

ITEM A-RC (02-2018) IS-OC CM 18/02/2019	ROADS AND STORMWATER DEPARTMENT : PROPOSED WAYLEAVE POLICY
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RESOLVED

1. That the contents of the Infrastructure Services Oversight Committee report on the proposed Wayleave Policy **BE NOTED**.
2. That the Policy **BE WORKSHOPPED** for ALL COUNCILLORS within 60 days after tabling the report.
3. That the Wayleave Policy **BE APPROVED**.
4. That the Wayleave Policy **BE IMPLEMENTED** in City of Ekurhuleni.
5. That the following tariffs Be Approved

Description	Tariff
Wayleave Application Fees	R500.00 (incl.VAT @ 15 %)
Road Reinstatement Costs	
Class 3 Roads per m2	R1,292.71 (incl.VAT @ 15 %) (**)
Class 4 Roads per m2	R833.71 (inc. VAT @ 15 %) (**)
Class 5 Roads per m2	R773.34 (inc. VAT @ 15 %) (**)
Verge Reinstatement Costs	
Grass per m2	R70.00 (incl. VAT @ 15 %)
Concrete Paving per m2	R385.00 (inc. VAT @ 15%) (**)
Brick Paving per m2	R385.00 (incl. VAT @ 15%) (**)
Tar surfacing per m2	R650.00 (incl. VAT @ 15 %) (**)
Fines/Penalties	
Fine for no Wayleave approval and related documents on site	R150,000.00
Penalty for exceeding the time allowed to do work in terms of the Wayleave approval, per day	R10,000.00
Penalty for exceeding the time allowed in terms of the Temporary Road Closure Approval , per day	R50,000.00
Fine for having temporary closed a road without written permission from the Roads and Storm-water Department	R200,000.00

6. (**) Tariffs included in the Schedule 8, Roads Related Service Provisions approved under item A-F (23-2018) on 24 May 2018.



WAY LEAVE POLICY
ROADS AND STORMWATER DEPARTMENT

Final
03 October 2019

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1 INTRODUCTION

1.1. Legal Context

In terms of S151 of the Constitution of the Republic of South Africa, 108 of 1996, a municipality has the right to govern its own initiative, the local government affairs of its community, subject to national and provincial legislation.

S156 of the Constitution grants the municipalities the right to administer the local government matters listed in Schedule 5B, which include municipal roads. A municipality may make bylaws for the effective administration of municipal roads.

This policy will be converted into Ekurhuleni Metropolitan Municipality Police Services Bylaws to give it legal effect.

1.2. Need for Co-ordination

The collective value of services infrastructure contained within the Public Road Reserve (PRR) and the road itself amounts to a considerable value. This infrastructure needs to be maintained, periodically rehabilitated and replaced from time to time. Such activities can result in considerable delays, inconvenience, danger and additional costs to the road users and the Municipality itself if not well planned and coordinated. The potential damages that can be suffered by either party include:

- Damage to roads and other services;
- Damage to vehicles;
- Injury to vehicle occupants, pedestrians and NMT users;
- Reduction of the effective life of the road, footway or other services; and
- Time and social costs caused by delays.

It is apparent that careful control and co-ordination of all Work in the PRR is a prerequisite for effective Service Delivery. This responsibility resides with the Ekurhuleni Metropolitan Municipality (EMM) and its Service Departments (i.e. Energy Department and Water Services Department) to continuously improve their capability to provide such Services.

Being the custodian of all municipal Road Reserves, the Roads and Stormwater Department within the EMM initiated a Way Leave Office for the necessary co-ordination of activities and policies regarding work in the PRR.

This policy is the first deliverable of the Way Leave Office and attempts to provide a basic framework for ensuring proper co-ordination and cooperation between the various departments as well as external parties who conduct work in the PRR. The policy was prepared with the aim to minimise the effect of all work in the PRR to the benefit of all concerned, and in particular the ratepayers, road users (motorists, pedestrians and other non-motorised transport (NMT) users, and eventually the coordinating body within EMM. Included in this document are the procedures to apply for, process and approve Wayleaves, procedures to follow for undertaking and completion of work, as well as reference to specifications according to which the work must be done.

This initiative can only succeed if all internal and external parties that work in the PRR constructively cooperate by working according to this Policy and by providing feedback on how the system can be improved.

1.3. Functions of the Way Leave Office

The Roads and Stormwater Department has identified that this co-ordination function will need to:

- Improve the inter departmental communication on annual work plans and the execution of such work;
- Coordinate and regulate all work carried out within the PRR;
- Minimize the danger and inconvenience to the public;
- Minimize the damage to existing services;
- Reduce the number of legal claims; and,
- Promote the use of technology such as Geographical Information Systems (GIS) to locate Services. In order to effectively implement and sustain such a function a Way Leave Office was established within the EMM. The four key tasks that must be accomplished by the Way Leave Office are:
 - Establishing effective and simplistic procedures (covered by this document);
 - Establishing effective Municipal By-Laws (future activity); and
 - Establishing an effective Organisational Structure (future activity).

1.4. Document Structure

This document is organised into five sections. The following is a brief description of each section:

Section 1 – Introduction: This section aims to illustrate the need for co-ordination and responsibility of the custodian of the PRR to coordinate. It continues by explaining the development approach that was followed.

Section 2 – Definitions: This section is a summary of definitions used throughout the document.

Section 3 – Policy: The Wayleave Policy as adopted by Council is explained under a collection of topics.

Section 4 –The Wayleave Process and Procedures: This section is organised into four parts. The overview explains the process of obtaining a Wayleave to Work in the PRR in general and the categorisation of Work in the PRR. The succeeding three parts each address specific procedures relevant to a category of Work.

Section 5 – References: This section provides a list of documents, by-laws, standards and contact information for officials from whom the documentation can be obtained.

1.5. Supporting Documents

Pro-formas provide a collection of application forms that have to be completed by the Applicant, Service Coordinator and inspectors. A summary of the Wayleave conditions forms part of the Wayleave form.

