

## Effective Devolution of Transport Functions to Municipalities: Towards an Optimal Transport System

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### 9.1 Introduction

This chapter investigates options for improving public transport service delivery through devolving public transport functions from provincial governments to municipalities. An effective transport system is one that minimises its generalised costs and is supportive of inclusive growth. Indeed, the wellbeing of a society can be reliably measured by the extent to which it is served by its transport system.

The investigation is being carried out in two phases. The first phase (reported in this chapter) is aimed at profiling a broad set of principles that should inform the devolution process. The second phase will use additional data and information collected from various primary and secondary sources to provide recommendations on how devolution should be carried out. The first phase of the investigation, in particular:

- Draws on the previous Financial and Fiscal Commission (the Commission) studies on transport in the country.
- Establishes a set of principles that must be in place for effective devolution of transport functions.
- Identifies critical funding gaps for the current arrangement in transport.
- Identifies the implications of funding gaps on the optimal management of modal split e.g. road and rail.
- Identifies compelling reasons for devolving transport functions.
- Draws on comparative international experience of the devolution of transport functions.

After providing some background on the devolution of transport functions and a summary of relevant previous Commission studies, transport functions are profiled based on the South African transport legislation. The critical transport funding gaps are then discussed, as well as the implications of these gaps on transport service delivery and the devolution process. A motivation for devolving transport functions to municipalities follows, with local and international case studies used to illustrate successes and failures of devolving and consolidating transport functions. Lastly, the critical success factors for effective devolution are summarised, concluding with recommendations.

### 9.2 Background

The White Paper on National Transport Policy (DoT, 1996) envisages a transport system in South Africa that is “safe, reliable, effective, efficient, and fully integrated transport operations and infrastructure which will best meet the needs of freight and passenger customers at improving

levels of service and cost in a fashion which supports government strategies for economic and social development whilst being environmentally and economically sustainable". Achieving this vision for transport is fundamental to the realisation of the Bill of Rights contained in the South African Constitution. For example, in many respects, a transport system that fails to service some segments of the population violates the rights to equality, human dignity, and movement. Moreover, a transport system that disproportionately exposes its users to danger is in violation of the rights to life and security of person, especially for vulnerable groups such as women, children, the disabled and the aged. Recognising the importance of transport in society, Schedules 4 and 5 of the Constitution define, at a high level, exclusive and concurrent transport functions to be performed by national and provincial governments. The National Land Transport Act (South Africa, 2009) defines these functions more explicitly, including those to be performed by municipalities.

Previous research carried out by the Commission has made a case for rationalising the allocation of transport functions across the three spheres of government in order to improve the effectiveness of transport services. These recommendations are in line with the provisions of the White Paper on National Transport Policy (DoT, 1996), which recommends that some of the transport functions be devolved to the lowest "appropriate level of government". Previous research studies by the Commission have made the following observations and recommendations:

- The management of the urban built environment, movement in the space, as well as services and infrastructure, warrants bringing these functions together in a single institution (FFC, 2010).
- It is important that many of the functions related to urban built environment be integrated at city level (FFC, 2011).
- Current institutional fragmentation in cities has resulted in inefficient use of space and resources, for example in some cities, bus rapid transit (BRT) routes being implemented are providing a parallel service to the subsidy-hungry Metrorail train services (FFC, 2011).
- Devolving some of the transport functions to the cities is desirable for better coordination and planning. However, devolution should not result in merely transferring existing problems to municipalities; for example, devolving without necessary adequate funding and technical capacity (FFC, 2011).
- Failure to implement transport interventions contained in the 1996 White Paper can be attributed to the ineffective allocation of responsibilities across different spheres of government (FFC, 2010).
- Public transport management has historically been fragmented, leading sometimes to contestations between provincial and city governments. For example, the Gauteng government's monorail project, which, if not halted, would have competed directly with Johannesburg's state-subsidised BRT system (FFC, 2010).
- While it is desirable to consolidate transport functions at city level, the management of financial risks associated with the devolution has not been addressed (FFC, 2010).
- Urban commuter rail services need to be embedded within city transport management functions (FFC, 2010).
- Greater coordination of road management functions is needed across the three spheres of government (FFC, 2009).

