

CONSTITUTION OF THE TRANSPORT AND URBAN DEVELOPMENT AUTHORITY FOR CAPE TOWN BY-LAW, 2016

CITY OF CAPE TOWN



TDA
CAPE TOWN

The City of Cape Town's Transport
and Urban Development Authority

CITY OF CAPE TOWN

Constitution of the Transport and Urban Development Authority for Cape Town By-law, 2016

To amend the Constitution of Transport for Cape Town By-law so as to amend the Preamble; to amend definitions; to insert new definitions; to change the name of the transport authority; and to provide for new functions.

Preamble

WHEREAS section 156(2) of the Constitution provides that a Municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer;

WHEREAS part B of Schedule 4 and part B of Schedule 5 to the Constitution set out the local government matters that a Municipality has the right to administer;

WHEREAS the allocation of responsibility for land transport matters in the City is shared between the City, the Province and the national Department of Transport;

WHEREAS in order to effectively carry out its transport functions, including any such functions that may be assigned to it from time to time, the City established a transport authority within the City as a governance structure by which all such transport functions are to be collated so as to facilitate Integrated Transport for the benefit of the citizens of and visitors to Cape Town and such transport authority is TCT and its functions shall be as set out in this By-law;

WHEREAS pursuant to section 11 of the NLTA, a Municipality may have certain functions assigned to it;

WHEREAS in response to the requirements of the NLTA, the City is required to improve the provision of transport services and to set standards which will change the way in which transport infrastructure, services, operations and systems are implemented and managed;

WHEREAS the City may exercise its powers in terms of sections 12 and 19 respectively of the NLTA, the relevant provisions of the Roads Ordinance, the National Road Traffic Act and the Urban Transport Act, and any other relevant Integrated Transport related legislation and regulations and TCT is the body through which these powers are discharged;

WHEREAS the City wishes to extend the functions of TCT to include Urban Development for the benefit of the citizens of Cape Town;

WHEREAS TCT shall become the transport and urban development authority for the City and shall be known as TDA Cape Town;

WHEREAS the City wishes TDA to develop the City's strategy of together, which is to reverse the effects of apartheid through the social, economic and spatial transformation of the City; and

WHEREAS the City may exercise its Urban Development powers in terms of SPLUMA, LUPA, the Planning By-law, the Housing Act, the National Building Act, the Housing Rental Act, NEMA, the Social Housing Act, NHRA and any other relevant Urban Development related legislation and regulations and TDA shall be the body through which these powers are discharged;

AND NOW THEREFORE, BE IT ENACTED by the Council of the City of Cape Town, as follows:

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GENERAL PROVISIONS

Definitions

1. In this By-law, unless the context indicates otherwise:

"Built Environment Performance Plan" or "BEPP" means the annual built environment performance plan for the City as contemplated in the Division of Revenue Act in force at the time in question;

"City" means the municipality established by the City of Cape Town Establishment Notice, No 479 of 22 September 2000, issued in terms of the Structures Act, or any structure or employee of that municipality acting in terms of delegated authority;

"Commissioner" means the person appointed by the Council to be the commissioner of TDA and whose appointment shall be made in terms of section 57 of the Systems Act;

"Committee" means a section 79 Structures Act committee;

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

"Contracting Authority" means a Municipality to which the contracting authority function has been assigned in terms of the NLTA, and whose responsibilities are set out in section 4;

"Council" means the municipal council of the City established by Provincial Notice, No 479 of 2000, issued in terms of section 12 of the Structures Act and includes any committee or official carrying out any duty or function, or exercising any power in terms of this By-law;

"Director" means any holder of the post of director (whether full or part time, temporary or permanent) in the City;

"District SDF" means a spatial development framework for a specified geographical area within the City, as contemplated in section 11 of the Planning By-law;

"Enforcement" means the responsibilities set out in section 8;

"Executive Mayor" means the executive mayor of the City elected in terms of section 55 of the Structures Act;

"Financial Year" means 1 July to 30 June (inclusive);

"Function" means any of the following functions to be performed through TDA:

- a) Transport Planning Authority;
- b) Contracting Authority;
- c) Municipal Regulatory Entity;
- d) TDA Business Management;
- e) Investment Management;
- f) Enforcement;
- g) Liaison, Communication and Stakeholder Management;
- h) Infrastructure Management;
- i) Network Operations Management;
- j) Urban Planning;
- k) Human Settlements; and
- l) Urban Sustainability;

"Functional Area" means the area of the City, together with the areas of such other Municipalities with whom the City has a transport planning relationship;

"Housing Act" means the Housing Act, No 107 of 1997;

"Human Settlements" means the facilitation of the provision of habitable, stable, sustainable and integrated residential environments with access to socio-economic opportunities, and the other responsibilities set out in section 11B;

"Human Settlements plans" means the plans to be developed, implemented, managed and reviewed by the Commissioner in terms of subsection 11B(2);

"Infrastructure Management" means the responsibilities set out in section 10;

"Integrated Development Plan" or **"IDP"** means the City's integrated development plan adopted in terms of chapter 5 of the Systems Act;

"Integrated Public Transport Network" or **"IPTN"** means the integrated public transport network for land transport for the City in terms of section 11 of the NLTA;

"Integrated Transport" means the infrastructure, including Stormwater Infrastructure, operations and systems of all land transport modes and their related networks (road based and, where applicable, rail), including public transport, private car, non-motorised transport and freight, together with the systems that enable the connectivity, interoperability and intermodality on and of such land transport modes and their related networks;

