

NORTH WEST PROVINCIAL LEGISLATURE

NEGOTIATING MANDATE

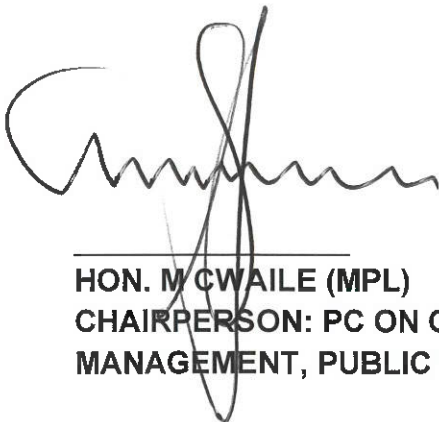
To: Hon Kenneth Mosimanegape Mmoiemang (MP)
Chairperson of the Select Committee on Transport,
Public Service & Administration, Public Works &
Infrastructure

Name of the Bill: National Land Transport Amendment Bill

Number of the Bill: [B 7F – 2016]

Date of Deliberation: 02 June 2023

Vote of Legislature: North West Provincial Legislature vote in favour of the
Bill



HON. M CWAILE (MPL)
CHAIRPERSON: PC ON COMMUNITY SAFETY AND TRANSPORT
MANAGEMENT, PUBLIC WORKS AND ROADS

13/06/2023
DATE

PROPOSED AMENDMENTS

There were no proposed amendments made that were related to the Bill.



NORTH WEST PROVINCIAL LEGISLATURE

PORTFOLIO COMMITTEE ON COMMUNITY SAFETY, TRANSPORT MANAGEMENT, PUBLIC WORKS & ROADS

COMMITTEE REPORTS

National Land Transport Amendment Bill [B 7F – 2016]

TABLE OF CONTENTS

1. **INTRODUCTION** Error! Bookmark not defined.

2. **PROCESS FOLLOWED** Error! Bookmark not defined.

3. **OBJECTIVE OF THE NATIONAL LAND TRANSPORT AMENDMENT BILL [B 7F -2016]** 5

4. **PRESENTATION BY NCOP PERMANENT DELEGATE ON THE NATIONAL LAND TRANSPORT AMENDMENT BILL [B 7F -2016]** 6

5. **DELIBERATIONS BY THE PORTFOLIO COMMITTEE**9

6. **RECOMMENDATIONS BY THE PORTFOLIO COMMITTEE** 9

7. **ADVERTISING OF THE BILL** 10

8. **PRE- PUBLIC HEARING WORKSHOPS PRESENTATION/ INPUTS** 10

8.1 **NGAKA MODIRI MOLEMA DISTRICT** Error! Bookmark not defined.

8.2 **DR RUTH SEGOMOTSI MOMPATI DISTRICT** Error! Bookmark not defined.

8.3 **DR KENNETH KAUNDA DISTRICT** Error! Bookmark not defined.

8.4 **BOJANALA PLATINUM DISTRICT** Error! Bookmark not defined.

9 **PUBLIC HEARING INPUTS/CONCERNS** Error! Bookmark not defined.3

9.1 **NGAKA MODIRI MOLEMA DISTRICT** 13.

9.2 **DR RUTH SEGOMOTSI MOMPATI DISTRICT**..... 14

9.3 **DR KENNETH KAUNDA DISTRICT**.....15

9.4. **BOJANALA PLATINUM DISTRICT**..... 15

10. **RECOMMENDATIONS BY THE PUBLIC**..... 15

11. **ADOPTION OF THE BILL**..... Error! Bookmark not defined.

12 **ACKNOWLEDGEMENTS**.....16

13. **ADOPTION OF THE REPORT**..... Error! Bookmark not defined.

