MUNICIPAL REGULATORY ENTITY (MRE) ESTABLISHMENT READINESS – DEVELOPMENT OF AN OPERATING LICENCING ADMINISTRATION SYSTEM (OLAS) AND TRANSACTIONAL PLATFORM

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ABSTRACT

In anticipation of the establishment of the Municipal Regulatory Entity (MRE), in terms of the requirements of the National Land Transport Act, Act 5 of 2009 (the NLTA), the City of Cape Town (the City) has developed a technology platform (both transactional and administrative) as part of the City's SAP system in order to facilitate transactions with the public transport industry. Initially, the City developed the MRE Business Process Blue Print which informed the subsequent development of the technology platform. This platform, will allow for the electronic execution of the transactions whereby the public transport industry will apply for operating licences, and for the MRE to consider operating licence applications and issue operating licences, decals and rank tokens. It is evident, that the combination of both transactional and administrative components relating to operating licence applications on one platform, will not be business as usual for both government and the public transport industry in the process of issuing of operating licences within the City of Cape Town.

Keywords: Municipal Regulatory Entity, Licensing, Operating, System, Readiness

1.   BACKGROUND

In October 2012, to coincide with Transport Month, the City established the then Transport for Cape Town (TCT) - A Transport Authority - in terms of the TCT By-Law. The Municipal Regulatory Entity (MRE) formed an integral part of the transport authority along with the Planning and Contracting Authorities.

TCT was subsequently replaced with the City's Transport and Urban Development Authority (TDA) in January 2017 (Also in terms of a by-law). Subsequent to the repeal of both the TCT and TDA By-Laws in December 2018 by the City Council, the authority reverted back to a Transport Directorate as part of the City structure in January 2019. These administrative changes however, did not affect the desire of the City to continue to pursue the assignment of the Operating Licencing Function (OLF) and resultant establishment of an MRE.

In order for the City to apply for the assignment of the OLF, the City prepared and submitted a business plan for the assignment of the OLF and resultant establishment of the MRE to the National Government. This business plan needs to be considered and signed off by the Departments and Ministers of Cooperative Governance and Traditional

Affairs (COGTA), Finance and Transport before approval for the assignment of the OLF to the City being submitted to the President for promulgation in the Government Gazette.

2. PROBLEM STATEMENT

The OLF currently still reside with the Provincial Regulatory Entity (PRE) which is part of the Western Cape Government. An MRE cannot be established until such time the OLF has been assigned by the National Government - by way of a proclamation by the President in the Government Gazette - to the municipality applying for the OLF to be devolved.

At the time the City applied for the OLF, the PRE had three different and very dated administrative systems which is the Land Transport Permit System (LTPS), the Registrar's Administrative System (RAS) and what is known as the Route Book – A database of all minibus taxi routes in the Western Cape.

Subsequent to the City developing a technology platform for administrative and application purposes, the PRE embarked on a process to develop the Provincial Transport Record System (PTRS). The aim of PTRS is to collapse the Western Cape LTPS, RAS and Route Book information into one administrative system and by doing so, also clean up the information of the repository so as to reflect and provide accurate operating licence, operator, taxi association and route information. The disadvantage of PTRS is the fact that it is only an OLAS and not also a technology platform on which the public transport operators can transact.

3. INTENT

In anticipation of the assignment of the OLF and resultant establishment of the MRE, the City embarked on a process to develop a technology platform that will not only be an OLAS but that will also allow the different public transport operators such as minibus taxi, metered taxi, scholar, staff, contracted, charter, etc. to apply online. Not only will they be able to apply online, but their applications will be processed and adjudicated in a paperless environment in the shortest possible time frame. The electronic process flow will also allow the upliftment of their operating licence to occur seamlessly and ensure proper record keeping and accountability in terms of who approved or affected any changes during the process.

The intention of this paper is to demonstrate the readiness as well as the advantage of a technology platform that can perform both administrative and transactional functions in terms of operating licence applications within the City boundaries.