"Integrated Transport Plan" or **"ITP"** means an integrated transport plan for the City as contemplated in section 36 of the NLTA;

"Intermodal Planning Committee" means the intermodal planning committee established in terms of section 15 of the NLTA and which is to have the responsibilities given to it by this By-law;

"Investment Management" means the responsibilities set out in section 7;

"IUDF" means the Integrated Urban Development Framework Implementation Plan prepared by the Department: Cooperative Governance and Traditional Affairs from time to time;

"Land Transport Advisory Board" means the land transport advisory board established in terms of section 16 of the NLTA and which is to have the responsibilities given to it by this By-law;

"Land Use" shall have the meaning given to it in Planning By-law;

"Liaison, Communication and Stakeholder Management" means the responsibilities set out in section 9;

"LUPA" means the Western Cape Land Use Planning Act, No 3 of 2014;

"Mayoral Committee" means the mayoral committee of the City elected in terms of section 60 of the Structures Act;

"Mayoral Committee Member for TDA" means the member of the Mayoral Committee assigned by the Executive Mayor to TDA;

"**MEC**" means the member of the Executive Council of the Province who is responsible for transport in the Province;

"**Minister of Human Settlements**" means the Minister responsible for human settlements in the national sphere of government;

"**Minister of Transport**" means the Minister responsible for transport in the national sphere of government;

"**MRE Committee**" means the Municipal Regulatory Entity committee referred to in section 5(4);

"**Municipal Entity**" means a municipal entity as defined in section 1 of the Systems Act;

"**Municipal Finance Management Act**" means the Local Government: Municipal Finance Management Act, No 56 of 2003;

"**Municipality**" includes all types of municipalities contemplated in section 155 of the Constitution;

"**Municipal Land Transport Fund**" means a fund established in terms of section 27 of the NLTA;

"**Municipal Planning Tribunal**" means the municipal planning tribunal referred to in section 114 of the Planning By-law;

"Municipal Regulatory Entity" **means a Municipality to which the operating licence function has been assigned in terms of the NLTA, and whose responsibilities are set out in section 5;**

"**National Accreditation Framework**" means the National Accreditation Framework for Municipalities to Administer National Housing Programmes, as determined from time to time by the Minister of Human Settlements;

"National Development Plan" or "NDP" means the National Development Plan 2030;

"National Building Act" means the National Building Regulations and Building Standards Act, No 103 of 1977;

"National Road Traffic Act" means the National Road Traffic Act, No 93 of 1996;

"NEMA" means the National Environmental Management Act, No 107 of 1998;

"Network Operations Management" means the responsibilities set out in section 11;

"NHRA" means the National Heritage Resources Act, No 25 of 1999;

"NLTA" means the National Land Transport Act, No 5 of 2009;

"Non-Member" means any operator operating in the City who is not a member of an Operator Association;

"Operating Licence Administrative System" or "OLAS" means the operating licence administrative system and which is to be used to manage the function of the Municipal Regulatory Entity;

"Operating Licence Strategy" or "OLS" means the operating licence strategy set out in the ITP and which is to be used to manage the function of the Municipal Regulatory Entity;

"Planning By-law" means the City of Cape Town Municipal Planning By-law, 2015;

"Portfolio Manager" means any holder of the post of portfolio manager (whether full or part time, temporary or permanent) in TDA;

"PRASA" means the Passenger Rail Agency of South Africa established in terms of section 23 of the Legal Succession to the South African Transport Services Act, No 9 of 1989;

"Province" means the Provincial Government of the Western Cape;

"Rental Housing Act" means the Rental Housing Act, No 50 of 1999;

"Roads Ordinance" means the Roads Ordinance, No 19 of 1976;

"SDF" means the spatial development framework for the City as contemplated in section 35 of the Systems Act, and chapter 4 of SPLUMA;

"Social Housing Act" means the Social Housing Act, No 16 of 2008;

"SPLUMA" means the Spatial Planning and Land Use Management Act, No 16 of 2013;

"Stormwater Infrastructure" means those parts of the City's stormwater network and sea walls that are integral to the City's road or rail network;

"strategy of together" means the City's vision and intent to reverse the effects of apartheid through the implementation of TOD in Integrated Transport and Urban Development so as to bring about the social, economic and spatial transformation of the City, to be developed in terms of this By-law;

"Structures Act" means the Local Government: Municipal Structures Act, No 117 of 1998;

"Systems Act" means the Local Government: Municipal Systems Act, No 32 of 2000;

"System of Delegations" means the City's system of delegations developed in terms of section 59 of the Systems Act and as amended from time to time;

"TCT" means Transport for Cape Town, the City's transport authority;

"TDA" means TDA Cape Town, the City's transport and urban development authority;

"TDA Business Management" means the responsibilities set out in section 6;

"TDA Portfolio Committee" means the committee established by the Council in terms of section 79 of the Structures Act to have oversight of the performance of TDA;

"TDA's Carbon Footprint" means the amount of carbon dioxide released into the atmosphere as a result of the activities of TDA;

"TIC" means the City's Transport Information Centre;

"TMC" means the City's Transport Management Centre;

"Transit Oriented Development" or **"TOD"** means changing, developing and stimulating the built form of a city through the development of land, transport and related infrastructure, and the densification and intensification of land use, in such a way that the movement patterns of people and goods are optimised to create urban efficiencies and to drive poverty reduction, social equality and economic growth;