From this previous research, the devolution of transport functions appears to be consistently supported and to be limited to urban areas, especially the cities. However, a number of questions have not been satisfactorily addressed by the Commission's previous research, such as:

- Which transport functions are appropriate for devolution to municipalities?
- Under what conditions is devolution appropriate?
- What are the risks associated with devolution, and how should these risks be managed?
- What process should be followed for effective devolution?
- What are the resource implications for devolution to be effective?

In addition to the above questions, preliminary stakeholder consultations generated the following additional questions:

- How effective are the recent interventions provided for in the National Land Transport Act to address the historical shortcomings of poor intergovernmental relations on shared transport competencies?
- What accountability frameworks will be most effective to ensure that delegated transport functions are not compromised in the long run?

The current research is aimed explicitly at addressing these questions, as well as matters related to the practical implementation of the devolution process.

### 9.3 Typology of Transport Functions

Transport is a multi-disciplinary domain, and is intrinsically linked to the rest of the built environment. Therefore, identifying functional boundaries in the transport system is virtually impossible. However, distinct key functional areas can be identified:

- **Planning.** This includes policy formulation, subsequent development of transport plans in line with policy, and overall monitoring of the system to allow for the refinement of plans.
- **Implementation.** This involves the implementation of transport plans, including day-to-day traffic management functions provided for in the plans.
- **Liaison.** This entails various forms of stakeholder engagements.
- **Regulation.** This requires the formulation of rules that govern the operational responsibilities of different actors in the system. Regulation can take various forms, including economic, safety, and environmental rules.
- **Law enforcement.** This entails operations aimed at ensuring the different actors comply with regulations.
- **Service provision.** This involves the actual provision of passenger and freight transport services.
- **Funding.** This covers the generation, administration, and expenditure of money to support the transport system.

Section 11(iv) of the National Land Transport Act (2009) empowers government to assign these functions to the most appropriate sphere of government. Furthermore, one or more adjacent municipalities may jointly undertake a function or even establish a joint entity for the purpose of fulfilling the function. Using the above typology of functions, Table 74 (see page 232) summarises the different transport functions currently assigned to the three spheres of government, and the

following observations can be made:

- Functions are closely tied to infrastructure ownership. This implies, among other things, that a national government agency – for example the Passenger Rail Agency of South Africa (PRASA) and South African Roads Agency Limited (SANRAL) – can act independently of a municipality in relation to the infrastructure the agency owns.
- In what appears to be a duplicated function, all spheres of government perform the same road traffic law enforcement functions.
- Some municipalities are currently acting as both public transport operators and adjudicators of operating licence applications.
- National funding is made according to modes of transport, for example bus and train subsidies, and not necessarily for a functional network. This in turn creates allocation inefficiencies, with less than optimal numbers of passengers per kilometre offered by all the services in the network

In the current transport governance arrangement (summarised in Table 74), municipalities are responsible for compiling integrated transport plans for their areas of jurisdiction. However, they often do not have the authority to implement the plans fully because the powers are fragmented across different spheres of government. A common problem is provinces deciding on public transport operating licenses without considering the integrated transport plans prepared by municipalities. PRASA has also been known to make plans that are not necessarily informed by the municipal integrated transport plans. In addition, the transport coordinating structures provided for in the National Land Transport Act often do not exist or are not properly resourced (e.g. intermodal planning committees). However, attempts have been made recently to revive these structures, especially for cities with urban passenger rail services, in light of the implementation of the capital-intensive national Public Transport Strategy (DoT, 2007).

