



**REPORT TO SUBCOUNCIL
SUBCOUNCIL 20**

1. **ITEM NUMBER :** 20SUB24/02/2019
2. **SUBJECT**

**REVIEW OF ROAD SCHEME: CONSTANTIA ROAD, WYNBERG
ONDERWERP**

**HERSIENING VAN PADSHEMA: CONSTANTIAWEG, WYNBERG
ISIHLOKO**

**UPHENGULULO KWINKQUBO YENDLELA: CONSTANTIA ROAD,
WYNBERG**

3. PURPOSE

Constantia Road, Wynberg is a proclaimed Provincial Main Road. Council approved the Road Scheme in 1969 after which the road reserve boundary was approved by the Administrator in January 1974.

The purpose of this report is to request Council to support the redefined reserve boundaries based on more recent planning and to approve the recommendation that the Competent Authority (Western Cape Provincial Government) be requested to amend the previous Road Scheme proclamation in terms of Section 5(3) of Roads Ordinance No. 19 of 1976.

4. FOR DECISION BY

Not delegated: for decision by Council

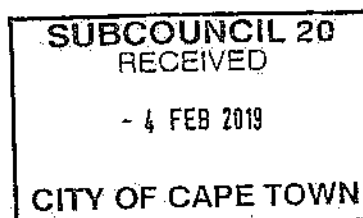
Delegations to the Subcouncil relevant to this report are:

Municipal Structures Act (Act 117 of 1998)

Functions and Powers (Section 64)

(1)(b) A metropolitan Subcouncil may make recommendation to the metro council on any matter affecting its area.

Cape Town Sub-Council Bylaw, 2003



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Recommendations (Section 11)

A Subcouncil may make recommendations to the Council on any matter affecting its area.

5. EXECUTIVE SUMMARY

Constantia Road, Wynberg is a proclaimed Main Road (Main Road No. 130). The Competent Authority that can authorise any changes to the road alignment is the Western Cape Provincial Government (WCPG).

Although Main Road No. 130 also includes the section of South Road up to the M5, this report only deals with the section of Main Road 130 (Constantia Road) between the M3 and Main Road (see Annexure A.) The applicable legislation (Roads Ordinance No. 19 of 1976) allows for the amendment of sections of a Proclaimed Road.

The Constantia Road reserve boundaries are defined by Proclamation 3 of 1974, published in the Provincial Gazette on 16 January 1974. The zoning of properties affected by this proclamation is still reflected in the City's Zoning Scheme.

In the late 1990's the road alignment was revised when Steward Scott Consulting Engineers was appointed for the conceptual design update of the Constantia/South/Ottery Arterial Road.

Although the updated alignment was supported by the City and Province, the 1974 Proclamation was never replaced with a new proclamation to reflect the updated alignment.

It is therefore the aim of this report to start the process to get the Provincial Proclamation in line with the updated Constantia Road alignment.

It has been confirmed that the updated alignment is in line with the latest IRT (Integrated Rapid Transit) planning. Bi-lateral discussions have also been held with the Provincial Roads & Transport Branch to establish the process to be followed to amend proclamations in terms of the Roads Ordinance.

The Constantia Road Scheme amendment will free up 33 properties that are no longer needed for road purposes (see Annexure B.) Of these properties, 21 are privately owned while 12 are owned by the City. The scheme amendment will enable these properties to be developed to their full potential as the restrictive Transport Zone 2 (TR2) zoning will be removed. This process will be undertaken in terms of the deeming clause in the City of Cape Town's Municipal Planning By-law.

6. RECOMMENDATIONS

Not delegated: for decision by Council

It is recommended that:

- a) Council support the amended road reserve boundaries for this section of Constantia Road, Wynberg;
- b) Council request the Competent Authority (Western Cape Provincial Government) to amend the previous proclamation in terms of Section 5(3) of the Roads Ordinance No. 19 of 1976; and
- c) the land use planning process to amend the zoning be actioned once the proclamation amending process is completed.