2 DEFINITIONS

The following words and phrases have the meaning assigned to them in this Policy, unless the context otherwise indicates:

“Backfilling” refers to the replacement of the structural layers in the trench or excavation and includes *inter alia* the base, subbase, selected subgrade and subgrade, but exclude the surfacing (see Reinstatement);

“Certificate of Completion” means the document issued by the Wayleave Officer as proof that Work in the PRR was completed according to the Policy;

“Completion Notice” means the document submitted by the Wayleave Holder to the Wayleave Officer when the work in the PRR has been completed;

“Council” means the Municipal Council of the of Ekurhuleni Metropolitan Municipality (EMM) established by Provincial Notice No. 6770 of 2000 dated 1 October 2000, as amended, or its successor in title, and any committee or person to which or whom an instruction has been given or any power, function or duty has been delegated or sub-delegated in terms of, or as contemplated in, section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“Distance of Excavation” means the shortest horizontal distance between the electrical equipment or electric structure nearest to the excavation.

“Electric structure” means any power line tower, electric pole, switch box, miniature substation fence or building or any other structure used in the distribution of electricity;

“Emergency Work” is defined as any work that is required to prevent or end a dangerous situation, to prevent or end an unplanned interruption in the supply of a Service, or to avoid any substantial losses. It is important to note that a lack of proper planning of Work to be carried out will not justify Emergency Work and such activities will be stopped by the Wayleave Officer;

“EMM CCC Manager” means Ekurhuleni Metropolitan Municipal Customer Care Centre Manager.

“EMPD” is the Ekurhuleni Metropolitan Police Department;

“Lane Rentals” mean the rentals that are paid to the Council by a Service Agency, excluding a Municipal Department, whose Work in the Public Road Reserve (PRR) results in time delay costs (TDC) being incurred by the users of the Public Road Reserve (PRR);

“Municipal Department” means any Department that belongs to or is controlled by the Council;

“Policy” means the EMM Way Leave Policy for Work in the Public Road Reserve (PRR) as approved by the Council and as agreed to by the Parties including any appendices attached thereto;

“Public Road Reserve (PRR)” means the full width of a public road, and includes the verge and the roadway;

“Reinstatement” refers to replacing the bituminous surfacing or paving blocks in the case of roads, or the paving blocks, paving slabs, bituminous surfacing or grass in the case of footways and verges;

“Registered Engineering Professional” means a qualified engineer or technologist professionally registered with the Engineering Council of South Africa in terms of the Engineering Professions Act of South Africa (act 114 of 1990).

“Routine Maintenance Work” is defined as all types of Work involved in maintaining the Services in the PRR and does not require excavation, traffic control or Reinstatement activities;

“Service” means any system for supplying a public need that a Service Agency has in or on the Public Road Reserve (PRR);

“Service Agency” means any Municipal Department, public agency or utility that has a Service in the Public Road Reserve (PRR);

“Wayleave” means the formal approval to carry out Work in the Public Road Reserve (PRR). A Wayleave is issued by the Wayleave Officer and consists of a Wayleave form and approved drawings;

“Wayleave Applicant” means the institution or Service Agency who currently owns or would own the future Service, who applies for a Wayleave;

“Wayleave Holder” means the person, institution or Service Agency who is in possession of a Wayleave approved by the Wayleave Officer;

“Wayleave Officer” means an employee which is authorised by the Roads and Stormwater Department to perform specified Services. He Wayleave Officer operates within the Council’s Municipal area with the sole responsibility to coordinate and regulate any Work undertaken in that sections of the PRR that falls within the Municipal area of the Council;

“Work” in the Public Road Reserve means any activity, including the activities provided for in Section 1 of this Policy, carried out within the Public Road Reserve (PRR). It includes any project related activities, irrespective of the size of the project.

3 POLICY

3.1 Overview

3.1.1 The co-ordination of work in the PRR deals with two aspects, namely:

3.1.1.1 Planning the time schedule for future work in the PRR so that the work can be executed in a logical sequence i.e. avoiding the placement of a service in a road that was surfaced during the previous month. This could involve new construction, rehabilitation or Routine Maintenance Work; and

3.1.1.2 The application for and approval of a Wayleave for the execution of any work in the PRR.

3.1.2 The co-ordination of work or time schedules described under 3.1.1.1 above may result in specific co-ordination issues where the Wayleave Officer has to ensure that an acceptable solution is defined by the Service Agencies involved.

3.1.3 It is stressed that the Wayleave Officer's role is to facilitate co-ordination between the various Service Agencies. Each Service Agency will have their own project leaders who are responsible for the implementation of their projects together with compliance with the Council's policies, procedures and standards.

3.1.4 The approval of a Wayleave means that:

3.1.4.1 The Wayleave holder has permission to:

3.1.4.1.1 Place a new service in the Public Road Reserve;

3.1.4.1.2 Do excavations in the Public Road Reserve;

3.1.4.1.3 Do vehicular and pedestrian control in the Public Road Reserve;
and

3.1.4.1.4 Do Reinstatement work on the road and verge surfaces where excavations have been made.

3.1.4.2 The Council has to protect the new service in its position in the PRR against damage by other parties while working in the PRR.

3.1.4.3 The cost associated with relocating the service when a road is widened or rebuilt remains with the Service Agency that owns the service.

3.1.4.4 The cost to relocate a service owned by the Council must be included in the project cost.

3.2 Planning Work Time Schedules

3.2.1 The basic procedure that must be followed for planning the time schedule of future work is as follows:

3.2.1.1 By 30th April of each year the various internal Service Agencies shall submit Work Plans, as defined in the Integrated Development Plan of the Council, for the next 3-year period to the Wayleave Officer. External Service Agencies will be invited, but not obligated, to participate in the process.

3.2.1.2 These Work Plans shall show:

- a) The nature of the work e.g. the placement of a new water main, or the replacement of a water/ sewer line.
- b) The location of the work in terms of street blocks and the side of the PRR where the work will be executed, with due regard for the Council's typical cross-section for the PRR [Refer to Section 5].
- c) The extent of the work i.e. the start and end positions.
- d) The planned timing of the work i.e. from month/year to month/year.
- e) Reference to the work in the latest approved Integrated Development Plan of Council if applicable.

3.2.1.3 The Wayleave Officer shall review the work plans in order to determine possible conflicts in the planned work and alert the Service Agencies to deal with and resolve the conflict.

3.2.1.4 A co-ordination meeting may be held by no later than July/August to resolve any changes that may have resulted out of the budget approval process.

3.3 Basic Wayleave Procedure

3.3.1 The basic procedure that is required for work in the PRR is as follows:

3.3.1.1 Permission to work in the PRR must be obtained from the Wayleave Officer through a formal Wayleave application. The Application Form can also be obtained from the EMM Website. The Wayleave application forms are available from the Wayleave Officer or from the Roads and Stormwater Department.