4. OPERATING LICENCE ADMINISTRATION

4.1 Operating licence relationships

It is important to unpack the different relationships relating to an operating licence in terms of how an operating licence is administered to fully understand the benefit of a technology platform that is both administrator and allow an operator to transact – See Figure 1 below.

Operating Licence Administration
Operating Licence Relationships
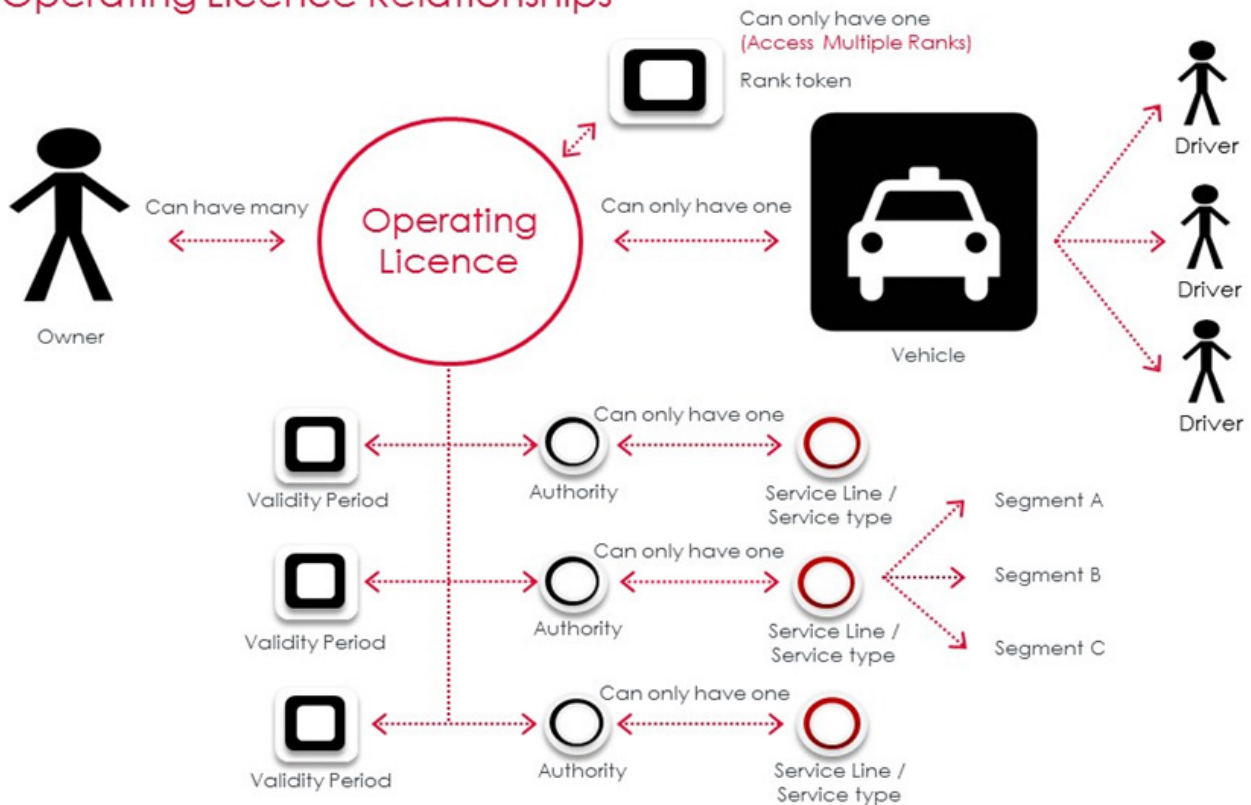
Figure 1: Operating Licence Relationships

From an NLTA perspective, an operating licence - once granted and uplifted – can only be linked to one unique owner and one unique vehicle. An operating licence can thus not have multiple owners and be linked to multiple vehicles.

An owner can be any juristic person i.e. a private individual, propriety limited, close corporation, etc. Please note that in the instance of an operating licence, a trust is not considered a juristic person and can thus not hold any operating licences.