ANNEXURE

ACRONYMS

AFS	-	ANNUAL FINANCIAL STATEMENT
CPF	-	COMMUNITY POLICE FORUM
CSC	-	COMMUNITTEE SERVICE CENTER
DLCA	-	DRIVING LICENCE CARD ACCOUNT
DLTC	-	DRIVER'S LICENSE TESTING CENTER
ENATIS	-	ELECTRONIC NATIONAL ADMINISTRATION TRAFFIC INFORMATION SYSTEM
GRAP	-	GENERALLY RECOGNISED ACCOUNTING PRACTICE
HOD	-	HEAD OF DEPARTMENT
LCU	-	LIVE CAPTURE UNIT
LE	-	LAW ENFORCEMENT
LEU	-	LIVE ENROLMENT UNIT
MEC	-	MEMBER OF THE EXECUTIVE COUNCIL
NW	-	NORTH WEST
NWPL	-	NORTH WEST PROVINCIAL LEGISLATURE
PFMA	-	PUBLIC FINANCE MANAGEMENT ACT
RA	-	REGISTRATION AUTHORITY
SAPS	-	THE SOUTH AFRICAN POLICE SERVICE
SDIP	-	SERVICE DELIVERY IMPROVEMENT PROGRAMME
SLA	-	SERVICE LEVEL AGREEMENT
SOP	-	STANDARD OPERATING PROCEDURE
VTS	-	VEHICLE TESTING STATION

1. INTRODUCTION

The Portfolio Committee on Community Safety and Transport Management, on the Annual Performance exercises oversight over the Department of Community Safety and Transport Management through its assessment of the provincial-wide strategic support provided to North West Provincial Government departments. *The Constitution of the Republic of South Africa 1996* and the *Public Finance Management Act 1999* create a basis on which oversight by Legislatures should be accomplished.

2. PROCESS FOLLOWED

The National Land Transport Amendment Bill [B 7F – 2016] was formally referred by the Speaker, Honourable S.R. Dantjie to the Portfolio Committee on Community Safety and Transport Management and Public Works, Road for consideration and reporting.

The Portfolio Committee then received a presentation from the NCOP Permanent Delegate and the Department of Transport on the Division of Revenue Bill [B2 - 2023] through a virtual meeting held on 17 May 2023. Following a briefing, the Committee embarked on pre-public hearing workshops throughout the province from 29 – 30 May 2023 held as follows: Ngaka Modiri Molema District – 41, Dr Ruth Segomotsi Mompati- 52 , Dr Kenneth Kaunda District- 60, Bojanala District - 62. A total of **215** people were reached in various districts of the province. After the pre – public workshops the committee embarked on Public Hearings throughout the province on 02 June 2023 held as follows; Ngaka Modiri Molema District (Groot Marico Community Hall - 280), Bojanala District (Klipgat Community Hall –280), Dr Ruth Segomotsi Mompati District (Boipelo Community Hall Reivilo –288) and Dr Kenneth Kaunda District (Matlwang Community Hall –158). A total of **1006** people were reached in various districts of the province.

3. OBJECTIVE OF THE NATIONAL LAND TRANSPORT AMENDMENT BILL [B 7F – 2016]

To amend the National Land Transport Act, 2009, to insert certain definitions and amend others; to provide for non-motorised and accessible transport; to bring the Act up to date with developments since the implementation of the Act; to provide for certain powers of provinces to conclude contracts for public transport services; to expand the powers of the Minister to make regulations and introduce safety measures; to amend other transport-related legislation to bring it into line with the Act; and to clarify or simplify various provisions or solve problems that have arisen since the implementation of the Act; and to provide for matters connected therewith.

4. PRESENTATION BY NCOP PERMANET DELEGATE ON THE NATIONAL LAND TRANSPORT AMENDMENT BILL [B 7F – 2016]

4.1 BACKGROUND

- The National Land Transport Act 5 of 2009 (“the principal Act”) was enacted to further the process of transformation and restructuring of the national land transport system started by the National Land Transport Transition Act 22 of 2000 (“the Transition Act”)
- The Bill is designed to update the principal Act and respond to changes since 2009
- The Bill also provides for the regulation of electronic hailing (e-hailing) services and provides for the amendment of contracting arrangements, among other issues
- One objective of the principal Act was to consolidate functions at the local sphere where possible to avoid fragmentation of functions
- The principal Act thus gives powers only to municipalities to enter into new contracts
- It only allows provinces and national government to continue with old order contracts until they are assigned to municipalities
- This provided challenges e.g. in that municipalities lacked capacity and disagreements occurred between provinces and municipalities
- To deal with these challenges and possible lapse of services in certain areas, the Bill seeks to amend section 11 of the principal Act to allow provinces to conclude new contracts and at the same time, to allow national government to intervene where provinces and municipalities fail to perform this duty
- The President expressed reservations about clauses 7(a), 7(b), 7(h), 7(i), 7(j), 7(k), 7(l) and 7(m) of the Bill based on objections by SALGA and the City of Cape Town
- The Department is of the view that the Bill can be amended to allay these concerns
- The concerns and recommended amendments to the Bill are discussed below
- However, prior to discussing content and substance of the reservations, it is crucial to see guidance and dictates of s79(3) of the Constitution read together with the NCOP Rules on receiving public input and remitted Bills
- S79(3) = the referral and remission does not relate to a procedural concern by the President however is on a single provision of a section 76 Bill since the NLT Amendment Bill was passed as a s76 Bill s79(3)(b) of the Constitution
- Joint Rules and NCOP Rules of Parliament dictate that when a Bill is remitted the reconsideration must and is restricted to the reservations of the President- hence the public input and consideration is restricted to clause 7 only. NCOP Rule 220 & JR 206(2)(b)(ii) & 209