3.3.1.2 After permission is obtained as described above, the Wayleave applicant must contact other Service Agencies, to have the positions of existing services from the Service Agencies identified by the Wayleave Officer pointed out on site.

- 3.3.1.3 The control section on the Wayleave application form must be signed by each Service Agency, indicating that there is no objection to proceeding of the work. This approval will be subject to technical compliance with the standards of the Service Agencies involved as well as compliance with the work planned by the Council within the area under consideration.
- 3.3.1.4 Once the control section has been signed by all the Service Agencies, work may commence in accordance with the procedure set out in this Policy. No work in the PRR may commence before all Service Agencies signed off the Control section on the Permission Letter.
- 3.3.1.5 A copy of the Control list on which all Service Agencies signed must be submitted to the Wayleave Officer for record keeping purposes.
- 3.3.1.6 All preliminary work requested by the Service Agencies, the specifications document [Refer to Section 5] or this Policy, must be adhered to before work will be allowed to start. Such requests include inter alia that:
- 3.3.1.6.1 The Metro Police must always be notified in writing seven (7) working days in advance by the Wayleave Holder.
- 3.3.1.6.2 The Wayleave Officer and the contact person of each Service Agency involved must be informed 48 hours prior to commencing with the work by the Wayleave Holder.
- 3.3.1.6.3 Alternatively notice periods specified by the Service Agencies must be adhered to.
- 3.3.1.7 The work must be carried out according to the procedures and specifications as referred to in the Wayleave document, the conditions under which the work was approved and any other requirements of affected Service Agencies.
- 3.3.1.8 The Wayleave and the service plans of the Service Agencies must be kept on site while the work is in progress.
- 3.3.1.9 The Wayleave Applicant will always be issued with one copy of the approved Wayleave. Additional copies may be obtained from the Wayleave Officer if the Wayleave is applicable to more than one work area or work team.
- 3.3.1.10 Work will be stopped if either the Wayleave or the Service plans are not available during inspections on site. Work will be stopped until the required documents are available on site. A fine of R 5 000 will have to be paid in such an event.

- 3.3.1.11 On completion of the work all trenches and excavations in the PRR must be backfilled and reinstated according to the specifications referred to by this Policy. Permanent reinstatements are then the responsibility of the Wayleave Holder, at the cost of the Way Leave Holder as per the Wayleave specific conditions.
 - 3.3.1.12 On completion of the work and permanent reinstatements, as applicable, a Completion Notice must be sent to the Wayleave Officer by the Wayleave Holder.
 - 3.3.1.13 The Wayleave Officer will issue a Certificate of Completion once an inspection has been conducted and all requirements have been met.
 - 3.3.1.14 The applicable guarantee period will be stated on the Certificate of Completion.
- 3.3.2 This Policy applies to all persons that carry out work in the PRR in the Municipal area of the Council, such as internal Municipal Departments, external organisations, Service Agencies and contractors. It does not apply to work in national or provincial Road Reserves within the judicial area of the Council.

3.4 Work in the Public Road Reserve

- 3.4.1 Work in the PRR includes the digging of trenches, tunneling, erection of signboards, erection of structures, and landscaping (where the existing levels will be changed) in the PRR and any other work that may affect motorists, NMT users, pedestrians, the road, footways, kerbing, traffic signs, traffic signals, street lighting, underground or overhead services or any other structure or service that is contained within the PRR.
- 3.4.2 The types of work that **require approval** from the relevant Service Agencies before a Wayleave is granted is deemed to be provision of a new service and will be conducted according to the procedures in Section 3.3 above. In general, such work refers to the positioning of a new service, excavation in the PRR, traffic control and reinstatement of the roadway and pavements. Examples include inter alia:
 - 3.4.2.1 Work relating to the installation or maintenance of underground or overhead Services by Council's Service Agencies like Roads and Stormwater, Water and Sanitation, Energy, Land and Environmental Planning, Human Settlements and City Planning.
 - 3.4.2.2 Work relating to the installation or maintenance of underground or overhead services done by non-Council Service Agencies like telecommunication, electricity, gas, oil and regional water supply.

- 3.4.2.3 The erection of structures that require approved building plans in terms of the National Building Regulations and Building Standards Act 103 of 1997;
- 3.4.2.4 The erection of advertising signs and structures that require approval in terms of relevant by-laws;
- 3.4.2.5 Road works, such as construction of new roads, road widening or accesses to developments, undertaken by developers;
- 3.4.2.6 The installation of new connection points for municipal services, such as water, sewers, electricity and stormwater drainage from developments;
- 3.4.2.7 Erection of hoardings in the PRR;

- 3.4.2.8 Installation of services by private concerns, e.g. data cables to connect different buildings;
- 3.4.2.9 The installation or construction of kerbing, paving, bollards, walls, gardens, etc. on sidewalks by property owners or occupiers. (**refer to the EMM Verge Policy**)
- 3.4.2.10 Road closures;
- 3.4.2.11 Traffic calming devices.

- 3.4.3 The types of work for which prior approval from Service Agencies cannot be obtained due to the nature of the work is deemed Emergency Work and must be undertaken according to the procedures set out in Section 3.16.
- 3.4.4 The types of work that does not include any construction work but will require traffic control due to the activities taking place within the PRR is deemed Routine Maintenance Work and must be executed according to the procedures set out in Section 3.17.

3.5 Wayleave

- 3.5.1 All work in the PRR is controlled by a Wayleave. A Wayleave is simply permission to work at a specified time in a specified area in the PRR according to approved conditions.
- 3.5.2 A Wayleave application may be submitted for a large project that covers work in a suburb/township/area, provided that the position and expected start / end dates of all work in the PRR is adequately described under the description of the work to be done.

3.5.3 General conditions are stated on the Wayleave Form and may include, but are not restricted to, the following:

3.5.3.1 Description of work to be done;

3.5.3.2 Timeframe within which the work must be done; and

3.5.3.3 Location of work to be done. (Provision can be made for big projects with multiple locations. The scope of big projects must be limited to manageable portions from the Wayleave perspective. The Wayleave Officer will be able to direct project managers in this regard).