The vehicle linked to an operating licence, can have more than one driver as drivers are rotated from time to time. Thus, although the owner and vehicle linked to an operating licence is unique, the driver linked to the vehicle is not.

An operating licence can have multiple authorities – made up of different service types and/or lines – with different validity periods attached to it. An operating licence for a minibus taxi service for instance, could authorise the operator to operate on one or more public transport routes within the boundaries of the Planning Authority - Every municipality by default, is a Planning Authority.

This is very important in relation to a Planning Authority that is in the process of rolling out an Integrated Public Transport Network Plan (IPTN) within its area of jurisdiction. This roll out will entail the implementation of a Bus Rapid Transport (BRT) - Also known as an Integrated Rapid Transit (IRT) - system. This will mean that a city like Cape Town will at a given point in time rationalise the minibus taxi services in an area or along specific routes and replace it with a BRT system. This might affect some or all the authorities carried by an operating licence for minibus taxi services when services are rationalised.

An operating licence carrying other authorities like staff, scholar, charter, scheduled long distance, etc. might have just one of these as an authority or more than one of these authorities. The City's Operating Licencing Strategy (OLS) prohibits operators who hold a minibus taxi service authority to have any of these as an additional authority on the operating licence. An operating licence with a minibus taxi service authority(s) will only have as an additional authority long distance routes from authorised long distance ranks in the City to destinations in other municipalities beyond the City boundaries and also other provinces.

With the City also being a key start and end destination for cross border operations i.e. from countries beyond the borders of the Republic of South Africa (RSA), there is also a close working relationship between the City and the Cross Border Road Transport Agency (CBRTA). In the instance of CBRTA, they issue a permit and not an operating licence. Carriers of cross border permits will also be required to have a rank token to enter authorised ranks within the City boundaries.

The only authority carried by an operating licence that is area or radius based, is a metered taxi service authority. Metered taxi authorities are divided into three categories i.e. rank, base and e-hailing and these authorities are unique to an operating licence as the operating licence will not have any other additional authorities.

Tourism, inter and intra provincial operating licence applications will be received and considered by the National Public Transport Regulator (NPTR) and Provincial Regulatory Entities and not the MRE once the OLF has been assigned to the City.

4.2   Existing business process (manual/paper system)

The existing business model explained below and encapsulated in Figure 2, is based on the relationship and cooperation between the City as Planning Authority and the PRE in the Western Cape. PRE's in other provinces have different relationships with the planning authorities within the respective provinces. The practice described below is thus not necessarily followed elsewhere in the RSA even though considered good practice by the City and the PRE.
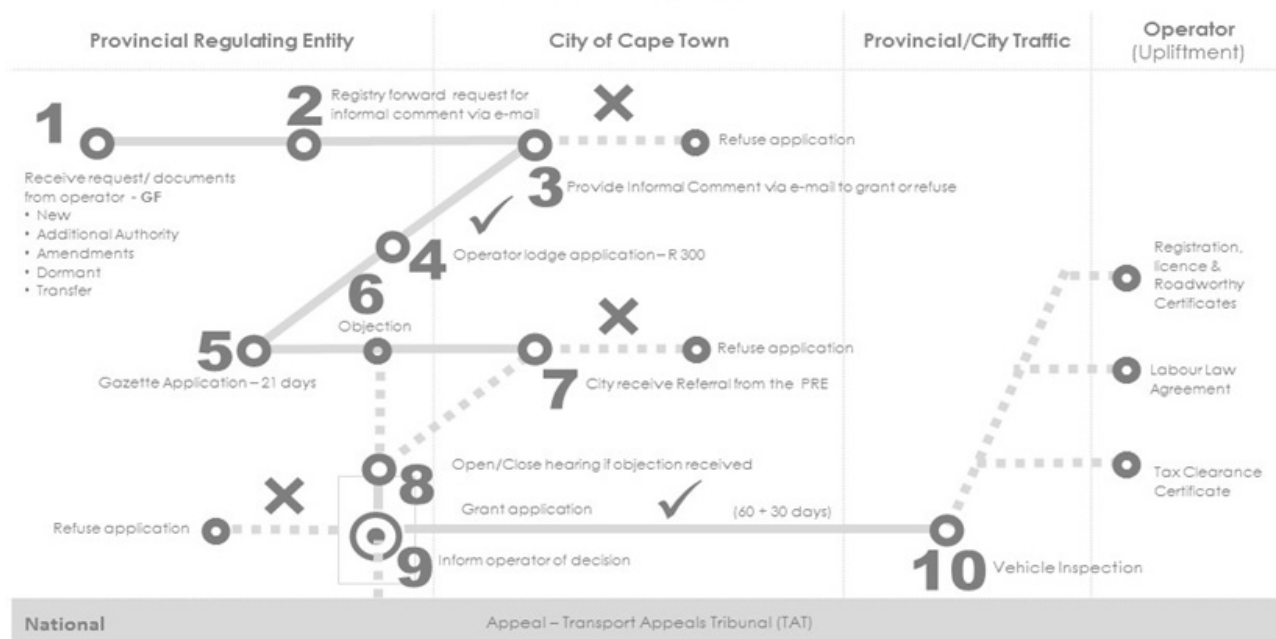
Currently, application for a new operating licence, the renewal, amendment of transfer of an operating is made to the PRE in the Western Cape. Considering significant staffing and gazetting costs in relation to regulated application fees, the processing of an application is quite costly to the two spheres of government and the regulated application fees do not remotely cover these costs.

