

PAPER 6

REGULATORY COMPLIANCE AT LOCAL AND DISTRICT MUNICIPALITIES

Masuku SM¹; Oosthuizen E²

ECSA Candidate Engineer¹

ECSA Professional Engineer; SAICE Member; CESA Member²

ABSTRACT

The National Land Transport Act (NLTA, Act 5 of 2009) requires transport authorities at local and district municipalities to develop Integrated Transport Plans (ITPs). The objective of an ITP is to facilitate coordinated planning between infrastructure development, operations and regulation for all modes of transport. The plans provide a five year road map for addressing transport challenges and needs, and align implementation of transport projects with spatial and land-use development. The study found that the majority of municipalities do not have ITPs and therefore do not comply with the NLTA.

The impact of non-compliance is evident in growing towns where new developments are accompanied by a rise in congestion, poor pedestrian infrastructure and crowded city centres; which together discourages potential investors and thereby curtail the town's development potential. Lack of awareness, skilled personnel and financial resources were identified as some of the main barriers to compliance by municipalities. The study discusses the level of compliance and the extent of identified challenges, and offers recommendations on how these challenges can be addressed.

INTRODUCTION

The National Land Transport Act (Act No.5 of 2009) (NLTA) provides the requirements for the development of integrated transport plans by municipalities. These requirements provide the minimum planning required, with planning authorities given the freedom to do additional planning when they deem it necessary or as per requirements by the Member of Executive Council (MEC)(DoT, 2016).

There are three levels of Integrated Transport Plans:

- Comprehensive Integrated Transport Plans developed by metropolitan municipalities;
- District Integrated Transport Plans developed by district municipalities; and
- Local Integrated Transport Plans developed by local municipalities.

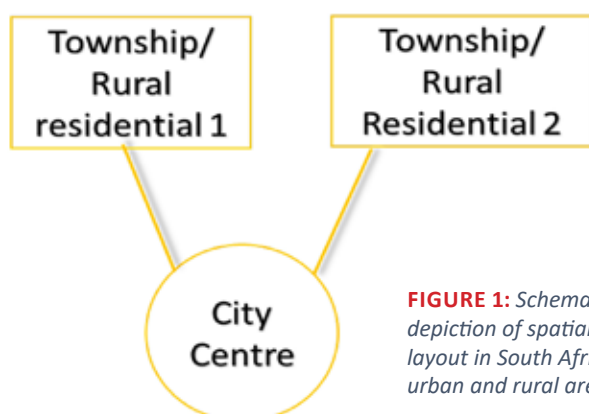


FIGURE 1: Schematic depiction of spatial layout in South African urban and rural areas

The NLTA requires ITPs to be updated annually in alignment with the Integrated Development Plans (IDPs). IDPs are annually reviewed 5 year plans on how the municipality aims to improve service delivery regarding, amongst others, water, electricity, housing and transport. Projects identified in the ITP should inform the transport section of the IDP. Where the municipality is planning or has recently completed the ITP, this will also be reflected on the IDP. The alignment between ITPs and IDPs is essential to the successful transformation of the fragmented spatial legacy in South Africa (Schoeman, 2004).

The purpose of this paper is to investigate municipal compliance with the NLTA in terms of the development of ITPs. The quality of those ITPs is outside the scope of this investigation.

THE NEED FOR TRANSPORT PLANNING

Spatial Planning in South Africa

The law of segregation resulted in a fragmented spatial setting in which residential areas are separated from areas of work, economic activity and social services. This spatial setting is still evident today in cities like Johannesburg, Pretoria, Pietermaritzburg and Durban. Figure 1 shows a general scenario that can be observed across major South African cities as well as rural areas. Residential townships such as Mamelodi and Attredgeville (Pretoria), UMLazi and Ntuzuma (Durban), IMbali and Northdale (Pietermaritzburg) and Soweto and Alexandra (Johannesburg) are all located away from city centres.

