo okanye ukutshintsha ezinye iziboneleo zothutho
24. Ukuvalwa ngokusisigxina kwendlela yephondo
25. Ukuvalwa ngokwexeshana okanye ukuphambuka kwendlela okanye umzila kaloliwe
26. Ukuvalwa ngokungxamiseka okanye ukuphambuka
27. Ilungelo loluntu ukusebenzisa indlela evaliweyo okanye ephambukileyo

ISAHLUKO SESI-8

AMALUNGISELELO ENKXASOMALI YEZENDLELA

28. Amalungiselelo enkxasomali yezendlela noomasipala
29. Imali yengqesho, intengiso kunye nenye ingeniso kumhlaba ofunyenwe phantsi koMthetho okanye kwenkxasomali yezendlela
30. Iminikelo esuka kwabanye oovimba
31. Imimiselo kumalungiselelo enkxasomali yezendlela

ISAHLUKO SE-9

IZAZISO EZINGQAMENE NEZIBONELELO ZOTHUTHO ZEPHONDO KUNYE NEENDLELA ZOKUBALULEKA NGOKUDIBENEYO

32. Uthintelo lwezaziso ezithile
33. Unyanzeliso lolungiselelo ngokuphathelele kwizaziso
34. Imimiselo yezaziso ezenziwa ngoomasipala
35. Iinkolelo ezinxulunyaniswa nezaziso

ISAHLUKO SE-10

ULAWULO NOKUPHATHWA KWEZIBONELELO ZOTHUTHO, IINDLELA ZOKUBALULEKA NGOKUDIBENEYO KUNYE NOKUNGQAMENE NOMHLABA

36. Ukungena nokuthatha isikhundla sobumnini bomhlaba
37. Ufikelelo nokuphuma kwiindlela zephondo nakwiindlela ezidibeneyo
38. Ukumiswa kwenye indawo okanye ukuvalwa kofikelelo okanye ukuphuma endleleni
39. Izithintelo kutshintsho lokusetyenziswa komhlaba

40. Izalathiso zomgama, ukufakwa kwezalathiso kunye nezilumkiso ezindleleni
41. Ukuthintela nokuvuleka kwendlela
42. Iingcingo ezivalileyo okanye kwimilimandlela yezibonelelo zothutho
43. Amasango anqamleze iindlela
44. Iintambo zombane ezibiyele amadlelo kwizithuthi
45. Imisebenzi yezimbiwa ngaphezu okanye ngaphantsi kwezibonelelo zothutho okanye iindawo zothintelo lwezakhiwo
46. Urhwebo kwizibonelelo zothutho okanye kwiindawo zothintelo lwezakhiwo
47. Izakhelo ngaphandle kwezibonelelo zenkonzo kugcino okanye imizila yezakhiwo zesiseko zothutho okanye kwiindawo zothintelo lwezakhiwo

ISAHLUKO SE-11

IZIBONELELO ZENKONZO

48. Imvume ngemisebenzi yezibonelelo zenkonzo
49. Imigangatho, imigaqo, izikhokelo kunye nemirhumo
50. Isigqibo kwisicelo
51. Isenzo sezibonelelo zenkonzo
52. Ubumnini nokuphathwa komthamo owongezelelekileyo
53. Ubuyekezo
54. Ukumiswa kwenye indawo
55. Unyanzeliso lolungiselelo ngokuphathelele kwizibonelelo zenkonzo

ISAHLUKO SE-12

ULUNGISELELO NGOKUBANZI

56. Izicelo kunye neemvume ezibhaliweyo
57. Unyanzeliso lolungiselelo
58. Amandla athile eNtloko yeSebe
59. Amandla ngokubanzi kunye nemisebenzi yeNtloko yeSebe
60. Imimiselo
61. Imigangatho, imigaqo kunye nezikhokelo
62. Ugunyaziso
63. Izivumelwano ezinxulumene nemisebenzi yezibonelelo zothutho loluntu
64. Isivumelwano solwabelwano lweendleko ngokuphathelele kwizibonelelo zothutho
65. Iinkqubo nezigqibo zentlanganisela
66. Uthintelo lwemfanelo kunye nokhuselo
67. Izithintelo ngokubanzi
68. Ulwaphulo mthetho kunye nezohlwayo
69. Izibheno malunga nezigqibo ezenziwe yiNtloko yeSebe okanye igosa
70. Ukukhululwa malunga neendlela ezibaluleke ngokudibeneyo
71. Ulungiselelo lwenguqulelo
72. Unxulumano loMthetho kweminye imithetho
73. Urhoxiso lwemithetho
74. Ilungelo elifutshane kunye nesiqalo

ULUDWE LWENKQUBO: IMITHETHO ERHOXISIWEYO

ISAHLUKO SOKU-1

INTSHAYELELO YOLUNGISELELO

Iingcaciso

1. (1) Kulo mthetho, ngaphandle kokuba imeko yalatha ngenye indlela—
"isaziso" sithetha—
(a) nakuphi na ukumelwa okubonakalayo kwentetho, igama, unobumba, isazobe, injongo, uphawu, ilogo okanye umqondiso okanye isifinyezo sentetho okanye igama okanye nayiphina intlanganisela yezinto ezinjalo ngokweziphumo zodluliselo lweenkcukacha okanye ukutsala umdla entweni, kuquka ibhodi okanye into eqhele ukusetyenziswa kwiinjongo ezinjalo, kwaye kuquka

imifanekiso eboniswe sisixhobo semitha yombane okanye izixhobo ezifana nezo, nokokuba ezona nkcukacha azidluliselwa ngazo; kwaye

(b) nasiphi na isakhelo solwakhiwo okanye ukubanako okusetyenzisiweyo ukubonisa okanye ukuxhasa umboniso onjalo, kodwa akuquki zimpawu zathutho okanye iirobhothi;

"UMthetho weNtengiso kwiiNdlela noPhuhliso lweeRibhoni" uthetha uMthetho wokuThengisa kwiiNdlela kunye noPhuhliso lweeRibhoni, ka-1940 (UMthetho wama-21 ka-1940);

"izibonelelo ezincedisa kwezendlela", ngaphandle kokuba isimo salatha ngenye indlela, zithetha isiseko sephondo esibhekisele kwicandelo le-16(1) laze labhengezwa njengezibonelelo ezincedisa kwezendlela phantsi kwecandelo 22, kwaye liquka umhlaba apho sakhiwe khona;

"izibonelelo ezincedisa kwezothutho loluntu" zithetha iziko lephondo elibhekisele kwicandelo le-16(2) ze libhengezwe phantsi kwecandelo 22 njengezibonelelo ezincedisa kwezothutho loluntu, kwaye luquka zonke iimpahla ezingashenxiswayo kunye namatyathanga ayinxenye okanye asetyenzise kuthungelwano nelo ziko;

"izibonelelo ezincedisa kwezothutho" zithetha iziseko ezincedisayo zothutho okanye izibonelelo ezincedisa kwezothutho loluntu;

"isicwangciso solawulo lweendlela ezibalulekileyo" sithetha isicwangciso esikhankanywe kwicandelo le-18(3);

"umntu ogunyazisiweyo" uthetha umntu ogunyaziswe ukuba enze egameni lomnini;

"umda" uthetha, kwimeko—

(a) yendlela, imizila echaza umphandle womphetho woko kubekiweyo;

(b) umzila kaloliwe, umzila ochaza umphandle womphetho wendawo ebhengezwe phantsi kwecandelo 22(1); kunye

(c) nezibonelelo ezincedisa kwezothutho, umzila ochaza umphandle womphetho wobude bomjikelo wendawo ebhengezwe phantsi kwecandelo 22(1) ngokweenjongo zezibonelelo ezincedisa kwezothutho;

"umzila wesakhiwo" uthetha umzila ochazwe kwicandelo le-17(1);

"indawo ethintela isakhiwo" ithetha indawo echazwe kwicandelo le-17(2), (4) okanye (6);

"indlela yebhasi" ithetha iindledlana ezimiselwe imida kwindlela ebekelwe ukusetyenziswa kuphela ziibhasi okanye izithuthi ezigunyaziselwe ezo ndledlana ngokongxamiseko okanye ngokwezinye iinjongo;

"uMgaqo-siseko" uthetha uMgaqosiseko weRiphablikhi yoMzantsi Afrika, ka-1996;

"ulwakhiwo" luquka ukwakhiwa kwakhona;

"uMthetho woBhaliso lweeTayitile" uthetha uMthetho woBhaliso lweeTayitile, ka-1937 (uMthetho wama-47 ka-1937);

"ISebe" lithetha isebe lephondo elinoxanduva lwemicimbi yezothutho kwiPhondo;

"ukumisela" kuquka ukufakela kwisakhelo, ukubeka, ukwakha okanye ukwenza umsebenzi ofanayo;

"indawo ehlala izithuthi" ithetha indawo eyayisakuba sisikiti sezithuthi yaza—

(a) yalathwa njengendawo ehlala izithuthi ngokumalunga necandelo 87 le-NLTA; okanye

(b) bhengezwa okanye yalathwa njengendawo yokuthimba izithuthi ngokumalunga nawo nawuphina omnye umthetho;

"isiza senkonzo yokufikelela ngqo" sithetha iziko elikufuphi nohola wendlela o—

(a) thatha ngqo ufikelelo kude nohola wendlela; kwaye

(b) kwenzelwe ngokukodwa abasebenzisi bohola wendlela okanye ulawulo lwemisebenzi yezothutho;

"indlela yesithili" ithetha indlela esele yahlulwe njengendlela yesithili ngokumalunga necandelo lesi-7(1)*(c)* okanye (4), okanye ithathwe njengesithili ngokumalunga necandelo lesi-8(4);

"ukumisa", ngokunxulumene nesibiyeli, kuquka ukumisela kwakhona isibiyeli, ukubuyisela ngokupheleleyo isixhobo sesibiyeli nolongezelelo kwisibiyeli saso nasiphi na isixhobo esingafunelwa njongo yakukhandwa okanye ukulungiswa;

"isibiyeli" sithetha nasiphi na isakhelo okanye isixhobo esenza umsebenzi wesibiyeli, nokokuba isixhobo sisetyenziselwa ntoni na, okanye eyiphi na indlela, ulwakhiwo lwaso, kwaye luquka udonga kunye nokhuselo;

"uhola wendlela" uthetha indlela okanye icandelo lendlela ebekwe njengohlola wendlela ngokumalunga noMthetho wokuHamba kweNdlela kuZwelonke;

"ucalulo lohlelo olusebenzayo" luthetha inkcazelo yoluhlu lwemigangatho yabasemagunyeni endlela ekumaHlelo eloku-1 ukuya kwelesi-6, njengoko kumiselwe;

"iNtloko yeSebe" lithetha iNtloko yeSebe elinoxanduva lemicimbi yezothutho kwiPhondo;

"umzila onzima kaloliwe" uthetha inkqubo kaloliwe kwiphondo—

(a) esebenza kwimizila ebekelwe yona;

(b) enomzila phakathi kweziporo ongaphaya komlinganiselo wama-600 wobungakanani; kwaye

(c) ehlelwe njengomzila onzima kaloliwe ngokumalunga necandelo 13(2);

"isicwangciso sezothutho sentlanganisela" sithetha isicwangciso esichazwe kwicandelo 36 leNLTA;

"UMthetho weNkqubo-sikhokelo yobuDlelwane kaRhulumente" uthetha uMthetho weSakhelo soBudlelwane booRhulumente, wama-2005 (uMthetho we-13 ka-2005);

"umhlaba" uthetha umhlaba ophuculiweyo okanye ongaphuculwanga;

"umzila kaloliwe olula" kuthetha inkqubo kaloliwe yephondo, kuquka ukuqhutywa kwenkqubo esiporweni, inkqubo yokundanda kwesitsali okanye umzila osisigxina okanye inkqubo yomzila apho izithuthi zihamba kumavili omoya, o—

(a) sebenza kwimizila yayo ebekiweyo, kwilungelo lokuhamba elikhethekileyo kwindlellla ebekiweyo, okanye ingxubevange yohambo lwezithuthi kwindlela ebekiweyo; kwaye

(b) hlelwe njengomzila kaloliwe okhanyayo ngokumalunga necandelo 13(2);

"indlela enkulu" ithetha indlela eyahlulwe njengendlela enkulu ngokumalunga necandelo lesi-7(1)*(b)* okanye (4), okanye ithathwa njengendlela enkulu ngokumalunga necandelo 8(3);

"ukwembiwa kwemigodi" ithetha nayiphina imisebenzi enxulumene nemisebenzi eyenziwa emigodini kunye nemicimbi engqamene ngqo nezehlo zalapho;

"indlela encinane" ithetha indlela esele yahlulwe njengendlela encinane ngokumalunga necandelo 7(1)*(e)* okanye (4), okanye ethathwe njengendlela encinane ngokumalunga necandelo lesi-8(3);

"indlela yokuhamba" ithetha indlela yokuhamba njengoko kuchaziwe kwiZikhokelo zoFikelelo kuLawulo 2020 ezipapashwe liPhondo okanye naziphi na izilungiso ezilandelayo;

"uthungelwano lwenkomo ezimotweni" luthetha indlela ecanda ngaphesheya kwendlela evumela kuphela indlela yeenyawo edlula ngokusebenzisa iqonga elineqolo;

"indlela kamasipala" ithetha indlela echazwe kwicandelo 5(2);

"UMphathiswa kaZwelonke" uthetha ilungu leSigqeba sombuso likaZwelonke elinoxanduva lwemicimbi yezothutho;

"indlela kazwelonke" ithetha indlela kazwelonke njengokuba ichaziwe kuMthetho we-Arhente kaZwelonke yeeNdlela zoMzantsi Afrika kunye neeNdlela zikaZwelonke, ka-1998 (uMthetho wesi-7 ka-1998);

"uMthetho kaZwelonke weNdlela yeZithuthi" uthetha uMthetho kaZwelonke weNdlela yeZithuthi, ka-1996 (uMthetho wama-93 ka-1996);

"iNEMA" ithetha uMthetho kaZwelonke woLawulo lwezeNdalo, ka-1998 (uMthetho we-107 ka-1998);

"iNLTA" ithetha uMthetho woMhlaba kaZwelonke wezoThutho, wama-2009 (uMthetho 5 ka-2009);

"uthutho olungelolwazithuthi" luquka abahambi ngeenyawo, abahambi ngeebhayisekile kunye nezinye izithuthi ezonganyelwe ngabantu okanye izilwanyana;

"iilwimi ezisemthethweni" zithetha isiNgesi, isiBhulu nesiXhosa;

"UMmiselo" uthetha uMmiselo weeNdlela, ka-1976 (uMmiselo we-19 ka-1976);

"icandelo likarhulumente" lithetha icandelo likarhulumente njengoko kuchaziwe kwicandelo 239 loMgaqo-siseko;

"umntu" kuquka—
(a) icandelo likarhulumente;
(b) umniki-zinkonzo;

"iPFMA" ithetha uMthetho wokuLawulwa kweMali kaRhulumente, ka-1999 (uMthetho 1 ka-1999);

"okumiselweyo" kuthetha okumiselwe ngokwemithetho eyenziwe phantsi kwalo Mthetho;

"ebekufudula kubhengeziwe" kuthetha okubhengeziweyo okanye okuthathwa njengokubhengeziweyo ngokumalunga noMmiselo okanye nawuphi na umthetho wonyanzelo xa kuqalwa lo Mthetho;

"IPhondo" lithetha iphondo laseNtshona Koloni okanye iPhondo leNtshona Koloni, njengoko imeko isalatha njalo;

"isakhelo sothutho lomhlaba wephondo" sithetha isakhelo esichazwe kwicandelo 35 le-NLTA;

"UMphathiswa wePhondo" uthetha ilungu leSigqeba sombuso wePhondo elinoxanduva lwemicimbi yezothutho ePhondweni;

"UMphathiswa wezeMali wePhondo" uthetha ilungu leSigqeba sombuso wePhondo elinoxanduva lwemicimbi yezemali ePhondweni;

"UMphathiswa woRhulumente wezeKhaya wePhondo" uthetha ilungu leSigqeba sombuso wePhondo elinoxanduva lwemicimbi yorhulumene wezekhaya ePhondweni;

"indlela yephondo" ithetha indlela echazwe kwicandelo 5(1)*(a)*;

"indlela yoluntu" ithetha indlela ebe yahlulwe njenge ndlela yoluntu ngokumalunga necandelo 7(1)*(f)* okanye (4), okanye ithathwa njengendlela yoluntu ngokumalunga necandelo 8(3);

"indlela yothutho loluntu" ithetha indlele esetyenziswa kuphela uthutho loluntu neyohlulwe njengendlela yothutho loluntu ngokumalunga necandelo 7(1)*(d)* okanye (4);

"umzila kaloliwe" uthetha inkqubo yomzila kaloliwe wephondo, kwaye iquka ububanzi obupheleleyo obubekelwe umzila kaloliwe kunye nomhlaba nayo yonke imisebenzi okanye nayiphina into eyinxenye efanele ukuba ngumzila kaloliwe;

"okubekelwe" kuthetha, kwimeko ye/yo—
(a) ndlela, ubhengezo lwayo, ukutshintshwa okanye ububanzi obucingiweyo kwicandelo 15;
(b) mzila kaloliwe, ububanzi bonke obubhengeziweyo phakathi kweziphetho zomda wawo;
(c) zibonelelo ezincedisa kwezothutho, indawo yonke ebhengezwe phakathi kweziphetho zazo;

"umntu onegunya" kuthetha, kwimeko—
(a) indlela, iPhondo okanye umasipala onoxanduva lokulawula indlela echaphazelekayo, njengoko kuchaziwe kwicandelo 5;
(b) umzila kaloliwe ubhengezwe phantsi kwecandelo 22(1) ufundwe kunye necandelo 13, lePhondo;
(c) izibonelelo zothutho ezincedisayo zibhengezwe phantsi kwecandelo 22(1) zifundwa kunye necandelo 16(1) okanye (2), kwiPhondo;

"indawo yokuphumla" ithetha indawo ebekelwe bucala ngokukodwa ukuvumela abasebenzisi bendlela ukuphazamisa uhambo lwabo ukuze bame baze baphumle, ebekelwe ecaleni okanye ibe yinxenye yendlela ebekelwe bucala okanye ekude kunendlela, kwaye oko kungaquka amaziko orhwebo;

"indlela" iquka indlela ebekelwe ecaleni kunye nomhlaba nayo yonke imisebenzi okanye nayiphina into eyinxenye okanye okukwendlela;

"indlela edibeneyo" ithetha indlela edibeneyo kamasipala nokubaluleka kwephondo okuchazwe kwicandelo le-5(3);

"inkxasomali yezendlela" ithetha inkxasomali yezendlela echazwe kwiSahluko 8;

"isivumelwano sodluliselo lwendlela" kuthetha isivumelwano esichazwe kwicandelo le-12;

"indlela yezithuthi" ithetha inxenye yendlela ebekelwe izithuthi;

"iSANRAL" ithetha i-Arhente yeeNdlela zikaZwelonke zaseMzantsi Afrika esungulwe ngokumalunga necandelo lesi-2 lwe-Arhente yeeNdlela zikaZwelonke zaseMzantsi Afrika kunye noMthetho weeNdlela zikaZwelonke;

"iSouth African National Roads Agency Limited and National Roads Act" ithetha umthetho weArhente yeeNdlela zikaZwelonke zaseMzantsi Afrika, 1998 (uMthetho 7 ka-1998);

"izibonelelo zenkonzo" zithetha uluhlu lwemibhobho, uthungelwano lwemijelo phantsi kwamanzi, ucingo, ucingo oluhamba phantsi komhlaba, iziko lonxibelelwano ngombane, umbhobho weengcingo zombane, itonela,umbhobho, umngxunya, ucingo lwewayalesi okanye lweTV, ipali ende yeflegi, okanye izibonelelo ezifanayo, ezinokuthi zisetyenziswe njengesibonelelo sombane, amanzi igesi, unxibelelwano lombane okanye unxibelelwano nokulahlwa kwamanzi amdaka, nokukhutshwa kwamanzi amdaka enqwithela, okanye inkonzo efanayo;

"imisebenzi yezibonelelo zenkonzo" ithetha umiselo, uguqulo, uphuculo, utshintsho, udanjiso, ubambelo, ukhando, ugcino, uvuselelo, uyilo, umiso kwenye indawo, ushenxiso, okanye umsebenzi ofana nawo onxulumene noko, iziseko ezingudoqo zenkonzo;

"umniki zinkonzo" uthetha umntu onikela okanye ogunyaziselwe ukunikela ngezibonelelo zenkonzo, kwaye kuquka olandelayo kwibango, unokontraktha okanye i-arhente yomniki zinkonzo;

"isitishi" siquka—

(a) kwimeko yomzila kaloliwe, iindawo esitishini esisetyenziselwa isiporo, izibonelelo zokwakhiwa kwesiporo, izakhiwo, iinkqubo zolawulo lukaloliwe, iiyadi zomzila kaloliwe, iisayidi okanye imiqondiso, kunye namanye amaziko neenkqubo ezifunekayo okanye izehlo kumsebenzi, ukulungiswa nokulawulwa komzila kaloliwe;

(b) kwimeko yendlela yebhasi, iindawo ezikwisitishi esisetyenziselwa ibhasi, izibonelelo zolwakhiwo, izakhiwo, izalathiso, imiqondiso kunye neempawu, kunye nakuwo onke amaziko neenkqubo ezifunekayo kwizehlo ezenzeka emsebenzini, kugcino nakulawulo lwenkqubo yebhasi; kwaye

(c) piigaraji zokupaka neendawo, kwiindawo zokwehliswa nokukhwelisa kwabakhweli nakumhlaba worhwebo nentengiso osetyenziswa kwinxenye yomhlaba wesitishi;

"impahla ekhoyo" ithetha konke ukwahlulwa ngokweendidi zobulimi bezekhaya bemfuyo nethanga lezilwanyana;

"inkampu yempahla ekhoyo" ithetha isiza esisetyenziselwa unxibelelwano nenkampu yexeshana yempahla ekhoyo ngelixa kusathuthwa;

"ulwakhiwo" luthetha ulwakhiwo lwesakhiwo okanye nakuphi na ukumiswa kwesakhiwo phezu okanye ngaphantsi emhlabeni, nokokuba kokwesigxina okanye okwethutyana, kungajongwanga imeko okanye ubungakanani bawo;

"lo Mthetho" uquka imimiselo eyenziwe phantsi kwalo Mthetho;

"ilokishi" ithetha indawo eyahlulwe yangamanxiwa, iziza okanye iziqwenga zomhlaba, nokokuba ikhona okanye ayikho indawo evulekileyo yoluntu, yaze yamiselwa okanye yaqatshelwa njengelokishi phantsi kwawo nawuphi na umthetho;

"uthutho" luthetha uhambo ngendlela okanye ngomzila kaloliwe okanye uthutho olungelolwazithuthi;

"iirobhothi" zithetha iimpawu zendlela njengoko kuchaziwe kuMthetho wezoThutho lweeNdlela zikaZwelonke okanye kwiimpawu zomzila kaloliwe okanye imiqondiso njengoko kuchaziwe kuMthetho wokuMisela uKhuselo loMzila kaloliwe kaZwelonke, 2002 (uMthetho we-16 wama-2002), kwaye uquka iimpawu okanye imiqondiso yokulawula indlela nothutho ngololiwe kwiindawo zokuwela isporo nakwezinye iindawo apho kunokubako imbambano phakathi komzila kaloliwe nolunye uthutho;

"izibonelelo zothutho" zithetha—

(a) indlela yephondo, umzila kaloliwe okanye izibonelelo ekuncediseni kwezothutho, kuquka okubekelwe ecaleni kwazo; kwaye

(b) ngokwenjongo zala macandelo, 19, 42, 45, 47, 57, 67, 68 neSahluko 11, likwaquka indlela ebaluleke ngentlanganisela;

"imisebenzi yezibonelelo zothutho" ithetha umiselo, uguqulo, uphuculo, utshintsho, udanjiso, ubambelo, ukhando, ugcino, uvuselelo, uyilo, umiso kwenye indawo, ushenxiso, okanye umsebenzi ofana nawo onxulumene noko, izibonelelo zenkonzo;

"indlela enkulu kaloliwe" ithetha indlela ethe yahlulwa njengendlela enkulu kaloliwe ngokumalunga necandelo 7(1)*(a)* okanye lesi-(4), okanye ethathwa njengendlela enkulu kaloliwe ngokumalunga necandelo lesi-8(3);

"indawo esedolophini" ithetha indawo equka u/i—

(a) xhomekeka kumhlathi u-*(b)* no-*(c)*, onesahlulo sendawo yolawulo lezobulungisa legunya lezekhaya ngovavanyo olusele lwahlulwahlulwe laziziza ezibini zehektare okanye ngaphantsi okanye lingqongwe sisiza solo vavanyo, lize liquke iindlela zoluntu ezinjalo zenkxaso ngapha koko;

(b) indawo kubude bomjikelo wothintelo lwangaphandle lolwandiso lwesixeko esalathwwe kwisakhelo sophuhliso lwendawo olwamkelwe ngokumalunga noMthetho woCwangciso lokuSetyenziswa koMhlaba weNtshona Koloni, wama-2014 (uMthetho 3 ka-2014); okanye

(c) indawo ebe iphantsi kwecandelwana lesi-(2) yabhengeza indawo yasedolophini ngenjongo yokusetyenziswa kulo Mthetho,

yaze—

(i) yaquka iindawo ezisecaleni kwindawo ebhekisele kumhlathi *(a)*, *(b)* okanye *(c)* kwaye yandiswa ngaphandle komda walo ndawo ilinganiselwe nge-engile efanele isiphetho sendawo, ngokomgama womlinganiselo ongama-250;

(ii) apho indawo yedolophu ibhekiselwe kwimihlathi *(a)*, *(b)* okanye *(c)* ekhoyo kuphela kwicala elinye lendlela, indlela ikwindawo yedolophu ngokuyinxenye yendawo yedolophu kwela cala;

"indlela yokulungela" ithetha ufikelelo phezu okanye kwilungelo lokuhamba endleleni okanye kukubekelwa bucala kwezibonelelo zothutho ezivunyelwe ligunya lendlela okanye izibonelelo zothutho loluntu.

(2) UMphathiswa wePhondo, ngokwemvumelwano kaMphathiswa wePhondo woRhulumente weZekhaya, angathi ngokwesaziso kwi*Gazethi yePhondo* abhengeze nayiphina indawo ukuba ibeyindawo yasedolophini ngokwenjongo zaloMthetho.

(3) Amagama avela kwigama okanye iintetho ezichaziweyo ezineentsingiselo zembalelwano, ngaphandle kokuba imeko yalatha ngenye indlela.

(4) Isalathiso komnye umthetho siquka ulungiso kunye nolungiso olulandelayo kulo mthetho.

Uxanduva lukaMphathiswa wePhondo kunye noomasipala

2. (1) UMphathiswa wePhondo kunye neNtloko yeSebe kufuneka, kwizixhobo ezikhoyo zeSebe, imali, isicwangciso, ubhengezo, uyilo, ulwakhiwo, uphuhliso, ulungiso, ulawulo, impatho, impumelelo, uphuculo, ukhuselo kunye novuselelo lwezibonelelo zezothutho ngokungqinelana naloMthetho kunye neminye imithetho efanelekileyo.

(2) Umasipala ofanelekileyo kufuneka, kwizixhobo zakhe anazo, phantsi kwaloMthetho nayo nayiphina eminye imithetho efanelekileyo, imali, isicwangciso, ubhengezo, uyilo, ulwakhiwo, uphuhliso, ulungiso, ulawulo, impatho, impumelelo, uphuculo, ukhuselo kunye novuselelo lweendlela zikamasipala kunye nezibonelelo ezincedisa kwezendlela kwindawo yakhe yolawulo lwezobulungisa.

IiNjineli ezinoBuchule okanye abaCwangcisi abaBhalisiweyo abanoxanduva lwemisebenzi ethile

3. (1) UMphathiswa wePhondo kufuneka aqinisekise ukuba imisebenzi eyenziwa ngokumalunga naloMthetho yenziwa phantsi koxanduva kwaye ngenyameko enkulu ngumntu onobuchule obufanelekileyo okulungeleyo oko, ngokwecandelwana lesi-(2) nelesi-(3).

(2) Akukho mntu ngaphandle ko—

(a) mntu obhaliswe njengeNjineli enoBuchule okanye uMfundi ngoBugcisa onoBuchule ngokumalunga noMthetho woBuchule bobuNjineli, wama-2000 (uMthetho wama-46 wama-2000); okanye

(b) mcwangcisi obhalisiweyo ngokumalunga noMthetho woBuchule boCwangciso, wama-2002 (uMthetho wama-36 wama-2002),

anganoxanduva lokongamela nokuvumela izicwangciso okanye amacebo anxulumene nezibonelelo zothuthu ezichazwe kwicandelwana loku-(1).

(3) Akukho mntu ngaphandle kwalo Njineli inoBuchule okanye uMfundi ngoBugcisa onoBuchule onokubanoxanduva lokongamela nokuvumela izicwangciso zobugcisa okanye amacebo anxulumene nale misebenzi ilandelayo:

(a) uyilo lokwakhiwa kwendlela, lwesakhiwo, lwemisebenzi lobunjineli bombane okanye bomatshini bezibonelelo zothuthu ezichazwe kwicandelwana loku-(1);

(b) uphuhliso lokulungisa nokugcina izicwangciso zeziseko ezingundoqo zezothutho olukhoyo ezichazwe kwicandelwana loku-(1);

(c) ulawulo lolwakhiwo nokugcinwa kwezibonelelo zothutho ezichazwe kwicandelwana loku-(1); okanye

(d) eminye imisebenzi emiselweyo.

Itayitile yomhlaba wezibonelelo zothutho

4. (1) Phantsi kwaloMthetho nomthetho ofanelekileyo, onke amalungelo kunye nezibophelelo ezayanyaniswa nezibonelelo zothutho kunye nomhlaba oquka kuwo amalungelo kwiPhondo.

(2) I-ofisi yaBameli beeNdlela esungulwe licandelo 23 loMmiselo ibhangisiwe.

(3) Wonke umhlaba ogunyaziswe okanye obhaliswe ngegama laBameli beNdlela abagunyazisayo kwiPhondo.

(4) Phantsi komthethwana we-(10), ukusuka kumhla wokuqalwa kwaloMthetho, itayitile yomhlaba, kuquka ubukhoboka, ezifunyenwe kutsha nje liPhondo lezibonelelo zothutho kufuneka zibhaliswe kwigama lePhondo.

(5) IPhondo lingathi ngokumalunga nomthetho wephondo ofanele ukulawula ukufumaneka nokuthengiswa komhlaba karhulumente wephondo, fumana umhlaba ngokwenjongo zaloMthetho ngokuthi kuthengwe, kuqashiswe, kohluthwe phantsi kwecandelo lesi-(6) ukuya kwele-(11), okanye nalo naluphi na olunye uhlobo olufanelekileyo.

(6) UMphathiswa wePhondo angathi, ngokungqinelana nomthetho olawula ukohluthwa komhlaba, ohluthe umhlaba ngokwenjongo zemi—

(a) sebenzi okanye izenzo zezibonelelo zothutho kunxibelelwano noko, kuquka ukuphambuka kwexeshana lwendlela okanye umzila kaloliwe;

(b) ngaphantsi kwe-NEMA nawo nawuphi na omnye umthetho, ukufunyanwa, ukumba umgodi okanye ukuphathwa, ukuvelisa okanye ukushenxisa izixhobo eziquka uhlalutye, ilitye, Isanti, udongwe, amanzi ngaphandle kwamanzi obuxoki ampontshelwe ukugcinelwa ukunkcenkceshela, kunye nazo naziphi na izixhobo okanye into ngenjongo echazwe kuloMthetho, ngaphandle kwendawo yasedolophini;

(c) indawo yokuhlala yabasebenzi abazibandakanye kulwakhiwo, uvuselelo, uphuculo okanye ukugcinwa kwezibonelelo zothutho; okanye

(d) indawo yokugcina okanye ukulungisa izithuthi, oomatshini, izixhobo, izixhobo zomsebenzi, oovimba okanye iziveliso zendalo.

(7) Apho isahlulo somhlaba sohluthiwe waze umnini waso wanelisa uMphathiswa wePhondo ukuba intsalela yomhlaba ingabiloncedo kumniniyo ngenxa yolohlutho lomhlaba, uMphathiswa wePhondo kwakhona angayohlutha loo ntsalela.

(8) Apho uMphathiswa wePhondo eluvale isigxina ufikelelo okanye ukuphuma emhlabeni aze umnini womhlaba angabinako ukuwubeka kwimeko enokuthi kube yinzuzo ukusetyenziswa kwawo njengesiphumo esithe ngqo sokuvalwa, okanye izibonelelo zothutho zingabinako ukubonelela ngofikelelo kulo mhlaba, uMphathiswa wePhondo angawohlutha umhlaba.

(9) Apho umhlaba okanye isahlulo ngoko sichaphazeleke kakubi kukohluthwa komnye umhlaba nguMphathiswa wePhondo, uMphathiswa wePhondo, kwakhona angawohlutha umhlaba okanye isahlulo eso sichatshazelweyo.