"Transport Planning Authority" means the function of a planning authority (as planning authority is defined in the NLTA), and whose responsibilities are set out in section 3;

"Urban Development" means the social, cultural, environmental, economic and physical development, and management of, a city, including Urban Planning, the development of Human Settlements and the implementation of Urban Sustainability;

"Urban Planning" means the City's process relating to the design, development and management of land within the urban environment so as to address growth and urbanisation efficiently and effectively, and the other responsibilities set out in section 11A;

"Urban Sustainability" means the management of natural resources, the conservation of the City's heritage and the management of the performance of the Functions so as to ensure in each case resource efficiency and the mitigation of climate change, and the other responsibilities set out in section 11C;

"Urban Sustainability Strategy" means the strategy for the provision and management of Urban Sustainability for the City;

"Urban Transport Act" means the Urban Transport Act, No 78 of 1977; and

"Vehicle Operator Association" means any vehicle operator association in relation to any on demand public transport service operating in the City.

Establishment and functions of TDA

2. (1) Subject to subsection (2), the Council hereby establishes a transport and urban development authority, to be known as TDA, within the City, as a governance structure by which all the Functions shall be collated so as to facilitate Integrated Transport and Urban Development for the benefit of the citizens of and visitors to Cape Town.
- (2) TDA shall not be a separate juristic person and in particular shall not be a Municipal Entity and:
 - (a) TDA shall remain in all respects part of the City and the City's governance and reporting structures; and
 - (b) the Commissioner shall not acquire any functions or powers except those lawfully granted and delegated to the Commissioner within the System of Delegations.
- (3) (a) TDA shall be headed by the Commissioner.
 - (b) The Council may delegate to the Commissioner such powers in relation to the performance of the Functions of TDA to enable the Commissioner to be responsible for the Functions, within the System of Delegations.
 - (c) The exercise of any delegated authority conferred by the Commissioner under this By-law or otherwise is subject to:
 - (i) any restrictions imposed by or in accordance with law;
 - (ii) all other provisions of this By-law; and
 - (iii) all other applicable policies, procedures and by-laws.

- (d) To the extent permitted or required by law, the Commissioner shall, subject to the required authority and/or delegation being obtained, enter into such memoranda of agreement on behalf of the Council with any or all of the national sphere, including state-owned enterprises, or provincial sphere of government or other Municipalities in order to carry out the Functions performed through TDA.
- (4) The Commissioner shall be responsible for the development and implementation of the City's strategy of together.
- (5) The Commissioner shall be responsible and accountable for:
 - (a) the performance of the Functions having regard to the NDP and the IUDF;
 - (b) the setting and implementation of the City's strategy for delivering Integrated Transport and Urban Development; and
 - (c) the implementation of TOD,
 for the benefit of the citizens of and visitors to Cape Town.
- (6) In this By-law, any words preceding "include", "includes" and "including" shall be construed without limitation by the words which follow those words.

SPECIFIC FUNCTIONS OF TDA

Transport Planning Authority

- 3. (1) The Commissioner shall be responsible for implementing section 14 (Planning authorities), section 15 (Intermodal planning committees), section 16 (Land transport advisory boards), sections 31 to 39 (Transport planning) (inclusive) of the NLTA, together with all other sections of the NLTA relevant to the activities of a planning authority (as defined in the NLTA).
- (2) The Commissioner shall develop, implement, manage and review the ITP for the City and shall ensure that the ITP:
 - (a) complies with all law and regulations on the contents, manner and form of the ITP;
 - (b) sets out the functional parameters for each Function as it relates to Integrated Transport and the obligations and standards that each Function is required to meet;
 - (c) requires each Function to report regularly to the TDA Business Management Function on the progress and achievements against such obligations and standards referred to in subsection (2)(b);
 - (d) sets out how the Commissioner shall:
 - (i) administer the awarding and management of contracts to be entered into by the City as the Contracting Authority, subject to the City's Supply Chain Management Policy;

- (ii) set out in the Operating Licence Strategy how he or she intends to regulate the operating licences to be granted by the City as the Municipal Regulatory Entity (and the Commissioner shall ensure that such Operating Licence Strategy complies with the Constitution, the NLTA, the Municipal Finance Management Act, the Systems Act and the IDP); and
 - (iii) develop and maintain the City's transport infrastructure and related facilities; and
- (e) is inclusive of the IPTN.
- (3) The standards that each Function is required to meet as referred to in subsection (2)(b) shall, on certain issues, including universal access, specialised services, freight and non-motorised transport, be drawn from the sector plans forming part of the ITP.
 - (4) The Commissioner shall ensure that the ITP for the City is aligned to the corresponding IDP for the City.
 - (5) The Commissioner shall establish and maintain suitable means to ensure that the Transport Planning Authority Function interfaces with the Municipal Regulatory Entity in relation to all matters relating to the planning of the IPTN and to all relevant obligations under the NLTA, including section 57 of the NLTA in particular.
 - (6) The Commissioner shall provide comments and directions based on the ITP to all relevant regulatory bodies in connection with any application for the granting, renewal, amendment or transfer of an operating licence that relates to the City and/or its Functional Area in terms of section 55 and other relevant provisions of the NLTA.
 - (7) The Commissioner shall, on behalf of the City as the Transport Planning Authority, respond to all Land Use applications in the City that have a potential transport and traffic impact and in particular the extent to which they are aligned with the ITP, taking into account their related traffic impact, travel demand management and cost, and having regard to the application of the City's Development Charges Policy for Engineering Services.
 - (8) The Commissioner shall provide such information, analysis and advice to the Intermodal Planning Committee and the Land Transport Advisory Board as shall be required from time to time.
 - (9) The Commissioner shall, on a monthly basis, provide appropriate data in relation to its activities under this Transport Planning Authority Function to the TDA Business Management Function.