The adoption of the new constitution post 1994 rendered most planning laws based in segregation unconstitutional. However, new land use and development framework are still fraught with elements from these old systems, often causing confusion and subject to legal challenges (Kimberly, 2015). While the various policies and Acts have the same objective of giving guidance to transforming the current state of planning, breaking away from the challenges of the past, and facilitating more sustainable urban developments, their implementation has been challenging (Harrison & Todes, 2021, Kimberly 2015).

One such policy is the inclusionary housing policy, which aimed to improve the provision of affordable housing as part of new developments in proximity to urban centres. The policy required private developers to provide a percentage of their new developments as low cost housing. The goal of the policy was to facilitate spatial transformation by bridging the access gap for different groups, by enabling the low income class to reside within close proximity to economic opportunities (Klug et al, 2013). However, this was left to municipalities to enforce due to lack of a supporting national policy (Harrison & Todes, 2021). According to Klug et al (2013) the policy was also resisted by developers and residents in middle and higher income classes, therefore limiting its implementation.

The provision of low cost housing is still one of the main challenges with regards to achieving spatial transformation. Low cost housing developments, including those facilitated by government interventions, are still mostly located outside city centres (Biermann et al, 2004). This is mainly due to the cost of acquiring land, which is higher near city centres compared to areas at the edge of cities.

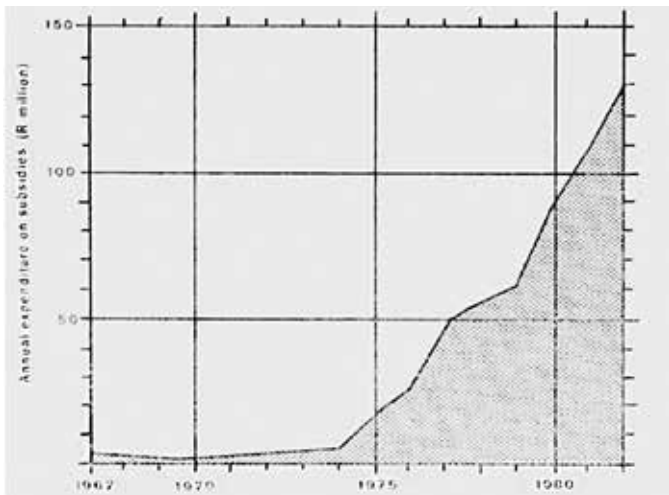


FIGURE 2: Increase in public transport subsidies provided by government

The role of transport

The separation between residential areas and urban centres creates multiple social, economic and environmental issues as people have to spend more time and money to access these places often through some form of motorised transport (public or private).

Initially, public transport was provided in the form of municipal busses and trains. These were subsidised modes aimed at keeping the fares low for people to afford. Keeping the fares low also served to support the segregation of marginalised people to areas outside of city centres while enabling them to get to their areas of work situated in the city (Beavon, 2001). However, the high cost of subsidies, poor service and lack of maintenance all led to dissatisfaction with government public transport.

To compound on this, the long distances and high operating costs meant that maintaining low fares and low subsidies was no longer sustainable, thus costing commuters and government more money. Figure 2 shows the rise experienced in subsidising public transport between 1967 and 1985 (McCarthy and Swilling, 1985).

Challenges with formalised busses and trains gave rise to a new form of public transport, the minibus taxi industry. The industry's initial success was based on its affordability, ease of access and flexibility compared to the continually worsening bus service (Dugard and Nkonyane, 2004). However, the minibus service was also fraught with its own challenges, which included violence over the ownership of routes, which is the reputation that persists with the industry today. The 2013 National household travel survey showed that poor service is still the main factor deterring people away from using available public transport services (Figure 3).