(10) Ngokubhekisele kuMthetho nakumthetho osetyenziswayo, apho itayitile ibibhengezwe ngaphambili njengendlela ephantsi kwePhondo enegama lomntu endaweni yelePhondo, indlela isetyenziswa liPhondo njengendlela, uMphathiswa wePhondo, angathi, ngaphandle kwentlawulo yembuyekezo—

(a) abange isaziso ukuba kuqiniselwe itayitile kumhlaba ochaphazelekayo njengoko kuchaziwe kwicandelo 31(6) okanye 32(5), njengokuba kufanele, loMthetho woBhaliso lweeTayitile; okanye

(b) emva kokuba ethathe amanyathelo afunekayo achazwe kumhlathi *(a)*, enze itayitile kumhlaba ebhaliswa kwigama lePhondo njengoko kuchaziwe kwicandelo 31(1) loMthetho woBhaliso lweeTayitile.

(11) UMphathiswa wePhondo angathi avelise kwaye ashenxise izixhobo kumhlaba omnini wawo ililungu lombuso, kodwa kuphela ngokumalunga nesivumelwano nelo lungu lombuso phantsi kwe-NEMA kunye nawuphi na omnye umthetho ofanelekileyo.

(12) Umhlaba ogunyaziswe kwiPhondo kwaye ungasafunelwa injongo enxulumene nezibonelelo zothutho zingashenxiswa nguMphathiswa wePhondo ngokungqinelana nomthetho ofanele ukushenxiswa komhlaba wombuso wephondo.

(13) Nangona icandelwana (12), kwimeko apho indlela yabelwe kumhlaba obhaliswe kwigama lalowo unetayitile ngaphandle kwePhondo kwiimemeko apho—

(a) nayiphina indlela imiswe kwenye indawo, itshintshwe okanye ivalwe isigxina;

(b) anayiphina inxenye yendlela ebekelwe bucala incitshiswa okanye itshintshwa,

kwaye umhlaba uyayeka ukuba yinxenye yendlela ngokwesiphumo sesenzo esichazwe kumhlathi *(a)*, okanye *(b)*—

(i) kwiimeko apho umhlaba wawufunyanwa ngokohluthwa, iNtloko yeSebe ingathi, phantsi koMthetho woBhaliso lweeTayitile, ifake isicelo sokushenxiswa kwalo naluphi na ugunyaziso lwetayitile kumhlaba onxulumene namalungelo ePhondo ngokubhekisele kwindlela;

(ii) kwiimeko apho ugunyaziso lomhlaba kwiPhondo, nokokuba umhlaba wawungafunyanwanga ngokohluthwa, ubunini bomhlaba bubuyela konetayitile ngaphandle kokuba iNtloko yeSebe yalathwa ngenye indlela sisaziso esikwi*Gazethi yePhondo*.

(14) INtloko yeSebe imele phantsi kweemeko ezichazwe kumhlathi *(a)* no-*(b)* wecandelwana (13) iqwalasele ukuba ingaba ifanele ikusebenzise ikususe ukuphunyezwa kwetayitile okanye kupapashwe isaziso njengoko kuchaziwe kwicandelwana ngokusekelwe—

(a) ekubeni ingaba uyafuneka na umhlaba ukwenzela nayiphi na injongo enxulumene nezibonelelo zezothuhto; kunye

(b) nenqobo yokukhetha echaziweyo ekumele ingqamane nomthetho i*Government Immovable Asset Management Act, 2007*, (uMthetho 19 ka-2007).

ISAHLUKO SESI-2

UKUHLELWA KUNYE NOKOHLULWA NGOKWEENDIDI ZEENDLELA KUNYE NOKUBHENGEZWA KWEENDLELA EZIDIBENEYO

Ukuhlelwa kweendlela

5. (1) Iindlela zePhondo ezilawulwe nguMphathiswa wePhondo kuquka—

(a) iindlela ezibhengezwe nguMphathiswa wePhondo ngokumalunga necandelo 22(1);

(b) iindlela ezithathwa ngokuba ziindlela zephondo ngokumalunga necandelo le-8(1).

(2) Iindlela zikaMasipala ziquka—

(a) iindlela ezibhengezwe ngoomasipala ngokumalunga nomthetho kamasipala ofanelekileyo;

(b) iindlela ezichazwe kwicandelo lesi-8(2) ngokuphathelele apho kuhlelwa njengendlela edibeneyo zirhoxiswe ngokumalunga necandelo lesi-6(1)*(c)* ukuze kuhlelwe kwakhona njengendlela kamasipala ngumasipala ochaphazelekayo;

(c) iindlela esele zidluliselwe kumasipala ngokumalunga necandelo le-12(3), elesi-(4) okanye elesi-(5);

(d) iindlela ezigunyaziswe kumasipala njengenjongo yolwahlulo lomhlaba;

(e) iindlela ezingakhange zibhengezwe ngokumalunga noMmiselo kwaye omniniyo nolawulo lwawo ingumasipala.

(3) Iindlela ezibaluleke ngokuhlangana ziquka—

(a) iindlela zikamasipala ezibhengezwe nguMphathiswa wePhondo ukuba zibeziindlela ezidibeneyo ngokumalunga necandelo lesi-6(1)*(a)*;

(b) iindlela zikamasipala ekucingelwa ukuba ziindlela ezidibeneyo ngokumalunga necandelo lesi-8(2).

(4) Ngaphantsi kwecandelwana lesi-(5) nelesi-(6), ekumiseleni nokokuba indlela ebe ifudula ibhengezwe okanye nokokuba indlela entsha kukuhlela indlela njengeyephondo, indlela edibeneyo okanye indlela kamasipala njengoko kuchazwe nguloMthetho, kuthathwa njengoko kufuneka nokokuba—

(a) indlela iqala kwaye iphele koomasipala abohlukeneyo;

(b) inani elikhulu leehambo endleleni ziqala kwaye ziphele koomasipala abahlukeneyo;

(c) indlela inika ipaseji kwindawo enendawo ebalulekileyo ngaphandle komasipala;

(d) indlela isetyenziselwa injongo ebalulekileyo ngaphandle komasipala; kwaye

(e) indlela yindlela eshukumayo.

(5) Ukuba indlela ayihlangabezani nayo nayiphina imigomo echazwe kwicandelwana lesi-(4)*(a)* ukuya ku-*(e)* kwaye indlela asiyiyo indlela eshukumayo, indlela kufuneka ihlelwe njengendlela kamasipala: Kuxhomekeka ukuba, ngokumalunga nobungakanani bonxulumano apho indlela ikhoyo, indlela ingahlelwa njengendlela yephondo eyenzeka ngaxeshanye lomasipala ochaphazelekayo.

(6) Ukuba indlela ihlangabezana nekhrayitheriya okanye ezingaphezulu zokugweba ezichazwe kwicandelwana (4)*(a)* ukuya ku-*(e)*, inokuhlelwa njengendlela yephondo, indlela ebalulekileyo edibeneyo okanye indlela kamasipala.

(7) UMphathiswa wePhondo usenokumisela ikhrayitheriya esezantsi phantsi kwayo nayiphi na inqobo edweliswe kwicandelwana (4).

(8) INtloko yeSebe ingamisela izikhokelo ngenjongo yokukhokela ekusetyenzisweni kweekhrayitheriya ezidweliswe phantsi kwecandelwana (4) okanye nayiphi na ikhrayitheriya esezantsi enokuthi imiselwe ukongeza.

Ukubhengezwa kwendlela edibeneyo nguMphathiswa wePhondo

6. (1) UMphathiswa wePhondo angathi, ngokumalunga necandelo lesi-5(4)*(a)* ukuya ku-*(e)*, elesi-(5) nelesi-(6), ngesazo kwi*Gazethi yePhondo*—

(a) bhengeza indlela kamasipala echazwe kwicandelo lesi-5(2) ukuze ibeyindlela edibeneyo;

(b) rhoxisa ubhengezo oluchazwe kumhlathi *(a)*;

(c) rhoxisa uhlelo lwendlela njengendlela edibeneyo echazwe kwicandelo lesi-8(2) ukuze ibe nokuhlelwa ngumasipala ochaphazelekayo njengendlela kamasipala.

(2) UMphathiswa wePhondo kufuneka, ngaphambi kokwenza okanye ukurhoxisa isibhengezo okanye uhlelo oluchazwe kwicandelwana loku-(1) athethana nomasipala ochaphazelekayo.

(3) Umasipala angafaka isicelo kuMphathiswa wePhondo, ekufuneka sibandakanye izizathu, zokwenza okanye ukurhoxisa isibhengezo okanye ulwahlulo oluchazwe kwicendelwano loku-(1).

Ukwahlulwa kwendlela ngokweendidi

7. (1) Indlela yephondo ingahlulwa ngokweendidi njenge:

(a) ndlela enkulu kaloliwe;

(b) ndlela enkulu;

(c) ndlela yesithili;

(d) ndlela yothutho loluntu;

(e) ndlela encinci;

(f) ndledlana yoluntu.

(2) Indlela edibeneyo kufuneka yahlulwe njengendlela enkulu.

(3) Ukuba uMphathiswa wePhondo ubhengeze ukuba indlela ayiyo ndlela enkulu njengendlela edibeneyo ngokumalunga necandelo lesi-6(1)*(a)*, ufuneka, ngesazisi *kwiGazethi yePhondo*, aguqule ukwahlulwa komhlaba ochaphazelekayo kwindlela enkulu.

(4) UMphathiswa wePhondo kufuneka kwisaziso ngasinye akhuphe ngokumalunga necandelo 22(1), ngokuphathalele nendlela yephondo kwaye ngendlela emiselweyo, ahlule indlela njengendlela enye yoluhlu lweendidi izikwicandelwana loku-(1).

(5) Ngaphantsi kwecandelwana lesi-(6) okanye isivumelwano esichazwe kwicandelo le-11(4), uMphathiswa wePhondo angathi, emva kothethwano noomasipala abachaphazelekayo, aguqule ukwahlulwa kwendlela yephondo ngesaziso *kwiGazethi yePhondo*.

(6) Xa kuqalwa inkqubo yothethathethwano oluchazwe kwicandelwana lesi-(5), uMphathiswa wePhondo kufuneka, ngendlela emisiweyo, ameme izimvo kumaqela anomdla nachaphazelekayo kwimiphumela yesiphakamiso sothintsho.

(7) Xa uMphathiswa wePhondo elutshintshile ulwahlulo lwendlela yephondo njengoko kuchaziwe kwicandelwana lesi-(5), angapapasha iinkcukacha zokubhengeza okanye ukubhengeza, njengoko kunokuba njalo, ngokwendlela esebenzayo yezinto zokusasaza iindaba.

(8) UMphathiswa wePhondo usenokumisela indlela yokuhlela indlela phantsi kwecandelwana loku-(1).

ISAHLUKO SESI-3

IINGCAMANGO NGEZIBONELELO ZENDLELA NEMIMISELO YEENDLELA ZIKAMASIPALA KUNYE NEENDLELA EZIDIBENEYO ZIKAMASIPALA

Iingcamango ngezibonelelo ngokuphathelele kwiindlela

8. (1) Ngeli lixa kusalindelwe inkqubo yovavanyo edityanelweyo ecamngcwe kwicandelo le-11, indlela ebibhengeziwe ngaphambili apho uMphathiswa wePhondo ingugunyaziwe weendlela njengoko kuchaziwe kwicandelo loku-1 loMmiselo kuthathwa ngokuba yindlela yephondo.

(2) Ngeli lixa kusalindelwe inkqubo yovavanyo edityanelweyo ecamngcwe kwicandelo le-11, indlela ebibhengeziwe ngaphambili apho umasipala aligunya lendlela njengoko kucamngcwe kwicandelo loku-1 loMmiselo ithathwa njengendlela yokubaluleka ngokudibeneyo.

(3) Yonke imiqathango enxulumene nendlela eyabhengezwa ngaphambili, kubandakanywa ukuhlelwa ngendlela yendlela yetranki, indlela ephambili, indlela yolwahlulo, indlela encinci okanye indlela yoluntu, iyaqhubeka isebenza, ngaphandle kokuba itshintshiwe ngokwalo Mthetho.

(4) Zonke iindlela ebezixeliwe ngaphambili njengezohlulahlulwayo zithathwa njengezohlukeneyo ngokwemigaqo yalo Mthetho, ngaphandle kokuba isibhengezo sitshintshiwe phantsi kwecandelo 7(5).

UMmiselo weendlela zikamasipala kunye neendlela ezidibeneyo zoomasipala

9. (1) Umasipala kufuneka, kwizixhobo anazo, alawule ukuphathwa kwezemali, ukucwangciswa, ukuyilwa, ukwakhiwa, ukuphuhliswa, ukugcinwa, ukumiselwa, ukulawulwa, ukugunyaziswa, ukuphuculwa, ukukhuselwa nokuvuselelwa kweendlela zikamasipala, kunye neendlela ezidibeneyo, xa kufikwa kwicala lolawulo lwezobulungisa.

(2) Ngokwenjongo zecandelwana loku-(1), umasipala kufuneka ubuncinance abonelele ngoku kulandelayo:

(a) ukuxhaswa ngemali, ukucwangciswa, ukuyilwa, ukubhengezwa, ukwakhiwa, ukuphuhliswa, ukugcinwa, ukuphathwa, ukulawulwa, ukumiselwa, ukuphuculwa, ukuvuselelwa nokuvalwa kweendlela zikamasipala kunye neendlela ezidibeneyo kweli cala lolawulo lwezobulungisa;

(b) ukuhlelwa kokusebenza kweendlela zikamasipala kunye neendlela ezidibeneyo;

(c) ububanzi obubekelwe bucala kunye nemizila yothintelwa kwezakhiwo;

(d) ukufunyanwa komhlaba ngokwenjongo zokusungula iindlela zikamasipala kunye neendlela ezidibeneyo;

(e) itayitile, yokugunyazisa nokudlulisela umhlaba namalungelo;

(f) ulawulo nokhuseleko lweendlela zikamasipala, iindlela ezidibeneyo kunye nezibonelelo zendlela ezincedisayo;

(g) ukuvunywa kokusetyenziswa kwezahlulo zomhlaba nokukhulisa uphuhliso lokusetyenziswa komhlaba osecaleni kweendlela zikamasipala kunye nakwiindlela ezidibeneyo ezinokuba negalelo kwimisebenzi nokhuselo kwizithuthi kunye nakwabanye abasebenzisi bendlela;

(h) ulawulo lwezakhiwo kunye nezibonelelo phezu, okanye phantsi kwezitrato ezibekelwe bucala okanye kwimizila yokuthintela izakhiwo ngokuphathelele kwiindlela zikamasipala nakwiindlela ezidibeneyo;

(i) ufikelelo nokuphuma kwiindlela zikamasipala nakwiindlela ezidibeneyo;

(j) ukumiselwa nokulawulwa kokusetyenziswa kweendlela zikamasipala kunye neendlela ezidibeneyo;

(k) iinkqubo kwiimeko zokwaphulwa kwezithintelo.

(3) Phambi kokuba umasipala enze imimiselo yemithetho kamasipala yeendlela ezidibeneyo kunye nezibonelelo ezincedisayo, kufuneka abenodliwano-ndlebe noMphathiswa wePhondo.

(4) Umasipala kufuneka aqinisekise ukuba imisebenzi eyenziweyo yomthetho kamasipala efanelekileyo ukuzokuthi ga ngoku njengoko inxulumene nendlela edibeneyo iqalwe phantsi koxanduva kwaye ngenyameko yomntu onobuchule oneziqinisekiso ezilungele oko kuchazwe kwicandelo lesi-3(2) nelesi-(3) salo Mthetho, kangangokuba kuchaziwe kulo macandelo.

(5) Umasipala kufuneka—

(a) aqinisekise ukuba ucwangciso lwenkqubo yezothutho lwezibonelelo zezothutho eziphantsi kwegunya lalo kwingingqi yalo lubandakanyiwe kwisicwangciso sayo sothutho esimanyanisiweyo;

(b) ngokusemandleni, kuqinisekiswe ukuba ucwangciso nohlahlo lwabiwomali kulwakhiwo, uphuculo nolondolozo lwezibonelelo zezothutho phantsi kwegunya lawo onke amaziko karhulumente kummandla kamasipala, kwaye apho kufanelekileyo, umda kuloo ndawo, uyabandakanywa kunyaka Ukuhlaziywa kwesicwangciso sayo sezothutho esidibeneyo; kwaye

(c) angenise ingcaciso ngocwangciso kunye nolwabiwomali kwiNtloko yeSebe kwangexesha ukuqinisekisa ukubandakanywa kwayo kuhlaziyo olufanelekileyo lwesikhokelo sezothutho somhlaba sephondo.

(6) Umasipala onoxanduva lokugcina indlela ebaluleke ngokudibeneyo kufuneka afake kwaye asebenzise ezo nkqubo zolawulo lweeasethi, kubandakanywa iinkqubo zokuvavanya imeko kunye nolondolozo, ezo iNtloko yeSebe ithathela ingqalelo njengezamkelekileyo kwaye zilungele loo njongo.

(7) Umasipala kufuneka—

(a) aqulunqe kwaye agcine uluhlu lweendlela ezibaluleke ngokudibeneyo ekuthi kuzo ligunya elinoxanduva lokusekwa kwinkqubo efanayo yokufaka amanani okanye yokubhala ekhankanywe kwicandelo le-19(5), njengoko kumiselwe;

(b) aqinisekise ukuba uluhlu olo luyafumaneka ukuba luhlolwe uluntu ngamaxesha omsebenzi kuloo ndawo okanye kwiindawo ezichongwe ngumasipala;

(c) ahlaziye uluhlu xa nayiphi na indlela ibhengeziwe, ishenxiswa, inikwa ngokutsha, idluliswa okanye ivaliwe, okanye xa ukurhoxiswa kwayo kukurhoxisiwe; kwaye

(d) angenise uluhlu kunye nazo naziphi na izinto ezihlaziyiweyo kwiNtloko yeSebe ukuze zifakwe kwiirekhodi ezichazwe kwicandelo le-19.

(8) Oomasipala kufuneka ekucwangciseni, ekubhengezeni, ekuyileni, ekwakheni, ekuphuhliseni, ekugcineni, ekulawuleni, ekulawuleni, ekuphuculeni, ekukhuseleni nasekulungiseni iindlela ezibaluleke ngokudibeneyo ukuze zithobele eyona mfuno iphantsi yemigangatho, imigaqo kunye nezikhokelo ezibekwe yiNtloko yeSebe ngokwemigaqo yecandelo 61, okanye banokusebenzisa imigangatho yabo, iinkcukacha kunye nezikhokelo ukuba ziyahambelana nemigangatho, iinkcukacha kunye nezikhokelo ezibekwe yiNtloko yeSebe.

Ukucwangciswa ngokuhlangeneyo, ulawulo nokulawulwa kweendlela ngokubaluleka ngokudibeneyo liPhondo noomasipala

10. (1) Njengenxalenye yenkqubo yocwangciso lwenkqubo yezothutho yeendlela ezibaluleke ngokudibeneyo, umasipala kufuneka—

(a) amisele ukuhlelwa kokusebenza kwale ndlela nganye kunye nokuhlelwa kokusebenza kwazo zonke iindlela zikamasipala neendlela zokuhamba zabucala ezinqumlayo okanye ezidibanisa ezi ndlela;

(b) amisele imeko-bume yendlela esecaleni kwendlela;

(c) enze izicwangciso zolawulo zendlela ezibalulekileyo.

(2) Xa esenza imisebenzi exelwe kwisiqendwana (1) umasipala kufuneka—

(a) isebenzise imigangatho esebenzayo, iinkcukacha kunye nezikhokelo ezichazwe kwicandelo 9(8);

(b) adibane neNtloko yeSebe; kwaye

(c) aqinisekise ukuba bonke abathathi-nxaxheba abanomdla nabachaphazelekayo bayaxoxwa.

(3) Ulwahlulo olusebenzayo, imeko yophuhliso yendlela kunye nezicwangciso zolawulo lweendlela ezibalulekileyo ezimiselweyo okanye ezilungiselelwe njengoko kuchaziwe kwicandelwana loku-(1)*(a)*, *(b)* no *(c)* kufuneka—

(a) mayingeniswe ngumasipala ochaphazelekayo kwiNtloko yeSebe ngendlela emiselweyo yokufaka izimvo kunye neengcebiso;

(b) sihlaziywe ngumasipala ochaphazelekayo ngokuhambelana nezimvo nezindululo ezichazwe kumhlathi *(a)*;

(c) ukuba yamkelekile kwiNtloko yeSebe, mayibandakanywe kwisakhelo sephondo sophuhliso lomhlaba kunye nenkqubo-sikhokelo yezothutho lomhlaba yephondo.

(4) Umasipala kufuneka—

(a) enze inkqubo yocwangciso lweprojekthi ngaphambi kokwenza imisebenzi exelwe kwisiqendwana sesi-(6)*(a)* ukuya *(e)* ngokubhekisele kwindlela yokubaluleka ngokudibeneyo, kubandakanya neenkqubo zobuchwephesha ezifanelekileyo ukuchaza ulungelelwaniso olukhethiweyo, uyilo, uvimba okanye uyilo lwendlela yokubaluleka kokubambisana;

(b) xa esenza inkqubo yocwangciso lweprojekthi, aqhagamshelana neNtloko yeSebe;

(c) xa esenza inkqubo yocwangciso lweprojekthi athobele iimfuno ezimiselwe ngumthetho osebenzayo.

(5) Umasipala kufuneka phambi kokuba abhengeze okanye akhe indlela entsha ehlangabezana nenye okanye ezingaphezulu kweenqobo zokugweba ezichazwe kwicandelo 5(4)*(a)* ukuya *(e)* afumane kwaye aqwalasele uluvo kunye nezindululo ezibhaliweyo zeNtloko yeSebe kwindlela emiselweyo.

(6) Umasipala akanakho ukwenza le misebenzi ilandelayo ekwenzeni imisebenzi yakhe njengegunya elinoxanduva ngokubhekisele kwindlela esele ikho ngokubaluleka ngokudibeneyo ngaphandle kokufumana izimvo ezibhaliweyo zangaphambili kunye neengcebiso zeNtloko yeSebe ngokusekwe kwimpembelelo yomsebenzi ocetywayo kwimisebenzi yezothutho yephondo nakwizithuthi:

(a) ukwakhiwa kwendlela;

(b) ulwakhiwo lwezixhobo ezingezo moto okanye izithuthi zikawonkewonke endleleni;

(c) ukufuduswa okanye ukuguqulwa kwendlela;

(d) utshintsho lwendlela ebekelwe bucala;

(e) ngaphandle kwaxa kukho imeko kaxakeka, ukuvalwa kwendlela okwexeshana okanye okusisigxina;

(f) isibhengezo okanye ukususwa kwendawo ethintela ulwakhiwo, ukucuthwa kobubanzi bendawo ethintelayo kulwakhiwo okanye nasiphina esinye isibhengezo ngokunxulumene noko;

(g) ukwakhiwa kweentlanganondlela ezintsha okanye ezilungisiweyo okanye iindlela zokunqumama phakathi kwendlela nezinye iindlela zikawonke-wonke;

(h) ukufakelwa kwemiqondiso yezithuthi, ukumisa imiqondiso, ukuvelisa imiqondiso kunye naziphi na ezinye izixhobo zolawulo lwezithuthi, okanye nasiphi na esinye isibonakaliso sezithuthi esinokuthintela ukugcwala kwabantu okanye ukusebenza kwendlela;

(i) umyalelo wokufudusa, ukuthintela okanye ukuvala ukufikelela okusemthethweni kumhlaba okufuphi nendlela ongena okanye ophuma endleleni, okanye ulwakhiwo lokungena nokubuya kumhlaba okufuphi, nokuba ngubani umnini umhlaba.

(7) Xa efuna izimvo ezibhaliweyo kunye neengcebiso zeNtloko yeSebe ngokunxulumene nomsebenzi odweliswe kwicandelwana lesi-(6), umasipala kufuneka anike iNtloko yeSebe iinkcukacha zobugcisa zomsebenzi owaneleyo ukuze iNtloko yeSebe ikwazi ukumisela naziphi na iimpembelelo ezinokubakho ekuchaphazelekeni kwephondo nakwinkqubo yothutho yephondo.

(8) INtloko yeSebe kufuneka—

(a) ukuba iinkcukacha zobugcisa ezinikwe kwicandelwana lesi-(7) azonelanga ukwenza ukuba iNtloko yeSebe ikwazi ukwenza isigqibo esixelwe kweli candelwana, mayicele iinkcukacha ezithe vetshe kumasipala njengoko kunokufuneka; kwaye

(b) aphendule kwisicelo sezimvo kunye neengcebiso ezichazwe kwicandelwana lesi-(3) nelesi-(6), ngendlela ebekiweyo.

(9) Ukuba izimvo nezindululo zeNtloko yeSebe zikhankanywe kwicandelwana lesi-(6) zibonisa ukuba lo msebenzi unokuba nefuthe elibi kuthutho lwephondo nakwezothutho lwephondo, umsebenzi ocetywayo awunakuqhubeka de ibe yiNtloko yeSebe kunye nomasipala ochaphazelekayo ufikelele kwisivumelwano malunga nokusebenza kunye neenkcukacha zobuchwephesha zalo msebenzi.

(10) Kwiimeko ezikhankanywe kwicandelwana lesi-(9) iNtloko yeSebe kunye nomasipala ochaphazelekayo kufuneka bathathe inxaxheba kweyona ndlela ifanelekileyo neyixabisayo ukuze ngokuhlangeneyo—

(a) isigqibo sokunciphisa naziphi na iimpembelelo ezingalunganga zomsebenzi ocetywayo kuthutho lwephondo nakwezothutho lwephondo ngokwamkela izilungiso okanye izilungiso kwiinkcukacha zobugcisa zalo msebenzi; okanye

(b) avume ukuba isicelo sikamasipala sesivumelwano seNtloko yeSebe sokwenza lo msebenzi ucetywayo siyarhoxiswa ngumasipala.

(11) Ngeenjongo zokusombulula imbambano okanye ukufikelela kwisivumelwano, iNtloko yeSebe kunye nomasipala kufuneka basebenzisane kwaye basebenzisane ngokungqinelana necandelo 41 loMgaqo-siseko, elinokubandakanya ulamlo lomntu ochazwe kwicandelo lesi-3(2)*(a)* walo Mthetho.

(12) Ukuba umsebenzi owenziwe ngumasipala unefuthe elibi kuthutho lwephondo okanye kwimisebenzi yezothutho yephondo, iNtloko yeSebe inokuthi, ngendlela ebekiweyo, ibhalele umasipala ngembalelwano ngesidingo sokwenza isenzo esifunekayo ukuze kuqinisekiswe ukuthotyelwa kwendlela ebalulekileyo ngokubambisana nawo nawuphi na umgaqo walo Mthetho, okanye nayiphi na imigangatho, imigaqo kunye nezikhokelo ezibekwe ngokwecandelo 61.

(13) Ukuba umasipala uyasilela ukuthobela okanye ukuphikisa isaziso esikhankanywe kwicandelwana le-12, iNtloko yeSebe kunye nomasipala kufuneka bathathe amanyathelo afanelekileyo ukufikelela kwisivumelwano njengoko kuchatshazelwe kwicandelwana le-(10) nele-(11).

(14) Ukuba ngaba umasipala ufuna ukwenza into eyenye indawo ngaphandle kwegunya elinoxanduva ngokubhekisele kwindlela ebalulekileyo edibeneyo nalapho kufuneka imvume ebhaliweyo exelwe kwisiqendwana se-(15), umasipala kufuneka enze isicelo mvume esibhaliweyo ngokungqinelana necandelo elifanelekileyo elicamngcwe kwicandelwana le-(15), kwaye onke amalungiselelo ahambelana nalo Mthetho ayasebenza.

(15) Ngokubhekiselele kwiindlela ezibaluleke ngokudibeneyo—

(a) iimvume ezibhaliweyo ezifunekayo ngokwesiqendu sama-32(1), sama-37(1), (2) nesesi-(4), sama-45(1), sama-47(1), sama-48(1), sama-51(2) nesama-67(3) zongezwa kuyo nayiphina imvume kamasipala ofanelekileyo efunwa ngokwemigaqo kamasipala kamasipala osebenzayo, kwaye iimvume ezibhaliweyo ezifunekayo ngokwamacandelo ekubhekiswe kuwo kweli candelwana azilubethi ngoyaba uxanduva lokufumana imvume umasipala ofanelekileyo ofunwa ngokomthetho kamasipala osebenzayo; kwaye

(b) ukuba iimvume ezinikezelwe nguMphathiswa wePhondo okanye yiNtloko yeSebe ngokuhambelana nesicelo sikamasipala ochaphazelekayo kumhlathi *(a)* zombini zinikezelwe phantsi kwemiqathango, kokukhona kusebenza iimeko ezinzima.

(16) INtloko yeSebe kwaye, kwimeko yesibheno, uMphathiswa wePhondo, kunye nomasipala ochaphazelekayo, kufuneka, ngokubhekiselele kumacandelo ama-32(1), ama-37(1), (2) nowesi-(4), nama-45(1), nama-46(1), nama-47(1), nama-48(1), nama-51(2) kwaye nama-67(3) bathatha onke amanyathelo afanelekileyo okudibanisa iimfuno zenkqubo yokwenza izigqibo kunye neemvume ngendlela ekhankanywe kwicandelo 65.

ISAHLUKO SESI-4

UVAVANYO OLUHLANGENEYO LWEENDLELA EBEZIFUDULA ZIBHENGEZIWE KUNYE NEZIVUMELWANO ZODLULISO

Uvavanyo lweendlela ebezifudula zibhengeziwe

11. (1) Kungabikho semva komhla ochazwe kwicandelwana lesi-(2), uMphathiswa wePhondo kufuneka, ngokuvumelana neNtloko yeSebe, aqalise inkqubo yovavanyo oluhlangeneyo noomasipala ngokobhengezo lweendlela lwangaphambili ngokuphathelele kwiindawo ezichaphazelekayo ukuqinisekisa kwindlela emiselwe ngokumalunga nendlela nganye—

(a) ngaphantsi kwamacandelo lesi-5(2), elesi-(3) nelesi-(4), nokokuba indlela kufuneka ihlelwe njengendlela yephondo okanye indlela kamasipala;

(b) nokokuba indlela kufuneka ibhengezwe njengendlela edibeneyo;

(c) ukulungela ukwahlulwa ngokweendidi kwendlela enjalo nganye ngokumalunga necandelo lesi-8(3) nelesi-8(4), njengoko kunokuba njalo;

(d) imeko yendlela kunye neemfuno zokulungisa zangoku nezilandelayo, okubambekayo nokwemali;

(e) nokokuba indlela kufuneka ivalwe ize ibhengezwe njengendlela erhoxisiweyo;

(f) anawo nawuphina umcimbi onokuba uyimfuneko, kuquka imfuneko yazo naziphina izibonelelo ezizakubhengezwa njengezibonelelo ezincedisayo zothutho.

(2) UMphathiswa wePhondo angathi, ngokwesaziso kwi*Gazethi yePhondo*, amisele umhla apho uvavanyo oluhlangeneyo kufuneka luqale ngokuphathelele kwiindlela ebezifudula zibhengeziwe kumasipala othile ochongwe kwisaziso.

(3) Njengengxenye yovavanyo oluhlangeneyo oluchazwe kwicandelwana loku-(1), iNtloko yeSebe kufuneka, ngendlela emiselweyo, limeme izimvo kumaqela anomdla nachaphazelekayo kwimiba ekuluhlu olukwicandelo loku-(1)*(a)* ukuya ku-*(f)*.

(4) Ukulandela iimvamvanyo ezihlangeneyo ezichazwe kwicandelwana loku-(1) kunye nengqwalasela yezimvo ezifunyenwe kuluntu ngokwamandla ecandelo lesi-(3), kodwa kungabikho semva kweminyaka emibini ukusuka kumhla omiselwe ngokumalunga kwicandelwana lesi-(2) okanye emva komhla ekuvunyelwene ngawo, uMphathiswa wePhondo ngokuvumelana neNtloko yeSebe, kunye nomasipala ngamnye, kufuneka bangene kwisivumelwano esibhaliweyo ngendlela emiselweyo, emayichaze ngokuphathelele nendlela nganye, okanye iqela leendlela, ezivavanyiweyo—

(a) nokokuba indlela kukuhlela njengendlela yephondo okanye indlela kamasipala;
(b) ukuba indlela kufuneka ihlelwe njengendlela kamasipala, nokokuba kufuneka ihlelwe njengendlela edibeneyo;
(c) nokokuba ukwahlulwa ngokweendidi zendlela nganye ngokumalunga necandelo lesi-8(3) okanye lesi-(4) izakutshintshwa;
(d) nokokuba indlela iza kuvalwa ize ibhengezwe njengendlela erhoxisiweyo;
(e) nawuphina umba ongathi ufuneke kuquka imfuno yazo naziphina izibonelelo emazibhengezwe njengezibonelelo ezincedisayo zothutho.

(5) UMphathiswa wePhondo, iNtloko yeSebe kunye nomasipala ochaphazelekayo kufuneka ekuqaleni inkqubo yovavanyo oluhlangeneyo—

(a) aqaphele ulwamkelo lomnqophiso njengoko uchazwe kwicandelo 35 loMthetho weSakhelo soBudlelwane booRhulumente;
(b) ukusebenzisana nokubambisana ngokungqinelana necandelo 41 loMgaqosiseko; kunye
(c) nokuthatha onke amanyathelo okufikelela kwisivumelwano kumiselo.