Contracting Authority

4. (1) The Commissioner shall be responsible for implementing section 40 (Integration of bus contract system into larger public transport system), section 41 (Negotiated contracts), section 42 (Subsidised service contracts), section 43 (Commercial service contracts), section 44 (Requirements to qualify as tenderer for commercial or subsidised service contracts), section 45 (Involvement of Municipalities in public transport services) and section 46 (Existing contracting arrangements) of the NLTA, together with all other sections of the NLTA relevant to the activities of a Municipality as a contracting authority (as defined in the NLTA).

- (2) The Commissioner shall:
- (a) by reference to the ITP (including the IPTN), establish the standards, operational parameters, service specifications (including provision for the repair, maintenance and replacement of transport assets being provided by or on behalf of public transport service providers), (subject to section 7(4)(c)) tariffs, payment regimes and the interface of the operators with the City's transport network for all contracts to be awarded and managed by the City as the Contracting Authority in terms of the NLTA;
 - (b) prepare and maintain the contract documentation for all the contracts referred to in subsection (2)(a) and administer the process of appointing public transport service providers for such contracts, together with such support service providers, to provide monitoring, information management, facilities management, advertising and automated fare collection services as may be necessary or desirable;
 - (c) establish and maintain a system for monitoring the service delivery and performance standards which relate to the contracts referred to in subsection (2)(a); and
 - (d) provide details to the TDA Business Management Function of the performance of all public transport service providers under the contracts referred to in subsection (2)(a).
- (3) The Commissioner shall be responsible for monitoring:
- (a) the maintenance and safety standards of all scheduled public transport vehicles, whether or not such vehicles are owned by the City; and
 - (b) compliance by the operators of such scheduled public transport vehicles in relation to any qualifications, licences and certificates required for the drivers of such vehicles,
- in each case in accordance with all applicable law, regulations and any contracts awarded to such operators of such scheduled public transport vehicles by the Commissioner on behalf of the City.
- (4) The Commissioner shall ensure effective and efficient financial management and provide subsidy management support, including by:
- (a) processing contract claims;
 - (b) entering claims into the subsidy management system;
 - (c) completing financial documents for payments;
 - (d) communicating with operators regarding payment; and
 - (e) providing weekly and monthly expenditure reports.
- (5) The Commissioner shall ensure that the City is at all times compliant with the reporting and other information requirements of the Division of Revenue Act in force at the time in question.

- (6) The Commissioner shall establish and maintain suitable means to ensure that the City's Function as Contracting Authority interfaces with the City's Functions as Transport Planning Authority and Municipal Regulatory Entity respectively in relation to the IPTN and to all relevant obligations under the NLTA.
- (7) The Commissioner shall, on a monthly basis, provide appropriate data in relation to its activities under this Contracting Authority Function to the TDA Business Management Function.

Municipal Regulatory Entity

5. (1) The Commissioner shall be responsible for implementing sections 17 to 19 (inclusive) and sections 47 to 84 (inclusive) of the NLTA, together with all other sections of the NLTA relevant to the activities of a Municipality as a regulatory entity (in terms of the NLTA).
- (2) The Commissioner shall be responsible for the operating licences for those persons wishing to undertake an intraprovincial service that either takes place in the City or starts in the City and also takes place in the area of another Municipality, as contemplated by section 54(2) of the NLTA.
- (3) The Commissioner shall be responsible for the smooth running of day to day operations in all operational areas, including the existing functions of land transport and rail transport (primarily buses, minibus taxis and railways) and public transport safety and security.
- (4) The MRE Committee shall fulfil the following functions on behalf of the City, as the Municipal Regulatory Entity:
 - (a) the granting, transferring, amendment and renewal of operating licences;
 - (b) the amendment of operating licences resulting from the replacement of a vehicle;
 - (c) the temporary replacement of a vehicle on an operating licence;
 - (d) the conversion of permits to operating licences;
 - (e) the duplication of operating licences;
 - (f) the provision of temporary permits for special events;
 - (g) the withdrawal, suspension or amendment of an operating licence; and
 - (h) the enforcement of legal parameters and penalties, including making appropriate inspections of public transport vehicles and their related certification,

and (subject to subsection (5)) the Commissioner shall, on behalf of the City as the Municipal Regulatory Entity, exercise such functions in accordance with the requirements, comments and directions of the Transport Planning Authority and in particular the Operating Licence Strategy, and not in contravention of any policy of the Council.