Table 74: Typology of Transport Functions

Functional area	National	Provincial	Municipal
<b>Planning</b>	<ul style="list-style-type: none"> <li>• Development of National Transport Policy.</li> <li>• Development of the National Land Transport Strategic Framework.</li> <li>• Monitoring of transport policy implementation.</li> <li>• Planning of port infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• Development of Provincial Land Transport Framework within the national framework.</li> <li>• Monitoring of the implementation of the provincial land transport framework.</li> </ul>	<ul style="list-style-type: none"> <li>• Development of transport plans as provided for in the National Land Transport Act and other national and provincial guidelines.</li> <li>• Coordination of transport and land use.</li> </ul>
<b>Implementation</b>	<ul style="list-style-type: none"> <li>• Provision and maintenance of road infrastructure through SANRAL.</li> <li>• Provision and maintenance of national rail infrastructure through Transnet (freight) and PRASA (passenger).</li> <li>• Provision and maintenance of ports (airports, and seaports).</li> <li>• Maintenance of national transport asset register for national roads.</li> <li>• Implementation of port infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>• Provision and maintenance of provincial road infrastructure.</li> <li>• Maintenance of provincial transport asset register.</li> <li>• Maintenance of a provincial transport asset management system</li> </ul>	<ul style="list-style-type: none"> <li>• Provision and maintenance of municipal road infrastructure.</li> <li>• Implementation of transport plans.</li> <li>• Maintenance of municipal transport asset register.</li> <li>• Maintenance of municipal transport asset management system.</li> <li>• Traffic management.</li> </ul>
<b>Liaison</b>	<ul style="list-style-type: none"> <li>• Coordination of the implementation of transport policy in the country.</li> <li>• Liaison with other countries to establish bilateral agreements.</li> </ul>	<ul style="list-style-type: none"> <li>• Coordination of transport policy implementation in the province.</li> </ul>	<ul style="list-style-type: none"> <li>• Promotion of public participation in transport planning.</li> <li>• Dissemination of public transport information to users and potential users.</li> <li>• Establishment and management of an intermodal planning committee (if municipality is establishing integrated public transport network or has significant passenger rail services).</li> <li>• Establishment of a land transport advisory board to advise on land transport matters.</li> </ul>
<b>Regulation</b>	<ul style="list-style-type: none"> <li>• Formulation of national transport regulations.</li> <li>• Formulation of regulations in respect of the contents of transport plans across all spheres of government.</li> <li>• Requirements for different types of public transport contracts.</li> <li>• National requirements for safe and secure transport system.</li> <li>• Approval of inter-provincial public transport operating licences.</li> <li>• Approval of cross-border passenger transport permits.</li> <li>• Approval of cross-border freight transport permits.</li> <li>• Guidance concerning education, training and capacity building in transport matters, and prescribed requirements in this regard.</li> <li>• Formulation of regulations related to integrated fare systems.</li> <li>• Formulation of regulations on special requirements for drivers and vehicles.</li> <li>• Formulation of regulations on information management systems across the different spheres of government.</li> </ul>	<ul style="list-style-type: none"> <li>• Formulation of provincial transport regulations.</li> <li>• Administration and approval of intraprovincial operating licences, and comment on interprovincial applications.</li> <li>• Administration of provincial appeal tribunal in respect of operating licence applications.</li> </ul>	<ul style="list-style-type: none"> <li>• Formulation of transport-related bylaws.</li> <li>• For municipalities assigned this function, receipt and decisions on applications relating to operating licences for services wholly in the municipality's areas of jurisdiction.</li> <li>• Comment on operating licence applications.</li> </ul>
<b>Law enforcement</b>	<ul style="list-style-type: none"> <li>• Law enforcement through the Road Traffic Management Agency.</li> </ul>	<ul style="list-style-type: none"> <li>• Enforcement of national and provincial transport regulations.</li> <li>• Control of overloading on provincial roads.</li> </ul>	<ul style="list-style-type: none"> <li>• Enforcement of municipal by-laws.</li> <li>• Enforcement of national and provincial regulations.</li> <li>• Coordination of law enforcement with other organs of state.</li> </ul>