(6) Ukuba isivumelwano esichazwe kwicandelwana lesi-(4) akufikelelwanga kuso kwisithuba sexesha elichazwe kwela candelwana, uMphathiswa wePhondo, ngokuvumelana neNtloko yeSebe, angathi, phantsi kwecandelwana lesi-(7) no-(8), enze isigqibo kwimiba ekuluhlu lwecandelwana lesi-(4).

(7) UMphathiswa wePhondo kunye neNtloko yeSebe kufuneka ngaphambi—

(a) ukungena kwisivumelwano esichazwe kwicandelwana (4);
(b) isigqibo esichazwe kwicandelwana (6),

ucebisana noMphathiswa wezeMali wePhondo kunye noMphathiswa wePhondo woRhulumente weNgingqi.

(8) UMphathiswa wePhondo, ngokuvumelana neNtloko yeSebe, kufuneka, phambi kokwenza isigqibo esichazwe kwicandelwana lesi-(6)—

(a) ubuncinane ziintsuku ezingama-30 phambi kokuba isigqibo sinike umasipala ochaphazelekayo nge—
  (i) saziso esibhaliweyo sengcinga yesigqibo kwimiba ekuluhlu kwicandelwana lesi-(4) sikunye nempembelelo;
  (ii) irekhodi elibhaliweyo lamanyathelo athathiweyo ukuza kuhambelane necandelwana lesi-(5); kunye
  (iii) nesimemo esibhaliweyo sokungenisa naziphina iziphakamiso ezizingcinga zesigqibo, apho iziphakamiso kufuneka zibenempembelelo ezeleyo kwaye kufuneka ingeniswe kungaphelanga iintsuku ezingama-21 emva kokuba zinikezelwe nesaziso esibhaliweyo kunye nerekhodi elichaziweyo kwimihlathana u-(i) kunye no-(ii);
(b) qaphela naziphina iziphakamiso ezingeniswe ngesingqinelwano nesimemo esichazwe kumhlathi u-*(a)*(iii).

(9) Ukuba isivumelwano esichazwe kwicandelwana lesi-(4) kufikelelwe okanye kwenziwe isigqibo esichazwe kwicandelwana lesi-(6) senziwe, phantsi kwayo nayiphina inkqubo yesicwangciso efanelekileyo ngokumalunga necandelo 20 kwaye ifuneka kangangokuba—

(a) uMphathiswa wePhondo kufuneka kwi*Gazethi yePhondo* enze ubhengezo—
  (i) olucwazwe kwicandelo 22(1)*(d)*, ukuba indlela edibeneyo echazwe kwicandelo lesi-8(2) izakuhlelwa kwakhona njengendlela yephondo;
  (ii) oluchazwe kwicandelo 22(1)*(c)*(iii)*(aa)*, ukuba indlela yephondo izakuhlelwa kwakhona njengendlela kamasipala;

(iii) oluchazwe kwicandelo lesi-6(1)*(c)*, ukuba ukuhlelwa kwendlela ecingelwa ukuba yindlela edibeneyo ngokumalunga necandelo lesi-8(2) irhoxiselwe ukuba ibe yehlelwa kwakhona njengendlela kamasipala ngumasipala ochaphazelekayo;

(iv) oluchazwe kwicandelo 22(1)*(c)*(ii), ukuba ukubhengezwa kwendlela kuza kurhoxiswa kwaye indlela ivalwe isigxina;

(v) oluchazwe kwicandelo lesi-7(4), ukuba ukwahlulwa kwendlela kuzakutshintshwa;

(vi) ukugunyazisa ubumnini bomhlaba apho indlela ikumasipala okanye iPhondo njengoko kuchazwe kwicandelo le-12(2) okanye lesi-(3) lifundwe necandelo le-12(9), njengoko kufunwa ziimeko;

(vii) malunga nawo nawuphina umba ongafuneka kwiimeko, kuquka ukubhengezwa kwezibonelelo ezincedisayo zothutho ngokumalunga necandelo 22(1);

(b) iNtloko yeSebe kufuneka ingene kwisivumelwano sodluliso lwendlela oluchazwe kwicandelo le-12.

(10) Ukuba uMphathiswa wePhondo wenze isibhengezo esichazwe kwicandelwana lesi-(8)*(a)* angapapasha iinkcukacha zesibhengezo ngendlela zazo naziphina izinto zokusasaza.

(11) Ukubhengezwa okuchazwe kwicandelwana lesi-(8)*(a)* kunye nesivumelwano sodluliso lwendlela oluchazwe kwicandelwana les-(8)*(b)* kufuneka kwaziswe ukuqokelelwa kweerekhodi ezichazwe kwicandelo le-19.

Izivumelwano zodluliso lwendlela

12. (1) Ukudluliswa koxanduva ngendlela njengoko kuchazwe kweli candelo kufuneka, kangangoko kufuneka, kumiselwe sisivumelwano sodluliso lwendlela phakathi kweNtloko yeSebe nomasipala ochaphazelekayo, esinokuquka—

(a) izibonelelo zokunika ukusebenza kodluliso lobumnini bomhlaba apho indlela ikwindawo njengoko kuchaziwe kwicandelo le-12(9), njengoko kufunwa ziimeko;

(b) nawuphina omnye umba omawuququzelele udluliso loxanduva ngokuphathelele kwindlela.

(2) Ukuba inkqubo yovavanyo oluhlangeneyo oluchazwe kwicandelo le-11 emisela ukuba indlela kamasipala okanye indlela edibeneyo ikukuhlelwa njengendlela yephondo, onoxanduva lwendlela kufuneka kudluliswe ngumasipala ochaphazelekayo kwiPhondo.

(3) Inkqubo yovavanyo oluhlangeneyo oluchazwe kwicandelo le-11 imisela ukuba indlela yephondo ihlelwe njengendlela kamasipala okanye indlela edibeneyo, ngoxanduva lwendlela ekufuneka idluliswe liPhondo kumasipala ochaphazelekayo.

(4) Ukuba indlela yindlela echazwe kwicandelo lesi-5(6), nakweliphina ixesha phambi okanye emva kwenkqubo yovavanyo oluhlangeneyo oluchazwe kwicandelo le-11, uxanduva lwendlela lungadluliswa ukusuka kwiPhondo ukuya kumasipala ofanelekileyo, okanye ukusuka kumasipaa ofanelekileyo ukuya kwiPhondo, njengoko kufunwa ziimeko.

(5) Ukuba nangaliphina ixesha phambi okanye emva kwenkqubo yovavanyo oluhlangeneyo oluchazwe kwicandelo le-11, ngokumalunga namacandelo lesi-5(4), elesi-(5) nelesi-(6), lungamiselwa ukuba indlela ayihlelwanga kakuhle—

(a) ngokumalunga necandelo lesi-8(1) okanye lesi-(2);

(b) ngokotshintsho lweemeko;

(c) ngokolawulo lwemposiso,

uxanduva ngokomhlaba lungadluliswa ukusuka kwiPhondo ukuya kumasipala ochaphazelekayo, okanye ukusuka kumasipala ochaphazelekayo ukuya kwiPhondo, njengoko kufunwa ziimeko.

(6) Udluliso loxanduva lwendlela oluchazwe kwicandelwana lesi-(4) okanye lesi-(5) luphantsi kwenkqubo yesicwangciso esichazwe kwicandelo 20.

(7) Apho uxanduva lwendlela ludluliswe kwiimeko ezichazwe kumacandelwana lesi-(4) nelesi-(5), uMphathiswa wePhondo kufuneka—

(a) indlela ihlelwe kwakhona njengendlela yephondo, kwenziwe ubhengezo ngokumalunga necandelo 22(1)*(d)*;

(b) indlela yephondo kukuhlelwa kwakhona njengendlela kamasipala, enze ubhengezo oluchazwe kwicandelo 22(1)*(c)*(iii)*(aa)*.

(8) Ukuba uMphathiswa wePhondo wenze ubhengezo oluchazwe kwicandelwana lesi-(7)*(a)* okanye u-*(b)*, kufuneka apapashe isaziso sesibhengezo ubuncinane kwiphephandaba elinye kwindawo echaphazelekayo, ekungakhomba ixesha nendawo apho iinkcukacha ezichaza ngakumbi zingahlolwa, kwaye, ukuba luyasebenza, olunye usasazo.

(9) Apho umhlaba apho indlela, uxanduva oluthe lwadluliselwa kolunye ugunyaziso, lugunyaziswe kumdlulisi, ubumnini bomhlaba kufuneka budluliselwe kwelinye igunya, ngaphandle kweendleko, ngaphandle kwendleko ezidlulisiweyo, ekunokuba zithwelwe naleliphina iqela njengoko kuvunyelwene—

(a) ngendlela yesivumelwano sokudluliselwa kwendlela okuchazwe kwicandelwana loku-(1);

(b) isibhengezo kwi*Gazethi yePhondo* esichazwe kwicandelo lesi-11(8)*(a)(vi)*.

(10) Udluliso lwendlela ngokumalunga nelicandelo kufuneka kwaziswe ngokuhlanganisa iirekhodi ezichazwe kwicandelo le-19.

ISAHLUKO SESI-5

IMIZILA KALOLIWE, IINDLELA ZEZOTHUTHO LOLUNTU, UKUBEKELWA BUCALA KOBUBANZI, IZIBONELELO EZINCEDISA KWEZOTHUTHO, IMIZILA YOLWAKHIWO KUNYE NEENDAWO ZOTHINTELO LWESAKHIWO

Ukohlulwa kwemizila kaloliwe

13. (1) Imizila kaloliwe elawulwa nguMphathiswa wePhondo ingaqukwa kwi—

(a) imizila kaloliwe emikhulu;

(b) imizila kaloliwe emincinci,

unxulumano kwimisebenzi yephondo.

(2) UMphathiswa wePhondo kufuneka, kwisaziso ngasinye esikhutshwe ngokumalunga necandelo 22(1) ngendlela emiselwe ngokumalunga nomzila kaloliwe, wohlula umzila kaloliwe ukuba ubengowohlulwe kuluhlu olukwicandelo loku-(1).

(3) Phantsi kwenkqubo yokucebisana emisel-(4), uMphathiswa wePhondo angathi, emva kokucebisana noomasipala abachaphazelekayo, atshitshe ulwahlulo lomzila kaloliwe ngesaziso kwi*Gazethi yePhondo*.

(4) Phambi kotshintsho lolwahlulo oluchazwe kwicandelwana lesi-(3), amenne izimvo kumaqela anomdla nachaphazelekayo kwimiphumela yotshintsho oluceliweyo.

(5) Ukuba uMphathiswa wePhondo ulutshintshile ulwahlulo lomzila kaloliwe oluchazwe kwicandelo lesi-(3), angapapasha iinkcukacha zotshintsho ngendlela yayo nayiphina indlela esebenzayo yosasazo.

(6) Isaziso esichazwe kwicandelwana lesi-(3) kufuneka azise ngoqokelelo lweerekhodi ezichazwe kwicandelo le-19.

Iindlela zothutho loluntu

14. (1) Indlela yothutho loluntu ingafumaneka kubeko lwayo lwabucala olukhethekileyo okanye kubeko bucala lwendlela kaloliwe, enkulu, yesithili okanye kwindlela encinci.

(2) UMphathiswa wePhondo angamisela iimeko zeendlela zothutho zoluntu kwaye kufuneka azenze ezomeko zaziwe kwisaziso se*Gazethi yePhondo*.

(3) Apho indlela yezothutho loluntu lwephondo ifumaneka yonke kwindlela ebekelwe bucala yendlela kamasipala okanye indlela edibeneyo, uMphathiswa wePhondo nomasipala kufuneka, apho kufaneleyo, agqibe isivumelwano esibhaliweyo kumasipala ogunyazisiweyo onoxanduva lokulungisa, ulawulo lwesaziso, iindlela, kunye nezinye iinkalo ezifaneleyo malunga nendlela yezothutho loluntu lwephondo.

Ukubekelwa bucala kobubanzi beendlela kunye nemizila kaloliwe

15. (1) Phantsi kwecandelo lesi-(2), ubuncinci bemigangatho yokubekelwa bucala kobubanzi beendlela zephondo ezibhengezwe ngokumalunga necandelo 22(1), iindlela ezidibeneyo ebezifudula zibhengezwe ngokumalunga necandelo lesi-6(1)*(a)* yaze imizila kaloliwe yephondo yabhengezwa phantsi kweSahluko sesi-6 yile ilandelayo:

(a) indlela enkulu kaloliwe: iimitha ezingama-30;

(b) indlela enkulu: iimitha ezingama-25;

(c) indlela yesithili: iimitha ezingama-20;

(d) indlela encinci: iimitha ezingama-20;

(e) indlela yothutho loluntu: iimitha ezingama-20, ngaphandle apho indlela yothutho loluntu ibhengezwe kubeko bu ala lwendlela kaloliwe, enkulu, yesithili okanye encinci;

(f) indledlana yoluntu: iimitha ezimbini;

(g) umzila omkhulu kaloliwe: iimitha ezingama-20; kunye

(h) umzila omncinci kaloliwe: iimitha ezili-10.

(2) UMphathiswa wePhondo angathi, ngobhengezo, ukusiwa kwenye indawo okanye utshintsho lwendlela yephondo okanye umzila kaloliwe wephondo, kwisaziso esichazwe kwicandelo 22(1), umisela ukuba indlela okanye umzila kaloliwe unobuncinci bemigangatho yokubekelwa bucala kobubanzi ngaphandle kobuncinci bemigangatho yokubekelwa bucala kobubanzi.

(3) UMphathiswa wePhondo angathi, kwisaziso esichazwe kwicandelo 22(1)*(b)*, tshintsha ubuncinci bemigangatho yokubekelwa bucala kobubanzi bendlela yephondo okanye umzila kaloliwe wephondo, okanye isahlulo ngako oko—

(a) emva kothethwano nabo bonke oomasipala abachaphazelekayo;

(b) ngaphantsi kokucwangcisa iprojekthi eyimfuneko ngokumalunga neSahluko sesi-6.

(4) Apho indlela yephondo inobona bubanzi bubekelwe bucala obumiselwe njengesiphumo sesahlulo okanye isahlulwana somhlaba okanye osele ufunyenwe nangayiphina indlela nezinye ezilolo hlobo kwaye inobukhulu bemigangatho yokubekelwa bucala kobubanzi, ububanzi bendlela yephondo obubekelwe bucala bungathathwa ngobunotshintsho ngokungqinelana nobo bubanzi bumiselweyo.

(5) INtloko yeSebe ingathi, ngesaziso kwiPhepha loMbusi, ichaze imida yokubekela bucala nayo nayiphina indlela yephondo ngokungqinelana neendawo eziququzelelweyo kwisicwangciso esipapashwe kwisaziso esingentla, kuxhomekeka apho ukubekelwa bucala buchazwe ngokuvumelana nomcimbi walo naluphina ubhengezo oluchazwe kwicandelo 22(1), inkcazelo enjalo ingaqukwa kwisibhengezo eso.

(6) ububanzi obubekelwe bucala bazo zonke iindlela ngokomthetho oqingqiweyo okanye otshintshiweyo okanye othathwa njengoqongqiweyo okanye otshintshiweyo ngokumalunga noMmiselo kunye nesinyanzelo ekuqalweni kwalo Mthetho uhlala usisinyanzelo ngaphandle kokuba utshintshwe phantsi kwaloMthetho.

Ukwahlulwa ngokweendidi kunye nokubekelwa bucala kwezibonelelo ezincedisayo zothutho

16. (1) Izibonelelo ezincedisayo kwezendlela kufuneka zohlulwe ngolu hlobo:

(a) indawo yokumisa iimoto;

(b) indawo yokuphumla;

(c) isiza senkonzo yofikelelo ngqo;

(d) indawo yokuma;

(e) isiza sesikali esikhulu esineqonga lokuweyisha isithuthi;

(f) iziko lolawulo lwezithuthi;

(g) ikampu yesitokhwe;

(h) iziko logcino lwezixhobo; okanye

(i) indawo yokuhlala iibhasi.

(2) Izibonelelo ezincedisayo zothutho loluntu kufuneka kwahlulwe ngolu hlobo:

(a) unaniselwano lwezothutho loluntu;

(b) istishi;

(c) iziko ekudibana kulo oololiwe;

(d) indawo ehlala iibhasi; okanye

(e) ulawulo kunye neziko leenkcukacha.

(3) UMphathiswa wePhondo kufuneka, kwisaziso ngasinye esipapashiweyo ngokumalunga necandelo le-22(1) ngokuphathelele kwizibonelelo ezincedisayo zothutho loluntu, izibonelelo ezincedisayo zothutho olubhengezwe kwisaziso sibelolunye uhlobo olukuluhlu lwecandelwana loku-(1) okanye lesi-(2), ngaphandle apho iziboneleo zibonisiwe zaze zayinxenye yobekelo bucala lwezibonelelo zothutho.

(4) Ngaphantsi kwenkqubo yothethwano emiselwe kwicandelo lesi-(5), uMphathiswa wePhondo angathi, emva kothethwano nomasipala ochaphazelekayo utshintsha ulwahlulo lwezibonelelo ezincedisayo zothutho anoxanduva lwazo ngesaziso kwi*Gazethi yePhondo*.

(5) Phambi kwesicelo sotshintsho lolwahlulo oluchazwe kwisicelwana sesi-(4), uMphathiswa wePhondo kufuneka, kwindlela emiselweyo, ameme izimvo kumaqela anomdla nachaphazelekayo, kwimiphumela yesicelo sotshintsho.

(6) Ukuba uMphathiswa wePhondo utshintshe ulwahlulo lwezibonelelo ezincedisayo zothutho njengoko kuchazwe kwicandelo lesi-(4), angapapasha iinkcukacha zotshintsho ngendlela yalo naluphina usasazo olusebenzayo.

(7) Ukubekelwa bucala kwezibonelelo ezincedisayo kwezothutho kufuneka zimeselwe ngokusebenzisa iinkqubo zocwangciso lweprojekthi eziqalwa ngokumalunga neSahluko sesi-6 phambi kwesibhengezo sezibonelelo ezincedisayo zothutho.

(8) UMphathiswa wePhondo angatshintsha ukubekelwa bucala kwezibonelelo ezincedisayo zothutho—

(a) emva kothethwano nomasipala ochaphazelekayo;

(b) ngokuxhomekeke kucwangciso lweprojekthi efaneekileyo ngokweCandelo 6; kunye

(c) nangesaziso kwi*Gazethi yePhondo* ngendlela emiselweyo.

Imizila yesakhiwo kunye neendawo zothintelo lwesakhiwo

17. (1) Kukho umzila wesakhiwo kwicala ngalinye lendlela yephondo, indlela edibeneyo okanye umzila kaloliwe okumgama ozimitha ezintlanu ukusuka kumda wokubekelwe bucala, olulinganiselwe ngee-engile ezifanelekileyo kumzila osembindini wendlela okanye umzila kaloliwe.

(2) Ngaphandle kwendawo yasedolophini, uMphathiswa wePhondo angathi, nokuphathelele kwindlela yephondo ukuba yindlela enkulu kaloliwe, indlela enkulu, indlela yesithili, indlela yothutho loluntu, indlela edibeneyo okanye umzila kaloliwe, obhengezwe phambi okanye emva kokuqala kwaloMthetho, ubhengeza ukuba indlela okanye umzila kaloliwe unendawo yothintelo lwesakhiwo—

(a) kwicala ngalinye lendlela okanye umzila kaloliwe kumgama oziimitha ezingama-95 ukusuka kumzila osembindini olinganiswe ngee-engile ezifanelekileyo;

(b) kumgama ozimitha ezingama-500 ukusuka nakweyiphi na indawo yendlela enqumlayo yomzila osembindini wendlela enjalo okanye umzila kaloliwe onomzila embindini wenye indlela okanye umzila kaloliwe.

(3) Phambi kokwenza isibhengezo ngokumalunga necandelwana lesi-(2), uMphathiswa wePhondo kufuneka ameme izimvo kumaqela anomdla nachaphazelekayo kwiziphumo zesicelo sotshintsho.

(4) Indlela okanye isahlulo ngapha koko ukuba yayibhengezwe yayindlela yothintelo kwisakhiwo ngokumalunga noKwazisa ngeeNdlela nangoMthetho woPhuhliso lweRibhoni, zithathwa ngokuba ziindawo zothintelo lwesakhiwo njengokuba kuchaziwe kwicandelwana lesi-(2).

(5) Apho indawo esecaleni kwendlela ibayindawo yedolophu, nayiphina indawo yothintelo lwesakhiwo ngokuphathelele kwindlela enjalo ebifudula ikhona ayisekho.

(6) UMphathiswa wePhondo angathi, phantsi kothethwano noomasipala abachaphazelekayo, ngesaziso kwi*Gazethi yePhondo* ngendlela yokumisela, ukushenxisa, ukucutha ububanzi, okanye ukuchonga ukwahlulwa kwemisebenzi evumelekileyo, kwindawo yothintelo lwesakhiwo lweendlela zephondo kunye nemizila kaloliwe.

(7) Phambi kokwenziwa kwesibhengezo ngokumalunga necandelwana lesi-(6), tuMphathiswa wePhondo kufuneka ameme izimvo kumaqela anomdla nachaphazelekayo kwiziphumo zesicelo sobhengezo.

ISAHLUKO SESI-6

UKUCWANGCISWA NOKUBHENGEZWA KWEZIBONELELO ZOTHUTHO

Isicwangciso senkqubo yothutho

18. (1) INtloko yeSebe kufuneka—

(a) iqinisekise ukuba isicwangciso senkqubo yothutho lwezibonelelo zothutho apho uMphathiswa wePhondo enegunya elinoxanduva lithathwa njengelimiselweyo;

(b) ivelise uhlaziyo lonyaka kolo cwangciso, kuquka uhlahlo lwabiwomali, njengengeniso kwimijikelo yohlahlo lwabiwomali lweSebe kunye neenkqubo zokuphunyezwa; kwaye

(c) yenze olohlaziyo lufumaneke koomasipala phambi komhla we-15 kweyoKwindla rhoqo ngonyaka.

(2) Umasipala kufuneka—

(a) aqiniseke ukuba ucwangciso lwenkqubo yothutho lwezibonelelo zothutho phantsi kwegunya lakhe kwindawo liqukwe kwisicwangciso sothutho oluhlangeneyo njengoko kufunwa yi-NLTA;

(b) nangona kunjalo, kufuneka uqiniseke ukuba ucwangciso kunye nohlahlolwabiwo mali lolwakhiwo, uphuculo kunye nolondolozo lwezibonelelo zothutho phantsi kwegunya lazo zonke izinto zikarhulumente kwindawo yalo kamasipala, kwaye apho kufanelekileyo, kumda kuloo ndawo, ziqukiwe kuhlaziyo lonyaka Isicwangciso sezothutho esihlanganisiweyo; kwaye

(c) ngenisa ulwazi lolocwangciso kunye nohlahlo-lwabiwo mali kwiNtloko yeSebe kwangexesha ukuqinisekisa ukubandakanywa kwazo kuhlaziyo olufanelekileyo lomgaqo-nkqubo wezinto zokuhamba zephondo.

(3) INtloko yeSebe kufuneka ilungiselele izicwangciso zolawulo oluphambili njengoko kumiselweyo ukuba kufuneka—

(a) ibandakanywe isicwangciso sokudityaniswa kwezothutho esifanelekileyo nenkqubo yophuhliso lomhlaba kunye nenkqubo yezothutho lomhlaba;

(b) ichaze umgaqo-nkqubo osetyenziswayo kunye nowexesha elizayo lwezibonelelo zothutho ezichaphazelekayo;

(c) ibonelela ngesicwangciso sendalo esalathisa ulawulo lwangoku lwezibonelelo zothutho kunye namanqanaba achaziweyo ophuculo lwamva;

(d) ibandakanye izithintelo malunga nokusetyenziswa komhlaba okufuphi, ukufikelela, ukupaka, izithuthi zikawonkewonke kunye nezithuthi ezingezo moto.

Iirekhodi zezibonelelo zothutho neendlela ezidibeneyo ezibalulekileyo

19. (1) Ngaphantsi kwecandelo le-9(6)*(a)*, iNtloko yeSebe kufuneka ibenoluhlu olupheleleyo kunye nedatha ehambelana nalo njengoko kumiselweyo kuzo zonke izibonelelo zothutho kwiPhondo.

(2) Iziko elinxulumene needatha ekubhekiselwe kulo licandelo loku-(1) kufuneka luquke iinkqubo zolawulo ezifanelekileyo ezivumelekileyo kwiNtloko yeSebe.

(3) INtloko yeSebe kufuneka iqinisekise ukuba uluhlu kunye nedata enxulumene noko luyahambelana nezicwangciso ezifanelekileyo zomgcini kunye nolawulo lwabasebenzisi ezibonelelwe kuMthetho woLawulo lweeAsethi ezingaShenxiswayo zikaRhulumente, wama-2007 (uMthetho we-19 ka-2007).

(4) Ngaphambi kokugqityezelwa kolunhlu kunye nedatha enxulumene noko, iNtloko yeSebe kufuneka—

(a) ingenise uyilo loluhlu nedatha kubo bonke oomasipala;

(b) icele izimvo zabo ngokunxulumene noluhlu oluyilwayo kunye nokoyanyaniswa nedatha kumhla ochazwe kwisingeniso; kwaye

(c) iqaphele naziphi na izimvo ezifunyenweyo ngokomhlathi *(b)*.

(5) INtloko yeSebe kufuneka yabelwe inombolo yesazisi okanye ikhowudi kwinto nganye yezibonelelo zothutho olukuluhlu ngokumalunga necandelwana loku-(1).

(6) INtloko yeSebe kufuneka—

(a) ihlaziye uluhlu nedatha enxulumene noko naninina izibonelelo zothutho kwiPhondo zibhengeziwe, zifuduselwe kwenye indawo, zihleliwe kwakhona, zidluliselwe okanye zivaliwe okanye ubhengezo lwazo lurhoxisiwe;

(b) ngomhla wama-30 kweyeSilimela rhoqo ngonyaka, iqinisekisa ukuba uluhlu nedata enxulumene noko iyafumaneka ukuze ihlolwe luluntu ngeeyure zomsebenzi ngexesha okanye indawo eyalathwe nguye.

(7) INtloko yeSebe kufuneka ihlaziye iinkqubo zolawulo lwezibonelelo zothutho ekubhekiselwa kulo ngokwecandelo lesi-(2) ngonyaka ukubonisa imeko ezikuyo izibonelelo zothutho.

(8) Ekufumaneni uluhlu kunye novimba weenkcukacha ezinxulumene noko, okanye uhlaziyo kuluhlu okanye kwiziko ledatha elinxulumene noko, elivela kumasipala ngokubhekisele kwiindlela zokubaluleka ngokudibeneyo njengoko kuchatshazelwe kwicandelo lesi-9(7), iNtloko yeSebe kufuneka ihlanganise olu luhlu kunye novimba weenkcukacha. nolu luhlu kunye neenkcukacha ezigciniweyo njengoko kuchaziwe kwicandelwana loku-(1).

Inkqubo yesicwangciso seprojekthi

20. (1) INtloko yeSebe kufuneka iqinisekise ukuba lo nkqubo yesicwangciso seprojekthi iqalwe ngokwelicandelo phambi kokubhengezwa nguMphathiswa wePhondo kwe/ko—

(a) ndlela entsha, umzila kalowliwe okanye izibonelelo ezincedisayo zothutho;
(b) kusiwa kwenye indawo okanye ukutshintshwa kwezibonelelo zothutho;
(c) kutshintshwa kobekelo caleni kwezibonelelo zothutho;
(d) kurhoxiswa kwezibhengezo zezibonelelo zothutho ezithe azakhiwa; okanye
(e) kurhoxiswa kwezibhengezo zezibonelelo zothutho ukuze zizokuvalwa isigxina.

(2) Inkqubo yokucwangcisa iprojekthi echazwe kwelicandelwana loku-(1) kuquka ubuncinane oku kuandelayo:

(a) ngokuphathelele kwicandelwana loku-(1)*(a)* ukuya ku-*(e)*, ukucwangciswa kobugcisa obuthile obuqhutywe ngendlela emiselweyo ukuchaza ulungelelwano olukholelekileyo okanye ulungelelwano olulolunye, ulwakhiwo okanye enye indlela yokubeka, indawo yokugcina kunye nepropathi efunekayo kwisibonelelo sezothutho esichaphazelekayo;
(b) ngokubhekisele kwicandelwana loku-(1)*(f)* ukuya ku-*(i)*, ukuchongwa kwazo zonke iimpembelelo zokurhoxiswa okuchazwe kuloo mhlathi kusetyenziso lomhlaba osecaleni kunye neendawo ezijikelezileyo, kubandakanya, kwimeko yokuvalwa, ifuthe lokuhamba kweemoto kwakhona;
(c) ukuchongwa kokusingqongileyo, ilifa lemveli, intlalo, uqoqosho, ezempilo, ukhuseleko kunye neempembelelo zokufikelela, apho kufanelekileyo, kwaye;
(d) uthatho-nxaxheba loluntu olufunekayo ngokwecandelwana lesi-(3) nelesi-(4) kwaye, apho kufanelekileyo, inxaxheba kawonke-wonke efunekayo ngokwecandelwana le-(10) ukongeza koko kufunwa phantsi kwecandelwana lesi-(3) nelesi-(4).

(3) INtloko yeSebe kufuneka, xa kuqalwa ucwangciso, ngendlela emiselweyo—

(a) yazise amaqela anomdla nachaphazelekayo;
(b) imeme lo maqela ukuze abhalise imidla yayo ngokuphathelele noku; kunye
(c) imeme lo maqela ukuze aveze izimvo koku,

kucwangciswa kucetywayo.

(4) Emva kokugqitywa kwenkqubo yocwangciso, iNtloko yeSebe kufuneka, ngendlela emiselweyo, yazise abo banomdla nabachaphazelekayo ababhalise imidla yabo kwicandelwana (3) ngesiphumo sale nkqubo kwaye bameme abo babandakanyekayo ukuba banike izimvo zabo ezibhaliweyo. kucwangciso lobuchwephesha ngaphambi komhla oxelwe kwisaziso.

(5) INtloko yeSebe kufuneka ngokuphathelele kulo naluphina ubhengezo oluchazwe kwicandelwana loku-(1) lithethane noomasipala abandawo zabo zezibonelelo zothutho, indlela kamasipala okanye indlela edibeneyo zizakwenziwa khona lize libacele ukuba bangenise izimvo ezibhaliweyo kwisicwangciso sexesha elixeliweyo.

(6) Apho iprojekthi iza kuba nefuthe ezindleleni okanye kwizibonelelo zothutho ezilawulwa phantsi kwegunya lephondo kwelinye inqanaba likarhulumente, kufuneka kuboniswane ngaloo nto.

(7) Apho umhlaba ongasafunekiyo uchongiwe ngenxa yokufuduswa okanye ukuvalwa ngokusisigxina kwenxalenye yeziseko zothutho, ukulahlwa komhlaba lowo kufuneka kujongwane nawo ngokwecandelo lesi-4(13) nele-(14), njengokuba kunokubanjalo.

(8) Kuxhomekeka kwicandelwana le-(9), iNtloko yeSebe ngaphandle kokuthatha inkqubo yocwangciso ngokweli candelo inokutshintsha indawo yokugcina izibonelelo ukuba ukwandiswa okanye ukutshintsha akusekho ngaphezu kobude obuqhubekayo obuziimitha ezili-1000—

(a) kwimeko yendlela okanye umzila kaloliwe, ubekelo ecaleni olutsha lunxaxha kunolo lukhoyo ngokungekho ngaphezulu kuneemitha ezingama-20 kwicala elinye okanye kuwo omabini obekelo bucala; okanye
(b) kwimeko yezibonelelo ezincedisayo zothutho, ubekelo ecaleni olutsha lumiswe ngokungekho kude kuneemitha ezintlanu ukusuka kolo bekelo caleni lukhoyo.

(9) Phambi kokwenza nayiphina into ngokumalunga necandelwana lesi-(8), iNtloko yeSebe kufuneka—

(a) yazise umasipala ofanelekileyo kwaye, ngendlela emiselweyo, imeme izimvo zamaqela anomdla nachaphazelekayo; kwaye

(b) aqinisekise ukuba iimfuneko ngokumalunga neminye imithetho esebenzayo iyahlangabezana.

(10) INtloko yeSebe kufuneka—

(a) iqinisekise ukuba amanyathelo afunekayo athathiwe ukuthobelana nayo yonke imithetho enxulumene nemisebenzi kuluhlu olukwicandelwana loku-(1) nayo ikwafuna ukwamkelwa ngokumalunga nalomthetho; kwaye

(b) azame ukuququzelela nokulungelelanisa iinkqubo zokucwangciswa kweprojekthi ezifunekayo ngokwemigqaliselo yeli candelo kunye neemfuno zenkqubo yomthetho ochazwe kumhlathi *(a)*, ngendlela echazwe kwicandelo 65.

Isigqibo nguMphathiswa wePhondo

21. Ekuqukunjelweni kweenkqubo zokunxibelelana ezichazwe kwicandelo 20, uMphathiswa wePhondo kufuneka azithathele ingqalelo zonke iingxelo, amagqabantshintshi kunye nezimvo malunga nentshukumo ecetywayo, kwaye zingadlulanga iintsuku ezingama-30 enze isigqibo—

(a) ukuqhubeka nesibhengezo esichazwe kwicandelo 20(1); okanye

(b) angaqhubeki nesibhengezo esinjalo,

aze anike isaziso koko kubuncinane kwiphephandaba elihanjiswayo endaweni, kwaye ukuba liyasebenza, nakolunye usasazo.