Clause 7(a) – granting of contracting powers to the national sphere of government

Concerns expressed:

- The concern is that the national sphere may not generally assume local government functions for itself
- Also “The difficulty with clause 7(a) is that it appears to confer on national government the power to conclude a wide range of contracts concerned – irrespective of whether they are national in scope, provincial in scope or merely local in scope.”

Clause 7(a) – granting of contracting powers to the national sphere of government

Department’s response:

- Schedule 4, Parts A and B to the Constitution allocates the function of public transport to all 3 spheres (national and provincial government have concurrent powers and local government has powers over municipal public transport)
- However, to allay the concerns, the Department suggests that the sub-paragraph be deleted as the national sphere (Minister) has powers to intervene in terms of section 5(6) of the principal Act and the Constitution provides for intervention by the national sphere, in the case of provinces in section 100, and by the provincial sphere in the case of municipalities in section 139.

Clause 7(b) – granting of contracting powers to the provincial sphere of government

Concerns expressed:

- Similar reservations were expressed that the effect of the proposed amendments will be that where the relevant municipality does not meet the requirements and criteria to be prescribed by the Minister, the provincial sphere may step in and conclude the contracts with the operators instead of the municipality
- The concern is also that the provincial sphere may not generally assume local government functions for itself

Clause 7(b) – granting of contracting powers to the provincial sphere of government

Department’s response:

- The Department is of the view that there is no need to allocate this function to provinces as currently provided for in clause 7 (b) of the Amendment Bill. Municipalities will have an exclusive right to conclude new contracts in their areas. However, provinces can still perform this function on their behalf in terms of an agreement contemplated in section 12(1) of the principal Act.

- Section 12 of the principal Act specifically provides for agreements between provinces and municipalities, and between two or more municipalities and the department is of the view that this provision is sufficient in enabling provinces to assist municipalities in areas where municipalities lack the necessary capacity to perform this function

Clause 7(h) – municipalities may only contract if they meet the requirements and criteria prescribed by the Minister, and subject to the amended section 11(6) and the new section 11(9)

Concerns expressed:

- There are concerns about the constitutionality of the provision in that national and provincial government may not assume municipal functions for themselves and may only intervene where the requirements of section 139 of the Constitution are met
- There are also concerns about the news. 11(6) which provides that provinces must continue to act as contracting authority for contracts concluded under the Transition Act until those contracts lapse, expire, are cancelled or replaced. The words “unless that function has been assigned to a municipality ...” are deleted
- The concern is that there is no flexibility and the provision will apply even if the contract is exclusively for public transport within a specific municipality and even if the municipality has capacity

Clause 7(h) – municipalities may only contract if they meet prescribed requirements and criteria

Department’s response:

- The Department agrees that the proposed proviso to clause 7(h) of the Bill which provides for prescribed requirements and criteria be deleted.
- The Department agrees that municipalities will have an exclusive right to conclude contracts in their areas.

Clause 7(i) – exemption from the proviso to section 11(1)(c)(xxvi)

Concerns expressed:

- Clause 7(i) will insert a news. 11(1A)) to provide that municipalities may apply to the Minister for exemption from the need to comply with the prescribed requirements and criteria before contracting
- There are objections to this on constitutional grounds

Clause 7(i) – exemption from the proviso to section 11(1)(c)(xxvi)

Department’s response:

- Clause 7(i) should be deleted as a consequential amendment, as the proviso to section 11(1)(c)(xxi) will be deleted.

