

#UNITE BEHIND

A JUST AND EQUAL SOCIETY

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#UniteBehind Comment on the Draft CITP 2024 Update

Executive Summary

1. #UniteBehind is deeply concerned that Cape Town's Draft 2024 Comprehensive Integrated Transport Plan (CITP) does not place enough focus on fixing the commuter rail system that poor and working-class residents depend on. The City of Cape Town admits that commuter rail is important but has not made clear or strong plans to restore this service. Without adequate provision of commuter rail services, many people in Cape Town are forced to spend a large part of their income on other, more expensive transport. #UniteBehind believes this fails to meet the City's duty to provide safe, affordable, and reliable transport.
2. #UniteBehind endorses Disability Revolution's submission on the draft 2024 update to the CITP.
3. Safe, affordable, efficient, and reliable commuter rail is a basic right as it impacts on many other constitutional rights. To live full, dignified lives, we need trains so that we can get to work (right to access work opportunities), to get to school (right to education), to get to hospital (right to healthcare), and other important places. The poor and working class cannot afford to pay for taxis and busses, which are many times more expensive than trains.
4. The failing rail service is making life harder for many people in our city. For example, Sheila Arendse from Kenwyn recalls that sometimes "the train stops in the middle of nowhere for hours... we have to decide to get out of the train,

jumping down onto the track, which is high and very dangerous.” Many residents now have to spend far more on bus tickets due to unreliable or non-existent trains.

5. This forced extra-expense can be seen as an additional tax on the poor and working class of Cape Town.

Lack of Focus on Commuter Rail

6. The draft CITP 2024 update gives very little attention to commuter rail, despite its importance for people with low incomes. The document includes only a few lines on “reversing the decline” of rail and offers no clear plan to make this happen. Many residents, such as Anele Gxekwa, have no choice but to use costly alternatives to trains because trains are not available or reliable. “Metrorail’s return to service in Cape Town has been so limited it has left most commuters dependent on minibus taxis and buses, which are much more expensive.”¹

Failure to Ensure that PRASA Fixes the Central Line – Six Years and Counting

7. The Central Line is the most important route in Cape Town, serving the poorest residents. PRASA, the national rail service provider, has given itself many deadlines to fix the Central Line in Cape Town. It has missed all of these dates – the Line remains mostly non-functional. Many stations, like Nonkqubela, are still unusable, with broken platforms, grass covering the tracks, and non-existent overhead wiring. Phindile Mhlathi, a security guard, told us: “I used to take the train from Nonkqubela station, but with no trains, I had to find other transport that cost way more than I could afford. As the breadwinner for my wife and siblings, it made things really tough.”

City’s is Failing its Citizens by Ignoring its Legal Responsibilities

8. The National Land Transport Act (NLTA) gives Cape Town powers and duties to plan, monitor, and enforce commuter rail standards. However, the City has not used these powers, instead waiting for others to act. #UniteBehind pushed the City to work with PRASA to create a service-level plan (SLP). This SLP

¹ Sandiso Phaliso. 01 Feb 2024. “Worker who earns R3,500 per month spends R1,200 on transport.” *GroundUp*. Online: <https://www.groundup.news/article/worker-who-earns-r3500-per-month-spends-r1200-in-transport/>

takes the form of an agreement between PRASA and the City, as a municipality. The SLP is required by law (the NLTA) and would improve commuter rail by holding PRASA to achieve higher service standards. But the draft SLP is still not signed and does raise the standards that PRASA must achieve. The City must take more action, in terms of its powers and duties in the NLTA, to improve commuter rail.

Lack of Safety and Security

9. The City has also not made plans to improve safety for people walking to and from train stations. The Rail Enforcement Unit (REU), which previously helped keep people safe on stations and on trains, has not been brought back. Commuters like Sakhumzi Ndwalaza from Crossroads are very concerned with safety, which makes them less likely to take trains. “[I]t’s not safe to walk from our communities to the stations. ... Where we live, there is a lot of violence, and it’s not safe for us to get to the train stations.”

No Budget or Staff for Rail

10. The City has not dedicated enough resources or staff to plan, monitor, and improve commuter rail. Without these resources, the City cannot keep up with its legal duties to ensure that Cape Town’s rail system improves.

Support for Local Control of Rail

11. #UniteBehind supports the devolution of commuter rail, meaning local control and ownership of rail services, which could allow the City to make faster improvements. However, the draft CITP offers no new information on progress toward devolution.
12. Cape Town’s residents need a commuter rail system that respects their rights and supports their everyday needs. #UniteBehind urges the City of Cape Town to take action to restore commuter rail services, use its legal powers under the NLTA, and publish a clear plan to recover rail. If the commuter rail system is not prioritised, it will worsen transport inequality and continue to alienate Cape Town’s most vulnerable communities.