6. AANBEVELINGS

Nie gedelegeer nie: vir besluitneming deur die Raad

Daar word aanbeveel dat:

- a) Die Raad die gewysigde padreserwegrense vir hierdie deel van Constantiaweg, Wynberg steun;
- b) Die Raad die bevoegde owerheid (Wes-Kaapse provinsiale regering) versoek om die vorige proklamasie ingevolge artikel 5(3) van die Padordonnansie, no. 19 van 1976, te wysig; en
- b) Die grondgebruikbeplanningsproses vir die wysiging van die sonering in werking gestel word sodra die proses vir die wysiging van die proklamasie afgehandel is.

6. IZINDULULO

Azigunyaziswanga:isigqibo seseBhunga

- a) IBhunga malixhase imida elungisiweyo engendlela ebekelwe bucala ngokujoliswe kweli candelo le-Constantia Road, ese-Wynberg;
- b) IBhunga malicele uGunyaziwe ongeZakhono (ubuRhulumente baNtshona Koloni) ukuba alungise umthetho wangaphambili,

ngokungqinelana neCandelo-5(3) elingeeNdlela -- uMpoposho
onguNomb.19 wangowe-1976; kwakhona

- c) Makuqaliswe ngenkqubo engocwangciso lokusetyenziswa komhlaba ukuze kulungiswe ucando/umiselo lomhlaba emva kokuba kugqitywe inkqubo engolungiso lomthetho.

7. DISCUSSION/CONTENTS

7.1 Constitutional and Policy Implications

The rationalization of Road Schemes complies with the 2017 – 2022 Comprehensive Integrated Transport Plan for the City of Cape Town and the City's Public Right of Way – Road Network Plan.

7.2 Sustainability Implications

Does the activity in this report have any sustainability implications for the City?	No x	Yes <input type="checkbox"/>
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7.3 Legal Implications

There are no adverse legal implications.

7.4 Staff Implications

Does your report impact on staff resources or result in any additional staffing resources being required?

No x

Yes ☐

7.5 Background

The Constantia Road Scheme was identified in 1991 as one of 67 Road Schemes in the City to be reviewed. The original Road Improvement Scheme, which was aimed at upgrading Constantia Road between the M3 and Main Road, was conceptually designed in the late 1960's and approved by Council in 1969.

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In 1974 the Scheme was approved by the Administrator and a Provincial Notice was published in the Provincial Gazette to redefine the boundaries of this Road. This was done in terms of Section 133 of the former Divisional Councils Ordinance of 1952. This proclamation also included the South Road section between Main Road and the M5. The 1974 proclamation superseded all previous planning for Constantia Road and was included in the former Municipality of Cape Town - Town Planning Scheme.

In the late 1990's the planning of Constantia Road was again revised when Steward Scott Engineers was appointed to update and complete the Conceptual Planning of the Constantia/South/Ottery Arterial Road. Detailed designs for various priority sections of the route was also completed.

The revised planning was approved by the former South Peninsula Municipality on 22 September 1999 and by the former Cape Metropolitan Council on 19 April 2000.

As the Constantia/South/Ottery Arterial Road is a proclaimed Provincial Main Road, the Conceptual Planning report was also presented to the Western Cape Provincial Government. On 30 May 2000 the WCPG conditionally approved the report subject to certain recommendations. Despite the approvals and support for the revised planning of the Constantia/South/Ottery Arterial Road, the 1974 proclamation was never amended to reflect the updated proposals for the realignment of this route.

It is therefore the aim of this report to start the process to get the Provincial Proclamation in line with the latest planning proposals for Constantia Road.

The realignment of South Road (although part of the 1974 proclamation as well as the updated planning done by Steward Scott Engineers) is excluded from this exercise as South Road forms part of the proposed Phase 2A IRT between Wynberg CBD and the Metro South East. The review of South Road will be done separately as the proposed IRT trunk east of Main Road has different spatial requirements than Constantia Rd west of Main Rd.

A further benefit of amending the Constantia Road Scheme is that it will free up properties that are no longer needed for road purposes. The restrictive TR2 zoning will be replaced by an appropriate zoning, enabling these properties to be developed to their full potential.