3.5.4 Additionally, there may be specific conditions relating to the Wayleave which will be stated on or referred to on the Wayleave. Such conditions may include:

3.5.4.1 Specific working conditions required in terms of the Occupational Health and Safety Act (Act no 85 of 1993);

3.5.4.2 Methods of work execution in protected roads and precincts;

3.5.4.3 Reinstatement requirements; and

3.5.4.4 A Wayleave must be obtained before any approved work may be done in the PRR.

3.5.5 To obtain a Wayleave, a Wayleave application form must be submitted by the Service Agency or Registered Engineering Professional appointed by the Service Agency, together with:

3.5.5.1 A traffic control plan showing how vehicular and pedestrian traffic will be accommodated during the execution of the works in the PRR.

3.5.5.2 Three copies of the approved design drawing showing details of the proposed work.

3.5.5.3 A receipt that the required payments were made or submission of proof of sureties already held by the Council over the work.

3.5.5.4 Payment of the required processing fee.

3.5.6 Details required on the design drawing referred to in 3.5.5.2 are:

3.5.6.1 A clear depiction of the proposed work.

3.5.6.2 Indication where services are to be installed and the depth of the service below the surface level of the relevant portion of the PRR.

3.5.6.3 Distance of the service from the PRR boundary (i.e. the property boundary).

- 3.5.6.4 Position and extent of all structures including underground structures such as manholes, chambers and junction boxes.
- 3.5.6.5 The location of all other services in the PRR. Services are located by obtaining information from the Service Agencies within the Council and by doing cross cuts where required. The use of cross cuts (by hand) is strongly recommended.
- 3.5.6.6 A Wayleave will only be issued once all the requirements have been complied with and will be subject to the conditions specified in Section 3.3 and on the Wayleave form.
 - 3.5.7 The application for a Wayleave must be submitted timeously to ensure that the Wayleave can be issued before the work is programmed to start. **WORK BEING CARRIED OUT IN THE PRR WITHOUT A WAYLEAVE MUST BE REPORTED TO THE WAYLEAVE OFFICER AND WILL BE STOPPED BY A COUNCIL OFFICIAL ON SITE.** A copy of the Wayleave must therefore always be on site when work is being done in the PRR.
 - 3.5.8 The Wayleave Officer will strive to limit the duration of the application review process to seven (7) working days.
 - 3.5.9 The Wayleave holder accepts full responsibility for all costs (Refer to Section 3.9) associated with and resulting from the work carried out in the PRR.
 - 3.5.10 Only work described in the Wayleave may be executed. If the conditions on site necessitate a deviation from the planned work, the Wayleave Officer must be informed before any work is done. These deviations may be in relation to the placement of the service or the timing of the works. The Wayleave Officer may inform the Wayleave holder of additional approvals that must be obtained from the Service Agencies affected by the deviation as well as further requirements in terms of drawings and specifications.
 - 3.5.11 The Wayleave holder must complete the work within the time specified on the Wayleave or the approved time extension.
 - 3.5.12 A Wayleave holder who fails to complete the work within the specified time window will be given a two (2) day notice period to either complete the work or apply for a time extension.
 - 3.5.13 If upon expiry of the notice period referred to in 3.5.12 the Wayleave holder is still in default, the work will be stopped and PRR made safe by the Roads and Stormwater Department at the expense of the Wayleave holder

3.6 Existing Services and Planned Services

- 3.6.1 The Wayleave Applicant in the case of a new service, (i.e. Roads, Stormwater, Water, Sanitation, Electricity cables, Petroleum/ Gas pipes etc.) must submit approved designed drawings indicating the position of services in the area of Work with the Wayleave application form. (In practice, the designer needs the position of other services to determine the route of the new service.)
- 3.6.2 Service Agencies may require additional precautions relating to Work in the vicinity of their Services and must specify these in writing to the Wayleave Applicant.
- 3.6.3 As part of the Undertaking/Indemnity on the Wayleave application form, the Applicant has to confirm that the necessary information has been obtained from the Service Agencies and undertakes to adhere to the additional conditions laid down by the various Service Agencies. The control section on the Wayleave application form, signed by the Service Agencies, will serve as proof that the Service Agencies approved that a Wayleave may be issued.
- 3.6.4 The Wayleave Officer will verify with all Service Agencies whether future Work is planned for the area indicated in the Wayleave application. Such planned Work may dictate whether a Wayleave is approved and the conditions under which a Wayleave is approved. The planning horizon will depend on the planned life of the new Service as well as the Council's 5year Work plan.
- 3.6.5 It may be required to do cross cuts (by hand) in the area where Work is planned. The purpose of cross cuts is to establish and confirm the position of Services in areas where the information on Services are unclear.
- 3.6.6 A cross cut is done by excavating a trench that runs from the edge of the road up to the property boundary, perpendicular to the normal direction of Services. Excavation must always be done by hand.
- 3.6.7 The minimum depth of the cross cut trench is 1 meter below the lowest point of the PRR.

3.7 Road Categories

- 3.7.1 All roads are classified into one of the functional categories described below. The functional category of a road determines the Backfilling and Reinstatement specifications applicable to that road.

3.7.2 The following definitions apply for the road categories:

Category	Road Type	Administration
1	National Roads Primary – (inter) provincial Urban Freeway/Motorways	SANRAL Gauteng DoT Service Coordinator
2	Primary – (inter) provincial Major (inter) urban arterials	Gauteng DoT Service Coordinator
3	(Inter) district connectors Minor (intra) urban arterials	Gauteng DoT Service Coordinator
4	Major and minor collectors Inter neighbourhood distributors Intra neighbourhood distributors	Gauteng DoT Service Coordinator Service Coordinator
5	Residential streets	Service Coordinator

3.7.3 All roads have been categorised into one of the above by the Council. For a specific road this information can be obtained from the Wayleave Officer.

3.8 Protected Roads

- 3.8.1 Over and above the road categories defined in Section 3.7 of this Policy, certain roads are further classified as protected roads (no-dig roads).
- 3.8.2 Protected roads are roads across which no digging of trenches is permitted. A road is protected if it has been designated a protected road by the Roads and Stormwater Department. Roads are designated as protected when they are of particular strategic importance (Categories 1 to 4 in Section 3.7) or if they pose special engineering difficulties
- 3.8.3 Any road that has been newly constructed, overlaid or resurfaced will be protected for a seven (7) year period.
- 3.8.4 If a road is protected it will be indicated as such on the Wayleave.
- 3.8.5 Protected roads may only be crossed using trenchless methods. If trenchless methods for some reason cannot be used, special permission to excavate must be obtained from the Wayleave Officer.