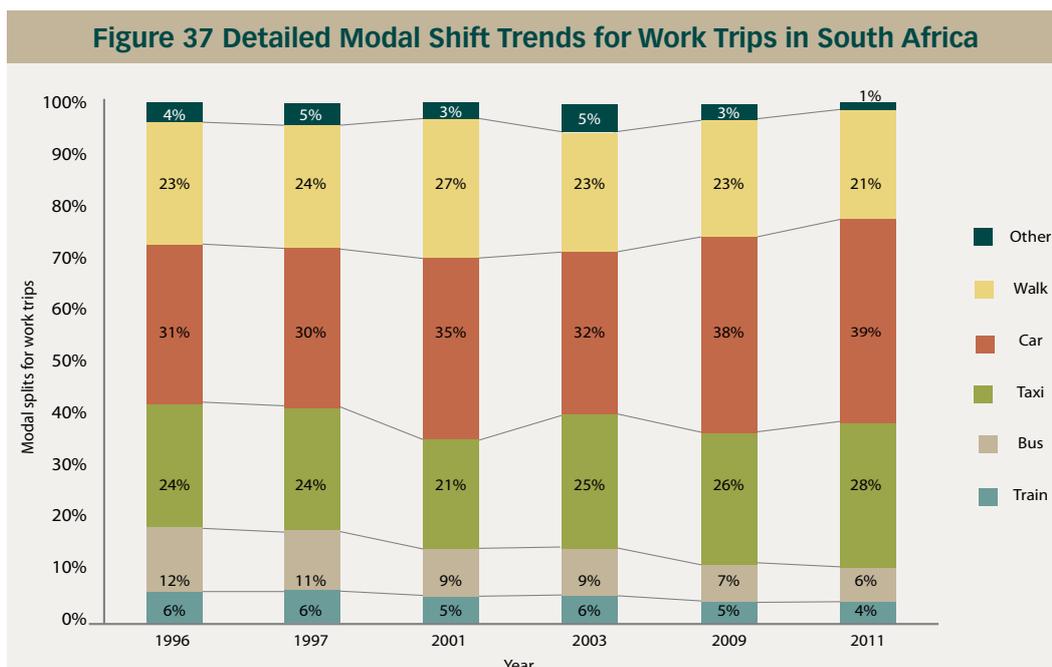
Functional area	National	Provincial	Municipal
<b>Service provision</b>	<ul style="list-style-type: none"> <li>Provision of long distance and city-based passenger rail services through PRASA.</li> <li>Provision of long distance bus service through PRASA.</li> <li>Provision of freight transport services through Transnet.</li> <li>Provision of port operations.</li> </ul>	<ul style="list-style-type: none"> <li>Enter into contracts with public transport operators.</li> <li>Administration of scholar transport service contracts.</li> </ul>	<ul style="list-style-type: none"> <li>Provision of municipal public transport services.</li> <li>Enter into contracts with public transport operators.</li> <li>Development and management of intelligent transport systems.</li> </ul>
<b>Funding</b>	<ul style="list-style-type: none"> <li>Appropriation of bus subsidies.</li> <li>Appropriation of passenger rail subsidies.</li> </ul>	<ul style="list-style-type: none"> <li>Payment of bus subsidies.</li> </ul>	<ul style="list-style-type: none"> <li>Financial planning of transport projects and programmes in the municipal transport plan.</li> </ul>

## 9.4 Implications of Transport Funding for Fulfilment of Transport Functions

Passenger transport in South Africa is increasingly becoming private-car based, at the expense of public transport. Figure 37 shows the modal shift for work trips over the period 1996–2011. What is worth noting is that the proportion of car-based trips has steadily increased, in particular minibus taxis have consistently grown their market share. In contrast, the market share of buses has been declining. Despite increased public expenditure (of R8 billion per annum), private and non-subsidised public transport services still outperform bus and train services. A similar trend has been observed for freight transport, where road-based transport carries the bulk of the load.