Introduction

1. #UniteBehind was established as a non-profit company in 2018, arising out of a coalition of more than 20 civil society organisations intent on fixing a variety of social justice issues. Since 2018, the #FixOurTrains campaign has been our primary focus. While other spheres of transport, motorised and non-motorised, are important to realise the right to the city and fundamental constitutional rights, our priority is commuter rail, which is the mode of transport most important for the poor and working class due to its affordability and efficiency potential. Therefore, our focus in this comment is on the City's vision, plans, and actions regarding commuter rail.
2. The draft 2024 update to the City's CIP for 2023-2028 recognises that "Public transport services, particularly rail requires urgent attention."² However, the City is not taking real action regarding the dire need and its responsibility to ensure the revitalisation of commuter rail. In the 2023 CIP, the City's plan for commuter rail takes up one page of a 567-page document.³ In the 2024 draft update, this trend continues. Under the section, "Need to reverse the decline of rail," the draft update merely states, "No update to this, which remains a critical need."⁴ The statement ignores significant updates regarding the commuter rail situation in Cape Town and, as with the 2023 CIP, ignores the City's powers and responsibilities in revitalising commuter rail within the municipal area.
3. Paying lip-service to the dire situation in rail and failing to outline concrete plans to aid and ensure its revival, makes a mockery of the crisis' impact on poor and working-class people. If the City and its management wants to rid itself of the perception that it only works for middle- and upper-class residents of the city, it must pay greater attention and put more effort into rectifying the situation using all avenues within its power.
4. It is clear that the City recognises the importance of commuter rail. It is reported that rail "is the backbone of Cape Town's public transport system."⁵ Where this once was the case, it is no longer, with rail taking only a 1.3% of how many

² Draft 2024 CIP update, p.89

³ 2023-2028 CIP, pp.204-5

⁴ Draft 2024 CIP update, p.89

⁵ 2023-2028 CIP, p.204

people use trains compared to other transport in the City. This share has reduced by 16.7% since 2013.⁶

5. If, as is apparent, the City wants to revive rail usage, it must plan and act accordingly. The City must devise, publish, and action a commuter rail strategy with much greater detail. The collapse of the rail system, made worse by underfunding and lack of clear accountability, show that the City, PRASA, and the Minister of Transport are failing in their duties. The CITP and its updates must include more concrete measures for the City to use its powers and responsibilities under the NLTA to improve rail services. The City's role in, among other things, coordinating service delivery, enforcing safety standards, and ensuring service levels on commuter rail should be a central feature of the CITP and its updates. Further, the 2024 CITP update fails to inform the public of steps it has taken towards completing a service level plan in consultation with PRASA, or the steps it has taken to progress towards the devolution of commuter rail.
6. This comment outlines the constitutional importance of commuter rail, the current situation in Cape Town with a focus on the Central Line, the City's powers and responsibilities regarding commuter rail, and several other key omissions from the draft 2024 CITP update.

Safe, Affordable, Reliable, Efficient Commuter Rail – a Constitutional Duty

7. Commuter rail in Cape Town has traditionally been a vital transport mode, particularly for poor and working-class residents. Trains are often the most affordable means of transport for reaching the city, work, schools, hospitals, and other essential services.

Property economist Associate Professor Francois Viruly, who has spent over 25 years in the analysis of the South African property market, says the people who can least afford it are the same ones who have to travel the furthest and pay the most to get to their workplaces.⁷

⁶ Draft 2024 CITP update, p.33

⁷ Vivian Warby. 30 Sept 2024. "Cape Town's poor spend almost half their salaries getting to work, with nothing left for housing." *Weekend Argus*. Online: <https://www.iol.co.za/weekend-argus/news/cape-towns-poor-spend-almost-half-their-salaries-getting-to-work-with-nothing-left-for-housing-7fa51948-c0d4-49d1-b6ad-d36a19e97d6d>

8. Many Cape Town residents spend almost half of their salaries on transport alone.⁸

- *For one commuter, who works in Oranjezicht and comes from Khayelitsha site C, about R1 350 of her domestic worker's salary goes on transport monthly before she has begun calculating her two grandchildren's transport fees to and from school. Her day begins at 5am so she can get ready to walk to catch a bus and then a taxi to get to her workplace by 8.30am.*⁹
- *Anele Gxekwa, from Crossroads, works in who earns R3,500 a month as a cleaner, spends R1,200 of it on transport. This is because Metrorail's return to service in Cape Town has been so limited it has left most commuters dependent on minibus taxis and buses which are much more expensive..*

A return Metrorail trip from Nyanga to Cape Town, which costs R18, costs R50 by minibus. The weekly Metrorail ticket is R59, by minibus it costs R250. A Metrorail monthly ticket costs R175, while taxi fare is about R1,000.