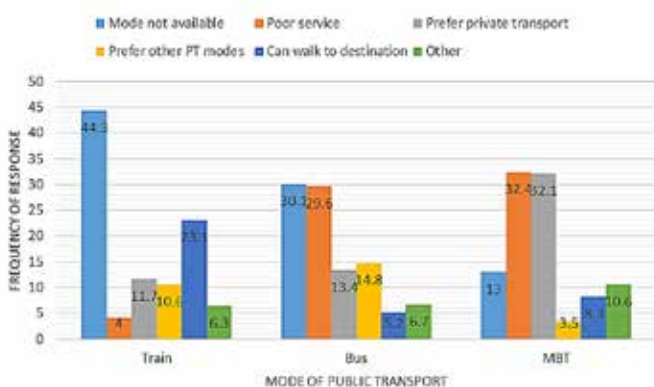


FIGURE 3: Reasons commuters do not use public transport (NHTS, 2013)

Figure 3 also shows that people who do not use public transport mainly prefer to make use of private vehicles. The challenge with the use of private vehicles is evident on South African roads every morning and evening with congested roads leading into and out of city centres. The National Development Plan is to address this issue through strategic transport investments and improved spatial planning (NPC, 2012). Strategic transport investment include provision of safe and affordable public transport to improve mobility. An example of improved spatial planning is the development of shopping centres and community service centres in townships and other residential areas to reduce the need for long distance travel.

However, as the spatial environment changes there is also a shift in people's need for travel. For example, shopping closer to home can eliminate the need for vehicular travel but create a need for wider sidewalks to accommodate pedestrians. Shopping centres also attract heavier traffic in the form of delivery trucks, create a need for parking and requires improved traffic management. When new developments are implemented without considerations of their transport impact, this usually results in road congestion, deteriorated pavements and increased accident rates.

The impact of lack of coordination is not only limited to urban areas. Figure 4 shows a case in the rural town of Nongoma, KwaZulu-Natal, which is one of the most congested towns in the area despite being limited in the scale of development.

The objective of transport planning is to ensure that is to identify current and future transport needs, and determine appropriate action to address those needs. Integrated transport plans coordinate planning of all transport components including infrastructure, services, operations and regulations. This covers all modes of transport including private and public transport, freight transport and non-motorised transport. The prioritisation and scheduling of transport projects should be aligned with the municipality's spatial development framework (DoT, 2016). This ensures that transport projects are implemented as and when needed to address and to accommodate the travel patterns of the municipal spatial framework.

METHODOLOGY

IDPs from KwaZulu-Natal (KZN) municipalities were reviewed for stated status of the ITPs. KZN has ten district municipalities, forty-three local municipalities and one metropolitan municipality. The study was limited to IDPs between the 2020/21 to 2022/23 financial years, thus giving a usable sample of 50 IDPs (Table 1).

The ITP status was divided into four categories:

- No mention – meaning that the IDP does not make any mention of integrated transport plans and its status. This includes cases where the ITP



FIGURE 4: Level of congestion observed in the rural town of Nongoma, KwaZulu-Natal

TABLE 1: IDP Sample

Municipality Type	IDP not found	2017/18	2020/21	2021/22	2022/23
Local	0	0	4	5	1
District	3	1	20	17	2
Metropolitan	0	0	1	0	0
Total	3	1	25	22	3

is mentioned in the MEC's IDP comments but there is no response provided by the municipality to those comments;

- No ITP – meaning that the municipality has stated that it does not have an ITP. This includes cases in which the ITPs are outdated and there are no stated plans to update it;
- Planning – this includes cases where the municipality has stated that it is in the process of securing assistance for the development of the ITP or the tendering process. This includes cases where a service provider has been appointed but work has not commenced;
- In progress – this covers cases which is ongoing work on the development or reviewing of the ITP by the municipality including completion of initial drafts; and
- Completed – meaning that the IDP states that the municipality has recently completed the ITP and has been adopted by the council.

RESULTS AND OBSERVATIONS

Status of ITPs

Table 2 shows that 66% of the reviewed IDPs did not indicate any municipal plans with regards to the development or review of ITPs. This includes 10 municipalities which made no mention of ITPs at all, and 23 which stated that they did not have an ITP. In one of the municipalities, UMziwabantu Local Municipality, the MEC had requested that the ITP should be developed. However, there was no response to this request by the municipality. UMkhanyakude District Municipality indicated that it does not have an ITP, but is in the process of developing a Public Transport Plan (PTP). According to the NLTA the PTP should be developed by district and metropolitan municipalities as part of the ITPs.