- 3.8.6 For the purpose of planning Work done by Service Agencies, categories 4 and 5 may be regarded as unprotected unless they have been newly constructed, overlaid or resurfaced and fall within the protected period and provided that the first 20m from an intersection with any other road category is considered to be protected.

3.9 Protected Precincts

- 3.9.1 Works in protected precincts are subject to special trenching methods and care to ensure minimal damage to specialised and expensive material and furniture. The Wayleave Officer will inform the Wayleave Applicant of the required methods and might request that third party contractor must be used to carry out the Work.

3.10 Costs

3.10.1 Processing Fee

- 3.10.1.1 The processing fee is a fixed amount that is payable by the Applicant upon submission of a Wayleave application form. This fee amount will be determined by the Council on the recommendation of the Council from time to time.
- 3.10.1.2 The processing fee covers the Council's costs for work done by the Wayleave Officer to obtain comments from the various Service Agencies on the Wayleave application.
- 3.10.1.3 Initially the Wayleave Applicant must obtain comments from the various Service Agencies on the Wayleave application. Therefore, the processing fee will initially be set at R1000. All affected parties will be notified of any changes to the processing fee by the end of March and the new fee will only be applicable from 1st July. Details of the current fee are available from the Wayleave Officer.

3.10.2 Security Deposit

- 3.10.2.1 A refundable security deposit (the value of the relevant road verge reinstatement work) will be charged for each Wayleave being issued. Security deposits will not be charged for work done by internal Service Agencies (Council Departments and their service providers but Roads and Stormwater Department must have access to the Service department's vote numbers to do the required reinstatements if the other departments fail to do so to the satisfaction of the Roads and Stormwater Department) themselves.

3.10.2.2 The deposit amount will be based on the road and verge reinstatement works.

3.10.2.2.1 A Bank Guarantee may be submitted in lieu of a cash payment

3.10.2.2.2 The Bank Guarantee tendered to be irrevocable until all dues in terms of the Policy has been settled,

3.10.2.2.3 The Wayleave Officer shall maintain and manage the deposit register.

3.10.2.3 Wayleave Applicants who can produce proof of sureties or deposits held by other Council agencies for the same project will be waived if the Wayleave Officer considers the amount retained sufficient to cover the potential risks involved.

3.10.2.4 The Council will have the right to use the deposit to cover costs incurred by the Roads and Stormwater Department in relation to the Wayleave under consideration.

3.10.2.5 The responsibility remains with the Wayleave holder to ensure that the contractor engaged in the implementation of the work has valid and sufficient public liability insurance. Work may not commence without proof of the Public Liability Insurance Policy being submitted.

3.10.3 Reinstatement Cost

3.10.3.1 When the permanent reinstatement or any other repair work has to be done through the Roads and Stormwater Department (i.e. when the Wayleave Holder fails to reinstate the roads or verges), the cost involved will be payable by the Wayleave holder.

3.10.3.2 The cost for reinstatement will be determined using the relevant Council approved Roads and Stormwater rates as determined by the Wayleave Officer.

3.10.3.3 The final invoiced amount payable will be determined using the measured area of the final reinstatement as agreed between the Wayleave Officer and the Service Agency and on the final reinstatement costs.

3.10.3.4 The reinstatement area will be measured using straight lines along the edge of the trench. Therefore, it is recommended that the proper cutting tools be used in order to ensure a smooth and straight edge.

3.10.3.5 It is important to note that the decision as to who does the permanent reinstatement lies with the Wayleave Officer. Project Managers must therefore allow for the reinstatement cost as an item in the contract document which is payable to either the contractor or the Council.

3.10.4 Other Costs

3.10.4.1 Other costs can result from any of the following:

3.10.4.1.1 Damages to existing services (services Agencies will determine the extent of the damage and the specifications to rectify the damage);

3.10.4.1.2 Relocation of existing services;

3.10.4.1.3 Testing of services and backfills;

3.10.4.1.4 Lane rentals;

3.10.4.1.5 Services rendered by the Roads and Stormwater Department in completing work or altering work to conform to Wayleave specifications; and

3.10.4.1.6 Third Party Claims that may result from the work.

3.10.4.1.7 Penalties as may be imposed on the Wayleave Holder as described in this Policy.

3.10.4.2 All such costs will be borne by the Wayleave Holder who is expected to make provision for recovery from the person executing Work in the PRR.

3.10.4.3 A party wishing to dispute the costs charged to him as a result of any of the above reasons will do so at their own cost.

3.11 Traffic Control

3.11.1 It is the responsibility of the person working, under the supervision of a Registered Engineering Professional appointed by the Service Agency, in the PRR to ensure that all laws regarding traffic, safety, traffic signs and barricading are complied with while executing work.

3.11.2 The person working in the PRR shall therefore take all necessary measures and provide all necessary facilities to ensure an adequately safe and easy passage for traffic and pedestrians through areas in which work is in progress, or is uncompleted.

3.11.3 The Wayleave Officer can request that a traffic control plan be submitted as well as kept available on site as part of the conditions under which the Wayleave is approved.

- 3.11.4 Traffic signs and barricading shall be done according to the latest edition of the Southern African Development Roads Traffic Signs Manual.
- 3.11.5 The person working in the PRR must contact EMPD to ensure that all requirements have been met for the particular location where the work is being done and whether points-men will be required.
- 3.11.6 The importance of adequate traffic signs and barricading must be stressed. These measures are intended to ensure the maximum safety for motorists, pedestrians and workers and also the minimum disruption of vehicles and pedestrians. Work sites must be properly barricaded and signed irrespective of how long the work will last. The safety precautions must be maintained for the full time that risks exist in the PRR due to the work being performed in the PRR.

3.12 Road Closure

- 3.12.1 The granting of a Wayleave does not give the Wayleave holder the authority to close the road completely to traffic. Methods of construction and programmes of work must therefore be determined on the basis that no road, or portion of road, may be completely closed to traffic for any appreciable period.
- 3.12.2 In exceptional circumstances permission may be granted for the temporary closure of a road or portion of road to traffic and the process to be followed can be obtained from the Wayleave Officer. The Wayleave holder must apply to the Roads and Stormwater Department separately for approval three weeks prior to the road having to be temporarily closed. Road closure will be approved for a specific period only, i.e. from and to a specific time on a specific date and is only valid for that specific period. If the work is not carried out in that period, an application for a new temporary road closure will have to be made.
- 3.12.3 Work carried out on arterials, major collectors and central business district roads will be restricted to outside the following periods, namely from 6:30 to 09:00 and 15:30 to 18:00, to ensure free flow of traffic during peak hours. These times apply 7 days a week.