Ukubhengezwa kwezibonelelo zothutho

22. (1) UMphathiswa wePhondo angathi, phantsi kwecandelwana lesi-(2) kwaye nasekugqityweni kwenkqubo yesicwangciso seprojekthi ngokungqinelana nesiSahluko, ngesaziso kwi*Gazethi yePhondo*, enze isibhengezo—

(a) sokuba kukho izibonelelo zothutho kuwo wonke umhlaba ngokungqinelana nopapasho lwesicwangciso esikwisaziso okanye ubukho bohlolo kwindawo nakwixesha elichaziweyo kwisaziso;

(b) sokuba izibonelelo esele zikho zothutho ziyafuduswa okanye zitshintshelwe kwinqanaba elichazwe kwisaziso kwaye zibonisiwe kwisicwangciso esinjalo: Ngaphandle kokuba isibhengezo asifuneki—

(i) kwiimeko ezichazwe kwicandelo 20(8);

(ii) apho ukuphambuka okanye utshintsho kwenye indawo kungadlululeli ngaphezulu kwe-1000 leemitha ukusuka kwindawo ekufuphi kumgca wendlela okanye isahlulo sayo esicetywayo sokufuduswa okanye ukutshintshwa;

(c) ukuba isibhengezo—

(i) sesibonelelo sezothutho esingakhange sakhiwe siyarhoxiswa;

(ii) sezibonelelo zothutho esele zirhoxisiwe kwaye ezo zibonelelo zothutho zivaliwe ngokusisigxina ukuya kufikelela kwisaziso kwaye zibonisiwe kwisicwangciso sezibonelelo zothutho ezikhoyo;

(iii) sendlela ekhoyo yephondo irhoxisiwe ukuya kuthi ga kwinqanaba elichazwe kwisaziso kwaye kubonisiwe kwisicwangciso ukwenzela ukuba—

(aa) kudluliselwe kumasipala kwaye kulawulwa njengendlela kamasipala;

(bb) kudluliselwe ku-SANRAL kwaye kulawulwa njengendlela kazwelonke yi-SANRAL, phantsi kwecandelwano lesi-(5); okanye

(cc) kuthengiswe kumntu wabucala okanye iqumrhu;

(d) ukuba indlela edibeneyo echazwe kwicandelwana lesi-8 (2) idluliselwe kwiPhondo ukuya kwinqanaba elichazwe kwisaziso kwaye ibonisiwe kwisicwangciso;

(e) ngokuphathelele nawo nawuphina umba onxulumene nezibonelelo zothutho ezinokuba yimfuneko.

(2) Isaziso esiphantsi kwecandelwana loku-(1)*(a)*, *(b)* okanye u-*(d)* kufuneka, ngento nganye yezibonelelo zothutho ezibhengeziweyo—

(a) sichaze ukuba uMphathiswa wePhondo unoxanduva logunyaziso;

(b) salathe ukwahlulwa-hlulwa ngokumalunga necandelo lesi-7 kwimeko yendlela, icandelo le-13(1) kwimeko yomzila kaloliwe kunye necandelo le-16(1) okanye lesi-(2) kwimeko yezibonelelo ezincedisayo zothutho;

(c) sibonelele neenkcukacha zobubanzi obubekelwe bucala okanye ubukhulu ngokumalunga necandelo le-15, ukuba kufanelekile, kwimeko yendlela okanye umzila kaloliwe okanye ngokumalunga necandelo le-16 kwimeko yezibonelelo ezincedisayo zothutho;

(d) sichaze indawo, indlela kunye nokugcinwa kwendlela okanye umzila kaloliwe okanye ubume bolunye uhlobo lwezibonelelo zothutho ezichaphazelekayo ngokwesicwangciso esixonyezelelwe kwisaziso;

(e) sibonelele ngeenkcukacha zendawo yothintelo lwesakhiwo ngokumalunga necandelo le-17, ukuba kufanelekile; kwaye

(f) sichaze ukuba ulwazi oluthe kratya luyafumaneka ukuze luhlolwe kwindawo nakumaxesha achazwe kwisaziso.

(3) Ukuba uMphathiswa wePhondo wenze isibhengezo ngokumalunga necandelwana loku-(1), a—

(a) ngathi, ngendlela emiselweyo, abangele ukuba kubhalwe iinkcukacha zokumiswa okanye ukurhoxiswa, njengoko kufanelekile, ukuba zifakwe kumgcini zincwadi zobhaliso lwezinto kwaye kuboniswe kwitayitile yomhlaba;

(b) ngathi apapashe iinkcukacha zesibhengezo okanye ukurhoxiswa, njengoko kufanelekile, nangayiphina indlela yosasazo esebenzayo.

(4) Apho izibonelelo zothutho zifudusiwe okanye zitshintshiwe, ukufuduswa okanye ukutshintshwa kuthathwa njengezibonelelo zothutho olufanayo lokwahlulwa-hlulwa njengolo luthe lwasetyenziswa kufuduso okanye kutshintsho lwezibonelelo zothutho kufutshane nje phambi kokubhengezwa kokufuduswa okanye ukutshintshwa.

(5) Nasiphina isibhengezo se/so—

(a) sahlulo sendlela yephondo ethe, emva kokuqalisa kwalo mthetho, yabhengezwa njengendlela kazwelonke nguMphathiswa kaZwelonke kwaye elawulwa yiSANRAL; kwaye

(b) isahlulo sendlela esichazwe kumhlathi *(a)* ukuba sibe yindlela yothintelo lwesakhiwo ngokumalunga neNtengiso kuMthetho woPhuhliso lweRibhoni neNdlela,

iyayeka ukubakho: Kuxhomekeka ukuba isibhengezo siyangqinelana nesivumelwano esiphakathi kukaMphathiswa kaZwelonke kunye neNkulumbuso ngokumalunga ne-Arhente yeeNdlela zikaZwelonke zoMzantsi Afrika kunye noMthetho weNdlela kaZwelonke, ka-1998, phantsi apho ukudluliswa koxanduva lwesahlulo sendlela lugqityiwe.

(6) Nasiphina isibhengezo se—

(a) sahlulo sendlela ebesibhengezwe ngaphambilini ukuba, phambi kokuqalwa kwaloMthetho, sibhengezwe nguMphathiswa kaZwelonke ukuba sibeyindlela kazwelonk ize ilawulwe yiSANRAL; kwaye

(b) nxalenye yendlela ekhankanywe kumhlathi *(a)* ukuba ibe yindawo yothintelo lwesakhiwo ngokweNtengiso yeendlela kunye noMthetho weNtengiso kwiiNdlela noPhuhliso lweeRibhoni ngaphambi kokuqala kwalo mthetho,

iyayeka ukubakho ekuqalweni kwaloMthetho.

ISAHLUKO SESI-7

IINKQUBO YOKUVALWA KWEZIBONELELO ZOTHUTHO

Isicelo sokuvalwa, ukufuduswa okanye ukutshintshwa kwezibonelelo zothutho

23. (1) Nawuphina umntu ochaphazeleka ngqo zizibonelelo zothutho ezikhoyo angafaka isicelo kuMphathiswa wePhondo kwindlela emiselweyo yokuba izibonelelo zothutho zivalwe, zifuduswe okanye zitshintshwe.

(2) Ekufunyanweni kwesicelo esichazwe kwicandelwana loku-(1), uMphathiswa wePhondo angathi, phantsi kwecandelwana lesi-(3), aqhubee inkqubo yesicwangciso ngokumalunga necandelo 20 aze, ekuyigqibeni ngoko—

(a) axhase isicelo kwaye enze isibhengezo ngokumalunga necandelo 22(1)*(b)* okanye *(c)*; okanye

(b) angasivumi isicelo kwaye anike izizathu soko.

(3) Umfaki sicelo unoxanduva leendleko ezenziwe liSebe kwinkqubo yesicwangciso esichazwe kwicandelwana lesi-(2), ukuquka iindleko zentengiso.

(4) Iindleko ezichazwe kwicandelwana lesi-(3) zingaquka imali esecaleni erhafelwe kwangaphambilini nangexesha lenkqubo yesicwangciso seprojekthi, ngaphandle kwesiphumo.

Ukuvalwa isigxina kwendlela yephondo

24. UMphathiswa wePhondo kufuneka—

(a) phambi kokuvalwa isigxina kwendlela yephondo, ukumiswa nokuboniswa kwesaziso ubuncinane iintsuku ezingama-60, ngelixesha lokuvalwa okanye esiphelweni ngasinye sesahlulo okanye izahlulo eziza kuvalwa, kuboniswa kulwimi ngalunye olusemthethweni umsebenzi ocetywayo kwaye nalapho izimvo neziphakamiso kungaqutyiswana nazo;

(b) emva kokuvalwa isigxina kwendlela yephondo, ukumiswa nokulungiswa, ubuncinane okwexesha elingange ntsuku ezingama-90, iimpawu zothutho lweendlela ezifanelekileyo kunye nemiqondiso yendlela ekupheleni kwesilumkiso secandelo ngalinye elivaliweyo kwaye apho kufanelekileyo, kwalathiswe kwakhona abasebenzisi kwenye indlela; kwaye

(c) kubhengezwe ukuvalwa unomphelo kwendlela yephondo ngokumalunga necandelo lama-22(1)*(c)*(ii).

Ukuvalwa okwethutyana okanye ukuphambuka kwendlela okanye umzila kaloliwe

25. (1) INtloko yeSebe ingavala okwethutyana, ukuphambuka, ukuthintela okanye ukulawula ukusetyenziswa kwendlela yephondo okanye umzila kaloliwe okanye nasiphina isahlulo ngapha koko—

(a) ngokwenjongo okanye ukumiswa kolwakhiwo, ukuvuselelwa, ukugcinwa okanye ukulungiswa kwendlela okanye umzila kaloliwe;

(b) ngokwenjongo okanye ukumiswa kolwakhiwo, ukumiselwa, ukubekwa, ukwandiswa, ukugcinwa, ukulungiswa okanye ukudilizwa kwayo nasiphina isakhiwo, isakhelo, imisebenzi okanye inkonzo ehamba noko, ngaphezu okanye ngaphantsi kwalo ndlela okanye umzila kaloliwe;

(c) ngenxa yesenzo soluntu esidinga umlinganiselo okhethekileyo wokulawula ezohambo lwendlela okanye isibonelelo esikhethekileyo sendawo yokuhlala yenqumba yabantu;

(d) nangasiphi na isizathu esinikezela ngalo msebenzi ufunekayo; okanye

(e) kwisicelo sawo nowuphi na umntu.

(2) Xa indlela yephondo okanye umzila kaloliwe okanye inxenye yayo ivaliwe okanye iphambuka ngokwemigqaliselo yeli candelo, iNtloko yeSebe, ngendlela emiselweyo, ngalo lonke ixesha lokuvalwa okanye ukuphambukiswa, imise kwaye igcine imiqondiso yendlela efanelekileyo okanye amanqaku abonisa isilumkiso esidlangalaleni malunga nokuvalwa okanye ukuphambukiswa esiphelweni ngasinye secandelo elivaliweyo okanye esiphambukileyo kwaye, apho kufanelekileyo, yalathisa kwakhona abasebenzisi kwindlela engenye.

(3) INtloko yeSebe kufuneka, ngaphambi kokuvalwa okwethutyana okanye ukuphambuka kwendlela yephondo okanye umzila kaloliwe, ngendlela emiselweyo, kwithuba elifanelekileyo ngaphambi kokuvalwa okanye ukuphambuka, imeme izimvo ezivela kumaqela anomdla nachaphazelekayo acwangciselwe ukuvalwa okanye ukuphambuka.

(4) Umntu unokucela iNtloko yeSebe ngembalelwano ngendlela emiselweyo ukuvala okwethutyana, ukuphambuka, ukumisela okanye ukulawula ukusetyenziswa kwendlela yephondo okanye umzila kaloliwe, okanye nasiphina idshlulo esichazwe kwicandelwana loku-(1).

(5) Umntu owenza isicelo ngokumalunga necandelwana lesi-(4) kufuneka ahlawule iindleko kwiPhondo, njengoko iNtloko yeSebe, ngokuthobelana nesicelo, kuquka iindleko zokuqinisekisa ukhuseleko lwabasebenzisi bendlela okanye umzila kaloliwe ochaphazelekayo.

Ukuvalwa ngokungxamiseka okanye ukuphambuka

26. (1) Kwiimeko zongxamiseko, iNtloko yeSebe inokuvala okanye iphambukise izibonelelo zothutho okanye iphambukise ukuhamba kwezithuthi kwizibonelelo zothutho.

(2) Ngaphandle kokugxekwa kuwo nawuphina omnye umthetho, ukuba kukho ubungozi kuluntu, ipropati okanye ukuhamba kwezithuthi, iNtloko yeSebe kufuneka imisele isilumkiso kunye neempawu zendlela ukuqinisekisa ukhuseleko nokuququzelela ukuhamba kwezithuthi.

Ilungelo loluntu ukusebenzisa indlela evaliweyo okanye ephambukileyo

27. Uluntu lunokuqhubeka lusebenzisa indlela okanye isahlulo sayo ngapha koko emva kwesibhengezo sokuvalwa isigxina kwendlela echaphazelekayo kude kufike ixesha lokufakwa kweempawu ezibonisa ukuvalwa njengoko kuchaziwe kwicandelo 24*(b)*.

ISAHLUKO SESI-8

AMALUNGISELELO ENKXASOMALI YEZENDLELA

Amalungiselelo enkxasomali yeeNdlela noomasipala

28. (1) Phantsi kwecandelwana lesi-(3), ukusuka kumhla wokuqalwa kwaloMthetho, iSebe linokuhlawula inkxasomali kumasipala ehlawulela indlela ebhengezwe njengendlela edibeneyo phantsi kwecandelo lesi-6(1)*(a)*, okanye ethathwa njengendlela edibeneyo phantsi kwecandelo lesi-8(2), eluxanduva lukamasipala.

(2) Umasipala unokufaka isicelo kwiNtloko yeSebe ngendlela emiselweyo yokuhlawula inkxasomali ngokuphathelele kucwangciso lweprojekthi, ukuyilwa, ukwakhiwa, ukugcinwa okanye ukulawulwa kwendlela edibeneyo eluxanduva lukamasipala.

(3) Intlawulo yenkxasomali ixhomekeka ku—

(a) ungeniso kwiNtloko yeSebe loluhlu kunye nedatha eyayanyaniswa noko echazwe kwicandelo le-9(6) enxulumene neendlela ezidibeneyo eziluxanduva lwayo, kunye nengqinisekiso yokuba uluhlu nedatha eyayanyaniswa noko yamkelwe yiNtloko yeSebe;

(b) kungeniso kwiNtloko yeSebe, kungekho ngaphantsi komhla woku-1 kweyoMnga rhoqo ngonyaka ukwandulela unyakamali kamasipala apho inkxasomali ekufuneka isebenze khona, yesicelo senkxasomali njengoko imiselwe; kunye

(c) nezixhobo ezikhoyo zeSebe.

(4) Akukho nkxasomali ihlawulwayo ngokuphathelele kwimbuyekezo ehlawulwe ngomhlaba owohluthiweyo okanye ofunyenweyo wendlela edibeneyo ngaphandle kokuba iNtloko yeSebe i—

(a) bonelelwe ngesivumelwano esibhaliweyo ukohlutha umhlaba phambi kokuba wohluthwe; kwaye

(b) yamkelwe ngokubhala intlawulo yembuyiselo apho ibiqisekiswe sisivumelwano phakathi komasipala nomninimhlaba.

Uqashiso, intengiso kunye nenye ingeniso kumhlaba ofunyenwe ngenkxasomali yezendlela phantsi koMthetho okanye imali yenkxaso yezendlela

29. (1) Umasipala kufuneka phambi kokuqukumbela isivumelwano sentengiselwano, okanye esinye isivumelwano esimalunga nomhlaba okanye nayiphi na inxenye yomhlaba ofunyenwe—

(a) ukusebenzisa imali ehlawulwa njengenkxaso-mali phantsi koMmiselo okanye isibonelelo sendlela phantsi kwalo Mthetho; okanye

(b) ukusebenzisa ikali efunyenwe njengesibonelelo esisuka kwiPhondo,

afumane izimvo ezibhaliweyo kwaye iqukumbele isivumelwano sokuqeshisa, ukuthengisa okanye esinye isivumelwano esimalunga naloo mhlaba okanye naziphi na izincomo zesahlulo, kufuneka ihlawule yonke ingeniso evela kuqeshiso, kwintengiso okanye kwisivumelwano kwiNtloko yeSebe nakwiPhondo ngokuhambelana negalelo lenkxasomali elenziwe nguMphathiswa wePhondo yezeMali, ukuba ikho.

(2) Kwale pesenti inye yemali efunyenwe liPhondo ekufunyanweni kwayo, ukuthengwa komhlaba oxelwe kwicandelwana (1) kufuneka, kwiimeko ezimiselweyo, kuhlawulwe—

(a) ukuya kwiPhondo eli;

(b) ngemvume ebhaliweyo yeNtloko yeSebe,

ukuba umasipala umisele iNgxowamali yezoThutho ngoMhlaba kaMasipala ngokwecandelo 27 le-NLTA, kuloo ngxowamali.

(3) INtloko yeSebe inokuthi ngembalelwano, okanye ngaphandle kwemiqathango, ivumele umasipala ukuba ayigcine ingeniso ekubhekiswe kuyo kwicandelwana (2).

(4) Imvume ebhaliweyo yeNtloko yeSebe exelwe kwicandelwana (2)*(b)* nakwicandelwana (3) mayenziwe nemvumelwano noMphathiswa wezeMali wePhondo.

Iminikelo esuka kwabanye oovimba

30. Xa inkcitho isenziwa ngumasipala ngokunxulumene nendlela edibeneyo i—

(a) xhaswa ngokupheleleyo kuvimba ngaphandle kokuxhaswa ngumasipala okanye iPhondo, inkcitho ayiyifumani inkxasomali yezendlela;

(b) xhaswa ngokwenxenye kuvimba ngaphandle kokuxhaswa ngumasipala okanye liPhondo, kuphela sisahlulo senkcitho esingafumani nkxasomali yezendlela.

Imimiselo ngokwezimali kunye namalungiselelo enkxasomali

31. UMphathiswa wePhondo unokwenze imimiselo ukumisela—

(a) ipesenti yenkcitho ngumasipala ngokunxulumene nemisebenzi ekubhekiswe kuyo kwicandelo 28(2) enokuthi ihlawulwe liSebe njengenkxasomali yendlela, ngokubanzi okanye ngokukodwa;

(b) izinto ezithi zifumane okanye zingafumani inkxasomali yezendlela ngokuphathelele kulo naluphina ulwahlulwahlulo lwenkcitho;

(c) izinto zokumisela inani lenkxaso-mali yendlela ehlawulwayo;

(d) iimeko ehlawulwa phantsi kwazo inkxasomali yezendlela; kunye

(e) makungeniswe iinkqubo ezinxulumene namabango enkxasomali neentlawulo.

ISAHLUKO SE-9

IZAZISO EZINGQAMENE NEZIBONELELO ZOTHUTHO

Uthintelo lwezaziso ezithile

32. (1) Akukho mntu unokubonisa okanye abange okanye avumele umboniso wesaziso ukuba isaziso si—

(a) yabonakala kwindlela yephondo okanye indlela edibeneyo ngaphandle kwendawo yedolophu;

(b) kwiimitha ezingama-50 ukusuka kumda wendlela yephondo okanye indlela edibeneyo kwindawo yedolophu ngaphandle kwaleyo inguhola, kwaye ibonakale ukusuka kulo ndlela;

(c) kwiimitha ezingama-250 ukusuka kumda wendlela yephondo okanye kwindlela edibeneyo ekwindawo yedolophu enguhola, kwaye ibonakale ukusuka kulo hola; okanye

(d) siphezu okanye ngentla kwayo nayiphina indlela kamasipala okanye indlela edibeneyo,

ngaphandle kwemvume ebhalwe kwangaphambili yeNtloko yeSebe, kwisicelo ngendlela emiselweyo.

(2) Xa kugqitywa ekubeni kunikezwe imvume echazwe kwicandelwana loku-(1), iNtloko yeSebe kufuneka iqaphele ifuthe lomboniso eliceliweyo kukhuseleko lwendlela nokusebenza kwezothutho.

(3) Amacandelwana loku-(1) nelesi-(2) akasebenzi kumboniso wesaziso—

(a) ebesibonisiwe ngokusemthethweni ngokufutshane nje phambi kokuba uqale uMthetho okanye phambi kokuba izibonelelo zothutho ezichaphazelekayo zibhengezwe phantsi kwecandelo 22, ukuba nje siboniswe ngohlobo olungaguqukiyo kwindawo enye; okanye

(b) ukuba kufuneka siboniswe ngokumalunga nomthetho kwaye ubonisiwe ngqongqo ngokumalunga nalo mthetho.

(4) Isivumelwano seNtloko yeSebe ngokumalunga necandelwana loku-(1) asiboneleli ngokhululo oluvela kwicandelo 47(1) okanye nawo nawuphina omnye umthetho.

(5) UMphathiswa wePhondo unokwenza imithetho emisela—

(a) ngokubanzi okanye ngokunxulumene nendlela ethile okanye isahlulo sendlela, iintlobo zesaziso ezikhululiweyo kwisicelo secandelwana loku-(1);

(b) imigomo emayisetyenziswe ukuvavanya ifuthe lomboniso elibhekisele kwicandelwana loku-(1) kukhuseleko lwasezindleleni kunye nemisebenzi yezothutho;

(c) iimeko eziqhelekileyo zemvume efanelekileyo kumboniso wazo zonke izaziso apho imvume yaye yanikezelwa ngokumalunga necandelwana loku-(1);
(d) iimfuneko zobugcisa ezifanelekileyo kumboniso wezaziso, kuquka izaziso ezikhululweyo kwisicelo secandelwana loku-(1) kunye nezaziso ezichazwe kumhlathi *(a)*; kunye
(e) indlela apho isicelo semvume ngokumalunga necandelwana loku-(1) kufuneka singeniswe.

Izibonelelo zonyanzelo ngokumalunga nezaziso

33. Izibonelelo ezikwicandelo 57 zisetyenziswa ngokuphathelele nochasano lwe—
(a) candelo 32(1); okanye
(b) imimiselo eyenziwe phantsi kwecandelo 32(5)*(d)*, nokokuba uhlobo lwesaziso lukhululwe okanye alukhululwanga ngokumalunga nemimiselo eyenziwe phantsi kwecandelo 32(5)*(a)*.

Ummiselo wezaziso owenziwa ngoomasipala

34. (1) Umasipala kufuneka amisele umboniso we—
(a) zaziso phezu okanye ngentla kwendlela; kunye
(b) nezaziso ezibonakalayo ukusuka endleleni.

(2) Ngokweenjongo zecandelwana loku-(1), umasipala kufuneka ubuncinance asungule inkqubo yezingeniso kunye nezicelo ezivunyiweyo zomboniso wezaziso, ekufuneka zibonelele ngo—
(a) kuhlelwa kweendlela kulwahlulahlulo kwisiseko sembonakalo yazo, ukubaluleka kokusingqongileyo okanye ulwakhiwo ngokwenjongo yokwahlula phakathi kweentlobo zezaziso ezivumelekileyo kulwahlulo ngalunye;
(b) kuhlelwa kwezaziso kulwahlulahlulo ngokwenjongo yokumisela nokulawula uboniso wazo okanye ukuzimisela;
(c) iinkqubo emazilandelwe xa kufakwa izicelo zokuvunyelwa kumboniso wesaziso kunye nomrhumo omawuhlawulwe ngesicelo sokuvunywa okunjalo;
(d) uvavanyo lwefuthe lomboniso onjalo kukhuseleko ezindleleni kunye nemisebenzi yezothutho;
(e) uvavanyo lwefuthe lomboniso onjalo kokusingqongileyo;
(f) iindlela zomboniso kunye nokhanyiso lwezaziso;
(g) uvavanyo lokhuseleko, olunceedo nolunentlonipho lwezaziso;
(h) uyilo kunye nolwakhiwo lwezaziso kunye nezakhelo zazo ezixhasayo, izikhundla zazo, ukugcinwa, ukutshintshwa nokushenxiswa kwixesha elizayo;
(i) ukwahlulwa ngokweendidi kwezaziso ezinokuba zimiselwe okanye ziboniswe ngaphandle kwemvume kamasipala ngokwesiseko somgomo ochaziweyo; kunye
(j) nokushenxiswa kwezaziso ezingagunyaziswana.

Iinkolelo ezinxulunyaniswa nezaziso

35. Ngokweenjongo zaloMthetho, ukungabikho kobungqina kuchaswo oluthi luveze ukuthandabuza okunengqiqo, isaziso sithathwa njengombonso okanye okuvunyelwe ukuba kuboniswe—
(a) ngumntu osimiseleyo okanye kungenjalo osibangele ukuba sivele;
(b) apho sinxulumana nemveliso okanye inqaku elivelisiweyo okanye okwenziwe ngumntu othile, ngulo mntu;
(c) apho sinxulumana nenkonzo ehanjiswa ngumntu othile, okanye ishishini eliqhutywayo okanye umntu ongumnini-ndawo, ngulo mntu; okanye
(d) ngumntu ongumninimhlaba okanye ohlala kuwo apho isaziso simiselwe khona okanye siboniswe khona.

ISAHLUKO SE-10

ULAWULO NOKUPHATHWA KWEZIBONELELO ZOTHUTHO KUNYE NOKUNGQAMENE NOMHLABA

Ukungena nokuthatha isikhundla sobumnini bomhlaba

36. (1) Apho uMphathiswa wePhondo efuna umhlaba okanye ukuwesebenzisa okwethutyana ngako oko okanye naziphina izixhobo ngokwenjongo ebhekisele kwicandelwana lesi-(2), uMphathiswa wePhondo unokuthi, emva kokunika isaziso nganeno kweeyure ezingama-48 kumnini okanye umhlali womhlaba okanye izixhobo nangemvume yomnini okanye umhlali—

(a) angene kumhlaba nabasebenzi abafunekayo, izixhobo kunye nezithuthi;
(b) avavanye aze achonge indawo nokulungelelana komhlaba;
(c) ombe okanye abhole emhlabeni; okanye
(d) ahlule imida yomhlaba okanye izixhobo.

(2) UMphathiswa wePhondo unokusebenza phantsi kwecandelwana (1)—

(a) ukumisa ixabiso lomhlaba okanye izixhobo ezichaphazelekayo;
(b) ukwenza naluphina uhlolo, uphando, uphengululo, okanye uvavanyo ngokunxulumene nomsebenzi okanye ukwenza kwamandla, imisebenzi kunye neemfanelo ezinikwe okanye ezibekwe phantsi kwaloMthetho;
(c) ukuhlola, ukugcina nokulungisa isakhelo, izixhobo zokufundisa, ukumisela, ukufaka okanye nayiphina into esele yakhiwe, yamiswa okanye yabekwa kulo mhlaba endaweni kaMphathiswa wePhondo ngokumalunga naloMthetho; okanye
(d) ukumenza enze nayo nayiphina imisebenzi phantsi kwaloMthetho.

(3) Apho umnini okanye umhlali esala ukwenza isivumelwano kuMphathiswa wePhondo okanye umntu ogunyaziswe nguye ukuze asebenze phantsi kwecandelwana loku-(1), uMphathiswa wePhondo kufuneka ngembalelwano acele umnini okanye umhlali ukuba anike izizathu zokwala ngexesha elivumelekileyo kuye, elinokungabikho ngaphantsi kuneentsuku ezisixhenxe.

(4) Umnini okanye umhlali kufuneka anikezele ngezizathu ezibhalwe phantsi ngokwala kwakhe ngexesha elixelwe nguMphathiswa wePhondo ngokumalunga necandelwana lesi-(3).

(5) Ukuba izizathu ezinjalo azinikezelwana ngexesha elixeliweyo okanye azivumelekanga kuMphathiswa wePhondo, angafaka isicelo kwinkundla yamatyala afumane ulawulo lwezobulungisa ukuze kugunyaziswe nawuphina umsebenzi wogunyaziso oluchazwe kwicandelwana loku-(1).

(6) Nangona icandelwana lesi-(3), lesi-(4) nelesi(5), uMphathiswa wePhondo angathi, ngaphandle kokuthobelana necandelwana loku-(1) okanye kokufaka isicelo senkundla ngokumalunga necandelwana lesi-(5), enze nawuphina umsebenzi ochazwe kwicandelwana loku-(1) apho lo msebenzi ufuneka ngokungxamisekileyo ukuthintela ukufa okanye ukwenzakala komntu okanye ukumoshakala komhlaba.

(7) UMphathiswa wePhondo unokudlula kumhlaba ukuze afumane ukufikelela komnye umhlaba ngokweenjongo ezichazwe kwicandelwana lesi-(2), ngokwemfuneko yabasebenzi, izixhobo kunye nezithuthi, ngokwemvume yomnini okanye umhlali okhankanywe kuqala womhlaba, kwaye, ukuba isivumelwano esinjalo siyakhatywa, icandelo lesi-(3), lesi-(4), lesi-(5) nele-(6) siyasebenza, ngokotshintsho olufunekayo.

(8) Apho ufikelelo lufumaneka ngokumalunga nelicandelo lomhlaba ovalwe ngesibiyeli ngaphandle kwesango, uMphathiswa wePhondo unokumisela isango kwisibiyeli, emasiphathwe kakuhle kwaye, xa singaphathwanga kakuhle, kufuneka sibonelelwe ngesitshixo ze sigcinwe sikhuseleke ngokuqinileyo.

Ukufikelela nokuphuma kwiindlela zephondo nakwiindlela ezidibeneyo

37. (1) Phantsi kwecandelwana lesi-(3), akukho mntu uno—

(a) kungena okanye aphume kwindlela yephondo okanye kwindlela edibeneyo ngendlela yothutho lwenqwelo ngaphandle kokugqitha kwindlela emiselwe ngokusemthethweni, isango, ibrorho, ileli yokuqabela iheke okanye enye indlela;
(b) kufikelela apho okanye ukuphuma kwindlela yephondo okanye indlela edibeneyo ukuya okanye kumhlaba osecaleni ubiyelwe ngokumiselwa kocingo ngokusemthethweni, udonga, uthango, umsele, umjelo okanye isithinteli esifanayo ukungqonga okanye kufuphi nokuphela kwendlela,

angene okanye ashiye indlela ngohlobo lwenqwelo okanye uthutho olungelolwazithuthi ngaphandle kokugqitha endleleni emiselwe ngokusemthethweni, isango, ibrorho, ileli okanye enye indlela,

ngaphandle kwesivumelwano esibhalwe phantsi seNtloko yeSebe kwisicelo ngendlela emiselweyo.

(2) Phantsi kwecandelwana lesi-(3) nelesi-(6), akukho mntu uno—

(a) kwakha okanye abonelele ngokungena okanye ukuphuma kwindlela yephondo okanye edibeneyo ngayo nangayiphina indlela evumela iinqwelo okanye uthutho olungelolwanqwelo ufikelelo phakathi kwendlela yawo nawuphina umhlaba osecaleni kwendlela; okanye

(b) kubonelela ngoqhagamshelwano phakathi komhlaba obhekisele kumhlathi *(a)* kunye nawo nawuphina omnye umhlaba osecaleni okanye imihlaba evumela iinqwelo okanye uthutho olungelolwanqwelo ukuwusebenzisela ukungena nokuphuma kwindlela echazwe kulo mhlathi,

ngaphandle kwemvume ebhalwe kwangaphambilini yeNtloko yeSebe ekufakweni kwesicelo kwindlela emiselweyo.

(3) Icandelo loku-(1) nelesi-(2) akasebenzi kumiselo lomthetho wokufikelela kwindlela, kwisango, kwibrorho, kwileli okanye enye indlela ebe ikhona ngaphambili kwaye isetyenziswe kamsinya nje phambi kokuqaliswa kwaloMthetho kwaye ingavalwanga okanye ishenxisiwe nangaliphina ixesha emva koko.

(4) Umninimhlaba nokufikelela kwindlela yephondo unokufaka isicelo kwiNtloko yeSebe ngendlela emiselweyo ngokubhala phantsi imvume yokufudusa ufikelelo, kuxhomekeka ukuba, apho isicelo siye saphunyezwa, akukho xanduva kwiSebe lokuba ihlawule iindleko sokufuduswa kofikelelo.

(5) Akukho mntu unokwahlula kwakhona umhlaba ukuba, wakube wohluliwe kwakhona, uzakufuna ukumiselwa kwendlela, isango, ibrorho, ileli okanye enye indlela ukufumana indlela yokungena okanye yokuphuma kwindlela yephondo okanye indlela edibeneyo, ngaphandle kwemvume ebhalwe kwangaphambilini yeNtloko yeSebe kwisicelo ngendlela emiselweyo.