7.6 Amendment Process

The WCPG has agreed that, for the City to amend the road reserve for a Proclaimed Main Road, the process as per Annexure C needs to be followed. The first step is to obtain a Council resolution that the Road Scheme amended is supported by Council. Thereafter the City will submit a formal motivation and supporting documentation such as maps and a list of coordinates.

Once the application has been submitted, WCPG will evaluate the application and make a recommendation to the Provincial Minister of Transport & Public Works for consideration and approval. A Provincial Notice, redefining the boundaries of the road will then be published in the Provincial Gazette.

Once the proclamation has been amended, a land use planning process has to follow to restore the zoning of relevant land parcels currently zoned TR2 to their previous zoning status or an appropriate new zoning.

The Municipal Planning By-Law which came into affect on 1 July 2015 allows for a more efficient way to deal with the reinstatement of zoning rights in case of Road Scheme removals or amendments. Once the withdrawal or amendment of the scheme has been approved by Council and Province, the Zoning Map will be changed as the TR2 zoning will be removed in terms of the Deemed Zoning section of the By-Law.

The deeming process is applied as follows:

- If the affected property has a split zoning, the part of the land unit which was subject to the removal process shall be deemed to take on the same zoning as that of the rest of the land unit.
- If the whole property is affected by the removal process, Council shall determine a zone for such land, provided that Council shall consider representations made by interested and affected land owners prior to making a determination. The outcome is therefore subject to a notification process.

The deeming process ensures the reinstatement of the correct zoning of the affected properties as close as possible to what existed before the Road Scheme was approved. Note however that it is not considered an opportunity to rezone or obtaining any additional land use rights.

7.7 Affected Properties

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The 1990's review of Constantia Road concluded that the proposed link between Constantia Road and Gabriel Road is no longer necessary. By removing this link from the Proclaimed Scheme, 26 properties will be fully released and 7 will be partially released from their restrictive TR2 zoning. The section of the Road Scheme to be removed as well as the properties to be released are indicated on Annexure B.

Of the 33 properties to be released from the restrictive TR2 zoning, 21 are privately owned and 12 are owned by the City.

A table of co-ordinates for the realignment of Constantia Road, based on the approved Conceptual Design will be submitted to WCG. This will define the boundaries of the Constantia Road portion of the proclaimed Provincial Main Road.

7.8 Other Services Consulted

Discussions were held with relevant departments in the City including Integrated Rapid Transit (IRT), Planning and Building Development Management and Property Management.

The Provincial Roads & Transport Management Branch was also consulted to discuss the process to be followed to amend proclamations in terms of the Roads Ordinance.

ANNEXURES

Annexure A: Locality Map – Reviewed section of Main Road No. 130 (Constantia Rd)

Annexure B: Land no longer required for Road Purposes

Annexure C: Scheme Amendment Process

FOR FURTHER DETAILS, CONTACT:

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DIRECTORATE	Urban Catalytic Investment
FILE REF No	22/5/1/2/3

H. Naude

PORTFOLIO MANAGER: URBAN DEVELOPMENT
INVESTMENT PORTFOLIO
HENDRIKA NAUDE
DATE: 9/7/2018

[Signature]

COMMENT:

[Signature] 5-9-2018
F. Gummet

ACTING COMMISSIONER: TRANSPORT AND
URBAN DEVELOPMENT AUTHORITY
GERSHWIN FORTUNE
DATE: 29/09/18

[Signature]

COMMENT:

- ☐ REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BYLAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.
- ☐ NON-COMPLIANT

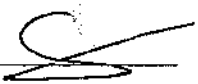
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LEGAL COMPLIANCE

NAME: Joani-Mari Holte
TEL: 021 400 2953
DATE: 03/12/2018

COMMENT:

Reviewed as legally compliant: 100%
aligned on the contents of the report.
For Subcouncils consideration, final
decision by Council.