- (5) In order to exercise such functions referred to in subsection (4), the Council shall appoint an MRE Committee that shall comprise a minimum of three persons (including the chairperson) with an appropriate range of skillsets.
- (6) The decisions of the MRE Committee in exercising such functions referred to subsection (4) shall be independent of the Council.
- (7) All appeals against or in connection with any decision made by the MRE Committee in exercise of the functions referred to in subsection (4) shall be made to the Transport Appeal Tribunal in terms of section 92 of the NLTA.
- (8) The Commissioner shall ensure that the MRE Committee:
 - (a) follows such procedures in order to carry out its functions as the Council shall specify from time to time;
 - (b) keeps up to date records in the Operating Licence Administrative System of the exercise of such functions referred to in subsection (4);
 - (c) reports to the Council on the exercise of such functions at such intervals as the Council may require; and
 - (d) publishes appropriate details of the exercise of such functions on TDA's website at such intervals as the Council deems fit.
- (9) Subject to any restriction or requirement imposed by law, the Commissioner may, if he or she deems fit, include information on the following in the Operating Licence Administrative System:
 - (a) particulars of Operator Associations and their members;
 - (b) particulars of Non-Members; and
 - (c) where appropriate, particulars of the routes operated by the Operator Associations and Non-Members, the description of which routes are to correlate with those in the ITP.
- (10) The Commissioner shall use the information referred to in subsection (9), together with the ITP and IPTN, to manage the Operator Associations in such manner as he or she deems fit.
- (11) The Commissioner shall, on a monthly basis, provide appropriate data in relation to its activities under this Municipal Regulatory Entity Function to the TDA Business Management Function.

TDA Business Management

6. (1) The Commissioner shall be responsible for establishing, managing and maintaining a central system for collating information and data from all the Functions and shall support such Functions interfacing with each other.
- (2) The Commissioner shall be responsible for the collation, communication, dissemination, maintenance and replacement of data related to all the Functions and the maintenance, upgrading and replacement of the information systems and technology that in each case support all the Functions.

- (3) The Commissioner shall:
- (a) be responsible for the creation and maintenance of a website for TDA across all the Functions;
 - (b) in accordance with the Council's policy, publish details on such website of the performance of TDA against its targets across all the Functions on a quarterly basis;
 - (c) subject to the prior approval of the Council as to the level of detail and format, publish details of the performance of all public transport service providers under the contracts referred to in section 4(2)(a) at such intervals as the Commissioner deems fit from time to time (and no further approval of the Council shall be required for each such publication of such details of performance, provided that the publication complies with the level of detail and format so approved by the Council); and
 - (d) develop and establish a database of all stakeholders, together with appropriate fora, to enable communication with the Commissioner on all Integrated Transport and Urban Development related matters.
- (4) The Commissioner shall create links to the datasets within other directorates of the City and integrate the data with the Integrated Transport and Urban Development related data in order to discharge his or her obligations under this section 6.
- (5) The Commissioner shall develop community engagement and customer relations processes (which shall be aligned to the City's public participation processes) so as to ensure that TDA's performance is focused on facilitating Integrated Transport and Urban Development for the benefit of the citizens of and visitors to Cape Town.
- (6) (a) The Commissioner shall, as soon as possible after the end of each Financial Year, publish a report for inclusion as a separate chapter in the Council's annual report on the performance of TDA during that Financial Year.
- (b) The report referred to in subsection (6)(a) shall set out details of:
- (i) the contribution made by TDA towards the implementation of the IDP;
 - (ii) the performance of TDA against, amongst others, the ITP, SDF, BEPP, and Human Settlements plans; and
 - (iii) the performance of TDA against its targets across all the Functions and in particular the performance of the Municipal Land Transport Fund during that Financial Year.
- (c) The report referred to in subsection (6)(a) shall include such information as the Executive Mayor may from time to time specify in writing with respect to any matter the report is required to deal with by virtue of subsection (6)(b).
- (d) The Commissioner shall keep a copy of any report made under this subsection (6) available for the appropriate period for inspection by any person on request free of charge at the principal offices of the City at reasonable hours.

- (e) The "appropriate period" in the case of a report made under this subsection (6) is the period of three years beginning with the date of publication of such report.
- (7) The Commissioner shall establish an electronic centralised best practice database to record all relevant historic Integrated Transport and Urban Development related information and publications in order to achieve a single point of resource.
- (8) The Commissioner shall establish, maintain, operate and manage a training academy which is to provide comprehensive training services to TDA's own personnel and to relevant external stakeholders in relation to Integrated Transport and Urban Development, in order to ensure continuous improvement across all the Functions.

Investment Management

- 7. (1) The Commissioner shall be responsible for implementing section 27 (Municipal land transport funds), section 28 (Public transport user charges), section 29 (Minister may provide funds for land transport) and section 30 (MEC may provide funds for land transport) of the NLTA.
- (2) The Commissioner shall (subject always to the Municipal Finance Management Act) be responsible for all finance matters across all the Functions.
- (3) The Commissioner shall be responsible for establishing and maintaining a Municipal Land Transport Fund in terms of sections 27 and 28 of the NLTA.
- (4) The Commissioner shall subject always to the Municipal Finance Management Act:
 - (a) be responsible for operating an integrated financial management system and any other similar improvements that he or she may deem necessary and viable;
 - (b) be responsible for the overall coordination of the budget process for TDA and for making recommendations to the relevant Portfolio Committee or Budget Steering Committee of the City for submission to the Council as part of the Council's overall budgeting process, all of which shall be in accordance with the due process of the Council and the Municipal Finance Management Act;
 - (c) propose tariffs and charges in respect of Integrated Transport and Urban Development related matters to the Council for approval, the Commissioner having first assessed the appropriate level of such tariffs and charges by means of a cost benefit analysis by all the relevant Functions within the parameters of the Municipal Land Transport Fund;
 - (d) facilitate such international, national or provincial grants as may be appropriate to support the carrying out of the Functions;
 - (e) be responsible for the facilitation and costing of funding and revenue mechanisms for Integrated Transport and Urban Development and, in particular, for the costing of all major projects and programmes that form part of the ITP, Human Settlement plans, SDF and BEPP, having regard to both the cost of initial investment and the need for long term management.