For this reason, any operating licence application received by the PRE will first informally be referred to the City to either support or not support the application. The PRE will only accept an application in the instance of a renewal, amendment or transfer if the City confirmed in writing that the service authorised by the operating licence has been rendered in the past 180 days as per the NLTA requirements. If it is an application for a new operating licence, then confirmation of operation is not needed.

The City will only consider an application favourably if there is a demand for the service applied for. The demand the City determines by interrogating its own survey data (Minibus taxi and long distance only), business plans and or contracts/agreements/business plans submitted by metered taxi, scholar, staff and scheduled long distance operators.

Figure 2: Existing Business Model (Manual/Paper System)

Once the City has made a recommendation in terms of the application, it communicates same to the PRE either by way of a spread sheet or what is referred to as provisionally support letters. Once the PRE receives the City's decision, it will then either allow the operator to apply or not as per the City's informal direction. Once an application is accepted by the PRE, the operator pays for the application, and notice of the application is published in the Government Gazette for a period of 21 days.

During the notice period, the application is then formally referred to the City for direction in terms of the NLTA. The City provide formal direction in writing to the PRE within the prescribed period and the application is then either considered at a closed or open hearing. When there is no objection to the application, then a closed hearing is held and when there is an objection, then an open hearing is held by the PRE Adjudication Committee where all interested and affected parties are given the opportunity to make representation before a final decision is made.

Once a decision has been made by the PRE's Adjudication Committee, the decision is recorded and communicated in writing to the applicant. If the decision is favourable, the applicant then must uplift the operating licence i.e. give effect to it by linking a vehicle to it. The operator has 60 days in which to do this and another 30 days if he or she applies timeously for an extension. Applicants normally fail to uplift the operating licence for two reasons i.e. they do not have a tax clearance certificate or could not procure a vehicle to do so.

If the applicant, or any other interested or affected party is not in agreement with the outcome of the PRE's decision, then the aggrieved party has a right to appeal the PRE decision with the Transport Appeals Tribunal (TAT). Very important to note that the PRE's original decision is suspended once an appeal is lodged until a ruling on the appeal is received from TAT.

4.3   Improved business model (MRE technology platform)

The business process described above is reactive in nature, laborious and with the constant risk of error instead of being proactive in nature, streamlined and seamless with a zero risk of any errors occurring. The process also has no means to manage the application process well and to communicate application progress and/or any other pertinent information to the applicants and/or operators.