(6) INtloko yeSebe inokusikhaba isicelo sokungena esibhekiselele kwicandelwana lesi-(5) ngumnini womhlaba owahluliweyo kwakhona obangwe lulohlulwahlulo kwakhona lomhlaba wakhe wosekuqaleni ukuba, ngokwenza oko, akukho enye indlela yokungena okanye ukuphuma kwindlela yephondo okanye indlela edibeneyo ekhoyo, apho—

(a) umhloli womhlaba uhlole umhlaba owahluliweyo kwakhona uze ufake isazobe ngapha koko noMhloli-Jikelele phambi kokuqala kwaloMthetho; kwaye

(b) emva kokuhlolwa komhlaba kunye nomhla wokufaka isazobe noMhloli-Jikelele kwaye phambi kokuqala kwaloMthetho, umntu ngaphandle kokuba abengumnini womhlaba othe wangumhlaba owahluliweyo kwakhona owenze isahlulo ngexesha apho uhlolo oluchaphazelekayo lwenziwe lwafumaneka okanye kwagqitywa isivumelwano sentengo ukufumana ubumnini balomhlaba wahluliweyo kwakhona,

ngaphandle kokuba indlela, isango, ibrorho, ileli okanye enye indlela izakusetyenziswa ukungena okanye ukuphuma kwindlela ayikhuselekanga okanye ayingqinelani nemigangatho, imigaqo nezikhokelo zokufikelela kwindlela echongwe yiNtloko yeSebe.

(7) Xa kuqatshelwa isicelo somsebenzi ngokumalunga necandelwana loku-(1), sokungena ngokumalunga necandelwana lesi-(2), ukufuduswa kokufikelela ngokumalunga necandelwana lesi-(4) okanye isicelo sokwahlula kwakhona ngokumalunga necandelwana lesi-(5), iNtloko yeSebe kufuneka ibe nokujonga—

(a) iinkcukacha eziqulathwe kulo nasiphina isakhelo sophuhliso lwendawo efaneleyo kunye nesicwangciso solawulo lwangaphandle;

(b) imigangatho, imigaqo kunye nezikhokelo ezichongwe yiNtloko yeSebe; kwaye

(c) naziphina iimfuneko ezimiselweyo nguMphathiswa wePhondo.

(8) INtloko yeSebe inokuthi, xa iphumeza isicelo esibhaliweyo ngokumalunga necandelwana lesi-(2), imisele iimeko ezibandakanya ukuqinisekiswa kohlobo lokufikelela kwindlela, isango, ibrorho, ileli okanye kwenye indlela nendawo apho nendlela ekufuneka yakhiwe.

(9) Izibonelelo zecandelo 57 ziyafakwa ukuba icandelwana loku-(1), elesi-(2), elesi-(4) okanye lesi-(5) zichasiwe.

Ukufuduswa nokuvalwa kokufikelela nokuphuma endleleni

38. (1) INtloko yeSebe ingathi, ngokomyalelo obhaliweyo oxela izizathu zomyalelo, yalathise umninimhlaba omisele ngosemthethweni ukufikelela okanye ukuphuma kumhlaba wephondo ukufuduswa, ukuthintela okanye ukuvala ukufikelela okanye ukuphuma, ngendlela enokuthi okanye kangangokuba nexesha elixeliweyo kwisaziso okanye isigxina.

(2) Apho ukufuduswa, ukuthintelwa okanye ukuvalwa ngokumalunga necandelwana loku-(1) lako nokuphina ukufikelela nokungena kwindlela yephondo yenza kubeyimfuneko ukutshintshwa, ukuthintelwa, ukumiselwa kwakhona okanye ukwakhiwa kwakhona kwalo naliphina isango okanye indawo yokuqhuba, iNtloko yeSeb kufuneka, phantsi kwecandelwana lesi-(3) nelesi-(4)—

(*a*) liqhube umsebenzi oyimfuneko; okanye

(*b*) livumela umnini ochaphazelekayo ukwenza umsebenzi ngendleko yeSebe elingqinelana nemigangatho, imigaqo kunye nezikhokelo ezimiselwe yiNtloko yeSebe.

(3) Uxanduva leSebe ngokumalunga necandelo lesi-(2) luphelela kuphela kwiindleko ezisetyenziswe endaweni yesango, okanye iindawo zokuqhuba zomgangatho afanayo naleyo, ngokumalunga necandelwana lesi-(2), elifunekayo ukufudusa, ukuthintela, ukumiselwa kwakhona okanye ukwakhiwa kwakhona.

(4) INtloko yeSebe ayinalo uxanduva leendleko zokubuyisela endaweni kwakhona nalo naliphina isango okanye indawo yokuqhuba apho ukufikelela okanye ukuphuma kwindlela okuchaphazelekayo kufumene ukwaphula kwanawo nawuphina umthetho.

Izithintelo kutshintsho lokusebenzisa umhlaba

39. (1) Umntu ofake isicelo kumasipala ukuze kutshintshwe okanye kwenziwe ngaphezulu kukusetyenziswa komhlaba kumhlaba obhekisele kwicandelwana lesi-(3) kufuneka, apho ifuthe lokuvavanya ukuhamba kwezendlela okanye kwezothutho kufunwa yiNtloko yeSebe, ukongeza ekufunyanweni sokuvuma kukamasipala oxhotyisiweyo ukuphumeza ulwamkelo lolo tshintsho okanye lokukwenziwa ngaphezulu—

(*a*) ekufakeni isicelo ngendlela emiselweyo, fumana imvume ebhalwe kwangaphambilini yeNtloko yeSebe lophuhliso oluceliweyo ngesiseko sengqwalasela yefuthe lotshintsho nokwenza ngaphezulu okuceliweyo kusetyenziso lomhlaba kukhuseleko lokuhamba ngendlela okanye umsebenzi wezothutho kwindlela yephondo okanye kwindlela edibeneyo echaphazelekayo; kwaye

(*b*) ekuphunyezweni kwawo nawuphina umlinganiselo wodambiso olufunwa yiNtloko yeSebe xa ephumeza lo mvume.

(2) Umasipala onoxanduva lokuphumeza imvume yophuhliso equka utshintsho kunye nasekwenzeni ngaphezulu kusetyenziso lomhlaba kumhlaba ekubhekiswa kuwo licandelwana lesi-(3) unokungayiphumezi imvume phambi kothethwano neNtloko yeSebe.

(3) UMhloli-Jikelele unokungasivumi isicwangciso ngokubanzi okanye isazobe, isiza, iindawo, amaqashiso okanye umhlaba oqeshisayo othi xa udibene wenze ilokishi okanye naluphinana ulwahlulo ukuba enye inxenye yelokishi okanye ulwahlulo luwela kwii—

(*a*) mitha ezingama-95 zomgca osembindini wendlela yephondo okanye indlela edibeneyo, elinganiselwe ngee-engile ezifanele umgca osembindini, ngaphandle kwendawo eyidolophu; okanye

(*b*) mitha ezingama-50 zomgca osembindini wendlela yephondo okanye indlela edibeneyo, elinganiselwe ngee-engile ezifanele umgca osembindini, ngaphandle kwendawo eyidolophu,

ngaphandle kokuba—

(i) iNtloko yeSebe isiphumelelisile isicwangciso okanye isazobe selokishi esiceliweyo okanye ulwahlulo kwakhona; kwaye

(ii) isicwangciso ngokubanzi okanye isazobe siyangqinelana kakhulu neso sicwangciso okanye isazobe.

(4) INtloko yeSebe inokungayiphumezi imvume ebhaliweyo echazwe kwicandelwana loku-(1) kuphela ukuba akonelisekanga ukuba ilokishi ecelwayo okanye ulwahlulo luyakuthintela ukuphumelela kwenjongo yaloMthetho.

(5) INtloko yeSebe lingayiphumeza imvume ebhaliweyo echazwe kwelicandelwana loku-(1) phantsi kweemeko, eziquka—

(a) ukunqanda ukwahlulwa okanye ukwahlulwa okongezelelekileyo komhlaba okanye inxenye echaziweyo yawo;

(b) ukuthintela ukusetyenziswa apho umhlaba okanye inxenye exeliweyo yawo kungabeka;

(c) ukuthintela iqela okanye ubukhulu bezakhiwo okanye ezinye izakhelo ezinokuthi zimiswe kumhlaba okanye kwinxenye exeliweyo yawo;

(d) ukunqanda ukumiswa, ukwakhiwa okanye ukusungulwa kwezakhelo okanye izinto, phezu, ngentla okanye ngezantsi komphezulu womhlaba okanye inxenye exeliweyo yawo kumgama oxeliweyo ukusuka kwindlela echaphazelekayo;

(e) nayo nayiphina imeko ayibona iyimfuneko.

(6) Xa kuphunyezwa imvume ebhaliweyo echazwe kwicandelwana loku-(1), iNtloko yeSebe inokumisela ukuba, ukuba umhlaba okanye inxenye exeliweyo yawo imanyaniswe nomnye umhlaba, itayitile kumhlaba omanyanisiweyo izakuba ngaphantsi kwazo naziphina iimeko ezinyanzeliswe ngokumalunga necandelwana lesi-(5).

(7) Nangona izibonelelo eziphikisanayo noMthetho weeTayitile eziBhalisiweyo—

(a) umntu owenza udluliselo lomhlaba kwiimeko ezichazwe kwicandelwana lesi-(5) wenza izicelo, kufuneka azifake kwitayitile yodluliselo;

(b) uMlawuli weeTayitile kufuneka angqine kwitayitile yomhlaba egcinwe ngumntu owenza udluliselo, iimeko nganye ezifakwe kumhlaba ogciniweyo;

(c) isiqinisekiso sokumanywa kwetayitile ekhutshwe ngokuphathelele nokumanyaniswa nomhlaba obhekisele kwicandelwana lesi-(6) kufuneka siqulathe imeko nganye apho itayitile yalo mhlaba iphantsi kwayo ngokumalunga nomgqaliselo owenziwe phantsi kwelocandelwana.

(8) Izibonelelo zecandelo 57 zifakwa ukuba icandelwana loku-(1) okanye imeko ebekwe njengechaziweyo kwicandelwana lesi-(5), lesi-(6) okanye lesi-(7) zichasiwe.

(9) Umninimhlaba unokufaka isicelo ngembalelwano kuMlawuli weeTayitile ukurhoxisa imeko ethe yafakwa kwitayitile yodluliselo okanye kwisiqinisekiso setayitile esimanyanisiweyo okanye ethe yangqinisiswa kwitayitile ngokumalunga necandelwana le-(10) imeko ebekwe kwicandelwana lesi-(7) inokungasuswa, ilungiswe okanye ixhonywe ngaphandle kwemvume ebhaliweyo yeNtloko yeSebe kwaye ubungqina bokuba ababanjiswa ngezindlu bazisiwe ngokususwa okuceliweyo.

Izalathiso zomgama, ukufakwa kwezalathiso kunye nezilumkiso ezindleleni

40. Phantsi koMthetho wezoThutho lweNdlela kaZwelonke, iNtloko yeSebe—

(a) kufuneka imisele kwaye igcine iimpawu zezalathisi kwiindlela zephondo ekudibaneni nendlela nganye yephondo, indlela edibeneyo kunye nendlela kazwelonke;

(b) kufuneka imisele kwaye igcine iimpawu zezalathisi kwiindlela zephondo ekusondeleni ekudibaneni kwendlela nganye yephondo, indlela edibeneyo kunye nendlela kazwelonke;

(c) inokumisela kwaye igcine isiqinisekiso somgama, isalathisi kunye neempawu zesilumkiso kwiindlela zephondo njengoko kuyimfuneko kukhuseleko okanye isikhokelo soluntu.

Ukuthintela nokuvuleka kwendlela

41. (1) INtloko yeSebe inokuthi, ngesaziso esibhaliweyo, ifune umnini kunye nomhlali wawo nawuphina umhlaba osecaleni kwi/ku—

(a) ndlela yephondo;

(b) mzila kaloliwe;

(c) zibonelelo ezincedisayo zothutho,

ukunciphisa ukuphakama okanye ububanzi bawo nowuphina umthi, ityholo, izityalo, udonga, uthango, ucingo okanye nasiphina isithintelo esichaphazela indlela okanye umzila kaloliwe okanye nayiphina indlela enqumla kwenye okanye umzila kaloliwe esinokuthi sonakalise ukubona komqhubi okanye iimeko ezingakhuselekanga, ekuphakameni, ebubanzini okanye ubude obuxeliweyo kwisaziso.

(2) Izibonelelo zecandelo 57 lifakwa xa umnini esilela ukuthobelana nesaziso esichazwe kwicandelwana loku-(1) kwixesha elixeliweyo kwisaziso.

Iingcingo ezivalileyo okanye kwimilimandlela yezibonelelo zothutho

42. (1) INtloko yeSebe inokumisela ucingo—

(a) ecaleni okanye kwimida yezibonelelo zothutho;

(b) kujikelezo lomhlaba apho izixhobo zithi/zithe zaphakanyiswa zaze zashenxiswa liPhondo; okanye

(c) kujikelezo lokunikezela ngoxhobiso lwamanzi okanye asetyenziswa liPhondo.

(2) ISebe kufuneka lingagaleli ngaphantsi kwama-60 eepesenti kwiindleko ezifanelekileyo ezenziwe ngumntu omisele ucingo, ngokungqinelana nemigangatho, imigaqo kunye nezikhokelo eziphunyezwe yiNtloko yeSebe, ecaleni komda wezibonelelo zothutho ngenxa ye/yo—

(a) saziso esikhutshwe ngokumalunga necandelo 43(4) ukuthintela ukumiswa kwesango; okanye

(b) ukuxhenxiswa yiNtloko yeSebe kwesango elinye okanye ngaphezulu ukusuka kwizibonelelo zothutho ngokumalunga necandelo 43(5).

(3) ISebe linganegalelo kwiindleko ezenziwe ngumntu omisele okanye obuyisele endaweni ucingo olonakeleyo ecaleni komda wezibonelelo zothutho kwiimeko ezingachazwanga kwicandelwana lesi-(2) ukuba ucingo olwakhiwe ngokungqinelana nemigangatho, imigaqo kunye nezikhokelo eziphunyezwe yiNtloko yeSebe.

(4) Ngaphandle kokuba kuvunyelwane ngenye indlela, iSebe alinaxanduva lokuhlawula nazo naziphina iindleko ezongezelelekileyo ezenziwe ngumntu omisele isibiyeli, kubandakanya ukubiyela ungcakazo, kwiinkcukacha zomgangatho ophezulu kunalowo ufuniweyo yiNtloko yeSebe.

(5) Akukho mntu ngaphandle kweNtloko yeSebe, enoku—

(a) misela ucingo kwimida yazo naziphina izibonelelo zothutho, ngaphandle kwemvume yangaphambilini ebhaliweyo kwiNtloko yeSebe kwisicelo esikwindlela emiselweyo, kwaye ngokungqinelana nemigangatho, imigaqo kunye nezikhokelo ezichongwe yiNtloko yeSebe; okanye

(b) ngaphandle kwemvume yangaphambilini ebhaliweyo kwiNtloko yeSebe kwisicelo kwindlela emiselweyo, ukushenxisa ucingo olumiselweyo ngokungqinelana nelicandelo kwimida yazo naziphina izibonelelo zothutho.

(6) INtloko yeSebe inokungayiphumezi imvume ebhaliweyo yoshenxiso locingo okubhekiselwe kulo kwicandelwana lesi-(5)*(b)* ngaphandle kokuba—

(a) imeko yocingo iyimfuneko yokubuyisela endaweni yalo; okanye

(b) umnini womhlaba apho ukhoyo wamkela okubhaliweyo ukuhlawula iindleko zokushenxiswa kunye nokumiselwa kwakhona kocingo ngokungqinelana nemigangatho, imigaqo kunye nezikhokelo ezichongwe yiNtloko yeSebe.

(7) Zonke izibiyeli ezimeselwe ngokusemthethweni kunye nezo bezikho kwimida yezibonelelo zothutho kufutshane nje phambi kokuqala kwalo Mthetho zithathwa njengezo bezimiselwe ngokuliqilima ngemvume yeNtloko yeSebe.

(8) INtloko yeSebe inokuthi nangaliphina ixesha ishenxise ucingo ngokubhekisele kwicandelwana lesi-(7), kodwa kufuneka lufakwe endaweni yalo ngocingo kumda wezibonelelo zothutho oluchaphazelekayo ngendleko yeSebe.

(9) Apho izibonelelo zothutho zifudusiwe, iNtloko eSebe kufuneka, ukuba ucingo lomda olukhoyo luyavumeleka kuye—

(a) isuse ucingo kwindawo entsha yezibonelelo zothutho kwaye ilumisele kumgcangatho wocingo olukhoy; okanye

(b) apho umnini womhlaba osecaleni esusa ucingo, unika imbuyekezo lo mntu ngokususa ucingo aze alumisele ngokuxhomekeka ukuba limiselwe kumgangatho wocingo olukhoyo.

(10)*(a)* Phantsi koMthetho woBiyelo, ka-1963 (uMthetho 31 ka-1963), umnini womhlaba okufutshane nomda wezibonelelo zothutho kufuneka agcine ucingo olumiselwe ngokusemthethweni kulo mda.

(b) ISebe linokuba negalelo kwiindleko zokugcina okuchazwe kumhlathi *(a)*.

(11) Apho ucingo kumda wezibonelelo zothutho luthe lwamoshakala—

(a) ukulungiswa kucingo kufuneka kwenziwe ngumnini womhlaba okufutshane kungaphelanga iintsuku ezingama-21 emva kokuba ukumoshakala kwenzekile; kwaye

(b) kude ukulungiswa kugqitywe, umnini womhlaba okufutshane unoxanduva lokuqinisekisa ukuba akukho mfuyo enokuthi inganobungozini kubasebenzisi bezibonelelo zothutho abangena kwizibonelelo zothutho.

(12) INtloko yeSebe inokuthi nangaliphina ixesha ibeke endaweni, ngeendleko zeSebe, ucingo olumiselweyo okanye oluthathwa njengolo lumiselweyo ngokumalunga neli candelo.

(13) Izibonelelo zecandelo 57 ezifakwe kwicandelwana lesi-(5) zichasiwe.

Amasango anqamleze iindlela

43. (1) Akukho mntu unokumisela isango elinqamleze indlela yephondo okanye indlela edibeneyo ngaphandle kwemvume yangaphambilini ebhaliweyo esuka kwiNtloko yeSebe, kwisicelo ngohlobo olumiselweyo kwaye ngokungqinelana nemigangatho, imigaqo kunye nezikhokelo eziphunyezwe yiNtloko yeSebe.

(2) Kwimeko yeendlela zephondo ezingumzila kaloliwe, ezinkulu okanye iindlela zesithili, kunye neendlela ezidibeneyo, ngaphandle kwendawo yasedolophini, imvume echazwe kwicandelwana loku-(1) ingangaphunyezwa ngaphandle kokuba—

(a) iNtloko yeSebe ikulungele ukwakha iintambo zentsimbi ezizisa umbane zokubiyela iinkomo kwiinqwelo ngaphaya kwendlela ecaleni kwesango; kwaye

(b) umntu ofaka isicelo semvume evumile ukuhlawulela iindleko zokwakha iintambo zentsimbi ezizisa umbane zokubiyela iinkomo kwiinqwelo kwaye ebonelela ngokhuselo kwiSebe ngeendleko zoqikelelo ngokupheleleyo ngapha koko.

(3) Kwiimeko ezichazwe kwicandelwana lesi-(2), isango lingangakhiwa kude kugqitywe iintambo zentsimbi ezizisa umbane zokubiyela iinkomo kwiinqwelo, ekufuneka yakhiwe ngokukhawuleza emva kwentlawulo yokhuselo oluchazwe kwicandelwana lesi-(2)*(b)*.

(4) INtloko yeSebe inokuthi—

(a) ngesaziso kwi*Gazethi yePhondo* okanye ngolawulo, isithintelo sokumiselwa kwesango ngaphaya kwalo naluphina uhlobo okanye ukwahlulwa kwendlela yephondo okanye indlela edibeneyo okanye nayiphina indlela ethile enjalo okanye isahlulo ngapha koko;

(b) ifune umntu ophunyezewe imvume ngokumalunga necandelwana loku-(1) okanye uMmiselo wokushenxisa isango.

(5) Apho iNtloko yeSebe ijonge ukushenxisa isango kwiimeko ezichazwe kwicandelwana lesi-(4), kufuneka onokuba yazise umnini ngamnye onokuba uchaphazele ngokungalunganga ixesha elifanelekileyo phambi kokushenxiswa okujoliswe kuko—

(a) okwenjongo yayo ukushenxisa isango;

(b) ukuba izichaso ezinokuba zingenisiwe ngomhla okanye phambi komhla oxeliweyo kwisaziso.

(6) Akukho mntu unokuthi, nangaliphina ixesha, atshixe naliphina isango elithe laphunyezwa yiNtloko yeSebe ngaphaya kwendlela yephondo okanye indlela edibeneyo okanye uvimbe uluntu ufikelelo olungenazithintelo kwisango elingaphesheya kwendlela enjalo.

(7) Izibonelelo zecandelo 57 lifakwa xa icandelwana loku-(1), okanye uthintelo olubekwe ngokumalunga necandelwana lesi-(4)*(a)*, lichasiwe.

Iintambo zentsimbi ezizisa umbane zokubiyela iinkomo kwizithuthi

44. (1) INtloko yeSebe ingathi yakhe, ivale okanye ifuduse iintambo zentsimbi ezizisa umbane zokubiyela iinkomo kwiinqwelo ngaphaya kwendlela yephondo okanye indlela edibeneyo ibonelela ukuba, apho kuyimfuneko, iintambo zentsimbi zisebenza ngokuhlangeneyo nesango elisecaleni kwalo.

(2) Phambi kokwenza ngokumalunga necandelwana loku-(1), iNtloko yeSebe kufuneka, ngexesha elifanelekileyo phambi komsebenzi ojongiweyo, ngendlela emiselweyo, imeme izimvo kumaqela anomdla nachaphazelekayo kumsebenzi ojongiweyo.

(3) Iintambo zentsimbi ezizisa umbane zokubiyela iinkomo kwiinqwelo kunye nesango elikhoyo ngokusemthethweni kufutshane nje phambi kokuba loMthetho uqale ngokungqinelana noMmiselo uthathwa njengeentambo zentsimbi ezizisa umbane zokubiyela iinkomo kwiinqwelo ezakhiwe ngokumalunga necandelwana loku-(1).

(4) Xa iNtloko yeSebe ishenxisa isango ngokumalunga necandelo 43(5), inokuzixhenxisa iintambo zentsimbi ezizisa umbane zokubiyela iinkomo kwiinqwelo ezisebenza ngentlanganisela nesango.

Ukwembiwa kwemigodi phantsi kwezibonelelo zothutho okanye iindawo zothintelo lwesakhiwo

45. (1) Akukho mntu ongaqhuba ukwembiwa kwemigodi phezu okanye ngaphantsi kwezibonelelo zothutho okanye akhe indawo yothintelo ngaphandle kwemvume yangaphambili ebhaliweyo yeNtloko yeSebe, kwisicelo ngendlela emiselweyo, onokuthi aphumeze imvume phantsi kweemeko ezithatha njengezifanelekileyo.

(2) Izibonelelo zecandelo 57 zifakwa xa icandelwana loku-(1) lichasiwe.

Urhwebo kwizibonelelo zothutho okanye kwiindawo zothintelo lwezakhiwo

46. (1) Akukho mntu unokuthi, ngaphandle kwemvume yangaphambili ebhaliweyo yeNtloko yeSebe, kwisicelo ngendlela emiselweyo, okanye ngokuchasene nemiqathango yemvume enjalo, aqhube urhwebo, athengise impahla okanye enze umboniso, athembise okanye avelisele ukuthengisa impahla kumzila wesakhiwo okanye kwindawo yothintelo lwesakhiwo, izibonelelo zothutho.

(2) Imvume phantsi kwecandelwana loku-(1) ingaphunyezwa—

(a) kwimeko yeendlela kunye nezibonelelo ezincedisayo zothutho, kuphela ngokuphathelele kwisakhiwo nomhlaba waso okanye iindawo ezicandiweyo okanye ezisikiweyo ngalo njongo ngokungqinelana nomthetho osebenzayo; kwaye

(b) kwimeko yomzila kaloliwe kunye nezibonelelo zothutho loluntu ezincedisayo, kuphela ngokuphathelele kwiindawo ezithile ezabiwe nguMphathiswa wePhondo ngokweenjongo zokurhweba.

(3) Icandelwana loku-(1) alisebenzi kumntu oqhube ishishini kuwo nakowuphina umhlaba phambi kokubhengezwa kwezibonelelo zothutho ngaphaya kwalo mhlaba kwaye emva kokubhengezwa okuqhubeka noshishino, ngaphandle kokuba umntu walathiswe yiNtloko yeSebe ngokwesaziso esibhaliweyo xa usiyeka ngokokhuselo lwendlela okanye umsebenzi wezendlela kwizibonelelo zothutho.

(4) Izibonelelo zecandelo 57 lifakwa xa icandelwana loku-(1) lichasiwe.

Izakhiwo ngaphandle kwezibonelelo zenkonzo kokubekelwe bucala okanye imizila yezakhiwo zezibonelelo zothutho okanye kwiindawo ezithintela isakhiwo

47. (1) Nangona nawuphina omnye umthetho, kodwa phantsi kwecandelwana lesi-(3) okanye lesi-(4), akukho mntu unokuthi, ngaphandle kwemvume yangaphambili ebhaliweyo kwisicelo ngendlela emiselweyo, kunye ngokungqinelana nemigangatho, imigaqo nezikhokelo eziphunyezwe yiNtloko yeSebe iyaqhubeka okanye imbangi okanye imvume iqhube umsebenzi okhankanywe kwicandelwana lesi-(2)—

(a) kubeko caleni kwezibonelelo zothutho;

(b) kumzila wesakhiwo sezibonelelo zothutho; okanye

(c) kwindawo yothintelo lwesakhiwo.

(2) Imisebenzi echazwe kwicandelwana loku-(1) yile ilandelayo:

(a) ukumisela okanye ukufaka isakhelo okanye nayiphina into equka nomhlaba apho ume khona, kuquka isakhelo okanye nayiphina into eyenza inxenye yalo mhlaba;

(b) ukwakha okanye ukubeka nantonina ngaphantsi okanye ngezantsi komphezulu womhlaba;

(c) ukwakhiwa kwayo nayiphina into ebonisa ngapha komhlaba;

(d) ukuthwala okombane okanye ezinye iingcingo okanye imibhobho okanye iintambo ezingaphantsi komhlaba okanye imbibhobho ngaphezulu okanye ngaphantsi komhlaba; okanye

(e) ukwenza ulongezelelo okanye utshintsho nakwesiphina isakhiwo okanye nayiphina into ekubhekiselelwe kuyo kumhlathi *(a)*, *(b)*, *(c)* okanye *(d)*.

(3) Icandelwana loku-(1) alisebenzi eku—

(a) gqityweni kwesakhiwo apho umiselo luqale phambi kokuba loMtetho uqale okanye phambi kwezithintelo ezibekwe ngumzila wesakhiwo okanye indawo yothintelo lwesakhiwo lusebenze; okanye

(b) nayiphina imisebenzi yezibonelelo zenkonzo.

(4) Imihlathi *(b)* no*(c)* wecandelwana loku-(1) ayisebenzi kukuvalwa, ucingo, udonga okanye uthango olungakhuli ngaphezu kwemitha e-1,8 ngaphezu komhlaba apho ume khona.

(5) Isicelo ekubhekiswa kuso licandelwana loku-(1) singaphunyezwa okanye sikhatywe, ngokubhekiselwe kwindalo yezibonelelo zothutho ezichaphazelekayo, uphuhliso okanye uphuhliso oluceliweyo ecaleni kwalo kwaye neminye imiba ethathwa njengefanelekileyo yiNtloko yeSebe.

(6) Xa kuphunyezwa imvume ebhaliweyo ngokumalunga necandelwana lesi-(5), iNtloko yeSebe inokubeka iimeko, kuquka—

(a) imigaqo apho isakhelo, into, ulongezelelo okanye utshintsho kufuneka luthobele;

(b) indlela neemeko apho, indawo apho kunye neemeko apho inokumiselwa, ifakwe, yakhiwe okande ibekwe;

(c) imisebenzi ezakuzalisekiswa ngumnini womhlaba, umfaki sicelo okanye omnye umntu ngokubhekisele kwimisebenzi eceliweyo;

(d) umsebenzi wokubuyisela iPhondo ngeendleko ezenziweyo ekubekeni iliso kwimisebenzi ekubhekiselwe kuyo kumhlathi *(a)*, *(b)* no *(c)*, nokuba kuphambi kokuqala komsebenzi okanye kwixesha elizayo;

(e) a umsebenzi wokuhlawula imali yengqesho njengoko imiselwe yiNtloko yeSebe ngokusetyenziswa okanye ukuhlala kumhlaba wePhondo okanye phantsi komthetho wakhe;

(f) nayiphina imeko ayibona iyimfuneko.

(7) Ukuba imvume iphunyeziwe ngokwecandelwana lesi-(5) kuxhomekeka ukuba isakhiwo okanye into emayishenxiswe kwixesha elizayo, akukho mbuyekezo ihlawulwayo ngokushenxisa kumnini wesakhiwo okanye into, okanye kongene emva kwakhhe ngokwetayiyile, ngaphandle kokuba kuvunyelwene ngolunye yiNtloko yeSebe.

(8) UMlawuli weeTayitile ngolawulo lwezobulungisa kufuneka, ngesicelo esibhaliweyo seNtloko yeSebe, aqaphele imeko ebhekisele kwicanelwana lesi-(7) kwitayitile yomhlaba ochaphazelekayo kuye nababhalisi abafanelekileyo, kwaye neendleko ngokunxulumene noloqaphelo kufuneka luhlawulelwe ngumntu onemvume yakhe iphunyeziweyo.

(9) Izibonelelo zecandelo 57 zifakwa xa icandelwana loku-(1), lifundwa necandelwano lesi-(2), lichasene.

(10) Nangona icandelo lesi-(3)*(a)* nele-(9), iNtloko yeSebe inokushenxisa okanye itshintshele kwindawo ayibona njengesakhiwo okanye into echazwe kwicandelwana lesi-(2) ebesimisiwe, safakwa, sakhelwa okanye sabekwa phambi komhla apho izibonelelo zothutho zichaphazelekayo zibhengeziwe.

(11) Apho iNtloko yeSebe ishenxisa okanye itshintsha isakhiwo okanye into ukuze kumiselwe, kufakwe, kwakhiwe okanye kubekwe, iNtloko yeSebe ingayifumana kwakhona indleko yokushenxisa okanye ukutshintsha ukusuka kumntu othe wamisea isakhiwo esichazwe kwicandelwana lesi-(3)*(a)*.

ISAHLUKO SE-11

IZIBONELELO ZENKONZO

Imvume yemisebenzi yezibonelelo zenkonzo

48. (1) Nangona nawuphina omnye umthetho, akukho mniki zinkonzo unokuthi, ngaphandle kwemvume yangaphambili ebhaliweyo yeNtloko yeSebe kwisicelo ngendlela emiselweyo, ukwenza imisebenzi yezibonelelo zenkonzo zo—

(a) kubekwa bucala;

(b) mjila wesakhiwo; okanye

(c) indawo yothintelo lwesakhiwo,

sezibonelelo zothutho.

(2) Icandelwana loku-(1) alisebenzi kwimisebenzi yezibonelelo zenkonzo eqale ngokomthetho phambi—

(a) kokuqala kwaloMthetho; okanye

(b) tukubhengezwa kobekelo bucala okufanelekileyo, umzila wesakhiwo okanye indawo yothintelo lwesakhiwo.

Imigangatho, imigaqo, izikhokelo kunye nemirhumo

49. (1) INtloko yeSebe ingathi imisele imigangatho, imigaqo kunye nezikhokelo ezichaphazele ukwenziwa kwemisebenzi yezibonelelo zenkonzo ngumniki zinkonzo, kuquka—

(a) imiba echazwe kwicandelo 51;
(b) ubuncinane bokulungela kunye neemfuneko zokubhalisa zekontraktha evunyelwe ukwenza imisebenzi yezibonelelo zenkonzo;
(c) ubuncinane bokulungela kunye nemisebenzi yomntu ozimeleyo onobuchule ekufuneka ephethe imisebenzi yezibonelelo zenkonzo;
(d) iimfuneko zo/ze—
(i) impilo kunye namanyathelo okhuseleko;
(ii) indawo yokuhlala izithuthi;
(iii) imisebenzi yezibonelelo zenkonzo esebenzayo;
(iv) ukusebenzisa indlela engenakunqumla kwindledlana esecaleni kwendlela;
(v) ukubonelela ngokugcina izinto kumbhobho womsele, umjele, umsele okanye izibonelelo zenkonzo ezifanayo ukuze zisetyenziswe ngabanye abaniki zinkonzo;
(vi) ukulungisa nawuphi na umonakalo kwiziseko zoncedo;
(vii) ukubuyisela indawo kwisakhiwo ukugqitywa kwemisebenzi yezibonelelo zenkonzo;
(viii) the indawo ekugqitywa kuyo yemisebenzi yolwakhiwo;
(ix) ukuhambisa kwiNtloko yeSebe imizobo eyakhelwe imisebenzi yeziseko zenkonzo;
(x) uhlengahlengiso lwexa elizayo, ukuphuculwa, ukutshintshwa, ukubekwa endaweni, ukulungiswa, ukugcinwa, ukuvuselelwa kwakhona, ukwakhiwa kwakhona, ukufuduswa okanye ukushenxiswa nokuba yeyiphina inkonzo yezibonelelo okanye izibonelelo zothutho;
(e) idipozithi, isiqinisekiso okanye ukhuseleko lokuhlawula iindleko ezinokubakho zokulungisa nawuphi na umonakalo onokubangelwa zizibonelelo zoncedo lwenkonzo nezinokubangela umonakalo kwizibonelelo zothutho;
(f) i-inshoransi yeemfanelo zoluntu;
(g) elona xesha liphezulu lolwenziwo lwezibonelelo zomsebenzi; kwaye
(h) neminye imigaqo efanelekileyo.

