

Western Cape, South Africa

## Western Cape Provincial Transport Infrastructure Act, 2023

### Act 3 of 2023

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# Western Cape Provincial Transport Infrastructure Act, 2023

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# Western Cape South Africa

## Western Cape Provincial Transport Infrastructure Act, 2023

### Act 3 of 2023

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Assented to on 11 May 2023

Not commenced

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(English text signed by the Premier)

## ACT

**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:

### Chapter 1 Introductory provisions

#### 1. Definitions

(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 infrastructure 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 infrastructure 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 infrastructure 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.

## 2. Responsibilities of Province and municipalities

- (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.

## 3. Professional engineers or registered planners responsible for specific functions

- (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).

#### **4. Title to land for transport infrastructure**

- (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

#### 5. Classification of roads

- (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.

## 6. Declaration of roads of joint significance by Provincial Minister

- (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).

## 7. Categorisation of roads

- (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

## 8. Deeming provisions in respect of roads

- (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\(5\)](#).

## 9. Regulation of municipal roads and roads of joint significance by municipalities

- (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.

## **10. Joint planning, management and control of roads of joint significance by Province and municipalities**

- (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), [39\(1\)](#), [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), [39\(1\)](#), [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

#### 11. Assessment of previously declared roads

- (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 (9)(a) he or she may publish particulars of the declaration by way of any effective media.
- (11) A declaration contemplated in subsection (9)(a) and the road transfer agreement contemplated in subsection (9)(b) must inform the compilation of the records contemplated in [section 19](#).

## 12. Road transfer agreements

- (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

#### 13. Categorisation of railway lines

- (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 of 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](#).

#### 14. Public transport roads

- (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.

#### 15. Reserve widths of roads and railway lines

- (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.

## 16. Categorisation and reserves of ancillary transport infrastructure

- (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 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.

## 17. Building lines and building restriction areas

- (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 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 declaration.
- (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

#### 18. Transport system planning

- (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\(10\)](#).

## 19. Records of transport infrastructure and roads of joint of significance

- (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).

## 20. Project planning process

- (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](#).

## 21. Decision by Provincial Minister

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.

## 22. Declaration of transport infrastructure

- (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

#### 23. Application to close, relocate or alter transport infrastructure

- (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.

## 24. Permanent closure of provincial road

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\(1\)\(c\)\(ii\)](#).

## 25. Temporary closure or deviation of road or railway line

- (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.

## 26. Emergency closure or deviation

- (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.

**27. Right of public to use closed or deviated road**

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**

**28. Road subsidy arrangements with municipalities**

- (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.

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

- (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.

### 30. Contributions from other sources

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.

### 31. Regulations on road subsidy arrangements

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

### 32. Prohibition of certain advertisements

- (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) which, in addition to the impact on provincial road traffic and provincial transport operations, may include the economic impact and heritage considerations;
  - (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.

### 33. Enforcement provisions in respect of advertisements

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\(5\)\(a\)](#).

### 34. Regulation of advertisements by municipalities

- (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.

### **35. Presumptions relating to advertisements**

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**

### **36. Entry on and taking possession of property**

- (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 Minister 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.

### **37. Access to and exit from provincial roads and roads of joint significance**

- (1) Subject to subsection (3), no person may, without the prior written permission of the Head of Department on application in the prescribed manner, enter or leave a provincial road or a road of joint significance other than—
  - (a) in the case of vehicular transport, via a lawfully erected roadway or access; or
  - (b) in the case of non-motorised transport, via a lawfully erected roadway, gate, bridge, stile, access or other means permitted by law, where access to or exit from the road is barred by a fence, trench or other obstacle.
- (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.

### 38. Relocation or closure of access to or exit from road

- (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.

### 39. Restrictions on changes in land use

- (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.

#### 40. Distance indicators, signposts and warnings on roads

- (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.

#### 41. Obstructions and clearances

- (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.

#### 42. Fences along or within boundaries of transport infrastructure

- (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.

#### 43. Gates across roads

- (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.