*Work-seekers are also very hard hit. Mkhuseleli Sishuba, who is unemployed and from Philippi, said it "is killing us".*¹⁰

- *Sihle Mvandaba from Old Crossroads, deposed to an affidavit in our SLP case, stating: I stopped taking trains due to the closure of the Central Line, which left me with no alternative but to resort to more expensive means of transportation. Using taxis, I incur monthly transportation expenses of approximately R1500. Previously, I only had to spend R500 [per month], allowing me to save money. However, now I am compelled to borrow money each month to cover my transportation costs.*

⁸ Ibid.

⁹ Ibid.

¹⁰ Sandiso Phaliso. 01 Feb 2024. "Worker who earns R3,500 per month spends R1,200 on transport." *GroundUp*. Online: <https://www.groundup.news/article/worker-who-earns-r3500-per-month-spends-r1200-in-transport/>

9. According to the most recent National Households Travel Survey (NHTS), the majority of commuters moved away from trains (even prior to COVID and the near-complete destruction of commuter rail) because there are either no trains available or, where trains are available, they are unreliable and unsafe.¹¹ Sharon Cupido, who lives in Kensington, also deposed to an affidavit in our SLP case. She used to take trains for 15 years until she was forced to switch to using taxis:

- *My experience over the last ten of those years was that the trains were terribly unreliable. Sometimes trains stopped in the middle of nowhere, without warning, and we passengers had to get off the train and walk. This was incredibly dangerous – we could fall and hurt ourselves or get harassed and robbed by ‘skollies.’ Sometimes it took up to three hours to get into town. Normally, it should take 15 minutes.*
- Sheila Arendse, who lives in Kenwyn, shares a similar story: *My monthly bus ticket is R550, whereas I used to pay R150 for monthly train ticket from Lansdowne to town. ... Sometimes we had to wait three hours for a train. When we are late, everyone is anxious. Our bosses don’t understand because they take personal cars to work. ... Sometimes the train stops in the middle of nowhere for hours. We wait and wait until it gets dark. Sometimes we have to decide to get out of the train, jumping down onto the track, which is high and very dangerous. We walk in the pitch dark. And we just have to accept it. That is Metrorail and PRASA.*

10. The near complete destruction in rail service and usage has affected more than just commuters – it has a broader economic chilling effect.

- *Train hawkers say their businesses are suffering since the reduction in train services. Xoliswa Qeqe sells fruit and vegetables on the morning train from Mdantsane and has a stand at the East London station. “I used to be certain that I’m*

¹¹ Statistics South Africa. Revised March 2022. “National Households Travel Survey 2020 Statistical release P0320.” StatsSA, p.95 Online: <https://www.statssa.gov.za/publications/P0320/P03202020.pdf>

going to sell all my stock but these days I go home with stock. We are no longer making money because people that were buying are no longer using the train.”¹²

- *Brian Tlapane, an informal trader who sells sweets and snacks ... has waited in vain for trains to start running again. His few customers now come from nearby flats and a hospital, or are passersby. Other traders deserted the station when it closed during the Covid lockdown.*

11. The collapse of the rail system has led to a cascade of negative consequences for citizens and residents’ constitutional rights. These rights include, but are not limited to:

11.1. The right to dignity (s10): Public transport failures lead to daily indignities for many Cape Town residents, particularly the poor and working class, who are forced to rely on overcrowded, unsafe, and unreliable alternatives.

11.2. The right to freedom of movement (s21): The inability to access affordable and efficient public transport severely limits residents’ freedom of movement, particularly those who cannot afford private transport. This is especially true in a city as spatially divided as Cape Town, where the legacy of apartheid planning has left many of the poorest residents living far from crucial services, amenities, and economic centres.

11.3. The right to access healthcare (s27): the declining reliability of train services has had a severe impact on the ability of poor and working class people to travel to and access public health facilities. For people with disability, the City’s and PRASA’s insufficient plans for universally accessible trains, stations, and other modes of transport, have further compounded this issue.

11.4. The right to education (s29): Thousands of learners depend on public transport, especially trains, to reach schools. Unreliable services or long

¹² Johnnie Isaac and James Stent. 07 Sept 2021. “PRASA blames Covid-19 and vandalism for collapsing East London train service.” *GroundUp*. Online: <https://groundup.org.za/article/prasa-blames-reduced-service-east-london-covid-19-and-vandalism/>

journey times negatively affect students' ability to attend school regularly, impacting their education.