Reasons for this trend in passenger transport include:

- Settlement patterns have changed, but bus networks remain virtually the same, whereas minibus taxis adapt quickly.
- Built-up areas are increasingly located away from high-capacity public transport modes, such as trains.
- Growth in the middle class, with increased per capita income, has translated into car purchases and an increased propensity to use cars, even in historically smaller towns.

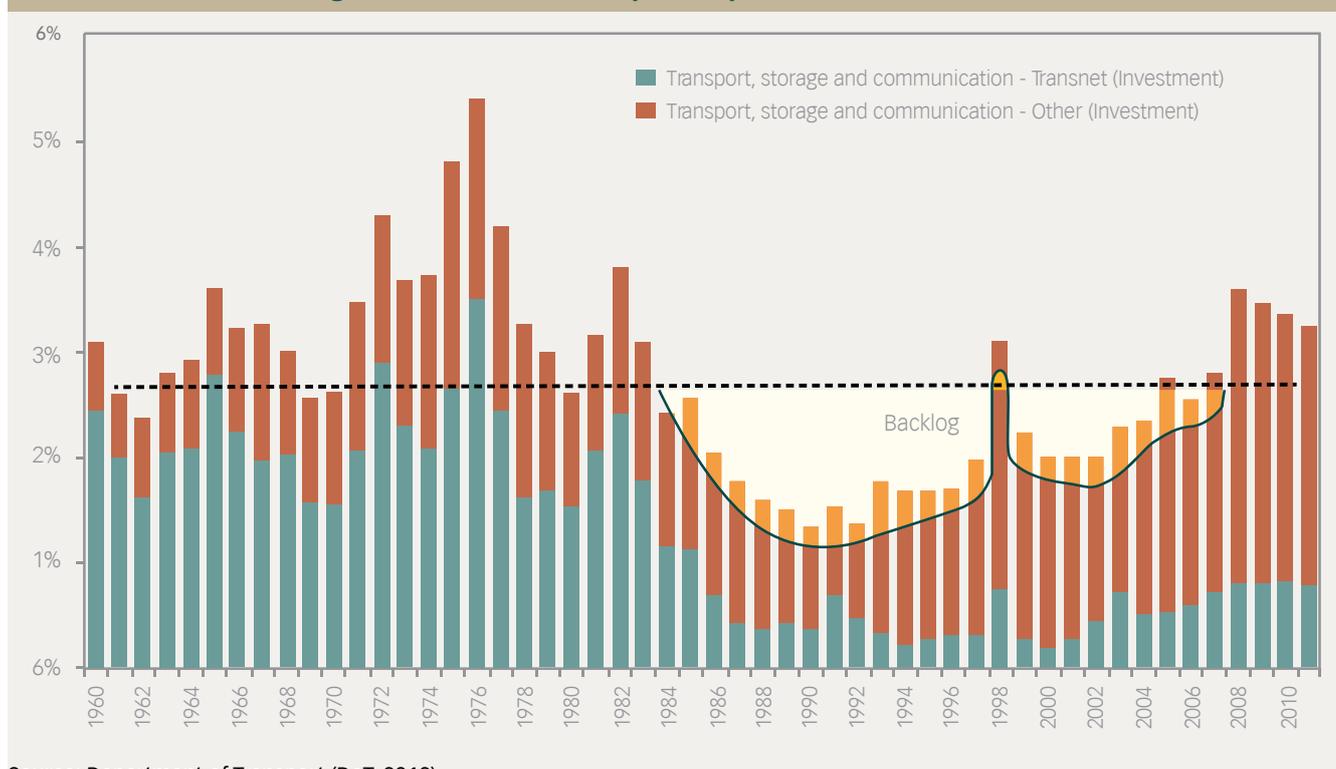


Source: StatsSA (1996, 1997, 2001, 2010, 2011); DoT (2003).