(2) UMphathiswa wePhondo unokuthi abeke imirhumo, njengoko imiselweyo, ehlawulwa ngumnikezeli ngenkonzo ngesicelo kunye neendleko kwiPhondo elihambelana nemisebenzi yezibonelelo zenkonzo.

Isigqibo kwisicelo

50. (1) INtloko yeSebe mayigqibe ngesicelo esikhankanywe kwicandelo 48(1) phakathi kweentsuku ezingama-90—

(a) ukufunyanwa kwesicelo esithi, ngokwanelisa iNtloko yeSebe, sihambelana neemfuno zolwazi ngokwecandelo 48 nelama-49; kwaye
(b) intlawulo yemirhumo echazwe kwicandelo 49(2).

(2) Ukuba, ngokoluvo lweNtloko yeSebe, kufanelekile ukwenza njalo, iNtloko yeSebe inokuqesha, ngendleko yomnikezeli weenkonzo, umntu oqeqeshiweyo ukuba acebise iNtloko yeSebe malunga nesicelo esichazwe kwicandelo 48(1).

(3) Imvume ebhaliweyo echazwe kwicandelo 48(1) kufuneka limiselwe—

(a) iinkcukacha zo—
(i) mniki zinkonzo;
(ii) ikontraktha nganye evunyelwe ukuba yenze imisebenzi yezibonelelo zenkonzo; kwaye
(iii) umntu oqeqeshiweyo ozimeleyo oongamele imisebenzi yeziseko zenkonzo;
(b) ukulungelelaniswa okuthe tye nokuthe nkqo kwezibonelelo zenkonzo;
(c) nakuphi na ukuphambuka okunikwe imigangatho, imigaqo kunye nezikhokelo;
(d) nawuphi na umbandela apho umboneleli-nkonzo anokuhambisa izibonelelo zenkonzo;

(e) nawuphi na umsebenzi wokusebenzisa umthamo wokuphelisa kumbhobho womsele okhoyo okanye ocwangcisiweyo, umjelo, uthango okanye izibonelelo zenkonzo ezifanayo; kwaye

(f) imigangatho, imigaqo kunye nezikhokelo ekubhekiswa kuzo kwicandelo 49(1) ekufuneka umniki zinkonzo ahambelane nalo, kunye nayo nayiphi na imigangatho eyongezelelweyo okanye ekhethekileyo, imigaqo kunye nezikhokelo ezingafakwanga kwimigangatho, imigaqo kunye nezikhokelo ezipapashwe ngokwecandelo 49(1).

Ukwenziwa kwemisebenzi yezibonelelo zenkonzo

51. (1) Xa usenza imisebenzi yolwakhiwo isebenza ngaphakathi kwendawo yokugcina, imizila yesakhiwo okanye indawo yothintelo lwesakhiwo, umnikezeli ngenkonzo kufuneka—

(a) athobelane nemigaqo yemvume ebhaliweyo echaziweyo kwicandelo 48(1);

(b) athobelane nemigangatho, imigaqo kunye nezikhokelo ezichazwe kwicandelo 49, ngaphandle kwalapho iNtloko yeSebe iphumeza uphambuko;

(c) ungavumeli ikhontraktha ukuba yenze imisebenzi yenkonzo okanye umntu oza kubeka esweni imisebenzi engagunyaziswanga kwimvume ebhaliweyo echazwe kwicandelo 48(1);

(d) khusela uluntu;

(e) khusela izibonelelo zezothutho kunye nepropathi kawonkewonke kunye neyabucala ukusuka kumonakalo onokubakho wokuphelisa, kunye nokunciphisa umonakalo ongenakuthinteleka ngokufanelekileyo; kwaye

(f) athobele isenzo sobunjineli obuvakalayo kunye nemigangatho ngokubhekisele kuwo nawuphi na umcimbi ekungasetyenziswanga ngawo okanye usebenze ngokupheleleyo kwimvume ebhaliweyo echazwe kwicandelo 48(1) okanye icandelo 49.

(2) Umboneleli ngeenkonzo akanakho, ngaphandle kwemvume ebhaliweyo yoMphathiswa wePhondo, ukuba abeke izibonelelo zenkonzo ezintsha kwindawo yokugcina, imizila yesakhiwo okanye indawo yothintelo lolwakhiwo ukuba kukho indawo ekusetyenzwa kuyo naziphi na izibonelelo zenkonzo ekhoyo.

(3) Ukuba ngokoluvo lweNtloko yeSebe ilungile loo nto, uya kuthi, ngendleko zomnikezeli weenkonzo, aqeshe umntu oza kubeka esweni imisebenzi yezibonelelo zenkonzo ukuqinisekisa ukuba umboneleli-nkonzo uyahambelana nemisebenzi yakhe phantsi kwesi Sahluko kunye nokukhusela iimfuno zePhondo ngokunxulumene nezibonelelo zezothutho.

Ubunini kunye nokulawulwa kwendawo yokugcina izinto

52. Ngaphandle kwawo nawuphi na omnye umthetho—

(a) iPhondo linabanini kwaye linelungelo elikhethekileyo lokulawula umda kuyo nayiphi na imibhobho yokuhamba, umjelo, uthango okanye izibonelelo zenkonzo ezifanayo ezikhoyo okanye ezimalunga nomhla okanye kwizibonelelo zezothutho zePhondo; kwaye

(b) akukho mntu unokwala okanye anqande ukufikelela kumboneleli ngeenkonzo kumbhobho wokuhambisa, umjelo, uthango okanye izibonelelo zenkonzo ezifanayo ezichazwe kumhlathi *(a)* ukuba iNtloko yeSebe ifuna ukuba umnikezeli ngenkonzo abelane ngezikhundla ezikhoyo.

Imbuyekezo

53. (1) Ngaphandle kwawo nawuphi na omnye umthetho, umboneleli ngeenkonzo unoxanduva lokuhlawula imbuyekezo efanelekileyo kwiPhondo ngokobunzima obufunyenwe yiyo kunye nenzuzo efunyenwe ngumboneleli ngenkonzo ukuze isetyenziswe ngumnikezeli weenkonzo zomhlaba wesibonelelo senkonzo, nokuba ngaba Izibonelelo zoncedo ziphantsi okanye emhlabeni, ngaphezulu, okanye zidityaniswe kwisakhiwo.

(2) INtloko yeSebe iya kuthi ichonge indlela yokusebenza njengesikhokelo sembuyekezo ehlawulwayo.

(3) INtloko yeSebe kunye nomnikezeli ngenkonzo banokuvuma ukufumana imbuyekezo elingana, ephezulu okanye engaphantsi kwenani elibalwe ngokungqinelana

nayo nayiphi na indlela ekhankanywe kwicandelwana lesi-(2), kunye nexesha nendlela yokuhlawula.

(4) Apho kungekho sivumelwano sikhankanywe kwicandelwana lesi-(3), inkundla kufuneka ichonge inani lembuyekezo kunye nexesha kunye nendlela yokuhlawula.

(5) Umboneleli ngeenkonzo akanakho ukuqalisa ukusebenza okanye ukuqhubekeka nokusebenza kude kuvunyelwane ngembuyekezo kunye nexesha nendlela yentlawulo ekuvunyelwene ngayo okanye kumiselwe yinkundla.

(6) Icandelwana loku-(1) lifakwa ekusetyenzisweni komhlaba ukusukela ngomhla wokuqalisa kwalo mthetho, ngaphandle kokujonga ukuba izinto zokusebenza zithunyelwe ngaphambi okanye emva kokuqalisa kwalo mthetho.

Ukufuduswa

54. (1) Ngaphandle kwawo nawuphi na umthetho, ngaphandle kokuba iNtloko yeSebe iyavuma ngenye indlela, umnikezeli weenkonzo ochaphazelekayo kufuneka—

(a) ngendleko zomboneleli-zinkonzo, fudusela kwenye indawo indawo esekwe kuyo, kwimida yesakhiwo okanye kwindawo yothintelo lwesakhiwo ukuba iNtloko yeSebe ibona kufanelekile ukufudukela kwenye indawo ukulungiselela imisebenzi yezothutho yephondo okanye ukusebenza kakuhle nangokukhuselekileyo kwezithuthi zephondo; kwaye

(b) hlawula iindleko zemisebenzi yezibonelelo ezithuthwa yiNtloko yeSebe ngenxa yemisebenzi yezibonelelo zenkonzo.

(2) Ngaphandle kwecandelwana loku-(1), iNtloko yeSebe, ngexabiso lePhondo, ingahambisa izibonelelo zenkonzo ezazithunyelwe ngaphambi kokuba kubhengezwe izibonelelo sezothutho ezichaphazelekayo.

Ukunyanzelwa kwezibonelelo ngokubhekisele kwizibonelelo zeenkonzo

55. Izibonelelo zecandelo 57 ziyasebenza ukuba icandelo 48(1), elifundwa ngecandelo 50(3) okanye 51(2), laphuliwe.

ISAHLUKO SE- 12

IZIBONELELO NGOKUBANZI

Izicelo kunye neemvume ezibhaliweyo

56. (1) Apho umfaki-sicelo engenguye umnini womhlaba isicelo esichaphazelekayo kuwo nawuphi na lo mthetho, umfaki-sicelo kufuneka abonise ngolwaneliseko lweNtloko yeSebe ukuba unikwe amandla okuthetha-thethana egameni lakhe nokuba eso sicelo samkelekile kumniniyo.

(2) Xa kunikwa imvume ebhaliweyo ngokwecandelo lesi-4(16), le-10(1), 29(2), 32(1), 37(1), (2), (4) okanye lesi-(5), 39(1), 42(5), 43(1), 45(1), 46(1), 47(1), 48(1), 51(2) okanye 67(3) kwiNtloko yeSebe okanye uMphathiswa wePhondo, iyasebenza ino—

(a) kumisela iimeko ezifanelekileyo;

(b) kwisicelo, lungisa, unqumamise okanye urhoxise imeko;

(c) ubambe imvume yomenzi-sicelo, ngokoluvo lweNtloko yeSebe okanye uMphathiswa wePhondo, njengoko kufanelekile, ngokuchasene nolungiselelo lwalo mthetho imvume ebhaliweyo ebhekisele kuyo.

(3) Imvume ebhaliweyo exelwe kwisiqendwana (2) iyadluliselwa ngaphandle kokuba imeko ekhankanywe kwicandelwana (2)*(a)* ibonisa ukuba imvume ayinakutshintshelwa.

(4) Ngokuxhomekeke kulo Mthetho, ukuba—

(a) umsebenzi ogunyaziswe ngemvume ebhaliweyo uqalile okanye ugqityiwe; kwaye

(b) apho imvume ebhaliweyo inxulumene nayo sele ithengisiwe emva kokunikwa kwemvume ebhaliweyo echaphazelekayo,

imiqathango yaloo mvume ibhaliweyo ibophelela abo bangena ezihlangwini zetayitile zomhlaba oxeliweyo.

(5) UMgcinizincwadi zobhaliso lwezigqibo kulawulo lwezobulungisa, kufuneka—

(a) ngesicelo esibhaliweyo seNtloko yeSebe, qaphela imeko ekhankanywe kwicandelo 37(7), 39(2)*(a)*(i) okanye *(b)*(i) okanye 47(7) kwitayitile yobunini womhlaba ochaphazelekayo nakwiirejista ezifanelekileyo; kwaye

(b) kwimeko yecandelo 39(2)*(b)*(i), ngqinelana ngesiqinisekiso sobunini esigcinwe nguloo mntu unika ugqithiso lwemiqathango esebenzayo kulo mhlaba ugciniweyo.

(6) Ukuba imeko ifakwe okanye ivunyiwe kwitayitile—

(a) ekubhekiswa kuyo kwicandelwana (5);

(b) ebekwe ngokwemigaqo yomthetho obhangiswe nguMthetho,

senziwe izilungiso okanye sarhoxiswa njengoko kuchaziwe kwicandelwana (2)*(b)*, uMgcinizincwadi zobhaliso lwezigqibo kufuneka, ngesicelo esibhaliweyo seNtloko yeSebe okanye umnini womhlaba, alungise okanye arhoxise imeko echaphazelekayo.

(7) Kwiimeko ezikhankanywe kwicandelwana (6), umnini womhlaba okanye iNtloko yeSebe, njengoko kunokuba njalo, makangenise kuMgcini zincwadi zobhaliso lwezigqibo ikopi yesigqibo esichaphazelekayo kunye nobungqina bokuba lonke uhlobo lobambiso lubanjisiwe unolwazi.

Izibonelelo zonyanzeliso

57. (1) Ukuba umntu uchasene nesibonelelo saloMthetho, uMphathiswe wePhondo unokuthi—

(a) ngaphandle kwesaziso—

(i) khupha isaziso sokuthobela esiyalela umntu ukuba athobele ixesha elichaziweyo kunye nolungiselelo olo; okanye

(ii) enze isicelo kwinkundla efanelekileyo ukuze afumane uncedo;

(b) khupha umyalelo oyalela umntu ukuba, ngaphakathi ixesha elimiselweyo, apho kufanelekileyo—

(i) yeka nawuphina—

(aa) umsebenzi;

(bb) umsebenzi wezibonelelo zenkonzo,

ochasene naloMthetho;

(ii) thintela okanye lungisa ulwaphulo olo;

(iii) shenxisa izibonelelo zenkonzo ezisetyenziswe ngokuchasene neSahluko se-11;

(iv) shenxisa nayiphi na intengiso, ukufikelela, isakhiwo, ucingo, isango okanye enye into eyakhiweyo, efakiweyo, eyakhiweyo okanye ebekwe ngokuchasene naloMthetho; okanye

(v) thatha amanyathelo achaziweyo kwisikhokelo sokuthobela naluphi na ulungiselelo kuloMthetho;

(c) rhoxisa imvume ekhutshwe ngokwaloMthetho.

(2) Phambi kokuba akhuphe imiyalelo okanye arhoxise imvume, uMphathiswa wePhondo kufuneka anike umntu lowo uchaphazelekayo ithuba elifanelekileyo lokwenza intetho ebhaliweyo.

(3) Ukuba inyathelo elingxamisekileyo liyimfuneko ukukhusela uluntu okanye ukukhusela izibonelelo zezothutho, uMphathiswa wePhondo unokuthi—

(a) akhuphe umyalelo kwaye anike umntu ochaphazelekayo ithuba lokuba enze inkcazo ngokukhawuleza emva kokuba kufanelekile; okanye

(b) athathe amanyathelo acingelwa nguMphathiswa wePhondo njengayimfuneko ngokubona ukungxamiseka nokugunyazisa omnye umntu ukuba athathe loo amanyathelo.

(4) Ukuba umntu waphula umthetho ongumyalezo okhutshwe phantsi kwecandelwana loku-(1)*(b)*, uMphathiswa wePhondo usenokuthatha amanyathelo abona kufanelekile aze agunyazisa omnye umntu ukuba athathe loo manyathelo.

(5) Phantsi kwecandelwana lesi-(3), kwiimeko apho amanyathelo akhankanywe kwicandelwana lesi-(4) afuna ukungena kwipropathi ebunini bayo bungalawulwa liPhondo, uMphathiswa wePhondo okanye omnye umntu ogunyazisiweyo akanakuthatha amanyathelo afanelekileyo ngaphandle kwemvume ebhaliweyo yomnini okanye yomntu olawula ipropathi okanye ngaphandle komyalelo wenkundla efanelekileyo.

(6) Ngaphambi okanye emva kokuthatha amanyathelo akhankanywe kwicandelwana lesi-(3) okanye lesi-(4), uMphathiswa wePhondo unokuzibuyisela iindleko ezenziwe nguMphathiswa wePhondo okanye umntu ogunyazisiweyo wokuthatha loo manyathelo, kubandakanya naziphi na iindleko ezenziweyo njengoko kuchaziwe kwicandelwana

lesi-(8), ukusuka kuye nawuphina umntu okanye bonke abantu abakhutshelwe lo myalelo, omntu ngamnye nangokudibeneyo enoxanduva, kwaye enokusebenzisa nayiphi na idiphozithi, esisiqinisekiso okanye ukhuseleko ekubhekiswe kulo kwicandelo 49(1)*(d)*.

(7) Iindleko ezichazwe kwicandelwana lesi-(6) kufuneka zibe zezisengqiqweni, kwaye zinokubandakanya ngaphandle kwesithintelo, kubasebenzi, kulawulo, ekusebenzeni, kwimali, kwiindleko zokuqhuba ishishini nakwiindleko zomthetho.

(8) Apho izibonelelo zenkonzo, intengiso, ukufikelela, isakhiwo, ucingo, isango okanye enye into isuswe ngokwecandelwana lesi-(4)—

(a) uMphathiswa wePhondo kufuneka athabathe amanyathelo afanelekileyo ukwazisa umntu lowo kuthunyelwe kuye le miyalelo yokuqokelela izibonelelo zenkonzo, intengiso, ulwakhiwo, ucingo, isango okanye enye into ukusuka kwindawo apho kuthunyelwe khona izinto ezifanelekileyo ukuze zigcinwe; kwaye

(b) iNtloko yeSebe inokuthi iyilahle lonto ukuba ayiqokelelwanga emva kweenyanga ezintathu ukusuka kumhla wokushenxiswa.

(9) INtloko yeSebe ingamisela isohlwayo solawulo, njengoko kumiselweyo, kumntu owaphula ubonelelo lwaloMthetho.

(10) Phambi kokubeka isohlwayo solawulo, iNtloko yeSebe kufuneka, ngokuthi ibhale phantsi—

(a) yazise umntu ngenjongo yokuwisa isohlwayo;

(b) icacise iinkcukacha zolu lwaphulo;

(c) nika izizathu zesohlwayo ekujoliswe kuso;

(d) chaza ubungakanani besohlwayo ekujoliswe kuso; kwaye

(e) umeme umntu onomdla ukuba enze ingxelo ngexesha elichaziweyo.

(11) Ukuba iNtloko yeSebe, emva kokuqwalaselwa kwenkcaza eyenziweyo, okanye ukuba akukho zinkcazo zifunyenweyo ekupheleni kwexesha elichazwe kwicandelwana le-(10)*(e)*, igqiba kwelokuba inyanzelise isohlwayo solawulo, iNtloko yeSebe kufuneka ngesaziso esibhaliweyo yazise umntu ukuba kufuneka, zingaphelanga iintsuku ezingama-30—

(a) ahlawule isohlwayo kwiPhondo; okanye

(b) abhene kuMphathiswa wePhondo ngokwecandelo 69.

(12) Ukuba umntu uthe wasilela ukuhlawula isohlwayo solawulo ngexesha elichaziweyo, uMphathiswa wePhondo unokuthi, ukongeza kwamanye amanyathelo akhankanywe kwesiSahluko, ngezenzo zorhulumente kwinkundla enobuchule ukubuyisa ubungakanani besohlwayo solawulo kuloo mntu.

(13) Ngokuxhomekeke kwizibonelelo ezikwesiSahluko, naliphina inyathelo okanye amanyathelo onyanzeliso achazwe kwelicandelo anokuthathwa, kwaye anokuthathwa kuwo nawuphina umyalelo okanye indibaniselwano okanye ngendlela engenye kwenye into xa kuthe kwasilela ukuthobela, okanye ngokulandelelana.

Amagunya athile eNtloko yeSebe

58. Ngokuxhomekeke kwiPFMA, iNtloko yeSebe inokuthi—

(a) ngaphandle kwamalungiselelo eSahluko sesi-8 nakwimibandela emiselwa yiNtloko yeSebe, iphumeze imali okanye olunye uncedo kumasipala—

(i) yolwakhiwo okanye ukulungiswa kweendlela ezidibeneyo;

(ii) yokufunyanwa ngumasipala wepropati lowo wepropati ngeenjongo zeendlela ezidibeneyo;

(iii) ukwenzela ukuba umasipala athobele imiyalelo yeNtloko yeSebe echazwe kwicandelo le-10(3);

(iv) ukuze umasipala enze imisebenzi echazwe kwicandelo le-9(6); okanye

(v) ukuze umasipala athobele imisebenzi yakhe echazwe kwicandelo lesi-2(2) lokufunda necandelo le-9(2) ngokubhekisele kwindlela edibeneyo;

(b) ngaphandle kwamalungiselelo eSahluko sesi-8, isicwangciso, uyilo, sakha okanye sigcina iindlela ezidibeneyo kwindawo kamasipala ngokuhambelana nomasipala;

(c) Ukulawulwa kwee-asethi zezibonelelo zothutho eluxanduva leSebe, ngokuxhomekeke kuwo nawuphina umthetho osebenzayo olawula ukuphathwa kwee-asethi ezingashenxiswayo;

(d) asebenzise naliphi na igunya elinokwenzeka ngokufanelekileyo okanye elincedisa kumandla akuluhlu kwimihlathi *(a)* ukuya ku*(c)*.

Amagunya ngokubanzi kunye nemisebenzi yeNtloko yeSebe

59. (1) INtloko yeSebe inokuthi—

(a) ukushenxiswa okanye ukulahlwa kwesilwanyana esikwisibonelelo sezothutho okanye ngaphakathi kokubekwa bucala kwesibonelelo sezothutho ngokuchasene noMthetho weZoThutho lweNdlela kaZwelonke okanye nawuphi na umthetho, kodwa ke ayinaxanduva lakuhlawula nawuphi na umntu xa eso silwanyana sibulewe okanye senzakala ngelixa kuqhubeka ukushenxiswa okanye ukulahlwa ukunqanda ingozi kuhambo ngendlela;

(b) ukubonelelwa nokugcinwa kweziseko zophuhliso lwezothutho kulwakhiwo lwezixhobo zothutho, iimpompo nako konke ukongeza izinto okanye izinto ezilula azibona ziyimfuneko;

(c) ukumisa, ukwakha kunye nokugcina nokuba ku, kuxhomekeke kulo mthetho, ngaphandle kwesibonelelo sezothutho isakhiwo, indlu, intente okanye nolunye ulwakhiwo lwendawo yokuhlala yamagosa kunye nabasebenzi abaqeshwe kweso sakhiwo sothutho okanye besenza imisebenzi enxulumene noko;

(d) gcina okanye, phantsi kwalo mthetho, ngaphandle kwesigcini sezityalo sezothutho, oomatshini, izixhobo okanye nantoni na ayibona iyimfuneko ekwakhiweni nasekulondolozweni kwezibonelelo zezothutho;

(e) ngokuxhomekeke kumthetho olawula ukufunyanwa nokulahlwa komhlaba wephondo, ukuqeshisa okanye ukulahla amalungelo aphethwe kumhlaba owawufunyanwa okanye onxulumene nezibonelelo zezothutho kwaye ungafuneki kwangoko, okanye unike amalungelo okwethutyana kulo mhlaba wasimahla;

(f) ukulungisa ngokutsha okanye imbonakalo yomhlaba okanye kungenjalo kuphuculwe iindawo ezingaphakathi kwizibonelelo zothutho;

(g) beka, ususe okanye ushenxise umzila kaloliwe endleleni;

(h) Kwizibonelelo zezothutho bonelela okanye ugunyazise amaziko eenkonzo kubandakanya izikhululo zokuzalisa, iindawo zokutyela, amabala okudlala kunye nezinye iindawo ukuze zisetyenziswe luluntu oluhambelayo;

(i) ngesaziso esikhutshwe kwi*Gazethi yePhondo* esithintela okanye esinqanda ukuhamba kwesitokhwe ngenye indlela ngaphandle kwemoto kuyo nayiphi na indlela echaziweyo kwisaziso, okanye ukubonelela ukuba isitokhwe asinakususwa kuloo ndlela ngaphandle kwemvume ebhaliweyo yangaphambili yeNtloko yeSebe.

(2) Izibonelelo zecandelo 57 ziyasebenza apho isitokhwe sifunyenwe endleleni ngokuchasene nesaziso ekubhekiswe kuso kwicandelwana loku-(1)*(i)*.

(3) Ngokuxhomekeke kuMthetho wezoThutho lweNdlela kaZwelonke, iNtloko yeSebe inokubonelela kwaye igcine iimpawu zezithuthi, izixhobo zokulawula ukuhamba kweemoto kunye nokumakishwa okuyimfuneko kwisikhokelo kunye nokhuseleko lwezithuthi ezindleleni kunye neempawu ezifanelekileyo kunye neempawu kumzila kaloliwe.

Imigaqo elawulayo

60. (1) UMphathiswa wePhondo kufuneka enze imigaqo malunga nawo nawuphi na umcimbi apho loMthetho ufuna imigaqo.

(2) UMphathiswa wePhondo unokwenza imigaqo elawulayo—

(a) ukumisela iindlela kunye neemfuno zokubeka esweni ukusebenza kwabasemagunyeni kwimisebenzi yabo phantsi kwaloMthetho, imigangatho yokwenza okanye izalathisi kunye nokwezemali kunye nezinye iziphumo zokusilela kwabasemagunyeni ukwenza loo misebenzi okanye ukuyenza ngokufanelekileyo;

(b) ukumisela—

(i) indlela kunye nohlobo isicelo esimalunga naso nasiphi na isigunyaziso, imvume, imvume okanye ukuxolelwa okuthethwe kuloMthetho kufuneka senziwe, ulwazi oluza kungeniswa ngalo kwaye, ngokunxulumene nezibonelelo zothutho, imirhumo, ukuba ikhona, izakuhlawulelwa isicelo;

(ii) iimfuno zokupapashwa kunye nokunikezelwa kwezaziso nokwazisa amaqela anomdla nachaphazelekayo;

(c) ifomu eza kusetyenziswa, ulwazi oluza kufakwa kunye nenkqubo emayilandelwe ngokunxulumene nalo naliphi na ibango lembuyekezo elilungiselelwe kuloMthetho;

(d) ngokubhekisele kwizibonelelo zezothutho, emisela umrhumo waso nasiphi na isigunyaziso, ukuvunywa okanye ukuphunyezwa kwemvume enikezelwe ngokwaloMthetho ngaphezulu kwemirhumo yesicelo emiselweyo phantsi komhlathi *(b)* okanye kwiimeko apho kungekho ntlawulo yesicelo emiselweyo;

(e) ukumisela indlela amagunya anokugcina ngayo iakhawunti yemali efunyenweyo okanye ebhatelweyo ngokubhekisele kwizibonelelo zothutho;

(f) emisela imisebenzi yizibonelelo zezothutho ekufuneka kubizwe ngayo iindleko;

(g) ukumisela inkqubo yocwangciso ngokubhekiselele kwizibonelelo zezothutho;

(h) ukumisela ukwahlula-hlulwa kokuphuhliswa kweemeko zendlela;

(i) ngokuxhomekeke kuMthetho woShishino, ka-1991 (uMthetho wama-71 ka-1991), olawula urhwebo kwizibonelelo zezothutho okanye;

(j) ngokubhekisele kuwo nawuphi na umcimbi ongamiselwa ngokwemigaqo yalo Mthetho, ulawulo okanye ukumiselwa ngumthetho;

(k) ngokubanzi, ngokubhekisele nakuwuphi na omnye umcimbi wokudibanisa okanye ongxamisekileyo oyimfuneko okanye olungele ukumiselwa ukuze uphunyezwe ngokufanelekileyo okanye ukwenziwa kwaloMthetho.

(3) Imimiselo inokubonelela ngokuba ukophulwa kwesibonelelo sayo okanye ukusilela ekuthobeleni oko kulwaphulo-mthetho olohlwaywa ngokuhlawuliswa okanye ukuvalelwa entolongweni ixesha elingadlulanga kwiinyanga ezili-12, okanye zozibini, isohlwayo nokubanjwa.

(4) Imimiselo eyahlukeneyo inokwenziwa phantsi kweli candelo kwiintlobo ezahlukeneyo zezibonelelo zezothutho.

(5) Imimiselo eyahlukeneyo inokwenziwa phantsi kwecandelwana lesi-(2)*(b)*(i) ngokubhekisele kwizicelo xa umasipala engumnikazi kwiimeko ezichazwe kwicandelo le-10(1) kwaye kwiimeko apho umasipala engenguye owenza isicelo njengoko kuchaziwe kwelocandelo.

(6) Ukwenziwa okanye ulungiso kwimigaqo phantsi kwelicandelo linemiba yezemali kufuneka kwenziwe ngokuhambelana noMphathiswa wePhondo wezeMali.

(7) Umgaqo olawulayo owenziwe ngokwemigqaliselo yoMmiselo kunye nokusebenza kwangoko ngaphambi kokuqala kwaloMthetho ngokubhekisele kwinto apho uMphathiswa wePhondo anokuthi okanye enze imigaqo-nkqubo ithathwe njengomgaqo owenziwe phantsi kwelicandelo, ude ubhangiswe okanye ugqithiselwe ngumgaqo omtsha phantsi kweli candelo.

Imigangatho, imigaqo kunye nezikhokelo

61. (1) INtloko yeSebe inokumisela imigangatho, imigaqo kunye nezikhokelo zezibonelelo zezothutho kunye neendlela ezidibeneyo, kubandakanya—

(a) imigangatho, imigaqo kunye nezikhokelo zokubonelela ngofikelelo ezindleleni;

(b) imigangatho, imigaqo kunye nezikhokelo ze/zo—

(i) cwangciso, uyilo, uphuhliso, ulwakhiwo, ulawulo, ukuphathwa, ukumiselwa, ukuphuculwa, ukugcinwa, ukukhuselwa kunye nokuvuselelwa kwezibonelelo zothutho;

(ii) ukhuseleko ezindleleni nakumzila kaloliwe kwiPhondo;

(iii) ulawulo lwentengiso malunga nokhuseleko ezindleleni nokusebenza kwezothutho;

(iv) ukumiswa kocingo, amasango kunye nolwakhiwo;

(v) imisebenzi yezibonelelo zenkonzo, kubandakanya imicimbi edweliswe kwicandelo 49(1);

(vi) ukusetyenziswa komgomo ochazwe kwicandelo 5(4), (5) kunye nele-(6) kunye nele-13(1),

imigangatho, imigaqo kunye nezikhokelo zingahluka ngokunxulumene neentlobo zezibonelelo zezothutho kwaye kuxomekeka, kwiimeko zeendlela, uMthetho weZothutho lweNdlela kaZwelonke;

(c) imigangatho, imigaqo kunye nezikhokelo zoyilo, ulwakhiwo, ukuphathwa nokulawulwa kweentambo zombane ezithintela iinkomo kwizithuthi, kuquka—
  (i) ubungakanani, izixhobo eziza kusetyenziswa, indlela yokwakha, inqanaba kunye nendawo;
  (ii) ubude nobubanzi beendlela ezisuka kwiintambo zombane ezithintela iinkomo kwizithuthi;
  (iii) iimpawu eziza kwakhiwa kwaye zigcinwe zinikezela isilumkiso ngegridi yeenkomo zemoto kunye nokuvalwa okanye ukuphambukiswa kweentambo zombane ezithintela iinkomo kwizithuthi; kwaye
  (iv) ulawulo olufanelekileyo, ukugcinwa nokuphathwa kweentambo zombane ezithintela iinkomo kwizithuthu;
(d) imigangatho, imigaqo kunye nezikhokelo kusetyenziso, ukuphathwa nokukhuselwa kweenkampu zokuphumla, iindawo zokuphumla iinkampu zokugcina istokhwe kunye nezinye izibonelelo zendlela ezixhasayo, nokuba ziyinxalenye yeendlela.

(2) Imigangatho, imigaqo kunye nezikhokelo ezibekwe yiNtloko yeSebe ngokwalo mthetho kufuneka zipapashwe liSebe ngokubenza zifumaneke kwimidiya ye-elektroniki okanye kwiwebhusayithi esemthethweni yeSebe Standards.

Ukudluliselwa kwegunya

62. (1) Ngokwesiqendwana soku-(4), uMphathiswa wePhondo unokuthi adlulisele naliphi na igunya lakhe okanye anike nayiphi na imisebenzi yakhe ngokwaloMthetho kwiNtloko yeSebe.

(2) INtloko yeSebe inokunikezela nawaphi na amagunya ayo okanye inike nawuphi na umsebenzi wayo ngokwalo mthetho okanye unikezwe kwiNtloko yeSebe ngokwecandelwana (1) kwigosa leSebe okanye kumasipala.

(3) INtloko yeSebe iya kuthi kuphela ngemvumelwano yoMphathiswa wePhondo, uMphathiswa wePhondo loRhulumente beZekhaya, nomasipala ochaphazelekayo, banike naliphina igunya lakhe okanye banike nawuphi na umsebenzi wakhe ngokwaloMthetho.

(4) Icandelwana loku-(1) alisebenzi kumandla okwenza imigaqo okanye ukwenza isibhengezo ngokwecandelo 22.