3.13 Excavations

- 3.13.1 The area that is excavated must always be kept to a minimum. The width of the trench must be uniform in length and in depth, in other words the sides must be parallel and vertical. The top of the trench must be cut with a saw to ensure smooth, uniform edges.
- 3.13.2 All excavations must comply with statutory requirements for health and safety. The Wayleave holder must pay specific attention to:
 - 3.13.2.1 Excavations must be executed according to the Occupational Health and Safety Act referred to in Section 5.
 - 3.13.2.2 Excavations deeper than 1.5m must be shored or V-cut according to the Occupational Health and Safety Act.
 - 3.13.2.3 Excavations deeper than 1.5m must be registered with the Department of Labour prior to commencement of the work. The registration includes the scope of work, depth of trench and the construction method (shoring or V-cut method according to the Occupational Health and Safety Act).
- 3.13.3 The minimum depth that any service may be placed under a road is 800mm measured from the level of the surfacing of the road to the top of the Service. The minimum depth at any other place in the PRR, e.g. on a verge, is also 800mm measured from the level of the surfacing of the road or from natural ground level, whichever is the lowest. Services not subject to being laid at a specific grade such as water pipes and cables should not be placed at depths in excess of 800mm as this could interfere with future Services that has to be laid at a specific grade, such as sewers and stormwater pipes.
- 3.13.4 All excavated material and equipment must be placed and demarcated in such a way as to cause the minimum disruption to vehicles and pedestrians.
- 3.13.5 The view of motorists must at all-time be kept clear of any obstructions such as excavated material, road signs or hoardings.
- 3.13.6 A safe passage must be kept open for pedestrians at all times.
- 3.13.7 Excavation areas must be clearly demarcated with warning signs that allow time for motorists and pedestrians to alter their routes.
- 3.13.8 The Wayleave holder is held responsible for any damage to existing services. Services, indicated on the drawings or on site by representatives from the relevant Service Agencies, must be opened by careful hand excavation. If the services cannot be found, the relevant organization must be contacted again for further instructions. Under no circumstances may a Wayleave holder excavate with mechanical equipment before known

services have been found and marked. When found, services must be marked and protected or supported as required by the owner. If services need to be relocated, instructions from the owner must be followed carefully. The Wayleave Holder will be responsible for all relocation costs. If any Service is damaged as a result of the Work, relevant Service Coordinator must be contacted immediately.

- 3.13.9 Adequate preventative measures must be taken to ensure that no water (e.g. due to rain) flows into the open trenches since this will result in the weakening of the structural layers of the road. Any water that is present in the trenches must be pumped out before Backfilling. Water must be pumped into stormwater system and not into sewer manholes. Any materials that has become wet must be removed from the bottom of the trench before backfilling.
- 3.13.10 The Wayleave Holder must prevent foreign materials from entering the stormwater drains and ensure that silting does not occur from pumping operations or as a result of rain. If any silting or other contamination does occur, the Wayleave Holder must clean the drains or request the Wayleave Officer to do it at the cost of the Wayleave holder.
- 3.13.11 All re-usable materials such as concrete blocks, slabs, kerbs, gutters, channels and stormwater inlets must be removed with care and re-used if possible. Any surplus material must be returned to the nearest Roads and Stormwater Depot stores. The address will be available at the Wayleave officer.
- 3.13.12 If any street furniture (e.g. names, traffic signs, bus shelters, etc) have to be removed, arrangements must be made with the relevant authority for the removal, storage and re-erection. The cost specified by the relevant authority will be for the Wayleave Holders account.
- 3.13.13 Where excavations are made through entrances to properties, access must be maintained by using steel plates, planks or other temporary bridges of sufficient strength that are properly secured against movement. The occupants of the properties must be kept informed at all times of how their accesses will be affected.
- 3.13.14 The cleaning up of the construction site and the reinstated to its previous condition (or better) is considered part of the Work and must be completed within 14 days after reinstatement of the trench has been done. If the Wayleave Holder fails to do so, action will be taken by the Council as indicated in Section 3.5.12

3.14 Trenchless Methods

- 3.14.1 If trenchless methods are used, disruption of traffic flow and pedestrian movements can be reduced considerably or totally eliminated. However, it is important that the Wayleave Holder

using such methods must have all the necessary equipment and expertise to complete the Work successfully. Trenchless method can be used for all road categories, but shall be used for all roads classified as “Protected” (Refer to Sections 3.7 & 3.8).

- 3.14.2 The position of existing Services must be located accurately. If any Services are damaged, the Wayleave Holder will be responsible for all costs to have the damaged services repaired/replaced.
- 3.14.3 The depth to the top of any tunnel that is drilled for the installation of new Services must be at least 800mm measured from the lowest level of the road surfacing.

3.15 Emergency Work

- 3.15.1 Emergency Work is defined as any work that is required to prevent or end a dangerous situation, to prevent or end an unplanned interruption in the supply of a service, or to avoid any substantial losses. It is important to note that a lack of proper planning of work to be carried out will not justify Emergency Work and such activities will be stopped by the Wayleave Officer.
- 3.15.2 A categorised list of emergency work will be maintained by the Wayleave Officer and will serve as a guideline for Service Agencies as well as the Wayleave Officer in determining whether work is an emergency.
- 3.15.3 The Wayleave Officer will provide an emergency number for the use of service Agencies that requires information on the position of services in the area where emergency work is to be carried out.
- 3.15.4 The Wayleave Officer must be notified in writing within 1 working day from commencing with emergency work. The emergency notification certificate referred to in Section 5 must be used for this purpose. If the Wayleave Officer is not notified within 24 hours from the first working day, the Work will be reinstated by the Wayleave Officer and the cost thereof will be invoiced against the Service Agency. The emergency notification document can be obtained from the Wayleave Officer. The Wayleave Officer will notify the relevant EMM CCC Manager.
- 3.15.5 The emergency notification must always be certified by an Authorised Agent of the Service Agency as an emergency situation that requires their immediate attention.

- 3.15.6 Emergency work must be done in accordance with all procedures and specifications applicable to the type of work as set out in the specifications document referred to in Section 5.
- 3.15.7 Reinstatement of the PRR will be done by the Roads and Stormwater Department (at the cost of the Service Agency) upon receipt of a notification and payment documentation from the Service Agency that the emergency work has been completed.
- 3.15.8 The responsibility remains with the Service Agency to ensure that their drawing information is updated according to the alterations made during the emergency work.