To mitigate the above, and also to include other business processes in the City related to the application, consideration and issuing of operating licences within the City, the MRE Business Process Blue Print was developed during the course of 2015.

This blue print took into account planning, contracting, roll out of the MyCiTi needs and requirements as well as the monitoring and control of operator information and vehicle/driver behaviour – one of the biggest headaches in any municipality. Most importantly, operator and driver registration and online payment as part of a wholistic system that is informed by other sections within the City - and in turn also inform the same sections when information is updated as a result of a transaction - will be possible via the MRE Platform.

The blue print detailed every single process of the MRE as well as other sections that provide input or information when - or even before - an application is received. The approximately 1,500 page blue print was then used to inform the subsequent development of the technology platform, better known as the MRE Platform, in 2016 and 2017. This technology platform was created in the City's Systems, Applications and Products (SAP) system which is well-known for its Enterprise Resource Planning (ERP) and data management programs.

The technology platform has six core and six support components which combined make up the technology platform that is both transactional and administrative. The relationship and functioning of these components are detailed in Figure 3.
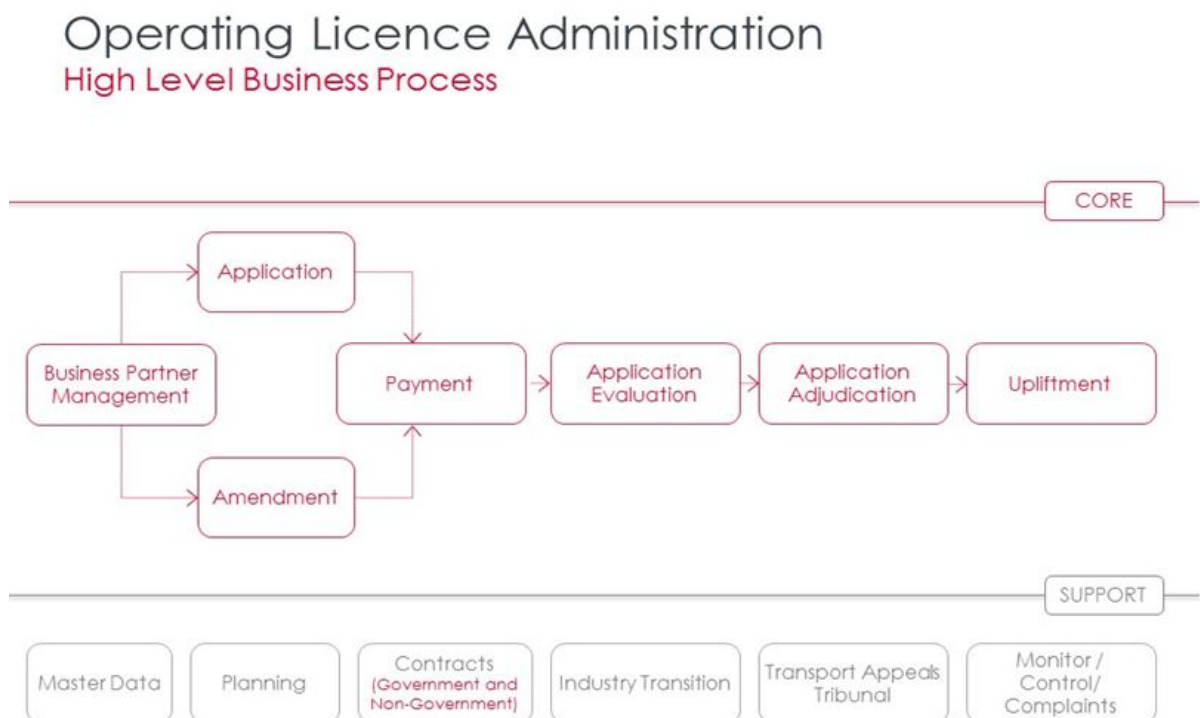

Figure 3: Improved Business Model (Technology Platform)

5.   FINDINGS AND RESULTS

5.1   Core technology platform components

Proper **Business Partner Management** is key to the success of any system. With SAP being the City's administration and payment system, all operators will have to be registered and or profiled on the SAP system before they can transact with the City via the MRE Platform.