(5) Udluliselo lwegunya okanye unikezelo ekubhekiswa kulo kwicandelwana loku-(1), lesi-(2) okanye lesi-(3)—
(a) kufuneka ibe ibhaliwe;
(b) okanye yenziwe phantsi kweemeko;
(c) unokurhoxiswa okanye ulungiswe ngokubhaliweyo nguMphathiswa wePhondo okanye yiNtloko yeSebe, njengoko kunokuba njalo;
(d) unokuvumela ukugqithiselwa kolo gunya okanye ukuhambisa abanye loo msebenzi alumthinteli umphathiswa wePhondo okanye iNtloko yeSebe, njengoko imeko inokuba njalo, ekusebenziseni amagunya okanye ekwenzeni umsebenzi;
(e) alumthinteli uMphathiswa wePhondo okanye iNtloko yeSebe, njengoko imeko inokuba njalo, ekusebenziseni amagunya okanye ekwenzeni umsebenzi;
(f) akamkhululi umphathiswa wePhondo okanye iNtloko yeSebe, njengoko imeko inokuba njalo, ngoxanduva lokusetyenziswa kwegunya elinikezelweyo okanye ukwenziwa komsebenzi owabelweyo.

Izivumelwano ezinxulumene nendlela okanye imisebenzi yothutho loluntu

63. (1) UMphathiswa wePhondo kunye nemvumelwano neNtloko yeSebe banokugqiba ngesivumelwano esichazwe kwicandelwana (2) naye nawuphi na umntu okanye umzimba (okweli candelo libizwa ngokuba ''lelinye iqela''), kubandakanya—
(a) umasipala;
(b) iSANRAL;
(c) i-Arhente yaBakhweli bakaLoliwe yaseMzantsi Afrika, eyasekwa ngokwemiqathango yecandelo 22(1) loMthetho wokuLandela ngokuseMthethweni kuMthetho weeNkonzo zezoThutho zaseMzantsi Afrika, ka-1989 (uMthetho we-9 ka-1989); kwaye

(d) ITransnet Limited, esekwe ngokwemigaqo yecandelo lesi-2 loMthetho ekubhekiswa kuwo kumhlathi *(c)*.

(2) Isivumelwano esichazwe kwicandelwana loku-(1) linokubonelela—

(a) elinye iqela lithatha naluphina okanye lonke uxanduva olunxulumene nezibonelelo zothutho;

(b) uMphathiswa wePhondo uthabathela kuwo nawuphi na uxanduva okanye olunxulumene nendlela yendlela kamasipala okanye indlela edibeneyo;

(c) elinye iqela lisebenza ngokunxulumene nezibonelelo zothutho, kubandakanya ukwakhiwa nokulondolozwa kwalo, okanye umsebenzi owenziwe phantsi kweliso labo, ngenxa yeakhawunti yeSebe, okanye ukuba iSebe liza kuwenza lo msebenzi weakhawunti yeakhawunti. elinye iqela, okanye ngenye indlela ngokwemvumelwano;

(d) umasipala ekuhlaleni indawo yezibonelelo zothutho zinoxanduva lokuhambisa onke amanzi esiphango eso sibonelelo sezothutho okanye ukuphambuka kuso kunye nenkcitho ekungenwe kuyo ngokunxulumene noko, kunye nokuba uMphathiswa wePhondo akanoxanduva lwawo nawuphi na umonakalo owenziwe okanye ovela ekulahlweni okanye ukuphambukiswa kwamanzi esitshi ngumasipala okanye ukusilela kwawo ukulahla amanzi esiphango;

(e) uMphathiswa wePhondo wenza nayiphi na imisebenzi echazwe kuloMthetho, okanye umsebenzi onxulumene noku, kwindawo yolawulo, okanye kumhlaba welinye iqela, ngendleko zeSebe okanye elinye iqela, okanye ngokwecandelwana lesi-(3), ngokungqinelana kunye nokuxhomekeka kulo Mthetho.

(3) Isivumelwano esikhankanywe kwicandelwana (2) sinokubonelela ngokwabelana ngeendleko zeprojekthi phakathi kwamaqela.

(4) Isivumelwano apho uMphathiswa wePhondo athabatha khona uxanduva okanye ngokunxulumene neendlela zikamaspala okanye indlela edityanelweyo egameni likamasipala kufuneka igqitywe ngokungqinelana neCandelo lesi-2 leSahluko sesi-8 soMthetho wooRhulumente beKhaya, 2000 (uMthetho 32 ka-2000).

(5) UMphathiswa wePhondo kufuneka, xa egqiba isivumelwano esineempembelelo zemali kwiPhondo, enze ngokuhambelana noMphathiswa wePhondo wezeMali.

Isivumelwano esinxulumene nemisebenzi yezibonelelo zezothutho

64. (1) Ngokuxhomekeke kwiPFMA, iNtloko yeSebe inokungena kwisivumelwano nomnini omnye okanye nangaphezulu okanye nangabanini bomhlaba okanye iziko elithile elinokuthi igalelo ekuhlawuleni okanye kulondolozwe indlela.

(2) Isivumelwano esikhankanywe kwicandelwana (1) sinokubonelela ukuba umnini mhlaba, abanini mhlaba, iziko okanye amaziko achaphazelekayo aya kubonelela ngeenkonzo zobunjineli okanye oomatshini kunye nezinto zokwakha, ukuphucula okanye ukugcina izibonelelo zothutho.

Iinkqubo kunye nezigqibo ezihlanganisiweyo

65. (1) UMphathiswa wePhondo, iNtloko yeSebe, oomasipala kunye namanye amaqumrhwana elawula eminye imithetho enxulumene nemisebenzi efuna ulwamkelo ngokuhambelana nalo mthetho kunye naloMthetho—

(a) kufuneka azame ukulungelelanisa kunye nokulungelelanisa iimfuno zenkqubo yokwenza izigqibo ngokwalo mthetho kunye nalo mthetho, ukuthintela uphinda-phindo; kwaye

(b) unokungena kwizivumelwano ezibhaliweyo kunye nabanye ukuthintela uphinda-phindo lokungenisa ulwazi okanye ukwenziwa kwenkqubo.

(2) Isivumelwano esichazwe kwicandelwana (1)*(b)* singa—

(a) bonelela ngokuvunywa okuhlangeneyo;

(b) qhuba nokungenisa okuhlanganisiweyo, ukubonisana noluntu ngoorhulumente kunye nokuhlolwa kwezicelo ezininzi ngoomasipala, iNtloko yeSebe kunye namanye amaqumrha karhulumente, kuphuhliso olucetyiweyo lokusetyenziswa okanye ukusetyenziswa komhlaba;

(c) qhuba nokupapashwa ngaxeshanye kwezigqibo zoomasipala, zoMphathiswa wePhondo, iNtloko yeSebe namanye amasebe karhulumente; okanye

(d) bonelela ngenkqubo-sikhokelo yolungelelwaniso lweemfuno zenkqubo yokusetyenziswa kwezicelo ezimiselwe okanye phantsi kwemithetho kamasipala, lo mthetho okanye omnye uMthetho.

(3) Ukuvunywa okuhlanganisiweyo okuchazwe kwicandelwana (2)*(a)* kungavunywa kuphela ukuba—

(a) isivumelwano esibhaliweyo senziwe phakathi kwamacandelo karhulumente avuma ukuvunywa okuhlangeneyo;

(b) zonke izibonelelo ezifanelekileyo zemithetho kamasipala esetyenziswayo, loMthetho kunye neminye imithetho iye yathotyelwa;

(c) imvume icacisa—

(i) izibonelelo ezivunyiweyo; kunye

(ii) namasebe karhulumente asivumile; kwaye

(d) izigqibo ezizimeleyo zamalungu ombuso eziyinxalenye yokuvunywa okuhlanganisiweyo zipapashwa ngaxeshanye kwimithombo yeendaba ukuba ukupapashwa kwayo kuyafuneka.

(4) UMphathiswa wePhondo unokwenza imigaqo okanye akhuphe isikhokelo ukulungiselela nokulungelelanisa iimfuno zenkqubo ezimiselweyo ngokwemigaqo—

(a) lo Mthetho; kunye

(b) neminye imithetho enxulumene nezinto ezifuna ukuvunywa ngokungqinelana nalo Mthetho.

(5) Icandelo likarhulumente elingene kwisivumelwano esibhaliweyo esikhankanywe kwicandelwana (1)*(b)* linokuthi lithathele ingqalelo nayiphi na inkqubo egunyaziswe ngumthetho obandakanywe kweso sivumelwano njengelingeneyo ukuhlangabezana neemfuno zalo Mthetho.

(6) INtloko yeSebe okanye uMphathiswa wePhondo, kwimeko enjalo, unokwenza isigqibo ngesicelo esifuna ukwamkelwa ngokweminye imithetho ngokomgaqo omiselwe phantsi kwalo mthetho, kodwa kuphela xa loo nkqubo ihlangabezana neemfuno zalo Mthetho.

Ukuncitshiswa kwamatyala kunye nokuhlawulwa

66. (1) UMphathiswa wePhondo, iNtloko yeSebe, kunye naye nawuphi na umntu osebenza phantsi kweGunya loMphathiswa wePhondo okanye weNtloko yeSebe, njengoko imeko inokuba njalo, akanatyala nakuphi na ukuphulukana nokugcinwa komonakalo okanye ukubangelwe komntu—

(a) ngokusebenzisa loo nxalenye yezibonelelo zothutho ezingacwangciswanga okanye zenzelwe ukusetyenziswa kwezithuthi;

(b) ngesenzo okanye ukushiya ukholo olulungileyo ngokunxulumene nokwenza umsebenzi phantsi koMthetho.

(2) UMphathiswa wePhondo akanoxanduva lokuhlawula umninimhlaba ngenxa yokuncitshiswa kwexabiso lomhlaba okanye ngenxa yesibonelelo sothutho lwezothutho.

Izithintelo ngokubanzi

67. (1) Akukho mntu okanye iziko, kubandakanya necandelo likarhulumente—

(a) shiya okanye ubeke izithintelo ezinokuba yingozi kuthutho, okanye nayiphina inkunkuma, imfucumfucu, imfumba yothuli, udongwe, iglasi, iitoti, izipikili, iziqwengana zesinyithi, amaplanga, iziqu zomthi, amatye okanye ezinye izinto ezizibonelelo zoncedo;

(b) ukonakalisa izibonelelo zothutho okanye ichithe ipetroli okanye ezinye iikhemikhali okanye igesi kuyo inokuwonakalisa;

(c) onakalise ngabom imithi, izihlahla okanye olunye uphuculo kulwakhiwo lwezothutho;

(d) qhoboshela esangweni okanye kwindawo nakweyiphi na indawo enezithuthi okanye ezinye izinto ezinokubangela ukwenzakaliswa kwabantu okanye izilwanyana okanye ukonakala kwepropathi;

(e) thintela, songela okanye uthintele, okanye usebenzise ulwimi oluhlazo, ukuthuka, ukuthuka, igosa, umsebenzi, iarhente okanye ikontraki yeSebe, okanye umntu ogunyaziswe liSebe, ekwenzeni imisebenzi yakhe phantsi kwaloMthetho;

(f) khanyise izibane ungene, okanye wandise isibane, ukuthutha iziseko zendlela ngendlela enokubeka umngcipheko wokuhamba kwezithuthi;

(g) ukuhlala ngokungekho mthethweni, okanye uhlala ngaphakathi okanye ngaphakathi kweemitha ezintlanu, iziseko zophuhliso okanye indawo enesithintelo sakhiwo;

(h) dipozitha, qokelela okanye ukhuphe kwenye indawo okanye ubangele ukuba imvume ibekwe, kuhlanganiswe okanye kukhutshelwe umhlaba ophuma kuso nasiphi na isibonelelo sezothutho, into okanye into eyenzekayo okanye enokuthi ibethwe okanye yahlanjwa kwisibonelelo sezothutho okanye isenokuba yinto ecaphukisayo, inobungozi, iyingozi okanye iyingozi kwizithuthi ezikho kuwo;

(i) amabango obuxoki njengegosa, umsebenzi, iarhente okanye ikhontrakthi yeSebe; okanye

(j) nangayiphi na indlela, wonakalise okanye ususe uphawu lwendlela.

(2) Akukho mntu okanye iziko, kubandakanya necandelo likarhulumente, onokuthi, ngaphandle kokuba egunyazisiwe ngumthetho okanye ngokwalo mthetho—

(a) ambe, ususe okanye aguqule umhlaba, umphezulu, igreyimi, izinto ezisikiweyo, iibhanki okanye imithombo yazo naziphi na izibonelelo zezothutho;

(b) peyinta okanye uncamathisele umfanekiso, unobumba, umzobo, uphawu, uphawu, igrafito okanye enye into enje okanye uphawu kwindlela yendlela okanye ibhulorho eyinxalenye yezibonelelo zothutho okanye uphawu lwendlela olwakhiwe kwisibonelelo sezothutho;

(c) kwakha uphawu lokuhamba kwezithuthi kuyo nayiphi na indawo yothutho;

(d) sebenzisa nasiphi na isibonelelo sezothutho ngelixa sisakhiwa okanye silungiswa, ngaphandle kwendlela eboniswe ligunya elinoxanduva ngemiqondiso yendlela okanye ezinye iindlela;

(e) vala, ukuphambuka, ukutshintsha okanye nangayiphi na enye indlela ukungenelela kunokuba naziphi izibonelelo zothutho;

(f) ukuvala isibonelelo sothutho abantu banelungelo lokusebenzisa okanye ukubeka uthango okanye nawuphina umqobo ukuthintela uluntu ukuba lusebenzise izibonelelo zothutho;

(g) sebenzisa izibonelelo zothutho ezivaliweyo ukubaleka kwezithuthi kunye nokuvalwa kwazo kubonakaliswe zimpawu ezifanelekileyo zendlela;

(h) ukuphambuka kwitrafikhi kwindlela okanye kumgaqo kaloliwe, ngaphandle kwengozi kaxakeka;

(i) ukutshintsha, ukuhambisa, ukususa, ukuphazamisa, ukonakalisa okanye ukutshabalalisa isikhonkwane, ibhakethi okanye ezinye iindlela zokuchongwa ezibekwe, ngaphakathi, ngaphezulu, phantsi okanye ngokuqhotyoshelweyo emhlabeni ngeenjongo zaloMthetho;

(j) faka okanye ushiye isithuthi esingasasebenziyo okanye umatshini okanye inxenye yaso kulo naluphi na ulwakhiwo lwezothutho;

(k) faka okanye ushiye isithuthi esingasasebenziyo okanye umatshini okanye inxenye yaso okanye nayiphina inkunkuma ngaphakathi kwama-200 yeemitha ukusuka kumbindi wayo nayiphi na indlela okanye umzila kaloliwe apho ubonakala khona kuloo ndlela okanye kumgaqo kaloliwe.

(3) INtloko yeSebe inokuthi, ngesicelo ngendlela emiselweyo, inike imvume ebhaliweyo yokwenza isenzo esingavunyelwa kwicandelwana lesi-(2), ngokuxhomekeka kwimigaqo nangexesha elimiselweyo.

(4) Xa iqwalasela isicelo esikhankanywe kwicandelwana (3), iNtloko yeSebe mayithathele ingqalelo—

(a) ngokubhekisele kwindlela, impembelelo yomsebenzi ocetywayo ochazwe kwindlela yezithuthi yephondo nakwimisebenzi yothutho yephondo;

(b) umonakalo onokubakho kwizibonelelo zothutho ezichaphazelekayo okanye ubundlobongela kuluntu;

(c) ngokubhekiselele kwizibonelelo zezothutho ezincedisayo, ifuthe lomthetho ocetywayo kwiziseko ezichaphazelekayo kuthathelwa ingqalelo uhlobo kunye nenjongo yeso siseko;

(d) malunga nomgaqo kaloliwe, ifuthe lomthetho ocetywayo kukhuseleko nokusebenza koololiwe.

Amatyala nezohlwayo

68. (1) Umntu wophula umthetho ukuba—

(a) waphula icandelo lesi-3(2) okanye (3), 32(1), 37(1) okanye (2), 39(1), 42(5), 43(1), 45(1), 46(1), 47(1), 48(1), 51(2) okanye 67(1) okanye (2);

(b) usilela ukuthobela isaziso sokuthobela phantsi kwecandelo 57(1)*(a)* okanye isikhokelo phantsi kwecandelo 57(1)*(b)* kwisithuba esichazwe kwisaziso okanye kumyalelo;

(c) ukusilela ekufezekiseni imiqathango ebekiweyo phantsi kwecandelo 47(6)*(a)*, *(b)* okanye *(c)*;

(d) ukusilela ukuthobelana nemeko ezimiselwe phantsi kwecandelo 56(2)*(a)*.

(2) Umntu ofunyenwe enetyala phantsi kwecandelwana (1) uya kugwetywa imali okanye agwetywe ixesha elingadlulanga kwiinyanga ezili-12 okanye zombini ahlawulwe kwaye avalelwe.

(3) Ezo zohlwayo ziya kuhlawulwa kwiPhondo apho iPhondo liligunya elinoxanduva okanye kumasipala apho umasipala eligunya elinoxanduva.

(4) Ukongeza kuso nasiphi na esinye isohlwayo, inkundla eya kugwetyisa umntu ngento enxaxhileyo phantsi kwecandelwana loku-(1) inokugweba umntu lowo isohlwayo esilingana—

(a) isixa sayo yonke inkcitho eyenziwe okanye eqikelelwe liPhondo okanye umasipala onxulumene noko, ukwenziwa ngawo, ngokunxulumene nawo nawuphi na umsebenzi oyimfuneko ukuze kubuyiswe isibonelelo sezothutho okanye indlela yokudibana ebalulekileyo kwimo yazo yangaphambili; okanye

(b) apho kufanelekileyo, isixa ekufuneka silungiswe esinomonakalo, kuhlawulwe kwigunya elinoxanduva elenza umsebenzi oyimfuneko, kwaye, ukusilela kwentlawulo yesohlwayo, kukuvalelwa entolongweni ixesha elingadlulanga kwiinyanga ezintathu.

(5) Icandelwana lesi-(4) alimthinteli uMphathiswa wePhondo ukuba afumane nayiphi na imali anokuthi ayifumane, ngaphandle kokuba kufanelekile, nasiphi na isohlwayo esihlawulwe ngokwesiqendwana lesi-(4), nokuba loo mntu uhlawulisiwe okanye akunjalo ngokugwetywa ngokwaphula umthetho ngenxa yeli candelo.

Izibheno ezichasene nesigqibo seNtloko yeSebe okanye igosa

69. (1) Umntu ochatshazelwe sisigqibo seNtloko yeSebe okanye yegosa leSebe leMfundo ngokwalo mthetho unokufaka isibheno kuMphathiswa wePhondo malunga nesigqibo.

(2) Isibheno phantsi kwecandelwana (1) kufuneka singeniswe ngendlela emiselweyo.

(3) UMphathiswa wePhondo unokuthi, ngokujonga isibheno, atyumbe iphaneli yesibheno eyenzelwe ngendlela emiselweyo ukuba iqwalasele kwaye amcebise ngesibheno.

(4) UMphathiswa wePhondo kufuneka, emva kokuqwalaselwa kwesibheno, aqinisekise, asibekele ecaleni okanye asitshintshe isigqibo, isibonelelo, iimeko okanye umyalelo ekubhenelwe kuwo okanye enze enye into efanelekileyo.

(5) Isibheno phantsi kweli candelo asisiyekisi isigqibo esifakiweyo, ngaphandle kokuba uMphathiswa wePhondo uyalela ngenye indlela.

Ukukhululwa malunga neendlela ezibaluleke ngokudibeneyo

70. (1) UMphathiswa wePhondo unokuthi, ngesaziso kwiPhephandaba lombuso lePhondo, enze isibhengezo sabantu abakhululayo, kubandakanywa noomasipala, kwiimfuno zalo naliphi na igatya lalo Mthetho ngokubhekiselele—

(a) indlela ethile yokubaluleka ngokudibeneyo okanye inxalenye yendlela yokubaluleka ngokudibeneyo;

(b) zonke iindlela zokubaluleka ngokudibeneyo kumasipala othile.

(2) UMphathiswa wePhondo usenokuthi—

(a) abeke imiqathango;

(b) arhoxise okanye alungise imeko,

uxolelo oluchazwe kwicandelwana (1).

(3) Xa esebenza phantsi kwecandelwana loku-(1) okanye elesi-(2), uMphathiswa wePhondo kufuneka athathele ingqalelo—

(a) umthwalo wezemali okanye wolawulo lwenkqubo emanyanisiweyo yokwenza isicelo ekhankanywe kwicandelo 65;

(b) ukusetyenziswa kweenqobo zokugweba kwicandelo 5(4), (5) nelesi-(6); kwaye

(c) umthamo kamasipala onoxanduva lwendlela.

Amalungiselelo otshintsho

71. (1) Nasiphi na isibhengezo, isaziso, isiqinisekiso, umgaqo okanye umthetho kamasipala owenziwe okanye okhutshiweyo, kunye nawo nawuphi na umyalelo, imvume, imvume, igunya okanye igunya elithe lanikezelwa okanye naliphi na inyathelo elithathiweyo okanye into ethe yenziwa phantsi komthetho orhoxisiweyo ngulo Mthetho kwaye usebenza kwangoko phambi kokuqala kwalo mthetho, nonokuthi wenziwe, wakhutshwa, wanikezelwa, uthatyathwe okanye wawenziwa phantsi kwawo nawuphi na ummiselo walo Mthetho, uhlala usebenza, uthathwa ukuba wenziwe, wakhutshwa, wanikezelwa, kuthathwe okanye kwenziwe phantsi kwalo Mthetho.

(2) Ukuhluthwa komhlaba obekuqalisiwe kunye nokuqhubeka kwenkqubo yokugqitywa komiselo lwemali olusungulwe nguMphathiswa wePhondo ngaphambi kokuqalisa kwalo Mthetho ngokwemigaqo yomthetho otshitshisiweyo ngaloMthetho kufuneka kugqitywe ngokwemigaqo yomthetho otshitshisiweyo ngokungathi loMthetho awuqalanga, kodwa amaqela anakho ukuvuma ukuqhubeka nokuthathwa okanye ukuqhubeka kwenkqubo ngaloMthetho.

Ubudlelwane boMthetho neminye imithetho

72. (1) Izibonelelo zalo Mthetho ziyongezelela kwaye zingafakwa endaweni yeminye imithetho ephathelele kwimiba enxulumene nalo Mthetho.

(2) Ngaphandle kokuba imeko ichaza okuchasene noko, akukho sibonelelo salo Mthetho sinokuthathwa njengesithintela ubonelelo lwezibonelelo zothutho okanye yinxalenye yalo kwiPhondo nangowuphina umntu okanye nangayiphina indlela evunyelwe ngumthetho.

Ukurhoxiswa kwemithetho

73. Phantsi kwecandelo 70(1), imithetho exeliweyo kumhlathi wesibini woLudwe lwenkqubo njengokuba usetyenziswa okanye wabelwe iPhondo, irhoxisiwe kangangokuba kwalathiwe kumhlathi wesithathu ngako oko.

Isihloko esifutshane nokuqalisa

74. (1) Lo Mthetho ubizwa ngokuba nguMthetho weZibonelelo zoThutho kwiPhondo laseNtshona Koloni, 2020, kwaye uqala ukusebenza ngomhla omiselwe yiNkulumbuso ngesibhengezo kwi*Gazethi yePhondo*.

(2) Kungamiselwa imihla eyahlukeneyo phantsi kwecandelwana (1) ngokubhekiselele kwiingingqi zikamasipala ezahlukeneyo kwiPhondo.

(3) Ukuba iNkulumbuso imisela imihla eyahlukeneyo yokuqalisa kokusebenza kwalo Mthetho, okubhekiselelwa kuko kwezi zibonelelo zalo Mthetho ukuya kumhla wokuqalisa ukusebenza kwalo Mthetho kufuneka makuthathwe njengokubhekiselelwe kuko komhla omiselwe yiNkulumbuso wokuqalisa kwelo candela kwingingqi kamasipala ekubhekiswa kuyo.

ULUDWE LWENKQUBO

UKURHOXISWA KWEMITHETHO

Inombolo kunye nonyaka womthetho	Isihloko esifutshane	Ubungakanani bokurhoxiswa
UMthetho 1 ka-2013	Mthetho weZibonelelo ZoThutho weNtshona Koloni, 2013	Wonke
UMthetho 21 ka-1940	oyiAdvertising on Roads and Ribbon Development Act, 1940	Wonke
UMthetho 22 ka-1944	oyiNational Roads and Ribbon Development Amendment Act, 1944	Wonke
UMthetho 28 ka-1952	oyiAdvertising on Roads and Ribbon Development Amendment Act, 1952	Wonke
UMthetho 16 ka-1962	oyiAdvertising on Roads and Ribbon Development Amendment Act, 1962	Wonke
UMthetho 16 ka-1966	oyiAdvertising on Roads and Ribbon Development Amendment Act, 1966	Wonke
UMthetho 6 ka-1976	oyiAdvertising on Roads and Ribbon Development Amendment Act, 1976	Wonke
UMthetho 2 ka-1979	oyiAdvertising on Roads and Ribbon Development Amendment Act, 1979	Wonke
UMthetho 43 ka-1985	oyiAdvertising on Roads and Ribbon Development Amendment Act, 1985	Wonke
Ummiselo 19 ka-1976	oyiRoads Ordinance, 1976	Wonke
Ummiselo 18 ka-1977	oyiRoads Amendment Ordinance, 1977	Wonke
Ummiselo 11 ka-1978	oyiRoads Amendment Ordinance, 1978	Wonke
Ummiselo 6 ka-1980	oyiRoads Amendment Ordinance, 1980	Amcandelo eloku-1 ukuya kwelesi-8
Ummiselo 28 ka-1980	oyiRoads Amendment Ordinance,1980	Wonke
Ummiselo 5 ka-1982	oyiRoads Amendment Ordinance, 1982	Wonke
Ummiselo 20 ka-1983	oyiRoads Amendment Ordinance, 1983	Wonke
Ummiselo 13 ka-1985	oyiRoads Amendment Ordinance, 1985	Wonke
Ummiselo 16 ka-1986	oyiRoads Amendment Ordinance, 1986	Wonke

IMEMORANDAM ENGEENJONGO ZOMTHETHO OSAYILWAYO WEZIBONELELO ZOTHUTHO WEPHONDO LENTSHONA KOLONI

1. IMVELAPHI

1.1 UMthetho weZibonelelo zoThutho weNtshona Koloni, ka-2013 (uMthetho woku-1 ka-2013)(uMthetho), wamkelwa yiNkulumbuso ngowesi-3 kuTshaziimpunzi ka-2013, kodwa ukuza kuthi ga ngoku awuzange usebenze. Lo Mthetho wayejonge ukuthatha indawo yomthetho okhoyo ohambelana neendlela ezichaziweyo kwiPhondo, uMmiselo weeNdlela, ka-1976 (uMmiselo), kunye neNtengiso yeeNdlela kunye noMthetho woPhuhliso lweRibbon, ka-1940 (i-ARRDA).

1.2 Ngeli xesha lokuqulunqwa kwemigaqo eyayimfuneko ukuze lo Mthetho ungeniswe, izilungiso kuMthetho kwafunyaniswa ukuba ziyimfuneko, kubandakanya nolungiso lobuchwephesha kunye nophuhliso olujongene nobunzima ngokubonelelwa kweziseko zenkonzo ezinefuthe ezindleleni. UQulunqo loMthetho weZibonelelo zoThutho weNtshona Koloni, ka-2017 (UMthetho oSayilwayo woLungiso), wabhalwa ukuze uhlangane nale micimbi kwaye wapapashwa ukuze kuhlomlwe kuwo. UMthetho oSayilwayo woLungiso emva kokuqwalaselwa ngakumbi kunye nokuqwalaselwa kwezimvo ezifunyenweyo kuye kwafunyanwa kungummangaliso kakhulu kwaye ke kwagqitywa ekubeni kulungiswe uMthetho oSayilwayo weZiBonelelo zoThutho weNtshona Koloni, ka-2020 (UMthetho oSayilwayo) oya kuthi, ngokwenza umthetho, ukurhoxisa uMthetho, ummiselo kunye ne-ARRDA.

2. IINJONGO ZALO MTHETHO OSAYILWAYO

2.1 Nje ukuba usebenze, uMthetho oSayilwayo uza kuvumela iPhondo ukuba lilawule iindlela zalo zephondo, imizila kaloliwe kunye nezinye izibonelelo zezithuthi ezongezelelekileyo ngokwesikhokelo somthetho omtsha, iinkqubo zibandakanyiwe kuMthetho oSayilwayo oza kuvumela ukubhengezwa kweendlela zephondo, nemizila kaloliwe kunye nezibonelelo zezothutho ezixhasayo, nokucwangciswa, ukuthuthwa, ukwakhiwa, ukulawulwa, ukulawulwa kunye nokugcinwa kwezibonelelo zothutho.

2.2 Ubungakanani boMthetho kunye noMthetho oSayilwayo udlulela ngaphaya koko kugutyungelwe nguMmiselo kunye neARRDA, nangona besenza ukubhengezwa kwezibonelelo zothutho lukawonkewonke, ezinjengomzila kaloliwe onzima okanye omncinci kunye neendlela eziphezulu zothutho loluntu zohlobo lweenkqubo zohlobo lweebhasi ezikhawulezayo. UMthetho noMthetho oSayilwayo zenza nesibonelelo senkqubo yokucwangcisa ekufuneka yenzeke kwiimeko ezichaziweyo kubandakanya ukubhengezwa kweendlela naxa iindlela zitshintshiwe okanye zisiwa kwenye indawo. UMthetho uyayiqonda into yokuba ukubhengezwa, ukwakhiwa nokulawulwa kweendlela kunempembelelo kwiindawo ezinemisebenzi, kubandakanya ukucwangciswa kokusetyenziswa komhlaba kunye nokusingqongileyo, kwaye kujonge indlela yentsebenziswano namanye amaziko orhulumente anefuthe.

2.3 Utshintsho oluphambili olubandakanyiwe kuMthetho oSayilwayo ngokuhambelana noMthetho lubandakanya izibonelelo eziya kuvumela ulawulo lweendlela zikamasipala ngokudibeneyo komasipala kunye nephondo (iindlela ezidibeneyo) ngokudibeneyo ngumasipala ochaphazelekayo nePhondo. Iindlela ezidibeneyo zisisiseko zendlela yothungelwano oluphezulu loomasipala kwaye zizindlela ezazibhengezwe nguMlawuli kwaye zilawulwa ngokudibeneyo ngoomasipala kunye nePhondo phantsi koMmiselo. Zezoomasipala kwaye baxhaswa liPhondo kwaye bayinxalenye ebalulekileyo yendlela yephondo. Inkqubo ebanzi ngoku ikwabandakanyiwe kuMthetho oSayilwayo ojolise ekukhokeleni iPhondo noomasipala ekuqinisekiseni ukuba iindlela zodweliswa njani njengeendlela zephondo okanye iindlela zikamasipala ukuya phambili. Amalungiselelo amatsha

obuchwephesha sele ebandakanyiwe kuMthetho oSayilwayo oya kuthi uququzelele ukuqinisekiswa ngokutsha kweendlela ezazichaziwe ngaphambili zokuqinisekisa ukulunga kweendlela esele zikho kwaye ziphinde zihlelwe ngokutsha, ziphinde ziqwalaselwe ngokwahlulwahlulwa kweendlela. Izibonelelo zokuthathwa zibandakanyiwe, kunye nendlela yokuvula umda kwinkqubo yokuhlola ngokudibeneyo ebonelelwe kwimeko yokusilela kwePhondo kunye nomasipala ochaphazelekayo ekuvumeni ngokwahlulahlulahlulwa kunye nokuhlelwa kweendlela kunye nemicimbi enxulumene nokuxhomekeka kuvavanyo.

2.4 UMthetho oSayilwayo ukwabandakanya nezibonelelo eziya kuxhobisa iPhondo ngamathub 'athile ukuncedisa oomasipala ekwenzeni umsebenzi wabo wokulawula iindlela zokudityaniswa ngokubalulekileyo. Ngaphandle kokuba imisebenzi kwezi ndlela ichaphazela ngqo uthungelwano lweendlela zephondo, lo Mthetho oSayilwayo ufuna ukuba iPhondo kunye nomasipala onegunya elinoxanduva lwendlela bafikelele kwisivumelwano kwimiba echaziweyo enjengemisebenzi yokwakha, ukufuduswa notshintsho, nolwakhiwo olutsha nolulungisiweyo, kwezi ndlela ngaphambi kokuba kuqalwe ngomsebenzi ukuba umsebenzi ochaphazelekayo unokuba nefuthe elibi kuthutho lwephondo nakwimisebenzi yothutho yephondo. Oku kufuneka kwenziwe ngokwemigaqo yolawulo lwentsebenziswano. Lo Mthetho oSayilwayo ukwangezizathu ezifanayo, uyayithintela imisebenzi ethile echaziweyo kwiindlela ezibaluleke ngokudibeneyo (ezinjengokwakhiwa kweendlela, ukwakhiwa kwezakhiwo kunye nokufakwa kweziseko zoncedo) ngabo bonke abantu ngaphandle kwemvume ebhaliweyo yeNtloko yeSebe, ngokusekwe kwimpembelelo yomsebenzi kuthutho lwephondo nakwimisebenzi yothutho yephondo. Imvume yeNtloko yeSebe yongezwa nakweyiphi na imvume eyimfuneko efunekayo ukuze ifumaneke kumasipala ochaphazelekayo.