- 11.5. The right to security and safety (s12): Unsafe conditions on trains, taxis, or buses, or the lack of safe transport alternatives, expose residents to criminal activities, accidents, and harassment. Women, in particular, face heightened risks on unsafe transport systems.
- 11.6. Right to access work opportunities (s22): Many workers depend on affordable train services to commute to their places of employment. The collapse of commuter rail has led to increased travel costs as people are forced to rely on more expensive alternatives such as minibus taxis or private vehicles. This, in turn, deepens inequality as transport costs consume a larger portion of household incomes, particularly among the poor. Unreliable transport also means that workers are more likely to arrive late to work or miss work altogether, which could result in job loss.
- 11.7. Environmental rights (s24): The failure to provide efficient and accessible public transport, particularly rail, has environmental consequences as well. With fewer people using trains, more residents are forced to rely on road-based transport, contributing to increased air pollution and traffic congestion. This impacts not only the health of residents but also undermines the City's commitments to environmental sustainability and reducing carbon emissions.
- 11.8. Right to protest and freedom of speech (ss16 & 17): Public transport plays a crucial role in enabling public participation, including the right to participate in political actions and express their political views. When transport systems fail, the ability of citizens to exercise these rights is severely curtailed, particularly for those living far from the city centre.
- 11.9. The right to just administrative action (s33) and efficient, economic, effective, accountable, public administration (s195): Public institutions, including transport authorities, must provide reasonable, justifiable, and efficient services. The continued failure to maintain or improve the commuter rail system, despite the City's acknowledgement of its role as the backbone of public transport, represents a failure of administrative justice.

12. The above bundle of affected rights mean that government and public entities have a constitutional duty to provide safe, affordable, reliable, and efficient commuter rail. The argument is as follows: a service impacting a bundle of rights creates a constitutional obligation to ensure the adequate provision of that service. This is not a new argument. The duty to provide a safe commuter rail service has already been established time and time again by our courts.¹³ This argument has also been used successfully regarding the right to electricity.¹⁴
13. Improving the commuter rail system is not only a matter of service delivery but also one of fulfilling constitutional obligations. The City of Cape Town and relevant national entities, including PRASA, have a constitutional duty to ensure that the public transport system is capable of delivering these rights to all residents. #UniteBehind has asked the Western Cape High Court to confirm this legal right and duty in our case against the City and PRASA regarding the additional duty of the parties to ensure a service level plan exists between them.¹⁵

Central Line

14. We are thankful and relieved that PRASA has finally begun to recover its commuter rail services in Cape Town after the nationwide destruction of rail infrastructure during the COVID-19 period. The Central Line's demise, however, can be traced back to 2018, when the line was first suspended due to PRASA's failure to secure its trains, infrastructure, and personnel.¹⁶
15. Nationally, 31 out of 40 lines are now operational. Trains are running on all lines in Cape Town but, besides the Southern Line, are only partially operational. The recovery has been extremely delayed and is still haphazard. This is particularly apparent regarding the Central Line, which is the most important line in Cape Town servicing the highest number and poorest of our citizens.
16. In July 2023, Hishaam Emeran, the CEO of PRASA, told the Standing Committee on Public Accounts (SCOPA) that the Central Line will be fully serviced by the

¹³ *Rail Commuters Action Group v Transnet Ltd t/a Metrorail* 2005 (2) SA 359 (CC); *Sechaba Protection Services CC (Pty) Ltd and Others v Passenger Rail Agency of SA Ltd and Others* (3 November 2023) (19976/2019) [2023] ZAWCHC 280 (3 November 2023); *Passenger Rail Agency of South Africa v Mokoena* [2021] ZAGPJHC 650 (26 August 2021); and many others.

¹⁴ F. Dube & CG Moyo. 2022. "The Right to Electricity in South Africa" *PELJ*. 25:1. Online: https://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812022000100009

¹⁵ This case also includes the Minister of Transport as a respondent. Case number: 17117/23

¹⁶ Tragically, a security guard was murdered in January of that year.

end of March 2024.¹⁷ Then, in PRASA's answering affidavit in our Service Level Plan case (see above), signed on 11 April 2024, it stated under oath that the Central Line would be back up to full service by the end of August:

The contractors were appointed in September 2023 to execute works in these corridors and the rail services are anticipated to resume on a limited functionality by 26 May 2024 and on maximum functionality by 31 August 2024.