- (f) be responsible for all revenue generation activities across all the Functions;
 - (g) be responsible for integrated fare management including:
 - (i) the development and implementation of an integrated ticketing system for public transport, including the Europay, Mastercard and VISA (EMV) card and billing system, as well as for parking, park and ride, dial-a-ride, events management, specialised services and bicycle hire services;
 - (ii) the establishment, roll out and management of the automated fare collection system; and
 - (iii) the establishment and management of the automated public transport management system;
 - (h) be responsible for providing assurance as to probity across all Functions relating to their contracting and procurement activities; and
 - (i) continually strive to improve all areas of interoperability and the effectiveness, efficiency and economic viability of Integrated Transport and related infrastructure for the benefit of the citizens of and visitors to Cape Town.
- (5) The Commissioner shall explore and (where available on reasonable commercial terms) secure funding (whether by means of carbon trading or otherwise) from time to time so as to implement the programmes and projects to reduce TDA's Carbon Footprint as referred to in section 11C(3).
 - (6) The Commissioner shall, on a monthly basis, provide appropriate data in relation to its activities under this Investment Management Function to the TDA Business Management Function.

Enforcement

- 8.** (1) The Commissioner shall be responsible for implementing sections 85 to 91 (inclusive) of the NLTA.
- (2) The Commissioner shall be responsible for the enforcement of the National Road Traffic Act insofar as it relates to public transport enforcement.
- (3) The Commissioner shall be responsible for enforcing safety in relation to the use of the City's public transport (including road and, where applicable, rail) network and related infrastructure and facilities.
- (4) The Commissioner shall make appropriate use of the TMC and TIC and related technology, and shall work with other relevant agencies and stakeholders in order to discharge his or her responsibilities under this section 8.
- (5) The Commissioner shall provide such traffic management and enforcement services in terms of its public transport enforcement and safety plan as the Council shall determine from time to time.

- (6) The Commissioner shall, in relation to Integrated Transport and Urban Development, provide to relevant enforcement agencies intelligence services, as well as such enforcement administrative services and other enforcement related services as the Council shall determine from time to time.
- (7) The Commissioner shall, on a monthly basis, provide appropriate data in relation to its activities under this Enforcement Function to the TDA Business Management Function.

LIAISON, COMMUNICATION AND STAKEHOLDER MANAGEMENT

- 9. (1) The Commissioner shall establish and maintain procedures and management practices in order to ensure the effective and efficient liaison and communication with all identified stakeholders.
- (2) The Commissioner shall include in the procedures and management practices referred to in subsection (1) appropriate initiatives to enable the successful and sustainable transition and empowerment of the minibus taxi industry according to the parameters identified by the Council from time to time.
- (3) The Commissioner shall be responsible for the internal, external and international communication relating to the Functions to ensure that the citizens of and visitors to Cape Town are well-informed and satisfied with TDA's performance, as measured by a programme of continuous monitoring of customer satisfaction, including by means of readily available public information on performance against targets and service levels published by the TDA Business Management Function.
- (4) The Commissioner shall communicate and interface with the public through all appropriate means of communication and, in relation to public transport operational matters, through the TIC.
- (5) The Commissioner shall assist the Mayoral Committee Member for TDA in connection with any dealings with the media that he or she may require.
- (6) The Commissioner shall, subject to the required authority being obtained, enter into appropriate memoranda of agreement where relevant, on behalf of the City, with stakeholders relating to Integrated Transport and Urban Development.
- (7) (a) The Commissioner shall, by using the website, database and other fora for communication with stakeholders referred to in section 6(3)(d), make available such information as he or she deems fit which:
 - (i) relates to the Integrated Transport and Urban Development services which are being provided for the benefit of the citizens of and visitors to Cape Town;
 - (ii) is needed by members of the general public to assist in deciding how they will make best use of such services; and
 - (iii) informs the general public as to the processes and procedures relating to all the Functions that must be followed in order for the general public to make and pursue applications for licences, permissions, permits, authorisations and other consents that are to be issued by or behalf of TDA.

- (b) Such information referred to in subsection (7)(a) shall be made available, in accordance with the provisions of the Systems Act, to:
 - (i) the general public; and
 - (ii) such other persons as the Commissioner deems fit.
 - (c) The Commissioner may make such charges in accordance with the approved Council tariffs from time to time for any information which it makes available, but no such charge may be made if the information relates to public passenger transport services provided exclusively by TDA.
- (8) The Commissioner shall:
- (a) establish, on behalf of the Council, an Intermodal Planning Committee in accordance with section 15 of the NLTA in order to:
 - (i) coordinate public transport between modes, Integrated Transport and Urban Development, and between stakeholders so as to achieve the objects of the NLTA; and
 - (ii) enable the participation of appropriate Urban Development stakeholders on such Intermodal Planning Committee on matters relating to Integrated Transport, Urban Development and TOD;
 - (b) chair the Intermodal Planning Committee and ensure that the membership of the Intermodal Planning Committee complies with section 15(1) of the NLTA and includes appropriate Urban Development stakeholders;
 - (c) ensure that the Intermodal Planning Committee reports to and consults regularly with the Land Transport Advisory Board and the Commissioner shall report to the Council as and when the matters being so reported or consulted on relate to the activities of TDA;
 - (d) ensure that the Intermodal Planning Committee coordinates input and direction into the holistic integration of:
 - (i) rail passenger services in the Functional Area with road based public transport services;
 - (ii) scheduled services, minibus taxi-type services and unscheduled services in the Functional Area with each other and with other public transport (including rail) modes;
 - (iii) the ITP so as to ensure that the optimal use of infrastructure and services within the system and optimal utilisation and prioritisation of funds, including freight transport and non-motorised transport, is achieved; and
 - (iv) the roles, responsibilities and interrelationships of all relevant Integrated Transport and Urban Development stakeholders; and
 - (e) ensure that the Intermodal Planning Committee establishes at least such sub committees, which may comprise rail, bus, taxi, land use and land transport enforcement sub committees, as the Intermodal Planning Committee deems fit.