Figure 37 illustrates a key failure in the transport system: the inability to manage transport service as a network and the failure of state subsidies to address mobility needs. Many of the modes of transport compete against each other instead of being complementary. To address this challenge, planning authorities need to manage transport as a network, which would require greater coordination and alignment among intergovernmental stakeholders with transport mandates. The devolution of functions to municipalities, as envisaged in the 1996 White Paper, should allow municipalities to manage transport as a network. Practical application of a network-management approach would include designing all public transport contracts in line with the mobility needs of the municipality and managing the service providers in terms of these contracts.

In addition to the lack of integrated planning and service delivery, capital investment in transport has been declining, particularly in the period 1996–2000, as Figure 38 shows. One result of this under-investment is aged and unreliable rolling stock for both passenger and freight transport infrastructure.

**Figure 38: National Transport Capital Investment Trends**



Source: Department of Transport (DoT, 2012).

The trends highlighted in Figure 38 suggest that the transport function has historically been underfunded and, where funded, the expenditure has been ineffectively utilised. Therefore, funding mechanisms for effectively devolving transport functions to municipalities must be addressed, to avoid also devolving historical problems, especially relating to financial management.

The Local Government Municipal Finance Management Act (South Africa, 2003) provides guiding principles for local government financial management. In relation to the devolution of transport functions to municipalities, the following set of principles is particularly noteworthy:

- A municipality may incur expenditure only in terms of an approved budget.

- Expenditure must be within the limits of the amounts appropriated in the approved budget, and be funded from realistically anticipated revenues to be collected, uncommitted accumulated funds or borrowed funds (in case of capital projects).
- Budgets for multi-year capital projects must reflect the total budget required to implement the entire project, as well as the revenue and cost implications of implementing the project.
- The budget must be informed by the municipality's integrated development plan. This implicitly implies that any transport-related expenditure must also be informed by the municipality's integrated transport plan in terms of the National Land Transport Act (South Africa, 2009).

Therefore, taking into account the above principles, the devolution of any function to a municipality must be accompanied by an equivalent additional source of revenue. Furthermore, such functions must be contained in the municipalities' integrated transport plans in order to be reflected in the municipal budget. Net savings in the transport system may also be possible, if inherent inefficiencies are addressed through rationalised allocation of transport functions.

The Commission (2011) classifies South African municipalities into five categories: metropolitan municipalities, secondary cities, large towns, smaller towns and rural municipalities. The classification is based on features such as population density, gross value add per capita, and revenue-generation capacity. Metropolitan municipalities have local rates and a tax revenue-generation capacity of 1.00, whereas secondary cities, large towns, smaller towns and rural municipalities have self-generated revenue capacity of 0.59, 0.46, 0.30, and 0.04 respectively. This implies that, from a financial viability perspective, any devolution of transport functions would be best suited to metropolitan municipalities in the short term.

## 9.5 Motivation for Devolving Transport Functions

The fundamental reason for devolving transport functions to municipalities should be to allow the municipalities to manage transport as an integrated network of services. The responsibility of managing a network as a whole reduces fragmentation and would be cognisant of the roles of different modes of transport within the network. Furthermore, the level of accountability for delivering transport services improves, thereby providing the tax payer with value for money. Theoretically, devolving functions to municipalities is likely to allow transport to be customised in order to become compatible with the rest of the built environment managed by municipalities. However, devolution must be carefully planned and executed. If not managed systematically, there is a strong possibility that unfunded mandates will be created, resulting in reduced capacity to deliver. Municipalities must also have the technical capacity to undertake the devolved functions, as failure to do so will also result in the reduced capacity of the state to deliver. Research shows that most municipalities lack critical technical skills to undertake the assigned functions (Lawless, 2007). Therefore, devolution should be undertaken after a thorough skills audit for the functions being devolved. Skills are one of the many items that will be reviewed in terms of the checklist created by the Commission for assessing function shifts (FFC, 2007).