If an operator is not already registered as a City business partner for paying of rates, water, electricity, etc. then the operator will have to be registered first as a business partner and then profiled to transact. If already a business partner, then the operator will simply have to be profiled as a public transport operator – the same as business partners in the City are profiled for buying pre-paid electricity, entering their water meter readings, etc - in order for the operators to be able to apply and pay for an operating licence online.

Once registered and profiled, public transport operators will be able to update contact and other information such as tax clearance, insurance schedules, vehicle fitness, etc. online via the platform and it will no longer be necessary to submit these every time an application is made. Once any of these documents expire, the system will automatically inform and continually remind the operator well before the expiry thereof.

Any **Application** for a new operating licence, the renewal, amendment or transfer of an operating licence will also be executed via the operating licence application portal. This can be done in the comfort of the home of the operator, any taxi association or SANTACO regional office or at terminals provided at major public transport interchanges.

All operator information reflected in the system will automatically be populated in the electronic form so as to avoid a repetitive provision of information. In the instance of minibus taxi operator, all the routes he or she is already authorised to operate on in terms of their operating licence will be reflected and greyed out on the electronic form. An operator will thus not be able to apply for a route that they are already authorised to operate on. The system will simply not allow it whilst in the manual and paper environment we find ourselves in currently, it is a regular occurrence.

With the assignment of the OLF and the subsequent establishment of the MRE and implementation of the MRE SAP Platform, the City will as a result of technology, find itself in a proactive and not so much a reactive environment. This is important to grasp as it means that once the City deem it necessary to increase the supply of any particular public transport service, an operator who qualifies in terms of City policy and processes for the service in question, will automatically be supported by the City and the authority to operate '*opened up*' by the Planning Authority on his or her profile to apply for. The operator thus does not supply a wish list to the regulatory entity anymore and hope for the best. The City through its Planning Authority will pre-empt that and only allow an operator to apply for an authority he or she already qualified for. This notification will be done via the system prompting the operator to go online log in and do all the necessary in terms of the application.

The **Payment** for an application will also happen via the City's e-Services portal and will work similar to any online shopping portal where different applications – one for each vehicle the operator has - will be added to a basket and once all have been selected, a

total amount due will be calculated and once accepted, an invoice will be generated after which payment of the invoice will be effected electronically.

Only once the payment reflects on the City's side, will a receipt be issued to the applicant. The issuance of a receipt is especially important when an operator applied for a renewal of an operating licence. If the operator applied for the renewal within the legal time frame, and the renewal of the operating licence has not been granted yet by the MRE, then the operator will use the receipt in conjunction with the expired operating licence to continue to operate until a new operating licence has been issued. This information will also be displayed to law enforcement officers when checking for operating licences – This is elaborated on later in the paper.

The **Application Evaluation** commences immediately once payment has been confirmed via the system. The duty of those in the MRE evaluating the application, is to ensure that all documents submitted electronically as part of the application or that is already in the system such as SARS Certificates, I D Documents, Proof of Address, etc. is valid and relates to the application. This team will also ensure that all the provisions of Section 57(2) of the NLTA have been met before they make a recommendation to the MRE Committee.

It must again be noted that due to the capability of the technology platform, and information provided by other sections within the City in terms of IPTN roll out and rationalisation of minibus taxi routes or any subsidised service, that an operating licence or any authority carried by the operating licence affected by the aforementioned will already have any limitations registered against it reflected in the system.

This means that if an operating licence to be renewed for instance, carries 15 authorities, and five of those authorities have already been rationalised and compensated, those five authorities will automatically be removed by the system at application stage. If another five is to be rationalised in say 3 years, then those particular authorities will only be renewed for a further 3 years. If the last five authorities are not affected in any way or form by the BRT roll out, then they will be renewed as per the direction provided by the Planning Authority – in the case of the City, normally not longer than 5 years.