17. As of 31 Oct 2024, functionality remains extremely limited. Trains only run to Nolongile station after the split at Phillippi. The Kapteinsklip section is not operational at all. PRASA provides one train per hour at peak times. Trains are also running at half their maximum speed due to the poor quality (and sometimes completely missing) perway, due in turn to PRASA's failure to rebuild signalling equipment on the line, which means that trains are signalled manually to avoid collisions. This is a terribly dangerous and inefficient method of signalling. Further, half of the Central Line is still unrecovered, with 11 crucial stations being unserved. One such example is shown in the photos of Nonkqubela station below (taken on 02 Sept 2024 and on 31 Oct 2024). This is an extremely important station, where extensive vegetation still covers the tracks. The station is without overhead line equipment. There is no paving on the platform. Only sand. One can only imagine the state of the rail beneath the vegetation. The pictures taken on 31 Oct 2024 show extensive growth of vegetation compare to the one taken on 02 Sept 2024. They also show that the vegetation extends far beyond the station. It is clear that PRASA is woefully behind schedule in restoring service to Nonkqubela and the stations beyond – Khayelitsha, Kuyasa, and Chris Hani.

¹⁷ Tariro Washinyira. 5 July 2024. "Cape Town's Central Line will be fully operational before the end of March 2024, says PRASA." *GroundUp*. Online: <https://groundup.org.za/article/cape-towns-central-line-will-be-fully-operational-before-the-end-of-march-2024-says-prasa/>



Nonqubela Station – 02 Sept 2024



Nonkqubela Station – 31 Oct 2024





18. These sections of the Central Line are the furthest from the City and service the poorest of Cape Town's citizens. In August this year, upon hearing that the trains were returning, #UniteBehind supporter Phindile Mhlathi was still hopeful:

*I work as a security guard in Cape Town, and when the trains stopped running, it really hit me hard. I used to take the train from Nonkqubela station, but with no trains, I had to find other transport that cost way more than I could afford. As the breadwinner for my wife and siblings, it made things really tough. Now that the trains are coming back, it's such a relief. I'll finally be able to buy a monthly ticket and save some money to better take care of my family.*¹⁸ (Translated from Xhosa).

19. However, Phindile's hopes have been dashed. The trains still do not reach Nonkqubela station. Nkataleng from Ndlovini shares Phindile's frustrations:

My name is Nkataleng from Ndlovini. When I was a student at False Bay College in Muizenberg, I relied on the train for my daily commute. It made things much easier for me because getting to False Bay by taxi was a struggle and quite far. However, when the trains stopped running, I had to find alternative modes of transport, which were way more expensive compared to the train and the long queues only made matters worse.

*I'm happy to hear that trains now stop at Nolungile, but I really wish they would also stop at Khayelitsha so that we can start using the train again.*¹⁹ (Translated from Xhosa)

20. PRASA's trend of missing its own deadlines in recovering the Central Line dates back more than half a decade. The most recent forecast from PRASA is that the line will be fully operational by March 2025. But any statement regarding timelines for the return of a fully serviced Central Line cannot be trusted and

¹⁸ #UniteBehind Instagram Post. 26 Aug 2024. Online: https://www.instagram.com/p/C_lgc9bKWBM/

¹⁹ #UniteBehind Instagram Post. 27 Sept 2024. Online: <https://www.instagram.com/p/DAax6rPKuLj/>

gives no certainty to the poorest and most vulnerable of our City's commuters. This situation cannot continue.

21. The delays are the fault of both the City and PRASA, who have failed to secure land and infrastructure, allowing desperate people to settle on the lines. The City and PRASA have failed to collaborate, over four years, to begin and complete eviction and resettlement processes.
22. Where people have been evicted and/or resettled, through the joint Operation Bhekela, the result has been tragic. For example, people were moved from Phillippi to a 'temporary' location at Stock Road, where people have inadequate access to ablutions and no access to electricity. Water is extremely scarce, with a water truck (provided by the City) only servicing the Stock Road settlement three times a week. People, including children and the elderly, are forced to cross the railway line with heavy containers to source water, often for a fee, from surrounding communities. The location is also situated on a wetland, with disastrous consequence during the recent heavy rains.
23. Most recently, on 02 September 2024, PRASA attempted to get a court order allowing it to evict people from its properties in Phillippi and Site B having identified a suitable alternative location for their accommodation (case number 4399/24). The court refused to allow same. The court ordered PRASA to return to court once it had fixed the defects in its case. The return date is 29 Nov 2024.²⁰
24. Part of the problem is that the City has not expedited PRASA's necessary land-use applications. We acknowledge that PRASA has delayed in submitting these applications, but the problem is exacerbated by the City's refusal to expedite the process.²¹ It is inexplicable that the "rezoning process is estimated to endure approx. 9 months."²² Given the City's stated desire to recover the Central Line and commuter rail, generally, this decision is irrational. In spite of PRASA's

²⁰ Another case, regarding the shameful, violent eviction of people living on PRASA property on Marine Drive, has also been widely publicized:
<https://www.groundup.news/article/prasa-returns-material-belonging-to-land-occupiers-but-most-of-the-items-were-broken-and-unuseable/>

²¹ SCOPA Meeting Notes. 27 Feb 2024. "Follow-up briefing on relocation of illegal dwellers on railway reserve between Philippi and Langa: stakeholder engagements, with Deputy Minister." PMG. Online:
<https://pmg.org.za/committee-meeting/38428/>

²² Joint Presentation to SCOPA. 08 Aug 2023. "PRASA CENTRAL LINE RELOCATION PROGRAMME PRESIDENTIAL PROJECT." PMG. Slide 10. Online:
https://static.pmg.org.za/230829Final_PRASA_Central_Line_Relocation_-_SCOPA_Presentation.pdf

maladministration, the City should assist it to expedite the resettlement of people who were living on the line and who are living on the rail reserve.