- (9) The Commissioner shall:
- (a) establish, on behalf of the Council, the Land Transport Advisory Board in accordance with section 16 of the NLTA and with representation from government and the private sector to advise the Commissioner in relation to all inter-stakeholder matters relating to Integrated Transport and Urban Development;
 - (b) ensure that the Land Transport Advisory Board complies with any regulations made from time to time by the Minister of Transport in relation to the membership of the Land Transport Advisory Board, the appointment and qualifications for membership, procedures and frequency of meetings, and related matters; and
 - (c) require that the Land Transport Advisory Board:
 - (i) receives input from the Intermodal Planning Committee; and
 - (ii) makes strategic policy recommendations to the Council and other relevant decision making bodies in relation to Integrated Transport and Urban Development matters as referred to in subsections (8)(e) and (f),

all of which shall be in the furtherance of Integrated Transport and Urban Development in the city.
- (10) The Mayoral Committee Member for TDA shall chair the Land Transport Advisory Board and the chairperson of the TDA Portfolio Committee shall be the deputy chairperson of the Land Transport Advisory Board.
- (11) The inclusion of stakeholders relating to Urban Development on the Intermodal Planning Committee and Land Transport Advisory Board respectively and the consideration of issues relating to Urban Development by the Intermodal Planning Committee and/or Land Transport Advisory Board as contemplated by this section 9 shall be to the extent permitted by law only.
- (12) The Commissioner shall take all necessary steps to develop and roll out TDA's brand and its supporting logos and architecture to the intent that the brand of TDA fully supports the Functions.
- (13) The Commissioner shall, on a monthly basis, provide appropriate data in relation to its activities under this Liaison, Communication and Stakeholder Management Function to the TDA Business Management Function.

Infrastructure Management

- 10.** (1) The Commissioner shall be responsible for the planning, design, costing, construction, maintenance, replacement, extension and upgrading of all the City's Integrated Transport and Urban Development infrastructure and related facilities.
- (2) The Commissioner shall be responsible as and shall perform all the functions of the road authority under the Roads Ordinance for all public roads and public paths (as such public roads and public paths are defined in the Roads Ordinance) in the City and shall, to the extent necessary, make such further applications under the Roads Ordinance in order to take up such responsibility.

- (3) The Commissioner shall establish, manage and maintain an asset register of the City's Integrated Transport and Urban Development infrastructure and related facilities, as referred to in subsection (1).
- (4) In particular, the Commissioner shall ensure that the asset register referred to in subsection (3) shall record the following information:
 - (a) the location of the assets referred to in subsection (3);
 - (b) the classification and definition of such assets;
 - (c) the age of such assets;
 - (d) the lifecycle costs of maintaining such assets and in particular the costs of deferring the maintenance of such assets; and
 - (e) the quantification of such assets and the financial value of such assets.
- (5) In making decisions as to the maintenance of the assets as referred to in subsection (4), the Commissioner shall reach an appropriate balance between planned and reactive maintenance so as to ensure the long term and cost effective sustainability of such assets, as well as considering appropriate business planning scenarios to support the Commissioner's decisions to invest strategically in such assets as he or she shall consider to be of high importance.
- (6) The Commissioner shall, on a monthly basis, provide appropriate data in relation to its activities under this Infrastructure Management Function to the TDA Business Management Function.

Network Operations Management

- 11.** (1) The Commissioner shall be responsible for the planning, design, costing, management, operation and oversight of all activities on the Integrated Transport network and related infrastructure and facilities in the City and in particular the IPTN, including the operation of:
 - (a) the traffic signalling systems;
 - (b) the bus and minibus taxi (BMT) lanes;
 - (c) the traffic management cameras;
 - (d) parking management;
 - (e) the freeway management system;
 - (f) transport plans in relation to events management;
 - (g) abnormal loads and transport of dangerous goods procedures;
 - (h) the TMC and the TIC;
 - (i) communication systems, the comprehensive databank and TDA's information systems and technology, all of which shall be located at and managed from the TMC;

- (j) communication facilities at all major public transport facilities, interchanges and on the Integrated Transport network and related infrastructure and facilities;
 - (k) the integrated timetabling of all public transport services;
 - (l) road closures;
 - (m) the granting of wayleaves; and
 - (n) the relevant rail infrastructure, network and related facilities.
- (2) The Commissioner shall, on a monthly basis, provide appropriate data in relation to its activities under this Network Operations Management Function to the TDA Business Management Function.