Clause 7(j) – assignment of the contracting function

Concerns expressed:

- Clause 7(j) will make a consequential amendment to s. 11(2) of the principal Act relating to removal of the assignment of the contracting function
- The referral objects to the removal of the power to assign as the Constitution and other legislation provide for assignment

Clause 7(j) – assignment of contracting function

Department's response:

- Clause 7(j) should be deleted as the assignment of the function will be retained due to the fact that the provision for municipalities to meet prescribed requirements and criteria will be deleted

Clause 7(k) – assignment of the contracting function

Concerns expressed:

- Clause 7(k) will delete ss. 11(3) and 11(5) of the principal Act to remove the provisions on assigning the contracting function to municipalities
- The referral questions the constitutionality of these deletions as the Constitution provides for assignment

Clause 7(k) – assignment of the contracting function

Department's response:

- The Department agrees that clause 7(k) should be deleted

Clause 7(l) – assignment of contracting function

Concerns expressed:

- Clause 7(l) will affect a consequential amendment to s. 11(4) of the principal Act in connection with assignment

Department's response:

- Clause 7(l) should be deleted as the assignment of the function will be retained

Clause 7(m) – provinces acting as contracting authority for contracts concluded under the Transition Act

Concerns expressed:

- Clause 7(m) will amend section 11(6) of the principal Act in connection with provinces continuing to act as contracting authority for contracts concluded under the Transition Act
- There is no flexibility to the provinces in this provision and it will apply even if the contract is exclusively for public transport within a specific municipality and even if the municipality has the capacity to administer the contract

Clause 7(m) – provinces acting as contracting authority for contracts concluded under the Transition Act

Department's response:

- The Department agrees that clause 7(m) should be deleted to leave section 11(6) of the principal Act as it is

4.2 Conclusions

- The Department is of the view that the referral of the President's reservations, based on the concerns of SALGA and the City of Cape Town, will be removed by amending the Bill as indicated above and shown in the attached proposed amendment document
- Section 11 (1) (a) (vi) of the principal Act provides that the National sphere of government is responsible for capacitating and monitoring provinces and municipalities that lack capacity or resources to perform their land transport function
- Furthermore, Section 11(a)(b)(vi) also provides that the provincial sphere of government is responsible for building capacity in municipalities to monitor the implementation of this Act.
- Given the capacity challenge in various municipalities, the Department together with province will ensure that the above sections should be enforced to ensure that municipalities have the necessary capacity to undertake the contracting functions as provided for in the Act and in the Bill.

5. ADVERTISING OF THE BILL

Stakeholders and communities were requested to submit written inputs.

Advertisements were posted on;

- North West Provincial Legislature Facebook page, North West Provincial Legislature Twitter handle
Regional newspapers

- The Mail, Klerksdorp Record and Rustenburg Herald
Community newspapers
- Ntsae Media (business INC and News fact) GIS Media, Ratlou News, Lekwa-Teemane Tribune, Molopo News and Tlhabane News, Taung Daily News, Tabea News, Mmega wa Dikgang.

Advertisements were broadcast on;

National radio stations

- Motsweding FM, SA FM and RSG FM

Community radio stations

- YOU FM, Mafikeng FM, Bophirima FM, Vaaltar FM, Kopanong FM, Star FM, Moretele FM, Mafisa FM and Bojanala FM.

6. PRE- PUBLIC HEARING WORKSHOP PRESENTATION

Following the referral of the National Land Transport amendment bill, National Road Traffic amendment bill and Economic Transport Regulation bill to the National Council of Provinces and subsequently respective Legislatures for processing, the North West Provincial Legislature set about to convene public hearings on the said bills. This is in line with section 114 of the Republic of South Africa Constitution, which empowers provincial legislatures to consider, pass amend or reject any Bill before the legislature and sections 59, 72 and 118 which oblige the Parliament, NCOP and Provincial Legislatures to facilitate public involvement in the legislative and other processes of the parliament, council and legislature, respectively.

As the NWPL gears towards convening public hearings on National Land Transport amendment bill, National Road Traffic amendment bill and Economic Transport Regulation bill, it was deemed appropriate to conduct pre-public hearing workshops. This is to empower the stakeholders interested in attending public hearing as regards the content, implication and rationale of the bill prior to hearing so that participants are in a better position to make valuable inputs and influence the shape of the final product, being the promulgated Act.