25. The above developments, the City's involvement in Operation Bhekela, future plans regarding the resettlements, updates as to timelines, and other pertinent details regarding the recovery the Central Line and commuter rail generally must be included in the finalised 2024 CITP update.

Key Omissions

26. The CITP 2023-2028, and its 2024 update, acknowledge that rail is the backbone of the City's transport system. However, the practical measures outlined in the plan remain insufficient to address the scale of the crisis. The City has a responsibility to develop a more comprehensive and actionable plan that directly addresses the collapse of commuter rail services and sets clear targets for its restoration.

Failure in Acknowledging and Exercising NLTA Powers and Responsibilities

27. The City's rights and duties to improve and safeguard commuter rail services are extensive. However, the draft 2024 CITP update does not take account of this. The document states:

However, in practice, while the City produces its CITP in accordance with the NLTA, it is unable to meaningfully act as planning authority or drive integration or coherence in transport. This is for at least three reasons:

- i. While the NLTA requires all persons to abide by approved integrated transport plans, there is no meaningful mechanism that gives effect to this. As such, other implementing and contracting authorities proceed with their own planning, without regard for the integrated transport plan (the CITP).*

- ii. *There remain transport-related functions that should rightly be vested in the City, but remain assigned to other government spheres and agencies.*
- iii. *Funding for transport functions remains fragmented, with grants and subsidies assigned to various institutions that are in practice free to prioritise and spend them as they see fit.*²³

28. The above shows a complete lack of appreciation for the City’s constitutional and legislative rights and duties regarding transport planning and operation within its municipal area. Sub-para *i* above does not take into account the strong planning, coordination, and oversight role that is tasked to the City by the NLTA, s 11(1)(c). More can be done than the stated solution, per the 2024 draft update, advocating “for the City’s CITP, developed in consultation with other spheres of government and relevant institutions, to be binding on transport planning, within its jurisdiction, with appropriate mechanisms to give effect to this.” The City must take a much stronger stance than this.

29. Under the NLTA, the City has the following duties and connected powers, among others:

29.1. Coordinating the movement of persons within its municipal area (s11(1)(c)(vi));

29.2. “exercising control over service delivery through—

29.2.1. the setting of operational and technical standards and monitoring compliance therewith; and

29.2.2. the monitoring of contracts and concessions” (s11(1)(c)(xxv));

29.3. “promoting safety and security” on trains (s11(1)(c)(xiii));

29.4. “service level planning for passenger rail on a corridor network basis in consultation with” PRASA (s11(1)(c)(xix)).

30. The City has abdicated these powers. If it is being blocked from exercising them, it must take stronger measures to ensure that it fulfils its related duties to its citizens. It must declare an intergovernmental dispute and, if necessary, litigate.

²³ Draft 2024 CITP Update, p.94

31. Regarding para 21.4, above, the City should have enforced the power to negotiate a service level plan (SLP) 15 years ago, when the NLTA was promulgated. However, it took #UniteBehind launching its above-mentioned case to bring PRASA and the City together to negotiate a SLP. After undertakings in legal papers that PRASA and the City were negotiating, #UniteBehind suspended our seeking of relief in the first quarter of 2024. In late September 2024, the City submitted an explanatory affidavit, which had a ‘finalised’ SLP attached – the result of a year of negotiations – that it had sent to PRASA for signature in July 2024. This document (attached) is still not finalised or signed and, further, is woefully inadequate. In the 2023 CITP, it is stated that “The SLA (sic) will address the following matters: responsibilities of the parties, financial and funding arrangements, liaison between the parties, monitoring of the services and the services to be provided by PRASA.”²⁴ However, the draft SLP currently before PRASA is unsigned and fails to realise these minimal goals. It is woefully inadequate, for the following reasons, among others:

31.1. The SLP does not extend PRASA’s obligations, service delivery standards, or performance targets beyond what is already outlined in its corporate plan or annual performance plan. This renders the SLP redundant, as it fails to introduce any new or heightened commitments that are vital for improving service delivery. Further, it ignores the City’s powers to set service delivery standards.