The majority of municipalities stated that they do not have ITPs (46%). This shows a high level of non-compliance with the NLTA. Six of these municipalities stated that they had outdated ITPs which were overdue for update by up to fifteen years. The lack of planning toward the development of ITPs was mainly attributed to lack of funding and capacity (nine municipalities). The KZN Department of Transport was revealed as the go-to source for assistance in this regard.

Less than a quarter of municipalities stated that they were either in the process of (8%) or finished (16%) developing or reviewing their ITPs. Six of the recently completed ITPs were adopted between 2016 and 2021 (Newcastle, KwaDukuza, Mandeni, UMhlatuze, Nkandla and UMhlabuyalingana Local Municipalities and Harry Gwala and King Cetshwayo District Municipalities). Newcastle Local Municipality refers to

TABLE 2: Stated status of ITPs

ITP Status	Local Municipalities (39)	District Municipalities (10)	Metropolitan Municipalities (1)	Total (100%)
No mention	6	4	0	20%
No ITP	20	3	0	46%
Planning	4	1	0	10%
In progress	3	0	1	8%
Complete	6	2	0	16%

the Integrated Traffic and Transportation Plan (ITTP) instead of an ITP. The plan's primary objective is to determine road network requirements to meet the demands placed by existing and projected future development for the ten year period (2015-2025) (Newcastle Local Municipality, 2021).

Inquthu Local Municipality (2021) and UMsinga Local Municipality (2021) stated that they were developing their ITPs internally due to lack of funding to appoint a service provider. Ubuhlebezwe Local Municipality also cited lack of funding as the impediment to begin with the ITP development. The municipality is part of the 10% of municipalities at various planning stages towards the development of ITPs. The planning stages range from research on the requirements of ITPs (Dannhauser Local Municipality, 2021), tendering stage for service providers to assist in the development of ITPs (Ubuhlebezwe Local Municipality, 2022), and appointment of a service provider to assist with the development of the ITP (Greater Kokstad Local Municipality, 2021).

Challenges and other comments on ITPs

The MEC requested thirteen municipalities to develop or update their ITPs. Of these, one municipality made no comment with regards to the status of its ITP or a response to the MEC's comments. One other municipality stated that it does not have an ITP but offered no way forward in this regard.

Two local municipalities aimed to develop their ITPs from ITPs of their relevant district municipalities. This is counter to the NLTA. While the NLTA provides for district municipalities to assist local municipalities with developing their ITPs, it requires that district ITPs to provide a summary of local ITPs. This counter approach could be attributed to lack of understanding of ITP requirements. Lack of transport planning skills was identified by Govender et.al (2017) as one of the main impediments to poor transport planning in municipalities.

Indeed, eight percent of municipalities cited lack of capacity as one of challenges they faced in developing their ITPs. Another indication of the lack of understanding of transport planning is that it is often limited to provision of roads and public transport. The following extract, from the 2020/21 Ray Nkonyeni Local Municipality IDP, shows how this misconception could contribute to noncompliance;

*"The municipality is **not** responsible for the local integrated transport plan, but the Department of Transport is. The Department is responsible for building new roads and maintain both the National and Provincial roads, hence the municipality does not have the LITP [Local Integrated Transport Plan]."*

The identification of road infrastructure forms part of the ITP, however, but is not in itself a complete full ITP. ITPs cover all transport related needs including services, operation and infrastructure. The execution of projects to address those needs falls outside the scope of the ITP and is the responsibility of the relevant authority (NLTA, 2009). Therefore the responsibility of transport planning (identification of transport needs) is separate from the responsibility of project execution. Where the responsibility to execute lies outside the municipality, it does not absolve the municipality from the responsibility of transport planning.

CONCLUSION AND RECOMMENDATIONS

The investigation found that the majority of municipalities do not have ITPs, showing poor compliance with the NLTA. The main factor contributing to this, as stated by municipalities, is the lack of funding for ITPs. The second factor is the lack of transport planning capacity or understanding within municipalities. While this is not explicitly stated by most municipalities, it is critical to address to be addressed it speaks to the potential quality of transport planning undertaken by those municipalities with the resources to do so.

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