3.16 Routine Maintenance Work

- 3.16.1 Routine Maintenance Work is defined as all types of work involved with maintaining the Services in the PRR and does not require excavation, traffic control or reinstatement of the PRR as part of the work.
- 3.16.2 A categorised list of routine maintenance work will be maintained by the Wayleave Officer and will serve as a guideline for Service Agencies as well as the Wayleave Officer in determining whether Work is Routine Maintenance Work.
- 3.16.3 Such work can include inter alia:
 - 3.16.3.1 Any work that relates to maintaining the vegetation in the road reserve through cutting planting, removing or relocating of plants.
 - 3.16.3.2 The placement of advertising material on or within structures pre-erected for that purpose.
 - 3.16.3.3 Temporary diversion of traffic for public events i.e. sport, mass action, parades.

3.17 Backfilling and Reinstatement

- 3.17.1 Any trenching activity disturbs the structural integrity of a road or footway. Backfilling and Reinstatement must therefore be done in such a way as to ensure that the reinstated trench and its immediate surroundings do not fail structurally, thus resulting in road user discomfort and increased costs.
- 3.17.2 Backfilling refers to the replacement of the structural layers in the trench or excavation and includes the base, subbase, selected subgrade and subgrade, but exclude the surfacing.

- 3.17.3 Reinstatement refers to replacing the bituminous surfacing or paving blocks in the case of roads, or the paving blocks, paving slabs, bituminous surfacing or grass (and other landscaping) in the case of footways and verges.
- 3.17.4 Backfilling must in all cases be done by the Wayleave Holder in accordance with the specifications as set out in the specifications document referred to in Section 5. Permanent reinstatement must be done by the Wayleave Holder but can be done by the EMM's Roads and Stormwater Department when the Wayleave Holder fails to do so, at the Wayleave holder's cost. The Wayleave Officer will decide whether the Wayleave Holder will be allowed to do the permanent reinstatement based on performance history.
- 3.17.5 The Wayleave holder must obtain prior written approval from the Council's Roads and Stormwater Department for the project specification to be used for backfilling PRR. The proposed specification shall be submitted to the Council's Roads and Stormwater Department, who shall provide written comments on the specification, or an alternative specification, within 7 working days after the receipt of the request.
- 3.17.6 When the Wayleave conditions place the responsibility for reinstatement work on the Wayleave holder then the reinstatement specification must also be approved in advance by the Emm's Roads and Stormwater Department. This shall be done in accordance with the principles set out in 3.18.5.
- 3.17.7 Permanent backfilling and reinstatement done by the Wayleave holder will be subject to a guarantee period of one year based on the performance specifications described in the specifications document.
- 3.17.8 If permanent reinstatement is done by the EMM's Roads and Stormwater Department, the Wayleave holder must do a temporary reinstatement as specified. The Wayleave holder will then be charged for the permanent reinstatement at the applicable rates defined by the Council.
- 3.17.9 The temporary reinstatement must be removed by the EMM's Roads and Stormwater Department and the backfilling tested. If the backfill does not comply with the applicable specifications, it must be replaced at the cost of the Wayleave holder. These costs are over and above the normal reinstatement costs.
- 3.17.10 The Wayleave holder is responsible for maintaining the temporary reinstatement (where applicable/ allowed) for a 2- week period after issuing of the Certificate of Completion to the

Wayleave Officer. During this period the Wayleave holder is still held liable for any claims relating to the work that was carried out.

- 3.17.11 Temporary reinstatement must be done where the Wayleave holder leaves the site with the view of returning to complete the Work. The Wayleave holder must maintain this temporary reinstatement until the permanent reinstatement is done.
- 3.17.12 The Wayleave holder may not leave the site without reinstating it.
- 3.17.13 If a Wayleave holders who leaves the site unattended for more than the period specified in 3.18.11, a penalty fee will be charged. The amount will be determined by the Council.

3.18 Completion Notice and Certificate of Completion

- 3.18.1 On completion of the work the Wayleave Holder must complete the Completion Notice and return it to the Wayleave Officer within 2 working days (Refer to Section 5). The Wayleave Officer will then set up a site meeting with the Wayleave Holder to do an inspection and will issue a Certificate of Completion if all requirements have been met. The 12-month guarantee period for permanent reinstatements by the Wayleave holder, or the 2-week maintenance period for temporary Reinstatements by the Wayleave holder, then commences.
- 3.18.2 Completion of the work means that all work has been completed and that all materials, equipment and rubble have been removed and the site is completely cleared and cleaned and that either the permanent or temporary Reinstatement, as applicable, has been done by the Wayleave holder. Furthermore, it requires that all applicable documentations and as-builds as specified on the Wayleave form have been handed to the Wayleave Officer for recording.
- 3.18.3 If work involves more than one street link (street block), then a Completion Notice must be submitted after completion of each place of the Work.

