

CHAPTER 3



NMT-FRIENDLY POLICY AND LEGISLATION

3. NMT-FRIENDLY POLICY AND LEGISLATION

3.1 Introduction

The comprehensive and consistent inclusion of NMT in urban planning processes is reliant on the existence of a regulatory and institutional environment that embraces NMT. This chapter describes the roles of the spheres of government in relation to NMT. It also reviews policy, legislation and planning documents and identifies potential legislative gaps that may inhibit the serious inclusion of NMT considerations in planning and among key role-players

3.2 The role of government in promoting NMT

3.2.1 THE ROLE OF NATIONAL GOVERNMENT

The National government sets the national policies, legislation and guidelines for NMT. These are then adhered to by all entities on issues pertaining to land use and land transport.

The National Department of Transport (DoT), is responsible for determining transport policy in South Africa. It is the responsibility of the provinces and local government to implement policies (by means of provincial bills, by-laws, strategies and plans).

At an implementation level, the DoT has also been involved in implementing NMT Pilot projects through the Shova Kalula (pedal easily) programme in all major cities and a select number of rural areas in the country.

3.2.2 THE ROLE OF THE PROVINCIAL GOVERNMENT IN PROMOTING NMT

The provincial governments set provincial policies and guidelines, as well as assist municipalities in the implementation of demonstration projects. The provinces also monitor and support the local governments, and coordinate and approve municipal Integrated Transport Plans (ITPs).

Based on the provincial vision, the provinces formulate delivery plans for transportation that includes NMT; as well as identify alternative funding sources. The province also ensures that NMT receives appropriate attention in the Provincial Land Transport Framework (PLTF); Comprehensive Integrated Transport Plans (CITPs); District Integrated Transport Plans (DITPs); and Local Integrated Transport Plans (LITPs). Local and district municipalities.

3.2.3 THE LOCAL AND DISTRICT MUNICIPALITIES

The Local and District Municipalities plan, design, implement and maintain local NMT infrastructure as well as establish by-laws to regulate NMT activity within the respective municipalities. The local and district municipalities prepare comprehensive District and Local Integrated Transport Plans which identify the needs with respect to movement, safety, awareness and skills in relation to NMT.

Part of this process involves identifying ways in which NMT can support public transport, as well as preparing a strategic approach to NMT. This leads to identifying individual projects within the strategy and reviewing traffic impact assessments for inclusion of appropriate NMT infrastructure in new developments.



Figure 3.1 Signage as a clear communication tool.

3.3 Legislative review

A Legislative Review on NMT in South Africa was undertaken to provide a high-level overview of policy and legislative provisions for NMT in South Africa. The review considered the following:

- A review of major policy documents on NMT;
- A selection of provincial policy documents;
- A selection of municipal policy documents;
- A review of municipal by-laws; and
- Identification of major legislative shortcomings or constraints in the implementation of NMT.

The key findings from the review are provided below.

3.3.1 NATIONAL POLICY DOCUMENTS

In December 2008, the DoT released the Draft National Non-motorised Transport Policy, establishing a national context for improving access and mobility. The national document recognises that NMT planning must be integral to transport planning, and its vision and mission is that NMT will be a sustainable and stimulant mode of transport for social and economic development within an integrated efficient transport system, and that the mobility needs of marginalized communities and NMT users shall be met through the provision of a safe, secure, and reliable transport system.

Other national documents that make reference to NMT include:

- The White Paper on National Transport Policy, 1996
- The National Land Transport Strategic Framework, 2006
- The Public Transport Strategy and Action Plan, 2007
- The Rural Transport Strategy for South Africa, 2005
- The National Climate Change Response White Paper, 2012

From the select number of policy documents reviewed, an emerging trend is that there is an increasing reference to and inclusion of NMT considerations, which is a major improvement on policy documents developed in the 1990s. Importantly, the





Public Transport Strategy of 2007 makes extensive provision for NMT.

3.3.2 PROVINCIAL POLICY DOCUMENTS

A select number of provincial documents were reviewed, and NMT features in the 2009 Draft Paper on North West Transport Policy document, the 2011 Western Cape Provincial Land Transport Framework (PLTF), the 2011 KwaZulu-Natal Strategic Plan. It is also an integral part of the Gauteng 25-Year Transport Master Plan that was developed in 2012/13.