If an application is submitted as a result of any government contract in terms of Chapter 5 of the NLTA, then these applications will not be subjected to any further evaluation as the application is made against a predetermined number of operating licences as stipulated in the contract - dealt with later on in more detail - which has already followed due process in being awarded. The contract information will also be loaded prior to application be made prompting the operator appointed as per the contract to apply for the stipulated number of operating licences. These applications thus move directly from application to upliftment in the system.

Once evaluated and submitted via the City's e-Agenda portal, the application is **Adjudicated** by an independent committee who take into account all the information provided, information already in the system, the operator profile, etc. In the instance of a closed hearing, the sign off can occur remotely by the MRE Committee members as the system allows for independent electronic sign by the respective MRE Committee Members. In the case of an open hearing, a physical hearing must be held in order to allow all the interested and affected parties who registered and interest to provide verbal and written submissions before a final decision is made by the MRE Committee.

Upliftment of the operating licence will occur once an application has been successful and will also be done electronically by an enforcement official via a handheld device that will allow for a tick box form to be completed and then duly signed off to confirm that all information and documents needed to effect upliftment is in the system.

Once the enforcement official has signed off, the system is automatically updated and the applicant can proceed to obtain a printed version of the operating licence, decal and rank token - providing access to ranks in the City the operator is authorised to enter as part of the authority his operating licence carry – if applicable (Smaller ranks in the City will not require a rank token only the bigger interchanges).

Even though technology allows for an electronic version of an operating licence and rank token, it is unfortunately not practical to roll out as adjoining municipalities and enforcement officers along the national roads and in other provinces will not have the technology to read electronic operating licences. The roll out of electronic rank tokens in the form of an RFID tag, is at this stage only in its infant stages in the City with only the Joe Gqabi Long Distance Facility having the capability to read RFID tags and to recognise vehicle number plate information. The Cape Town Station Deck Minibus Taxi Rank and other bigger interchanges will only follow in employing this technology in years to come.

5.2   Components supporting the technology platform

The **Master Data** component contains all the data necessary to manage the business partners, manage the application process and ensure legal and statutory compliance (Prescribed time frames), all operating licence information such as operating licence numbers, vehicle details, issue and expiry dates, etc.

It is extremely important to note that the Master data will be updated respectively by Planning, Contracting and Industry Transition in relation to the information they need to supply. These three components will function independently with their own authority to sign off information they are responsible for to supply to make the application process function seamlessly. The Planning Authority cannot sign off of Contracting Authority or Industry Transition information supplied or vice versa. Each section will populate and maintain their own information, data and decisions in relation to applications made for operating licences. The MRE Platform technology will merely pull this information through when considering an application. There is thus no blurring of or overlapping of regulatory and planning functions as these sections functions are executed very distinctly in the system by design not allowing one to meddle in the jurisdiction of the other.

The **Planning** component will comprise IPTN roll out information, Comprehensive Integrated Transport Plan (CITP) guidelines, minibus taxi and long distance route information (In Geographical Information System (GIS) platform), Current Public Transport Record information (Information on facilities, public transport supply and demand models). This platform will also allow any public transport operator to submit a proposed route or area they wish to operate on within the boundaries of the City. This they will be able to either draw via the GIS platform or submit a road by road or area description in writing.

Contracts will be made up of either government contracts awarded in terms of Chapter 5 of the NLTA as well as agreements and business plans submitted by the respective public transport operators i.e. a staff services authority requires an agreement between an employer and a public transport operator to carry their staff from their homes to where they are to work. Same applies to scholar transport services (School and tertiary institutions)

supplied by private operator who has a contract with an institution or have the support of a school to provide the service. The contract information will be populated in the system and in turn advise the operator once signed off to apply.