31.2. There are no specific individuals or positions identified as being responsible for undertaking the obligations or facilitating the implementation of the SLP. This lack of accountability makes it unclear who will be held responsible for any shortcomings in the plan’s execution.

31.3. The draft SLP does not mention any initiatives or commitments toward skills development to build the City’s capacity. Given the significant role that both the City and PRASA play in public transport, the absence of a focus on capacity building is a major oversight.

31.4. There is no explicit inclusion or plan outlining how the City and PRASA will organise their activities around the powers and duties as prescribed under

²⁴ 2023-2028 CITP, p.205

Section 11(1)(c) of the NLTA. This is a critical gap, as it leaves significant legal responsibilities unaddressed. As an example, the City has the right to review all contracts undertaken by PRASA regarding services provided within the municipal area - this is unaddressed.

- 31.5. The draft SLP fails to address affordability as a key component of its strategy. Affordability should be a central consideration in any public transport plan, and its absence from the draft SLP is concerning. Linked to this is the fact that there is no provision for public participation; involvement of commuter groups in planning, etc.
- 31.6. There is no focus on change management within the SLP; there is no structured approach to deal with transitions with individuals, teams, or the two organisations. There is also no importance placed on improving the current state of the implementing parties. There is no acknowledgement of a breakdown in communications and fulfilment of obligations, which contributed to the destruction of our rail service.
- 31.7. The draft SLP does not include any timelines or deadlines for achieving targets or deliverables. This lack of specificity undermines accountability and the ability to measure progress effectively.
- 31.8. Further, The SLP lacks specific project-level deliverables. For instance, there are no details regarding which rail lines will be upgraded, which stations will be refurbished, or any other concrete improvements. The previous draft SLP provided in May 2023 included parameters such as the quantity of service, passengers per hour per direction per line, and percentages for service availability, punctuality, overcrowding management, passenger satisfaction surveys, timetable and access control availability, safety, train set condition, and station cleaning. The absence of these parameters in the current draft is a significant regression.
- 31.9. The SLP does not speak to the accessibility of stations for people living with disabilities. This is a critical omission, as accessibility should be a fundamental consideration in any public transport plan. Xolile Zazaza, a #UniteBehind supporter and resident of Old Crossroads, is the sole

breadwinner of his family, with three dependants. He stated in his affidavit as part of our SLP case (see above):

I stopped taking trains due to my physical injury, which made it difficult for me to walk to the train station, wait in long queues, and stand throughout the journey. Given my condition, I had no choice but to switch to taxis. To improve their service, I would like PRASA to renovate the rail [station] at Phillippi to accommodate [all] commuters. ... I pay R50 on a daily basis for my transportation expenses. I used to pay R20 per day when I used trains.

31.10. In the above regard, #UniteBehind endorses Disability Revolution's submission on the draft 2024 update to the CITP.

31.11. The inclusion of a confidentiality clause is particularly worrying as it could hinder public access to information held by the City or PRASA, or vice versa. This clause could potentially obstruct the Promotion of Access to Information Act (PAIA) process, which is unacceptable and unlawful. The SLP steering committee meetings should be open to the extent possible to ensure transparency.

31.12. The SLP appears to be an "agreement to agree," with no clear timelines or firm commitments. Further, the City seems to take on more obligations than PRASA, which is problematic given that PRASA is the key implementing agent. This imbalance suggests that the SLP does not meet our stated requirements and expectations.

31.13. There should be frequent periodic reviews of PRASA's plans by the City.

31.14. Overall, the SLP does not seem to increase the City's involvement in commuter rail planning or state how it will exercise its powers and duties, outlined above, in any meaningful way.

31.15. Lastly, there is no update on fare integration with other modes, although was mentioned in the attached draft SLP. Clause 8 states that PRASA, the DoT and the City will cooperate to roll out an "integrated fare collection system" that is expected to be "automated." No further information is provided in this document and, if such plans are being discussed, one would think it would appear in the update to the CITP.

32. At the very least, the City's SLP negotiations and an overview of the content of the SLP should have been included in the draft 2024 CITP update. The only mention of the SLP is in the Premier's comment on the 2023.²⁵ This must be rectified in the finalised 2024 CITP update.

Accountability and Legal Risks

33. The City's failure to fully exercise its powers under the NLTA exposes it to potential legal risks. As noted, the NLTA requires the City to monitor service delivery, promote safety, and ensure compliance with operational standards. The City could face further litigation for failing to protect commuters' rights to safe, affordable, reliable, and efficient commuter rail services, especially as these failures directly affect poor and working-class residents.

34. Moreover, the lack of action on commuter rail could be seen as a breach of the City's obligations under the Constitution to provide access to public services. If the City does not take stronger action to improve rail services, it risks being held accountable for violations of commuters' rights to freedom of movement, security, and dignity.