## 9.6 Case Studies of Transport Devolution

An emerging international trend is the formation of bodies within local government that are responsible for transport service delivery. These bodies are often an amalgamation of previously fragmented government entities. Some of these organisations are profiled below, with the aim of analysing the nature of the organisational structures. For the international cases listed, it is worth noting that reform was pursued in order to allow city governments to take full control of the transport network.

### 9.6.1 Germany: Verkehrsverbund

Established in 1994, Verkehrsverbund Oberelbe (VVO) is a public transport authority responsible for implementing an integrated network in the German State of Saxony. It follows a similar (verkehrsverbund) model adopted in many German cities, such as Berlin, Bremen, Cologne, Frankfurt, Hanover, Hamburg, Karlsruhe, Munich, Rhein-Ruhr, and Stuttgart (EUMP, 2013).

The VVO is divided into three levels: (i) strategic, (ii) tactical, and (iii) operational. The strategic level provides political leadership and is responsible for the overall setting of the organisational direction. The tactical level is responsible for designing and managing the network, as well as for setting tariff structures, timetables, and designing and implementing marketing strategies for services. The tactical level is also responsible for entering into service contracts with operators who apply to operate in the network and for allocating revenue to operators. The operational level comprises companies that operate trains, trams, buses and ferries. Since being established, public transport patronage has reportedly increased, despite a regional decline in the population being served.

### 9.6.2 United Kingdom: Transport for London

Established in 1994, Verkehrsverbund Oberelbe (VVO) is a public transport authority London and was established in 2000. TfL is managed at a strategic level by a board appointed by the Mayor of London, who also chairs the board. A Commissioner heads the technical team for TfL, reports to the board and is responsible for implementing the Mayor's transport strategy through transport planning, integrated ticketing, transport infrastructure management, network design and entering into contracts with private operators.

The network managed by TfL comprises underground rail, suburban rail, trams, buses, and river services. TfL is also responsible for managing the central London congestion charge scheme and for passing transport regulations. TfL is further made up of specialist companies that include: London Underground Ltd, London Buses Ltd, Dial-a-Ride Ltd, Rail for London Ltd, London River Service Ltd, and UKTRAM Ltd.

### 9.6.3 Singapore: Land Transport Authority

Founded in 1995, the Singapore Land Transport Authority (LTA) is responsible for all the transport planning and management in Singapore. It is a merger of previously separate transport-related

functions in government: the Registry of Vehicles, the Mass Rapid Transit Corporation, Roads and Transportation Division of the Public Works Department, and Land Transport Division of the Ministry of Communications. The entity, in the form of an agency, is governed by a board that reports to the Ministry of Transport.

One of the LTA's key mandates is to ensure that the transport system is managed in a manner that is sensitive to the island's limited space. In response, LTA has been a pioneer of transport management solutions that combine both travel demand management measures and the development of sustainable transport infrastructure capacity.

#### 9.6.4 South Africa: Attempts to Establish Transport Authorities

The National Land Transport Transition Act provided for the establishment of transport authorities in the country (South Africa, 2000). It was subsequently repealed by the National Land Transport Act (South Africa, 2009). The Act describes a transport authority as an institutional structure in the municipal sphere of government, whose purpose is "to improve transport service delivery in the local sphere of government by grouping transport functions into a single, well-managed and focused institutional structure". In terms of the Act, a transport authority is obliged to carry out six compulsory functions:

- Prepare transport plans.
- Develop land transport policy.
- Undertake financial planning for land transport.
- Manage the movement of people and goods on land.
- Coordinate public consultation with regard to land transport.
- After a specified date, become the contracting authority for tendered contracts.