Therefore, the purpose of this paper is to seek approval to conduct workshops in line with 59, 72 and 118 of the Constitution:

- To clearly define public participation processes and procedures within the context of legislature;

- To outline the procedure to be followed to obtain the views of the public on policy, legislation and other matters before Legislature in order to enrich the decision-making processes and to determine the timelines within which could be achieved and
- To provide for ways and means of imparting knowledge and information to communities/public about matters before Parliament so as to enable them to participate effectively in the decision-making processes on matters affecting them.

INPUT ON PRE- PUBLIC HEARING WORKSHOPS

6.1 NGAKA MODIRI MOLEMA DISTRICT

- 6.1.1 Clause 9, Section 13(f) the Community wanted to know if a member of the SAPS or Traffic Officer bought a taxi for one of the family members for that person to start a living, how this matter is resolved.
- 6.1.2 Traffic Officers issued traffic fines to the drivers due to their vehicles not being road worthy, this is because of the bad condition of roads in Ngaka Modiri Molema district
- 6.1.3 How does this Bill assist hikers in the hiking area?
- 6.1.4 Most communities are using donkey carts on the road, a suggestion was made that those donkey carts need to be registered at the Traffic Department to have a number plate the same as the motor vehicle.

8.2 DR RUTH SEGOMOTSI MOMPATI DISTRICT

- 8.2.1 There is a need of the transport inspectorate matter to be enforced by the Bill.
- 8.2.2 Subsidy of the taxi industry helps to integrate it into the transport sector

8.3 DR KENNETH KAUNDA DISTRICT

- 8.3.1 Are the E-Hailing transports required to have licences?
- 8.3.2 There must be routes for e-hailing transport and for minibus taxis and their organisations must work hand in hand.

8.4 BOJANALA DISTRICT

- 8.4.1 The Community driving school to have a link with the department of education and public safety so that the curriculum must empower the driving school tutors by giving learners the lesson for driver's licences
- 8.4.2 Request that before the amendment of the bills all the Transport associations must be engaged
- 8.4.3 A Concern was raised that the bill will affect the community driving schools

9 PUBLIC HEARING

After the workshops the Portfolio Committee embarked on Public Hearing across the province on 02 June 2023. the public raised the following concerns

PUBLIC INPUTS/CONCERNS

After the presentation by the Portfolio Committee, the public raised the following concerns;

9.1 NGAKA MODIRI MOLEMA DISTRICT

- 9.1.1 Ngaka Modiri Molema Taxi Association raised a concern that the community of Mafikeng is not part of the proceedings and the Bill gives them powers but they are not represented in the session.
- 9.1.2 The Bill takes powers from Provincial to the Municipal Regulatory Entity. The Principal Act Section 11,' national sphere of government is to conclude and subsidize contracts'; 'provincial regulatory entity is also granted the same powers'; 'where the municipality does not meet requirements, the Minister will take over'. SANTAGO is not representing them, the permits and licences are paid at municipal levels, but it is administered nationally. Another concern is that the transport used must be recap-compliant.
- 9.1.3 The Municipal Regulatory Entity is a good idea, personnel though must be trained and capacitated with skills and rigid penalties.
- 9.1.4 Subsidy of the taxi industry helps to integrate it into the transport sector.
- 9.1.5 Law enforcement officers are too few to cover the whole province, is there a budget as well as the human capital and skill for the integration.
- 9.1.6 Illegal operators and e-hailers are a cumbersome burden to the taxi industry as they poach commuters.
- 9.1.7 The industry has many people with vast experience in the transport industry. The people that have skills in the industry need to be further consulted to chart a way forward. The programmes for scheduled transportation be initialised, then government must approach them in the association. The questions of skill must be coupled with financial backing the department must do the budget and include all changes.
- 9.1.8 There is a section in the Bill that speaks of colour coding and branding, the community wanted to know what benefit does the coding serve the taxi industry.
- 9.1.9 The concern was raised regarding enforcement inspectors, law enforcement is not expressed in the Bill. There was previously an inspectorate, matter of funding is not expressed in the Bill either.
- 9.1.10 There is a need of the transport inspectorate matter to be enforced by the Bill.