Industry Transition is tasked with the industry negotiations when services in the City are to be rationalised. Once an agreement has been signed with the affected operators, then they also manage the process where the industry is compensated for the routes rationalised in terms of the IPTN roll out. It is very important that this component is linked to the MRE platform as they will indicate when negotiations are to begin, when it is in process and when it is completed. These will have particular dates linked to it that must inform the MRE when adjudicating any application affected by the imminent BRT roll out as this will determine the validity of specific routes or the operating licence as a whole.

When an applicant or other interested and affected party is aggrieved by the decision of the MRE – Including Sections 78 and 79 of the NLTA outcomes, then they have the right to lodge an **Appeal with TAT** against the decision of the MRE if they so wish. This process, even though it happens with and external party, must be managed by the MRE as a decision made, that is appealed, is suspended until the TAT has heard the matter and made a ruling on it. It goes without saying that the MRE will be a respondent in the matter as their decision will be under review and therefor the process to respond to and making representation with regard to the appeal need to be managed internally via the platform so as to keep the information in the system up to date.

This is particularly important considering that with the MRE Platform technology will come a considerably improvement in terms of enforcement. The OLAS information will be linked to and also inform the City's SAP based and spatial real-time mapping Emergency Policing and Incident Command (EPIC) software - An integrated public safety initiative (Integrating six emergency and policing services in the City onto one common platform, facilitating collaboration and co-ordination across the multiple agencies) that facilitates co-ordinated multi-disciplinary preparation, mitigation, response, and successful timeous resolution of all public safety incidents in the City. If a decision is suspended, it will reflect as such in the system and accordingly inform the law enforcement officer when the vehicle papers are checked.

The aforementioned means that operating licence information will be available in real time and when a law enforcement officer stops any public transport vehicle, it can with one scan determine whether the vehicle is licenced to do so and whether it operates within the authorities and conditions carried by the said operating licence.

The last but most important component is that of **Monitoring and Control** and dealing with **Complaints** regarding any public transport operator, driver or vehicle. This component will in real time receive, record and deal with any complaints from the public regarding public transport via the City's Transport Information Centre (TIC).

When the MRE is established, it will be a prerequisite for each public transport vehicle to be fitted with a Radio Frequency Identification (RFID) tag. These tags will allow for the vehicles to be monitored whilst in operation. One of the biggest headaches is vehicles operating contrary to the routes stipulated on their operating licence. This component will monitor vehicle movement and should they not operate on the routes or areas authorised, the system will pick it up and alert this component about the transgression. The component in turn will issue warnings via sms, e-mail as well as via the message system on the portal when they log in and after a specific number of transgressions, on which the

operator did not act, the operator will be called to appear before a NLTA Section 79 hearing to explain why the operating licence should not be amended, suspended or cancelled by the MRE.

The same apply to any or all authorities carried by an operating licence not in operation for a period of 180 days. If the lack of operation is picked up, the system will first warn the operator and after a specific number of '*strikes*' – programmed as part of the master data – it will then call up the operator to appear before a NLTA Section 78 hearing to explain why he or she failed to operate within the given time they are legally required to.

Fines and impoundment information will also be included as part of this component data set. The MRE can, in terms of Section 57 of the NLTA, refuse the granting, renewal, amendment or transfer of an operating if they deem the operator not fit to render a public transport service. All the information gathered by this component becomes part of record which in fact creates a profile of each operator which the MRE Committee will have to consider before they make a final decision on any application.

This section will also manage reminders and other correspondence relating to documents submitted (Alert when they about to expire for instance), general notices and information considered to be important to the public transport industry or specific sectors thereof

6. CONCLUSION

Considering the comparison of the '*business as usual*' scenario in comparison to the ground breaking work in terms of what the MRE SAP Platform can offer the public transport industry, enforcement agencies as well as the monitoring and control measures forming an inherent part of the system, it is evident, that the combination of both transactional and administrative components relating to operating licence applications on one platform, will not be business as usual for the government, enforcement agencies and the public transport industry in the process of issuing and managing operating licences and related information within the City.

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