#### 44. Motor cattle-grids

- (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.

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

- (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.



**46. Trading on or in transport infrastructure or building restriction areas**

- (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.

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

- (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

#### 48. Permission for service infrastructure works

- (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.

#### 49. Standards, specifications, guidelines and fees

- (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.

## 50. Decision on application

- (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\(1\)](#).

## 51. Performance of service infrastructure works

- (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.

## **52. Ownership and control of spare capacity**

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.

## **53. Compensation**

- (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.

## **54. Relocation**

- (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.

## 55. Enforcement provisions in respect of service infrastructure

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

## Chapter 12 General provisions

## 56. Applications and written permissions

- (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.

## 57. Enforcement provisions

- (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.

## 58. Specific powers of Head of Department

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).

## 59. General powers and duties of Head of Department

- (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.

## 60. Regulations

- (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) Before making regulations under this Act the Provincial Minister must submit a copy of the draft regulations to the standing committee responsible for transport infrastructure for comment.
- (7) 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.

## 61. Standards, specifications and guidelines

- (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*.

## 62. Delegation

- (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.

## 63. Agreements relating to transport infrastructure functions

- (1) The Provincial Minister, with the concurrence of 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.

#### **64. Agreement to share costs in respect of transport infrastructure**

- (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.

#### **65. Integrated procedures and decisions**

- (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.

## **66. Limitation of liability and indemnity**

- (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.

## **67. General prohibitions**

- (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, graffiti 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.

## 68. Offences and penalties

- (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.

## 69. Appeals against decision by Head of Department or official

- (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.

## 70. Exemptions in respect of roads of joint significance

- (1) The Provincial Minister may, by notice in the *Provincial Gazette*, 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.

## 71. Transitional provisions

- (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.

## 72. Relation of Act to other laws

- (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.

## 73. Repeal of laws

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.

## 74. Short title and commencement

- (1) This Act is called the Western Cape Provincial Transport Infrastructure Act, 2023, 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
<a href="#">Act 1 of 2013</a>	Western Cape Transport Infrastructure Act, 2013	The whole
<a href="#">Act 21 of 1940</a>	Advertising on Roads and Ribbon Development Act, 1940	The whole
<a href="#">Act 22 of 1944</a>	National Roads and Ribbon Development Amendment Act, 1944	The whole
<a href="#">Act 28 of 1952</a>	Advertising on Roads and Ribbon Development Amendment Act, 1952	The whole
<a href="#">Act 16 of 1962</a>	Advertising on Roads and Ribbon Development Amendment Act, 1962	The whole
<a href="#">Act 16 of 1966</a>	Advertising on Roads and Ribbon Development Amendment Act, 1966	The whole
<a href="#">Act 6 of 1976</a>	Advertising on Roads and Ribbon Development Amendment Act, 1976	The whole
<a href="#">Act 2 of 1979</a>	Advertising on Roads and Ribbon Development Amendment Act, 1979	The whole
<a href="#">Act 43 of 1985</a>	Advertising on Roads and Ribbon Development Amendment Act, 1985	The whole
<a href="#">Ordinance 19 of 1976</a>	Roads Ordinance, 1976	The whole
<a href="#">Ordinance 18 of 1977</a>	Roads Amendment Ordinance, 1977	The whole

<a href="#">Ordinance 11 of 1978</a>	Roads Amendment Ordinance, 1978	The whole
<a href="#">Ordinance 6 of 1980</a>	Roads Amendment Ordinance, 1980	Sections 1 to 8
<a href="#">Ordinance 28 of 1980</a>	Roads Second Amendment Ordinance, 1980	The whole
<a href="#">Ordinance 5 of 1982</a>	Roads Amendment Ordinance, 1982	The whole
<a href="#">Ordinance 20 of 1983</a>	Roads Amendment Ordinance, 1983	The whole
<a href="#">Ordinance 13 of 1985</a>	Roads Amendment Ordinance, 1985	The whole
<a href="#">Ordinance 16 of 1986</a>	Roads Amendment Ordinance, 1986	The whole