3.19 Policy Enforcement

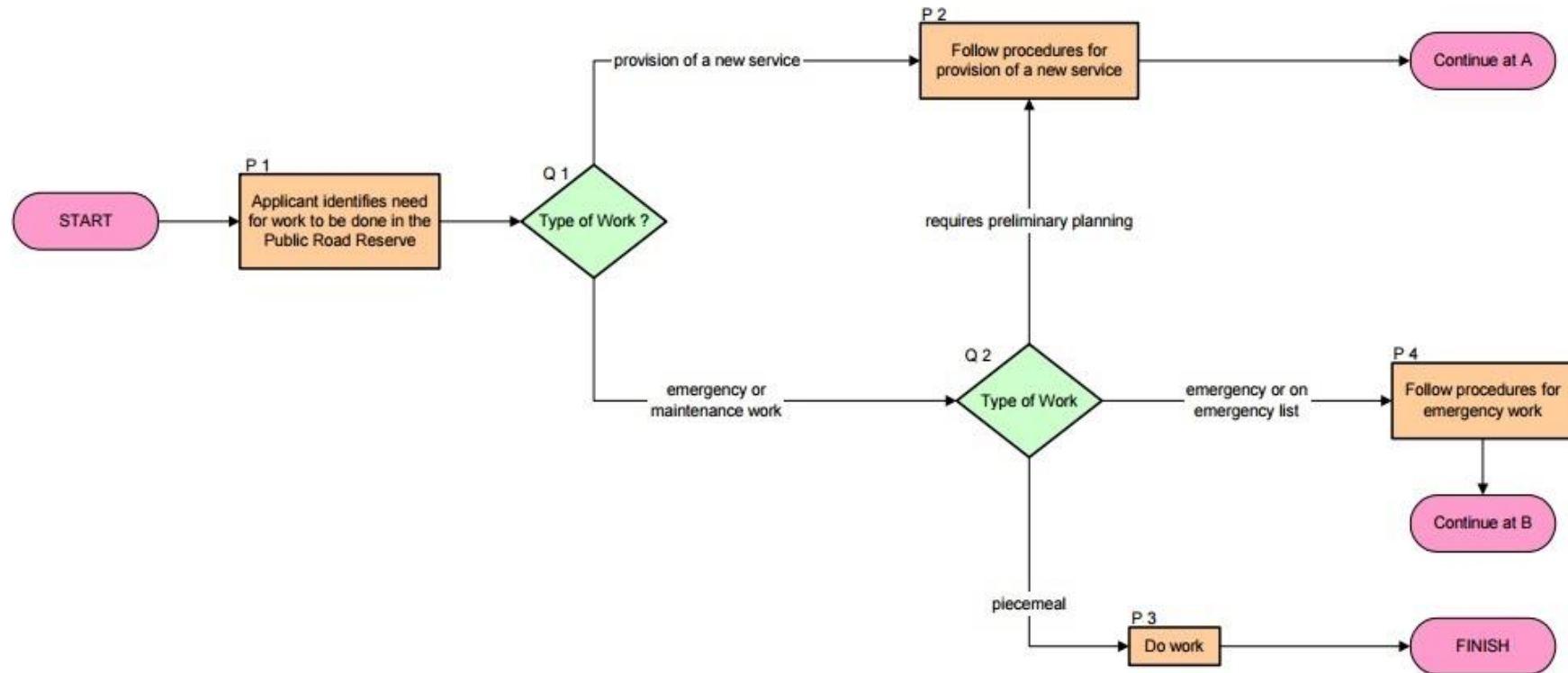
- 3.19.1 The Ekurhuleni Metropolitan Municipality Police Service Bylaws will be amended to incorporate Bylaws to manage the wayleave Policy.
- 3.19.2 Council reserves its right to exercise its discretion in the implementation and enforcement of this policy.
- 3.19.3 Notwithstanding any penalty or remedy expressly provided for this policy, the Council reserves the right to exercise any other legal remedy it may have in enforcing this policy.

3.20 Policy Update

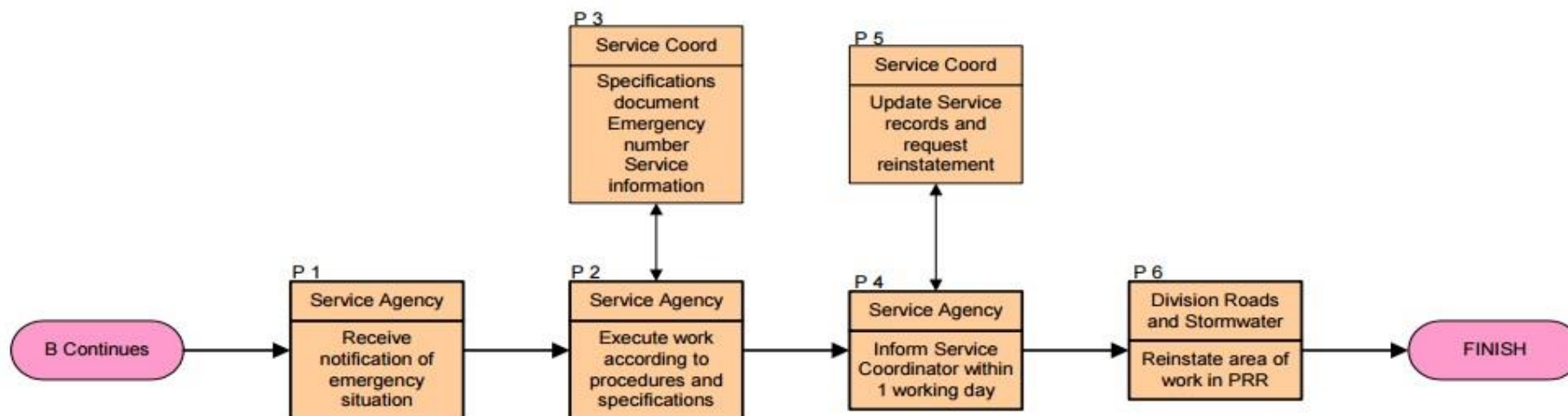
- 3.20.1 The Policy will be updated bi-annually.

4 THE WAYLEAVE PROCESS AND PROCEDURES

4.6 Overview of Process



4.7 Emergency Maintenance Work



5 REFERENCES

- (a) City of Tshwane Metropolitan Municipality Code of Practice to work in Public Road Reserves
- (b) Msunduzi Municipality Wayleave Policy.
- (c) S151 of the Constitution of the Republic of South Africa, 108 of 1996
- (d) National Road Traffic Act, 1996(No. 93 of 1996) as amended by:
- (e) National Road Traffic Amendment Act, 1998 (No. 8 of 1998)
 - (i) National Road Traffic Amendment Act, 1999 (No. 21 of 1999)
 - (ii) National Road Traffic Amendment Act, 2003 (No. 20 of 2003)
- (f) Ekurhuleni Metropolitan Municipality Police Services Bylaws- Date of Commencement: 1 February 2004.
- (g) The South African National Roads Agency Limited: The Technical Recommendations for Highways, TRH 27, South African Manual for Permitting Services in Road Reserves; Rev 1.0: August 2012
- (h) The South African Road Traffic Signs Manual (as amended)

Applications for Wayleaves shall be made to the Roads and Stormwater Department for permission to work within a PRR, and such letters of application must be addressed to the Wayleave Officers in the following Area Offices:

- (a) the Eastern Area; 4th Floor, Treasury Building, Cnr Tom Jones Street and Elton Avenue, Benoni (Private Bag X014, Benoni, 1500),
- (b) the Northern Area: 1st Floor, Office Building, Cnr CR Swart Drive and Thistle Road, Kempton Park (PO Box 13, Kempton Park, 1620), and
- (c) the Southern Area: 5th Floor, SAAME Building, Cnr Queen and Spilsbury Streets, Germiston (PO Box 145, Germiston, 1400)