A Transport Executive comprising technical personnel would support a Transport Authority, which was envisaged as a political structure.

eThekweni is the only city in the country to have established a transport authority, as a pilot project of the Department of Transport. A review of the eThekweni Transport Authority's performance by Futshane and Wosiyana (2005), and Cameron (2005) found that:

- It functions as an ordinary department of the city rather than authority, as it does not appear to be able to make independent decisions or be made accountable through a performance contract with the Minister of Transport.
- Its funding is discretionary.
- There has been a strong reluctance to devolve rail functions to the Transport Authority, despite having city-specific regional bodies that manage rail services.

While still in existence, the eThekweni Transport Authority has not yet managed to take full control of the transport network.

## 9.7 Critical Success Factors For Devolution

Based on a review of trends in South Africa and international case studies, the following conditions seem necessary for the effective devolution of transport functions:

1. Devolution appears to be more effective when all related functions are consolidated. Conceptually, the consolidation of related functions reduces service delivery turnaround times and potential process inefficiencies. In the case of public transport in South Africa, at provincial level frequent backlogs in operating licence approval affect municipalities, which are directly accountable for implementing the integrated transport plans.
2. Devolution becomes even more effective when undertaken within the context of a well-resourced municipal entity with political accountability. The case of eThekweni Transport Authority illustrates that fulfilling additional mandates necessary for improved transport service delivery is difficult without sustainable funding. The more successful transport coordinating structures examined in this preliminary investigation have political oversight that promotes the adoption of best practice.
3. Lines of responsibility and authority are clear. The authority of the entity taking over the function must be unequivocally defined. The ineffectiveness of the eThekweni Transport Authority can be partly attributed to having responsibility for functions over which it has no authority. Where possible, responsibility needs to be tied to authority.
4. Funding needs to be adequate. Without adequate funding the devolution will result in an unfunded mandate. In Russia, transport functions were devolved to municipalities without proportionate funding, which resulted in significant municipal deficits and increased infrastructure backlogs.
5. Municipalities must have authority over the network. Without full control of the network, achieving network integration becomes difficult and even impossible. In the case of South Africa, the issuing of operating licences is a provincial function, while the design of the network is supposed to be a municipal responsibility. This makes achieving the intentions of network designs difficult, resulting in gross oversupply and undersupply of services in the network.
6. Conflicts of interest should be eliminated. Any conflict of interest over the devolved functions erodes trust, especially for tendered public transport contracts. For example, issues of conflicts arise when a municipality is operating a bus service and wants to adjudicate licence applications as well. This is also one of the key principles established through many World Bank projects related to transport organisational reforms.

## 9.8 Conclusion

The first phase of the research has established the following:

- Devolution of transport functions to the lowest competent level of government is a South African transport policy mandate.
- As illustrated elsewhere in the world, it is possible for municipalities to be given full responsibilities for managing the transport network.
- Consolidation of transport functions in municipalities can improve transport service delivery.
- There is scope to rationalise the current allocation of functions across the three spheres of government.

- One of the principal aims of devolving transport functions to municipalities should be to empower and allow municipalities to manage transport as an integrated network.
- Different ways are used globally to manage transport functions, in addition to complete devolution.

The second phase of the study will use additional data and information collected from various primary and secondary sources to provide recommendations on how devolution should be carried out.

## 9.9 Recommendations

The South African transport policy provides for the devolution of appropriate transport functions to municipalities. However, despite some municipalities expressing their intentions to implement the policy, to date implementation has lagged. Transport service delivery appears to be hampered, especially in respect of public transport management and coordinated transport-land use development.

With respect to the **devolution of public transport functions**, the Commission recommends that:

- The national Department of Transport (DoT) selects the eThekweni and Cape Town metropolitan municipalities to pilot the devolution of transport functions in the form recommended by the investigation. The DoT should reach the necessary agreements with all the concerned stakeholders to provide sufficient support and required resources to allow for the pilots to be successfully implemented.
- The baseline funding for transport functions is thoroughly understood by the recipient municipalities, beginning with eThekweni and Cape Town metropolitan municipalities.

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