Kuyaphawuleka ukuba "iindlela zikamasipala" kuMthetho oSayilwayo zibhekisa kwinto eyayisaziwa njenge "izitalato", kwaye nangona ezi ndlela zingumsebenzi kamasipala kuphela, azilawulwa ngokuthe ngqo kuMthetho oSayilwayo. Eli Sebe likwaqalise ngenkqubo yokuvelisa uyilo olusemgangathweni lwemithetho kamasipala elawula iindlela zikamasipala, iindlela ezidityanelweyo kunye nokuboniswa kweempawu zentengiso apho oomasipala baya kukhuthazeka ukuba bamkele njengoko kufanelekile.

2.5 Izibonelelo ezitsha ngoku zibandakanyiwe kuMthetho oSayilwayo olawula ukunikezelwa kweziseko zenkonzo ezindleleni, kubandakanya iintambo zonxibelelwano kunye nemibhobho yamanzi, irhasi, ioyile nezinye iinkonzo kunye nolunye uhlengahlengiso lobugcisa.

3. IZIQULATHO ZOMTHETHO OSAYILWAYO

3.1 **Isolotya loku-1** ubonelela ngenkqubo ebanzi yenkcazo kunye nemicimbi yezobuchwepheshe ehambelana nayo.

3.2 **Isolotya lesi-2** ubonelela ukuba uMphathiswa wePhondo kunye neNtloko yeSebe kufuneka benze imisebenzi yezemali, yokucwangcisa, eyokubhengeza, eyoyilo, yokwakha, yokuphucula, yokulawula, yolawulo, yomgaqo, yokuphucula ukhuselo kunye nokuvuselela izakhiwo zezothutho kwiPhondo, kunye ukuze umasipala enze imisebenzi efanayo ngokubhekisele kwiindlela zikamasipala kunye nezibonelelo zendlela ezixhasayo eziphantsi kolawulo lwazo kwindawo yolawulo lwazo.

3.3 **Isolotya lesi-3** ubonelela ukuba uMphathiswa wePhondo makaqinisekise ukuba imisebenzi ethile yobuchwephesha ngokoMthetho oSayilwayo yenziwa ngokukodwa phantsi koxanduva naphantsi kweliso lomntu okuqeqeshelweyo oko. Eli solotya likwaqinisekisa ukuba iNtloko yeSebe kufuneka ukuba inani labasebenzi beli Sebe libandakanya iinjineli eziqeqeshekileyo okanye abacwangcisi beedolophu abanesakhono esifanelekileyo ngenjongo yokujonga le misebenzi.

3.4 **Isolotya lesi-4** libonelela ukuba imicimbi yobuchwephesha ebhekiselele kubunini bomhlaba apho elezothutho likhona, kuquka ukufunyanwa komhlaba ozakusetyenziselwa ezothutho.

3.5 **Isolotya lesi-5** limilisela indlela ethile yokwahlula ezakusetyenziswa ezindleleni, ezohlula zibe zindlela zephondo, iindlela zikamasipala neendlela ezihlangene ngenjongo zokubonelela ngokuthe gabalala ekusebenziseni kulwahlulo.

3.6 **Isolotya lesi-6** libonelela ngeenkcukacha ezithe vetshe ngeendlela zendibanisela ezibalulekileyo ngokukodwa ixesha lokugunyaniswa kwezo ndlela nguMphathisa wePhondo nokushenxiswa kweso sigunyaziso.

3.7 **Isolotya lesi-7** libonelela ukwahlulwa kweendlela ngokwezigaba zendlela ezinkulu, oohola beendlela, iindlela zesithili, iindlela zezithuthi zikawonke-wonke, indlela ezincinci neendledlana zoluntu, libonelele ukuba iindlela zendibaniselwano zibalelwe ekuthini ngoohola bendlela.

3.8 **Isolotya lesi-8** libonelela ngezibonelelo ezifanelekileyo ngokweendlela ngokukodwa ukugcina olu lukhoyo uhlelo lweendlela phantsi koMmiselo kude kumiswe kwakhona uMthetho oSayilwayo.

3.9 **Isolotya lesi-9** libonelela ukumiswa kweendlela zikamasipala nendibanisela yeendlela ngoomasipala ngokunika:

3.9.1 umasipala ngokwezixhobo anazo amise ezezimali, ucwangciso, ubhengezo, uyilo, ulwakhiwo, uphuhliso, ukugcina, ulawulo, impatho, ukumisa, ukunyusa ukhuseleko nokubuyisela iindlela zikamasipala neendlela ezibalulekileyo kummandla imicimbi ekufuneka ibonelelwe ngumasipala okungenani ngenxa yezi njongo;

3.9.2 phambi kokuba umasipala enze umthetho wedolophu olawula iindlela ezibalulekileyo namaziko ancedisa ezindleleni kufuneka anxibelelane noMphathiswa wePhondo;

3.9.3 umasipala makaqinisekise ukuba imisebenzi ethile yobuchwephesha yenziwa phantsi koxanduva nenkuthalo yomntu ofanelekileyo;

3.9.4 ukugcinwa kweengxelo ezithile ngumasipala ngokuhlonipha iindlela ezibalulekileyo

3.9.5 ukulungiselela oomasipala ukwenza izicwangciso zeendlela zabo ngokubaluleka ngokudibeneyo kunye nokubandakanya iziphumo kunye nezicwangciso zamanye amaziko karhulumente kwizicwangciso zabo zokudibanisa ezothutho kunye nokunika uMphathiswa wePhondo olu lwazi ukuze kubandakanywe kwiNkqubosikhokelo yezoThutho loMhlaba wePhondo.

3.9.6 ukufakela nokusebenza kweenkqubo zolawulo lwee-asethi, kubandakanya uvavanyo lweemeko kunye neenkqubo zolawulo lokulondolozwa ngokubhekisele kwiindlela zokubaluleka ngokudibeneyo.

3.9.7 ekwenzeni imisebenzi ekubhekiswa kuyo kumhlathi we-3.9.1 umasipala makathobele iimigangatho, iinkcukacha nemigaqo ebekwe yiNtloko yeSebe okanye unokusebenzisa eyakhe imigangatho, iinkcukacha nemigaqo efanayo naleyo yeNtloko yeSebe.

3.10 **Isolotya le-10** libonelela ngocwangciso oludibeneyo, ulawulo kunye nokulawulwa kweendlela ezibaluleke ngokudibeneyo liPhondo noomasipala ngokubonelela:

3.10.1 oomasipala ukuba benze amalungiselelo ezicwangciso zolawulo lweendlela, ukumiselwa kobume bendlela esecaleni kwendlela kunye

nokuhlelwa kokusebenza kweendlela ngokubaluleka ngokudibeneyo kwaye, ukongeza, ukuhlelwa okusebenzayo lweendlela zikamasipala kunye neendlela zokuhamba zabucala ezinqumlayo okanye ezidibanisa iindlela zephondo kunye neendlela zokubaluleka ngokudibeneyo;

3.10.2 ukuba, iseti yemisebenzi edweliswe ngokubhekiselele kwiindlela ezibaluleke ngokudibeneyo, iPhondo kunye nomasipala ofanelekileyo kufuneka bafikelele kwisivumelwano malunga nokusebenza kunye neenkcukacha zobugcisa zomsebenzi ngaphambi kokuba uqale, ngokuhambelana nemithethosiseko yolawulo lwentsebenziswano;

3.10.3 ukuba umasipala akanakho ukubhengeza okanye akhe indlela ehlangabezana nenqobo yokugweba ethile ngaphandle kokufumana ingxelo ebhaliweyo kunye neengcebiso zeNtloko yeSebe; kwaye

3.10.4 ukuba, ngokubhekiselele kwiindlela ezibaluleke ngokudibeneyo, iimvume ezibhaliweyo ezichaziweyo ezifunekayo ngokwemiqathango yoMthetho oSayilwayo zongezwa kuzo naziphi na iimvume ezifunekayo zikamasipala ochaphazelekayo, nokuba uMphathiswa wePhondo, iNtloko yeSebe kunye nomasipala ochaphazelekayo kufuneka bathathe amanyathelo okudibanisa iinkqubo zokwenza izigqibo kunye nemvume njengoko kuchaziwe kwisolotya lama-65.

3.11 **Isolotya le-11** libonelela ngenkqubo yovavanyo ehlangeneyo eya kwenziwa ngokubhekisele kwiindlela esele zikho ngokubaluleka kunye neendlela zephondo eziya kwenziwa nguMphathiswa ngokubambisana neNtloko yeSebe noomasipala abachaphazelekayo emva kokuqalisa kokusebenza koMthetho oSayilwayo, kuquka:

3.11.1 ulwahlulo olufanelekileyo lwendlela njengendlela yephondo, indlela ebalulekileyo okanye indlela kamasipala (kusetyenziswa imigaqosiseko ecaciswe kwisolotya lesi-5), ukwahlulahlulwa ngendlela yendlela njengenye yoluhlu oluchazwe kwisolotya lesi-7, nokuba indlela ivalwe, nayo nayiphi na enye into enxulumene nayo;

3.11.2 apho kukho imfuneko, iinkqubo zokucwangcisa kunye nokuthatha inxaxheba koluntu ekufuneka zilandelwe, indlela yokuvala ngokukhawuleza, amalungiselelo esivumelwano emakungenwe kuso phakathi kwePhondo nomasipala ochaphazelekayo kunye nezibonelelo zesibhengezo esifanelekileyo kwiPhephandaba lombuso yePhondo.

3.12 **Isolotya le-12** libonelela ngezivumelwano zotshintsho ezindleleni ezinokuthi zibandakanye amalungiselelo okudluliselwa kobunini ukusuka kwiPhondo ukuya kumasipala ochaphazelekayo okanye umasipala ochaphazelekayo kwiPhondo ukuba kuthe kwenzeka utshintsho olwahlulwahlulwa kwendlela ngokulandela indlela Inkqubo yovavanyo kunye nawo nawuphi na umcimbi obalulekileyo onokuthi uququzelele ugqithiso koxanduva ngokubhekisele kwindlela.

3.13 **Isolotya le-13** libonelela ngokwahlulwahlulwa kwemilinganiselo kaloliwe ophethwe nguMphathiswa wePhondo njengemizila kaloliwe enzima okanye imizila kaloliwe elula kunye nenkqubo yotshintsho lolo lwahlulo.

3.14 **Isolotya le-14** libonelela ngemicimbi yezobuchwepheshe ephathelele ezindleleni zothutho lukawonkewonke.

3.15 **Isolotya le-15** libonelela ngobuncinci bemigangatho ebekiweyo yobubanzi beendlela kunye neendlela zikaloliwe, ukubakho kokumiselwa kobubanzi bebala ngaphandle kobubanzi bemigangatho ebekiweyo, ukutshintsha kobubanzi bemigangatho ebekiweyo kunye nobubanzi obucekeceke beyona ndawo yokubeka, ububanzi bukhulu kunobubanzi bemigangatho ebekiweyo. Eli solotya likwabonelela ngeNtloko yeSebe ukuba ichaze imida yesigcini ngokupapashwa kwesaziso kwiPhephandaba lombuso lePhondo kunye

nommiselo othatyathayo malunga nobubanzi bendawo egcinwe ngokuqalisa koMthetho oSayilwayo.

3.16 **Isolotya le-16** libonelela ngokwahlulwahlulwa kunye nolondolozo lwezibonelelo zezothutho ezincedisayo.

3.17 **Isolotya le-17** libonelela ngemigca yolwakhiwo kunye neendawo zokuthintelwa kwesakhiwo kunye nemicimbi yezobuchwephesha ehambelana nayo.

3.18 **Isolotya le-18** libonelela ngeemfuno zocwangciso lwenkqubo yothutho, ngokukodwa kwiNtloko yeSebe ukwenza ucwangciso lwamva lweziseko zophuhliso, ukubandakanya izicwangciso kunye nohlahlolwabiwo mali kwiinkqubo zohlahlolwabiwo mali lweSebe nokwenza ukuba ezi zinto zaziwe ngoomasipala. Eli solotya likwabonelela iNtloko yeSebe ukuba iqinisekise ngokuhlelwa kweendlela, ubume bendlela, nesecaleni kwendlela nokulungiselela izicwangciso zolawulo lweendlela kwiindlela zephondo.

3.19 **Isolotya le-19** libonelela iNtloko yeSebe ukuba iqokelele kwaye ihlaziye uluhlu olubanzi kunye neenkcukacha ezihambelana nalo zeziseko zothutho kwiPhondo nokudityaniswa kolu luhlu kunye neenkcukacha ezinxulumene noko nolu luhlu kunye neenkcukacha ezinxulumene noko ezingeniswe ngoomasipala ngokubhekisele kwiindlela ezibaluleke ngokudibeneyo.

3.20 **Isolotya lama-20** libonelela iNtloko yeSebe ukuqinisekisa ukuba inkqubo yokucwangciswa kweprojekthi yenziwa ngaphambi kokubhengezwa kweendlela, imizila kaloliwe okanye isibonelelo sezothutho esixhasayo esisuka kuMphathiswa wePhondo kunye nokufuduka, ukutshintsha okanye ukuvalwa kwezo zakhiwo kunye nokurhoxiswa kwesibhengezo ukwahlulahlula njengendlela yokubaluleka kokudibana. Eli solotya likwabeka iimfuno zenkqubo yokucwangcisa kunye neemeko apho inkqubo yesicwangciso ingafunekiyo. Likwabonelela ukuba iNtloko yeSebe kufuneka iqinisekise ukuba kuthathwa amanyathelo afanelekileyo ukuze kuthotyelwe eminye imithetho esebenzayo kwaye kwiimeko ezinjalo kuya kufuneka izame ukulungelelanisa inkqubo yokucwangcisa kunye neemfuno zenkqubo zalo mthetho ngendlela echazwe kwisolotya lama-65 elibonelela ngenkqubo kunye nezigqibo ezihlanganisiweyo.

3.21 **Isolotya lama-21 l**ibonelela ngesigqibo soMphathiswa wePhondo ngokulandela iinkqubo zokubonisana ezichazwe kwisolotya lama-20.

3.22 **Isolotya lama-22 l**ibonelela ngokubhengezwa kweziseko zophuhliso kunye nezibhengezo ezinxulumene nezibonelelo zezothutho nguMphathiswa wePhondo.

3.23 **Isolotya lama-23** libonelela ngezicelo eziya kuMphathiswa wePhondo zokuvalwa, ukufuduswa kwenye indawo zotshintsho lwezibonelelo zothutho.

3.24 **Isolotya lama-24** libonelela ngokuvalwa kwendlela yephondo nguMphathiswa wePhondo.

3.25 **Isolotya lama-25** libonelela ngokuvalwa okwethutyana okanye ukuphambuka kwendlela okanye umzila kaloliwe yiNtloko yeSebe.

3.26 **Isolotya lama-26** libonelela ngokuvalwa okanye ukuphambuka kwendlela yiNtloko yeSebe kwiimeko zikaxakeka.

3.27 **Isolotya lama-27** libonelela ukuba uluntu lungaqhubeka nokusebenzisa indlela okanye isahlulo sayo emva kokuvalwa ngokusisigxina de kube kuye kanti iimpawu zicimekile imiqondi ezibonisa ukuvalwa njengoko kuchaziwe kwisolotya lama-24.

3.28 **Isolotya lama-28** libonelela iSebe ukuba lihlawule inkxasomali yezendlela kumasipala yeendlela ezibaluleke kakhulu kunye neemfuno zokuhlawulwa kwenkxasomali yezendlela.

3.29 **Isolotya lama-29** libonelela ukuba apho umasipala egqibezela ukuqeshisa, ukuthengisa okanye esinye isivumelwano esimalunga nokusetyenziswa komhlaba okanye inkxasomali yezendlela phantsi koMthetho okanye kwimali esuka kwiPhondo, kufuneka ihlawule kwiPhondo iinkqubo ezifunyenwe kulwabiwo, kuthengiso okanye kwisivumelwano kwiPhondo ngokwendlela yoncedo lwenkxaso. Eli solotya likwabonelela ngenye ingxowamali echaziweyo nokwenzela ukunikezela ngemvume kumasipala yokugcina ezi nkqubo. Kwakhona ukwabonelela umasipala ngokufumana izimvo ezibhalwe kwangaphambili zeNtloko yeSebe kwaye uMphathiswa wezeMali kwiPhodo phambi kokungena kwintengiselwano enjalo.

3.30 **Isolotya lama-30** libonelela ukuba apho inkcitho yenziwe ngumasipala evela kumthombo ophuma ngokupheleleyo okanye kwinxalenye yomthombo ongenguye umasipala okanye wePhondo, inkcitho enjalo ayifanelanga kunikwa inkxasomali yezendlela.

3.31 **Isolotya lama-31** libonelela uMphathiswa wePhondo ukuba enze imigaqo kwimiba ethile echaphazela ukuhlawulwa kwenkxasomali yezendlela.

3.32 **Isolotya lama-32** lithintela ukubonisa iintengiso ngaphakathi komgama ocacileyo weendlela zephondo kunye neendlela zokudibana ezibalulekileyo ngaphandle kwemvume yeNtloko yeSebe.

3.33 **Isolotya lama-33** libonelela ukuba kwimeko yolwaphulo mthetho lwesolotya lama-32, izibonelelo zonyanzelo njengoko kucacisiwe kwisolotya lama-57 ziyasebenza.

3.34 **Isolotya lama-34** libeka ezona mfuno zisezantsi ekufuneka umasipala athobele kuzo kulawulo lokwenza intengiso okanye ngaphezulu okanye ebonakalayo kwindlela.

3.35 **Isolotyatya lama-35** libonelela ngeezizindlo ezinxulumene nentengiso.

3.36 **Isolotya lama-36** licacisa inkqubo ekufuneka uMphathiswa wePhondo ayilandele xa umhlaba okanye ukusetyenziswa kwethutyana oko kufunekayo kwiinjongo ezithile.

3.37 **Isolotya lama-37** libonelela ngezicelo kwiNtloko yeSebe ukulungiselela imvume kwiimeko ezichaziweyo ngokunxulumene nokubonelelwa noku-phuma kwiindlela zephondo kunye neendlela ezibaluleke kakhulu.

3.38 **Isolotya lama-38** libonelela ngokufuduswa okanye ukuvalwa kwendlela yokungena okanye ukuphuma kwendlela yephondo ngokuyalelwa yiNtloko yeSebe.

3.39 **Isolotya lama-39** libonelela ukuba umntu ofaka isicelo kumasipala sokuvuma uphuhliso olubandakanya utshintsho okanye ukuqiniswa kokusetyenziswa komhlaba, okanye amacandelo omhlaba akumgama othile weendlela zephondo okanye iindlela ezibaluleke ngokudibeneyo, kufuneka, ukongeza ekufumaneni imvume ebhaliweyo yangaphambili kamasipala, bafumane imvume ebhaliweyo kwangaphambili yeNtloko yeSebe enxulumene nefuthe lophuhliso olwenziweyo kukhuselo lwendlela yothutho lwephondo nakwimisebenzi yezothutho okanye nayiphi na imfuneko elandelayo yokwakhiwa kofikelelo olutsha okanye utshintsho kufikelelo olukhoyo. Eli solotya likwabonelela ukuba umasipala kufuneka, ngaphambi kokuvuma isicelo sophuhliso esele luchaziwe, afumane ingxelo ebhaliweyo yeNtloko yeSebe.

3.40 **Isolotya lama-40** libonelela iNtloko yeSebe ukuba imise kwaye igcine iimpawu zesikhokelo kunye nezinye iimpawu zolwazi.

3.41 **Isolotya lama-41** libonelela ngamanyathelo athile ukuba athathwe yiNtloko yeSebe ngokubhekisele kwizinto ezithintelayo ezichaphazela iindlela zephondo ezinokuthi zonakalise umbono womqhubi okanye zibangele iimeko ezingakhuselekanga.

3.42 **Isolotya lama-42** libonelela ngokwakhiwa kocingo yiNtloko yeSebe kwiimeko ezithile ezichaziweyo, apho iimeko ziye zaxhotyiswa yiNtloko yeSebe ukwenza igalelo kwiindleko ezenziwe ngumntu owakha ucingo okanye ngaphakathi kwemida yeziseko zophuhliso ngaphandle kwemvume yeNtloko yeSebe kwaye ubonelele ngemicimbi enxulumene noko.

3.43 **Isolotya lama-43** lithintela ukwakhiwa kwamasango kwiindlela zephondo kunye neendlela zokudibana kunye nokubonelela ngemicimbi enxulumene noko.

3.44 **Isolotya lama-44** lilawula ulwakhiwo, ukuvalwa kunye nokufuduswa kweendlela zokungena kweenkomo ezingena kwiindlela zephondo kunye neendlela zokudityaniswa yiNtloko yeSebe nokubonelela ngemicimbi enxulumene noko.

3.45 **Isolotya lama-45** lithintela ukusebenza kwemigodi kwizakhiwo okanye phantsi kweziseko zophuhliso okanye indawo enesithintelo sakhiwo ngaphandle kwemvume yeNtloko yeSebe kunye nokubonelela ngemicimbi enxulumene noko.

3.46 **Isolotya lama-46** lithintela ukurhweba ngaphakathi okanye ngaphakathi komda wesakhiwo okanye indawo yothintelo lwesakhiwo ngaphandle kwemvume yeNtloko yeSebe kwaye ibonelele ngemicimbi enxulumene noko.

3.47 **Isolotya lama-47** lithintela ukwakhiwa okanye ukufakelwa kwalo naluphi na uhlobo lwesakhiwo ngaphakathi okanye ngaphakathi kwesibonelelo sezothutho, ngaphakathi komda wesakhiwo okanye kwindawo yothintelo lolwakhiwo ngaphandle kwemvume ebhaliweyo yeNtloko yeSebe kwaye ibonelela ngemicimbi enxulumene noko.

3.48 **Isolotya lama-48** libonelela ukuba akukho mbonelelinkonzo unokwenza imisebenzi yeziseko zenkonzo ngaphakathi kwindawo yokubeka, imigca yesakhiwo, okanye indawo enesithintelo sakhiwo, kwizibonelelo zezothutho ngaphandle kwemvume ebhaliweyo yeNtloko yeSebe.

3.49 **Isolotya lama-49** lixhobisa iNtloko yeSebe ukuba ibeke imigangatho, imigaqo kunye nezikhokelo malunga nokusebenza kwemisebenzi yeziseko zenkonzo kunye nokuxhobisa uMphathiswa wePhondo ukuba abeke imirhumo ehlawulwa ngumnikezeli ngenkonzo.

3.50 **Isolotya lama-50** licacisa iimfuno ezinxulumene nesigqibo seNtloko yeSebe malunga nesicelo esikhankanywe kwisolotya lama-48(1).

3.51 **Isolotya lama-51** libonelela ngemicimbi enxulumene nokusebenza kwenkonzo yezixhobo zokusebenza ngumnikezeli weenkonzo.

3.52 **Isolotya lama-52** libonelela ukuba iPhondo linobunini kwaye linelungelo elikhethekileyo lokulawula umda wempahla, umatshini wombhobho, umjelo, umgquba okanye izibonelelo zenkonzo ezifanayo ezikhoyo okanye ezinamathele kumhlaba okanye kwizibonelelo zothutho zeli Phondo kwaye zibonelela ngokwabelana ngezikhundla ezinjalo ngababoneleli beenkonzo.

3.53 **Isolotya lama-53** libonelela ngokuhlawulwa kwembuyekezo ngumboneleli weenkonzo kwiPhondo ngokokungahambi kakuhle okufunyanwa liPhondo kunye nesibonelelo esifunyenwe ngumboneleli ngeenkonzo zokusetyenziswa

komhlaba ngumnikezeli weenkonzo kunye neminye imicimbi enxulumene noko.

3.54 **Isolotya lama-54** ibonelela ngemicimbi emalunga nokufuduswa kwezibonelelo zoncedo.

3.55 **Isolotya lama-55** libonelela ukuba imiqathango yokunyanzelwa equlathwe kwisolotya lama-57 iyasebenza ukuba amasolotya elama-48(1), nelama-50(3) okanye angama-51(2) atyeshelwe.

3.56 **Isolotya lama-56** libonelela ngeemfuno ngokubanzi ezinxulumene nezicelo kunye neemvume ezibhaliweyo phantsi koMthetho oSayilwayo.

3.57 **Isolotya lama-57** libeka imiqathango yokunyanzeliswa enokuthi isetyenziswe nguMphathiswa wePhondo ukuba umntu waphula uMthetho oSayilwayo.

3.58 **Isolotya lama-58** libonelela ngamagunya athile eNtloko yeSebe ephathelele kulwakhiwo lwezothutho kunye neendlela zokudityaniswa kubandakanywa nokunikezelwa kwemali okanye olunye uncedo kumasipala.

3.59 **Isolotya lama-59** libonelela ngamandla jikelele eNtloko yeSebe elihambelana nezibonelelo zezothutho.

3.60 **Isolotya lama-60** lixhobisa uMphathiswa wePhondo ukuba enze imigaqo kwimiba ethile. Imicimbi ecingelwa leli solotya kunye neziya kuqulathwa kwimigaqo yolawulo ngokobunjani kwaye ezo zinto zilawulwa ngokufanelekileyo kwimigaqo hayi kuMthetho oSayilwayo. Akukho sibonelelo sibekiweyo kulawulo lwepalamente kwimigaqo.

3.61 **Isolotya lama-61** lixhobisa iNtloko yeSebe ukuba imisele imigangatho, imigaqo kunye nezikhokelo zeziseko zophuhliso kunye neendlela zokudibana ngokubalulekileyo kwimicimbi echaziweyo.

3.62 **Isolotya lama-62** ligunyazisa uMphathiswa wePhondo kunye neNtloko yeSebe ukuba babele amagunya abo okanye babele imisebenzi yabo ngokwemigaqo yoMthetho oSayilwayo wendlela enikezelwe kuwo.

3.63 **Isolotya lama-63** libonelela uMphathiswa wePhondo kunye neNtloko yeSebe ukuba bagqibe izivumelwano ngokunxulumene nemicimbi ethile.

3.64 **Isolotya lama-64** libonelela iNtloko yeSebe leMfundo ukuba ingene kwisivumelwano kunye nabanini bomhlaba okanye abangaphezulu okanye elinye iziko elinikezela ukuba abanini mhlaba okanye amaziko aya kuba negalelo kwiindleko zokuphucula okanye zokulungisa indlela.

3.65 **Isolotya lama-65** libonelela ngento enokwenzeka yeenkqubo ezihlanganisiweyo kunye nokuvunywa apho imisebenzi efuna ukuvunywa ngokwemigaqo yoMthetho oSayilwayo.

3.66 **Isolotya lama-66** libonelela ngemida yokuthwala uxanduva kunye netyala.

3.67 **Isolotya lama-67** ibeka izithintelo ngokubanzi ezinxulumene nezibonelelo zezothutho. Eli solotya likwabonelela ukuba iNtloko yeSebe inokunika imvume ngokubhekiselele kulo mbandela lowo ungafakwanga isicelo.

3.68 **Isolotya lama-68** ubonelela ngolwaphulo-mthetho nezohlwayo xa kuthe kwaphulwa uMthetho oSayilwayo.

3.69 **Isolotya lama-69** libonelela ngesibheno esinokubakho kuMphathiswa wePhondo ngumntu ochatshazelwe sisigqibo seNtloko yeSebe okanye igosa leSebe ngokoMthetho oSayilwayo.

3.70 **Isolotya lama-70** libonelela ngokuba uMphathiswa wePhondo angabaxolela abantu, kuquka noomasipala, kwiimfuno zako nakuphi na okubonelelwa nguMthetho oSayilwayo ngokubhekiselele kwiindlela ezithile ezibalulekileyo okanye inxenye yazo, okanye zonke iindlela ezibaluleke ngokuhlangeneyo kumasipala. Liqhubeka ngokubonelela ngokurhoxiswa nangokunyanzelwa kwemiqathango ngokubhekiselele kuxolelo olunjalo, kananjalo nakwindlela emayisetyenziswe kunikezelwa ngoxolelo.

3.71 **Isolotya lama-70** libeka izibonelelo zotshintsho.

3.72 **Isolotya lama-71** libonelela ukuba izibonelelo zoMthetho oSayilwayo zongeziwe kwaye azithabathelwanga eminye imithetho enxulumene nemicimbi ephathelele kuMthetho oSayilwayo kunye neminye imicimbi enxulumene noko.

3.73 **Isolotya lama-72** libonelela ngokurhoxiswa kwemithetho echaziweyo kuLudwe lwenkqubo.

3.74 **Isolotya lama-73** libonelela ngesihloko esifutshane nokuqalisa koMthetho oSayilwayo emva kokuba umisiwe.

4. UKUCEBISA

ISebe leNkulumbuso: IiNkonzo zoMthetho
ISebe leMicimbi yeNdalo noCwangciso noPhuhliso
Unondyebo wePhondo
ISebe loPhuhliso lwezoQoqosho noKhenketho
UMbutho wooRhulumente basemaKhaya woMzantsi Afrika
ISixeko saseKapa
OoMasipala beeNgingqi nabasemaKhaya ePhondweni

5. UCHAPHAZELEKO LWABASEBENZI

Akuyi kubakho ziphumo zichaphazela abasebenzi ngenxa yokutshintshwa koMmiselo kunye ne-ARRDA nguMthetho oSayilwayo, okanye ngokuwutshitshisa lo Mthetho.

6. UCHAPHAZELEKO KWIMALI

6.1 Njengoko kubonisiwe kumhlathi 5 ongasentla, ukuzalisekiswa koMthetho oSayilwayo kunye nokutshitshiswa koMmiselo weeNdlela, umthetho i*Advertising of Roads and Ribbon Development Act* nonguMthetho 1 ka-2013 awuyi kufuna lwaziso lwamacandelo amatsha asebenzayo kwiSebe aya kuba nokwanda kwiziphumo zokuba nabasebenzi abazingcali nabanye. Ngale ndlela ke lo Mthetho oSayilwayo awuzukubeka mpembelelo kwezimali kuhlahlomali lweSebe. Nangona kunjalo, kukho iinkqubo ezintsha ezivezwa ngulo Mthetho oSayilwayo (njengoko zazisiwe nguMthetho 1 ka-2013) noza kuba nempembelelo kwezemali, kodwa ezakuba ngaphantsi xa nomlinganiselo omalunga nohlahlomali oluzizigidi ezi-4 zeSebe rhoqo ngonyaka kwaye ziya kulungiselelwa ngaphandle kozathuzo ukwenzela uhlahlomali olongezelelweyo. Oku kubhekisela koku kulandelayo:

6.2 Ukulawula iindlela ezibaluleke ngokuhlangeneyo ngokuhambelana noomasipala (amasolotya 9 & 10) — ezi nkqubo ziya kuquka ukuqinisekisa ukuba oomasipala bathatha amanyathelo olawulo kwiindlela zabo ngokubhekiselele kubaluleko nasekwakhelen' umkhanya uthotyelo. Sele ikhona inkoliso yomsebenzi kwinqanaba lokusebenza ngokubhekisele kubaluleko nasekwakhelen' umkhanya lothotyelo ngokubhekiselele kumanyathelo athathiweyo kwezi ndlela nothethathethwano noomasipala kwiSebe phantsi koMthetho weeNdlela.

6.3 Ukwenza uvavanyo lweendlela ezazibhengeziwe ngaphambili (isolotya 11) — oku kuya kuba yinkqubo enye yokuvavanywa kweekhilomitha ezingama-32 000 eendlela ezibhengeziweyo zePhondo eziya kuthi zikhokelele ekudluliseleni iindlela kugunyaziwe weendlela ofanelekileyo, apho ezinye iindlela zigcinwa liPhondo kwaye ezinye zigqithiselwa koomasipala ngokomsebenzi weendlela kunye nobungakanani boomasipala abachaphazelekayo. Le nkqubo iyaqhubeka kwiSixeko saseKapa, kwaye abacebisi baza kuqhubekeka ukunceda iPhondo ekwenzeni le nkqubo nakwabanye oomasipala.

6.4 Ukuqulunqwa nokuhlaziywa koluhlu kunye neengcombolo ezoyanyaniswa nezibonelelo zezothutho (isolotya le-19) — uninzi lweengcombolo ezifunekayo ukwenza uluhlu kunye neengcombolo esele zikhona kuvimba weegcombolo ze-RNIS yeSebe, nothotyelo lwesolotya 19 kuya kufuna kakhulu ukubunjwa ngokutsha nokongezwa kweerekhodi ezikhoyo ezikhoyo kwiinkqubo ezahlukeneyo ukuhlanganisa zonke iingcombolo kwinkqubo edityanisiweyo.

6.5 Ukuhlawulwa kwenkxasomali yezendlela koomasipala kulawulo lweendlela zokudibana ngokubaluleka (isolotya 28 ukuya kuma-31) — imigaqo yenkxaso yendlela yoMthetho oSayilwayo, eyongezwe yiMigaqo, iyakuthatha indawo yezibonelelo zoMthetho weeNdlela iSebe elineminyaka emininzi lixhasa inkxaso iindlela ezinkulu (kulo Mthetho oSayilwayo utshintshwe amagama weendlela). ISebe njengangoku lenza uhlahlomali olumalunga nezigidi ezili-R100 qho ngonyaka kwiintlawulo zenkxasomali. Ukuhlawulwa kwenkxasomali koomasipala kuxhomekeke kuvavanyo lweSebe nakwimithombo yemali ekhoyo yeSebe.

7. ISAKHONO KWEZOMTHETHO

UMphathiswa wePhondo ophathiswe ezothutho kunye nemisebenzi yoluntu wanelisekile kukuba iziqulatho zoMthetho oSayilwayo ziwela kubuchule bolawulo lwezomthetho bePhondo.

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