

March 2024

PUBLIC CONSULTATION PROCESS TO BE FOLLOWED BY THE INTERIM RAIL ECONOMIC REGULATORY CAPACITY (IRERC) ON TRANSNET'S DRAFT NETWORK STATEMENT

1. BACKGROUND

- 1.1 On the 08th December 2023, Cabinet approved the Roadmap for the Freight Logistics System in South Africa ('the Roadmap') which requires the IRERC to manage the consultation process on the Draft Transnet Network Statement (Network Statement).
- 1.2 The IRERC was established through a Memorandum of Understanding (MOU) entered into by the Minister of Transport and Minister of Public Enterprises as an interim rail economic regulatory capacity until the establishment of the Transport Economic Regulator (TER) as envisaged in the Economic Regulation of Transport Bill, 2020 (ERT Bill). The main objectives of the IRERC are to develop capacity in the area of rail economic regulation, to collect data on the structure and performance of the rail industry, and to research and make recommendations to the Ministers on the future scope and design of economic regulation in the rail transport sector. The White Paper on National Rail Policy which was approved by Cabinet on the 23rd March 2022 pronounced that the IRERC will guide the strategic direction for implementing economic regulation in the rail sector.
- 1.3 The Roadmap for the Freight Logistics System in South Africa (the Roadmap) stipulates that the Interim Rail Economic Regulatory Capacity (IRERC) "*... will be utilised as an interim arrangement preparing for economic regulation until the Transport Economic Regulator is established through the Economic Regulation of Transport Bill*" (pg. 45).

- 1.4 With respect to third-party access to the rail network, the Roadmap requires the IRERC to supervise the Transnet Interim Infrastructure Manager (IM) in publishing a Network Statement and procedures for open access to the network (pg. 45). Specifically, the IRERC¹
- “... should guide the development of the network statement, in a process of consultation with the IM and private sector stakeholders” (pg. 73); and
 - needs to “**(m)anage (the) consultation process on the Network Statement and provide recommendations for incorporation in (the) final version, including on the methodology for calculation of access charges**” (pg. 21).”
- 1.5 It is against this background that the IRERC is inviting written comments on the draft Network Statement and conducting Information Gathering Sessions in Johannesburg, eThekweni and Cape Town to obtain stakeholders’ views on the draft Network Statement.

2. PURPOSE OF THE CONSULTATION

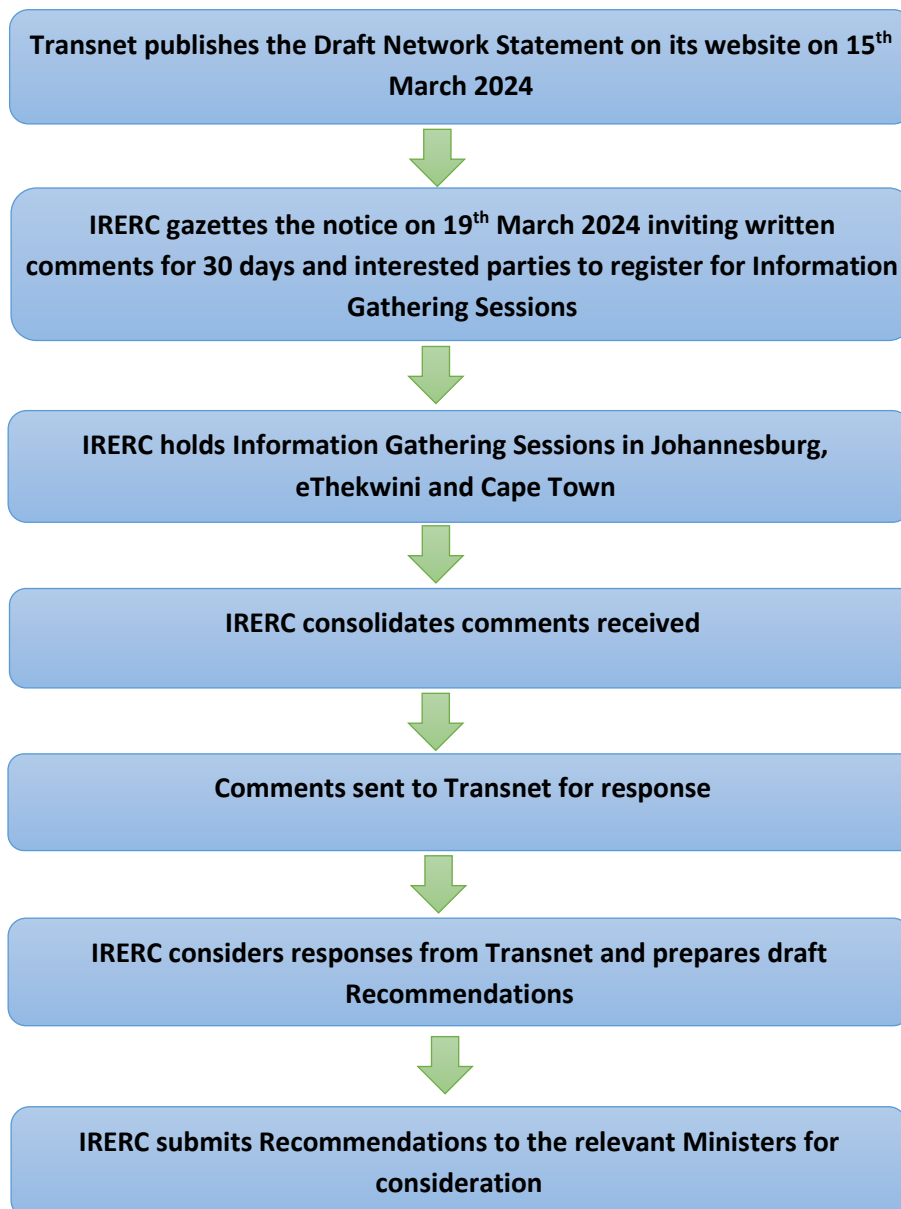
- 2.1 Public consultation is an essential step before taking any administrative decision. All sector regulators in South Africa are required to engage in public consultation as per their respective legislation and regulations. This is no different for the future TER based on the provisions of the draft ERT Bill. Whilst the IRERC is not a regulator, it aims to follow best practices in developing recommendations for the Ministers of Transport and Public Enterprises.
- 2.2 The main objectives of the consultation are, in particular, to:
- Share the Network Statement with affected stakeholders for input;
 - Ensure greater participation and input from stakeholders through creating awareness of the Network Statement;
 - Allow stakeholders to make representations to the IRERC on the Network Statement;

¹ Roadmap for the Freight Logistics System in South Africa, December 2023

- Gather information from stakeholder on aspects of the Network Statement and process of third-party access that require clarification; and
- Inform the IRERC's recommendations to the Ministers of Transport and Public Enterprises regarding the Network Statement and related documents.

3. THE PROCESS TO BE FOLLOWED BY THE IRERC

3.1 Below is the flow of the public consultation process that the IRERC will follow when consulting on the draft Network Statement:



- 3.2 The IRERC anticipates that the entire process will take up to **three (3) months** to complete from the date of the gazetting of the invitation for written comments. Thereafter, the Ministers will consider the IRERC recommendations and make final decisions on the recommendations from the IRERC.
- 3.3 It is recommended that Transnet should publish the final Network Statement within thirty (30) days of receiving the decisions from the Ministers on the IRERC's recommendations.