Urban Planning

- 11A.** (1) The Commissioner shall be responsible for implementing Urban Planning in accordance with SPLUMA, LUPA, the Planning By-law and all other legislation and regulations relevant to Urban Planning.
- (2) Subject to subsection (1) and the Planning By-law, the Commissioner shall develop, implement, manage and review the SDF and such District SDFs as may be required by the City from time to time, in accordance with TOD.
- (3) The Commissioner shall **administratively** support all land development decisions made by the Municipal Planning Tribunal, as well as such land development decisions made under delegated authority, be carried out in accordance with:
- (a) the procedures in and requirements of the Planning Bylaw; and
 - (b) the SDF and District SDFs,
- so as to further the implementation of TOD.
- (4) The Commissioner shall have regard to the comments from all relevant internal and external stakeholders in relation to all Land Use applications, including the Land Use applications referred to in section 3(7).
- (5) The Commissioner shall ensure that all building development permitted by Urban Planning shall be required to comply with the National Building Act.
- (6) The Commissioner shall, in accordance with the Planning By-law and, where relevant, SPLUMA, enforce all **unlawful** Land Uses.
- (7) The Commissioner shall, on a monthly basis, provide appropriate data in relation to its activities under this Urban Planning Function to the TDA Business Management Function.

Human Settlements

- 11B.** (1) The Commissioner shall be responsible for implementing Human Settlements in accordance with the Housing Act, the Rental Housing Act, the Social Housing Act and all other legislation and regulations relevant to Human Settlements.
- (2) The Commissioner shall develop, implement, manage and review Human Settlements plans for the City and shall ensure that such Human Settlements plans shall:
- (a) comply with all law, regulations on the contents and structure of such Human Settlements plans;
 - (b) set out the functional parameters for each Function as it relates to Urban Development and Human Settlements and the obligations and standards that each Function is required to meet;
 - (c) ensure that all housing design and materials to be used shall be economically viable, sustainable and efficient;
 - (d) have regard to the SDF and align with the IPTN; and
 - (e) ensure the further implementation of TOD.
- (3) In terms of subsection (2), the Commissioner shall prioritise the provision of Human Settlements as a key element of the performance by TDA of the Functions so as to address efficiently and effectively the demand arising from population growth and urbanisation, including:
- (a) prioritising all issues relating to security of tenure;
 - (b) implementing all TDA's identified catalytic housing projects, as determined by the Minister of Human Settlements and the BEPP from time to time;
 - (c) prioritising the development of Human Settlements with TDA's identified grant funding and relevant funding from the City;
 - (d) achieving the Level Three Accreditation (Financial Administration) as referred to in the National Accreditation Framework; and
 - (e) facilitating the provision of multiple housing types, densities, designs and related tenures, including social housing, rental stock and inclusionary housing, so as to address the City's housing backlog in accordance with the City's housing waiting list,
- in accordance with TOD.
- (4) The Commissioner shall prioritise the implementation of operational and capital investment that addresses and delivers Human Settlements across the City.
- (5) The Commissioner shall, on a monthly basis, provide appropriate data in relation to its activities under this Human Settlements Function to the TDA Business Management Function.

Urban Sustainability

- 11C.** (1) The Commissioner shall be responsible for implementing Urban Sustainability in accordance with NEMA, the NHRA, and all other legislation and regulations relevant to Urban Sustainability.
- (2) The Commissioner shall develop, implement, manage and review the Urban Sustainability Strategy for the City and shall ensure that such Urban Sustainability Strategy shall:
- (a) comply with all law, regulations and applicable guidance on the contents and structure of such Urban Sustainability Strategy;
 - (b) set out the functional parameters as it relates to Urban Sustainability and the obligations and standards that each Function is required to meet; and
 - (c) determine the parameters, targets, tools and resources to give effect to efficient, effective and economically viable:
 - (i) environmental management;
 - (ii) resource conservation, efficiency and management;
 - (iii) climate change management and mitigation;
 - (iv) biodiversity;
 - (v) management of the City's heritage; and
 - (vi) coastal management; and
 - (d) ensure the further implementation of TOD.
- (3) The Commissioner shall develop, manage and review TDA's Carbon Footprint in relation to all of the Functions, and shall identify and implement such programmes and projects in order to reduce TDA's Carbon Footprint and to improve Integrated Transport and Urban Development for the benefit of citizens of and visitors to Cape Town as he or she thinks fit.
- (4) The Commissioner shall prioritise the implementation of operational and capital investment that addresses and delivers Urban Sustainability across the City.
- (5) The Commissioner shall, on a monthly basis, provide appropriate data in relation to its activities under this Urban Sustainability Function to the TDA Business Management Function.

MISCELLANEOUS

General functions of TDA

12. (1) The Commissioner may promote and administer the carrying out of any activities which he or she has power to carry out, whether such power is conferred by statute, this By-law or delegated by the Council and, to the extent permitted by law, the Commissioner shall, subject to the required authority being obtained, be entitled to appoint such staff, agents and contractors as he or she thinks fit or is required to appoint by the Council to carry out such activities that the Commissioner has power to carry out.
- (2) The Commissioner may subject to the required authority being obtained enter into and carry out any agreement with any person for the carrying out by that person, whether as agent for the City or otherwise, of any activities which the Commissioner has power to carry out and, in particular, with respect to the provision or financing of any services relating to Integrated Transport and/or Urban Development which the City has power to provide, subject to due process being followed.
- (3) To the extent permitted by law, it shall be within the capacity of the Commissioner, subject to the required authority being obtained, to do such things and enter into such transactions as are calculated to facilitate, or are conducive or incidental to, the discharge of any of the Functions.

Agreements with the province and adjacent municipalities

13. Subject to the prior approval of the Council, the Commissioner may enter into such agreements with the Province or adjacent Municipalities in terms of section 12 and 19 of the NLTA.

Short Title

14. This By-law is called the City of Cape Town: Constitution of the Transport and Urban Development Authority for Cape Town By-law, 2016."