3.3.3 MUNICIPAL POLICY DOCUMENTS

In terms of the Constitution, municipalities are responsible for municipal public transport, municipal roads, municipal planning and roads and traffic. The municipal policy documents that were examined show an increasing awareness of the need to promote and accommodate NMT in recent years. This is both in terms of planning and execution of infrastructure and operations, and to respond to the trends in national and provincial policy. This is specifically true of the NMT Programme pilot cities.

ETHEKWINI METROPOLITAN MUNICIPALITY, NON-MOTORISED TRANSPORT PLAN, 2013

This plan emphasizes the importance of creating an enabling environment for NMT.

As a policy statement it states that Ethekwini will have a safe, functional and attractive public environment for NMT users, which provides all of its people decent access to opportunities and improved quality of life, stimulates economic growth, and creates a sustainable City for the future. It provides various methods and interventions to achieve this goal.

CITY OF JOHANNESBURG, FRAMEWORK FOR NON-MOTORISED TRANSPORT, 2009

The vision aims 'for Johannesburg to be a cycle and pedestrian-friendly city where everyone has access to urban opportunities and mobility, walking and cycling are safe and convenient and are the preferred modes for short distance and convenience related trips.'

POLOKWANE LOCAL MUNICIPALITY NMT MASTER PLAN, 2014

Polokwane's NMT policy aims to be in line with its Integrated Rapid Transport Strategy for the City.

3.4 Legislation that impedes NMT and suggested changes

- i. Several **municipal by-laws** in South Africa have been reviewed. The majority of these by-laws either do not address matters pertaining to NMT or they contain provisions that could be restrictive towards implementing NMT proposals. Therefore, municipalities should be encouraged to develop by-laws on NMT and/or amend their existing by-laws that may be restrictive. The DoT should consider drafting by-laws that can be implemented by municipalities, with or without amendments.
- ii. The **Minimum Requirements for ITPs and Provincial Land Transport Frameworks (PLTFs)** should possibly be amended to provide for more concrete key performance indicators that must be met in the promotion of NMT.
- iii. **Provincial Land Transport Frameworks (PLTFs)** must be submitted to the DoT for scrutiny, and the DoT should take the opportunity to check that NMT requirements are being met in the actual plans. The Members of Executive Council (MECs) should undertake a similar process when ITPs are submitted to them in terms of the National Land Transport Act (NLTA).
- iv. The **National Road Traffic Regulations, 2000** made in terms of the NRTA (NRT Regulations) should be scrutinised in detail to identify problems or hurdles that may stand in the way of NMT promotion. Key aspects include:
 - a. The rules of the road (Part 1 of Chapter X) should be amended to add duties of motorists towards pedestrians and cyclists. This should include that motorists must give way to pedestrians and cyclists at all times and take proper care when passing/overtaking cyclists. At present the Regulations place responsibility on the cyclist to avoid collisions, where the primary duty should be placed on drivers of motor vehicles.
 - b. Chapter XI of the NRT Regulations should be amended to create specific offences of colliding with or endangering pedestrians and cyclists, and include strict penalties for those offences.
 - c. Regulation 204 (2) provides that drivers and passengers of pedal cycles on public roads must wear protective helmets. This should possibly be expanded to include other protective equipment. However, the impact of these provisions on the use of bicycles by poor persons should be considered.
- v. **Planning legislation:** An appropriate place to insert more detailed provisions would be provincial planning legislation. This should be amended, for example, to provide for the compulsory provision of pedestrian and cycle paths along public roads and within residential and mixed-use real estate developments. Provision should also be made for rest points, water, toilets, lighting, trees, landscaping and refuse facilities.
- vi. **Municipal by-laws:** Municipalities have the mandate to develop by-laws that can facilitate a whole host of issues that can promote or benefit NMT. Rather than relying on each of them to do so (there are about 234 municipalities in South Africa) as indicated earlier, it is recommended that the DoT produce a model or standard by-law which it can encourage municipalities to adopt.

The standard by-law will then apply in a particular municipality once adopted by its Council. Municipalities may change or adapt it before adopting it.
- vii. There is an urgent need for the road traffic legislation to be examined in order to introduce other measures into the National Road Traffic Act and/or Regulations to promote the safety of pedestrians and cyclists.
- d. The regulations placing restrictions on the use of sidewalks and verges by cycles or non-motorised vehicles should be reconsidered.

3.5 Concluding comments

In conclusion, a rich institutional environment exists to support the uptake and mainstreaming of NMT considerations. However, until the omissions and oversights that currently exist in relevant policy and legislation are addressed, the uptake of NMT considerations will be limited.