- 9.1.11 The Tswaing Taxi Association raised a concern that the legislation is not addressing any of the challenges and previous injustices towards the taxi industry, it needs to be subsidised to help them make a living for their families.
- 9.1.12 Amendment of section of Act 5 of 2009 the community request the term Taxi Association to be clarified on the Bill.
- 9.1.13 The community raised dissatisfaction about people who work at municipalities and issue permits to friends and relatives.
- 9.1.14 The community requests the Bill to indicate that the taxi industry be integrated with the bus transport system.
- 9.1.15 Traffic Officers are not enough to cover the EMS in the province therefore the community requests government to hire more traffic officers.
- 9.1.16 The community wanted to know how much money has been spend on NTI in previous years as they are some employees who did not get their salaries.
- 9.1.17 The community indicated that the people who use Uber transport should associate themselves with the association of the taxi industry.
- 9.1.18 The community wanted to know in the Bill which Law is being used to subsidise the taxi industry
- 9.1.19 Clause 4: Amendment of section 9 of Act 5 of 2009, a concern was raised how is colour coding and branding of public transport vehicles, how does the flag of South Africa benefit the taxi association.
- 9.1.20 The community requests the MEC of Community Safety & Transport Management, to do thorough consultation with the taxi drives and owners in relation to subsidising the industry.

9.2 DR RUTH SEGOMOTSI MOMPATI

- 9.2.1 The Bill must cover the importance of the resuscitation of the Transport Rail Systems in the Country, as this would contribute to less motor vehicle accidents and less damage to the road infrastructure.
- 9.2.2 The Communities welcomed and supported the Code of conduct – for operators and drivers of public transport services to be introduced by the Bill.

9.3 DR KENNETH KAUNDA DISTRICT

- 9.3.1 The provincial government to assist Municipalities to have by-laws e.g Maquasi Hills Municipality.
- 9.3.2 The Act is silent on the number of taxi associations to be approved per municipality because most municipality have more than one association and this causes fights over taxi routes.

9.4 BOJANALA DISTRICT

- 9.4.1 The Community of Bojanala from the taxi industry appreciate and welcome the Bill
- 9.4.2 The Community appreciate the capacity within the municipalities
- 9.4.3 The Community of Bojanala required clarity on slide 15 concerning the capacity increase

10 RECOMMENDATIONS

- 10.1 E-hailing must have its own dedicated area to avoid conflicts. It must be well regulated
- 10.2 The purchase of recap-complaint vehicles is not well received in the taxi industry and must be reconsidered.
- 10.3 Driver's license of foreign nationals in the country needs to be regulated, especially when they drive South African registered vehicles.
- 10.4 The Municipal Regulatory Entity implementation will need funding and the budget should include capacity training and reinforcing number of law enforcement officials.
- 10.5 The number of the regulated licences per owner needs to be closely monitored and well distributed.
- 10.6 Colour-coding and branding on vehicles will assist in identifying those who are registered

11 ADOPTION OF THE BILL

1.1 Three districts in the province are supporting the Bill, viz: Bojanala, Dr Kenneth Kaunda and Dr Ruth Segomotsi Mompoti.

1.2 The Ngaka Modiri Molema District rejects the Bill.

12 ACKNOWLEDGEMENTS

The Chairperson of Committee thanked all the present Members for their commitment to the oversight process of the National Land Transport Amendment Bill [B 7F – 2016]

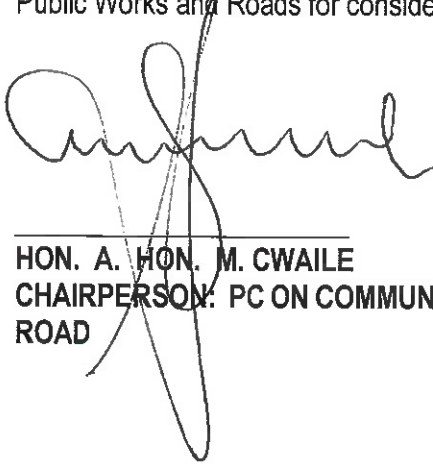
The Chairperson of Committee would also like to thank the support staff for contributing in compiling this report.

13 ADOPTION OF THE REPORT

The Portfolio Committee recommends that the House approve the passing of the National Land Transport Amendment Bill [B 7F – 2016] and mandates the North West Permanent Delegate in the National Council of

Provinces to vote in support of the National Land Transport Amendment Bill [B 7F – 2016] as tabled by the Minister of Transport.

I present to this House this report of the Portfolio Committee on Community Safety and Transport Management, Public Works and Roads for consideration and adoption.



HON. A. HON. M. CWAILE

CHAIRPERSON: PC ON COMMUNITY SAFETY AND TRANSPORT MANAGEMENT, PUBLIC WORKS AND ROAD

DATE

13/06/2023