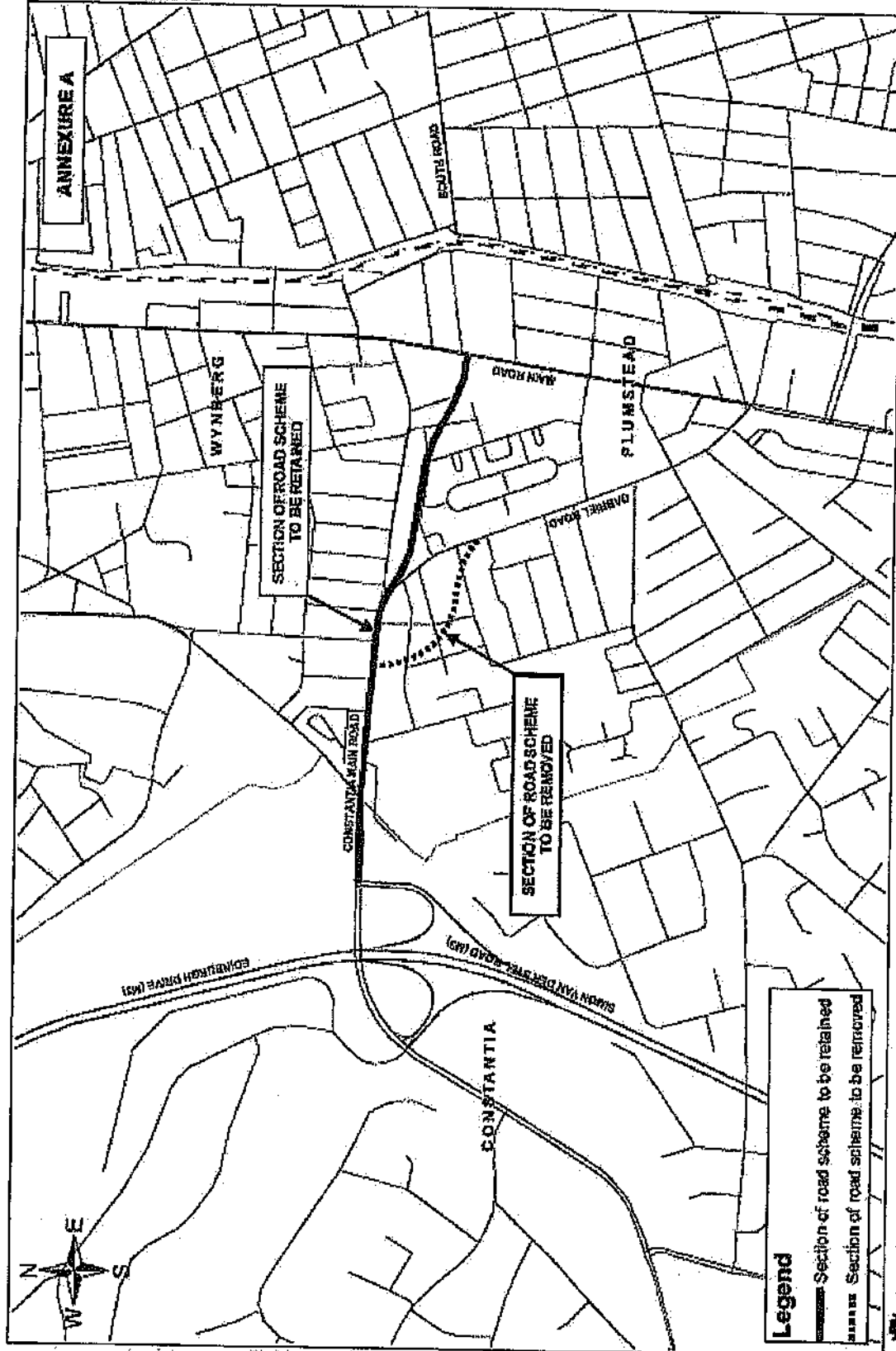


RICHARD WHITE
SUBCOUNCIL MANAGER

Tel No. 021 444 8112

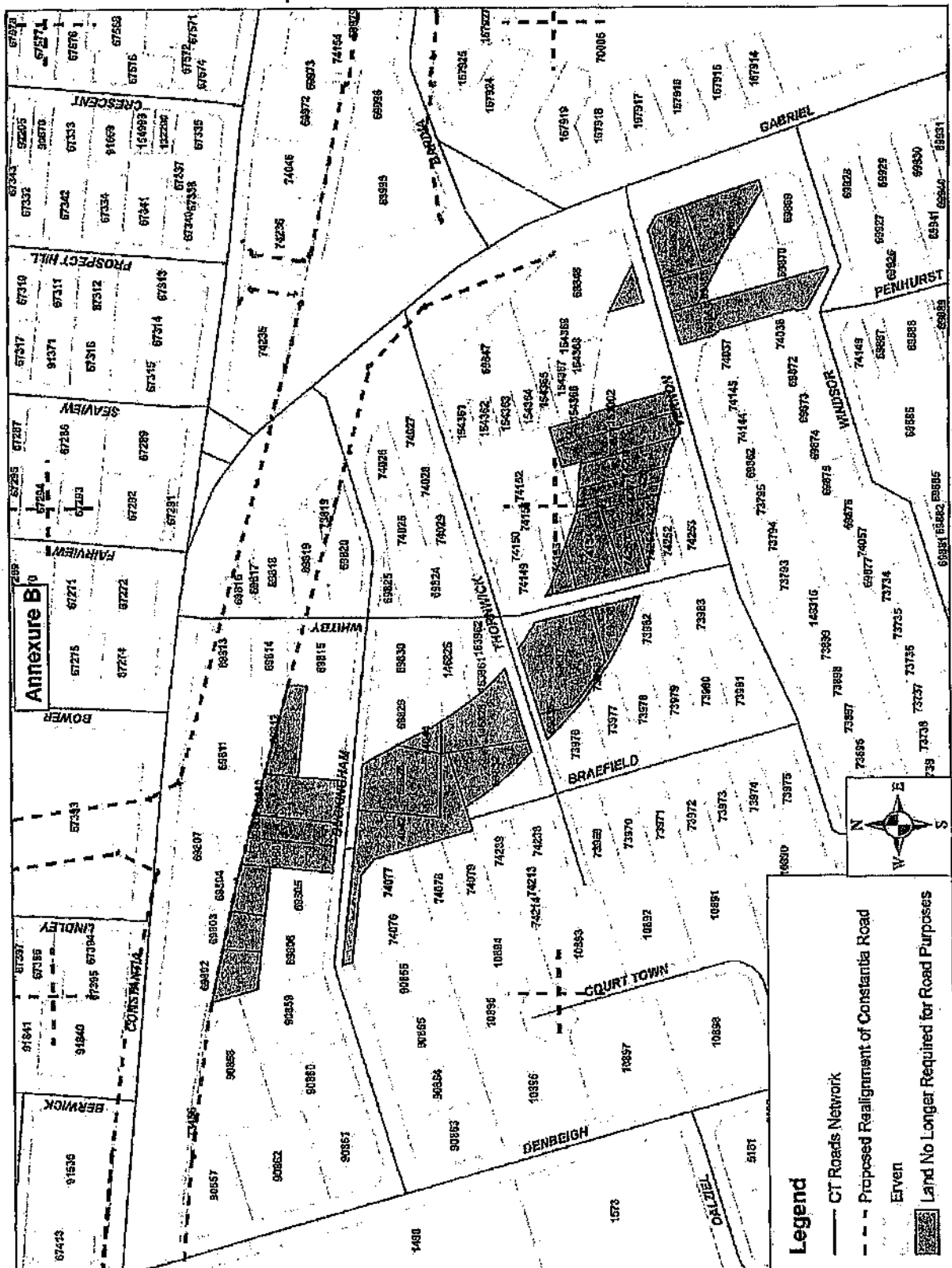
DATE: 13 February 2019

ANNEXURE A:



LOCALITY MAP - SECTION OF CONSTANTIA ROAD UNDER REVIEW

ANNEXURE B:



PROCLAMATION AMENDING PROCESS FOR REDEFINING THE BOUNDARIES OF PROCLAIMED MAIN ROADS (PMR's)