Incentives to Encourage the Movement from Road to Rail

35. There are no concrete plans to encourage people to move from road to rail in the 2023 CITP or the 2024 update. Considering the improvement in rail capacity, particularly on the Southern Line, since the publication of the 2023 CITP, one would expect at least a semblance of plans to incentivise the substitution of road for rail.

No Budget for Improved Capacity and Oversight Over Commuter Rail

36. Considering the City's considerable planning, coordination, and oversight duties over commuter rail, outlined above, as well as the anticipated SLP and devolution of commuter rail (below), it would be prudent of the City to expand its skills and capacity in the department. To our knowledge, no staff member is specifically

²⁵ Draft 2024 CITP Update, p18.

tasked with this role. Staff should be recruited staff to be tasked solely with rail planning, coordination, and oversight. The failure to do so is a significant failure in current and, especially, future planning. This should be reviewed and included in the finalised 2024 CITP update.

Rail Enforcement Unit

37. The statement in the draft CITP 2024 update on the Rail Enforcement Unit (REU) is not an update – it is repeated verbatim from the 2023 CITP.²⁶ If there is actually an update, this must be included. REU must be brought back, even if in reduced capacity, while PRASA sorts out its funding. This is crucial because it is the City's responsibility, in terms of NLTA, mentioned above to promote safety and security on public transport. This responsibility extends, by means of the NLTA and the City's general duty to promote the safety of its citizens, to areas surrounding public transport nodes, which are often crime hotspots. As explained by Sakhumzi Ndwalaza, a #UniteBehind supporter from Crossroads:

I'm really excited that trains are running again because taxis and buses make getting to work difficult and expensive. This will make a huge difference. I do have a small request for PRASA: it would be great to have buses or transport for people who live far from the stations, as it's not safe to walk from our communities to the stations.

We'd like to work together with you because we need something to take us from where we live to where there are trains. Where we live, there is a lot of violence, and it's not safe for us to get to the train stations.²⁷

38. Sakhumzi's request for PRASA to make plans to improve the safety of commuters on their way to the station can also be applied to the City, given the City's obligation to promote safety and security regarding transport.

²⁶ Draft 2024 CITP Update, p.222

²⁷ #UniteBehind Instagram Post. 19 Oct 2024. Online: <https://www.instagram.com/p/DBRXP9VqEn/>

39. Rather than scrapping the whole project due to a lack of funding from PRASA, a plan must be put in place for law enforcement to fulfil the City's duties in this regard. Further, agreements to provide funding by PRASA must be legally enforced, through the courts if necessary, by the City. No information is included on this in the 2023 CITP or the 2024 update.

Devolution

40. We have widely publicised our support for the devolution of commuter rail and have followed the Mayor's statements, in particular, in this regard. The Minister has committed to publishing this document by the end of the year. This should be included in the City's draft 2024 update to the 2023 CITP. The City's plans regarding public participation for its comment on devolution should also be included.

41. Regarding the City's devolution feasibility study (CTRFS), there are no updates on beyond the statement that the "Baseline assessment report [has been] completed."²⁸ This is despite much more progress on the study being reported in the media. Mayco Member for Urban Mobility, Roberto Quintas, is reported as stating that "the study was about 70% complete and would be put before council for approval at the end of this year or early next year, before being presented to the national transport department."²⁹

42. There is no discussion of implications/ramifications of the baseline assessment report. The baseline assessment report seems not to have impacted the 2024 update. There is information published in the update regarding the timelines for the next stage of the study to be finalised or the full project's finalisation. This should be rectified.

²⁸ Draft 2024 CITP Update, p.23

²⁹ Steve Kretzmann. 31 July 2024. "We asked Cape Town's transport boss about the future of passenger rail in the city." *GroundUp*. Online: <https://groundup.org.za/article/we-asked-rob-quintas-about-future-passenger-rail-in-cape-town/>

Conclusion

43. The taxi strike of August 2023 laid bare the fragility of our City's current public transport system. Without access to commuter rail and no space on supplied busses, many women, elderly people, and people living with disabilities were forced to walk for many hours to reach their homes. The most vulnerable of our city were placed at extreme risk. The need for a revitalised commuter rail service is acknowledged by the City. However, its plans and actions in this regard leave much to be desired.
44. #UniteBehind calls on the City to take immediate action to restore commuter rail services, to fully use its powers under the NLTA, and to develop a clear, transparent, and actionable plan that aligns with its constitutional and legislative obligations. The collapse of rail is a critical barrier to achieving social justice in Cape Town. Any integrated transport plan must place the recovery of rail at its centre. The draft 2024 CITP update must be fixed accordingly.
45. Lastly, #UniteBehind endorses Disability Revolution's submission on the draft 2024 CITP update.

